

# maaps



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October 28, 2015

Marylou Sudders, Secretary  
Executive Office of Health and Human Services  
One Ashburton Place, 11<sup>th</sup> Floor  
Boston, MA 02108

## Northeast Region

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Dear Secretary Sudders:

On behalf of the Massachusetts Association of 766 Approved Private Schools (**maaps**), I thank you for the opportunity to offer testimony related to Background and CORI Check Regulations at today's listening session as part of the efforts of the Executive Office of Health and Human Services (EOHHS) to fulfill the goals of Executive Order 562.

## Southeast Region

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We also understand that the Executive Office of Education (EOE) has a similar interest in these comments and we will be providing them a copy of this testimony in hopes that your agencies will continue working together to strengthen the Background and CORI Check processes.

## Central Region

David Cook  
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As you know, **maaps** represents 84 provider organizations approved by the Massachusetts Department of Elementary and Secondary Education (DESE) under Chapter 766 (C766) to operate approximately 150 day and residential special education programs. C766 schools provide specialized education and treatment services to approximately 5,500 of the Commonwealth's most challenged students and another 1,500 students from other states and countries. **maaps** members also employ over 9,000 teachers, clinicians and child care staff and our schools were active proponents of the new expanded national background check laws (*Chapter 77 and Chapter 234 of the Acts of 2014*) to strengthen student safety at schools across the Commonwealth.

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**maaps** should note at the outset that it greatly appreciates the efforts of various state agencies to implement the provisions of the new laws. We understand that many agencies have been handed a significant responsibility in these new initiatives without being provided many of the necessary resources. DESE and the Department of Early Education and Care (EEC) have worked tirelessly over the past two years to promulgate regulations (603 CMR 51.00 and 606 CMR 14) and put processes in place to implement its laws. We also understand that Department of Developmental Services (DDS) is continuing its efforts to prepare for the January 2016 implementation date of Chapter 234.

As EOHHS and state leaders move closer to 2016 and continue efforts to coordinate and streamline these important new programs, **maaps** is pleased to offer the following recommendations:

-more-

## Massachusetts Association of 766 Approved Private Schools

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1.) **Ensure that background check regulations allow for centralized, coordinated processes and account for the broad array of services offered by the provider community**

When originally passed into law, the ESE and EEC background check mandates required two, duplicative background checks for the same employee of a provider organization working in both an ESE-approved and EEC-licensed residential program. **maaps** secured an legislative amendment to eliminate this duplicative arrangement in *Chapter 449 of the Acts of 2014*, but the challenge initially resulted in many burdensome and costly operational obstacles for the state, C766 schools, providers, employees, students and all involved.

In the coming months and years, it is very possible that we will hear worthy calls for expanded background checks for employees serving other vulnerable populations, like the elderly, which could cause many new unintended consequences like the example mentioned above. **maaps** believes that this prompts the need for the Commonwealth to develop a background check system that is efficient, simple, streamlined and coordinated. State public safety, education and human service agencies all have a role in the current background check process. Might it be able to be centralized into a single agency like the Executive Office of Public Safety and Security, for example, which already maintains the state's contract with MorphoTrust USA? We would be happy to work constructively with EOHHS and the Baker Administration to consider potential solutions.

In the meantime, however, we urge EOHHS to ensure that the new DDS and forthcoming background check regulations do not operate independently from each other—or independent of the ESE and EEC background check regulations. **maaps** member C766 schools and a variety of provider organizations stand ready to work with you to continue carrying out these goals.

2.) **Continue streamlining the time to conduct thorough background checks to help schools/organizations hire personnel in a time-efficient manner**

EEC and ESE in recent months have gone to great lengths to continue streamlining the background check process to allow for time-efficient hiring practices by schools and organizations, but some provider organizations still report inconsistencies in the time it takes to receive background check findings under the new processes. Our members are reporting to us that they often lose promising job applicants to other employers due to delays in the background check process. These delays result in extended staff vacancies, which negatively impacts the quality of education and treatment for our students. As we indicated, **maaps** greatly appreciates the attention of EEC, ESE, EOPSS and related agencies to this issue, and we look forward to continue partnering with the state to build on that success as new background check laws are implemented.

3.) **Strengthen background check provisions by closing existing information gaps in current processes**

Under the current background check process, the Department of Children and Families (DCF) provides c.51A findings to our member schools in cases where there is a finding of abuse or neglect to children below the age of 18. However, there is a lack of availability of findings of abuse and neglect cases with clients ages 18 and above. Those reports are filed with the Disabled Persons Protection Commission (DPPC) according to MGL c.19C and under current practices hiring managers at our member schools are not provided those findings.

For example, under the current process, a school hiring manager is not be able to access any abuse or neglect findings through the DPPC on a prospective employee who has an abuse finding on a disabled adult.

The risks to students, schools and the general public caused by this information gap are very evident and **maaps** would appreciate the opportunity to work with EOHHS to identify a manner within the

background check process that would provide C766 schools the information on prospective employees where there has been abuse and neglect findings for both children and adults.

Madame Secretary, I hope these comments are helpful to you and your staff as you examine background check regulations and processes in accordance with Executive Order 562. I thank you very much for your time and willingness to engage in and continue a dialogue with **maaps** member schools and provider organizations to create a system that continues to better-ensure the safety and security of the students they serve. We look forward to working with you as this process continues and I look forward to our continued partnership.

Please feel free to contact me if you have any questions. I can be reached at (781) 245-1220 ext. 205 or [jmajor@maaps.org](mailto:jmajor@maaps.org). Thank you very much for your time and consideration.

Sincerely,

A handwritten signature in blue ink that reads "James V. Major". The signature is fluid and cursive, with a large, stylized initial "J" and "M".

James V. Major, CAE  
Executive Director

Massachusetts Association of 766 Approved Private Schools (**maaps**)

Cc: James A. Peyser, Secretary, Executive Office of Education  
Tom Weber, Commissioner, Department of Early Education and Care  
Mitchell D. Chester, Commissioner, Department of Elementary and Secondary Education