

**IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE**

**16.05.06 – CRIMINAL HISTORY AND BACKGROUND CHECKS**

**DOCKET NO. 16-0506-1902**

**NOTICE OF INTENT TO PROMULGATE RULES – NEGOTIATED RULEMAKING**

**AUTHORITY:** In compliance with Sections 67-5220(1) and 67-5220(2), Idaho Code, notice is hereby given that this agency intends to promulgate rules and desires public comment prior to initiating formal rulemaking procedures. This negotiated rulemaking action is authorized pursuant to Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109, 66-404(7), 15-5-308(4), 15-5-311(5), and 15- 5-316(5), Idaho Code. Under 42 USC Section 9858f, the Department is required to check certain records for federal child care programs.

**MEETING SCHEDULE:** Public meetings on the negotiated rulemaking will be held as follows:

<b>PUBLIC (LIVE) MEETINGS</b>	
<b>Tuesday, June 11, 2019 1:00 - 3:00 p.m. (PDT)</b>	<b>Thursday, June 13, 2019 1:00 - 3:00 p.m. (MDT)</b>
<b>CDA - DHW Office 1120 Ironwood Dr. Large Conf. Room Coeur D'Alene, ID 83814</b>	<b>Idaho Falls - DHW Office 150 Shoup Ave. 2nd Floor Conf. Rm Idaho Falls, ID 83402</b>
<b>Monday, June 17, 2019 10:00 am - 12:00 pm (MDT)</b>	<b>Tuesday, June 18, 2019 10:00 am - 12:00 pm (MDT)</b>
<b>Caldwell - DHW Office 3402 Franklin Rd. Grand Teton Conf. Room Caldwell, ID 83605</b>	<b>Boise - Westgate DHW Office 1720 Westgate Dr. Suite A, Room 131 Boise, ID 83704</b>

The meeting sites will be accessible to persons with disabilities, if needed. Requests for accommodation must be made not later than five (5) days prior to the meeting to the agency address below.

**METHOD OF PARTICIPATION:** Persons wishing to participate in the negotiated rulemaking may do any of the following:

1. Attend the negotiated rulemaking meeting and participate in the negotiation process;
2. Provide oral or written recommendations, or both, at the negotiated rulemaking meeting;
3. Submit written recommendations and comments to the address below.

Upon conclusion of the negotiated rulemaking, any unresolved issues, all key issues considered, and conclusion reached during the negotiated rulemaking will be addressed in a written summary. The summary will be made available to interested persons who contact the agency or, if the agency chooses, the summary may be posted on the agency website.

**DESCRIPTIVE SUMMARY AND STATEMENT OF PURPOSE:** The following is a statement in nontechnical language of the substance and purpose of the intended negotiated rulemaking and the principal issues involved:

1. Stakeholders have expressed a desire for the Department to clarify who is subject to the background check.
2. Stakeholders have expressed a desire for the Department to clarify background check documentation record keeping requirements.
3. The Department has already promulgated rules (IDAPA 16.03.15) that have identified a new class of individuals required to obtain a DHW clearance. We seek to incorporate that requirement into this rule to ensure agreement between both rules.
4. Stakeholders have expressed a desire for the Department to clarify when an incomplete application is no longer viable for processing.
5. The Department has determined that the crime of “assault with intent to commit a serious felony,” Section 18-909, Idaho Code, is indicative of the inability of the applicant to care for the vulnerable. Therefore, it wishes to add it to the list of disqualifying offenses of the rule.
6. Stakeholders have expressed a desire for the Department to clarify when a new background check or state-only check is required for a rehired employee.

**ASSISTANCE ON TECHNICAL QUESTIONS, SUBMISSION OF WRITTEN COMMENTS, OBTAINING DRAFT COPIES:** For assistance on technical questions concerning this negotiated rulemaking or to obtain a preliminary draft copy of the rule text (if available), contact Fernando Castro, (208) 332-7999.

Anyone may submit written comments regarding this negotiated rulemaking. All written comments must be directed to the undersigned and must be delivered on or before June 21, 2019.

Dated this 22nd day of April, 2019.

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