



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

Background Record Check Unit

Policy Statement: No Private Right of Action

Date: September 10, 2019

Applies to: All Group and School Age (GSA), Residential and Placement, and Funded Programs

EEC BRC UNIT POLICY NUMBER: 19-013

No Private Right of Action

The Department of Early Education and Care (EEC) is responsible for performing background record checks (BRCs) on candidates within licensed, approved, and funded programs. See G.L. c., 15D, §§7 and 8 and 606 CMR 14.00 et seq. EEC regulations explicitly state, “Nothing in 606 CMR 14.00 shall be construed to create a private right of action if an EEC licensed, approved or funded program has acted in accordance with 606 CMR 14.00 and any policies adopted thereunder.” 606 CMR 14.02. This language is consistent with the Child Care and Development Block Grant Act of 2014 (CCDBG), which states, “Nothing in this section shall be construed to create a private right of action if a provider has acted in accordance with this section.” 42 CFR 9858 at section 658H(e)(5).

Individuals aggrieved by EEC BRC requirements do not have a private right action against EEC or programs that act in accordance with the law and EEC’s guidance. This means that programs may not be held responsible for any actions taken pursuant to an EEC BRC, as long as the actions are consistent with an EEC statute, regulations, policy, procedure, or supplemental guidance.