

Department of Health and Human Services

**OFFICE OF  
INSPECTOR GENERAL**

**NEVADA'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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# ***Office of Inspector General***

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## Report in Brief

Date: August 2022

Report No. A-09-21-01000

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



### Why OIG Did This Audit

The Child Care and Development Block Grant Act of 2014 (CCDBG Act) 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. 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 Nevada'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 344 licensed family homes and child care centers that received CCDF funding during State fiscal year 2020. We used geographic area, total capacity, and total CCDF funding received to select for review 15 family homes and 15 child care centers, for a total of 30 child care providers. In total, we reviewed supporting documentation for 589 individuals who were current employees or household members for 30 different child care providers.

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

### What OIG Found

Nevada's monitoring of child care providers did not ensure provider compliance with State requirements related to criminal background checks for 9 of the 30 child care providers we reviewed. Of the 589 individuals whose supporting documentation we reviewed, 32 had not had 1 or more of the required criminal background checks. Specifically, 3 child care providers did not obtain any of the required criminal background checks for 8 individuals (5 individuals had background checks conducted after we notified Nevada, and the other 3 individuals either left or were terminated); 4 child care providers did not obtain 1 or more of the required criminal background checks for 21 individuals; and 2 child care providers did not obtain any of the required criminal background checks when 3 individuals who were minors were hired (the background checks were not conducted until the individuals were about to turn 18 years old). These deficiencies occurred because providers did not notify Nevada of a new household member or newly hired staff, and Nevada officials stated that they misinterpreted the State regulations on completing criminal background checks for minors. By not ensuring that all child care staff members cleared all required criminal background checks, Nevada potentially jeopardized the safety of children at these child care providers. Additionally, Nevada did not have an explicit requirement or policy to conduct an in-State sex offender registry check for all child care staff members.

### What OIG Recommends and Nevada Comments

We recommend that Nevada: (1) ensure that child care providers notify Nevada when a new household member is added or a new employee is hired so that the State may conduct the required criminal background checks; (2) ensure that all required criminal background checks are conducted for the 21 individuals we identified who did not have all of the required checks at the time of our audit; (3) ensure that all required criminal background checks are conducted for all employees who are under the age of 18; (4) revise its policies and procedures to ensure that all child care staff members, regardless of age, are fingerprinted and have background checks completed immediately after being hired; and (5) add a written requirement and policy to conduct the in-State sex offender registry check for all child care staff members.

Nevada agreed with our findings and provided information on actions that it had taken or planned to take to address our recommendations. For example, Nevada stated that it will conduct education and training sessions for child care providers on Federal and State criminal background check requirements.

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## INTRODUCTION

### WHY WE DID THIS AUDIT

The Child Care and Development Block Grant Act of 2014 (CCDBG Act) 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.<sup>1</sup>

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.<sup>2</sup> We conducted this audit of Nevada's Department of Health and Human Services (State agency) as part of a second phase of our oversight activities to assess whether States' monitoring ensured provider compliance with CCDF requirements related to criminal background checks.

Appendix B lists prior Office of Inspector General (OIG) reports related to criminal background check requirements.

### OBJECTIVE

Our objective was to determine whether the State agency'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 helps eligible low-income families pay for child care at a provider of their choice while they work or participate in training or education, or both. In Federal fiscal year (FFY) 2019, ACF provided \$8.2 billion to States, territories, and Tribes to fund CCDF programs. In FFY 2019 (the most recent year for which ACF data are available), CCDF served each month approximately 1.4 million children younger than 13 years of age from 857,700 low-income families.

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<sup>1</sup> P.L. No. 113-186, § 658H, enacted Nov. 19, 2014.

<sup>2</sup> We reviewed six States, including Nevada: *Nevada Implemented Some New Criminal Background Check Requirements for Childcare Providers, but Challenges Remain for Unimplemented Requirements* ([A-09-17-01003](#)), issued Sept. 19, 2018.

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<sup>3</sup> and facilities that deliver services.<sup>4</sup> 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.<sup>5</sup>

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. These staff members include 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 homes, these staff members include the caregivers requesting background checks for themselves as well as other adults in the household who may have unsupervised access to children.<sup>6</sup>

### **Criminal Background Check Requirements as of September 30, 2016**

The U.S. Department of Health and Human Services implemented the CCDBG Act's criminal background check requirements for States, territories, and Tribes in a final rule issued in September 2016.<sup>7</sup> According to Federal regulations, States must have requirements, policies, and procedures in place to conduct comprehensive criminal background checks.<sup>8</sup> These regulations require States to conduct criminal background checks for child care staff members and prospective child care staff members.

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<sup>3</sup> As defined in Federal regulations, "child care provider" is a center-based child care provider, family child-care provider, or another provider of child care services for compensation on a regular basis that: (1) is not an individual related to all children for whom child care services are provided and (2) is licensed, regulated, or registered under State law or eligible to receive assistance (45 CFR § 98.43(a)(2)). In its regulations, Nevada established the categories "child care center," "family home," and "group home," which meet the requirements of the Federal definition of a child care provider. In this report, we refer to both family homes and group homes as "family homes."

<sup>4</sup> 45 CFR § 98.16(o).

<sup>5</sup> 45 CFR § 98.43(a)(1)(i).

<sup>6</sup> CCDF Program Final Rule, 81 Fed. Reg. 67438, 67494 (Sept. 30, 2016).

<sup>7</sup> CCDF Program Final Rule, 81 Fed. Reg. 67438 (Sept. 30, 2016).

<sup>8</sup> 45 CFR § 98.43.



The regulations stipulate that the criminal checks include:

- a Federal Bureau of Investigation (FBI) fingerprint check using Next Generation Identification;<sup>9</sup>
- 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 a child care staff member resides (in-State checks) and each State in which that staff member resided during the preceding 5 years (inter-State checks):
  - 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.

### **Extension and Waiver for Implementation of Criminal Background Check Requirements**

The CCDBG Act required all States to have requirements, policies, and procedures in place no later than September 30, 2017, that meet the criminal background check requirements. The CCDBG Act allowed for the Secretary of Health and Human Services to grant a 1-year extension to States as long as they demonstrate a good-faith effort to implement the requirements. Because of significant challenges in implementing the new background check requirements, all States, including Nevada, applied for and received extensions through September 30, 2018.

In addition, ACF had the authority to grant States a waiver of a statutory provision, including one or more criminal background check requirements, and could 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 were fulfilled. In its State plan preprint,<sup>10</sup> ACF stated that if a State implemented the FBI criminal history check and the three in-State registry checks for prospective child care staff members by September 30, 2018, the

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<sup>9</sup> 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.

<sup>10</sup> 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. Available at [FY 2019-2021 CCDF Plan Preprint \(hhs.gov\)](https://www.hhs.gov/ohr/child-care/state-plan-preprint). Accessed on July 14, 2021.

State could receive a time-limited waiver (1 year, with an additional 1-year renewal, subject to conditions being met) to perform the following actions:

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

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. 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 ACF's determination that noncompliance occurred (45 CFR § 98.92(b)(4)(i)).

Because of the COVID-19 pandemic, ACF anticipated that many States would remain noncompliant with the background check requirements when the transitional waivers expired on September 30, 2020. Therefore, ACF allowed States to have the option to request a waiver for the extraordinary circumstances due to COVID-19 for background check components that were previously waived.

### **Nevada's Implementation of Criminal Background Check Requirements**

As of October 27, 2020, the State agency had implemented requirements for the FBI fingerprint check, the in-State criminal registry check, and the in-State child abuse and neglect registry check. The State agency conducts these checks for both prospective and existing child care staff members, in accordance with Federal regulations. Although the State agency conducts an in-State sex offender registry check on both new and existing child care staff members, it does not have a requirement or policy to conduct this check. In its amended CCDF State plan for 2019 through 2021, the State agency requested and ACF approved waivers until September 30, 2021, to allow additional time to implement the remaining criminal background check requirements.<sup>11</sup> (See Appendix C for details on the State agency's extension and waiver deadlines and the implementation status of its CCDF criminal background checks.)

### **Nevada's Coordination Efforts for Conducting Criminal Background Checks**

Within the State agency, the Division of Public and Behavioral Health (DPBH) is responsible for licensing child care providers and ensuring that criminal background checks are conducted and completed for child care staff members in Nevada, except for those in Washoe County. For

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<sup>11</sup> The State agency has requested and received ACF-approved waivers for the NCIC National Sex Offender Registry check and all three inter-State registry checks.

child care staff members in Washoe County, the Washoe County Human Services Agency (county agency) is responsible for licensing and ensuring that criminal background checks are conducted and completed.<sup>12</sup>

DPBH uses a computerized eligibility system, the Nevada Automated Background Check System (background check system), for storing a child care staff member's criminal background check status and relevant information (e.g., the individual's hire date, position, and tuberculin test results). For child care staff members in Washoe County, the county agency uses an electronic file storage management system to store the child abuse and neglect registry check information. In addition, the Washoe County Sheriff's Office (Sheriff's Office) scans and stores fingerprint results in a document management system.

#### *Nevada's Background Check Process (Except in Washoe County)*

According to DPBH officials, in Nevada, except for Washoe County, an applicant must submit the "Consent and Release Form for Fingerprinting and Criminal History Review" (Consent and Release form) to the child care provider that hired the applicant and be fingerprinted at the local law enforcement agency within 24 hours of being hired.<sup>13</sup> The child care provider is responsible for uploading the form to the background check system. Once the applicant's information is uploaded, DPBH conducts the in-State child abuse and neglect registry check, the in-State sex offender registry check, and the inter-State sex offender registry check.<sup>14</sup> The applicant's fingerprints are electronically submitted to the Department of Public Safety, which is responsible for conducting the FBI fingerprint check and the in-State criminal registry check. When the applicant clears the in-State criminal, in-State sex offender, and in-State child abuse and neglect registry checks, the applicant is allowed to work under supervision until clearing all background checks.

If the applicant clears all background checks, DPBH issues to the child care provider a Memorandum of Eligibility, clearing the applicant to work. If the applicant has committed a deniable offense according to the criminal history records for either the national or State background checks, DPBH informs the applicant that the applicant has not been cleared to work. In addition, DPBH issues to the child care provider a Memorandum of Non-Eligibility, indicating that the applicant has not been cleared to work.

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<sup>12</sup> Although the county agency licenses Washoe County providers, the county agency must abide by all State laws. Thus, Washoe County regulations cannot be less restrictive than State regulations. Nevada Revised Statutes § 432A.131(1)(a).

<sup>13</sup> If the applicant has lived in a different State or country within the last 5 years, the applicant is required to submit the "Out of State Background Verification Form" and to obtain criminal registry and child abuse and neglect registry results from the States or countries they have lived in within the last 5 years.

<sup>14</sup> Although DPBH conducts the inter-State sex offender registry check and has processes and procedures in place for the inter-State criminal registry check and inter-State child abuse and neglect registry check, ACF has approved waivers for these three background check requirements until September 30, 2021.

All child care staff members are required to undergo the same background check process every 5 years. If an individual no longer works for any child care provider for more than 6 months, the individual must undergo the background check process again.

#### *Washoe County's Background Check Process*

According to officials in the county agency and the Sheriff's Office, an applicant must submit to the county agency a "Personal Data Sheet" (containing all relevant information about the applicant, such as name, address, and previous child care employment information if applicable) and must be fingerprinted by the Sheriff's Office. The county agency conducts a check immediately to determine whether the applicant has any pending arrests within Washoe County. If the applicant does not have any pending arrests or a disqualifying conviction, the following occurs:

- For child care center applicants, the Sheriff's Office issues a temporary work permit card, and the applicant may begin working immediately under the supervision of other child care staff members.
- For family home applicants, the Sheriff's Office does not issue a temporary work permit card. An applicant who is a prospective employee is allowed to work under the supervision of other child care staff members, and an applicant who is a household member is allowed to live in the home while undergoing a background check.

The applicant's fingerprints are then electronically submitted to the Department of Public Safety, which is responsible for conducting the applicant's FBI fingerprint check, in-State criminal history check, and in-State sex offender registry check. The Sheriff's Office is responsible for reviewing the results of the checks and determining whether the applicant has been cleared to work with children. If the applicant is disqualified based on the results of these background checks, the Sheriff's Office sends a letter to the applicant, child care provider, and county agency notifying them that the applicant has not been cleared to work with children.

The county agency is responsible for conducting the applicant's in-State child abuse and neglect registry check. If the county agency determines that the applicant has been disqualified based on the results of this check, it notifies the Sheriff's Office and requests that the applicant's work permit be revoked. The county agency also notifies the child care provider that the applicant can no longer work for that provider. Washoe County does not conduct any of the three inter-State registry checks.

If the applicant has cleared all background checks, the Sheriff's Office issues a permanent work permit card, valid for 5 years. All child care staff members are required to undergo the same process every 5 years. If an individual no longer works for any child care provider for 90 consecutive days, the individual must undergo the background check process again.

After we had completed our review of child care providers for this audit, starting in February 2022, DPBH assumed responsibility for conducting background checks of child care staff members in Washoe County.

## **HOW WE CONDUCTED THIS AUDIT**

Nevada had 344 licensed family homes and child care centers that received CCDF funding during State fiscal year (SFY) 2020 (July 1, 2019, through June 30, 2020).<sup>15</sup> Our audit did not include license-exempt providers or providers that had a pending license.

We reviewed 15 family homes and 15 child care centers, for a total of 30 child care providers:

- We contacted the 15 family homes and obtained a list of all current employees or household members for each provider. We compared this list with the list provided by the State agency to verify that they were the same. During our discussion with each provider, we asked the provider to identify household members, employees, and any individuals at the home at the time of our discussion. We reviewed the household members' and employees' background check information to verify whether they had all required criminal background checks.
- We contacted the 15 child care centers to request a list of all current employees at each provider. We reviewed the employees' background check information to verify whether they had all required criminal background checks.

In total, we reviewed supporting documentation for 589 individuals who were current employees or household members for 30 different child care providers. Of these 30 providers, 11 providers were located in Washoe County and the remaining 19 providers were located in other counties in Nevada.

We did not assess the State agency's overall internal control structure. Rather, we limited our review to the State agency's internal controls related to its monitoring 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

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<sup>15</sup> Nevada defines a family home as any facility in which the licensed provider regularly provides care without the presence of parents, for at least five and not more than six children. Nevada defines a group home as any facility in which the licensed provider regularly provides care for no less than 7 and no more than 12 children (Nevada Administrative Code (NAC) §§ 432A.100 and A.110). We refer to both family homes and group homes as "family homes" in this report. Nevada defines a child care center as any facility in which the licensee regularly provides day or night care for more than 12 children and which is developmentally appropriate for those children (NAC § 432A.050).

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.

## **FINDINGS**

The State agency's monitoring of child care providers did not ensure provider compliance with State requirements related to criminal background checks for 9 of the 30 child care providers we reviewed. Of the 589 individuals whose supporting documentation we reviewed, 32 had not had 1 or more of the required criminal background checks. Specifically, we found the following:

- Three child care providers did not obtain any of the required criminal background checks for eight individuals.
- Four child care providers located in Washoe County did not obtain 1 or more of the required criminal background checks for 21 individuals.
- Two child care providers did not obtain any of the required criminal background checks when three individuals who were minors (under the age of 18) were hired.

These deficiencies occurred because: (1) the providers did not notify DPBH of a new household member or newly hired staff; (2) the county agency stated that conducting a complete background check on someone who had just turned 18 years of age would have no results because the information on a minor is sealed by the courts, and the county agency was unable to locate documentation showing that an in-State sex offender registry check had been conducted; and (3) DPBH officials stated that they misinterpreted the State regulations on completing criminal background checks for minors. By not ensuring that all child care staff members cleared all required criminal background checks, the State agency potentially jeopardized the safety of children at these child care providers.

Additionally, Nevada did not have an explicit requirement or policy to conduct an in-State sex offender registry check for all child care staff members. DPBH officials explained that this registry check was conducted as part of the background check process to encompass any crimes listed in State law. However, by not having a requirement or policy explicitly mandating a check of the in-State sex offender registry check, there is increased risk that the State agency may not be conducting this check consistently and effectively and thus may potentially be jeopardizing the safety of children at child care providers.

## **NEVADA’S MONITORING DID NOT ENSURE PROVIDER COMPLIANCE WITH STATE CRIMINAL BACKGROUND CHECK REQUIREMENTS**

### **Federal and State Requirements for Criminal Background Checks**

“Childcare staff member” means an individual (other than an individual who is related to all children for whom child care services are provided): (1) who is employed by a child care provider for compensation, including contract employees or self-employed individuals; (2) 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 (3) any individual residing in a family child-care home who is age 18 and older (45 CFR § 98.43(a)(2)(ii)). ACF has interpreted this to mean that an “individual, regardless of age, who is employed by a child care provider for compensation” must undergo the required background checks (CCDF Final Rule, 81 Fed. Reg. 67438, 67494 (Sept. 30, 2016)).

Nevada State law requires all licensed child care providers and adult household members of family homes and staff of child care centers to have required background checks completed, including criminal and child abuse and neglect records clearance checks (Nevada Revised Statutes (NRS) § 432A.170(3)).

According to Nevada regulations, fingerprints must be taken and applications for investigations must be made by every employee or adult household member of a family home within 24 hours after the date of hiring or their presence in a facility and every 5 years thereafter (Nevada Administrative Code (NAC) § 432A.200(4)(a)). Specifically, for each applicant, the Nevada criminal history registry and the FBI fingerprint registry as well as the Nevada child and abuse neglect registry must be checked (NRS § 432A.175(1)).

See Appendix D for the Federal and State requirements related to criminal background checks.

### **Three Child Care Providers Did Not Obtain Any of the Required Criminal Background Checks for Some Individuals**

Of the 30 child care providers we reviewed, 3 child care providers did not obtain any of the required criminal background checks for 8 individuals. Specifically, for three individuals at two family homes and five individuals at one child care center, none of the required criminal background checks were conducted.

For the two family homes, DPBH officials told us that the providers did not obtain the Consent and Release form for the three individuals and did not notify DPBH of the new staff:

- One family home provider stated that because the provider had a low number of children in care as a result of COVID-19, the provider did not realize that DPBH still needed to be notified of a new household member and that a new household member still needed to have background checks conducted.

- The other family home provider failed to notify DPBH that two employees had been hired. The provider was called away urgently to care for a family member in another State. Because of concerns with that person's condition and the COVID-19 pandemic, the provider forgot to notify DPBH of the absence and that two new child care staff members had been hired while the provider was away.

For the child care center, DPBH officials stated that the provider had a new director who was getting used to using the background check system. The director had obtained the Consent and Release form from five new employees; however, the director failed to upload the forms into the background check system, so the background check process was never initiated. This provider has since changed its process to have directors from other locations work with newly hired directors so that they are trained to use the background check system immediately.

Five of the eight individuals had background checks conducted and received a Memorandum of Eligibility after we notified DPBH. The remaining three individuals either left or were terminated after we contacted the providers.

By not ensuring that all child care staff members cleared the required criminal background checks, the State agency potentially jeopardized the safety of children at these child care providers.

#### **Four Child Care Providers Located in Washoe County Did Not Obtain One or More of the Required Criminal Background Checks for Some Individuals**

Of the 30 child care providers we reviewed, 4 child care providers did not obtain 1 or more of the required criminal background checks for 21 individuals in Washoe County. Specifically, for 20 individuals, the required in-State child abuse and neglect registry checks were conducted, but the required FBI fingerprint checks, in-State criminal history registry checks, and in-State sex offender registry checks were not conducted. For the remaining individual, the required in-State sex offender registry check was not conducted.

For the 20 individuals, only the in-State child abuse and neglect registry check was conducted because Washoe County regulations require these checks for child care employees who are at least 16 years old but less than 18 years old (i.e., 16 or 17 years old). The background check includes only the child abuse and neglect registry check that the county conducts every 2 years from the date it was initially completed unless the individual turns 18 years old; in that case, a full background check must be conducted (Washoe County Regulations for Child Care Facilities, § 6.8).<sup>16</sup> However, the county agency and the Sheriff's Office did not conduct the other required background checks when an individual who had been hired as a minor turned 18 years

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<sup>16</sup> Washoe County's regulations are less restrictive than the State's regulations, which require that every employee or adult household member of a family child-care home have a background check conducted within 24 hours after the date of hiring or of presence in a facility (NAC § 432A.200(4)(a)).



old; instead, they waited until the next required background check (5 years after the minor started working).

County agency officials explained that they believed if an individual turned 18 years old and was immediately fingerprinted and had the background check performed, the background check would have no results because minor records are sealed by the courts. For the remaining individual, the county agency was unable to locate documentation showing that the in-State sex offender registry check had been conducted.

By not ensuring that all child care staff members cleared all required criminal background checks, the State agency potentially jeopardized the safety of children at these child care providers.

### **Two Child Care Providers Did Not Obtain Any of the Required Criminal Background Checks When Individuals Who Were Minors Were Hired**

Of the 30 child care providers we reviewed, 2 child care providers did not obtain any of the required background checks for 3 individuals in Nevada who were minors when they were hired (who were not in Washoe County). Specifically, these individuals were hired when they were 17 years old, and the background checks were not conducted until the individuals were about to turn 18 years old (approximately 6 to 10 months after they were hired).

Although Nevada's regulations required that all employees of child care providers have background checks, DPBH officials explained that they misinterpreted the regulations to mean that only child care employees 18 years of age or older were required to have background checks. DPBH officials further explained that minors do not count in the staff-to-child ratio and that minors cannot provide direct care to a child at the facility unless under supervision of someone who is 18 years of age or older.<sup>17</sup>

By not ensuring that child care employees under the age of 18 had background checks, the State agency potentially jeopardized the safety of children at these child care providers.

### **NEVADA DID NOT HAVE AN EXPLICIT REQUIREMENT TO CONDUCT AN IN-STATE SEX OFFENDER REGISTRY CHECK FOR ALL CHILD CARE STAFF MEMBERS**

According to Federal regulations, States must have in effect requirements, policies, and procedures to require that criminal background checks be conducted for child care staff members (including prospective staff members) of all child care programs that are licensed, regulated, or registered under State/territory law (45 CFR § 98.43(a)(1)(i)). The regulations

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<sup>17</sup> Nevada regulations require licensed providers to maintain, at a minimum, certain staff-to-child ratios depending on the age ranges of the children in care (NAC § 432A.5205). These ratios indicate the maximum number of children permitted per child care staff member. (For example, there must be at least one child care staff member for every four children under 9 months of age.) Staff-to-child ratios are important in maintaining the safety of children.

specify that the criminal background check for child care staff members include a search of the in-State sex offender registry or repository (45 CFR § 98.43(b)(3)(ii)).

Although Nevada had procedures to conduct the in-State sex offender registry check for all child care staff members, it did not have an explicit written requirement and policy for this check.

DPBH officials explained that, although there is no specific requirement in State law to conduct the in-State sex offender registry check, conducting this check is a requirement that is encompassed by the language in NRS section 432A.170. State law (NRS § 432A.170(2)) states that DPBH must secure from appropriate law enforcement agencies information on the background and personal history of an applicant to determine whether the individual has been convicted of crimes such as murder, sexual assault, and statutory sexual seduction, which would disqualify the individual from working with children at a licensed child care provider. To determine whether an applicant had a specific conviction, like sexual assault, the in-State sex offender registry would need to be checked.

Policies are used to clarify and communicate an agency's requirements, expectations, and procedures. By not having an explicit written requirement and policy mandating an in-State sex offender registry check, there is increased risk that the State agency may not be conducting this check consistently and effectively and thus may be potentially jeopardizing the safety of children at child care providers.

## **RECOMMENDATIONS**

We recommend that the Nevada Department of Health and Human Services:

- ensure that child care providers notify DPBH when a new household member is added or a new employee is hired so that the State may conduct the required criminal background checks;
- ensure that all required criminal background checks are conducted for the 21 individuals we identified who did not have all of the required checks at the time of our audit;
- ensure that all required criminal background checks are conducted for all employees who are under the age of 18;
- revise its policies and procedures to ensure that all child care staff members, regardless of age, are fingerprinted and have background checks completed immediately after being hired, as required by Federal regulations and State law and regulations; and
- add a written requirement and policy to conduct the in-State sex offender registry check, as required by Federal regulations, for all child care staff members.

## STATE AGENCY COMMENTS

In written comments on our draft report, the State agency agreed with our findings and provided information on actions that it had taken or planned to take to address our recommendations. Specifically, the State agency stated that it:

- worked with Nevada Child Care Licensing (a program within DPBH) to increase monitoring of providers to ensure that child care providers give proper notification when a new household member is added or a new employee is hired;
- will conduct education and training sessions for child care providers on both Federal and State criminal background check requirements;
- worked with Washoe County to transition its background check process to the State and to ensure that background checks were conducted on the 21 noncompliant employees;
- worked with Nevada Child Care Licensing to implement a policy requiring background checks for individuals under 18 years of age who are working in child care facilities, thus ensuring that background checks are conducted for all employees, regardless of age, immediately after being hired; and
- updated its policy to specify that the in-State sex offender registry check must be conducted.

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

## APPENDIX A: AUDIT SCOPE AND METHODOLOGY

### SCOPE

In selecting which State or States to include in an audit, each OIG audit team conducted an analysis of the States within its region and considered 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 OIG 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 in which news reports have raised concerns related to criminal background check requirements,
- total CCDF funding within each State, and
- total children served by the CCDF within each State.

In addition to these factors, the six States 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 child care provider compliance) audits.<sup>18</sup> Based on our review of these factors, we selected Nevada for audit.

We selected and reviewed a nonstatistical sample of 30 of 344 family homes and child care centers that received CCDF funding during SFY 2020. We based our provider selection on the following factors:

- **Geographic area (the geographic division of the State identified by the State agency):** For licensing purposes, Nevada is divided into three geographic areas. We determined the geographic area each provider was located within and grouped the providers by area accordingly. We selected at least one family home and one child care center within each geographic area to ensure coverage across the State. We used the following factors when making the selection within each geographic area:
  - **Total capacity (the maximum number of children to be served at the provider location):** We sorted the list of providers based on the highest number of

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<sup>18</sup> The six States included in CCDF Phase I were New York, Nevada, Colorado, Georgia, New Hampshire, and Illinois (Appendix B).

children being served and selected the provider with the highest capacity (i.e., the larger family homes and larger child care centers).

- **CCDF funding received (the total amount of CCDF funding received for SFY 2020):** We sorted the list based on the amount of CCDF funding received per provider and selected the provider with the highest amount of CCDF funding received.

We contacted 15 family homes and obtained a list of all current employees or household members for each provider. We compared this list with the list provided by the State agency to verify that they were the same. During our discussion with each provider, we asked the providers to identify household members, employees, and any individuals at the home at the time of our discussion. We reviewed the household members' and employees' background check information to verify whether they had all required criminal background checks. In addition, we contacted 15 child care centers to request a list of all current employees at each provider. We reviewed the employees' background check information to verify whether they had all required criminal background checks. In total, we reviewed supporting documentation for 589 individuals who were current employees or household members at 30 different child care providers. Of these 30 providers, 11 providers were located in Washoe County, and the remaining 19 providers were located in other counties in Nevada.

We did not assess the State agency's overall internal control structure. Rather, we limited our review to the State agency's internal controls related to its monitoring to ensure child care provider compliance with State requirements related to criminal background checks established under the CCDBG Act. To determine the effectiveness of the design and implementation of these internal controls, we interviewed State agency officials and reviewed policies and procedures related to their criminal background check processes. Our review of a nonstatistical sample of 30 child care providers allowed us to evaluate the operating effectiveness of internal controls.

We conducted our audit from October 2020 to June 2022.

## **METHODOLOGY**

To accomplish our objective, we:

- reviewed applicable Federal and State laws, regulations, and guidance;
- reviewed Nevada's CCDF State plans for FFYs 2016 through 2018 and FFYs 2019 through 2021 and waivers applicable to criminal background check requirements;
- identified criminal background check requirements that the State agency had implemented and had not yet fully implemented;

- interviewed State agency and Washoe County officials to gain an understanding of the State's monitoring of provider compliance with criminal background check requirements established under the CCDBG Act;
- contacted each of the 15 family homes to obtain a current list of all employees and household members and obtained supporting documentation from DPBH, the county agency, and the Sheriff's Office;
- contacted each of the 15 child care centers to obtain a list of all current employees and obtained supporting documentation from DPBH, the county agency, and the Sheriff's Office;
- reviewed and analyzed supporting documentation for 589 individuals from the 15 family homes and 15 child care centers to determine whether all of the required criminal background checks had been conducted; 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 OFFICE OF INSPECTOR GENERAL REPORTS RELATED TO  
CRIMINAL BACKGROUND CHECK REQUIREMENTS**

<b>Report Title</b>	<b>Report Number</b>	<b>Date Issued</b>
<i>Louisiana's Monitoring Did Not Ensure Child Care Provider Compliance With Criminal Background Check Requirements at 8 of 30 Providers Reviewed</i>	<a href="#">A-06-19-02001</a>	12/29/2021
<i>The District of Columbia's Monitoring Did Not Ensure Child Care Provider Compliance With Criminal Background Check Requirements at 7 of 30 Providers Reviewed</i>	<a href="#">A-03-20-00252</a>	11/03/2021
<i>Colorado's Monitoring Did Not Ensure Child Care Provider Compliance With State Criminal Background Check Requirements at 18 of 30 Providers Reviewed</i>	<a href="#">A-07-19-06084</a>	4/19/2021
<i>Virginia's Monitoring Did Not Ensure Child Care Provider Compliance With State Criminal Background Check Requirements at 8 of 30 Providers Reviewed</i>	<a href="#">A-03-19-00253</a>	2/19/2021
<i>Hawaii's Monitoring Generally Ensured Child Care Provider Compliance With State Criminal Background Check Requirements</i>	<a href="#">A-09-19-01000</a>	9/3/2020
<i>Indiana's Monitoring Did Not Ensure Child Care Provider Compliance With State Criminal Background Check Requirements at 17 of 30 Providers Reviewed</i>	<a href="#">A-05-19-00012</a>	8/26/2020
<i>Rhode Island's Monitoring Did Not Ensure Child Care Provider Compliance With State Criminal Background Check Requirements at 18 of 30 Providers Reviewed</i>	<a href="#">A-01-18-02505</a>	8/17/2020
<i>New Jersey's Monitoring Did Not Ensure Child Care Provider Compliance With State Criminal Background Check Requirements at 9 of 30 Providers Reviewed</i>	<a href="#">A-02-19-02004</a>	7/24/2020
<i>Utah's Monitoring Process Generally Ensured Child Care Provider Compliance With State Criminal Background Check Requirements</i>	<a href="#">A-07-19-06085</a>	7/21/2020
<i>Illinois' Monitoring Did Not Ensure Childcare Provider Compliance With State Criminal Background Check Requirements at 12 of 30 Providers Reviewed</i>	<a href="#">A-05-19-00016</a>	4/29/2020
<i>New Hampshire's Monitoring Did Not Ensure Childcare Provider Compliance With State Criminal Background Check Requirements at 21 of 30 Providers Reviewed</i>	<a href="#">A-01-18-02504</a>	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>	<a href="#">A-06-19-07001</a>	2/19/2020
<i>Georgia's Monitoring of Childcare Providers Ensured Provider Compliance With State Criminal Background Check Requirements</i>	<a href="#">A-04-19-03580</a>	2/12/2020

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



## **APPENDIX C: NEVADA’S WAIVER AND IMPLEMENTATION STATUS OF CHILD CARE AND DEVELOPMENT FUND CRIMINAL BACKGROUND CHECKS**

In its 2019 through 2021 CCDF State plan, the State agency requested that ACF approve a waiver to allow additional time for new and existing child care staff to become compliant with the NCIC National Sex Offender Registry check, the inter-State criminal registry check, the inter-State sex offender registry check, and the inter-State child abuse and neglect registry check. ACF approved the waiver request, which allowed additional time (through September 30, 2021) for the State agency to ensure that new and existing staff completed these four checks.<sup>19</sup> The State agency did not request additional time for implementation of the FBI fingerprint check, the State criminal registry check, the State child abuse and neglect registry check, or the State sex offender registry check.

See the table on the following page for the implementation status of the State agency’s CCDF criminal background checks as of October 27, 2020.

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<sup>19</sup> ACF approved the State agency’s initial waiver request effective October 1, 2019, and the extension of the waiver on November 24, 2020.

**Table: Nevada's Implementation Status of Child Care and Development Fund  
Criminal Background Checks**

<b>Criminal Background Check Requirements</b>	<b>Implementation Status as of 10/27/2020</b>	<b>OIG Analysis of State Agency's Implementation Status (Includes a Review of Nevada's Laws and Regulations)</b>
FBI Criminal History Fingerprint Check 45 CFR § 98.43(b)(1)	Implemented	NRS § 432A.175(1)
<b>NCIC's National Sex Offender Registry 45 CFR § 98.43(b)(2)</b>	<b>Not Implemented</b>	<b>Nevada has a waiver to implement this requirement by September 30, 2021.</b>
In-State Criminal Registry 45 CFR § 98.43(b)(3)	Implemented	NRS § 432A.175(1)
<b>In-State Sex Offender Registry 45 CFR § 98.43(b)(3)</b>	<b>Not Implemented</b>	<b>Nevada conducts this check for child care staff members but does not have a requirement or policy requiring this check.</b>
In-State Child Abuse and Neglect Registry 45 CFR § 98.43(b)(3)	Implemented	NRS § 432A.175(1)
<b>Inter-State Criminal Registry 45 CFR § 98.43(b)(3)</b>	<b>Not Implemented</b>	<b>Nevada has a waiver to implement this requirement by September 30, 2021.</b>
<b>Inter-State Sex Offender Registry 45 CFR § 98.43(b)(3)</b>	<b>Not Implemented</b>	<b>Nevada has a waiver to implement this requirement by September 30, 2021.</b>
<b>Inter-State Child Abuse and Neglect Registry 45 CFR § 98.43(b)(3)</b>	<b>Not Implemented</b>	<b>Nevada has a waiver to implement this requirement by September 30, 2021.</b>

## **APPENDIX D: FEDERAL AND STATE REQUIREMENTS RELATED TO CRIMINAL BACKGROUND CHECKS**

### **FEDERAL REGULATIONS**

According to Federal regulations, States must 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)).

“Childcare 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: (1) is not an individual who is related to all children for whom child care services are provided and (2) 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 child care services are provided): (1) who is employed by a child care provider for compensation, including contract employees or self-employed individuals; (2) 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 (3) any individual residing in a family child-care home who is age 18 and older (45 CFR § 98.43(a)(2)(ii)). ACF has interpreted this to mean that an “individual, regardless of age, who is employed by a child care provider for compensation” must undergo the required background checks (CCDF Final Rule, 81 Fed. Reg. 67438, 67494 (Sept. 30, 2016)).

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 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) the State criminal registry (using fingerprints), (2) the State sex offender registry, and (3) the 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) the 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 or States in which the child care staff member or prospective staff member resided during the preceding 5 years (45 CFR § 98.43(b)(3)).

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

## **STATE REQUIREMENTS**

Nevada State law requires all licensed child care providers and adult household members of family child-care homes and staff of child care centers to have required background checks completed, including criminal and child abuse and neglect records clearance checks (NRS § 432A.170(3)).

According to State regulations, after receiving a completed application and payment of the appropriate fee, DPBH shall conduct an investigation into the qualifications and background of: (1) every applicant and the applicant's employees, other than an educational intern who provides direct care to children for a period of less than 6 months; (2) every resident of the facility who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS section 432B.594; (3) every participant in an outdoor youth program who is 18 years of age or older; and (4) every volunteer of the facility who is 18 years of age or older, other than a parent of a child who attends the facility (NAC § 432A.200(2)).

In addition, fingerprints must be taken and applications for investigations must be made by every employee or a resident of the facility who is 18 years of age or older, other than a resident who remains under the jurisdiction of a court pursuant to NRS section 432B.594, and every volunteer of the facility who is 18 years of age or older, other than a parent of a child who attends the facility, within 24 hours after the date of hiring or their presence in the facility, and every 5 years thereafter (NAC § 432A.200(4)(a)).

Nevada State law also requires that every applicant for a license to operate a child care facility; licensee; operator of a small child-care establishment; employee of an applicant, licensee, or small child-care establishment; or resident of a child care facility or small child-care establishment enable DPBH or an agency designated by DPBH to conduct an FBI fingerprint check, a State criminal registry check, and a child and abuse neglect registry check (NRS § 432A.175(1)).

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

<b>Provider Number</b>	<b>Provider Type</b>	<b>No. of Employees or Household Members Reviewed</b>	<b>No. of Individuals Missing All Required Criminal Background Checks</b>	<b>No. of Individuals Missing Some Required Criminal Background Checks</b>	<b>No. of Individuals Missing All Required Criminal Background Checks When Hired as Minors</b>
1	Family home	4	0	0	0
2	Family home	2	0	0	0
3	Family home	4	0	0	0
4	Family home	2	0	0	0
5	Family home	4	0	0	0
6	Family home	2	0	0	0
7	Family home	2	0	0	0
8	Family home	8	0	0	0
9	Family home	2	0	0	0
10	Family home	9	0	0	0
11	Family home	3	0	0	0
12	Family home	5	1	0	0
13	Family home	5	2	0	0
14	Family home	5	0	0	0
15	Family home	2	0	0	0
<b>Total for Family Homes</b>		<b>59</b>	<b>3</b>	<b>0</b>	<b>0</b>
16	Child care center	24	0	0	1
17	Child care center	9	0	0	0
18	Child care center	47	0	0	0
19	Child care center	25	0	0	0
20	Child care center	34	0	0	0
21	Child care center	38	5	0	0
22	Child care center	25	0	0	0
23	Child care center	34	0	0	0
24	Child care center	49	0	0	0
25	Child care center	43	0	0	0
26	Child care center	77	0	0	2
27	Child care center	40	0	6	0
28	Child care center	25	0	1	0
29	Child care center	33	0	6	0
30	Child care center	27	0	8	0
<b>Total for Child Care Centers</b>		<b>530</b>	<b>5</b>	<b>21</b>	<b>3</b>
<b>Combined Totals</b>		<b>589</b>	<b>8</b>	<b>21</b>	<b>3</b>

## APPENDIX F: STATE AGENCY COMMENTS

Steve Sisolak  
Governor

Richard Whitley, MS  
Director



**DEPARTMENT OF**  
**HEALTH AND HUMAN SERVICES**  
DIVISION OF WELFARE AND SUPPORTIVE SERVICES  
*Helping people. It's who we are and what we do.*



Robert Thompson  
Administrator

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July 11, 2022

Via Electronic Mail

Tom Lin, Assistant Regional Inspector General  
Office of Audit Services  
Office of Inspector General  
Department of Health and Human Services  
[Tom.Lin@oig.hhs.gov](mailto:Tom.Lin@oig.hhs.gov)

**Re: Report Number: A-09-21-01000**

Dear Mr. Lin:

In response to the June 10, 2022, Office of Inspector General's (OIG) draft monitoring report, the Nevada Division of Welfare and Supportive Services, Child Care and Development Fund (Division) provides its responses to the findings referenced in Report Number A-09-21-01000.

OIG reviewed supporting documentation for 589 individuals who were current employees or household members for 30 different child care providers. Of the 30 providers, 11 providers were in Washoe County and the remaining 19 providers were in other counties in Nevada. OIG's objective was to assess whether the Division's monitoring of child care providers ensured provider compliance with State requirements related to criminal background checks under the Child Care and Development Block Grant of 2014 (CCDBG Act).

**OIG Monitoring Results:**

Nevada's monitoring of child care providers did not ensure provider compliance with State requirements related to criminal background checks for nine (9) of the 30 child care providers we reviewed. Of the 589 individuals whose supporting documentation we reviewed, 32 had not had one or more of the required criminal background checks. Specifically, three (3) child-care providers did not obtain any of the required criminal background checks for eight (8) individuals; four (4) child care providers did not obtain one or more of the required criminal background checks for 21 individuals; and two (2) child care providers did not obtain any of the required criminal background checks when three (3) individuals who were minors (under the age of 18) were hired. By not ensuring that all child care staff members cleared all required criminal background checks, Nevada potentially jeopardized the safety of children at these child care providers. Additionally, Nevada did not have an explicit requirement or policy to conduct an in-State sex offender registry check for all child care staff members.

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Child Care and Development Program  
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## Findings

### **Nevada's Monitoring Did Not Ensure Provider Compliance with State Criminal Background Check Requirements**

- **Federal and State Requirements for Criminal Background Checks**

Nevada law requires all licensed child care providers and adult household members of family homes and staff of child care centers to undergo required background checks, including criminal and child abuse and neglect records clearance checks (Nevada Revised Statutes (NRS) § 432A.170(3)).

According to Nevada regulations, fingerprints must be taken and applications for investigations must be made by every employee or adult household member of a family home within 24 hours after the date of hiring or their presence in a facility and every five (5) years thereafter (Nevada Administrative Code (NAC) § 432A.200(4)(a)). Specifically, for each applicant, the Nevada criminal history registry and the FBI fingerprint registry as well as the Nevada child abuse and neglect registry must be checked (NRS § 432A.175(1)).

**Division's Response:**

The Division agrees with this finding. Nevada law requires fingerprints must be taken and applications for investigations must be made by every employee or adult household member of a family home within 24 hours after the date of hiring or their presence in a facility.

To ensure proper compliance with federal and state law, the Division will not allow any persons to work unsupervised around children without a full and completed background check. Persons without a full and completed background check will be required to be supervised by an employee of the home or facility, who is 18 years or older, and has a complete and full background check. The Division will work in partnership with Nevada Child Care Licensing to increase monitoring of providers, including hiring to ensure child care providers give proper notification when a new household member is added or a new employee is hired.

The corrective action mentioned above has already been implemented to ensure that all required federal and state criminal background checks are conducted for individuals identified who have not cleared the required federal and state criminal background checks.

- **Three Child Care Providers Did Not Obtain Any of the Required Criminal Background Checks for Some Individuals**

Of the 30 child care providers we reviewed, 3 child care providers did not obtain any of the required criminal background checks for 8 individuals. Specifically, for three individuals at two family homes and five individuals at one child care center, none of the required criminal background checks were conducted. By not ensuring that all child care staff members cleared the required criminal background checks, the Division potentially jeopardized the safety of children at these child care providers.

**Division's Response:**

The Division agrees with this finding. The Division will conduct education and training sessions for child care providers on the federal and state requirements for the required criminal background checks. While conducting any required inspections, the Division will ensure that a thorough assessment is conducted of all individuals providing care and will ensure that all child care providers understand that a visit or inspection can be conducted at any time without announcement.

- **Four Child Care Providers Located in Washoe County Did Not Obtain One or More of the Required Criminal Background Checks for Some Individuals**

Of the 30 child care providers we reviewed, 4 child care providers did not obtain 1 or more of the required criminal background checks for 21 individuals in Washoe County. Specifically, for 20 individuals, the required in-State child abuse and neglect registry checks were conducted, but the required FBI fingerprint checks, in-State criminal history registry checks, and in-State sex offender registry checks were not conducted. For the remaining individual, the required in-State sex offender registry check was not conducted.

**Division's Response:**

The Division agrees with this finding. The Division has worked with Washoe County to transition their background check process to the State (i.e., Child Care Licensing to the Department of Public Safety). This change streamlines the background process and allows for a single process statewide; subsequently, this change maximizes full federal and state background check compliance.

The Division implemented the new process in October 2021 and worked with Washoe County to ensure background checks were conducted on the 21 non-compliant employees. The transition was fully implemented in February 2022 with revised policies and procedures to ensure that every employee or adult household member of a family home is fingerprinted and has federal and state background checks initiated within 24 hours after the date of hiring or their presence in a facility.

- **Two Child Care Providers Did Not Obtain Any of the Required Criminal Background Checks When Individuals Who Were Minors Were Hired**

Of the 30 child care providers we reviewed, 2 child care providers did not obtain any of the required background checks for 3 individuals in Nevada who were minors when they were hired (who were not in Washoe County). Specifically, these individuals were hired when they were 17 years old, and the background checks were not conducted until the individuals were about to turn 18 years old (approximately 6 to 10 months after they were hired).

**Division's Response:**

The Division agrees with this finding. Nevada Law does not require background checks on persons under the age of 18, nor can anyone under the age of 18 supervise children in child care or count in ratio; therefore, the Division did not require these individuals to obtain background checks. Individuals under the age of 18 cannot act in the full capacity of an employee. Individuals under the age of 18 years must receive parental consent to undergo a background check.

The Division has worked with Child Care Licensing to implement a policy requiring a background check for individuals under 18 years of age working in child care facilities and has updated the Consent and Release Form to include a signature line for the individual's parent and/or guardian to authorize a federal and state criminal background check. The Consent and Release Form thoroughly explains the types of federal and state background checks required to be conducted.



The corrective action mentioned above has been implemented to ensure that all required federal and state criminal background checks are conducted for all employees, including those who are under the age of 18 years.

- **Nevada Did Not Have an Explicit Requirement to Conduct an In-State Sex Offender Registry Check for All Child Care Staff Members**

Although Nevada had procedures to conduct the in-State sex offender registry check for all child care staff members, it did not have an explicit written requirement and policy for this check. By not having an explicit written requirement and policy mandating an in-State sex offender registry check, there is increased risk that the State agency may not be conducting this check consistently and effectively and thus may be potentially jeopardizing the safety of children at child care providers.

According to Federal regulations, States must have in effect requirements, policies, and procedures to require that criminal background checks be conducted for child care staff members (including prospective staff members) of all child care programs that are licensed, regulated, or registered under State/territory law (45 CFR § 98.43(a)(1)(i)). The regulations specify that the criminal background check for child care staff members include a search of the in-State sex offender registry or repository (45 CFR § 98.43(b)(3)(ii)).

**Division's Response:**

The Division agrees with this finding. The Division has a policy that states in-State sex offender registry checks will be conducted with the intention of including both National and in-State sex offender registry checks. All background checks conducted through the Nevada Department of Public Safety (DPS) include a standard in-state sex offender registry check. Due to this finding, the Division has updated policy to specify that both a National Sex Offender check (done by the FBI) and an in-State sex offender check (done by DPS) must be conducted.

**OIG's Recommendations:**

OIG recommends that Nevada:

- (1) ensure that child care providers notify Nevada when a new household member is added or a new employee is hired so that the State may conduct the required criminal background checks;
- (2) ensure that all required criminal background checks are conducted for the 21 individuals OIG identified who did not have all of the required checks at the time of the audit;
- (3) ensure that all required criminal background checks are conducted for all employees who are under the age of 18;
- (4) revise its policies and procedures to ensure that all child care staff members, regardless of age, are fingerprinted and have background checks completed immediately after being hired; and
- (5) add a written requirement and policy to conduct the in-State sex offender registry check for all child care staff members.

The Division's responses to the OIG's recommendations are included in the narrative above. Thank you for your time and consideration of this response to OIG Report #A-09-21-01000. Please contact me at [kxloper@dwss.nv.gov](mailto:kxloper@dwss.nv.gov) or (775) 461-6151 if you have any questions.

Sincerely,



Karissa Loper, Agency Manager for Robert Thompson, Division Administrator

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