



Commonwealth of Massachusetts
Office of the State Auditor
Suzanne M. Bump

Making government work better

Official Audit Report – Issued May 5, 2020

Department of Early Education and Care

For the period July 1, 2016 through June 30, 2018





Commonwealth of Massachusetts
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Suzanne M. Bump

Making government work better

May 5, 2020

Commissioner Samantha L. Aigner-Treworgy
Department of Early Education and Care
51 Sleeper Street, Fourth Floor
Boston, MA 02210

Dear Commissioner Aigner-Treworgy:

I am pleased to provide this performance audit of the Department of Early Education and Care. This report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, July 1, 2016 through June 30, 2018. My audit staff discussed the contents of this report with management of the agency, whose comments are reflected in this report.

I would also like to express my appreciation to the Department of Early Education and Care for the cooperation and assistance provided to my staff during the audit.

Sincerely,

A handwritten signature in blue ink, appearing to read "SMB", written over a light blue circular background.

Suzanne M. Bump
Auditor of the Commonwealth

cc: Nonie K. Lesaux, PhD, Chair of the Board of Early Education and Care
Linda Spears, Commissioner of the Department of Children and Families

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LIST OF ABBREVIATIONS

BRC	background record check
CMR	Code of Massachusetts Regulations
DCF	Department of Children and Families
EEC	Department of Early Education and Care
LEAD	Licensing Education Analytical Database
SORI	Sex Offender Registry Information

EXECUTIVE SUMMARY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of the Department of Early Education and Care (EEC) for the period July 1, 2016 through June 30, 2018. In this performance audit, we assessed whether EEC conducted all licensed group care program site visits in accordance with its policies and procedures, ensured that corrective actions for noncompliance identified during group care program inspections were implemented, investigated all reported instances of child abuse or neglect in the residential programs¹ it licensed, and ensured that all required background record checks (BRCs) were performed for group care program employees.

Below is a summary of our findings and recommendations, with links to each page listed.

Finding 1 Page 11	EEC did not always review or initiate investigations of reports of suspected abuse and neglect of children in its licensed programs.
Recommendation Page 13	EEC should work with the state Department of Children and Families to establish adequate internal controls over the reporting and investigation process required by Section 51B(l) of Chapter 119 of the General Laws.
Finding 2 Page 15	EEC did not ensure that all required BRCs were performed for employees at its licensed group care programs.
Recommendations Page 16	<ol style="list-style-type: none">1. EEC should develop and implement policies, procedures, effective monitoring, and periodic evaluations of internal controls to ensure that employees have BRCs.2. EEC should ensure that all current employees receive any portion of the BRC that has not been conducted.
Finding 3 Page 17	EEC did not consistently meet its deadlines for group care program licensing visits.
Recommendations Page 18	<ol style="list-style-type: none">1. EEC should phase its group care programs in to its new model as soon as possible.2. EEC should meet its deadlines for licensing visits.
Finding 4 Page 19	EEC did not always complete its licensed group care program investigations by established due dates.
Recommendation Page 20	EEC should implement a formal policy that documents a timeline for investigations and should communicate that timeline to all stakeholders involved.

1. Residential programs include group care programs and temporary shelters.

OVERVIEW OF AUDITED ENTITY

The Department of Early Education and Care (EEC), established July 1, 2005 by Chapter 205 of the Acts of 2004, is responsible for licensing childcare providers and providing financial assistance for childcare services for low-income families, parenting support for families, and professional development opportunities for employees in the field of early education and care. According to its website, EEC's mission is "to support the healthy growth and development of all children by providing high quality programs and resources for families and communities."

EEC licenses approximately 9,000 childcare-related programs. It supports an average of 55,000 children daily. EEC's licensees include foster care and adoption placement agencies, informal and formal programs for children, and residential programs.

EEC has five regional offices across Massachusetts, located at 1441 Main Street in Springfield (western region), 324-R Clark Street in Worcester (central region), 360 Merrimack Street in Lawrence (northeast region), One Washington Street in Taunton (southeast region), and 1250 Hancock Street in Quincy (Boston metropolitan region). The regional offices are overseen by EEC's main office, located at 51 Sleeper Street in Boston.

As of June 30, 2018, EEC had a total of 174 employees. It had state appropriations of \$556 million in fiscal year 2017 and \$576.8 million in fiscal year 2018, as well as federal grant appropriations of \$23.1 million in fiscal year 2017 and \$16.3 million in fiscal year 2018.

Residential Programs

EEC licenses two types of residential programs—group care programs and temporary shelters—which are privately owned and not operated or funded by EEC.

Group care programs provide care for adolescents and young adults (residents) on a 24-hour residential basis for periods longer than 45 days. Services provided are intended to help residents achieve independent living and provide treatment for residents with mental health issues, behavioral issues, developmental disorders, or previous traumas.

Temporary shelters provide care for residents under the age of 18 for periods of no more than 45 days or no more than 90 days in Department of Youth Services facilities. Placement in a temporary shelter can be requested by a parent, a child, a placement agency, law enforcement, or a court order.

During the audit period, there were 428 licensed residential programs (354 group care programs and 74 temporary shelters). The standards and requirements for residential program licensure are defined in Section 1 of Title 102, and Section 3 of Title 606, of the Code of Massachusetts Regulations. EEC's team of 11 licensors is responsible for, among other things, the licensing of all residential programs and placement agencies throughout the Commonwealth. These programs and agencies are operated or funded by the Department of Youth Services, the Department of Children and Families (DCF), and the Department of Mental Health. To gain licensure for a residential program, a prospective licensee must submit an application and fee to EEC. EEC determines whether the care to be given in the program will protect the health and safety of the residents and conducts a background record check (BRC) to ensure that the applicant is suitable to provide such care.

EEC requires BRCs of all candidates for licensure, employment, internships, or regular volunteer positions who might have unsupervised access to the children in their care, including a Massachusetts Criminal Offender Record Information check, a check of the Registry of Alleged Perpetrators² and the DCF Central Registry,³ a Sex Offender Registry Information check, and fingerprint-based checks of state and national criminal history databases. These BRCs are performed to protect the residents of group care programs.

Before issuing an initial group care program license, or as part of the license renewal process, an EEC licensor visits the program's facility to evaluate the program's compliance with various licensing requirements. On September 27, 2017, EEC implemented a new licensing model, referred to as differential licensing, which replaced its outgoing model, referred to as residential and placement

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2. According to the version of Section 14 of Title 606 of the Code of Massachusetts Regulations that was effective through September 30, 2018, "a person shall be included in the Registry of Alleged Perpetrators if the allegations of abuse or neglect of a child were supported in an M.G.L. c. 119, § 51B Investigation Report, the report was referred to the district attorney, and there is substantial evidence indicating that the alleged perpetrator was responsible for the abuse or neglect."
 3. In the version of Section 14 of Title 606 of the Code of Massachusetts Regulations that was effective through September 30, 2018, the DCF Central Registry is defined as follows: "A DCF registry of information sufficient to identify children whose names are reported to DCF pursuant to M.G.L. c. 119, §§ 51A and 51B. The Central Registry also contains information on the parent(s) of the identified children, the identity of the person identified as responsible for the alleged abuse or neglect of the identified child, the nature of the allegations, the outcome of the 51A screening process, and the outcome of the 51B investigation."

licensing. During our audit, EEC could not provide us with documented policies or procedures for the outgoing model.

According to EEC management, the outgoing model required licensing site visits at license issuance and renewal. Additional licensing site visits were only required for licensing changes, such as changes to the number of residents allowed or the population served (e.g., male residents, female residents, or residents with behavioral or developmental issues).

According to EEC management, the differential licensing model was developed to more efficiently ensure the health and safety of the residents in programs licensed by EEC. The primary change that the model implemented was the addition of a requirement for annual monitoring visits to be conducted within 10 to 14 months after a program's last licensing site visit. The content of these monitoring visits is based on factors such as program compliance history and associated risk level. Although this model was introduced during the audit period, the requirements for the outgoing model still applied for our testing purposes because of the timing of the implementation. Group care programs were not subject to the differential licensing model until after the first licensing renewal that occurred after September 27, 2017. Therefore, the new annual monitoring requirement would not have been applicable until after the audit period.

Section 9 of Chapter 15D of the Massachusetts General Laws grants EEC the authority to inspect programs it licenses to determine whether they comply with associated laws and regulations. When program noncompliance is identified, EEC documents its observations and indicates which regulation/s the program violated. When regulations have been violated, EEC requires programs to submit corrective action plans within 14 days, detailing how, when, and by whom corrective action has been or will be taken. EEC is then required to determine whether the licensee came into compliance by visiting the program, reviewing documentation, or verifying compliance through any other available means.

Process for Notifying EEC of Reports of Child Abuse or Neglect

Whenever a mandated reporter⁴ has reasonable cause to believe that a child is suffering physical or emotional injury resulting from abuse or neglect, s/he is required by Section 51A(a) of Chapter 119 of

4. Mandated reporters are obligated to report suspected abuse and/or neglect. They include medical doctors, schoolteachers, police officers, school administrators, and guidance counselors. For a full definition, see Section 21 of Chapter 119 of the General Laws.

the General Laws to notify DCF immediately. DCF, in turn, completes a report of child abuse/neglect (known as a 51A report) and is required to share information with certain institutions. When 51A reports are filed regarding children in EEC-licensed residential programs, DCF notifies EEC, pursuant to DCF's Policy 85-005, "51A Investigations in Certain Institutional Settings Policy." DCF does this by emailing the 51A reports to EEC's deputy commissioner for field investigations and associate commissioner for field investigations. The 51A reports sent to EEC are filed in a folder in the associate commissioner for field investigations' email account. If a report is considered to have merit, DCF conducts a 51B investigation, which is an investigation conducted pursuant to Section 51B of Chapter 119 of the General Laws. If DCF determines, as a result of this investigation, that the child is or has been abused or neglected, the 51A report is considered supported, or substantiated.

According to EEC's written response to this audit report,

If an allegation of abuse or neglect of a child placed at an EEC licensed program or during program activities is substantiated or supported by DCF following an investigation conducted pursuant to M.G.L. c. 119, § 51B, DCF provides the investigation report, commonly referred to as a "51B Report" to EEC to further assist in the investigation of the incident related to the EEC licensed program.

Upon receipt of any 51A Report or 51B Report from DCF, EEC must first determine if allegations contained in the reports impact children participating in EEC licensed programs. EEC's authority to investigate alleged incidents of abuse or neglect of children in the Commonwealth is limited to the domain of the licensed program, ensuring full compliance with all relevant state and federal laws and regulation. EEC is not responsible for the investigation of individuals reported in a "51A" or "51B" Report. EEC does not evaluate or investigate "51A" or "51B" Reports outside of its jurisdiction, as determined by statute and regulation.

Licensing Education Analytical Database

The Licensing Education Analytical Database (LEAD) is a platform that EEC's staff and licensed programs use to conduct licensing transactions. LEAD contains a comprehensive history of data about residential programs, including site visits, noncompliance, corrective action reports, incidents and complaints, BRCs, and records pertaining to investigations. LEAD replaced EEC's legacy licensing system, Licensing Manager 2010, and its legacy incident and complaint tracking system, Early Education and Care Resolution System. Implementation took place in three phases. Phase 1 was implemented on June 27, 2016 and enabled licensors to access LEAD on mobile devices during site visits, receive and review reported incidents, and document investigation activities. It also enabled them to view information about their programs, such as license expiration, and access and respond to statements of noncompliance. Phase 2

was implemented on September 27, 2017 and consisted of a combination of improvements to previous functions and changes in support of various differential licensing business rules. Phase 3 was implemented on June 25, 2018 and enabled programs to apply for licenses and complete licensing transactions. Although Phases 2 and 3 were implemented during our audit period, the associated activities had no effect on our audit.

AUDIT OBJECTIVES, SCOPE, AND METHODOLOGY

In accordance with Section 12 of Chapter 11 of the Massachusetts General Laws, the Office of the State Auditor has conducted a performance audit of certain activities of the Department of Early Education and Care (EEC) for the period July 1, 2016 through June 30, 2018.

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.

Below is a list of our audit objectives, indicating each question we intended our audit to answer; the conclusion we reached regarding each objective; and, if applicable, where each objective is discussed in the audit findings.

Objective	Conclusion
1. Did EEC conduct all group care program licensing site visits in accordance with its policies and procedures?	No; see Finding <u>3</u>
2. Did EEC ensure that corrective actions for noncompliance identified during its group care program inspections were implemented in accordance with Section 1 of Title 102 of the Code of Massachusetts Regulations (CMR)?	Yes
3. Did EEC investigate all reported instances of abuse or neglect in its residential programs in accordance with 606 CMR 3 and Section 9 of Chapter 15D of the General Laws, as well as other applicable EEC requirements?	No; see Findings <u>1</u> and <u>4</u>
4. Did EEC ensure that all required background record checks (BRCs) were performed for group care program employees involved in unsupervised contact with children in accordance with 606 CMR 14?	No; see Finding <u>2</u>

To achieve our audit objectives, we gained an understanding of the internal control environment we determined to be relevant to our audit objectives by reviewing EEC's internal control plan and applicable laws, regulations, and agency policies and procedures. We also conducted interviews with EEC's staff and managers. We reviewed and tested the operating effectiveness of internal controls relevant to site visits, corrective action plans for noncompliance, investigations conducted for allegations of child abuse or neglect, and program employee BRCs.

Additionally, we conducted further audit testing as described in the following subsections.

Group Care Program Licensing Site Visits

To determine whether EEC conducted all group care program licensing site visits in accordance with its policies and procedures, we selected a random nonstatistical sample of 25 group care programs from a total population of 354 group care programs that were licensed during the audit period. For this sample of programs, we reviewed the data maintained in the Licensing Education Analytical Database (LEAD) to determine whether each program had at least one license renewal site visit during the audit period. We also reviewed the entire population of 366 group care program licensing site visits during the audit period that had site visit due dates (deadlines) established in LEAD. We compared the deadlines to the dates the site visits occurred to determine whether the visits were conducted before the deadlines.

Corrective Actions for Noncompliance

To determine whether EEC ensured that corrective actions for noncompliance identified during group care program inspections were implemented in accordance with its policies and procedures, we selected from LEAD a judgmental nonstatistical sample⁵ of 25 group care programs from a population of 306 group care programs that were still operating at the time of our test. We then referred to LEAD to determine the most recent instances of noncompliance identified at each program during the audit period and requested from EEC the corrective action plans that were submitted to, and approved by, EEC. We conducted site visits to these programs, reviewed the corrective action plans with program management, and asked management to show and explain to us how the plans were implemented. Through our interviews and onsite review, we determined whether the plans were implemented.

Investigation of Allegations of Child Abuse or Neglect

To determine whether EEC investigated residential program compliance in response to reported instances of child abuse or neglect, we first determined whether EEC was in possession of all 51A reports submitted regarding children at residential programs during the audit period. We made this determination by obtaining a list from the Department of Children and Families (DCF) of all residential

5. Nonstatistical sampling is the selection of a test group that is based on the auditor's judgment rather than a formal statistical method.

program 51A reports DCF sent to EEC during the audit period. We then obtained files from EEC containing all the 51A reports⁶ it had received from DCF for the same population.

We compared the list of 51A reports created from the files provided by EEC to DCF's list of 51A reports and reconciled the variance. We identified all 447 51A reports on DCF's list that EEC could not account for and conducted our testing using a risk-based approach. We limited our population to the 51A reports that EEC could not account for because these were more likely not to have been investigated by EEC.

We used the search function in LEAD to determine whether EEC had investigated the 51A reports it could not account for. If we were able to find an associated case in LEAD for a 51A report, we concluded that EEC had investigated it. If we could not locate an associated case in LEAD, we concluded that EEC had not investigated the report.

To determine whether EEC completed all required group care program investigations by the due dates set by its staff, we selected a nonstatistical random sample of 50 closed investigations from a population of 1,061 investigations completed at group care providers during the audit period. We measured the completeness of an investigation by comparing the date the investigation report was approved to be sent to the program, according to LEAD, to the established due date for the investigation.

Additionally, to determine whether investigation site visits were conducted when required, we selected a random sample of 35 from a population of 134 closed investigations that were identified as high risk in LEAD. We reviewed the investigation activity narratives in LEAD to determine whether licensors or investigators had conducted site visits if required.

BRCs

To determine whether EEC ensured that all required BRCs were performed for group care program employees who had unsupervised contact with children, we judgmentally selected a sample of 25 group care programs from a population of 306 group care programs that were still operating at the time of our test. We requested a list of people who were employed during the audit period from each of the 25 programs. The total population of employees from the programs in our sample was 1,663; 832 of these employees were hired during the audit period. We reviewed the BRC data in LEAD to determine whether all 1,663 program employees had the required BRCs. We also reviewed the 832 employees

6. All personally identifiable information was redacted from these reports.

hired during the audit period to determine whether their Sex Offender Registry Information checks were conducted before they began working, as required by 606 CMR 14.

Data Reliability

We determined the reliability of the LEAD data by interviewing key users and administrators of LEAD to obtain their assessment of the reliability of the data and by cross-referencing certain residential program information from Licensing Manager 2010 to LEAD, including the total count of residential programs in our population, the program type (group care program or temporary shelter) of each program, and each program's first license issue date, all of which should have stayed the same during the migration of data. We also traced certain fields from the BRC source documentation provided by the group care programs for a sample of employees to the BRC data in LEAD. We determined the LEAD data to be sufficiently reliable for the purposes of our audit.

We assessed the reliability of the 51A reports extracted from the associate commissioner's email by tracing a sample of these reports to LEAD and to the list of 51A reports provided by DCF. We determined that the population of 51A reports received from EEC was sufficiently reliable for the purposes of our audit.

When sampling, we used a nonstatistical sampling method, whose results we could not project across the entire population.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Department of Early Education and Care did not always review or initiate investigations of reports of suspected abuse and neglect of children in its licensed programs.

The Department of Early Education and Care (EEC) did not always review or initiate investigations of 51A reports at the residential programs it licensed. We compared a list of 2,087 51A reports from the audit period, which we created from the files provided to us by EEC, to the Department of Children and Families' (DCF's) list of such reports and noted that there were 447 51A reports on DCF's list that EEC could not account for. Of the 447 51A reports that were not in EEC's possession, we identified 55 that EEC had no record of receiving and/or investigating. We then contacted DCF, and that department determined that 19 of the 55 reports had been communicated to EEC as documented in the 51A report, the 51B report, and/or email (see "[DCF Comments](#)" below).

Without a record of receiving and/or investigating 51A reports, EEC cannot determine whether children are at risk or ensure that programs comply with the health and safety standards in Section 3 of Title 606 of the Code of Massachusetts Regulations (CMR).

A few examples of the allegations in the 19 reports follow:

- Multiple children were allegedly exposed to inappropriate FaceTime conversations where a program employee shared videos of her boyfriend exposing himself.
- A program employee allegedly sexually abused a resident. Additionally, the program employee offered another resident, who observed the activity but declined to participate, \$50 and marijuana not to tell anyone.
- Sexual abuse allegedly took place when a staff member made verbal advances to a resident and made inappropriate comments about the resident's sexual experiences. The staff member never returned to the program after the initial allegation.
- A program employee allegedly physically abused a child by placing the child in a restraint that was, according to the 51A report, "not ideal" when the child was kicking and spitting at staff members.

Authoritative Guidance

The regulation 606 CMR 3.04(5)(c) states,

The licensee shall notify [EEC] as well as any other state agency or referral source which requires such notification immediately after learning that a 51A report has been filed alleging abuse or neglect of a child at the program or during program activities, including those alleging parental abuse or neglect of a child who resides at the program together with his or her teen parent. A report of abuse or neglect shall initiate an investigation by the Department.

Section 9 of Chapter 15D of the Massachusetts General Laws states,

[EEC] shall promptly investigate and evaluate any notice transmitted to the department by the department of children and families under subsection (l) of section 51B of chapter 119. [See Appendix.] Such investigation and evaluation shall determine whether the facility being operated by a person subject to licensure or approval under this section is being operated in compliance with this chapter and within the rules and regulations established under this chapter.

Reason for Noncompliance

The process used by DCF and EEC for communicating, reviewing, storing, and retrieving 51A reports lacks adequate internal controls. This could result in DCF not sending all 51A reports to EEC and in EEC not ensuring that all 51A reports it receives are properly recorded, reviewed, and investigated.

DCF Comments

During our audit, we notified DCF of the 55 51A reports that EEC had not investigated and that EEC said DCF had not sent to it. DCF conducted an investigation of its case records for each of the 55 reports and told us the following:

- DCF never sent 26 of the 51A reports to EEC.
- Nineteen of the 51A reports had been communicated to EEC as documented in the 51A report, the 51B report, and/or email.
 - DCF emailed 10 of these reports to EEC.
 - For the other 9 reports, DCF communicated with EEC as documented in an associated 51A or 51B report.
- DCF appropriately did not submit the remaining 10 51A reports to EEC because the statute did not require it to do so; they involved children who were not residents in a program or people who were 18 years or older.

After its investigation, DCF forwarded all relevant case files to EEC for follow-up and sent us a response that included the following information:

DCF and EEC are in active communication and are collaborating on technological solutions to support a more efficient exchange of information between both agencies. DCF and EEC are exploring the feasibility of IT solutions including automated email sends and/or an automated interface between the departments' data systems.

In the interim, DCF has revised its current protocols and procedures and established an administrative gatekeeper function responsible for sending and documenting 51As sent to EEC. Routine internal audits will also be performed to ensure compliance with information sharing requirements.

Recommendation

EEC should work with DCF to establish adequate internal controls over the 51A reporting and investigation process.

Auditee's Response

The report does not adequately delineate between the role of EEC and the role of the Department of Children and Families (DCF) in tracking and investigating reports of abuse or neglect and overstates EEC's responsibility in pursuing all 51A Reports. . . . It is instructive to understand the related but disparate statutory and regulatory responsibilities of both EEC as well as DCF. M.G.L. Chapter 119, Section 51A, requires mandated reporters, who in their professional capacity, have reasonable cause to believe any child is suffering from physical or emotional injury, to immediately communicate these concerns to DCF and to file a written report detailing the concerns of abuse and neglect with DCF within 48 hours. The reports detailing the allegations of abuse and neglect are commonly referred to as "51A Reports." In addition to the mandated reporter requirements for staff in EEC licensed programs under the General Laws, EEC's regulations (606 CMR 3.04(5)) also require licensed programs to immediately notify EEC after learning that a 51A Report has been filed alleging abuse or neglect of a child at the program or during program activities. This regulation serves as an additional safety net for reporting and investigating allegations of abuse and neglect involving children in EEC licensed programs.

If an allegation of abuse or neglect of a child placed at an EEC licensed program or during program activities is substantiated or supported by DCF following an investigation conducted pursuant to M.G.L. c. 119, § 51B, DCF provides the investigation report, commonly referred to as a "51B Report" to EEC to further assist in the investigation of the incident related to the EEC licensed program.

Upon receipt of any 51A Report or 51B Report from DCF, EEC must first determine if allegations contained in the reports impact children participating in EEC licensed programs. EEC's authority to investigate alleged incidents of abuse or neglect of children in the Commonwealth is limited to the domain of the licensed program, ensuring full compliance with all relevant state and federal

laws and regulation. EEC is not responsible for the investigation of individuals reported in a "51A" or "51B." EEC does not evaluate or investigate "51As" or "51Bs" outside of its jurisdiction, as determined by statute and regulation. EEC and DCF continue to enhance coordination across our two systems of tracking investigations by refining operating procedures and designing new technology solutions.

Due to a variety of factors, there are often multiple 51As associated with a single investigation at EEC. DCF may receive multiple 51A Reports related to the same alleged incident of abuse or neglect. For example, multiple mandated reporters (a teacher, a licensed program, a parent, etc.) can report an incident to DCF which are consolidated into a single investigation under M.G.L. c. 119, § 51B. EEC evaluates each 51A and 51B Report received from DCF, but may conduct a single investigation into a program involved in the incident.

In regard to the specific cases outlined in the Audit Report, EEC has determined that all of them fall into one of the following categories:

- The case cited was one of many 51A Reports consolidated in a single investigation . . .*
- The case cited was reviewed and/or investigated by EEC, per statutory requirements, or*
- The case cited by the Auditor did not provide enough information to identify an EEC report or investigation.*

Auditor's Reply

EEC did not provide any documentation to substantiate the results of its analysis of the 55 51A reports we describe as not received, reviewed, or investigated. Some of the information provided by EEC seems to conflict with the analysis provided to us by DCF. We understand that some 51A reports might be associated with investigations related to other 51A reports. However, our review of the Licensing Education Analytical Database (LEAD) determined that there was no mention of any case associated with the specific people discussed in any of the 51A reports. Even if a 51A report were consolidated with others into a single investigation, information regarding an individual identified in any one report should be available in LEAD.

Also, EEC's assertion that we "did not provide enough information to identify an EEC report or investigation" is incorrect. We provided EEC with a 51A report type, identification number, incident date, program name, and approval date for each of the 55 reports that we determined to be missing. In addition, DCF could have made copies of these 51A reports available to EEC to review for any additional information EEC needed to complete its review and/or investigation.

As stated in our report, the process that DCF and EEC use for communicating, reviewing, storing, and retrieving 51A reports lacks adequate internal controls. This is evidenced by our analysis of cases that were recorded in DCF's records but not EEC's, or in EEC's but not DCF's. This issue can result in EEC being unable to ensure that all referrals from DCF are properly recorded, reviewed, and investigated.

2. EEC did not ensure that all required background record checks were performed for employees at its licensed group care programs.

EEC did not ensure that all employees at its licensed group care programs had undergone proper background record checks (BRCs). According to 606 CMR 14.08, after making a preliminary decision to hire an individual, a program must submit a completed BRC request form to EEC, which performs the required BRC and provides the program with the results. EEC and the program review the BRC results before making a final hiring determination. When required BRCs are not completed in accordance with regulations, EEC cannot ensure that employees are appropriate to serve in their roles. This potentially jeopardizes the health and safety of group care program residents.

BRC requirements were not met for 24 of the 25 group care programs we reviewed. Specifically, 105 of the 1,663 employees in our sample did not have one or more of the required BRCs (Criminal Offender Record Information, Sex Offender Registry Information [SORI], DCF, and fingerprint-based checks) before employment or at any time thereafter. A breakdown is below.

- Fingerprint-based checks of state and national criminal history databases were not conducted for 93 employees.
- No portion of the required BRC was conducted for 9 employees.
- SORI checks were not conducted for 6 employees, 3 of whom are included in the population of 93 employees who had not had fingerprint-based checks.

Sixty-two additional employees hired during our audit period did not have SORI checks until after they began work. A breakdown of the times between hire dates and SORI check dates is below.

Summary of Delinquent SORI Checks

Time Lapsed before SORI Check	Number of Employees
Less than or equal to one week	28
One week to one month	9
One to six months	7

Time Lapsed before SORI Check	Number of Employees
Six months to one year	9
More than one year	9
Total	<u>62</u>

Authoritative Guidance

The version of 606 CMR 14.02 that was effective through September 30, 2018 states,

In order to ensure that employees or other persons regularly providing child care or support services with potential for unsupervised contact with children in any program or facility licensed and/or funded by EEC are appropriate for serving in their positions, a Background Record Check (BRC) shall be performed on all candidates for positions in such programs or facilities, as provided in 606 CMR 14.00. A BRC shall consist of, at a minimum, a Massachusetts Criminal Offender Record Information (CORI) check; a DCF Background Record Check; a SORI check and a fingerprint-based check of state and national criminal history databases.

The version of 606 CMR 14.10(5) that was effective through September 30, 2018 states,

No candidate may be hired conditionally in any capacity, nor may he/she begin work until the hiring authority receives EEC approval of the SORI check.

Reason for Noncompliance

EEC had not implemented policies, procedures, effective monitoring, and periodic evaluations of internal controls to ensure that the required BRCs were performed in accordance with the regulation.

Recommendations

1. EEC should develop and implement policies, procedures, effective monitoring, and periodic evaluations of internal controls to ensure that employees have BRCs.
2. EEC should ensure that all current employees receive any portion of the BRC that has not been conducted.

Auditee's Response

The Auditor provided a list of 105 employees that the Auditor stated had not completed background record checks in accordance with regulations during the time of the audit. EEC reviewed the list to confirm that employees were at various stages of completion in the BRC process. EEC's review ensured that all employees completed the process, although many of the employees had terminated their employment with the providers prior to completion of the Background Record Check.

Also during the audit period, EEC was in the process of implementing new standards for background record checks based on new federal and state regulations. In October 2018, EEC

implemented new background record check policies that require Departmental licensing staff to verify suitability for program licensing staff and confirm whether background checks have been completed before renewing a program's license in accordance with regulations. This is the policy that residential and placement programs are currently operating under. EEC is in the process of reviewing existing policies and operational procedures to ensure a more efficient and effective process.

Auditor's Reply

EEC did not provide any documentation to substantiate that these BRCs were conducted. During the audit, we discussed this matter with EEC officials and considered all the information that was provided when we performed this analysis. In addition, we accepted information regarding BRCs throughout our audit fieldwork to ensure that our numbers were accurate. For example, we originally identified 143 individuals who did not have proper documentation to substantiate that SORI checks had been performed before their start dates. When we gave EEC this information to review, EEC gave us additional SORI information that was not in LEAD. This information was from a separate database to which we were not given access, so we could not confirm its reliability. It consisted of 81 SORI check dates for employees whom we had found to have start dates that preceded their SORI checks. Although we could not perform validity tests on these data, we adjusted the number of employees who had start dates that preceded their SORI check dates from 143 to 62. The SORI checks we reviewed for these 62 employees were completed after the employees' start dates. Based on its response, EEC is taking measures to address our concerns.

3. EEC did not consistently meet its deadlines for group care program licensing visits.

During our audit period, EEC did not consistently complete group care program licensing visits within required timeframes. From our sample of 366 group care program licensing visits, 59 (16%) were not conducted by the established deadlines. On average, EEC conducted licensing site visits 55 days after the established due dates in LEAD. Licensing visits that are not completed within required timeframes prevent EEC from ensuring that programs operate safe and healthy environments.

Authoritative Guidance

Under 606 CMR 3.03, group care programs are licensed for two years and are still considered licensed until EEC completes its license renewal visit. Until September 2017, EEC had no documented policies or procedures for frequency of license renewal visits. According to EEC management, required licensing

site visits were conducted at license issuance and renewal, and additional licensing site visits were only required for licensing changes.

In September 2017, EEC implemented the *Differential Licensing Handbook*. However, group care programs were not phased in to the differential licensing model and subjected to the requirements of the handbook until after the first licensing renewal that occurred after September 27, 2017.

The handbook states,

Scheduled visits are conducted at license renewals. . . .

Renewal of a [program's] license will occur every two (2) years. . . .

The Monitoring Visit will be conducted [by EEC] annually approximately 12 months after the Full Licensing Review Visit, within a four-month window (two months before or after the date).

Reason for Noncompliance

The due date for licensing site visits is automatically generated by LEAD and set 14 months after the previous licensing site visit. This automatically generated due date is part of the new business processes in EEC's differential licensing model. Although LEAD automatically generates the site visit due dates, EEC had not yet phased its group care programs in to the new model, so they were not visited by the due dates in LEAD.

Recommendations

1. EEC should phase its group care programs in to its new model as soon as possible.
2. EEC should meet its deadlines for licensing visits.

Auditee's Response

As noted in the audit report, the Licensing Education Analytic Database (LEAD) system automatically generates a "deadline" for program monitoring visit annually based on predetermined settings in the technology. This date is an internal benchmark and is not dictated by any statute or regulation. In practice, residential program visits are regularly conducted by EEC staff for many reasons including but not limited to, a new license application site visit, a new program site visit where existing programs already exist, a license renewal, an investigation, focused monitoring or technical assistance. These visits are tracked separately in the LEAD system and are not marked as satisfying the "licensing visit" deadline in the LEAD system unless an EEC staff member makes a manual adjustment, which is time consuming and cumbersome in the system. EEC continues to align the data tracking [in] the LEAD system through additional technical enhancements in LEAD to account for this practice. EEC is currently working with DCF

and the Department of Elementary and Secondary Education (DESE) to improve coordination of monitoring visits and help identify appropriate strategies for improving licensing monitoring of Residential Programs and Placement Agencies specifically.

Auditor's Reply

During our audit period, EEC did not consistently complete group care program licensing visits within required timeframes; this could result in delays in addressing any problems. It appears from its response that EEC is taking measures to improve this process.

4. EEC did not always complete its licensed group care program investigations by established due dates.

EEC did not complete all required group care program investigations by the due dates set by its staff. EEC's investigation and licensing units investigate complaints or incidents that allege harm, or risk of harm, to the health, safety, or wellbeing of a child. When these investigations are assigned, an investigation deadline is determined by the employee who reviewed the incident intake. The typical deadline is 30 days after the date the investigation is assigned. From our sample of 50 closed investigations, 40 were completed after the established due dates. On average, the investigations were completed 61 days after the established due dates. We measured the completeness of an investigation by determining the date the investigation report was approved to be sent to the program.

Additionally, during our site visits of 25 programs, multiple programs told us that EEC's investigations take too long. Prolonged investigations place financial and administrative burdens on programs. For instance, programs stated that they sometimes received multiple investigation reports from EEC at once for various incidents that happened throughout the year. This affects the programs because they are responsible for reading the investigation reports, analyzing them, and submitting corrective action plans for each of the investigations within 14 days. Also, when 51A report investigations are ongoing, programs are required to remove the employee/s who are involved from unsupervised contact with children until the investigation is completed. This requires other employees to work overtime to fill these roles and, in extreme cases, could affect the number of children that the programs can serve because of staff-child ratios set by the license.

Authoritative Guidance

EEC officials explained to us that there is an informal policy that dictates that EEC's staff establishes a due date in LEAD when an investigation is assigned to an investigator or a licensor. It is in EEC's best

interest to ensure that reported issues are addressed quickly, before the established due dates, to minimize potential risks to children in group care programs.

Reason for Noncompliance

There is no formal policy requiring a specific time to complete investigations. EEC stated that many of its investigation activities are completed before the deadline but that the investigation reports sent to the programs take substantial time to write. Additionally, sometimes investigations require collaboration with law enforcement, which can prolong the investigation.

Recommendation

EEC should implement a formal policy that documents a timeline for investigations and should communicate that timeline to all stakeholders involved.

Auditee's Response

EEC establishes internal investigation deadlines and works to efficiently execute investigations within the Department's authority. EEC's investigations are often dependent on information from other agencies and law enforcement in order to be fully completed. To fully "complete" the investigation means closing the case in LEAD and is often reliant on other entities, for example the completion of legal proceedings on [an] individual before action can be taken against the group care licensee, which in many instances can take months. While fully completing the investigation process is often beyond the control of the EEC investigations unit, EEC will work to notify the program about any steps necessary to maintain operations while investigations are ongoing. For example, if a staff member in a program has been suspended or terminated as a result of a report of abuse or neglect, EEC will notify the program it can continue operating as long as it is in compliance with all EEC requirements, even if the legal case against the individual is not complete and the investigation remains open. EEC always holds an exit interview to review the action plan based on findings of the investigation, and corrective steps are confirmed at that time. In addition, EEC has increased the number of investigators and supervisors in the unit since the audit period.

Auditor's Reply

Although we acknowledge that there are circumstances outside EEC's control that could affect how quickly an investigation can be completed, we believe that better controls over this process, such as a policy that establishes specific timelines and accountability for completing investigations, will allow EEC to manage this process more effectively. Based on its response, EEC is taking measures to address our concerns.

APPENDIX

Section 51B(I) of Chapter 119 of the Massachusetts General Laws

If the department substantiates a report alleging that abuse or neglect occurred at a facility approved, owned, operated or funded, in whole or in part, or was committed by an individual the department has reason to believe was licensed by . . . the department of early education and care . . . the department shall notify the office of the child advocate and the affected department, in writing, by transmitting a copy of the report filed under section 51A and the department's written evaluation and written determination.

If the department substantiates a report alleging that abuse or neglect was committed by an individual who was employed at a facility approved or licensed by the department of early education and care, then the department shall notify the office of the child advocate and the department of early education and care, in writing, by transmitting a copy of the report filed under section 51A and the department's written evaluation and written determination.

If the department is aware of a licensing violation in any such facility, the department shall immediately notify the affected department.

No provision of chapter 66A, sections 135 to 135B, inclusive, of chapter 112, or sections 51E and 51F, or any other provision of law shall prohibit: (i) the department from transmitting copies of reports filed under section 51A or its written evaluations and written determinations to the office of the child advocate or the affected departments; (ii) the department, the office of the child advocate and the affected departments from coordinating activities and sharing information for the purposes of this section or for investigating a licensing violation; or (iii) the department's employees from testifying at administrative hearings held by the affected department in connection with a licensing violation.