

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**NEW JERSEY'S MONITORING DID
NOT ENSURE CHILD CARE
PROVIDER COMPLIANCE WITH
STATE CRIMINAL BACKGROUND
CHECK REQUIREMENTS AT 9 OF 30
PROVIDERS REVIEWED**

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A-02-19-02004**

Office of Inspector General

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Report in Brief

Date: July 2020

Report No. A-02-19-02004

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 receiving funding from the Child Care and Development Fund (CCDF) to conduct comprehensive criminal background checks on staff members and prospective staff members of child care providers every 5 years. Criminal background check requirements apply to any staff member who is employed by a child care provider for compensation or whose activities involve the care or supervision of children or unsupervised access to children.

Our objective was to determine whether New Jersey's monitoring of child care providers ensured provider compliance with State requirements related to criminal background checks established under the CCDBG Act.

How OIG Did This Audit

Our audit covered 3,169 licensed child care centers and registered family homes that received CCDF funding during Federal fiscal year 2018. We used geographic area and total CCDF funding received to select 15 licensed child care center providers and 15 registered family home providers. In total, we reviewed supporting documentation for 649 individuals who were current employees or household members at 30 different child care provider locations.

New Jersey's Monitoring Did Not Ensure Child Care Provider Compliance With State Criminal Background Check Requirements at 9 of 30 Providers Reviewed

What OIG Found

New Jersey's monitoring did not ensure provider compliance with State requirements related to criminal background checks at 9 of 30 child care provider locations we reviewed. We found that 26 of 649 individuals did not obtain 1 or more of the required criminal background checks.

These errors occurred because despite periodic inspections that include a 100-percent review of employee or household member criminal background check documentation, it is still possible for providers to hire individuals or have household members in the home without the State's knowledge during the time between these inspections. Therefore, New Jersey would not be aware that background checks had not been conducted on prospective employees or new household members until an inspection was performed. In addition, New Jersey would not know to follow up with providers on current employees or household members who are required to renew their criminal background checks.

What OIG Recommends and New Jersey's Comments

We recommended that New Jersey conduct all required criminal background checks for the 26 individuals we reviewed who did not have the required checks, develop a system that alerts it when criminal background checks need to be completed for prospective and current employees and household members, and continue to work with the Administration for Children and Families to reach substantial compliance with criminal background check requirements.

In written comments on our draft report, New Jersey did not indicate concurrence or nonconcurrence with our recommendations; however, it described actions it had taken or planned to take to address them. Specifically, New Jersey stated that it had followed up on the 26 individuals cited in our report and these individuals have received the required background checks. New Jersey also stated that two systems had been developed that allowed compliance with background check requirements to be monitored. Finally, New Jersey stated it had taken steps to ensure that all family child care providers and household members had completed required background checks and was continuing to work toward implementing National Sex Offender Registry Checks and inter-State checks for licensed child care centers. We commend New Jersey for taking appropriate corrective actions in response to 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 child care 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 relating 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 New Jersey's monitoring of child care 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 child care expenditures of low-income families. Administered by the Administration for Children and Families (ACF), the CCDF provides eligible low-income families with help paying for child care 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 under the age of 13 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 child care 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 child care providers (other than relatives) that are licensed, regulated, or registered under State law or receive CCDF funds.³ Criminal background

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

² 45 CFR § 98.16(o).

³ 45 CFR § 98.45(a)(1).

check requirements apply to any staff member who is employed by a child care 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 child care 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 2016.⁵ According to Federal regulations, States must have requirements, policies, and procedures in place to conduct comprehensive criminal background checks.⁶ These regulations require States to conduct criminal background checks for child care staff members and prospective child care staff members that include:

- a Federal Bureau of Investigation (FBI) fingerprint check using Next Generation Identification;⁷
- a search of the National Crime Information Center's (NCIC) National Sex Offender Registry; and
- a search of the following registries, repositories, or databases in the State in which the child care 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.

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

⁵ CCDF Program Final Rule, 81 Fed. Reg. 67438, 67494 (Sept. 30, 2016).

⁶ 45 CFR § 98.43.

⁷ 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.

Extension and Waiver Deadlines for Implementation

The CCDBG Act required that all States have requirements, policies, and procedures in place that meet the criminal background check requirements no later than September 30, 2017.⁸ The CCDBG Act allowed for the Secretary of HHS to grant a 1-year extension to the States as long as they demonstrate a good-faith effort to implement the requirements. In recognition of significant challenges to implementing the new background check requirements, all States, including New Jersey, applied for and received extensions through September 30, 2018.

In addition, ACF has the authority to grant States a waiver of a statutory provision, including one or more criminal background check requirements, and may extend the implementation period for the waived requirements for up to 2 additional years, until September 30, 2020, assuming that the requirements for applying for the waiver are fulfilled. In its State plan preprint,⁹ ACF has indicated that if a State implements the FBI criminal history check and the three in-State background checks for prospective staff by September 30, 2018, the State may receive a time-limited waiver (1 year, with an additional year renewal, subject to conditions being met) to perform the following actions:

- conduct FBI checks and in-State registry checks on current child care staff and
- establish procedures and conduct checks of the NCIC's National Sex Offender Registry and inter-State registries for current and prospective staff, as necessary.¹⁰

ACF has further indicated that if a review of the State Plan reveals that a State is out of compliance with one or more CCDF program requirements, it may place the State on a Corrective Action Plan (CAP). If the State is not in compliance with background check requirements by September 30, 2020, ACF has the authority to impose certain penalties or sanctions. For failure to comply substantially with the criminal background check requirements, a State would be subject to a penalty of 5 percent of the total discretionary CCDF funds awarded to it for the fiscal year following its determination that noncompliance occurred.¹¹

New Jersey's Implementation of Criminal Background Check Requirements

While New Jersey had some background check requirements in place prior to the establishment of the CCDBG Act, it had not fully implemented the new criminal background check

⁸ 45 CFR § 98.43.

⁹ The State plan is the primary mechanism that ACF uses to determine State and territory compliance with the requirements of the CCDBG Act. The State plan preprint provides a tool for States and territories to describe to ACF their progress on eight key functions of an integrated system of child care as described in the preprint (https://www.acf.hhs.gov/sites/default/files/occ/fy_2019_2021ccdf_plan_preprint_11_30_17.pdf).

¹⁰ 45 CFR § 98.43(a)(1)(i)(2)).

¹¹ 45 CFR § 98.92(3)(i)).

requirements as of September 30, 2018. Specifically, New Jersey had implemented requirements for the FBI fingerprint check, in-State criminal registry check, in-State sex offender registry check, and in-State child abuse and neglect registry check for licensed¹² child care centers.¹³ New Jersey conducts these checks for current and prospective child care staff who are at least 18 years old and work (or plan to work) on a regularly scheduled basis (Title 3A § 52-4.11(a) of the New Jersey Administrative Code (NJAC)).¹⁴ In addition, for registered family homes, New Jersey had implemented requirements for the in-State child abuse and neglect registry check for household members who are at least 14 years old and for employees.^{15, 16}

New Jersey, however, had not implemented the requirements for the NCIC National Sex Offender Registry check for current and prospective employees of licensed child care centers or for household members and employees of registered family homes,¹⁷ nor had it implemented the requirements for the FBI fingerprint check, in-State criminal registry check, or in-State sex offender registry check for household members and employees of registered family homes.¹⁸ Moreover, New Jersey had not implemented requirements for inter-State checks of criminal, sex offender, and child abuse and neglect registries for licensed child care centers or registered family homes.¹⁹

¹² We did not review license-exempt providers as part of this audit.

¹³ These centers are licensed to provide child care services for fewer than 24 hours per day, per child in a nonresidential setting, unless care in excess of 24 hours is due to the nature of the parent(s)' work.

¹⁴ For licensed child care center staff who are under age 18 or do not work a regular schedule, supervision by another staff member is required (NJAC 3A:52-4.11(a)(5)).

¹⁵ In New Jersey, registered family homes are referred to as "family child care providers." Child care services are provided at these homes for no fewer than three and no more than five children at any one time for no fewer than 15 hours per week (NJAC 3A:54-1.2).

¹⁶ NJAC 3A:54-5.3(a).

¹⁷ Regarding the NCIC National Sex Offender Registry check for current and prospective staff working at licensed child care centers and registered family homes, officials from the New Jersey Department of Human Services (State agency) stated that they are in the process of estimating resource needs for coordination with the New Jersey Human Services police department to perform this check.

¹⁸ Regarding the FBI fingerprint check, in-State criminal registry check, and in-State sex offender registry check for current and prospective staff working at registered family homes, State agency officials stated that they had to wait for the passage of legislation that would allow individuals working at these facilities to receive written notification if a background check resulted in the individual being disqualified from employment.

¹⁹ Regarding the inter-State checks of criminal, sex offender, and child abuse and neglect registries for licensed child care centers or registered family homes, State agency officials stated they needed more time to make changes needed to implement these requirements, including statutory and regulatory changes, and to collaborate with other state agencies.

As of November 2018, New Jersey had not implemented the FBI criminal history check and the three in-State background checks for current and prospective staff working at registered family homes. Therefore, ACF placed New Jersey on a CAP.

On August 16, 2019, New Jersey applied for a waiver until September 30, 2020, to implement background check requirements related to (1) the NCIC National Sex Offender Registry check for current and prospective staff working at licensed child care centers, and for household members and employees of registered family homes; (2) the FBI fingerprint check, in-State criminal registry check, and in-State sex offender registry check for current staff working at registered family homes; and (3) inter-State checks of criminal, sex offender, and child abuse and neglect registries for current and prospective staff working at all child care providers. ACF denied this waiver request and indicated that it would continue to provide technical assistance to help New Jersey reach compliance with background check requirements.

New Jersey officials stated they believed they would be in full compliance with background check requirements by September 30, 2020, and therefore would not be subject to penalties levied by ACF.

Appendix C contains a summary of New Jersey's implementation status of the new CCDF criminal background check requirements.

New Jersey's Coordination Efforts for Conducting Criminal Background Checks

The New Jersey Department of Human Services (State agency) works with its State partner agency, the New Jersey Department of Children and Families (NJDCF) and nonprofit Child Care Resource Referral Agencies throughout New Jersey to conduct background checks for child care staff and household members.

Through a vendor, the State agency conducts Criminal History Record Information (CHRI) fingerprint checks for all child care center employees to determine whether they have been convicted of a crime. The checks include an FBI fingerprint check, an in-State criminal registry check, and an in-State sex offender registry check. The CHRI fingerprint check results are sent to the State agency, which notifies child care providers of the results.

NJDCF's Office of Legal Affairs (OLA) conducts Child Abuse Record Information (CARI) system checks for household members who are at least 14 years old and for employees of registered family homes and child care centers to determine whether an incident of child abuse and neglect has been substantiated against them. OLA has 45 days to notify providers of the results of the CARI checks, which are not sent to the State agency.

OLA monitors child care provider compliance with CHRI fingerprint and CARI system check requirements through 100-percent reviews of household members' and employees' files or supporting documentation at the time of providers' initial licensing, when they renew their license (every 3 years), and during unannounced annual inspections, regardless of the size of

the provider.²⁰ At the child care centers, OLA inspectors observe, interview, and review CHRI and CARI documentation to verify that staff have the required background checks. At the family homes, inspectors walk through the home, observe providers caring for the children, and look at children's records (immunizations, health records, application, etc.). In addition, licensed child care centers and registered family homes are also subject to unannounced inspections each year.

HOW WE CONDUCTED THIS AUDIT

New Jersey had 3,169 licensed child care centers and registered family homes that received CCDF funding during Federal fiscal year (FFY) 2018 (October 1, 2017, to September 30, 2018). We reviewed 15 registered family home providers and 15 licensed child care centers, for a total of 30 child care providers.

Specifically, we conducted unannounced site visits to 15 registered family home providers, where we obtained a list of all current employees or household members. We verified this list against the list provided by the State agency. We performed a physical walk-through 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. In addition, we conducted visits to 15 licensed child care center providers, where we obtained a list of all current employees. We validated the list by requesting a payroll report indicating all employees at the selected center. We also discussed any challenges or obstacles that center officials faced regarding adherence to criminal background check requirements. In total, we reviewed supporting documentation for 649 individuals who were current employees or household members at the 30 child care provider locations.²¹

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 child care provider compliance with State requirements related to criminal background checks.

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 A contains the details of our audit scope and methodology.

²⁰ New Jersey will conduct additional site visits if a complaint is filed and will follow up with a child care provider to verify that any deficiencies found during site visits are corrected.

²¹ The 15 family homes had a total of 51 current employees or household members, and the 15 child care centers had a total of 598 current employees.

FINDINGS

New Jersey's monitoring did not ensure provider compliance with State requirements related to criminal background checks at 9 of 30 child care provider locations we reviewed. We found that providers did not obtain 1 or more of the required background checks for 26 of 649 individuals. Specifically, we found that CHRI fingerprint checks were not completed for 17 individuals, and CARI checks were not completed for 20 individuals.²²

These errors occurred because despite periodic inspections that include a 100-percent review of employee or household member criminal background check documentation, it is still possible for providers to hire individuals or have household members in the home without the State agency's knowledge during the time between these inspections. Therefore, the State agency would not be aware that CHRI fingerprint and CARI system checks had not been conducted on prospective employees or new household members until an inspection was performed. In addition, the State agency would not know to follow up with providers on current employees or household members who are required to renew their criminal background checks.

NEW JERSEY'S MONITORING DID NOT ENSURE PROVIDER COMPLIANCE WITH STATE CRIMINAL BACKGROUND CHECK REQUIREMENTS

New Jersey State Regulations for Criminal Background Checks

A licensed child care provider must ensure that a CHRI fingerprint check is completed for himself or herself, and for all staff members at least 18 years of age who will be working at the child care facility on a regularly scheduled basis, to determine whether any such person has been convicted of a crime. The check includes an FBI fingerprint check, an in-State criminal registry check, and an in-State sex offender registry check.²³

A licensed child care provider and registered family home providers must ensure that a CARI system check is completed for himself or herself, for all household members 14 years of age and older, and for all staff members who will be working at the child care facility on a regularly scheduled basis to determine whether an incident of child abuse and neglect has been substantiated against any such person.^{24, 25}

Appendix D contains the full details of the Federal and State regulations cited in the report.

²² The total exceeds 26 because more than 1 type of criminal background check was not completed for 11 individuals.

²³ NJAC 3A:52-4.11.

²⁴ NJAC 3A:52-4.10.

²⁵ NJAC 3A:54-5.3.

Child Care Providers at 9 of 30 Locations Did Not Comply With State Criminal Background Check Requirements

Of the 30 child care providers we reviewed, 9 did not meet 1 or more criminal background check requirement for 26 employees. Specifically:

- At 1 of the 15 family home providers we reviewed, an in-State child abuse and neglect registry check had not been performed for 1 household member.
- At 8 of the 15 child care centers we reviewed (53 percent), providers were not in compliance with State criminal background check requirements. Specifically, providers did not obtain 1 or more of the required criminal background checks for 25 of the 598 employees reviewed (4 percent).²⁶

Appendix E summarizes the number of individuals missing required criminal background checks at the 30 selected providers.

RECOMMENDATIONS

We recommend that the New Jersey Department of Human Services:

- conduct all required background checks for the 26 individuals we reviewed who did not have the required checks,
- develop a system that provides notifications to State agency staff when criminal background checks need to be conducted for prospective and current employees and household members, and
- continue to work with ACF to reach substantial compliance with criminal background check requirements.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency did not indicate concurrence or nonconcurrence with our recommendations; however, it described actions it had taken or planned to take to address them. Specifically, the State agency stated that NJDCF followed up on the 26 individuals cited in our draft report and that these individuals have received the required background checks. The State agency also stated that NJDCF developed a system to allow for the receipt of CARI check results. In addition, the State agency and NJDCF developed an integrated, single-access-point system that includes child care licensing and family child care

²⁶ For the 25 individuals, 8 were missing only the in-State child abuse and neglect registry check. The remaining 17 individuals were missing the FBI fingerprint check, the in-State criminal registry check, and the in-State sex offender registry check. Eleven of the seventeen were also missing the in-State child abuse and neglect registry check.

registration information. According to the State agency, both systems allow the State agency and NJDCF to monitor compliance with background check requirements. Finally, the State agency stated that it took steps to ensure that all family child care providers and household members completed required background checks and was continuing to work toward implementing National Sex Offender Registry Checks and inter-State checks for licensed child care centers. The State agency's comments are included in their entirety as Appendix F.

We commend the State agency for taking appropriate corrective actions in response to our recommendations.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

In selecting which State(s) to include in our review, each OIG audit team was to conduct an analysis of the States within its region²⁷ and consider the following factors:

- States with a “partial” or “substantial” implementation status for criminal background check requirements in the 2016 through 2018 CCDF State Plan;
- 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.

Based on our review of these factors, we selected New Jersey. We selected and reviewed a nonstatistical sample of 30 of 3,169 registered family homes and licensed child care centers that received CCDF funding during FFYs 2017 and 2018 to improve our understanding of the State’s monitoring of child care provider compliance with State criminal background check requirements.

Our provider selection was based on geographic area and provider funding. Specifically, we determined the number of active registered family homes and licensed centers within each county. Then, using a percentage of the total, we identified the number of registered family homes and licensed centers to select within each of the 21 counties. Once the number of providers for each child care provider type was determined for each county, we based the selection on most CCDF funds received.

We conducted unannounced site visits to 15 registered family home providers, where we obtained a list of all current household members or employees. We verified this list against the list provided by the State agency. We performed a physical walk-through 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. In addition, we conducted scheduled site visits to 15 licensed child care center providers, where we obtained a list of all current employees. We validated the list by requesting a payroll report indicating employees at the selected center. We also discussed any challenges or obstacles center officials faced regarding adherence to criminal background check requirements. In total, we reviewed

²⁷ We conducted an analysis of the two States within our region: New York and New Jersey.

supporting documentation for 649 individuals who were current employees or household members at 30 different child care provider locations. We performed fieldwork at the 30 child care providers from July through November 2019.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and guidance related to CCDF criminal background check requirements;
- identified criminal background check requirements that have been fully implemented within the State;
- identified criminal background check requirements that the State agency has not yet implemented;
- interviewed State agency officials to gain an understanding of the State agency's monitoring process (including frequency of inspections) 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 agency experienced with monitoring providers to ensure the new criminal background check requirements are being met;
- reviewed and analyzed a nonstatistical sample of 15 registered family homes and 15 licensed child care centers that received CCDF funding during FFY 2018;
- conducted unannounced site visits at each of the 15 registered family home provider locations to obtain a current list of all employees or household members and obtained supporting documentation to determine whether all the required criminal background checks were completed;
- interviewed registered family home providers to identify any challenges or barriers they experienced complying with the new CCDF criminal background check requirements;
- conducted site visits at each of the 15 licensed child care center providers to obtain a payroll list of all current employees at each of the centers and obtained supporting documentation to determine whether all the required criminal background checks were completed;
- interviewed licensed child care center providers to identify any challenges or barriers they experienced complying with the new CCDF criminal background check requirements; 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 RELATING TO CRIMINAL
BACKGROUND CHECK REQUIREMENTS**

Report Title	Report Number	Date Issued
<i>New Hampshire's Monitoring Did Not Ensure Childcare Provider Compliance With State Criminal Background Check Requirements at 21 of 30 Providers Reviewed</i>	<u>A-01-18-02504</u>	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</i>	<u>A-06-19-07001</u>	2/19/2020
<i>Georgia's Monitoring of Childcare Providers Ensured Provider Compliance With State Criminal Background Check Requirements</i>	<u>A-04-19-03580</u>	2/12/2020
<i>Tennessee's Monitoring Ensured Compliance With Criminal Background Check Requirements at 28 of the 30 Childcare Providers Reviewed</i>	<u>A-04-19-02023</u>	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</i>	<u>A-05-19-00015</u>	8/23/2019
<i>New York Has Not Fully Implemented New Criminal Background Check Requirements for Childcare Providers</i>	<u>A-02-17-02011</u>	1/8/2019
<i>Nevada Implemented Some New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements</i>	<u>A-09-17-01003</u>	9/19/2018
<i>Colorado Implemented Many New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements</i>	<u>A-07-17-06076</u>	9/17/2018
<i>Georgia Implemented Most New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements</i>	<u>A-04-18-03578</u>	7/27/2018
<i>New Hampshire Implemented Most New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements</i>	<u>A-01-18-02500</u>	7/9/2018
<i>Illinois Implemented Most New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements</i>	<u>A-05-17-00047</u>	6/4/2018

**APPENDIX C: NEW JERSEY'S IMPLEMENTATION STATUS OF
CCDF CRIMINAL BACKGROUND CHECKS**

Criminal Background Check Requirements	Implementation Status as of 9/30/2018– Licensed Centers	Implementation Status as of 9/30/2018– Registered Family Homes
FBI Criminal History Fingerprint Check 45 CFR § 98.43(b)(1)	Implemented	Not Implemented
NCIC's National Sex Offender Registry 45 CFR § 98.43(b)(2)	Not Implemented	Not Implemented
In-State Criminal Registry 45 CFR § 98.43(b)(3)	Implemented	Not Implemented
In-State Sex Offender Registry 45 CFR § 98.43(b)(3)	Implemented	Not Implemented
In-State Child Abuse and Neglect Registry 45 CFR § 98.43(b)(3)	Implemented	Implemented
Inter-State Criminal Registry 45 CFR § 98.43(b)(3)	Not Implemented	Not Implemented
Inter-State Sex Offender Registry 45 CFR § 98.43(b)(3)	Not Implemented	Not Implemented
Inter-State Child Abuse and Neglect Registry 45 CFR § 98.43(b)(3)	Not Implemented	Not Implemented

APPENDIX D: FEDERAL AND STATE REGULATIONS

FEDERAL REGULATIONS

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

“Child care provider” means a center-based child care provider, a family child care provider, or another provider of child care services for compensation and on a regular basis that (A) is not an individual who is related to all children for whom child care 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)).

“Child care staff member” means an individual (other than an individual who is related to all children for whom child care services are provided) (A) who is employed by a child care provider for compensation, including contract employees or self-employed individuals; (B) whose activities involve the care or supervision of children for a child care provider or unsupervised access to children who are cared for or supervised by a child care provider; or (C) any individual residing in a family child care 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 Identification (45 CFR § 98.43(b)(1)) and (2) a search of the NCIC’s National Sex Offender Registry for child care staff members or prospective staff members (45 CFR § 98.43(b)(2)).

According to Federal regulations, 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 child care 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 child care staff member or prospective staff member resided during the preceding 5 years (45 CFR § 98.43(b)(3)).

STATE REGULATIONS

Licensed child care providers must ensure that a CHRI fingerprint check is completed for him/herself, and for all staff members at least 18 years of age who will be working at the child care facility on a regularly scheduled basis, to determine whether they have been convicted of a crime. The check includes an FBI fingerprint check, an in-State criminal registry check, and an in-State sex offender registry check.

Within 2 weeks after an individual begins working at the provider, he or she must provide identifying information to the vendor authorized by New Jersey to collect and transmit background check information. The required identifying information includes the individual's name, address, date of birth, place of birth, citizenship, sex, race, height, weight, hair color, eye color, and Social Security number.

CHRI fingerprint check results are sent to the State agency, which in turn notifies the provider of the results. The provider shall ensure that an employee is not left alone to supervise a child until the provider receives the results of the employee's CHRI fingerprint check (NJAC 3A:52-4.11).

Licensed child care providers and registered family homes shall submit a completed application with the specified licensing fee and must ensure that a CARI system check is completed for himself or herself, for all household members 14 years of age and older, and for all staff members who will be working at the child care facility on a regularly scheduled basis to determine whether an incident of child abuse and neglect has been substantiated against any such person (NJAC 3A:52-4.10).

Within 2 weeks after an individual begins working at the provider, he or she must provide a signed consent form to OLA that includes identifying information (including name, address, date of birth, sex, and Social Security number) required to conduct the CARI system check. Upon receipt of the consent form, OLA shall conduct a search of its records for substantiated incidents of child abuse or neglect. OLA has 45 days to notify the provider of the results of the CARI background check. The provider shall ensure that an employee is not left alone to supervise a child until the provider receives the results of the employee's CARI system check (NJAC 3A:52-4.10 & 3A:54-5.3).

**APPENDIX E: NUMBER OF INDIVIDUALS MISSING REQUIRED 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
1	Family home	4	0
2	Family home	5	0
3	Family home	3	0
4	Family home	3	0
5	Family home	3	0
6	Family home	2	0
7	Family home	3	0
8	Family home	3	0
9	Family home	5	0
10	Family home	6	0
11	Family home	4	0
12	Family home	3	0
13	Family home	2	0
14	Family home	3	1
15	Family home	2	0
Totals for Family Homes		51	1
16	Child care center	38	0
17	Child care center	21	2
18	Child care center	33	1
19	Child care center	24	0
20	Child care center	35	13
21	Child care center	24	0
22	Child care center	15	0
23	Child care center	34	0
24	Child care center	26	0
25	Child care center	34	1
26	Child care center	32	0
27	Child care center	33	1
28	Child care center	75	4
29	Child care center	143	1
30	Child care center	31	2
Totals for Child care Centers		598	25
Combined Totals for Family Homes and Child care Centers		649	26
* The term "individuals" refers to the current number of employees or household members included in our review.			

APPENDIX F: STATE AGENCY COMMENTS



State of New Jersey Department of Human Services

P.O. BOX 700
TRENTON NJ 08625-0700

PHILIP D. MURPHY
Governor

Carole Johnson
Commissioner

Sheila Y. Oliver
Lt. Governor

June 25, 2020

Brenda M. Tierney
Regional Inspector General for Audit Services
Office of Inspector General
Office of Audit Services, Region II
Jacob K. Javits Federal Building
26 Federal Plaza, Room 3900
New York, NY 10278

Dear Ms. Tierney:

The New Jersey Department of Human Services is in receipt of the draft audit report issued by the Office of Inspector General (OIG) entitled *"New Jersey's Monitoring Did Not Ensure Childcare Provider Compliance With State Criminal Background Check Requirements at 9 of 30 Providers Reviewed"* for the period of October 1, 2017 through September 30, 2018. Thank you for the opportunity to respond to the draft report.

New Jersey implements its child care program through two State agencies, the Department of Human Services (DHS) and the Department of Children and Families (DCF). DHS's Division of Family Development oversees child care providers through Child Care Resource & Referral (CCR&R) Agencies. DHS's Employment Controls and Compliance Unit (ECCU) processes Criminal History Record Information (CHRI) background checks. DCF's Office of Licensing licenses all child care providers and registers family child care providers through CCR&R Agencies. DCF also processes Child Abuse Record Information (CARI) checks. DCF is responsible for monitoring all background check requirements.

Please accept the following responses to the draft audit findings:

OIG Recommendation

"We recommend that the New Jersey Department of Human Services conduct all required background checks for the 26 individuals we reviewed who did not have the required checks."

Response

Child care providers are required to complete CARI and CHRI background checks for employees and household members. The 26 individuals cited in OIG's report were missing

background checks because providers did not comply with State requirements. DCF followed up with the associated providers regarding the 26 individuals and these individuals have received the required background checks.

OIG Recommendation

"We recommend that the New Jersey Department of Human Services develop a system that provides notification to State agency staff when criminal background checks need to be conducted for prospective and current employees and household members."

Response

In February 2019, DCF launched a CARI electronic system to allow programs and individuals to request, pay for, and receive results of CARI checks. When an applicant initiates the process for a CARI check, this information is accessible to DCF and the CCR&Rs.

In May 2019, DHS and DCF launched the New Jersey Child Care Information System (NJCCIS), an integrated system that serves as the single point of access to child care information. NJCCIS includes the child care licensing system and family child care registration information.

Both systems allow DHS and DCF to monitor compliance with background check requirements.

OIG Recommendation

"We recommend that the New Jersey Department of Human Services continue to work with ACF to reach substantial compliance with criminal background check requirements."

Response

DHS has been working with ACF to reach substantial compliance with criminal background check requirements.

In January 2020, New Jersey began phasing in required background checks for family child care providers. All family child care providers and household members have since completed the required State and federal background checks.

New Jersey will continue to work towards implementing National Sex Offender Registry checks and inter-State checks for licensed child care centers.

Thank you for the opportunity to review and respond to the OIG's draft audit report.

Sincerely,



Carole Johnson
Commissioner

c: Natasha Johnson, Director
Elisa Neira, Deputy Commissioner
Allan Brophy, Office of Auditing
Brian Ross, Assistant Commissioner, DCF