



**Department of  
Early Education and Care**  
THE COMMONWEALTH OF MASSACHUSETTS

**EEC Background Record Check Unit**

**POLICY STATEMENT: Clarifying the “All Candidates” Requirement for  
Background Record Checks for Group and School Age Child Care**

**DATE: September 16, 2019**

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**Clarifying the “All Candidates” Requirement for Background Record Checks  
for Group and School Age Child Care**

On October 1, 2018, the Department of Early Education and Care (“EEC”) announced new background record check (“BRC”) regulations at 606 CMR 14.00 et seq. The regulations establish requirements for EEC BRCs for certain individuals at EEC-licensed, EEC-approved, or Child Care and Development Fund (“CCDF”)-funded programs (Non-licensed or License Exempt Public Schools, Private Schools, Summer Camps Serving Children Receiving Subsidized Child Care), including but not limited to, group child care, center-based child care, school aged, and residential programs as well as placement agencies (“Programs”). EEC regulations incorporated new federal requirements under the Child Care and Development Block Grant Act of 2014 (“CCDBG”), including the expansion of the scope of individuals subject to an EEC BRC.

This policy statement provides guidance for Group and School Age Child Care Programs in determining (a) whether the BRC requirement applies to the program; and (b) if the BRC requirement applies, how to define the “all candidates” who are subject to a BRC.

**What is the definition of a Group and School Age Child Care Program?**

Programs that have or are seeking a group and school age license from EEC.

**Which individuals within Group and School Age Child Care Programs are Subject to an EEC BRC?**

The federal standard changed from requiring only candidates with the *potential* for unsupervised access to children to submit to an EEC BRC to requiring *all candidates*, with a few exceptions,

to undergo an EEC BRC. EEC's statute, revised effective August 9, 2018, also implemented this new standard.<sup>1</sup>

The term "all candidates" is defined for EEC purposes as any employee or intern of a Program who works within program space utilized by children who receive subsidized child care. Specifically, the EEC BRC regulations require that:

**All candidates who are directly employed or intern within Programs must complete a full BRC through the Program, regardless of whether such individuals work in an unsupervised capacity.<sup>2</sup>**

The regulations define "candidate" to include:

**Individuals providing services to children within EEC licensed, approved or funded programs in an unsupervised capacity regardless of whether the individuals have a direct relationship to the Program.<sup>3</sup>**

**Examples of employee and intern roles within the "All Candidates" definition:**

Examples of individuals who must complete an EEC BRC, regardless of whether they have unsupervised access to children within the Program, include:

- Teachers, directors, assistant teachers, administrators, site coordinators, group leaders, assistant group leaders, volunteers who are included in the ratios, and teacher interns in all Programs with direct interaction with children;
- An individual who is employed by or interning in a group and school age program to provide program supports in the classroom;
- A janitor who is employed by and works on the premises of the Program;
- A cook who is employed by and works in the kitchen on the premises of the Program; and
- Personnel who transport children, including drivers and monitors, who are either employed directly, contract, or subcontract with a Program.

**Other individuals who are not within the "All Candidates" definition may still have to complete an EEC BRC:**

All non-staff affiliated with a Group and School Age Program who have unsupervised access to children must be run, even if they are only present temporarily. Examples of non-staff subject to an EEC BRC include:

- Volunteers who assist a Program in an unsupervised capacity;
- Contractors or subcontractors present in, but not directly employed by a Program, who have unsupervised access to children within a Program;
- Individuals who provide services to a child in a Program with unsupervised access to the child or children in care (e.g., therapists or nurses with unsupervised access to children);

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<sup>1</sup> The statute made this requirement effective for residential programs and placement agencies effective September 30, 2020.

<sup>2</sup> 606 CMR § 14.05(1)(a).

<sup>3</sup> 606 CMR § 14.04.

- Administrative staff at the child care facility;
- Any other non-employee who is present with children in an unsupervised capacity;
- Parents working in a parent co-operative program; and
- Parents that volunteer in an unsupervised capacity, such as driving children on field trips.

**Individuals who are NOT subject to an EEC BRC:**

Examples of individuals **not** subject to an EEC BRC include:

- 1) Individuals within corporate entities not within the Program space with no unsupervised access to children: When a Program is part of a larger entity or corporation, only the individuals within the Program, as defined above, are subject to this Policy Statement. For example, Corporation A may have several operations; the EEC BRC requirements apply only to the licensed, approved, or funded Programs within Corporation A. Individuals working in other parts of Corporation A need not undergo an EEC BRC unless they have unsupervised access to children.
- 2) Contractors who are not in the program space during child care hours: Third parties who do routine maintenance, janitorial work, or otherwise support the program when children are not present, such as during the weekend or at night, are not subject to an EEC BRC.
- 3) Individuals within corporate entities who are offsite: Corporate entities may have offsite employees engaged in Program oversight or administration. Except for the Program's Licensee or BRC Program Administrator, who are subject to an EEC BRC, offsite employees not on the Program premises do not need to undergo an EEC BRC unless they have unsupervised access to children.
- 4) Staff within a Public School building used by a Program: Some licensed or approved Programs are located within a public school building. In this scenario, if the Program is a separate classroom or program from or within the public school, individuals associated with the public school, and not the Program, need not undergo an EEC BRC unless they could have unsupervised access to children (such as food servers and janitors). This does not mean the Program must be in an entirely separate space as long as the public school staff present do not have unsupervised access to children.
- 5) Supervised visitors: Individuals who are within the Program space but are always supervised while around children do not need an EEC BRC.
- 6) Early Intervention ("EI") Providers and Specialty Service Providers overseen by the Department of Public Health ("DPH"): It is the joint policy of EEC and DPH that EI staff and Specialty Service Providers need not undergo an EEC BRC because they do not have unsupervised access to children. Programs are prohibited from leaving EI staff alone with children because such individuals have not received an EEC BRC.<sup>4</sup>
- 7) Other Supports provided to children within Program space, excluding DPH-Affiliated Providers: Individuals, such as therapists, who provide support services and remove children from the Program to work alone need not complete an EEC BRC if the Program 1) has on file parental permission for the service to occur in such a manner; and 2) the service provider signs the child out of the Program to perform the services. The service provider must sign the

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<sup>4</sup> See: EEC Policy on Background Record Checks of Early Intervention Employees and Specialty Service Providers in Early Education and Care Settings, issued on January 2, 2019.

child back in when the services are completed. If a parent has not provided permission for provision of the supports in such a manner, the individual must undergo an EEC BRC.

### **What are the EEC BRC requirements?**

The EEC BRC requirements for Group and School Age Child Care Programs include the following:

- A Criminal Offender Record Information (CORI), Department of Children and Families (DCF), Sex Offender Registry Information (SORI), and fingerprint-based checks, as well as National Sex Offender Registry (NSOR) and all out-of-state checks mandated by CCDBG, when available.
- They are subject to mandatory disqualifications.
- EEC must review all BRC information.
- Designated Program Administrator must have a suitability decision of “suitable” before funding will be issued or renewed.
- Employees, volunteers, and interns may be hired in a supervised provisional status, which requires fingerprinting and constant supervision.

### **What if I have questions?**

You can find more detailed information about the EEC BRC requirements within the EEC BRC regulations at 606 CMR 14.00 et seq. and by going to: [www.mass.gov/eeebrc](http://www.mass.gov/eeebrc). Any questions about how to apply this policy may be asked by putting in a ticket using the EEC BRC Support Tool located at the following link: <https://massgov.service-now.com/brc>.