

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**ILLINOIS' MONITORING DID
NOT ENSURE CHILDCARE
PROVIDER COMPLIANCE WITH
STATE CRIMINAL
BACKGROUND CHECK
REQUIREMENTS AT 12 OF 30
PROVIDERS REVIEWED**

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Office of Inspector General

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Report in Brief

Date: April 2020

Report No. A-05-19-00016

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

The Child Care and Development Block Grant Act (CCDBG Act) of 2014 added new requirements for States that receive funding from the Child Care and Development Fund (CCDF) to conduct comprehensive criminal background checks on staff members and prospective staff members of childcare providers every 5 years. Criminal background check requirements apply to any staff member who is employed by a childcare provider for compensation or whose activities involve the care or supervision of children or unsupervised access to children.

Our objective was to determine whether Illinois' monitoring of childcare providers ensured provider compliance with State requirements related to criminal background checks established under the CCDBG Act.

How OIG Did This Audit

We analyzed and tested a population of 4,817 licensed childcare centers and family homes that received CCDF funding from July through December 2018. We used geographic area and total CCDF funding received to select 15 childcare center providers and 15 family home providers. In total, we reviewed supporting documentation for 327 individuals who were current employees or household members at 30 different childcare provider locations.

Illinois' Monitoring Did Not Ensure Childcare Provider Compliance With State Criminal Background Check Requirements at 12 of 30 Providers Reviewed

What OIG Found

Illinois' monitoring of childcare providers did not ensure provider compliance with State requirements related to criminal background checks at 12 of 30 childcare provider locations we reviewed. We found that 2 of 327 individuals did not obtain 1 or more of the required criminal background checks. Specifically, we found that the in-State criminal registry check was not conducted for one individual and all required background checks were not conducted for the second individual. In addition, 47 of 327 individuals had obtained all initial criminal background checks, but the required recurring checks were not conducted within the last 5 years. These errors occurred because Illinois did not effectively monitor the childcare provider criminal background checks. By not ensuring that all childcare staff members who supervised or had routine unsupervised contact with children passed all initial or recurring criminal background checks within the last 5 years, Illinois potentially jeopardized the safety of children in its care.

What OIG Recommends and Illinois Comments

We recommend that Illinois (1) conduct all required criminal background checks for the 2 individuals we reviewed who did not have all required checks at the time of our data requests and site visits, (2) conduct all required criminal background checks for the 47 individuals we reviewed who did not have all recurring checks conducted within the last 5 years, (3) ensure that childcare providers notify the State when a new employee is hired or a new household member is added so that the State may conduct the required criminal background checks, and (4) work with the State licensing agency to address staff and funding challenges to ensure that background checks are conducted on all licensed providers' employees or household members at least once every 5 years.

In written comments on our draft report, Illinois partially agreed with our findings. Illinois said that the new requirements in the CCDBG Act were a huge undertaking and that the State licensing agency worked understaffed but diligently to ensure that childcare staff remained in compliance. The State licensing agency assured Illinois that all childcare employees across the State will have complete comprehensive background checks by December 2022. In addition, Illinois described the corrective actions it has taken or plans to take to address our recommendations.

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INTRODUCTION

WHY WE DID THIS AUDIT

The Child Care and Development Block Grant Act (CCDBG Act) of 2014 added new requirements for States that receive funding from the Child Care and Development Fund (CCDF) to conduct comprehensive criminal background checks on staff members and prospective staff members of childcare providers every 5 years.¹

As part of our oversight activities, we conducted a series of audits that assessed States' criminal background check requirements and reviewed their plans and actions to implement the criminal background check requirements established under the CCDBG Act. Appendix B contains a list of prior Office of Inspector General (OIG) reports related to criminal background check requirements. We conducted this audit as a second phase of our oversight activities to assess whether State agencies' monitoring ensured provider compliance with CCDF requirements related to criminal background checks.

OBJECTIVE

Our objective was to determine whether Illinois' monitoring of childcare providers ensured provider compliance with State requirements related to criminal background checks established under the CCDBG Act.

BACKGROUND

Child Care and Development Block Grant Act

Reauthorized in the CCDBG Act, the CCDF is the primary Federal funding source devoted to subsidizing the childcare expenditures of low-income families. Administered by the Administration for Children and Families (ACF), the CCDF helps eligible low-income families pay for childcare at a provider of their choice while they work or participate in training, education, or both. In fiscal year (FY) 2019, ACF provided \$8.2 billion to States, territories, and Tribes to fund CCDF programs. In FY 2017, CCDF served approximately 1.3 million children younger than 13 years of age from 796,000 low-income working families each month.

Under the CCDBG Act, each lead agency must certify in its State plan that it has monitoring policies and practices applicable to all childcare providers and facilities that deliver services.² States must have requirements, policies, and procedures in place to conduct criminal background checks for staff members of childcare providers (other than relatives) that are

¹ P.L. No. 113-186, § 658H, enacted November 19, 2014.

² 45 CFR § 98.16(o).

licensed, regulated, or registered under State law or receive CCDF funds.³ Criminal background check requirements apply to any staff member who is employed by a childcare provider for compensation or whose activities involve the care or supervision of children or unsupervised access to children. This includes not only caregivers, teachers, and directors, but also janitors, cooks, and other employees of a childcare provider who may not regularly engage with children but whose presence at the facility gives them the opportunity for unsupervised access. For family home providers, this includes the caregiver requesting a check of himself or herself as well as other adults in the household who may have unsupervised access to children.⁴

Criminal Background Check Requirements as of September 30, 2016

The U.S. Department of Health and Human Services (HHS) implemented the CCDBG Act's criminal background check requirements for States, territories, and Tribes in a Final Rule issued in September 2016 (CCDF Program Final Rule, 81 Fed. Reg. 67438 (Sept. 30, 2016)). According to Federal regulations (45 CFR § 98.43), States must have requirements, policies, and procedures in place to conduct comprehensive criminal background checks. These regulations require States to conduct criminal background checks for childcare staff members and prospective childcare staff members (prior to employment and at least once every 5 years) that include:

- a Federal Bureau of Investigation (FBI) fingerprint check using the Next Generation Identification system;⁵
- a search of the National Crime Information Center's (NCIC's) National Sex Offender Registry; and
- a search of the following registries, repositories, or databases in the State in which the childcare staff member resides and each State in which such staff member resided during the preceding 5 years:
 - the State criminal registry or repository, with the use of fingerprints being required in the State in which the staff member resides and optional in other States;
 - the State sex offender registry or repository; and
 - the State-based child abuse and neglect registry and database.

³ 45 CFR § 98.43(a)(1).

⁴ CCDF Program Final Rule, 81 Fed. Reg. 67438, 67494 (Sept. 30, 2016).

⁵ The FBI fingerprint check, Next Generation Identification (formally the Integrated Automated Fingerprint Identification System), provides the criminal justice community with the world's largest and most efficient electronic repository of biometric and criminal history information.

As of September 30, 2018, Illinois had implemented requirements for all criminal background check components (except for the National Sex Offender Registry and the inter-State criminal history registry check) and conducts these checks for all new (prospective) childcare staff, in accordance with 45 CFR section 98.43.⁶

Appendix C contains Illinois' implementation status of the new CCDF criminal background checks.

Illinois' Coordination Efforts for Conducting Criminal Background Checks

The Illinois Department of Human Services (State agency) works with its State partner agency, the Illinois Department of Children and Family Services (State licensing agency), to maintain State health and safety licensing standards, which included conducting criminal background checks for childcare staff members in licensed centers and licensed family homes. The State licensing agency conducts fingerprint criminal background checks on all individuals living or working in a licensed childcare facility who may have unrestricted or unsupervised access to children in care in licensed centers, homes, and group homes. This applies to all current and conditional employees as well as any individual used as replacement or supplemental staff in the direct care and supervision of children.

According to the State licensing agency, all required criminal background checks for licensed childcare center employees and family home members are conducted during the initial license, renewal of existing license, and when the State receives notification of a change to the individual's record.

The State licensing agency conducts monitoring visits to licensed childcare centers and family home providers annually. The monitoring visits may be unannounced during the hours of operation, whether or not children are present. During the monitoring visits, the State licensing agency representative reviews employees' and household members' background check clearance records and changes in family composition to ensure compliance with the criminal background check requirements.

⁶ On November 9, 2018, ACF placed Illinois on a corrective action plan because the State did not fully implement the FBI criminal history check for individuals under 18 years old, the National Sex Offender Registry check, and the inter-State criminal registry check for all applicable childcare providers. As of February 19, 2020, ACF removed the corrective action plan because Illinois implemented new requirements to address the FBI criminal history check. In addition, ACF approved Illinois for a waiver to implement the National Sex Offender Registry check, and the inter-State criminal registry check for all applicable childcare providers by September 30, 2020.

HOW WE CONDUCTED THIS AUDIT

Illinois had 4,817 licensed⁷ family homes⁸ and childcare centers⁹ that received CCDF funding from July through December 2018. We reviewed 15 family home providers and 15 childcare centers, for a total of 30 licensed childcare providers.

We conducted announced site visits at each of the 30 providers selected, where we obtained a list of all current employees or household members. At the 15 family homes, we performed a walkthrough of the provider home to observe anyone in the household and discussed any challenges or obstacles the provider faced with adhering to the criminal background check requirements. At the 15 childcare center providers, we reviewed the most recent payroll report to compile a list of all current employees and discussed any challenges or obstacles the provider faced with adhering to the criminal background check requirements. In total, we reviewed supporting documentation obtained from the State licensing agency's system for 327 individuals who were current employees or household members at 30 different childcare provider locations.

We limited our review of internal controls to obtaining an understanding of the laws and regulations concerning the State agency's monitoring process to ensure childcare provider compliance with State requirements related to criminal background checks.

Appendix A contains the details of our audit scope and methodology.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FINDINGS

Illinois' monitoring of childcare providers did not ensure provider compliance with State requirements related to criminal background checks established under the CCDBG Act at 12 of

⁷ We did not include license-exempt providers or providers that had a pending license in our analysis.

⁸ A family childcare provider in a day care home is one individual who provides childcare services for fewer than 24 hours per day, per child, as the sole caregiver in a private residence other than the child's residence, unless care in excess of 24 hours is due to the nature of the parent(s)' work. A family childcare provider in a group day care home is a provider licensed or otherwise authorized to provide childcare services for fewer than 24 hours per day, per child, in a residential setting, unless care in excess of 24 hours is due to the nature of the parent(s)' work.

⁹ A childcare center is a provider licensed or otherwise authorized to provide childcare services for fewer than 24 hours per day in a nonresidential setting, unless care in excess of 24 hours is due to the nature of the parent(s)' work.

30 childcare provider locations we reviewed. Two childcare center providers did not obtain all required criminal background checks, and 11 childcare center providers¹⁰ did not obtain all recurring criminal background checks within the last 5 years. These errors related to 49 of the 327 childcare staff members we reviewed.

We found that 2 of 327 individuals did not obtain 1 or more of the required criminal background checks. Specifically, we found that the in-State criminal registry check was not conducted for one individual and all required background checks were not conducted for the second individual. In addition, we found that 47 of 327 individuals had obtained all initial criminal background checks, but the required recurring checks were not conducted within the last 5 years.

These errors occurred because Illinois did not effectively monitor the childcare provider criminal background checks. By not ensuring that all childcare staff members who supervised or had routine unsupervised contact with children passed all initial or recurring criminal background checks within the last 5 years, Illinois potentially jeopardized the safety of children in its care.

ILLINOIS' MONITORING DID NOT ENSURE PROVIDER COMPLIANCE WITH STATE CRIMINAL BACKGROUND CHECK REQUIREMENTS

Illinois State Regulations for Criminal Background Checks

All individuals living or working in a licensed childcare facility who may have unrestricted or unsupervised access to children in care in licensed centers, homes, and group homes are subject to criminal background checks. Background checks for individuals age 18 and over consist of an FBI and Illinois State police criminal history check using fingerprints, a check of the Illinois child abuse and neglect registry, a check of the Illinois sex offender registry and National sex offender registry. This applied to all current and conditional employees as well as any individual used as replacement or supplemental staff in the direct care and supervision of children (89 Ill. Adm. Code part 385).

All individuals subject to background checks must authorize such checks as a condition of employment and continuing employment, initial license or the renewal of an existing license, continued licensing, or when required for a contract with the State licensing agency (89 Ill. Adm. Code part 385.40). The State licensing agency said that it performs background checks on licensed childcare providers for the initial license, for the renewal of an existing license (which occurs every 3 years), and when the State receives notification of a change to an individual's record.

¹⁰ One childcare center provider had errors in more than one category.

Childcare Providers at 2 of 30 Locations Did Not Obtain All Required Criminal Background Checks

Of the 30 childcare providers we reviewed, 2 childcare center providers did not obtain all required criminal background checks. Of the 274 center employees reviewed, 2 individuals had not obtained 1 or more of the required criminal background checks. Specifically, the in-State criminal registry check was not conducted for one individual and all required background checks were not conducted for the second individual at the time of our data requests and site visits. This occurred because the two childcare center providers did not notify the State licensing agency when these new employees were hired until after our site visits.¹¹

For the 15 family home providers we reviewed, all 53 employees or household members reviewed had obtained all required criminal background checks (Appendix E).

Childcare Providers at 11 of 30 Locations Did Not Obtain All Recurring Criminal Background Checks Within the Last 5 Years

Of the 30 childcare providers we reviewed, 11 childcare center providers obtained all required criminal background checks, but 1 or more of the recurring checks were not conducted within the last 5 years. Of the 274 center employees reviewed, 47 individuals had obtained all initial criminal background checks, but 1 or more of the required recurring checks were not conducted within the last 5 years.

For the 15 family home providers we reviewed, all 53 employees or household members reviewed had obtained all initial criminal background checks, and the required recurring checks were conducted within the last 5 years (Appendix E).

The State licensing agency said that it had experienced challenges with ensuring that recurring background checks are performed at least once every 5 years for all childcare center employees. The State licensing agency estimated that there were approximately 100,000 childcare employees in Illinois that are in the State's database. The State licensing agency said that implementing a new process to address this requirement has resulted in over 30,000 additional background checks that are required to be conducted per year. The State licensing agency anticipated that it needed additional staff and funding to ensure that recurring background checks are being conducted at least once every 5 years.

By not ensuring that all childcare staff members who supervised or had routine unsupervised contact with children passed all initial or recurring criminal background checks within the last 5 years, Illinois potentially jeopardized the safety of children in its care.

¹¹ Despite annual unannounced monitoring visits that include reviewing all licensed childcare center providers, it is still possible for providers to hire individuals without the State's knowledge during the time between these annual visits.

RECOMMENDATIONS

We recommend that the Illinois Department of Human Services:

- conduct all required criminal background checks for the 2 individuals we reviewed who did not have all required checks at the time of our data requests and site visits,
- conduct all required criminal background checks for the 47 individuals we reviewed who did not have all recurring checks conducted within the last 5 years,
- ensure that childcare providers notify the State when a new employee is hired or a new household member is added so that the State may conduct the required criminal background checks, and
- work with the State licensing agency to address staff and funding challenges to ensure that background checks are conducted on all licensed providers' employees or household members at least once every 5 years.

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency partially agreed with our findings. The State agency said that the new requirements in the CCDBG Act were a huge undertaking and that the State licensing agency worked understaffed but diligently to ensure that childcare staff remained in compliance. The State licensing agency assured the State agency that all childcare employees across the State will have complete comprehensive background checks by December 2022. In addition, the State agency described the corrective actions it has taken or plans to take to address our recommendations. Specifically, the State agency and State licensing agency (1) will continue to conduct all required criminal background checks on all employees, (2) increased the State licensing agency budget and hired 2 additional staff with plans to hire 5 more, (3) conducted complete criminal background checks on all 47 employees that were still active, and (4) will have a reporting system in place by December 2020 to track providers.

The State agency's comments are included in their entirety as Appendix F.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

In selecting which State(s) to include in our audit, each OIG audit team was to conduct an analysis of the States within its region and consider the following factors:

- States with a “partial” or “substantial” implementation status for criminal background check requirements in their 2016 through 2018 CCDF State plans,
- States in which we may not have conducted criminal background check work recently or those in which we had findings related to criminal background check requirements in foster care or Head Start audits,
- States where news reports have raised concerns related to criminal background check requirements,
- total CCDF funding within the State, and
- total children served by CCDF within the State.

In addition to the factors above, the six States¹² included in OIG’s prior CCDF Phase I (State implementation of CCDBG criminal background check requirements) audit series were included in the CCDF Phase II (State monitoring of childcare provider compliance). Based on our review of these factors, we selected Illinois. We selected and reviewed a nonstatistical sample of 30 out of 4,817 family homes and childcare centers that received CCDF funding from July through December 2018 to improve our understanding of the State’s monitoring of childcare provider compliance with State criminal background check requirements. We based our provider selection on the following risk factors:

- **Geographic area (the geographic division of the State identified by the State agency):** For licensing purposes, Illinois is divided into five geographic areas. We determined the geographic area in which each provider was located and grouped the providers by area accordingly. We selected at least one family home provider and one childcare center provider within each geographic area to ensure coverage across the State.
- **CCDF funding received per geographic area (the total amount of CCDF funding received from July through December 2018):** We sorted the list based on the amount of CCDF funding received per provider and selected providers with a range of different funding amounts, including some with the highest amount of CCDF funding received.

¹² The six States included in CCDF Phase I were New York, Nevada, Colorado, Georgia, New Hampshire, and Illinois (Appendix B).

We conducted announced site visits at each of the 30 providers selected, where we obtained a list of all current employees or household members. At the 15 family homes, we performed a walkthrough of the provider home to observe anyone in the household and discussed any challenges or obstacles the provider faced with adhering to the criminal background check requirements. At the 15 childcare center providers, we reviewed the most recent payroll report to compile a list of all current employees and discussed any challenges or obstacles the provider faced with adhering to the criminal background check requirements. In total, we reviewed supporting documentation obtained from the State licensing agency's system for 327 individuals who were current employees or household members at 30 different childcare provider locations.

We limited our review of internal controls to obtaining an understanding of the laws and regulations concerning the State agency's monitoring process to ensure childcare provider compliance with State requirements related to criminal background checks.

We conducted our audit, which included fieldwork at the Illinois Department of Human Services and various family homes and childcare centers throughout Illinois, from March through September 2019.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and guidance;
- reviewed applicable State laws, policies, and procedures related to CCDF criminal background check requirements;
- identified criminal background check requirements that the State has fully implemented;
- identified criminal background check requirements that the State has not yet implemented;
- interviewed State agency officials to gain an understanding of the State's monitoring process over provider compliance with criminal background check requirements established under the CCDBG Act;
- interviewed State agency officials to identify any challenges or barriers that the State experienced with monitoring providers to ensure that the new criminal background check requirements are being met;

- interviewed family home providers and childcare center providers to identify any challenges or barriers they experienced complying with the new CCDF criminal background check requirements;
- conducted announced site visits at each of the 15 family home provider locations to obtain a current list of all employees or household members;
- conducted announced site visits at each of the 15 childcare center provider locations to obtain a current list of all employees and review current payroll reports;
- obtained supporting documentation or evidence from the State licensing agency's system to determine whether all the required criminal background checks were completed for 327 individuals who were current employees or household members at 30 different childcare provider locations;
- reviewed and analyzed a nonstatistical sample of 30 out of 4,817 licensed family homes and childcare centers that received CCDF funding from July through December 2018 to determine whether all the required criminal background checks were completed; and
- discussed the results of our audit with State agency officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

**APPENDIX B: PRIOR OIG ISSUED REPORTS RELATED TO CRIMINAL
BACKGROUND CHECK REQUIREMENTS**

Report Title	Issue Date
<i>New Hampshire's Monitoring Did Not Ensure Childcare Provider Compliance With State Criminal Background Check Requirements at 21 of 30 Providers Reviewed (A-01-18-02504)</i>	4/3/2020
<i>New Mexico's Monitoring of Childcare Providers Generally Ensured Provider Compliance With State Criminal Background Check Requirements at 30 Childcare Providers Reviewed (A-06-19-07001)</i>	2/19/2020
<i>Georgia's Monitoring of Childcare Providers Ensured Provider Compliance With State Criminal Background Check Requirements (A-04-19-03580)</i>	2/12/2020
<i>Tennessee's Monitoring Ensured Compliance With Criminal Background Check Requirements at 28 of the 30 Childcare Providers Reviewed (A-04-19-02023)</i>	1/15/2020
<i>All Six States Reviewed Had Partially Implemented New Criminal Background Check Requirements for Childcare Providers, and Five of the States Anticipate Full Implementation by Fiscal Year 2020 (A-05-19-00015)</i>	8/23/2019
<i>New York Has Not Fully Implemented New Criminal Background Check Requirements for Childcare Providers (A-02-17-02011)</i>	1/8/2019
<i>Nevada Implemented Some New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements (A-09-17-01003)</i>	9/19/2018
<i>Colorado Implemented Many New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements (A-07-17-06076)</i>	9/17/2018
<i>Georgia Implemented Most New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements (A-04-18-03578)</i>	7/27/2018
<i>New Hampshire Implemented Most New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements (A-01-18-02500)</i>	7/9/2018
<i>Illinois Implemented Most New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements (A-05-17-00047)</i>	6/4/2018

APPENDIX C: ILLINOIS' IMPLEMENTATION STATUS OF CCDF CRIMINAL BACKGROUND CHECKS

Criminal Background Check Requirements	Implementation Status as of 9/30/2018	OIG Analysis of State's Implementation Status (Includes a Review of Illinois' Laws, Regulations, and Guidance)
FBI Criminal History Fingerprint Check 45 CFR § 98.43(b)(1)	Partially Implemented ¹³	89 Ill. Adm. Code, chapter III, part 385
NCIC's National Sex Offender Registry 45 CFR § 98.43(b)(2)	Not Implemented	Illinois is working with its State partner agencies to implement this background check by September 30, 2020.
In-State Criminal Registry 45 CFR § 98.43(b)(3)	Implemented	89 Ill. Adm. Code, chapter III, part 385
In-State Sex Offender Registry 45 CFR § 98.43(b)(3)	Implemented	89 Ill. Adm. Code, chapter III, part 385
In-State Child Abuse and Neglect Registry 45 CFR § 98.43(b)(3)	Implemented	89 Ill. Adm. Code, chapter III, part 385
Inter-State Criminal Registry 45 CFR § 98.43(b)(3)	Not Implemented	As of September 1, 2019, Illinois issued new policies and procedures to implement this inter-State background check.
Inter-State Sex Offender Registry 45 CFR § 98.43(b)(3)	Implemented	89 Ill. Adm. Code, chapter III, part 385
Inter-State Child Abuse and Neglect Registry 45 CFR § 98.43(b)(3)	Implemented	89 Ill. Adm. Code, chapter III, part 385

¹³ On November 9, 2018, ACF placed Illinois on a corrective action plan because the State did not fully implement the FBI criminal history check for individuals under 18 years old, the National Sex Offender Registry check, and the inter-State criminal registry check for all applicable childcare providers. As of February 19, 2020, ACF removed the corrective action plan because Illinois implemented new requirements to address the FBI criminal history check.

APPENDIX D: FEDERAL AND STATE REGULATIONS

FEDERAL REGULATIONS

According to Federal regulations, States must have in effect requirements, policies, and procedures to require and conduct criminal background checks for childcare staff members, including prospective childcare staff members of all licensed, regulated, or registered childcare providers and all childcare providers eligible to deliver services for which assistance is provided (45 CFR § 98.43(a)(1)).

“Childcare provider” means a center-based childcare provider, a family childcare provider, or another provider of childcare services for compensation and on a regular basis that (A) is not an individual who is related to all children for whom childcare services are provided and (B) is licensed, regulated, or registered under State law or eligible to receive assistance provided under this subchapter (45 CFR § 98.43(a)(2)(i)).

“Childcare staff member” means an individual (other than an individual who is related to all children for whom childcare services are provided) (A) who is employed by a childcare provider for compensation, including contract employees or self-employed individuals; (B) whose activities involve the care or supervision of children for a childcare provider or unsupervised access to children who are cared for or supervised by a childcare provider; or (C) any individual residing in a family childcare home who is age 18 and older (45 CFR § 98.43(a)(2)(ii)).

Federal regulations require States to conduct two national checks: (1) an FBI criminal history fingerprint check using Next Generation Identification¹⁴ (45 CFR § 98.43(b)(1)) and (2) a search of the NCIC’s National Sex Offender Registry for childcare staff members or prospective staff members (45 CFR § 98.43(b)(2)).

According to Federal regulation, States are required to conduct a search of three in-State registries: (1) State criminal registry (using fingerprints), (2) State sex offender registry, and (3) State-based child abuse and neglect registry in the State in which the childcare staff member or prospective staff member resides (45 CFR § 98.43(b)(3)).

In addition, States are required to conduct a search of three inter-State registries: (1) criminal registry in each State (fingerprints optional), (2) each State’s sex offender registry, and (3) each State’s child abuse and neglect registry in the State(s) in which the childcare staff member or prospective staff member resided during the preceding 5 years (45 CFR § 98.43(b)(3)).

¹⁴ The FBI fingerprint check, Next Generation Identification (formally the Integrated Automated Fingerprint Identification System), provides the criminal justice community with the world’s largest and most efficient electronic repository of biometric and criminal history information.

Federal regulations require States to have requirements, policies, and procedures in place to conduct criminal background checks for childcare staff members and prospective staff members prior to employment and at least once every 5 years (45 CFR § 98.43(d)(2)).

STATE REGULATIONS

"Access to children" means a childcare facility employee's duties require that the employee be present in a licensed childcare facility during the hours that children are present in the facility. In addition, any person who is permitted to be alone outside the visual and auditory supervision of facility staff with children receiving care in a licensed childcare facility is subject to the background check requirements (89 Ill. Adm. Code part 385.20).

"Authorization for background check" means a complete, signed form prescribed by the Illinois Department of Children and Family Services which authorizes a background check and submission of fingerprints, if required. An authorization for a background check may be used for the initial and all subsequent background checks required to determine compliance with the requirements (89 Ill. Adm. Code part 385.20).

"Background check" means a criminal history check via fingerprints of persons age 18 and over that are submitted to the Illinois State Police and the FBI for comparison with their criminal history records or the National Crime Information Database when applicable for prospective foster and adoptive parents; a check of the Child Abuse and Neglect Tracking System/Statewide Automated Child Welfare Information System (CANTS/SACWIS) and other State child protection systems, or the National Registry, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and a check of the Illinois Sex Offender Registry and the National Sex Offenders Registry, as appropriate (89 Ill. Adm. Code part 385.20).

"Persons subject to background checks" means the operators of the childcare facility; all current and conditional employees of the childcare facility; all direct child welfare agency employees (see 89 Ill. Adm. Code part 412); any person who is used to replace or supplement staff; any person who has access to children; and any person, including non-licensed service providers, who provides services that allow unsupervised access to children if the requirement for background checks is a condition of a contract or agreement or is required otherwise under 89 Ill. Adm. Code part 357 (Purchase of Service). If the childcare facility operates in a family home, the license applicants and all members and prospective members of the household age 13 and over are subject to background checks, as appropriate, even if these members of the household are not usually present in the home during the hours the childcare facility is in operation (89 Ill. Adm. Code part 385.20).

As a condition of employment in a licensed childcare facility in a position that allows access to children, all persons subject to background checks shall complete and sign authorizations for background checks and submit to fingerprinting, if required. This applies to all current and conditional employees subject to background checks and to any individual used as replacement

or supplemental staff in the direct care and supervision of children. All such authorizations must be postmarked within 2 business days after the person's employment or use in a role as replacement or supplemental staff (89 Ill. Adm. Code part 385.30(d)).

If the childcare facility operates in a family home, adult members of the household age 18 and older shall be fingerprinted to be screened for prior criminal convictions and current pending criminal charges in accordance with the requirements of this Part. All household members age 13 and over shall be screened for a history of child abuse or neglect and for inclusion in the Illinois Sex Offender Registry. These background checks are required even if members of the household usually are not present in the home during the hours the childcare facility is in operation (89 Ill. Adm. Code part 385.30(e)).

All licensed childcare facilities shall submit completed, signed authorizations for background checks for all persons subject to background checks. A childcare facility license shall not be renewed until the results of the background check (CANTS/SACWIS, Illinois Sex Offender Registry, and criminal history) have been received for the operator of the childcare facility. However, if complete, signed authorizations have been submitted and fingerprints obtained for all persons subject to background checks and a check of the CANTS/SACWIS and Illinois Sex Offender Registry is completed, renewal of the license shall not be delayed pending receipt of the results of the criminal background check for other persons subject to background checks (89 Ill. Adm. Code part 385.30(a) & (b)).

All persons (including non-licensed service providers) required to authorize background checks must authorize such checks as a condition of employment and continuing employment, initial license or the renewal of an existing license, continued licensing, or when required for a contract with the Illinois Department of Children and Family Services (89 Ill. Adm. Code part 385.40(a)).

**APPENDIX E: NUMBER OF INDIVIDUALS MISSING REQUIRED OR RECURRING CRIMINAL
BACKGROUND CHECKS AT 30 SELECTED PROVIDERS**

Provider Number	Provider Type	Number of Individuals* Reviewed	Number of Individuals Missing One or More Required Criminal Background Checks	Number of Individuals Missing One or More Recurring Criminal Background Checks Within the Last 5 Years
1	Family home	2	0	0
2	Family home	2	0	0
3	Family home	4	0	0
4	Family home	1	0	0
5	Family home	4	0	0
6	Family home	5	0	0
7	Family home	3	0	0
8	Family home	4	0	0
9	Family home	3	0	0
10	Family home	6	0	0
11	Family home	3	0	0
12	Family home	3	0	0
13	Family home	2	0	0
14	Family home	4	0	0
15	Family home	7	0	0
Total for Family Homes		53	0	0
16	Childcare center	6	1	0
17	Childcare center	62	1	17
18	Childcare center	28	0	4
19	Childcare center	14	0	2
20	Childcare center	4	0	0
21	Childcare center	11	0	0
22	Childcare center	15	0	1
23	Childcare center	14	0	4
24	Childcare center	17	0	3
25	Childcare center	21	0	0
26	Childcare center	11	0	4
27	Childcare center	14	0	3
28	Childcare center	23	0	4
29	Childcare center	13	0	1
30	Childcare center	21	0	4
Total for Childcare Centers		274	2	47
Combined Total for Family Homes and Childcare Centers		327	2	47
* The term "individuals" refers to the current number of employees or household members included in our audit.				



JB Pritzker, Governor

Grace B. Hou, Secretary

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401 South Clinton Street • Chicago, Illinois 60607

To: Sheri Fulcher, Regional Inspector General

From: Kisha Davis, Bureau Chief of Subsidy Management
Patricia Stokes, Licensing Background Check Unit Manager

CC: Grace Hou, Secretary

Date: April 6, 2020

Re: Draft Report from Office of Inspector General (OIG) Background Report,
Department of Health and Human Services (DHHS), regarding the review of
Illinois' Compliance with State Background Check Requirements

The draft report indicates that Illinois' monitoring did not ensure child care provider compliance with State Criminal Background Check Requirements at 12 of 30 providers reviewed.

The Illinois Department of Human Services partially agrees with said findings due to 46 out of 47 employee findings were related to CCDBG Reauthorization. Prior to CCDBG Reauthorization, employees were only required to conduct background checks at initial application. Only at time of renewal (every three years) were the Day Care Center Directors required to resubmit form CFS 718B (Authorization for Background Check) to have their backgrounds checks updated. As of September 1, 2017, IDCFS implemented requiring ALL child care staff ages 18 and older to resubmit their CFS 718B (Authorization for Background Check) with their License Renewal Packet to align all background checks with license renewal dates. As this new requirement was a huge undertaking, IDCFS worked diligently to ensure staff remained in compliance, while working understaffed. IDCFS has ensured that all child care employees across the state of Illinois will have had a complete comprehensive background check by December of 2022.

However, in accordance with the Office of the Inspector General, IDHS/IDCFS has taken the suggested measures and put into place a corrective action plan that will ensure Illinois' monitoring of child care provider compliance with State Criminal Background Check Requirements are met, per the CCDBG Reauthorization.



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Corrective Action Plan Per OIG Recommendations

- A. IDCFS will continue to conduct all required background checks and by December of 2022, ALL background checks will have been conducted on all employees through their license renewal process. (Rec #1 and #2)
- B. Continue to hire staff to ensure compliance. IDHS has increased IDCFS budget by 500k to allow for an additional 7 employees (1 supervisor, 6 staff). IDCFS has currently hired 2 out of 7 employees. (Rec #4)
- C. The 47 employees cited in the findings have received a complete background check or no longer works for the provider. (Rec #2)
- D. IDCFS are in the process of creating a Reporting System for providers. The system is to be established by 12/2020 for immediate use of tracking providers. (Rec #3)