



Georgia Department of Early Care and Learning

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**Nathan Deal**  
*Governor*

**Amy M. Jacobs**  
*Commissioner*

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**Notice of Public Hearing for Proposed Rulemaking**  
**Bright from the Start: Georgia Department of Early Care and Learning**

**Rule Chapter 591-3-1, Rules and Regulations for Support Centers**

Proposed Amendment of Rule 591-3-1-.03

Proposed Amendment of Rule 591-3-1-.04

Notice Date: July 13, 2018

Dear Sir or Madam:

Bright from the Start: Georgia Department of Early Care and Learning (DECAL) proposes to amend our Support Center rules in Rule Chapter 591-3-1 in the *Rules and Regulations for Support Centers*.

Bright from the Start proposes these changes to these rules and regulations in order for Georgia to be in compliance with background check requirements set forth by the federal Child Care and Development Block Grant (CCDBG) Act of 2014.

The proposed amendments to the *Rules and Regulations for Support Centers* as noted below have been posted to Bright from the Start's website at <http://dec.al.ga.gov/ChildCareServices/ProposedRevisions.aspx>.

The proposed changes are being considered for adoption on a permanent basis, and Bright from the Start invites interested parties to comment on them. All comments, written and verbal, will be given full consideration.

Interested parties may submit written comments by mail to 2 Martin Luther King, Jr. Drive SE, Suite 754, East Tower, Atlanta, GA 30334, by fax to (404) 656-0351, or by e-mail to [CCSRuleRevisions@dec.al.ga.gov](mailto:CCSRuleRevisions@dec.al.ga.gov). To be considered, Bright from the Start must receive written comments on or before 5 p.m., August 15, 2018.

Interested parties who prefer to make verbal comments or hand deliver written comments on the proposed rule changes may do so at a public hearing before the Board of Early Care and Learning. The public hearing will be held beginning at 1 p.m. at 2 Martin Luther King Jr. Drive SE, East Tower 8<sup>th</sup> Floor, Oak Room, Atlanta, Georgia 30334 on Thursday, August 16, 2018. Speakers should sign in to speak before 1 p.m. If no guest speakers have arrived by 1 p.m., the board will resume its regular meeting. If no guest speakers arrive by the end of the board's regular business meeting, the board will adjourn. Comments made in writing will be given the same consideration as those that are made verbally.

All interested parties are invited to attend the public hearing even if they choose not to make verbal comments regarding the rule amendment proposals.

## **I. Proposed Amendments to Chapter 591-3-1, *Rules and Regulations for Support Centers***

**A. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 591-3-1-.03 entitled “Definitions” in its *Rules and Regulations for Support Centers*. This amendment shall include the following:**

### **591-3-1-.03 Definitions**

In these rules, unless the context otherwise requires, the words and phrases set forth herein shall mean the following:

- (a) "Adult" means any competent individual eighteen (18) years of age or older.
- (b) "Child" or "Children" means any person(s) under 18 years of age for whom child care service(s) is (are) provided in an Early Care and Learning Program.
- (c) “Child Care Learning Center” or “Center” means any place operated by an individual or business entity authorized under Georgia law wherein are received for pay for group care for less than 24 hours per day, without transfer of legal custody, seven or more children under 18 years of age and which is required to be licensed.
- (d) “Comprehensive Records Check Determination” means a satisfactory or unsatisfactory determination by the Department, based upon a Federal Bureau of Investigation fingerprint check, a search of the National Crime Information Centers National Sex Offender Registry, and a search of the following registries, repositories or databases in the state where the actual or potential employee or director resides and in each state where such individual resided during the preceding five years: criminal registry or repository, with the use of fingerprints being required in the state where the individual resides and option in other states; state sex offender registry or repository; and state based child abuse and neglect registry and database.

~~(d)~~(e) “Crime” means

1. Any felony pursuant to O.C.G.A. § 20-1A-30 and in accordance with 42 U.S.C. § 9858f(c)(1)(E);

2. A violation of O.C.G.A. § [16-5-23](#), relating to simple battery, where the victim is a minor;
3. A violation of O.C.G.A. § [16-5-23.1](#), relating to battery, where the victim is a minor;
4. A violation of O.C.G.A. § 16-21-1, relating to contributing to the delinquency of a minor;
5. A violation of O.C.G.A. § [16-6-1](#) *et seq.* relating to sexual offenses;
6. A violation of O.C.G.A. § 16-5-29, relating to battery of an unborn child;
7. A violation of O.C.G.A. § 16-5-60, relating to reckless conduct causing harm when the victim is a minor;
8. A violation of O.C.G.A. § 16-5-70, relating to cruelty to children;
9. A violation of O.C.G.A. § 16-12-1.1, relating to child care facility operators being prohibited from employing or allowing to reside or be domiciled persons with certain past criminal violations;
10. A violation of O.C.G.A. §§ 16-12-100, 16-12-100.1, 16-12-100.2, 16-12-100.3, relating to obscenity and related offenses where the victim is a minor;
11. A violation of O.C.G.A. § 40-6-391, relating to endangering a child while driving under the influence of alcohol or drugs;
12. A violation of O.C.G.A. § 19-7-5, relating to a failing to report if mandated to do so by law;
13. Child pornography, in accordance with 42 U.S.C. § 9858f(c)(1)(E);
14. Abuse of, endangerment of, or sexual assault against a child by an adult, in accordance with 42 U.S.C. § 9858f(c)(1)(E);
15. Any other violent misdemeanor against a child by an adult, in accordance with 42 U.S.C. § 9858f(c)(1)(E);
- ~~6.~~ 16. A violation of O.C.G.A. § [16-4-1](#), relating to criminal attempt when the crime attempted is any of the crimes specified by this paragraph; or
- ~~7.~~ 17. Any other offenses committed in another jurisdiction which, if committed in this state, would be one of the enumerated crimes listed in this paragraph.

~~(e)~~(f) “Criminal Record” means:

1. Conviction of a crime; or

2. Arrest, charge, and sentencing for a crime where:

- i. A plea of nolo contendere was entered to the charge; or
- ii. First offender treatment without adjudication of guilt pursuant to the charge was granted; provided, however, that this division shall not apply to a violation of O.C.G.A. § [16-13-1](#) *et seq.*, relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of O.C.G.A. § [16-13-1](#) *et seq.* if such violation or offense constituted only simple possession; or
- iii. Adjudication or sentence was otherwise withheld or not entered on the charge; provided, however, that this division shall not apply to a violation of O.C.G.A. § [16-13-1](#) *et seq.* relating to controlled substances, or any other offense committed in another jurisdiction which, if it were committed in this state, would be a violation of Chapter 13 of Title 16 if such violation or offense constituted only simple possession; or

3. Arrest and being charged for a crime if the charge is pending, unless the time for prosecuting such crime has expired pursuant to O.C.G.A. § [17-3-1](#) *et seq.*

~~(f)~~(g) "Department" means Bright from the Start: Georgia Department of Early Care and Learning.

~~(g)~~(h) "Early Care and Education Program" or "Program" means any Family Child Care Learning Home, Child Care Learning Center or Support Center.

~~(h)~~(i) "Eligible Employee" means any person who ~~is 17 years of age or older and~~ is a potential director, employee, volunteer, or independent contractor ~~or Student in Training of an Early Care and Education Program seeking with a satisfactory Comprehensive Fingerprint Records Check Determination or a Student-in-Training with either a satisfactory Fingerprint Records Check Determination or a satisfactory Comprehensive Records Check Determination~~ through a Support Center.

~~(i)~~(j) "Family Child Care Learning Home" or "Home" means a private residence operated by any person who receives therein for pay for supervision and care fewer than 24 hours per day, without transfer of legal custody, at least three but not more than six children under 13 years of age who are not Related to such persons and whose Parent(s) or guardians are not residents in the same private residence as the Provider; provided, however, that the total number of unrelated Children cared for in such Home, for pay and not for pay, may not exceed six Children under 13 years of age at one time, except that a Provider may care for two additional children three years of age or older for two designated one hour periods daily upon approval by the Department.

~~(j)~~(k) "Fingerprint" means an inked fingerprint card or an electronic image of a person's fingerprint.

~~(k)~~"Fingerprint Records Check Application" means a document created by the Department to be completed and submitted to the Department by every actual and potential Director and Employee (including residents, volunteers, Students in Training, independent contractors) of the Center that indicates the individual's name, Center type, and such other information as the Department deems appropriate and which authorizes the Department to receive and render a Fingerprint Records Check Determination pursuant to any criminal history record information received pertaining to the individual from any local, state or national criminal justice or law enforcement agency.

(l) "Fingerprint Records Check Determination" means a satisfactory or unsatisfactory determination made by the Department that is based upon national criminal history record information obtained by the use of Fingerprints.

(m) "Records Check Application" means a document created by the Department to be completed and submitted to the Department by every actual and potential Director, Employee and Provisional Employee of the Center that indicates such information as the Department deems appropriate and which authorizes the Department to receive any sex offender registry, child abuse and neglect registry and criminal history record information pertaining to the individual from any local, state or national agency of appropriate jurisdiction and render a Fingerprint Records Check Determination or Comprehensive Records Check Determination.

~~(m)~~(n) "Registration" means a certificate issued by the Department to a Support Center applicant granting the applicant permission to operate a Support Center in accordance with these rules.

~~(n) "Satisfactory Records Check Determination" means a written declaration that a person for whom either a preliminary or a fingerprint records check was performed was found to have no Criminal Record as defined in these rules as a result of a Fingerprint Records Check Determination or Comprehensive Records Check Determination.~~

(o) "Student-in-Training" means a student currently enrolled in either a high school recognized by the Department of Education or an early education curriculum through an accredited school of higher education which requires or permits the student to observe and participate in the care of children at a Center during a limited period of time, i.e., one quarter, one trimester or one semester, provided that they are under the direct supervision of Center Personnel at all times. ~~Sixteen year old or younger Students in Training are exempt from criminal record check requirements.~~

(p) "Support Center" means any business entity, including but not limited to temporary staffing agencies, universities, and independent contractors, that receives no children for care and that is granted a Registration by the Department for the purpose of initiating the criminal records check process for an Eligible Employee of any licensed, commissioned or permitted Early Care and Education Program.

~~(q) "Unsatisfactory Records Check Determination" means a written declaration based upon a finding by the Department that a person has refused to consent to a background check, has refused to comply with the requirements of a background check, has knowingly made a materially false statement in connection with a background check, is registered or required to be registered on a state sex offender registry or the National Sex Offender Registry, is registered or required to be registered on a state child abuse and neglect registry, whom either a preliminary or fingerprint records check was performed was found to have or has a verified or inconclusive Criminal Record as defined in these rules.~~

(q) "Valid Evidence" means either paper or electronic proof of a satisfactory Fingerprint Records Check Determination or a satisfactory Comprehensive Records Check Determination as follows:

1. Eligible Employees other than a Student-in-Training – a valid and current satisfactory Comprehensive Records Check Determination letter issued by the Department with a Records Check Clearance Date that is within the immediate preceding 12 months of the date of hire, and provided that the Eligible Employee has not had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer; and

2. Students-in-Training – a valid and current satisfactory Fingerprint Records Check Determination or a valid and current satisfactory Comprehensive Records Check Determination letter issued by the Department with a Records Check Clearance Date that is within the immediate preceding 12

months of the date of hire, and provided that the Eligible Employee has not had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer.

Authority: O.C.G.A. § [20-1A-1](#) *et seq.* and 42 U.S.C. § 9857 *et seq.*

**B. Bright from the Start: Georgia Department of Early Care and Learning proposes to amend Rule 591-3-1-.04 entitled “Support Center Requirements and Registration Applications” in its Rules and Regulations for Support Centers. This amendment shall include the following:**

### **591-3-1-.04 Support Center Requirements and Registration Applications**

#### (1) Support Center Requirements

(a) No person or business entity authorized under Georgia law shall operate a Support Center unless a Registration has been obtained from the Department.

(b) A Registration to operate a Support Center is not transferable in any way. A change of business ownership or address requires a new Registration to be issued by the Department. Each Registration shall become invalid immediately upon the final sale or closure of the Support Center, or upon the suspension, revocation, or restriction of the Registration.

(c) The Registration shall be automatically renewed each year unless the Registration is voluntarily surrendered by the holder or suspended or revoked by the Department.

(d) A Support Center shall not knowingly make any false statement in connection with a ~~Fingerprint~~ Records Check Application or change of ownership.

(e) A Support Center shall report to the Department any known arrest for a Crime or change in the ~~Satisfactory Fingerprint Records Check Determination or Comprehensive Records Check Determination~~ or Criminal Record of any Eligible Employee within twenty-four (24) hours or the next work day.

(f) A Support Center may submit ~~Fingerprint~~ Records Check Applications for Eligible Employees to the Department in accordance with guidelines set forth by the Department.

(g) A Support Center must ensure that every Eligible Employee submits both a Records Check Application to the Department and Fingerprints to an authorized fingerprinting site.

(h) A Support Center must ensure that every Eligible Employee has a valid and current satisfactory Fingerprint Records Check Determination or Comprehensive Records Check Determination on file prior to being present at the Early Care and Education Program while any child is present for care or before an individual age 17 or older resides in the Early Care and Education Program.

(i) Valid Evidence of a satisfactory Fingerprint Records Check Determination or a satisfactory Comprehensive Records Check Determination must be maintained at the Support Center for each Eligible Employee for the duration of employment or residency plus one year, and such paper or electronic evidence must be made immediately available to the Department upon request.

(j) The Support Center must ensure that every Eligible Employee requests child abuse and neglect registry information and criminal history documents from any U.S. state, territory or tribal land other than Georgia in which they have resided in the preceding five years and submit such documents to the Department in a timely manner. Failure to request out-of-state information will result in the issuance of an unsatisfactory Comprehensive Records Check Determination.

(k) Portability for Eligible Employees excluding Students-in-Training. Only the most recently issued determination letter is eligible for portability and must be ported electronically. A Center or Home may accept a satisfactory Comprehensive Records Check Determination letter issued by the Department if the individual's Records Check Clearance Date is within the preceding 12 months from the hire date, the individual has not had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer, and the Support Center, Center or Home does not know or reasonably should not know that the individual's satisfactory status has changed.

(l) Portability for Students-in-Training. Only the most recently issued determination letter is eligible for portability and must be ported electronically. A Center or Home may accept a satisfactory Comprehensive Records Check Determination letter issued by the Department for a Student-in-Training if the individual's Records Check Clearance Date is within the preceding 24 months from the hire date, the Center or Home has verified and maintains evidence on file that the Student-in-Training is currently enrolled in a high school recognized by the Department of Education or an early education curriculum through an accredited school of higher education, the individual has not had a lapse of employment from the child care industry that lasted for 180 days (6 months) or longer, and the Support Center, Center or Home does not know or reasonably should not know that the individual's satisfactory status has changed.

(m) Recheck Required. The Support Center must immediately require that every Eligible Employee submit to the Comprehensive Records Check Determination process at the following times:

(1) When the Support Center knows or reasonably should know that an Eligible Employee has been arrested or charged for any covered crime;

(2) When there is a lapse of employment from the child care industry that lasted for 180 calendar days (6 months) or longer;

(3) At least once every five years; and

(4) When the Department so requests.

(n) A Support Center applicant shall comply with all applicable laws and regulations. ~~these rules and regulations and Georgia law.~~

## (2) Registration Applications

(a) An application for a Registration to operate a Support Center shall be submitted to the Department on forms provided by the Department.

(b) A Registration may be issued upon presentation of evidence satisfactory to the Department that the Support Center applicant is in compliance with applicable statutes and these rules.

(c) A Registration applicant shall not knowingly make any false statement in connection with the application for a Registration or change of ownership.

(d) A Registration applicant shall comply with these rules and regulations and Georgia law.

(e) A Registration applicant shall provide the Department access to the Support Center and to information pertinent to the initial Registration of the Support Center.

(f) A person or business entity authorized under Georgia law may not register with the Department as a Support Center within one (1) year of a prior license, permit or Registration denial, revocation or suspension.

**Authority: O.C.G.A. § [20-1A-1](#) et seq. and 42 U.S.C. § 9857 et seq.**

## **II. Public Comment on Proposed Amendments to *Rules and Regulations for Support Centers*:**

All written comments received by 5 p.m. August 15, 2018 will be shared with the Board members of Bright from the Start in reference to Bright from the Start's proposal to amend its Support Center rules in Rule Chapter 591-3-1 in the *Rules and Regulations for Support Centers*. After the Board decides to adopt or reject the proposed rule changes, an order adopting or rejecting the proposal will be posted on the department's website at [www.decal.ga.gov](http://www.decal.ga.gov).

This notice of proposed rulemaking is being issued pursuant to O.C.G.A §§ 20-1A-1 et seq. and 50-13-4. If you have any questions about the notice, contact Kristie Lewis, Assistant Commissioner for Child Care Services, at (404) 657-5562.

If, due to a disability, you need this notice in an alternate format or if you plan to make verbal comments and will require special accommodations, call Kristie Lewis at the number referenced above. Please do this as soon as possible but no later than ten (10) days before the above referenced public hearing.

We appreciate our partnership with you in meeting the early care and education needs of Georgia's children and families, and we value your expertise and experience as we refine the rules and regulations that ensure our children remain healthy and safe.

Sincerely,



Amy M. Jacobs  
Commissioner