



January 14, 2016

Department of Developmental Services (DDS)
Commissioner Elin Howe
c/o Office of the General Counsel
500 Harrison Avenue,
Boston, MA 02118

Re: Proposed Regulations 115 CMR 12.00: National Criminal Background Checks

Dear Commissioner Howe,

Thank you very much for taking the time to consider our comments regarding the Proposed Regulations 115 CMR 12.00: National Criminal Background Checks. As you already know, ADDP represents over 130 human service providers who provide services for individuals with developmental disabilities and brain injuries. ADDP very much appreciates and understands the amount of work you have put toward this effort, and that the intent of the regulatory changes are to support the implementation of HB 4327 “An Act Requiring National Background Checks, Chapter 234 of the Acts of 2014,” which requires DDS to conduct fingerprint-based checks in both the state and national criminal databases as part of the DDS licensure process. This legislation was based on the previously passed national background check legislation for the Department of Elementary and Secondary Education (DESE). ADDP is in agreement that national backgrounds checks are necessary for all current and prospective employees in any DDS licensed or funded program to ensure the safety of individuals with intellectual and developmental disabilities and thanks you for your efforts.

As we have discussed in previous meetings, a significant issue that surfaced in the implementation of the DESE national background check law is the potential for duplicative background check requirements that face employees who work in programs or at locations that are approved, licensed or funded in part by more than one agency such as DESE, DDS and/ or the Department of Early Education and Care (EEC).

Last year, a new law, *Chapter 449 of the Acts of 2014*, was passed to prevent employees from being subject to and having to pay for more than one fingerprint-based national background check when applying for a job, or keeping their current job. Section 1 of this law was written to anticipate the implementation of the new DDS national background check legislation, and we would be very appreciative if regulations 115 CMR 12.00 would include reference to this language to reflect the legislative change.

Therefore, ADDP respectfully requests that the final DDS National Criminal Background Check Regulations, 115 CMR 12.00 recognizes the language within the statute that is applicable to the new DDS law, which allows the EEC to share results of a national background check's decision on whether or not an applicant is considered suitable by EEC to prevent multiple, inefficient and costly (\$45) background checks. EEC language included in Section 1 of *Chapter 449* can be found below for your reference:

"...an applicant for employment in a department licensed, funded or approved program who is subject to a fingerprint-based check of the state and national criminal databases for the same employer that is approved pursuant to chapter 19B [DDS] or 71B shall submit to a fingerprint-based check under regulations established by the department; provided further that no person who is considered suitable by the department shall be subject to more than 1 fingerprint-based check every 3 years to maintain employment with the same employer that is licensed, approved or funded pursuant to this chapter and said chapters 19B or 71B."

Thank you for taking the time to consider this addition to the regulations, and understanding that what we propose and request is a reflection of wanting to adhere to best practices and applying the best approach for serving individuals with intellectual and developmental disabilities.

Thank you very much for your time and consideration.

Best regards,



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