

# Review of Safety Measures for Children in Congregate Care

*Presented by the Program Implementation Division  
Children's Bureau  
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## Agenda

- ▶ **Overview**
- ▶ **Safety Requirement**
  - IV-E Plan Requirement
  - IV-E Eligibility Requirement
- ▶ **IV-E Review Requirements**
  - Documentation
  - Common Issues
  - Helpful Hints & Resources
- ▶ **Questions**

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## Title IV-E Program

1. Helps provide board and care for eligible children in foster care
2. Ensures procedural protections for children in foster care
3. Makes child safety paramount
4. Emphasizes timely case decisions
5. Emphasizes program results and plans for program improvement



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## Webinar Goals

- ▶ Increase participant knowledge of the federal requirement on safety checks for caregiver staff of childcare institutions
  - Discuss federal safety requirement
  - Discuss safety documentation for a IV-E Review
- ▶ Share challenges and solutions
- ▶ Promote effective communication of the requirement between the Children's Bureau and title IV-E agency staff, and title IV-E agency staff and licensing agencies

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## Safety Requirement

### ❖ §472(b)(2) of the Social Security Act; 45 CFR §1356.30(f)

Title IV-E agencies (states and tribes with approved title IVE plans) **must**:

provide evidence that safety considerations regarding the caregiver staff of the childcare institution are addressed in accordance with the safety-related licensing requirements where the childcare institution is located

- Childcare Institution [§472(c) of the Act and 45 CFR 1355.20 ]
  - private child care institution
  - public child care institution (25 children or fewer)
  - supervised independent living setting (youth age 18 years or older)

*Childcare institution definition excludes detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent*

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## Title IV–E Plan Requirements

### §471(a))(10)(A) of the Social Security Act

Section 4, General requirements, Item J(1)(d) of the Title IV-E Plan

Title IV-E Plan **must**:

- identify what the safety standards are for childcare institutions
- demonstrate there are in place laws, administrative rules, policies and/or procedures that ensure all safety considerations are met

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## Title IV–E Eligibility Requirement

### *45 CFR §1356.30(f)*

- ❖ Applies to childcare institutions that undergo any type of licensure process on or after March 27, 2000
  - Initial license, license renewal, or re-licensure
  - Not limited to “prospective” childcare institutions
- ❖ Differs from the safety requirements for family foster homes
  - Criminal record checks required at 45 CFR §1356.30(a) do not apply
  - Prohibited felonies at §§471(a)(20)(A)(i) and (ii) of the Act do not apply

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## Title IV–E Eligibility Requirement

- ❖ Provides flexibility in establishing criteria to implement safety standards identified in title IV-E Plan. The agency:
  - can determine type and frequency of background checks
  - can choose when to conduct background check
  - can choose how often to monitor compliance
- ❖ Requires licensing agency to verify that all pertinent safety considerations are applied to caregiver staff of the childcare institution where it is located

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## IV-E Review Requirements

45 CFR §1356.71

- Measures compliance based on the state or tribe law where childcare institution is located
  - Review based on agency licensing requirements
  - Review based on background check type and frequency
- Determines whether all required background checks fully met for caregiver staff of childcare institutions licensed on or after 03/27/2000
- Monitors compliance apart from licensing requirement
  - License certificate or approval letter is not sufficient documentation
- Reviews documentation for most recent licensing process that covers the PUR



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## IV-E Review Requirements

- Documentation **must** explicitly evidence compliance. It must specify for each applicable caregiver staff:
  - (1) Name of caregiver staff
  - (2) Type of background check(s)
  - (3) Date of background check(s)
  - (4) Official authentication of the background check and
  - (5) Evidence reviewed, if not actual background check
- Evidence of compliance **is not** demonstrated by simply a:
  - (1) Review of the agency's or childcare institution's policy and regulation
  - (2) General statement like "check completed" or "staff meets requirements"
  - (3) Background check only for childcare institution's director

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## IV-E Review Requirements

### Preferred Documentation

Actual Background Check

### Alternative Documentation

Checklist or monitoring report completed by the licensing authority

Letter or report signed by authorized title IV-E agency staff or licensing staff

Electronic data maintained in the IV-E agency's automated system

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## IV-E Review Requirements

- Documentation must verify all of the governing background checks are met prior to the period title IV-E maintenance payments are claimed for a child in the childcare institution during the PUR
  - Child is ineligible when the requirement is not met
  - Child's case is in error if ineligible period and title IV-E foster care maintenance payment fall in the PUR
  - Disallowance is taken for the child's ineligible period(s) claimed

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## Compliance Challenges

❑ **Confidentiality of Files:** §471(a)(8)(D) and §471(a)(6) of the Act authorize Children Bureau access to agency records for purposes of IV-E Reviews.

- **FBI Audits:** Legal opinion from the FBI permits title IV-E agency to provide for the review of criminal history information (See attached Children's Bureau email, 06/07/2016 and FBI policy on disseminating criminal record information, 3/18/2015)
- **ICPC Cases:** Title IV-E eligibility and documentation requirements apply to all foster care providers regardless of where the foster care provider is located
- **Record Retention Policy:** 45 CFR § 92.42 requires the title IV-E agency to retain its records for 3 years from the day the title IV-E agency submits final claims for title IV-E payments on behalf of the child

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## Compliance Challenges

❑ **Child IV-E eligible - Provider non-reimbursable Code:**

- Child not IV-E eligible until all IV-E eligibility requirements are satisfied, including provider safety checks
- Title IV-E may not be claimed for a child who does not meet all eligibility requirements

❑ **Insufficient Documentation:** Key element missing from documentation  
Examples. Date check completed, Check type omitted  
Person's name redacted

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## Helpful Hints

- ✓ Be proactive before the IV-E Review to ensure requirements are met
  - Use title IV-E plan documentation to determine which safety requirements apply to the IV-E Review
  - Discuss licensing agency's safety requirements in detail to determine, for each title IV-E review, what documentation will be provided and whether it will be sufficient
  - Examine background check documentation and provide feedback
    - Review examples of documentation
    - Conduct site visit before IV-E Review to examine records
  - Educate providers and licensing agencies on title IV-E safety requirement and IV-E Review documentation requirements

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## Helpful Hints

- ✓ Use electronic data exchanges to request and receive background checks
- ✓ Add automated system alerts for licensing staff and providers regarding safety checks
- ✓ Assess compliance with safety requirements in IV-E eligibility determination processes
  - Element on eligibility determination worksheet and/or eligibility module in automated system
  - Edit in automated system to ensure payment not claimed before month requirement met
- ✓ Review for compliance with safety requirements in internal quality assurance process

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## Resources

- ❑ § 471(a)(10)(A) and § 472 of the Social Security Act
- ❑ 45 CFR § 1356.30(f) and 45 CFR § 1356.71, Code of Federal Regulations
- ❑ ACYF-CB-PI-10-02
- ❑ CB Child Welfare Policy Manual  
([http://www.acf.hhs.gov/cwpm/programs/cb/laws\\_policies/laws/cwpm](http://www.acf.hhs.gov/cwpm/programs/cb/laws_policies/laws/cwpm))
- ❑ Title IV-E Foster Care Eligibility Review Guide
- ❑ Title IV-E Foster Care Eligibility On-Site Review Instrument and Instructions
- ❑ Title IV-E Agency's Title IV-E Plan
- ❑ Children's Bureau Regional Offices

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## Questions?



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