

**Title 19—DEPARTMENT OF
HEALTH AND SENIOR SERVICES
Division 30—Division of Regulation and Licensure
Chapter 63—Child Care Comprehensive
Background Screening**

EMERGENCY AMENDMENT

19 CSR 30-63.050 Process for Appeal Required in Section 210.1080, RSMo. The department is amending section (1).

PURPOSE: This amendment updates the process for appeal for a prospective child care staff member or child care staff member of a licensed facility to comply with section 210.1080.9 RSMo, 2020.

*EMERGENCY STATEMENT: The Child Care and Development Block Grant (CCDBG) Act of 2014 Section 658H, which passed November 19, 2014, requires states to conduct comprehensive criminal background checks. The Missouri legislature enacted Section 210.1080 RSMo, as a part of HB 1350, 99th General Assembly, First Regular Session (2018). During that same session the Missouri legislature made significant changes to Section 210.025, RSMo. to extend background screening requirements to those unlicensed child care providers that receive subsidy payments through the Department of Social Services. Implementation of these statutes has revealed inconsistencies between how the departments determine eligibility for employment or presence in a child care setting and gaps in compliance with the CCCDBG Act. To which authorizes the DHSS to promulgate emergency rules to implement criminal background checks for licensed and license-exempt child care providers as required by the CCDBG Reauthorization. Governor Parson commissioned the Missouri Child Care Working Group on May 4, 2019 and charged the working group with conducting a thorough review of current child care regulations and reporting back with recommendations to ensure safe, quality child care. One of the working group's recommendations was that these inconsistencies and gaps in child care background screening requirements be corrected. In response, the Missouri legislature passed HB 1414, 100th General Assembly, Second Regular Session (2020), revising Section 210.1080, RSMo to now include identical requirements to work in a child care setting in Missouri, whether licensed or unlicensed but receiving subsidy payments. This law clarifies who must have a criminal background check, expands the list of offenses which could result in someone being determined to not be eligible for employment or presence in a child care setting, and creates a Child Care Background Screening Review Committee to ensure that appealed results are handled consistently between DHSS and DSS. This law also gives DHSS authority to promulgate emergency rules consistent with its provisions. As a result, this emergency rule is necessary to protect the safety and health of children in child care settings, and to ensure criminal background checks are completed as required by and in compliance with the CCDBG Reauthorization and Section 210.1080, RSMo. The scope of this emergency rule is limited to the circumstances creating the emergency and complies with the protections extended in the **Missouri and United States Constitutions**. The Department of Health and Senior Services believes this emergency rule is fair to all interested persons and parties under the circumstances. This emergency rule was filed August 31, 2020, becomes effective September 15, 2020, and expires March 13, 2021.*

(1) The prospective child care staff member or child care staff member **of a licensed facility** may appeal a **finding of ineligibility for employment or presence at a child care facility** in writing to the department *[to challenge the accuracy or completeness of the information contained in his or her criminal background check, or to offer information mitigating the results and explaining why an eligibility exception should be granted]* **as allowed by 210.1080.9, RSMo.**

(2) The appeal shall be filed within ten (10) days from the mailing of the notice of ineligibility.

(3) The written appeal shall include the child care staff member's full name, Social Security number, date of birth, e-mail address, mailing address and zip code, and telephone number, including the area code, where s/he can be reached Monday through Friday, during the hours from 8:00 a.m. through 5:00 p.m.

AUTHORITY: section 210.1080, RSMo Supp. [2018]2020. Emergency rule filed Feb. 15, 2019, effective Feb. 25, 2019, expired Aug. 23, 2019. Original rule filed Feb. 15, 2019, effective Aug. 30, 2019. Emergency amendment filed Aug. 31, 2020, effective Sept. 15, 2020, expires March 13, 2021. A proposed amendment covering this same material is published in this issue of the **Missouri Register.***

Original authority: 210.1080, RSMo 2018, **amended 2020.*

PUBLIC COST: This proposed amendment will cost state agencies or political subdivisions less than five hundred dollars (\$500.00) in the aggregate.

PRIVATE COST: This proposed amendment will not cost private entities more than five hundred dollars (\$500.00) in the aggregate.