



COMMONWEALTH of VIRGINIA

DEPARTMENT OF EDUCATION
P.O. BOX 2120
RICHMOND, VA 23218-2120

DATE: June 17, 2026

TO: Licensed Child Day Centers, Licensed Family Day Homes/Home-Based Child Care Programs, Licensed Family Day Systems/Home-Based Child Care Systems, Voluntarily Registered Family Day Homes/Voluntarily Registered Home-Based Child Care Programs, Religiously Exempt Child Day Centers, Certified Preschools, Exempt Out-of-School Time Programs, Unlicensed Center-Based Subsidy Providers, and Unlicensed Home-Based Subsidy Providers

FROM: Jeffrey S. Williams, Assistant Superintendent, Child Care Health and Safety

SUBJECT: Requesting New Background Checks—Chapter 821 Updates

This memo is to clarify the requirements of Chapter 821, *General Procedures for the Licensure of Child Day Programs and Family Day Systems and Background Checks*, effective February 1, 2026, regarding background checks and background check portability.

Chapter 770, *Background Checks for Child Day Programs and Family Day Systems*, will be repealed effective June 17, 2026.

Currently, 8VAC20-770-40 D 9 allows programs to reuse an eligible background check for rehires returning within twelve months from their date of separation. The Department is aware that many programs are already in the recruitment process for summer staffing including the rehiring of seasonal employees. Therefore, the Department will institute a 60-day grace period from June 17-August 16, 2026, that will allow the twelve-month allowance for rehires to temporarily continue following the repeal of Chapter 770.

Effective August 17, 2026, the following will apply:

Background Checks for Employees and Volunteers

- *New employee definition:* Subsection A of § [22.1-289.035](#) of the *Code of Virginia* requires background checks to be completed for all potential employees or volunteers prior to beginning duties and every subsequent five years. The Department considers an individual to be a new employee or volunteer if either they:
 - i. were never employed or volunteered in any capacity at the child day program; or
 - ii. have not been employed by or volunteered at the child day program in the previous 180 days.
- *Rehires:* An employee or volunteer returning to the same facility *or* to another facility operated by the same legal entity within 180 days from their date of separation from their former facility are considered rehires. The program or legal entity would *not* need to obtain new background

checks or request background check portability to reuse an eligible background check completed within the past five years as long as the facility retained the individual's background check, as required.

- *Background check portability:* Pursuant to subsection J of § [22.1-289.035](#), programs hiring a “new” employee or volunteer who previously worked at another child day program in Virginia listed in subsection A of § [22.1-289.035](#) within the last 180 days may request background check portability, as long as the individual received an eligible determination within the last five years, had no convictions of a barrier crime, and was not the subject of a founded complaint of child abuse or neglect.
- *Staff on extended leave:* Programs may continue to use an eligible background check for an employee or volunteer who took a documented leave of absence lasting more than 180 days, as long as they were not formally separated from employment and the facility maintained continuous compliance with relevant staff record and training requirements as if the employee or volunteer was active.

Importantly, § [22.1-289.035](#) only applies to prospective employees or volunteers and existing employees and volunteers.

Background Checks for Applicants, Agents, and Household Members

- *Background checks upon application:* Applicants, agents, and household members must complete background checks upon any instance of application for licensure, registration, or approval. This includes completing updated background checks after any lapse in serving as an applicant or agent, or being a household member of a child day center or home-based child care program, even when the most recent background check was completed within the past five years.
- *Household members:*
 - i. *Virginia Central Registry:* For child day center or home-based child care household members 14 years of age or older, a new Virginia child protective services central registry check will need to be completed if they return to the home to live after any period of living elsewhere, even if their most recent background check was completed within the past five years. The central registry search request must be submitted within seven days of the individual beginning or returning to live in the home.
 - ii. *Other Background Checks:* All remaining background check components—sworn statement or affirmation, national criminal record check, and any out of state background checks—must be completed within 30 days of a household member, 18 years of age or older, returning to live in the home or center after any period of time in which they were not considered a household member, even if their most recent background check was completed within the past five years.
 - iii. *Exceptions:* This requirement for new background checks does not apply to household members who live elsewhere, temporarily, such as a college student or military personnel, but maintained their primary residence at the child day center or home-based child care location.
- *Background check portability:* Background check portability is not available to applicants, agents, and household members required to obtain background checks pursuant to § [22.1-289.036](#).

What Does This Mean?

Beginning August 17, programs will need to request new background checks for any rehires who have not been employed by or volunteered at a child day program within the past 180 days, regardless of whether their most recent eligible background check was completed in Virginia in the past five years.



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If an individual will have a planned absence or leave that may last longer than 180 days, programs may elect to not formally separate the individual from employment (or volunteer status) and instead, maintain their records as if they remain in active duty status to ensure continuous compliance with relevant staff training and staff record requirements.

All applicants, agents, and household members who have any lapse in such status will need to complete a new background check at the time of resuming status as an applicant, agent, or household member even when the most recent eligible background check was completed in the past five years.

What Should My Agency/Organization Know or Do?

- Ensure relevant employees, volunteers, administrators, and hiring staff are aware of the change in requirements for requesting background checks.
- Consider the implications of the 180-day limit on use of temporary and seasonal staff hiring practices, policies, and procedures and communicate such changes effectively to relevant staff.
- Review internal policies and procedures to align with the *Code of Virginia* requirements.
- As of February 2026, applications for licensure and registration must include a sworn statement or affirmation that is no more than 30 days old at the time the application is received. Refer to the [January 30 memo](#) for more details.

Questions?

If you have any questions related to this legislative change, please contact your licensing inspector or email childcarelicensing@doe.virginia.gov.