



DoD Manual 1402.05

BACKGROUND CHECKS ON INDIVIDUALS IN DEPARTMENT OF DEFENSE CHILD DEVELOPMENT AND YOUTH PROGRAMS

Originating Component: Office of the Under Secretary of Defense for Personnel and Readiness

Effective: January 24, 2017

Releasability: Cleared for public release. Available on the DoD Issuances Website at <http://www.dtic.mil/whs/directives>.

Approved by: Todd Weiler, Assistant Secretary of Defense for Manpower and Reserve Affairs

Purpose: In accordance with the authority in DoD Directive 5124.02, this issuance implements policy, assigns responsibilities, and provides procedures for conducting criminal history background checks on individuals involved in the provision of child care and youth services for children under the age of 18 in DoD child development and youth programs, in accordance with DoD Instruction (DoDI) 1402.05 and Section 13041 of Title 42, United States Code (U.S.C.).

TABLE OF CONTENTS

SECTION 1: GENERAL ISSUANCE INFORMATION	4
1.1. Applicability.	4
1.2. Policy.	4
1.3. Information Collections.	4
SECTION 2: RESPONSIBILITIES	5
2.1. Assistant Secretary of Defense for Manpower and Reserve Affairs (ASD(M&RA)).	5
2.2. Deputy Assistant Secretary of Defense for Civilian Personnel Policy.	5
2.3. Deputy Assistant Secretary of Defense for Military Community and Family Policy.	5
2.4. Deputy Assistant Secretary of Defense for Military Personnel Policy.	5
2.5. Deputy Chief Management Officer OF THE DEPARTMENT OF DEFENSE.	5
2.6. Under Secretary of Defense for Acquisition, Technology, and Logistics (USD(AT&L)).	6
2.7. The DoD Component Heads.	6
SECTION 3: BACKGROUND CHECK DESCRIPTIONS AND PROCEDURES	7
3.1. Requirements for Individual Criminal History Background Checks.	7
3.2. Child Development Program Disclosure.	7
3.3. Types of Criminal History Background Checks.	8
a. FBI Fingerprint Check	8
b. Installation Records Check (IRC).	8
c. Tier 1 with Child Care Investigation for Non-Sensitive Positions.	9
d. SCHR Check.	9
e. SAC for Childcare Positions.	10
3.4. Background Check Procedures for C&Y Program Workforce.	10
a. DoD Civilian: NAF and APF Applicants.	10
b. Military Personnel.	11
c. FCC Providers and Substitute Providers.	11
d. Third Party Administrators.	11
e. Child and Youth Behavioral Military and Family Life Counselor (CYB-MFLC).	12
f. DoD Contractors and Subcontractors on Installations.	12
g. Temporary Appointments.	13
h. Specified Volunteers.	13
i. Non-Specified Volunteers.	14
j. Foreign Nationals.	14
3.5. Timely Completion of Background Checks.	14
3.6. Self Reporting Procedures.	15
3.7. Background Check Reverification.	15
a. Five Year Reverification.	15
b. Annual Reverification.	16
Appendix 3A: Background Check Screening Questions.	17
Appendix 3B: Background Checks by Workforce Category.	18
Appendix 3C: Frequently Asked Questions.	20
Applicability.	20

Q: Do these background check requirements apply to off-base civilian centers providing child care? 20

Criminal History Background Checks..... 20

Q: Who can initiate background checks of prospective and current C&Y personnel? ... 20

Q: What is a Tier 1 investigation and what does it include? 20

Q: Who needs an IRC? 20

Q: Why are specified volunteers only required to have the advanced FBI fingerprint check and an IRC? 20

SECTION 4: SUITABILITY AND FITNESS DETERMINATION ADJUDICATION 22

4.1. Suitability and Fitness Determination Procedures..... 22

 a. Determination of Whether an Individual Meets Standards of Character and Conduct..... 22

 b. Delegation of Adjudication Authorities..... 22

 c. Reciprocity of Background Checks. 23

 d. Referral to OPM for Adjudication. 23

 e. Interim Determination Permits LOSS..... 23

4.2. Adjudication by the Consolidated Adjudications Facility..... 23

4.3. Criteria for Automatic Disqualification..... 23

4.4. Criteria for Presumptive Disqualification..... 24

4.5. Disputes and Appeals of Unfavorable Determinations..... 24

Appendix 4A: Suitability and Fitness Adjudication Criteria for Presumptive Disqualification..... 25

SECTION 5: ELIGIBILITY TO PERFORM DUTIES UNDER LOSS 27

5.1. Delegation of LOSS Authorities to Components. 27

 a. No Presumption of Right. 27

 b. Preliminary Investigations Required..... 27

 c. Supervisor Requirements. 27

 d. Video Surveillance..... 27

 e. Conspicuous Identification of Individuals Subject to LOSS. 27

 f. Permissible Performance of Duties Without Supervision. 27

GLOSSARY 29

 G.1. Acronyms..... 29

 G.2. Definitions..... 30

REFERENCES 36

TABLES

Table 1. Criteria for Presumptive Disqualification and Mitigating Adjudication Factors. 25

SECTION 1: GENERAL ISSUANCE INFORMATION

1.1. APPLICABILITY. This issuance applies to OSD, the Military Departments, the Office of the Chairman of the Joint Chiefs of Staff and the Joint Staff, the Combatant Commands, the Office of the Inspector General of the Department of Defense, the Defense Agencies, the DoD Field Activities, and all other organizational entities within the DoD (referred to collectively in this issuance as the “DoD Components”).

1.2. POLICY. In accordance with DoDI 1402.05, individuals who have regular contact with children under 18 years of age in DoD child development and youth (C&Y) programs will undergo a criminal history background check and annually self-report changes to their criminal histories.

1.3. INFORMATION COLLECTIONS.

a. The Basic Criminal History and Statement of Admission, referred to in Paragraph 3.2 of this issuance, has been assigned Office of Management and Budget control number 0704-0516 in accordance with the procedures in Volume 2 of DoD Manual 8910.01. The expiration date of this information collection is listed on the Office of Management and Budget website at <http://www.reginfo.gov/public/jsp/PRA/prDashboard.jsp>.

b. The Basic Criminal History and Statement of Admission, referred to in Paragraph 3.2 of this issuance, does not require licensing with a report control symbol in accordance with Paragraph 1.b.(8) of Enclosure 3 of Volume 1 of DoD Manual 8910.01.

SECTION 2: RESPONSIBILITIES

2.1. ASSISTANT SECRETARY OF DEFENSE FOR MANPOWER AND RESERVE AFFAIRS (ASD(M&RA)). Under the authority, direction, and control of the Under Secretary of Defense for Personnel and Readiness, the ASD(M&RA):

a. Ensures criminal history background checks comply with DoD policy and Federal Bureau of Investigation (FBI) Criminal Justice Information Services Division operational and security policies and procedures.

b. Monitors DoD Component compliance with this issuance, applicable laws, and subsequent guidance issued by the applicable investigative service provider.

2.2. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR CIVILIAN PERSONNEL POLICY. Under the authority, direction, and control of the ASD(M&RA), the Deputy Assistant Secretary of Defense for Civilian Personnel Policy oversees development of DoD Component policies and procedures for the background check process for all of the covered civilian C&Y program workforce, as described in Section 3.1. of this issuance.

2.3. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MILITARY COMMUNITY AND FAMILY POLICY. Under the authority, direction, and control of the ASD(M&RA), the Deputy Assistant Secretary of Defense for Military Community and Family Policy oversees development of DoD Component policies and procedures for the background check process for all of the covered specified volunteers, family child care (FCC) providers, and other C&Y program workforce, as described in Section 3.1 of this issuance.

2.4. DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR MILITARY PERSONNEL POLICY. Under the authority, direction, and control of the ASD(M&RA), the Deputy Assistant Secretary of Defense for Military Personnel Policy implements the guidance in this issuance for all of the covered military C&Y program workforce, as described in Section 3.1. of this issuance.

2.5. DEPUTY CHIEF MANAGEMENT OFFICER OF THE DEPARTMENT OF DEFENSE. The Deputy Chief Management Officer of the Department of Defense, through the Director of Administration:

a. Ensures the completion of background investigations in accordance with the Federal Investigative Standards.

b. Ensures that background investigations of individuals who have regular contact with children under 18 years of age in DoD C&Y programs consider the criteria for automatic and presumptive disqualification, as specified in Sections 4.3. and 4.4. of this issuance.

2.6. UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS (USD(AT&L)). The USD(AT&L) ensures the Defense Federal Acquisition Regulation Supplement at Subpart 237.1 appropriately addresses the DoD requirements for background checks of contractors in accordance with the Federal Acquisition Regulation at Subpart 37.1 and DoD Instruction 1402.05.

2.7. THE DOD COMPONENT HEADS. The DoD Component heads:

a. Ensure Component compliance:

(1) With the requirements of DoDI 1402.05, applicable laws, and this issuance for all of the covered C&Y program workforce, as described in Section 3.1. of this issuance.

(2) With suitability and fitness determination policies, requirements, and procedures for individuals providing DoD C&Y Program services, as defined in DoDIs 6060.02 and 6060.4.

(3) With policies, requirements, and procedures for line-of-sight supervision (LOSS) of individuals with a favorable interim suitability determination.

(4) With all personally identifiable information collection, maintenance, dissemination and use in accordance with the requirements of Section 552a of Title 5, U.S.C and DoD 5400.11.

b. Provide support and resources, as required, to implement this issuance and any corresponding Component-specific policies, requirements, and procedures.

SECTION 3: BACKGROUND CHECK DESCRIPTIONS AND PROCEDURES

3.1. REQUIREMENTS FOR INDIVIDUAL CRIMINAL HISTORY BACKGROUND

CHECKS. Criminal history background checks are required for all individuals involved with the provision of C&Y services and programs who have regular contact with children under the age of 18. The following categories of individuals are subject to the procedures of this issuance, and for purposes of this issuance, may be referred to as the “DoD C&Y program workforce”:

- a. All appropriated fund (APF) and nonappropriated fund (NAF) employees.
- b. Foreign national employees.
- c. FCC providers, substitute providers and any person 18 years of age or older residing in or visiting the provider’s home for 30 days or more. If a household member turns 18 years of age during the year, a background check is required to be initiated prior to re-certification.
- d. Specified volunteers providing recreational or childcare services, such as those individuals who could have regular contact with children, such as youth sports coaches. The DoD Component head will designate specified volunteers.
- e. DoD contractors, subcontractors, staff, or providers in DoD facilities or installations who have regular contact with children under the age of 18.
- f. Military personnel who are employed or volunteer in any of the categories identified in Paragraphs 3.1.a., c., d., and e.

3.2. CHILD DEVELOPMENT PROGRAM DISCLOSURE. In accordance with DoDI 6060.02, current and prospective employees, DoD contractors, family child care providers, adults residing in a family child care home, and specified volunteers must complete a new DD Form 2981, “Basic Criminal History and Statement of Admission (Department of Defense Child and Youth (C&Y) Programs),” upon application for any position within a DoD C&Y program.

- a. These individuals must annually self-report and certify over a 5-year period specified crimes or offenses that would automatically or presumptively disqualify them from a favorable suitability or fitness determination, as referenced in Section 4 of this issuance. After the initial 5-year coverage period, C&Y program staff will initiate a new DD 2981 and maintain it in C&Y program offices.
- b. C&Y program staff will administer the annual DD 2981 self-reporting certification to:
 - (1) Employees during a single month of the calendar year, such as during annual performance reviews.
 - (2) FCC providers, substitute providers, and adult family members residing in a family child care home during the annual recertification process.

(3) DoD contractors during annual agreement extensions, renewals, or awards.

(4) Specified volunteers in the most efficient manner determined by the DoD Components.

3.3. TYPES OF CRIMINAL HISTORY BACKGROUND CHECKS. Component designees must notify existing, newly-hired, and prospective employees, contractors, FCC providers and substitute providers and their adult family members, and specified volunteers of the requirement for the completion of criminal history background checks and periodic reverification. Relevant criminal history background checks include:

a. FBI Fingerprint Check. Fingerprint submissions are required for background check investigations sent to Office of Personnel Management (OPM). OPM recommends submission of electronic fingerprints through the Fingerprint Transaction System. Electronic fingerprint submissions will be scheduled to the FBI as a special agreement check (SAC), case type 92. The SAC results will be furnished to the designated security office identifier as soon as the SAC is complete.

(1) An advanced FBI fingerprint report can be generated the day after completion of the criminal history background check by designated code “R” on the Agency Use Block of the Electronic Questionnaires for Investigations Processing (e-QIP) submission. The advanced FBI fingerprint report will be sent immediately to the Component’s Security Office Identifier.

(2) A fingerprint result of “unclassifiable” by the FBI will result in a name-based search of the individual’s FBI Criminal Justice Information System criminal history information. Agencies may submit up to two fingerprint requests, per individual, for an additional classification attempt within 1 year of the unclassifiable fingerprint result without incurring an additional cost. The original case number must be provided when the report is submitted. Failure to provide the original case number may result in an additional charge for the report.

(3) Components are advised to refer to the latest OPM guidance on requesting personnel investigations at <https://www.opm.gov/investigations/background-investigations/requesting-opm-personnel-investigations/>.

b. Installation Records Check (IRC). An IRC is a query of records maintained on an individual by programs and entities at a military installation where the individual has a DoD affiliation. “DoD affiliation” means a prior or current association, relationship, or involvement with the DoD or any elements of the DoD, including living, working, or volunteering on a DoD installation.

(1) The IRC should review the applicant’s relevant and accessible past records, with a minimum coverage of 2 years prior to the date of application, and include:

(a) Installation law enforcement or security records.

(b) Family Advocacy Program (FAP) records.

(c) Alcohol, drug, and substance abuse records (including pre-employment records and the results of any random drug testing).

(2) Component designees should attach IRC results that contain derogatory or questionable information (regardless of mitigating factors) to the OPM e-QIP applicant submission. Questionable IRC information helps inform OPM investigative requirements.

c. Tier 1 with Child Care Investigation for Non-Sensitive Positions. Tier 1 investigations include review of the following:

(1) Standard Form 85, “Questionnaire for Non-Sensitive Positions.”

(2) FBI advanced fingerprint check.

(3) Security and Suitability Investigations Index and the Defense Clearance and Investigation Index.

(4) Other federal agencies, as appropriate.

(5) Written inquiries to current and past employers, schools of record, references, local law enforcement agencies covering the past 5 years, and immigration and naturalization service (if foreign born).

d. State Criminal History Repository (SCHR) Check. All States maintain a central repository to track individuals convicted in that State of sex crimes, offenses involving a child victim, drug felonies, domestic violence, or violent crimes. State checks must include the State child abuse and neglect repository and State sex offender registry. The results of statewide database checks may vary by State due to legislative restrictions. Therefore, prior to submitting a Tier 1 with SCHR request to OPM, State-specific documentation requirements for requesting a SCHR need to be reviewed and accurately completed by the requesting Component.

(1) An applicant with a current investigation of a Tier 1 or higher must still obtain an SCHR.

(2) In certain instances, States will provide a local agency check (LAW) in lieu of an SCHR. If a State returns a LAW in lieu of an SCHR, the DoD Consolidated Adjudications Facility (CAF) (or Component, if the CAF is unable to make a favorable determination for other reasons) may adjudicate the case.

(a) Certain States and the District of Columbia may not comply with SCHR or LAW requests. If all other background check records are available, C&Y covered personnel currently domiciled in these locations should be considered eligible for DoD CAF adjudication (or Component, if the CAF is unable to make a favorable determination for other reasons).

(b) For U.S. citizens residing overseas for any consecutive period of 6 months or more in the previous 5 years, OPM will conduct an Interpol check in place of the LAW check.

e. SAC for Childcare Positions. After completion of the Tier 1 investigation, Components must request a 5-year reverification SAC from OPM or an approved investigative service provider as an update to the initial investigation. SAC searches utilize the FBI fingerprint classification and the SCHR and must check only those States in which the employee has resided since the last complete investigation or reverification.

3.4. BACKGROUND CHECK PROCEDURES FOR C&Y PROGRAM WORKFORCE.

Procedures for conducting background checks on individuals identified in Paragraphs 3.1.a.-f. differ based on the individuals' employment or volunteer status. Component designees, such as human resource officers, personnel security, or appropriate designated officials, must ensure that the appropriate background investigations are requested, tracked, and adjudicated to determine suitability or fitness for employment in C&Y programs. Per the latest DoD guidance, OPM, the authorized investigative service provider, or the DoD will conduct the investigations.

a. DoD Civilian: NAF and APF Applicants.

(1) Prior to an offer of employment, Component designees should begin the background check pre-screening process by obtaining:

- (a) OPM Optional Form 306, "Declaration for Federal Employment."
- (b) A résumé or application.
- (c) DD Form 2981.
- (d) Advanced FBI fingerprint report.
- (e) IRC, if applicable.

(2) Component designees will review the pre-employment screening documents to determine if the applicant's submission indicates any automatic or presumptively disqualifying information preventing the applicant from further consideration as a C&Y program workforce candidate.

(3) After reviewing the initial results of these checks and if favorably adjudicated, Component designees will grant the applicant an interim suitability or fitness determination for working under LOSS, pending a final suitability and fitness determination.

(4) Upon an applicant's acceptance of employment, but not later than 7 calendar days after placement in the position under LOSS, Component designees must initiate, review, and release the Tier 1 investigation to the OPM e-QIP application (found at <http://www.opm.gov/investigations/e-qip-application>) by submitting the following:

(a) Standard Form (SF) 85, "Questionnaire for Non-Sensitive Positions." SCHR checks should be generated using the extra coverage code "8" or position code "H" in the agency use block on the SF-85.

(b) IRC results that contain derogatory or questionable information (regardless of mitigating factors).

(5) OPM transmits the investigative results to the CAF for adjudication.

(a) For those cases where a DoD CAF adjudicator can reach a favorable determination, the case is adjudicated and the adjudication action recorded in the Case Adjudication Tracking System (CATS) and the Central Verification System (CVS), or latest DoD approved tracking system.

(b) For those cases with missing, inaccurate or incomplete data, or where the DoD CAF cannot reach a favorable determination, the case is returned to the Component adjudicator for suitability determination. Returned cases do not necessarily require an unfavorable determination. Instead, these cases simply may involve information that requires additional, Component-specific evaluation.

(6) A favorable suitability determination from the IRCs, advanced fingerprint report, and Tier 1 investigation permits termination of LOSS requirements for the employee's C&Y program position.

b. Military Personnel. These are active duty Service members, Guard, and Reserve personnel who provide childcare services as part of a normal duty assignment or are involved during off-duty hours as paid staff, a specified volunteer or FCC provider's or substitute provider's spouse. For military personnel with an active security clearance investigated at the NACI or higher level, an SCHR and an IRC are still required. Simply holding an active security clearance does not meet the criminal background history investigative requirements of a Tier 1 investigation with SCHR coverage. State checks must include the State child abuse and neglect repository and the State sex offender registry.

c. FCC Providers and Substitute Providers. FCC providers and substitute providers are subject to advanced FBI fingerprint checks, IRCs, and Tier 1 investigations with SCHR. All other persons 18 years of age and older residing in a provider's home must receive an FBI fingerprint check and an IRC, if applicable. A Component must receive the results of a Tier 1 investigation prior to licensing an FCC provider to care for children. Component designees will process FCC provider and substitute provider applicants using the following documents and procedures:

(1) DD Form 2981.

(2) Advanced FBI fingerprint report.

(3) IRC, if applicable.

(4) SF-85. SCHR checks should be generated using the extra coverage code "8" or position code "H" in the agency use block on the SF-85.

d. Third Party Administrators. A third party administrator (TPA) is a person or organization that processes claims and performs other administrative services in accordance with

a service contract. The State in which the TPA provides the child care services is responsible for establishing the requirements for State licensure and designating the State-approved entity with responsibility for conducting and adjudicating the background checks.

(1) TPAs may not conduct criminal history background checks for the DoD. TPAs must validate and maintain supporting documentation that the child care services and organization is currently licensed and regulated by the State to provide child care services.

(2) Community-based child care providers, as defined in DoDI 6060.02, must meet State licensing standards or school district requirements and policies for background checks. TPAs will verify that these requirements are met.

(3) Components may develop or add additional Service-specific background check requirements into their contracts with TPAs.

e. Child and Youth Behavioral Military and Family Life Counselor (CYB-MFLC). CYB-MFLCs augment C&Y program services by providing support to faculty, staff, parents and children for issues including, but not limited to, school adjustment, deployment and reunion adjustments, and parent-child communications.

(1) Due to the transient nature of their assignments, CYB-MFLCs must complete an IRC every 2 years or every fourth assignment, whichever comes first. Installations must accept current IRCs, regardless of the initiating Military Service. Upon assignment of MFLCs to the gaining installation, the gaining installation will receive the status of completed IRCs.

(2) CYB-MFLCs working on-installation must have an advanced FBI fingerprint check, Tier 1 investigation with SCHR check, and IRC, if applicable, pursuant to Paragraph 2.c. of Enclosure 3 of DoDI 1402.05.

(3) CYB-MFLCs working in off-installation community-based programs and schools will follow the background check requirements of the State, or State Department of Education, consistent with the community-based child care requirements referenced in DoDI 6060.02.

(4) CYB-MFLCs may not rotate to on-installation programs until they meet the background check requirements for working on-installation specified in Paragraph 3.4.e.(2) of this issuance.

f. DoD Contractors and Subcontractors on Installations. Components that utilize contractors for services (e.g., bus drivers, custodial, or facility maintenance providers, or performing arts or sports camps providers) where contractor staff are expected to have regular contact with minors (and may rotate among installations), or that maintain a contract with a self-employed individual providing C&Y program services (e.g., performing arts instruction), must subject such individuals to the required criminal history background checks.

(1) Components should use the following documents and procedures:

(a) DD Form 2981.

(b) Advanced FBI fingerprint report.

(c) IRC, if applicable.

(d) SF-85. SCHR checks should be generated using the extra coverage code “8” or position code “H” in the agency use block on the SF-85.

(2) Exceptions to this general rule to waive the requirement for a Tier 1 investigation for bus drivers and custodial or facility maintenance contract providers are permissible under the following conditions:

(a) If the employee performs the bus driver, custodial, or facility maintenance services after normal working hours when children and youth are not present.

(b) If the employee performs the bus driver, custodial, or facility maintenance services during normal working hours under LOSS when children and youth are present.

(3) Components should coordinate with their contracting officers to determine the appropriate course of action to modify existing contracts in order to include DoDI 1402.05 requirements for criminal history background checks.

g. Temporary Appointments. Temporary appointments, such as summer hires, camp counselors, and contractors, are C&Y program individuals employed for a period not exceeding 180 consecutive calendar days. Typically, their term of employment is of shorter duration than is required to perform a Tier 1 investigation background check. These individuals must always work under LOSS. However, temporary employees who return to C&Y program employment on a recurring basis for an aggregate of 180 or more days in a single or series of appointments should be considered by the Components for a Tier 1 investigation background check. Component designees must process temporary or summer employees and contractors using the following documents and procedures:

(1) DD Form 2981.

(2) Advanced FBI fingerprint report.

(3) IRC, if applicable.

h. Specified Volunteers. These are individuals who donate their time to support C&Y programs and could have regular contact with children over an extended period of time. Athletic and performing arts coaches and academic tutors fall in this category. The Component head designates specified volunteers, who must undergo the following background checks:

(1) DD Form 2981.

(2) Advanced FBI fingerprint report.

(3) IRC, if applicable.

i. Non-Specified Volunteers. Individuals with infrequent contact with minors, or interacting in a controlled and limited duration activity, such as participating in one-time activities or events, are considered non-specified volunteers. For example, individuals designated as a field trip chaperone with monitored access and limited duration (e.g., 3 to 5 hours) would fall into this category. Background checks are not required for non-specified volunteers whose services will be of shorter duration than is required to perform the background checks, and who work under LOSS supervision by an individual who has successfully completed a criminal history background check.

j. Foreign Nationals. Components must initiate and ensure a favorable adjudication of background checks for foreign nationals before they begin working in DoD C&Y programs. The type of background investigation may vary based on standing reciprocity treaties between the United States and its allies or agency agreements with the host country concerning identity assurance and information exchanges.

(1) The investigation of a non-U.S. national at a foreign location must be consistent with or equivalent to a Tier 1 investigation, to the extent possible, per the latest guidance from DoD.

(2) At U.S.-based locations and in U.S. territories (other than American Samoa and Commonwealth of the Northern Mariana Islands), non-U.S. nationals who are present in the United States or a U.S. territory for 3 years or more must have an advanced FBI fingerprint check and a Tier 1 with child care coverage investigation initiated and completed.

(a) Non-U.S. nationals who have been in the United States or U.S. territory for less than 3 years may not meet OPM investigative requirements. In this event, the DoD CAF may forward the case to the Component concerned for adjudication.

(b) DoD Components also may delay the background investigation of a non-U.S. national who has been in the United States or U.S. territory for less than 3 years until the individual has been in the United States or U.S. territory for at least 3 years. In this scenario, the relevant Component official may allow LOSS at his or her discretion, as appropriate based on a risk determination and in accordance with Volume 1231 of DoDI 1400.25.

3.5. TIMELY COMPLETION OF BACKGROUND CHECKS. In no event will an individual subject to this issuance be presumed to have a favorable background check merely because there has been a delay in receiving the results of the requisite background check.

a. The results of SCHR checks may vary by jurisdiction due to State-specific legislative restrictions on the release of information. If no response from a State is received within 60 days from the date of an SCHR request, the DoD CAF (or the Component designee, if the CAF is unable to render a favorable determination for other reasons) will make a suitability or fitness determination based on the Tier 1 investigation results.

b. The Component official must provide to the appropriate determining authority any SCHR responses received after making this determination for new suitability determination.

3.6. SELF REPORTING PROCEDURES. The C&Y program workforce must sign and annually certify that they have not been arrested, charged or convicted by federal, State, or local authorities for any violation of any federal law, Military law, State law, County or Municipal law or met the Family Advocacy criteria for child maltreatment in the past year for any crimes or offenses enumerated in Block 6 of DD Form 2981. Individuals working in DoD C&Y programs, who are undergoing a background investigation or have a completed background check and favorable suitability and fitness determination, must report immediately to their respective Component designee subsequent automatic disqualification criteria under Paragraph 4.3. of this issuance and presumptive disqualification criteria under Paragraph 4.4. of this issuance.

3.7. BACKGROUND CHECK REVERIFICATION.

a. Five Year Reverification. All DoD civilian employees (both APF and NAF), military personnel, DoD contractors, and any other individuals reasonably expected to have regular contact with children on a DoD installation, in a DoD program, or as part of a military- or DoD-sanctioned activity (including specified volunteers involved in C&Y programs, or any person 18 years of age or older residing in an FCC, foster, or respite care home) who are in the position for which their initial background check was conducted must undergo a reverification every 5 years.

(1) The reverification, conducted by the DoD, for employees, military personnel, and DoD contractors will include:

(a) An FBI fingerprint SAC with SCHR that includes child abuse and neglect and sex offender registries for all states lived in during the 5 years since the date of the last investigation or reverification.

(b) An IRC of all affiliated installations for the 5 years since the date of the last IRC.

(2) Reverification for specified volunteers and persons 18 years of age or older residing in an FCC, foster, or respite care home will include:

(a) An FBI fingerprint SAC.

(b) An IRC of all affiliated installations for the 5 years since the date of the last investigation or reverification.

(3) The Component designees must place an individual under LOSS and conduct an expanded-focused investigation if new information obtained through the reverification, the annual certification requirements prescribed by DD Form 2981, or other channels raises suitability issues.

(4) If the reverification results in an unfavorable suitability determination, Component designees will reassign, remove, or terminate the individual from employment, contract, or volunteer status.

b. Annual Reverification. All FCC providers and substitute providers are subject to an annual reverification. The reverification includes the FBI fingerprint SAC and an SCHR that includes the child abuse and neglect and sex offender registries for States lived in since the last complete investigation or reverification. Component designees must evaluate any issues discovered in the SAC to determine whether a provider's continued certification or participation is warranted in the C&Y program.

APPENDIX 3A: BACKGROUND CHECK SCREENING QUESTIONS.

This appendix serves as a decision support tool to help address specific *ad hoc* cases or situations when DoD-affiliated minor children are anticipated to be in the company of an adult, and whether that adult should be subject to a background check in accordance with this issuance. The sequencing of questions and corresponding responses provide initial guidance on the applicability of background checks for the individual circumstances in question.

1. Are the children or youth engaged in a DoD-sanctioned or C&Y program?		
<u>DoD-sanctioned programs.</u> Any program, facility, or service that is operated by the DoD, a Military department or Service, or any agency, unit, or subdivision thereof. Examples include, but are not limited to, child development centers, family child care programs, DoD Education Activity schools, and recreation and youth programs. These do not include programs operated by other State or federal government agencies or private organizations, or community-based programs.		
a. YES	Continue with Q2.	
b. NO	Requirement outside of DoD jurisdiction. State regulation applies.	
2. Is it expected that the program provider in question will have regular contact or controlled and limited duration contact with minors?		
a. Regular contact ➤ Continue with Q4	Reasonably expected continuing and ongoing contact between an adult and a minor under the age of 18.	Tier 1 investigation required
b. Controlled and limited duration contact ➤ Continue with Q3	Infrequent or incidental contact with minors, or interacting in a controlled and limited duration activity, such as participating in one-time activities or events.	LOSS required
3. Is it anticipated that the controlled and limited duration contact will occur with other adults or parents present or under LOSS?		
a. YES	Activity permissible without background checks.	
b. NO	Not permissible without background checks.	
4. What workforce category applies to the program provider in question?		Paragraph
a. DoD Civilian.		3.4.a.
b. Military Personnel.		3.4.b.
c. Family Child Care Provider.		3.4.c.
d. Third-Party Administrator / Community-based Child Care Provider.		3.4.d.
e. C&Y Behavioral Military and Family Life Counselor.		3.4.e.
f. Contractors and Subcontractors on installations.		3.4.f.
g. Temporary Appointments.		3.4.g.
h. Specified Volunteer.		3.4.h.
i. Non-Specified Volunteer.		3.4.i.
j. Foreign National.		3.4.j.

APPENDIX 3B: BACKGROUND CHECKS BY WORKFORCE CATEGORY.

This appendix serves as a quick reference visual job aid to help C&Y program staff reference applicable background check requirements by workforce category. It does not reflect every applicable situation.

Workforce Category	Civilian Personnel (APF and NAF)			Military Personnel	Foreign National	FCC Provider	
	Pre / Post employment	Annual certification	5-year reverification	Pre-employment, 5-year reverification	Pre-employment, 5-year reverification	Pre-certification	Annual reverification
DD Form 2981	◆	◆	◆	◆	◆	◆	◆
Advanced FBI fingerprint report	◆		◆	◆	◆	◆	◆
IRC	❖		◆	❖	❖	❖	◆
Tier 1 Investigation with an SCHR	◆			◆	◆	◆	
FBI fingerprint SAC with SCHR			◆	◆	◆		◆

Refer to this issuance for background check procedures and timelines specific to each workforce category.

- ◆ - Designates mandatory requirement.
- ❖ - Applicable for applicants with current or prior installation affiliation.

Workforce Category	Volunteers			Contractors and Subcontractors		
	Specified	Non-specified	Temporary Appointments	C&Y Behavioral Military and Family Life Counselors	Institutional (Base Custodial)	Individual (Self-Employed)
Background Check Procedures for C&Y Workforce	Initial, reverification	Not applicable	Pre-employment, reverification	Pre-employment, reverification	Pre-employment, reverification	Pre-employment, reverification
DD Form 2981	◆		◆	◆	◆	◆
Advanced FBI fingerprint report	◆		◆	◆	◆	◆
IRC	❖		❖	❖	❖	❖
Tier 1 Investigation with an SCHR				◆	◆	◆
FBI fingerprint SAC with SCHR				◆	◆	◆
Contact allowed under LOSS		◆	◆	◆		

Refer to this issuance for background check procedures and timelines specific to each workforce category.

◆ - Designates mandatory requirement.

❖ - Applicable for applicants with current or prior installation affiliation.

APPENDIX 3C: FREQUENTLY ASKED QUESTIONS.

Applicability.

Q: Do these background check requirements apply to off-base civilian centers providing child care?

A: No. Off-base centers and providers who care for military family children as part of the fee assistance program or community-based services or activities are not considered part of the DoD C&Y program workforce, and therefore are not subject to this policy. In accordance with DoDI 6060.02, providers and substitute providers must meet the background checks of the State in which the provider or substitute provider is licensed.

Criminal History Background Checks.

Q: Who can initiate background checks of prospective and current C&Y personnel?

A: DoDI 1402.05 restricts initiation of the background check process to security and personnel specialists and explicitly precludes C&Y program managers, such as a child development center director and employees, from conducting criminal history background checks. Training and certification provided by OPM and the DoD will determine the properly-trained and vetted individuals permitted to initiate, track, and oversee background checks. Individuals certified to conduct criminal history background checks should maintain relevant training records.

Q: What is a Tier 1 investigation and what does it include?

A: The Tier 1 investigation consists of a review of: the FBI fingerprint check; OPM's Security/Suitability Investigations Index; the Defense Clearance and Investigation Index; records of other federal agencies, as appropriate; and written inquiries to current and past employers, schools of record, references, local law enforcement agencies covering the past 5 years, and immigration and naturalization service (if foreign-born employee).

Q: Who needs an IRC?

A: An individual who has a prior or current association, relationship, or involvement with the DoD, or any elements of the DoD, including living, working, or visiting a DoD installation and is anticipated to have regular contact with children must be subjected to an IRC.

Q: Why are specified volunteers only required to have the advanced FBI fingerprint check and an IRC?

A: Many specified volunteers are active duty military or former military members, retired DoD civilian or military personnel, or family members, with most having been vetted or approved to have a DoD Common Access Card. The majority of specified volunteers volunteer as sports coaches, instructors, or mentors while being supported and, at times, in LOSS of other parents or staff during practices and programs. Therefore, this guidance presumes that the FBI

fingerprint check is appropriate for this position. Components may use their policy guidance to establish more stringent procedural requirements beyond those stated in this issuance.

SECTION 4: SUITABILITY AND FITNESS DETERMINATION ADJUDICATION

4.1. SUITABILITY AND FITNESS DETERMINATION PROCEDURES.

a. Determination of Whether an Individual Meets Standards of Character and Conduct. During suitability or fitness determination adjudication, authorized and trained personnel review background information to determine whether a candidate for a position meets federal standards of character and conduct. The purpose of the review is to identify any suitability or fitness issues and, if issue(s) are identified, determine whether it is in the best interest of the federal government to recommend or continue employment of the individual.

(1) In accordance with Part 731 of Title 5, Code of Federal Regulations, suitability and fitness determination adjudications of background information may take place at any point during the hiring process (e.g., after review of completed application forms, employment forms, or a completed background investigation). Many DoD Components perform an initial adjudication upon receiving an applicant's declaration of federal employment form (i.e., the Optional Form 306) and perform a final adjudication after receiving the completed report of investigation from the investigation provider.

(2) The ultimate decision to determine how to use information obtained from the criminal history background checks in selection for positions involving the care, treatment, supervision, or education of children must incorporate a common-sense decision based upon all known facts. The DoD CAF or a Component designee who is trained and cleared at the appropriate level to adjudicate results of background checks evaluates adverse information.

(a) The DoD CAF or a Component designee should assess all information of record, both favorable and unfavorable, in terms of its relevance, recentness, and seriousness, as well as positive mitigating factors.

(b) The Component head or designee will make final suitability decisions.

b. Delegation of Adjudication Authorities. OPM has delegated limited authority to the DoD for the adjudication of suitability determinations for appointment to appropriated fund and nonappropriated fund positions of trust in the C&Y program workforce, as prescribed in Volume 731 of DoDI 1400.25.

(1) The DoD further delegates this authority to the DoD CAF and the Components.

(2) Favorable suitability determinations will be made at the DoD CAF for employees with no or mitigated derogatory background investigation information and sufficient scope (i.e., complete SCHR or other approved checks, as described in this issuance).

(3) DoD delegates to the Components suitability determinations based on significant derogatory information, or insufficient scope; these determinations may be further delegated, in writing, to the lowest practicable level.

c. Reciprocity of Background Checks. Component designees may not consider background checks conducted by another federal agency as reciprocal background checks suitable for adjudication of C&Y programs pursuant to DoDI 1402.05. DoD Components may reciprocally accept background checks and suitability determinations made by another DoD Component for child care services if it meets the requirements specified in this issuance.

d. Referral to OPM for Adjudication. Where there is evidence that an individual has made a material, intentionally false statement or engaged in deception or fraud, Components will refer the case to OPM for adjudication.

e. Interim Determination Permits LOSS. The applicant can begin work in a covered C&Y program position under LOSS if given a favorable suitability determination from prescreening checks. If the Tier 1 investigation or other background checks result in an unfavorable suitability determination, the Component designee will reassign, remove, or terminate the individual from employment, contract, provider or volunteer status.

4.2. ADJUDICATION BY THE CONSOLIDATED ADJUDICATIONS FACILITY. The completed background investigation undergoes initial adjudication by staff at the DoD CAF. For those cases where a DoD CAF adjudicator reaches a favorable determination, the case is adjudicated and the adjudication action is recorded in both the CATS and the CVS, or the latest DoD tracking system.

a. For those cases where the DoD CAF cannot reach a favorable determination due to missing or derogatory information, the case is returned to the Component adjudicator through the CATS portal for a final determination.

(1) The case is not necessarily deemed unfavorable; instead, the case may involve information that requires Component-specific evaluation from an adjudicator at the Component level.

(2) Component adjudicators should document actions and determinations in CATS and CVS, or the latest DoD tracking system.

b. After DoD CAF provides an adjudicative determination or in support of reverification requirements, the DoD CAF may transfer additional derogatory information received (e.g., FBI rap sheets) to the Component for consideration regarding continued eligibility.

4.3. CRITERIA FOR AUTOMATIC DISQUALIFICATION. No person, regardless of circumstances, will be approved to provide child care services pursuant to DoDI 1402.05 if their background check discloses:

a. That the individual has been convicted in either a civilian or military court (to include any general, special, or summary court-martial conviction) or received non-judicial punishment pursuant to Article 15 of Chapter 47 of Title 10, U.S.C., (also known as the “Uniform Code of Military Justice (UCMJ)”) for any of the following reasons:

- (a) A sexual offense.
 - (b) Any criminal offense involving a child victim.
 - (c) A drug offense for which the maximum authorized sentence includes confinement for one year or more.
- b. That the individual has been found negligent in a civil adjudication or administrative proceeding concerning the death or serious injury to a child or dependent person entrusted to the individual's care.

4.4. CRITERIA FOR PRESUMPTIVE DISQUALIFICATION. Evaluation of presumptively-disqualifying information for all covered C&Y program personnel is described in Appendix 4A to this issuance. Component designees must include in the applicant adjudication record a written justification for any favorable determination made where an individual's background check results include any of the following presumptively-disqualifying information:

- a. A FAP record indicating that the individual met criteria for child abuse or neglect, or civil adjudication that the individual committed child abuse or neglect.
- b. Evidence of an act or acts by the individual that tend to indicate poor judgment, unreliability, or untrustworthiness in providing child care services.
- c. Evidence or documentation of the individual's past or present dependency on or addiction to any controlled or psychoactive substances, narcotics, cannabis, or other dangerous drugs without evidence of substantial rehabilitation.
- d. A conviction, in either a civilian or military court (including any general, special, or summary court-martial conviction, or non-judicial punishment pursuant to Article 15 of the UCMJ) for:
 - (1) A crime of violence committed against an adult.
 - (2) Illegal or improper use, possession, or addiction to any controlled or psychoactive substances, narcotics, cannabis, or other dangerous drug.
- e. A civil adjudication that terminated the individual's parental rights to his or her child, except in cases where the birth parent places his or her child up for adoption.

4.5. DISPUTES AND APPEALS OF UNFAVORABLE DETERMINATIONS. The DoD Components will establish and oversee procedures for the communication of determinations and the appeal of unfavorable determinations for the C&Y program workforce. The prescribed procedures for civilian (APF) personnel should be in accordance with Part 731 of Title 5, Code of Federal Regulations. NAF employees or applicants may appeal unfavorable suitability or fitness determinations through their respective DoD Components.

APPENDIX 4A: SUITABILITY AND FITNESS ADJUDICATION CRITERIA FOR PRESUMPTIVE DISQUALIFICATION.

In accordance with DoDI 1402.05, the Components must provide a written justification for any favorable DoD C&Y program position determination made where an individual’s background check results include presumptively-disqualifying information. The following table provides additional guidance on factors and conditions that may mitigate, in whole or in part, specific criteria for presumptive disqualification.

Table 1. Criteria for Presumptive Disqualification and Mitigating Adjudication Factors.

Criteria for Presumptive Disqualification	Mitigating Adjudication Factors
(1) A FAP record indicating that the individual met criteria for child abuse or neglect, or civil adjudication that the individual committed child abuse or neglect.	<ul style="list-style-type: none"> • Remedial actions taken by the individual before the investigation was concluded. • Extraordinary, situational, or temporary stressors that caused the parent or guardian to act in an uncharacteristically abusive or neglectful manner. • The isolated or aberrational nature of the abuse or neglect. • The limited, minor, or negligible physical, psychological, or emotional impact of the abuse or neglect on the child.
(2) Evidence of an act or acts by the individual that tend to indicate poor judgment, unreliability, or untrustworthiness in providing child care services.	<ul style="list-style-type: none"> • The behavior happened so long ago, was minor, or happened under such unusual circumstances that it is unlikely to recur and does not cast doubt on the individual’s current good judgment or trustworthiness.

Table 1. Criteria for Presumptive Disqualification and Mitigating Adjudication Factors, Continued

Criteria for Presumptive Disqualification	Mitigating Adjudication Factors
(3) Evidence or documentation of the individual's past or present dependency on, or addiction to, any controlled or psychoactive substances, narcotics, cannabis, or other dangerous drug without evidence of substantial rehabilitation.	<ul style="list-style-type: none"> • The individual acknowledges his or her substance abuse or addiction, provides evidence of actions taken to overcome the abuse or addiction, and demonstrates a clear and established pattern of abstinence and recovery. • The individual is participating in counseling or treatment programs, has no history of relapse, and is making satisfactory progress. • The individual has successfully completed inpatient or outpatient counseling or rehabilitation along with any required aftercare. He or she has demonstrated a clear and established pattern of abstinence and recovery in accordance with treatment recommendations.
(4) A conviction, including any general, special, or summary court-martial conviction, or non-judicial punishment under Article 15 of the UCMJ for: (a) a crime of violence against an adult; (b) illegal or improper use or possession of, or addiction to any controlled or psychoactive substances, narcotics, cannabis, or other dangerous drug.	<ul style="list-style-type: none"> • The person was pressured or coerced into committing the act and those pressures are no longer present in the person's life. • The behavior happened so long ago, was minor, or happened under such unusual circumstances that it has not recurred, and is unlikely to recur.
(5) A civil adjudication that terminated the individual's parental rights to his or her child, except in cases where the birth parent places his or her child up for adoption.	<ul style="list-style-type: none"> • The person was pressured or coerced into committing the act or acts that led to the termination of parental rights and those pressures are no longer present in the person's life.

SECTION 5: ELIGIBILITY TO PERFORM DUTIES UNDER LOSS

5.1. DELEGATION OF LOSS AUTHORITIES TO COMPONENTS. The DoD Components will establish Component-specific procedures, policies, and requirements, subject to the requirements of this section, to permit applicants for whom a criminal history background check has been initiated but not yet completed to perform duties under LOSS, upon favorable findings of preliminary investigations.

a. No Presumption of Right. No individual may perform duties under LOSS in a position subject to criminal history background check without authorizing policy or other written permission from a DoD Component head.

b. Preliminary Investigations Required. No individual may perform duties under LOSS in a position subject to criminal history background check unless the following investigative elements have been reviewed and determined favorable by Component designees:

- (1) An advanced FBI fingerprint check.
- (2) An IRC, if applicable.

c. Supervisor Requirements. The applicant's or employee's LOSS supervisor must have:

- (1) Undergone a criminal history background check and received a favorable fitness or suitability determination.
- (2) Complied with the periodic reverification requirement for a recurring criminal history background check, as required.
- (3) Not previously exhibited reckless disregard for an obligation to supervise an employee, contractor, or volunteer.

d. Video Surveillance. The use of video surveillance equipment to provide temporary oversight for individuals whose required background checks have been initiated but not completed is acceptable, provided it is continuously monitored by an individual who has met the supervisory requirements in Paragraph 5.1.c. of this issuance. This provision must meet the intent of a flexible and reasonable alternative for LOSS.

e. Conspicuous Identification of Individuals Subject to LOSS. Individuals permitted to perform duties solely under LOSS must be marked conspicuously by means of distinctive clothing, badges, wristbands, or other visible and apparent markings visible from a distance. Conspicuous postings or printed information must communicate the purpose of such markings to staff, customers, parents, and guardians.

f. Permissible Performance of Duties Without Supervision. Individuals otherwise required to perform duties only under LOSS may perform duties without supervision if:

- (1) Interaction with a child occurs in the presence of the child's parent or guardian.

(2) Interaction with a child is in a medical facility, subject to the supervisory policies of the facility, and in the presence of a mandated reporter of child abuse.

(3) Interaction is necessary to prevent death or serious harm to the child, and supervision is impractical or unfeasible (e.g., response to a medical emergency, emergency evacuation of a child from a hazardous location).

GLOSSARY

G.1. ACRONYMS.

APF	appropriated fund
ASD(M&RA)	Assistant Secretary of Defense for Manpower and Reserve Affairs
C&Y	child and youth
CAF	Consolidated Adjudications Facility
CATS	Case Adjudication Tracking System
CVS	Central Verification System
CYB-MFLC	child and youth behavioral military family life counselor
DoDI	DoD instruction
e-QIP	Electronic Questionnaires for Investigations Processing
FAP	Family Advocacy Program
FBI	Federal Bureau of Investigation
FCC	family child care
IRC	installation records check
LAWE	local agency check
LOSS	line-of-sight supervision
NAF	nonappropriated fund
OPM	Office of Personnel Management
SAC	special agreement checks
SCHR	State Criminal History Repository
SF	Standard Form
TPA	third party administrator

UCMJ	Uniform Code of Military Justice
U.S.C.	United States Code
USD(AT&L)	Under Secretary of Defense for Acquisition, Technology, and Logistics

G.2. DEFINITIONS. Unless otherwise noted, these terms and their definitions are for the purpose of this issuance.

adjudication. The evaluation of pertinent data in a background investigation, as well as any other available information that is relevant and reliable, to determine whether an individual is suitable or fit for work.

adult. An individual who is 18 years of age or older and regarded in the eyes of the law as being able to manage his or her own affairs.

applicant. A person upon whom a criminal history background check is, will be, or has been conducted. This includes any individual who has been selected or is being considered for a position subject to a criminal history background check, or who is undergoing a recurring criminal history background check. Also includes current employees who have applied for new positions.

CATS. The DoD CAF's adjudication case management system. It takes in the cases as they are delivered, supports the adjudication work process, and automates record keeping, including through the use of a centralized database of adjudication outcomes.

care provider. A current or prospective individual hired with APF and NAFs for education, treatment or healthcare, child care, or youth activities; employed under contract, who works with children; and certified for care. Also includes any individuals working within programs that include child development programs, DoD dependents schools, DoD-operated or -sponsored activities, foster care, private organizations on DoD installations, and youth programs.

child. A person under 18 years of age.

child care services programs. Care or services provided to children under the age of 18 in settings including child protective services (including the investigation of child abuse and neglect reports), social services, health and mental health care, child (day) care, education (whether or not directly involved in teaching), foster care, residential care, recreational or rehabilitative programs, and detention, correctional, or treatment services, in accordance with Title 42 U.S.C.

Component adjudicator. An individual trained and certified as a suitability adjudicator at the DoD Component or Military Service level.

contractor. Any non-DoD individual, firm, corporation, partnership, association, or other non-federal entity that enters into a contract directly with the DoD or a DoD Component to furnish supplies, services, or both, including construction.

controlled and limited duration contact. Infrequent contact or interactions in a controlled and limited duration activity between adults and minors, such as participating in one-time activities or events. Such contacts are not subject to background checks, but adults' presence at such activities or events must be under LOSS at all times. For example, individuals designated as non-specified volunteers, such as field trip chaperones with monitored access and limited duration (e.g., 3 to 5 hours), would fall in this category.

covered position. A position that must meet the suitability requirements outlined in DoDI 1402.05.

crime of violence. Any crime that has an element involving the use, attempted use, or threatened use of physical force against the person or property of another; or that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in committing the offense.

criminal offense involving a child victim. Any criminal offense in which the child is a victim of any of the following (but not limited to): kidnapping of a minor; false imprisonment of a minor; criminal sexual conduct toward a minor; solicitation of a minor to engage in sexual conduct; use of a minor in a sexual performance; solicitation of a minor to practice prostitution; any conduct that by its nature is a sexual offense against a minor; or any attempt to commit any of these offenses against a victim who is a minor.

criminal history background checks. Records, investigative reports, and other investigative elements accessed to generate criminal history background findings to be used to make fitness or suitability determinations.

derogatory information. Information that may reasonably justify an unfavorable personnel suitability or fitness determination because of the nexus between the issue or conduct and the core duties of the position.

DoD affiliation. A prior or current association, relationship, or involvement with the DoD or any elements of the DoD, including living, working or visiting a DoD installation.

DoD C&Y programs. Programs established by the DoD in accordance with DoDIs 6060.02 and 6060.4 at locations where there are military families living on or off the installation.

DoD-sanctioned program. Any program, facility, or service operated by the DoD, a Military Department or Service, or any agency, unit, or subdivision thereof. Examples include, but are not limited to: child development centers; FCC programs; DoD Education Activity schools; and recreation and youth programs. These do not include programs operated by other State or federal government agencies or private organizations.

duties. Those activities performed as an employee, contractor, provider, or volunteer that involve interaction with children, including any work performed in a child development program or DoD Education Activity school.

employee. An individual paid from funds appropriated by the United States Congress or employed by a NAF instrumentality, as defined in accordance with DoDI 1015.15. Includes

foreign nationals, in accordance with Volume 1231 of DoDI 1400.25; Military Service members working during their off-duty hours; and non-status, non-continuing temporary positions with specified employment periods not to exceed 180 days, such as summer hires, student interns, and seasonal hires.

FAP. A program designed to address prevention, identification, evaluation, treatment, rehabilitation, follow-up, and reporting of family violence. FAPs consist of coordinated efforts designed to prevent and intervene in cases of family distress, and to promote healthy family life as prescribed by DoDI 6400.01.

FCC. Home-based care provided in a private family home for compensation. The home must be inhabited by the family or individual who is providing care.

FCC provider. An individual 18 years of age or older who provides child care for 10 hours or more per week per child on a regular basis in his or her home with the approval and certification of the installation commander, and has responsibility for planning and carrying out a program that meets the needs of children at their various stages of development and growth as prescribed in DoDI 6060.02.

FCC adult family members. Any person 18 years of age or older who resides in the home of an FCC provider or substitute provider for 30 or more consecutive days.

fitness. Reference to a level of character and conduct determined necessary for an individual to perform work for, or on behalf of, a federal agency as an employee in the excepted service (other than in a position subject to suitability) or as a contractor employee.

fitness determination. A decision, based on review of background check findings, that an individual is fit to perform duties in a position subject to a criminal history background check. Fitness determinations will be “favorable” (i.e., the individual is fit to perform the duties) or “unfavorable” (i.e., the individual is not fit to perform the duties).

foreign nationals. Individuals who are not citizens of the United States.

foster care. A voluntary or court-mandated program that provides 24-hour care and supportive services in a family home or group facility, within government-owned or -leased quarters, for children and youth who cannot be properly cared for by their own family.

host-government check. A criminal history background check conducted on foreign nationals in accordance with U.S. and host country treaties or agreements.

interim suitability or fitness determination. Part of the pre-screening process in the identification and resolution of suitability or fitness issues, which occurs prior to the initiation of the required investigation. It involves the review of applications and other employment-related documents. A favorable interim suitability or fitness determination is a status granted on a temporary basis, which permits individuals to work under LOSS after the return of the advance FBI fingerprint check and the IRC, as applicable, pending completion of full investigative requirements and a final suitability or fitness determination.

investigative elements. The records, reports, or other individual elements that comprise the whole of information collected during a criminal history background check and are used to make a fitness or suitability determination.

IRC. A query of records maintained on an individual by programs and entities at a military installation where the individual has a DoD affiliation.

investigative service provider. The company or agency authorized to perform background investigations on personnel on behalf of the agency.

LAWE. A statewide law repository where information is housed within a statewide law enforcement search or database. A LAWE search is an automated OPM process to obtain the same or similar results as the SCHR. These checks are conducted for certain States in lieu of the SCHR, in accordance with the policy and procedure of the State, and are accepted by OPM.

LOSS. Continuous visual observation and supervision of an individual whose background check has not yet cleared and who has a favorable interim suitability or fitness determination while he or she is engaged in child interactive duties or in the presence of children in a DoD-sanctioned program or activity. The person providing supervision must have undergone a background check and received a final favorable suitability or fitness determination and be current on all periodic reverifications, as required by this issuance.

mandated reporter of child abuse. An individual who is required by law to report reasonable suspicions of abuse or child maltreatment to an appropriate agency, such as child protective services, law enforcement, or State's child abuse reporting hotline.

met criteria. Reported incident of alleged maltreatment found to meet DoD incident determination criteria for child abuse or domestic abuse and entry into the Military Service FAP central registry of child abuse and domestic abuse reports.

NACI. A legacy background investigation primarily for federal employees who will not have access to classified information.

personally identifiable information. Defined in DoD Directive 5400.11.

position. An employee, contractor, provider, or volunteer role or function.

preliminary investigation. The investigative elements of a criminal history background check, including those specified in Enclosure 3 of this issuance, which must be favorably completed and reviewed before an individual may be permitted to perform duties under LOSS.

providers. Individuals involved in the provision of child care services who have regular contact with children or may be alone with children in the performance of their duties. Includes FCC providers and substitute providers and individuals with overall management responsibility for C&Y programs.

regular contact with children. Reasonably expected recurring and ongoing contact or access between an adult and a minor under the age of 18 in the performance of the adult's duties on a

DoD installation, program, or as part of a DoD-sanctioned activity. Activities and events with repeated scheduled interactions would constitute regular contact. For example, individuals designated as athletic team coaches or performing arts instructors would fall under this definition.

reverification. An updated criminal history background check conducted after the period of time prescribed by DoDI 1402.05 and Paragraph 3.7. of this issuance to ensure an individual remains suitable to provide child care services.

SAC. Single or multiple record checks, conducted by OPM, that do not constitute a complete investigation.

SCHR. A repository of criminal information that lists past State convictions, current offender information, and criminal identification information (i.e., fingerprints, photographs, and other information or descriptions) that identify a person as having been the subject of a criminal arrest or prosecution. SCHR checks may include the State child abuse and neglect repository and the State sex offender registry.

subcontractor. Any supplier, distributor, vendor, or firm that furnishes supplies or services to or for a prime contractor or another subcontractor.

suitability. A person's identifiable character traits and conduct sufficient to decide whether an individual's employment or continued employment would or would not protect the integrity or promote the efficiency of the service.

supervisor. The staff member supervising individuals who are permitted to perform duties only under LOSS; not necessarily the same person as an employee's supervisor for employment purposes (e.g., ratings, assignment of duties).

temporary appointments. Employment of C&Y program individuals for a period not exceeding 180 consecutive calendar days, such as summer hires, camp counselors, and contractors.

tier 1 investigation. Pursuant to the Federal Investigative Standards, OPM has changed the naming convention for the former NACI to a Tier 1 classification.

volunteer. There are two types of volunteers:

specified volunteers. Individuals who could have extensive or frequent contact with children over a period of time. They include, but are not limited to, positions involving extensive interaction alone, extended travel, or overnight activities with children or youth. Coaches and long-term instructors are among those who fall in this category. The DoD Component head designates specified volunteers. Background checks are required in accordance with Paragraph 3.4.h. of this issuance.

non-specified volunteers. Individuals who provide services that are shorter in duration than is required to perform a criminal history background check (e.g., 1-day class trip, class party). Because non-specified volunteers do not receive the same level of background checks

as specified volunteers, non-specified volunteers must always be in line of sight of a staff member with a complete background check.

workforce. Any and all individuals involved in the provision of DoD C&Y program services.

REFERENCES

- Code of Federal Regulations, Title 5, Part 731
- Defense Federal Acquisition Regulation Supplement (DFARS), Current Edition
- DoD 5400.11-R, “Department of Defense Privacy Program,” May 14, 2007
- DoD Directive 5124.02, “Under Secretary of Defense for Personnel and Readiness (USD(P&R)),” June 23, 2008
- DoD Directive 5400.11, “DoD Privacy Program,” October 29, 2014
- DoD Instruction 1015.15, “Establishment, Management, and Control of Nonappropriated Fund Instrumentalities and Financial Management of Supporting Resources,” October 31, 2007, as amended
- DoD Instruction 1400.25, Volume 731, “DoD Civilian Personnel Management System: Suitability and Fitness Adjudication For Civilian Employees,” August 24, 2012
- DoD Instruction 1400.25, Volume 1231, “DoD Civilian Personnel Management System: Employment of Foreign Nationals,” July 5, 2011
- DoD Instruction 1402.05, “Background Checks on Individuals in DoD Child Care Programs,” September 11, 2015, as amended
- DoD Instruction 6060.02, “Child Development Programs (CDPs),” August 5, 2014
- DoD Instruction 6060.4, “Department of Defense (DoD) Youth Programs (YPS),” August 23, 2004
- DoD Instruction 6400.01, “Family Advocacy Program (FAP),” February 13, 2015
- DoD Manual 8910.01, Volume 1, “DoD Information Collections Manual: Procedures for DoD Internal Information Collections,” June 30, 2014, as amended
- DoD Manual 8910.01, Volume 2, “DoD Information Collections Manual: Procedures for DoD Public Information Collections,” June 30, 2014, as amended
- Federal Acquisition Regulation (FAR), Current Edition
- OPM Suitability Processing Handbook, September, 2008
- United States Code, Title 5
- United States Code, Title 10, Chapter 47 (also known as the “Uniform Code of Military Justice”)
- United States Code, Title 42