



ADMINISTRATION FOR
CHILDREN & FAMILIES

330 C Street, S.W., Washington DC 20201 | www.acf.hhs.gov

DEC 21 2018

Christopher Jones, Executive Director
North Dakota Department of Human Services
600 East Boulevard Ave.
Bismarck, North Dakota 58505

Dear Executive Director Jones:

The Office of Child Care (OCC) has completed its review of your FY2019-2021 Child Care and Development Fund (CCDF) Plan. This Plan development and review cycle has been unprecedented as we have worked together to transition CCDF programs to meet the requirements of the Child Care and Development Block Grant (CCDBG) Act of 2014 and the CCDF final rule. We appreciate your hard work and patience over the past 3 years.

This letter is to inform you that the North Dakota CCDF Plan for the period of October 1, 2018, through September 30, 2021, has been conditionally approved. A “conditionally approved” plan is a fully approved plan with conditions related to unmet requirements. The conditions will be deemed fully met once all provisions in the CCDBG Act of 2014 and Final Rule are fully implemented and corrective action plan steps are completed. At that time, the North Dakota CCDF Plan will be approved without conditions.

Full implementation of all provisions in the CCDBG Act of 2014 and the Final Rule was required no later than September 30, 2018, unless the State or Territory received approval for a waiver for specific background check requirements. North Dakota did not fully implement the provisions listed below by the effective date of September 30, 2018; therefore, you will be on a Corrective Action Plan (CAP) for any unmet requirements starting October 1, 2018 for a period not to exceed one year. These CAPs are not eligible for renewal. You have 60 days following receipt of this letter (no later than February 28, 2019) to formally submit your CAPs. Please refer to the attached document “Guidance to States and Territories on Submitting Corrective Action Plans” for how to complete your required components. The specific requirements needing CAPs are indicated in the attached “Detailed List of Provisions Not Met as of 9/30/2018.” Any CAPs listed below are in addition to any conditions listed in your provisional approval letter for criminal background checks (see Attachment 3).

- Consumer and Provider Education (45 CFR 98.33)
- Health and Safety Requirements – Standards (45 CFR 98.41)
- Health and Safety Requirements – Training (45 CFR 98.44)
- Enforcement of Licensing and Health and Safety Requirements (45 CFR 98.42)

The CCDF Plan includes questions that encompass all elements as required by regulations at 45 CFR 98.16. However, the Plan does not ask about all aspects of Federal requirements. During our review of the CCDF Plans, for some States we noticed areas of possible non-compliance with CCDF requirements that are outside the scope of this review for Plan approval. You will still need to take action to come into compliance with these requirements, and your OCC Regional Office will follow-up with you on these areas. Recognizing the information in the Plans is not exhaustive, the OCC will monitor State compliance through multiple mechanisms. All requirements of the Act and the Rule are subject to the monitoring, compliance, and complaint actions as described in 45 CFR Subpart J, including 98.90, 98.91, and 98.92. Additionally, States and Territories are subject to audit requirements at 45 CFR 98.65 of CCDF regulations.

You will receive a separate Notice of Grant Award from the Office of Administration in the Administration for Children and Families. The notice will include the amount of your award and any additional terms and conditions for the receipt of CCDF program funds. During the effective period of this plan, any substantial changes to your CCDF program must be submitted as a plan amendment to your Regional Office for approval in accordance with 45 CFR 98.18(b). Lead Agencies are reminded to describe in the Plan Amendment if the amended activity is being supported by the increased funding (see Program Instruction for more information about Plan Amendments: <https://www.acf.hhs.gov/occ/resource/ccdf-acf-pi-2018-02>). Lead Agencies also are reminded that you must post the approved plan and any amendments on your state website and assure any required links are functional.

We understand that it is essential for CCDF lead agencies to have wide-ranging support in the implementation of their CCDF Plans. OCC and the TA network supporting CCDF grantees have worked together to develop a variety of technical assistance options aimed at supporting the implementation of CCDF corrective action plans and full compliance with CCDF policies. Your Regional Office and State Systems Specialist will be reaching out to you within the next two weeks to discuss your specific TA needs.

We look forward to working together toward full implementation of the CCDBG Act of 2014 and promoting the early learning and development of children along with family economic stability and success. If you have any questions, please contact Karen Knoll-Moran, Child Care Program Manager, Office of Child Care at (303) 844-1164 or karen.knollmoran@acf.hhs.gov. Thank you for all you do each day for children and families.

Sincerely,



Shannon Christian
Director
Office of Child Care

cc: Amanda Carlson, Early Childhood Services Administrator
Samantha O'Brien, Child Care Assistance Program Administrator
Karen Knoll-Moran, Regional Program Manager, Office of Child Care Region VIII

Encl: Attachment 1: Detailed List of Provisions Not Met as of 9/30/2018
Attachment 2a: Guidance to States and Territories on Submitting Corrective Action Plans (CAP)
Attachment 2b: Sample Letter from Lead Agency Official .
Attachment 2c: Template CCDF Corrective Action Plan(s)
Attachment 3: Copy of Provisional Approval Letter for Criminal Background Checks

Attachment 1: Detailed List of Provisions Not Met as of 9/30/2018 by Plan Question

OCC has conditionally approved your FY 2019 – 2021 CCDF Plan pending implementation of corrective actions to meet the unmet requirements of the CCDBG Act of 2014 and Final Rule. This document details the specific requirements that are unmet by your CCDF Plan to be addressed in your corrective action plans.

CAP Categories	Plan Question
<p>Consumer and Provider Education (45 CFR 98.33)</p>	<p>2.3.3 - Describe how the website ensures the widest possible access to services for persons with disabilities.</p> <p>2.3.4 - Lead Agency processes related to child care</p> <ul style="list-style-type: none"> b. Provide the link to the procedure for conducting monitoring and inspections of child care providers, as described in section 5.3.2. c. Provide the link to the policies and procedures related to criminal background checks for staff members of child care providers and the offenses that prevent individuals from being employed by a child care provider or receiving CCDF funds, as described in sections 5.4.1 and 5.4.11. <p>2.3.7 - Lead Agencies are required to post monitoring and inspection reports.</p> <p>2.3.8 - Aggregate data on serious injuries, deaths, and substantiated cases of child abuse that have occurred in child care settings</p> <p>2.6.1 – Certify by describing</p> <ul style="list-style-type: none"> a. How parents receiving CCDF funds are provided with a consumer statement. b. What is in the statement, including when it is provided to families. c. Provide a link to a sample consumer statement or a description if a link is not available.
<p>Health and Safety Requirements – Standards (45 CFR 98.41)</p>	<p>5.2.2 - Health and safety standards for CCDF providers</p> <ul style="list-style-type: none"> a. To certify, describe how the following health and safety standards for programs serving children receiving CCDF assistance are defined and established on the required topics. <ul style="list-style-type: none"> 1. Prevention and control of infectious diseases (including immunization) 2. Prevention of sudden infant death syndrome and the use of safe-sleep practices 3. Administration of medication, consistent with standards for parental consent 4. Prevention of and response to emergencies due to food and allergic reactions 5. Building and physical premises safety, including the identification of and protection from hazards that can cause bodily

Attachment 1: Detailed List of Provisions Not Met as of 9/30/2018 by Plan Question

CAP Categories	Plan Question
	<p>injury, such as electrical hazards, bodies of water, and vehicular traffic</p> <p>6. Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment</p> <p>7. Emergency preparedness and response planning for emergencies resulting from a natural disaster or a human-caused event (such as violence at a child care facility), within the meaning of those terms under section 602(a)(1) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195a(a)(1)). Emergency preparedness and response planning (at the child care provider level) must also include procedures for evacuation; relocation; shelter-in-place and lockdown; staff and volunteer training and practice drills; communications and reunification with families; continuity of operations; and accommodations for infants and toddlers, children with disabilities, and children with chronic medical conditions.</p> <p>8. Handling and storage of hazardous materials and the appropriate disposal of bio-contaminants</p> <p>9. Precautions in transporting children</p> <p>10. Pediatric first aid and cardiopulmonary resuscitation (CPR) certification</p> <p>11. Recognition and reporting of child abuse and neglect</p>
<p>Health and Safety Requirements – Training (45 CFR 98.44)</p>	<p>5.2.5 - Describe the ongoing health and safety training for CCDF providers by category of care (i.e., center, FCC, in-home) and licensing status (i.e., licensed, license-exempt).</p>
<p>Enforcement of Licensing and Health and Safety Requirements (45 CFR 98.42)</p>	<p>5.3.1 - To certify, describe the procedures to ensure that CCDF providers comply with all applicable State and local health and safety requirements.</p>

Attachment 2a: Guidance to States and Territories on Submitting Corrective Action Plans (CAP)

As indicated in the Preamble to the Child Care and Development Fund (CCDF) Final Rule (81 FR, p 67443-4), States were required to demonstrate compliance with all requirements of the Final Rule as included in the CCDF Plan¹ no later than October 1, 2018 (the effective date of the FY2019-2021 CCDF Plan). Any requirement not fully implemented by this deadline is subject to compliance actions, including corrective action plans and/or penalties, in accordance with Subpart J of the CCDF regulations. This attachment provides guidance on how to submit a Corrective Action Plan.

Submitting a Corrective Action Plan (CAP)

For all provisions indicated in your conditional approval letter as not compliant with CCDF requirements, you will be on a Corrective Action Plan (CAP) starting October 1, 2018 for a period not to exceed one year (no later than September 30, 2019). You have 60 days following receipt of this letter (no later than February 28, 2019) to formally submit your CAP letter using the ACF-118 system. These CAPs are not renewable. This means that any requirement not implemented by September 30, 2019 will be subject to a possible penalty pursuant to 98.92.

Your Corrective Action Plan must include:

1. A letter from Lead Agency official (or designee authorized to Act on behalf of the Lead Agency) that includes acknowledgement that you are on a CAP as outlined in the Plan conditional approval letter. The letter should be addressed to the Director of the Office of Child Care and must be uploaded (submitted) to OCC via the ACF-118 (See Attachment 2b for a sample letter).
2. Corrective Action Plans should be included with the letter and contain all of the required elements listed below.
 1. Plan Question needing correction
 2. Description of the unmet requirement status
 3. Target CAP completion date (no later than September 30, 2019)
 4. Action steps needed to meet the requirement, including:
 - a. Listing up to 5 action steps to meet each requirement
 - b. Listing the individual responsible for accomplishing each action step
 - c. Listing the start date and end date for each action step (no later than September 30, 2019)
 - d. Describing any potential challenges to completing the action steps

¹ Please note, the CCDF Plan includes questions that encompass all elements as required by regulations at 45 CFR 98.16. However, the Plan does not ask about all aspects of the federal requirements. There may be others areas that states will need to address in order to be in full compliance with the Act and the Rule.

Attachment 2a: Guidance to States and Territories on Submitting Corrective Action Plans (CAP)

OCC will review your CAP letter upon submission. If complete, the CAP will be approved. CAPs that fail to address all required elements will be considered incomplete and will need to be revised and resubmitted to OCC by the State/Territory.

Once approved, OCC will require States and Territories to provide regular updates on progress towards achievement of these requirements. The updates will include providing updates to the Regional Office via monthly calls and submitting written quarterly reports to OCC via the ACF-118 in April and July 2019.

Upon completion of all the activities in the corrective action plan, the State/Territory will submit a Plan Amendment to certify fulfillment of the requirement(s).

Attachment 2b: Sample Letter from Lead Agency Official

Date

Shannon Christian, Director
Office of Child Care
Administration for Children and Families
U.S. Department of Health and Human Services
330 C Street SW
Washington, DC 20201

Dear Director Christian,

The State of [REDACTED], the Department of [REDACTED], recognizes that our CCDF Plan for FY 2019-2021 was approved on the condition that a corrective action plan (CAP) be developed and implemented for the following provisions to bring [REDACTED] into full compliance with the CCDBG Reauthorization Act of 2014 law and final rules by September 30, 2019.

List of CAP categories from Column 1, Attachment 1 of the conditional approval letter issued by ACF:

- Disaster Preparedness
- Consumer Education
- Eligibility Determination Processes
- Health and Safety Requirements for Children Experiencing Homelessness
- Parental Choice
- Equal Access
- Health and Safety Standards - Requirements
- Health and Safety Standards - Training
- Enforcement of Licensing and Health and Safety Requirements

Our CAPs include detailed information about how we will fully comply with the unmet requirements. Each CAP describes:

1. Plan Question needing correction
2. Description of the unmet requirement
3. Target CAP completion date (no later than September 30, 2019)
4. Action steps needed to meet the requirement, including
 - a. Listing up to 5 action step to meet each action step
 - b. Listing the individual responsible for accomplishing each action step
 - c. Listing the start date *and* end date for each action step (no later than September 30, 2019)
 - d. Describing any potential challenges to completing the action steps

Attachment 2b: Sample Letter from Lead Agency Official

We understand from the conditional Plan approval letter that if the CAPs fail to address all required elements, the CAP will be considered incomplete and will need to be revised and resubmitted to ACF. Upon completion of all the activities of the CAP, [REDACTED] will submit a Plan Amendment to certify fulfillment of the requirements. Any requirement not implemented by September 30, 2019 will be subject to a possible penalty pursuant to 98.92.

We look forward to hearing from you. Please feel free to contact me if you have any questions.

Sincerely,

[REDACTED], Secretary
[REDACTED] Department of Health and Human Services
[REDACTED]
[REDACTED]

cc: [REDACTED], CCDF Administrator
[REDACTED], Regional Program Manager, Office of Child Care Region [REDACTED]

Attachment 2c: Template CCDF Corrective Action Plan(s)

Prepare a CAP for each CAP category, as described in Column 1, Attachment 1 of the conditional approval letter issued by ACF (e.g., Disaster Preparedness CAP)

Date developed:

1) Plan Question	2) Unmet Requirement	3) Target Completion Date	A) Activities List up to 5 action steps needed to meet the requirement	B) Individual responsible List the individual responsible for accomplishing each action step	C) Timeline List the start date AND end date for each action step (no later than September 30, 2019)	D) Potential Challenges Describe potential challenges to meeting the action steps
List the plan question for corrective action	Describe the unmet requirement	List the overall target CAP completion date (no later than September 30, 2019)	Step 1 Step 2 Step 3 Step 4 Step 5			



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**Christopher Jones, Executive Director
North Dakota Department of Human Services
600 East Boulevard Ave.
Bismarck, ND 58505**

Dear Executive Director Jones:

I am pleased to inform you that the North Dakota Child Care and Development Fund (CCDF) Plan for the period of October 1, 2018, through September 30, 2021, has been provisionally approved. This “provisionally approved” plan is approved for the criminal background check provisions in Section 5.4 of the Plan and related waiver requests in Appendix A. Once the Office of Child Care (OCC) completes its review of the remaining provisions of the Plan in November, we will send a separate letter addressing approval of the complete Plan along with any conditions for corrective action as applicable.

Regarding the background check provisions, North Dakota has met the required milestones and conditions for a time-limited waiver, and therefore is granted an extension through September 30, 2019 to implement the following:

- **Checks of the National Crime Information Center (NCIC) National Sex Offender Registry (NSOR)**
 - **Conducting checks on all current (existing) staff (5.4.5b)**

- **Checks of the criminal registry or repository in any other state where the individual has resided in the past five years**
 - **Establishing requirements and procedures (5.4.6a)**
 - **Conducting checks on all new (prospective) staff (5.4.6a)**
 - **Conducting checks on all current (existing) staff (5.4.6b)**

- Checks of the sex offender registry in any other state where the individual has resided within the past five years
 - Conducting checks on all current (existing) staff (5.4.7b)
- Establishing requirements and procedures for staff members to begin work on a provisional basis (if supervised at all times) after completing and receiving satisfactory results on either the FBI fingerprint check or a fingerprint check of the state/territory criminal registry or repository in the current State of residency of staff (5.4.9)

The CCDF Plan includes questions that encompass all elements as required by regulations at 45 CFR 98.16. However, the Plan does not ask about all aspects of Federal requirements. For example, for the background check requirements, the Plan does not explicitly ask for the State's definition of "child care staff members" that are subject to the checks, or whether the State has adopted the federally-mandated list of disqualifying crimes. During our review of the CCDF Plans, for some States we noticed areas of possible non-compliance with CCDF requirements that are outside the scope of this review for Plan approval. You will still need to take action to come into compliance with these requirements, and your OCC Regional Office will follow-up with you on these areas. Recognizing the information in the Plans is not exhaustive, the OCC will monitor State compliance through multiple mechanisms. All requirements of the Act and the Rule are subject to the monitoring, compliance, and complaint actions as described in 45 CFR Subpart J, including 98.90, 98.91, and 98.92. Additionally, States and Territories are subject to audit requirements at 45 CFR 98.65 of CCDF regulations.

You will receive a Notice of Grant Award in October 2018 from the Office of Administration in the Administration for Children and Families (ACF). The notice will include the amount of your award and any additional terms and conditions for the receipt of CCDF program funds. During the effective period of this plan, any substantial changes to your CCDF program must be submitted as a plan amendment to your Regional Office for approval in accordance with 45 CFR 98.18(b). If you have any questions, please contact Karen Knoll-Moran.

Please remember to expect a second letter regarding your Plan once ACF OCC has completed its review in November. This letter will detail any additional conditions or Corrective Action Plans as applicable to your state.

We look forward to working together toward full implementation of the CCDBG Act of 2014 and promoting the early learning and development of children along with family economic stability and success. If you have any questions, please contact Karen Knoll-Moran, Regional Program Manager, Office of Child Care at (303) 844-1164 or karen.knollmoran@acf.hhs.gov. Thank you for all you do each day for children and families.

Sincerely,

A handwritten signature in black ink, appearing to read "Shannon Christian". The signature is fluid and cursive, with a long horizontal stroke at the end.

Shannon Christian
Director
Office of Child Care

cc: Amanda Carlson, Early Childhood Services Administrator
Samantha O'Brien, Child Care Assistance Program Administrator
Karen Knoll-Moran, Regional Program Manager, Office of Child Care Region VIII