

OFFICE OF THE STATE AUDITOR

DIANA DIZOGLIO

Official Audit Report – Issued November 25, 2024

Department of Early Education and Care

For the period January 1, 2021 through December 31, 2022



OFFICE OF THE STATE AUDITOR

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November 25, 2024

Amy Kershaw, Commissioner
Department of Early Education and Care
50 Milk Street, 14th Floor
Boston, MA 02109

Dear Commissioner Kershaw:

I am pleased to provide to you the results of the enclosed performance audit of the Department of Early Education and Care. As is typically the case, this report details the audit objectives, scope, methodology, findings, and recommendations for the audit period, January 1, 2021 through December 31, 2022. As you know, my audit team discussed the contents of this report with agency managers. This report reflects those comments.

I appreciate you and all your efforts at the Department of Early Education and Care. The cooperation and assistance provided to my staff during the audit went a long way toward a smooth process. Thank you for encouraging and making available your team. I am available to discuss this audit if you or your team have any questions.

Best regards,



Diana DiZoglio
Auditor of the Commonwealth

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LIST OF ABBREVIATIONS

CMR	Code of Massachusetts Regulations
DCF	Department of Children and Families
EEC	Department of Early Education and Care
FCC	Family Child Care
HHS OIG	US Department of Health and Human Services Office of the Inspector General
LEAD	Licensing Education Analytical Database

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 January 1, 2021 through December 31, 2022.

The purpose of the audit was to determine the following:

- whether EEC conducted annual site visits to residential care programs within the designated timeframes in accordance with Section VIII(b) of EEC's "Differential Licensing Residential Handbook;
- whether EEC investigated reported instances of abuse or neglect of a child in its residential care programs in accordance with Section 3.04(5)(c) of Title 606 of the Code of Massachusetts Regulations (CMR) and Section 9(c) of Chapter 15D of the General Laws;
- whether EEC performed required background record checks for residential care program employees and interns in accordance with 606 CMR 14.05(1)(a) and Section 7(a)(i) of Chapter 15D of the General Laws;
- whether EEC performed required background record checks for Family Child Care (FCC) program licensees and household members in accordance with 606 CMR 14.05(2);
- whether EEC had a language access plan as required by the Office of Access and Opportunity's Language Access Policy Implementation Guidelines;
- to what extent EEC ensured that its licensees provided staff members with trainings to recognize the signs of and prevent abduction, sexual exploitation, or human trafficking;
- whether EEC ensured that its licensees supported LGBTQ children and teenagers by adopting the recommendations made by the Massachusetts Commission on LGBTQ Youth in its fiscal years 2021 and 2022 *Report and Recommendations*;
- whether EEC ensured that noncompliant funded programs addressed deficiencies within 14 days in accordance with the EEC Essentials Training Requirements and Applicability policy; and
- whether EEC investigated high-risk complaints of unlicensed care in accordance with its Internal Policy Handbook for EEC Childcare Operations Staff.

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

Finding 1 Page <u>23</u>	EEC did not conduct licensing visits to residential programs within required timeframes.
Effect	EEC cannot ensure that its residential programs operate within safe and healthy environments if it does not complete licensing visits within the required timeframes.
Recommendations Page <u>24</u>	<ol style="list-style-type: none"> 1. EEC should conduct all licensing visits to residential programs within required timeframes. 2. EEC should follow its self-imposed policies for the timelines of residential licensing visits.
Finding 2 Page <u>25</u>	EEC did not review or initiate investigations of all reports of suspected abuse and neglect of children in its licensed programs.
Effect	EEC cannot determine whether children are at risk of abuse or neglect or ensure that reported incidents are addressed if it does not investigate all 51A Reports.
Recommendation Page <u>26</u>	EEC must perform its own investigations of all 51A Reports that it receives from the Department of Children and Families. Even if the residential program against which there was a report conducts an internal investigation, EEC must still perform an investigation of the residential program.
Finding 3 Page <u>28</u>	EEC compromised high-risk investigations by not assigning its investigators to investigations of high-risk complaints.
Effect	Assigning EEC licensors—instead of EEC investigators—to handle investigations of high-risk complaints compromises these investigations because EEC licensors may lack the specialized skills and training necessary to effectively address and resolve critical safety violations involving children.
Recommendations Page <u>30</u>	<ol style="list-style-type: none"> 1. EEC should ensure that its investigators are assigned to investigations of high-risk complaints. 2. EEC should review the coding procedures with its employees to ensure that all investigations are coded correctly. 3. When EEC must use licensors or interpretation services for investigations of high-risk complaints, it should still assign EEC investigators to conduct these investigations.
Finding 4 Page <u>32</u>	EEC did not conduct all required background record checks for all employees of its licensed residential programs.
Effect	EEC cannot ensure the safety of children in its residential programs if it does not complete background record checks for all employees from those programs in a timely manner or at all.
Recommendations Page <u>34</u>	<ol style="list-style-type: none"> 1. EEC should actively monitor the process to ensure that it completes and renews background record checks for all residential program employees as required. 2. EEC should not rely solely on the residential programs to track and manage the renewal of background record checks for their employees but should instead implement its own oversight to ensure compliance.
Finding 5 Page <u>36</u>	EEC did not conduct background record checks on FCC program providers and their household members.

Effect	Individuals who no longer reside or work on a program's premises may still be listed as household members in the Licensing Education Analytical Database in error, potentially leading to inaccurate background record check results. Without accurate background record checks for FCC program licensees, EEC cannot ensure the safety of the children in these programs.
Recommendations Page 37	<ol style="list-style-type: none"> 1. EEC should require FCC programs to submit signed affidavits to EEC immediately upon any change to the program's household members. 2. EEC must ensure that all relevant individuals related to FCC programs receive background record checks and renewed background record checks every three years.
Finding 6 Page 40	EEC did not update its language access plan every two years.
Effect	Failure to regularly update the language access plan limits EEC's ability to effectively communicate with, and serve, non-English speaking populations. This noncompliance could hinder access to vital educational services for those who rely on language assistance.
Recommendation Page 40	EEC should update its language access plan as soon as possible and every two years thereafter.
Finding 7 Page 41	EEC did not ensure that its programs provided staff members with trainings to recognize signs of and prevent abduction, sexual exploitation, or human trafficking.
Effect	If EEC does not ensure that its programs have comprehensive Runaway Policies in place, then there is a higher-than-acceptable risk that instances of sexual exploitation or human trafficking may go undetected for children in EEC's care.
Recommendations Page 42	<ol style="list-style-type: none"> 1. EEC should require residential programs to include trainings for staff members to recognize the signs of, and screen to prevent, sexual exploitation or human trafficking of children in their care. 2. EEC should monitor residential program staff members to ensure that they are completing the recommended trainings.
Finding 8 Page 43	EEC did not implement any of the inclusivity recommendations from the Massachusetts Commission on LGBTQ Youth.
Effect	The incomplete implementation of these recommendations limits the effectiveness of EEC's efforts to ensure a fully inclusive and supportive environment for LGBTQ youth and families in its programs.
Recommendation Page 44	EEC should implement the inclusivity recommendations from the Massachusetts Commission on LGBTQ Youth.
Finding 9 Page 45	EEC did not ensure that noncompliant funded programs submitted corrective action plans for trainings in a timely manner.
Effect	The absence of EEC enforcement in requiring corrective action plans in a timely manner, and EEC's acceptance of corrected plans without evidence that the training had actually been completed, may compromise the effectiveness of EEC Essentials training. This may lead to ongoing noncompliance, potentially endangering children in EEC care.

Recommendations
Page 46

1. EEC should develop policies for funded programs to follow during and after a state of emergency.
2. Because individuals working in funded programs can complete the training online, EEC should ensure that programs follow the 14-day requirements during a state of emergency and under normal conditions.

In addition to the conclusions we reached regarding our audit objectives, we also identified an issue not specifically addressed by our objectives regarding EEC's late submission of 51A Report investigations. For more information, see [Other Matters](#).

OVERVIEW OF AUDITED ENTITY

The Massachusetts Department of Early Education and Care (EEC) was formed on July 1, 2005 through Chapter 205 of the Acts of 2004. This legislation merged the early childhood care offices of the Office of Childcare Services at the Department of Children and Family Services and the Early Learning Services Office at the Department of Elementary and Secondary Education. EEC responsibilities include licensing childcare programs, providing financial assistance for childcare services to families with low incomes, providing parenting support to families, and providing professional development opportunities to employees in the field of early education and care. According to EEC's website, its 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 that support an average of 55,000 children daily. EEC licenses group, school-age, and Family Child Care (FCC) programs; FCC assistants; residential programs for children; and adoption/foster care placement agencies. Licensing of all childcare programs includes EEC annually visiting programs and conducting background record checks on childcare staff members.

EEC has five regional offices across Massachusetts, located at 1441 Main Street in Springfield (western region), 324R Clark Street in Worcester (central region), 360 Merrimack Street in Lawrence (northeast region), 100 Myles Standish Boulevard in Taunton (southeast region), and 100 Hancock Street in Quincy (Boston metropolitan region). EEC's main office is located at 50 Milk Street in Boston.

As of March 3, 2023, EEC had 246 employees. EEC had state appropriations of \$852.27 million in fiscal year 2021, \$819.08 million in fiscal year 2022, and \$1.18 billion in fiscal year 2023.

Licensing Education Analytical Database

The Licensing Education Analytical Database (LEAD) is the platform EEC staff members and programs use to document childcare licensing and investigation actions. The database includes information about each program's licensing visits, monitoring visits, complaints, background record checks, and investigation records. EEC also uses LEAD as a scheduling tool for EEC's Licensing and Investigations Units.

Residential Program Licensing and Background Record Checks

Residential programs offer group care and facility living for children. EEC licenses two types of residential programs—group care programs and temporary shelters. During the audit period, there were 364 licensed residential programs (333 group care programs and 31 temporary shelters). Group care programs provide care for children under the age of 18 on a 24-hour residential basis for periods longer than 45 days. These programs provide services intended to help residents under 18 years of age transition into independent living programs, when that transition is appropriate, 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 in an EEC facility nor more than 90 days in Department of Youth Services facilities that are licensed by EEC. A parent, child, placement agency, law enforcement agency, or court order can request placement in a temporary shelter.

To ensure that EEC complies with its Differential Licensing Residential Handbook, EEC’s licensors must visit each licensed facility on an annual basis. Licensors are responsible for all licensing activities that include licensing and renewals, conducting monitoring site visits, and investigating complaints.

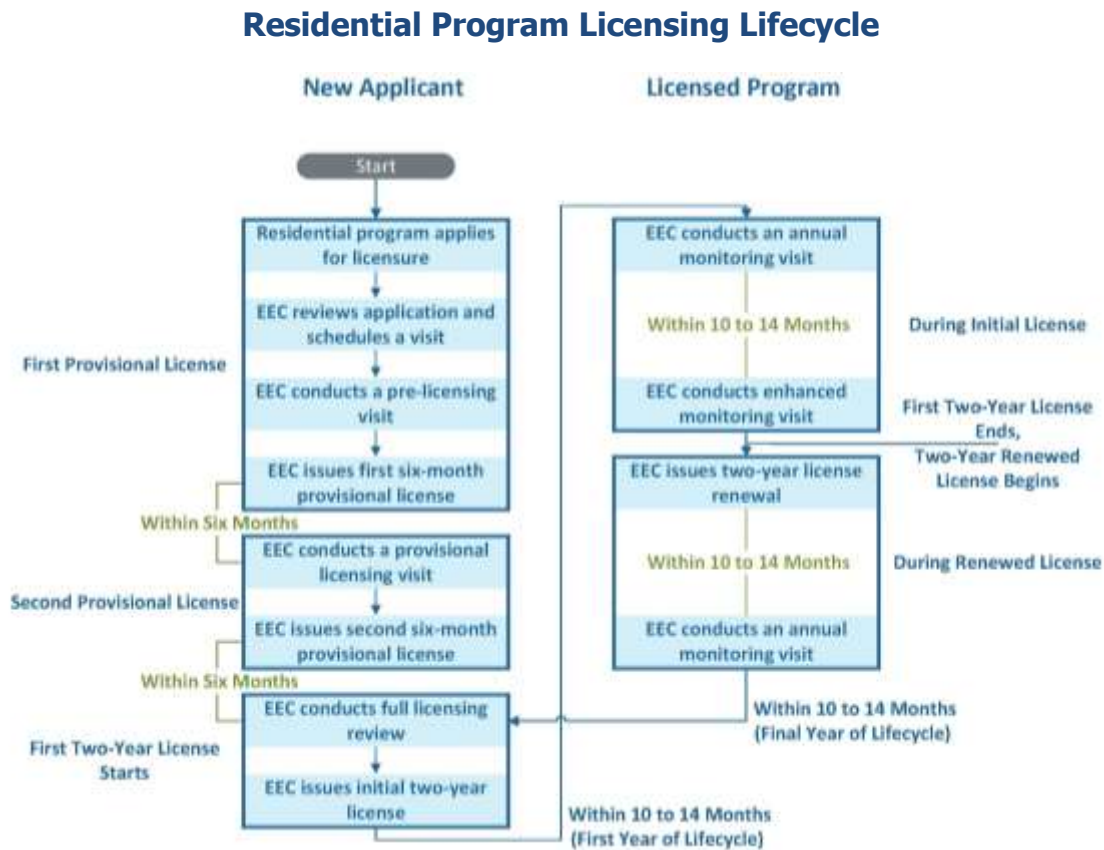
One of the key checks EEC performs during this annual visit is the verification that all candidates for a residential licensure program for employment, internships, or regular volunteer positions who might have supervised or unsupervised access to children in their care received background record checks. EEC’s staff members conduct a background record check in accordance with Section 14.05 of Title 606 of the Code of Massachusetts Regulations (CMR), which includes the following components, or checks:

- a Massachusetts Criminal Offender Record Information check;
- a Department of Children and Families (DCF) check;¹
- a Sex Offender Registry Information check; and
- fingerprint-based checks of state and national criminal history databases.²

1. This check determines whether the candidate has been identified as being responsible for abuse or neglect in a substantiated 51B Report.

2. This check must be performed within 120 days of the completion of the three previous background record checks.

The Differential Licensing Residential Handbook defines the process for those seeking residential program licenses. See the chart below.



A new residential program's licensing process begins when it submits its license application materials and application fee to EEC. An EEC licensor then reviews the license application materials and schedules a pre-licensing visit to review all the licensing regulations. A licensor documents and tracks these in LEAD. If the licensor finds the program compliant with the regulations contained within the Differential Licensing Residential Handbook during a pre-licensing visit, EEC grants the program a six-month provisional license. Before the first provisional license expires, EEC conducts a provisional licensing visit. If a licensor finds the program compliant with the handbook during the provisional licensing visit, EEC grants a second six-month provisional license. Before the second provisional license expires, the program submits an application for a two-year license. After reviewing this application, a licensor conducts a full licensing review visit. If the program is compliant with the handbook during the full licensing review visit, EEC issues a two-year license.

For currently licensed programs, the EEC licensing process begins with a monitoring visit, which EEC conducts 10 to 14 months after it issues a two-year license. The next visit EEC conducts is an enhanced monitoring visit within 8 to 12 months of the monitoring visit. If the program is compliant with the Differential Licensing Residential Handbook during the enhanced monitoring visit, EEC issues a two-year license renewal for the program.³ EEC then conducts another monitoring visit within 10 to 14 months of issuing a two-year license renewal. At the expiration of the two-year license renewal, EEC performs a new full licensing review visit and issues a new two-year license to a program, if EEC finds the program to be compliant with the handbook during this visit. After the completion of this licensing review and issuance of a two-year license, the license and visit process for a licensed residential program begins again with a monitoring visit. See [Appendix A](#) for an explanation of the licensing activities performed during site visits.

FCC Licensing and Background Record Checks

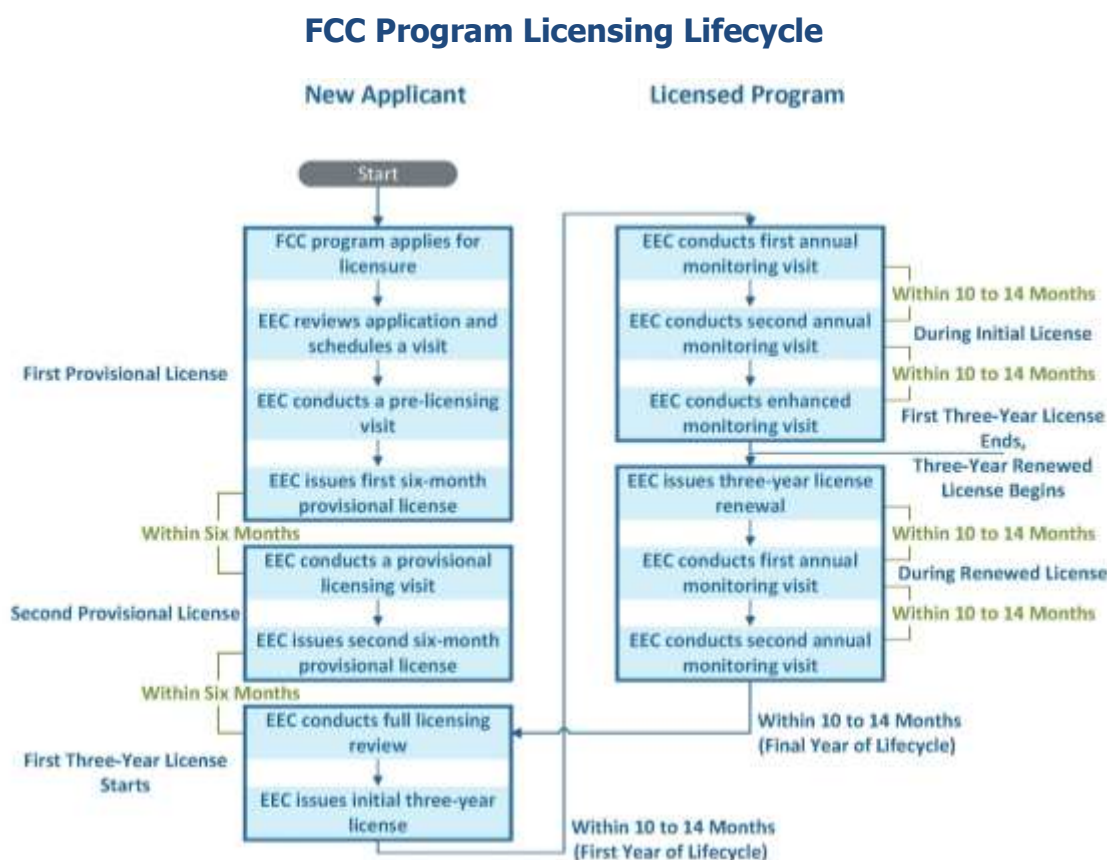
EEC licenses FCC programs to provide care within FCC program homes, which are the homes owned or occupied by childcare providers. EEC licenses FCC programs for up to 6, 8, or 10 children. During the audit period, there were more than 5,700 licensed FCC programs. EEC's licensors verify licensed program compliance with state and federal requirements. EEC's licensors verify compliance by visiting licensed facilities on an annual basis. FCC programs submit the names of all licensees, assistants, and household members aged 15 years or older for background record checks, as required by Section 98.43(b) of Title 45 of the Code of Federal Regulations and 606 CMR 14.05. EEC staff members conduct these background record checks, which include the following eight components:

- a Massachusetts Criminal Offender Record Information check;
- a DCF check;
- a Massachusetts Sex Offender Registry Information check;
- national fingerprint-based checks of state and national criminal history databases;
- a National Crime Information Center National Sex Offender Registry check;
- an interstate criminal history check in any state other than Massachusetts that the applicant lived in within the last five years;

3. According to 606 CMR 3.03(2), a program's license remains in effect past the end of the two-year term while it is going through EEC's renewal process if its renewal request meets EEC's regulations.

- Before September 2022, EEC background record checks for FCC members did not include the National Sex Offender Registry or three interstate checks, as EEC was operating under a waiver from the federal Office of Child Care.

The Differential Licensing Residential Handbook defines the licensing lifecycle for FCC. See the chart below.



A new FCC program's licensing process begins when it submits its license application materials and application fee to EEC. An EEC licensor then reviews the license application materials and schedules a pre-licensing visit to review all the licensing regulations. A licensor documents and tracks these in LEAD. If a licensor finds the program compliant with the Differential Licensing Residential Handbook during the pre-licensing visit, EEC grants a six-month provisional license. Before the six-month provisional license expires,

a licensor conducts a provisional licensing visit. If the licensor finds the program compliant with the handbook during the provisional licensing visit, EEC grants a second six-month provisional license. Before the second six-month provisional license expires, the licensor conducts a full licensing review visit. If the program is compliant with the handbook during the full licensing review visit, EEC issues a three-year license, which can be renewed for another three years, and the program enters the six-year licensed program lifecycle.

For FCC programs that already have a three-year license, the first visit after the issuance of a three-year license is a monitoring visit, which EEC conducts within 10 to 14 months of the full licensing review visit. EEC conducts another monitoring visit within 10 to 14 months of the first monitoring visit of this cycle. EEC then conducts an enhanced monitoring visit within 10 to 14 months of its second monitoring visit. If the program is compliant with the Differential Licensing Residential Handbook during enhanced monitoring visit, EEC issues a three-year license renewal for the program. EEC conducts monitoring visit within 10 to 14 months of the enhanced monitoring visit. At the three-year renewal license's expiration, EEC performs a new full licensing review visit and issues a new three-year license if the program is found compliant with the handbook during this visit. After an FCC completes the full licensing review process and is issued a three-year license, the next part of the six-year process is a monitoring visit. See [Appendix A](#) for an explanation of the licensing activities performed during site visits.

Investigation of 51A Reports Received from DCF

EEC is required by Section 9 of Chapter 15D of the General Laws to investigate 51A Reports it receives from DCF. A 51A Report is an allegation of abuse or neglect of children that DCF receives from mandated reporters⁴ and the public. All 51A Reports are initially submitted to DCF in accordance with Section 51A of Chapter 119 of the General Laws. EEC and DCF have a memorandum of understanding through which DCF agrees to share information regarding reports received involving EEC-licensed programs. After DCF receives a 51A Report, DCF performs a screening process to determine whether further investigation is necessary. The report is screened out if DCF determines that it requires no further investigation. If DCF determines that the allegations in the 51A Report meet DCF's criteria for suspected child abuse and/or

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 and 118 CMR 3.03.

neglect, DCF will screen in⁵ the 51A Report and will begin its investigation. DCF notifies EEC of its decision within two business days of DCF receiving the report. Currently, EEC Investigations Unit managers receive daily emails with 51A Reports from DCF. The investigations managers at EEC who receive the 51A Reports from DCF determine whether the report involves a licensed program.⁶ The EEC regional office in the jurisdiction in which the 51A Report incident occurred assigns a risk level based on the allegations contained within the 51A Report, and then assign a licensor or investigator⁷ to investigate. The assigned licensor or investigator conducts an investigation to determine whether the licensed program is out of compliance with any EEC policies.

A report of abuse or neglect can be investigated by either an EEC licensor or investigator. However, EEC policy requires that all reports that are identified as high-risk be investigated by an EEC investigator, who, according to EEC, is required to have more leadership or supervisory experience and is more qualified to conduct such high-risk investigations. In its Internal Policy Handbook for EEC Childcare Operations Staff, EEC defines a high-risk report as a report that involves at least one of the following:

- *Death of a child.*
- *Allegation of abuse or neglect against a child.*
- *Screened in 51A. . . .*
- *Major injury to a child with regulatory concerns.*
- *Domestic, family, or third-party violence that is reported to have occurred during program operation hours and witnessed by childcare children, as determined following consultation with the Investigations Supervisor.*

Unlicensed Care Complaints

EEC receives unlicensed care complaints from concerned citizens who believe a person who does not have an EEC license is providing childcare to children who are not relatives of the care provider. Citizens report their concerns to EEC through EEC's online unlicensed care complaint form, telephone calls, email, conventional mail, and in person at one of its regional offices. EEC follows processes that are documented

5. DCF uses the terms screen in/screen out to refer to the screening process that begins immediately upon receipt of a 51A Report. Some examples of the screening activities include collecting information from the mandated reporter; reviewing the child's and family's history with DCF; performing criminal/sexual offender background checks; or contacting local law enforcement for information.

6. We reviewed and addressed unlicensed programs as part of our Objective 9; see Finding 3.

7. Investigators are responsible for conducting investigations across the state that involve allegations of abuse or neglect, injuries, or death of children in licensed care.

in its investigation policy to investigate reports and to provide unlicensed care programs an opportunity to become licensed if they meet health and safety requirements. (See [Appendix B](#) for these processes.) If EEC finds a report to be accurate and a person is providing unlicensed childcare to children who are not relatives, EEC can either work with the person to become licensed or file a cease and desist order to the person to cease childcare services.

EEC policy requires that unlicensed care complaints categorized as high-risk be investigated by EEC investigators. In its Internal Policy Handbook for EEC Childcare Operations Staff, EEC defines a high-risk unlicensed care complaint as containing allegations that children are at immediate risk of harm that involve the following:

- 1. Death of a child while in care or may have occurred as a result of a condition/incident that happened while in care.*
- 2. Sexual abuse of a child by someone who works, lives in, or visits the program.*
- 3. Physical abuse resulting in a serious injury requiring medical attention.*
- 4. Neglect of a child resulting in a serious injury requiring medical attention.*
- 5. Any abuse or neglect of a child coupled with an open criminal case (open with law enforcement).*
- 6. Any criminal activity within the licensed program being investigated by law enforcement.*
- 7. Domestic, family, or third-party violence that is reported to have occurred during program operation hours and witnessed by childcare children, as determined following consultation with the Investigations Supervisor.*
- 8. Substance abuse by an educator or someone who works, lives in, or visits the program.*
- 9. Presence, use, or distribution of illegal drugs while children are in care.*

Child Trafficking and Sexual Exploitation Training

To address human trafficking in the Commonwealth, the Massachusetts Interagency Human Trafficking Policy Task Force published a report in 2013 highlighting training and policies for educators across Massachusetts as an important component to prevention and detection of human trafficking.

Currently, the federal Preventing Sex Trafficking and Strengthening Families Act has a funding requirement (under Title IV of the act) that states must screen any child who has gone missing or run away from foster care for possible sexual exploitation and human trafficking when they are found or return to

foster care. The US Department of Health and Human Services Office of the Inspector General (HHS OIG) selected Massachusetts for review in a 2022 report⁸ as one of five states with the highest number of runaway children reported in the country. HHS OIG outlined in its report that between July 2018 and June 2019, 949 children in the Massachusetts foster care were reported missing and later found or returned to foster care. HHS OIG reviewed 88 of the 949 cases for evidence of screening and found that, in 82% of cases in Massachusetts, caseworkers did not conduct the required screening when a child was found or returned. Presently, DCF is responsible for overseeing and developing policies for Title IV funding. In order to ensure state compliance with the Title IV funding requirement, DCF established its Policy Regarding Missing or Absent Children in Department Care or Custody, which requires that social workers screen children when they are found or returned to foster care after they go missing. The Massachusetts Interagency Human Trafficking Policy Task Force also recommends that educators receive training to screen for victims of human trafficking.

EEC Essentials Training for Funded Programs

Funded programs are childcare programs that are not subject to licensure by EEC but have either a contract with EEC or a voucher agreement with a local Child Care Resource and Referral Agency, to provide subsidized childcare for families who have low incomes or are otherwise at risk. During the audit period, there were 172 active funded programs. Funded programs provide services primarily limited to kindergarten, nursery, or preschool children and the setting of a funded program can be a public, private, religious, or parochial school, or a government, tribal, or military childcare program.

The Child Care Development Fund requires that a program meet certain requirements to be eligible to receive federal funds. Before entering into a voucher agreement with a Child Care Resource and Referral Agency, a program must receive a certificate of eligibility from EEC, which lets the Child Care Resource and Referral Agency know that EEC has reviewed a program and that the program has met all the requirements to provide care for children whose families qualify for subsidy. EEC renews this certificate of eligibility every two years. EEC verifies a program's continued compliance with the requirements by conducting annual monitoring visits to funded programs. EEC records its results in LEAD.

8. The title of this report is *In Five States, There Was No Evidence That Many Children in Foster Care Had a Screening for Sex Trafficking When They Returned After Going Missing*.

One requirement for funded programs is that all staff members working with children must complete EEC Essentials training hosted by EEC, which are available online. EEC verifies a program's compliance with this requirement during its monitoring visits. EEC Essentials training includes the following 12 training modules, all of which take approximately 12 hours in total to complete:

Child Abuse and Neglect	Infectious Diseases and Immunizations
Emergency Response Planning	Introduction to Child Development
First Aid and Cardiopulmonary Resuscitation Overview	Medication Administration
Food-Related Risk and Response	Physical Premises Safety
Hazardous Materials	Shaken Baby Syndrome
Infant Safe Sleeping Practices	Transporting Children

Language Access Plans

The Massachusetts Office of Access and Opportunity requires that all state agencies in the executive branch that provide services, programs, or activities that are normally provided in English to establish a language access plan. The Office of Access and Opportunity further requires that agencies update their language access plans every two years.

The Massachusetts Commission on LGBTQ Youth

According to the Massachusetts Commission on LGBTQ Youth's website, the commission was founded in 1992 by Governor William Weld to address the high suicide risk among LGBTQ youth. In 2006, the commission became an independent state agency in accordance with Section 67 of Chapter 3 of the General Laws and works with other state agencies to achieve its goals. The commission has been making recommendations to EEC to improve the care of LGBTQ in EEC's care since fiscal year 2018 and in each annual report thereafter.

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 January 1, 2021 through December 31, 2022.

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 annual site visits to residential care programs within the designated timeframes in accordance with Section VIII(b) of EEC's "Differential Licensing Residential Handbook"?	No; see Finding <u>1</u>
2. Did EEC investigate reported instances of abuse or neglect of children in its residential care programs in accordance with Section 3.04(5)(c) of Title 606 of the Code of Massachusetts Regulations (CMR) and Section 9(c) of Chapter 15D of the General Laws?	No; see Finding <u>2</u>
3. Did EEC perform required background record checks for residential care program employees and interns in accordance with 606 CMR 14.05(1)(a) and Section 7(a)(i) of Chapter 15D of the General Laws?	No; see Finding <u>4</u>
4. Did EEC perform required background record checks for Family Child Care (FCC) program licensees and household members in accordance with 606 CMR 14.05(2)?	No; see Finding <u>5</u>
5. Did EEC have a language access plan as required by the Office of Access and Opportunity's Language Access Policy Implementation Guidelines?	No; see Finding <u>6</u>
6. To what extent did EEC ensure that its licensees provided staff members with trainings to recognize the signs of and prevent abduction, sexual exploitation, or human trafficking?	To some extent; see Finding <u>7</u>
7. Did EEC ensure that its licensees supported LGBTQ children and teenagers by adopting the recommendations made by the Massachusetts Commission on LGBTQ Youth in its fiscal years 2021 and 2022 <i>Report and Recommendations</i> ?	No; see Finding <u>8</u>
8. Did EEC ensure that noncompliant funded programs addressed deficiencies within 14 days in accordance with the EEC Essentials Training Requirements and Applicability policy?	No; see Finding <u>9</u>

Objective	Conclusion
9. Did EEC investigate high-risk complaints of unlicensed care in accordance with its Internal Policy Handbook for EEC Childcare Operations Staff?	No; see Finding 3

To accomplish our audit objectives, we gained an understanding of the aspects of the internal control environment relevant to our objectives by interviewing EEC staff members and by reviewing EEC’s internal control plan, policies, and procedures that were effective during the audit period. We tested the operating effectiveness of certain controls related to our objectives by examining the following Licensing Education Analytical Database (LEAD) visit items:

- EEC’s review of residential program staff records documented by EEC staff members during visits to verify the completion of background record checks for program staff members and
- EEC’s review of funded program staff records documented by EEC staff members during visits to verify the completion of EEC Essentials training.

To obtain sufficient, appropriate evidence to address our audit objectives, we performed the procedures described below.

Annual Site Visits

To determine whether EEC conducted annual site visits to residential care programs within the designated timeframes in accordance with Section VIII(b) of EEC’s “Differential Licensing Residential Handbook,” we took the following actions:

- We selected a random, nonstatistical sample of 40 residential programs from a population of 364 residential programs with licenses that were active during the audit period.
- For each program in the sample, we obtained, from LEAD, the date of the most recent visit conducted before the audit period and the dates of the next two visits.
- We calculated when the visit was due to be conducted for programs, using EEC’s “Differential Licensing Residential Handbook” guidelines, and determined whether EEC conducted a visit before the calculated visit due dates.
- We calculated visit due dates based on the previous visit date and the handbook’s outlined intervals—typically annually—with specific windows of two to four months before or after the due date, based on the type of visit that occurred.

We determined that, during the audit period, 18 (45%) residential programs out of our sample of 40 did not receive a visit or had a late visit (see Finding 1).

Reported Instances of Abuse and Neglect

To determine whether EEC investigated reported instances of abuse or neglect of a child in its residential care programs in accordance with 606 CMR 3.04(5)(c) and Section 9(c) of Chapter 15D of the General Laws, we took the following actions:

- We obtained a spreadsheet of 51A Reports from the Department of Children and Families (DCF) and 51A Reports as PDFs from EEC.
- We reconciled this data to include only 51A Reports that were screened in by DCF, resulting in a list of 885 51A Reports.
- From this population, we selected a random, nonstatistical sample of 60 51A Reports. For each sampled 51A Report, we conducted a query within LEAD to identify the related EEC investigation.
- We obtained the case identification number, category (based on risk level), investigation identification number, investigator, investigation due date, and investigation completion date for each 51A Report selected from LEAD.
- We compared the investigation due date to the investigation completion date to determine whether the sampled 51A Reports were investigated by EEC by their due dates.

We determined that, during the audit period, 2 (3%) of the 51A Reports out of our sample of 60 were internally investigated by the program where the 51A Report incident occurred but were not investigated by EEC, as required (see Finding 2). Additionally, during our review, we identified an issue outside the scope of our objective related to late submission of 51A Report investigations (see Other Matters).

Residential Program Employee Background Record Checks

To determine whether EEC performed required background record checks for residential care program employees and interns in accordance with 606 CMR 14.05(1)(a) and Section 7(a)(i) of Chapter 15D of the General Laws, we took the following actions:

- We obtained the population of 364 residential programs with licenses that were active during the audit period.
- We first selected the 20 residential programs that had been identified by EEC as noncompliant with background record checks during the audit period.

- From the remaining population of 344 residential programs, we selected a judgmental, nonstatistical⁹ sample of 20 residential programs, based on a weighted score. The weighted score was calculated using the number of incidents¹⁰ a residential program had during the audit period divided by its licensed capacity, which is the number of children the program could care for at one time.
- Using the above approach, we selected residential programs by the following amounts and classifications: seven high-risk, seven moderate-risk, and six low-risk residential programs.

At our request, EEC contacted the residential programs in our sample to request their lists of employees and interns who were active during the audit period. We joined all the lists received from all programs into a list of 2,852 residential program employees and interns. We then extracted background record check data from LEAD and joined this data with the employee list. For each employee and intern in the joined data set, we examined their hire date and the date of their Criminal Offender Record Information, Sex Offender Registry Information, DCF, and fingerprint checks. Further, we calculated the dates to determine whether each employee or intern received the background record check either before their employment or within three years of their previous background record check.

We determined that, during the audit period, 39 (98%) residential programs out of our sample of 40 had one or more missing components of a background record check (see Finding 4).

FCC Background Record Checks

To determine whether EEC performed required background record checks for FCC program licensees and household members in accordance with 606 CMR 14.05(2), we took the following actions:

- We extracted a list of 5,799 FCC programs from LEAD.

9. Auditors use judgmental (i.e., nonstatistical) sampling to select items for audit testing when a population is very small, the population items are not similar enough, or there are specific items in the population that the auditors want to review. Auditors use their knowledge and judgment to select the most appropriate sample. For example, an auditor might select items from areas of high risk. The results of testing using judgmental sampling cannot be used to make conclusions or projections about entire populations; however, they can be used to identify specific issues, risks, or weaknesses.

10. Some examples of incidents include allegations that result in a 51A Report, issues with the administration of medication, or hospitalization.

- From that list, we selected a random, statistical¹¹ sample of 60 FCC programs that were active during the audit period, using a 95% confidence level,¹² a 0% expected error rate,¹³ and a 5% tolerable error rate.¹⁴
- For each of the sampled FCC programs, we obtained, from LEAD, a list of the FCC programs' licensees, household members, and people who were regularly on the premises.
- We determined whether EEC conducted a background record check for each FCC program's licensee, household member, and individual who was regularly on the premises by notating the dates for each component of the background record check.

We determined that, during the audit period, 14 FCC licensees out of our sample of 60 (23%) had one or more missing components of a background record check. For more information, see Finding [5](#).

Language Access Plans

To determine whether EEC had a language access plan as required by the Office of Access and Opportunity's Language Access Policy Implementation Guidelines, we obtained and reviewed a copy of EEC's most recent language access plan, which did not contain a publication date. However, we identified the EEC commissioner's signature on the language access plan and noted that this EEC commissioner resigned in 2013.

We determined that EEC did not update its language access plan every two years (see Finding [6](#)).

Trainings to Recognize Trafficking

To determine to what extent EEC ensured that its licensees trained their staff members to recognize the signs of and prevent abduction, sexual exploitation, or human trafficking, we took the following actions:

- We interviewed EEC management, who informed us that they currently do not have specific training requirements related to recognizing the signs of and preventing abduction, sexual exploitation, or human trafficking.

11. Auditors use statistical sampling to select items for audit testing when a population is large and contains similar items. Auditors generally use a statistical software program to choose a random sample when sampling is used. The results of testing using statistical sampling, unlike those from judgmental sampling, can usually be used to make conclusions or projections about entire populations.

12. Confidence level is a mathematically based measure of the auditor's assurance that the sample results (statistic) are representative of the population (parameter), expressed as a percentage.

13. Expected error rate is the number of errors that are expected in the population, expressed as a percentage. It is based on the auditor's knowledge of factors such as prior year results, the understanding of controls gained in planning, or a probe sample.

14. Tolerable error rate is the maximum error in the population that auditors would be willing to accept and still conclude that the result from the sample has achieved the audit objective.

- We conducted additional analyses of recommendations published by the Massachusetts Interagency Human Trafficking Policy Task Force in 2013 and DCF's Policy 2016-002 to determine what elements should be provided as training to meet the minimum requirements of the task force's recommendations and DCF's policy. One such training topic that we identified was screening runaway children, who returned to residential programs, for signs of human trafficking or sexual exploitation.
- We reviewed 606 CMR 3 to determine what training requirements EEC had in place that closely related to the topics of sexual exploitation and human trafficking. Specifically, we identified the Runaway Policy as one such policy that residential programs are required to use to conduct orientation as well as submit this policy to EEC for review. A Runaway Policy outlines procedures for responding to and preventing incidents where children run away from the program.
- We selected a random, nonstatistical sample of 40 residential programs from a population of 364 residential programs with a license that was active during the audit period.
- For each of the 40 sampled residential programs, we inspected the program's document library within LEAD to determine whether the program submitted a Runaway Policy. We then reviewed those submitted Runaway Policies for documentation outlining the screening of runaway children who returned to residential programs for signs of human trafficking and sexual exploitation.

We determined that, during the audit period, 30 (75%) residential programs out of our sample of 40 did not have a policy in LEAD containing language related to the screening of children for signs of abduction, sexual exploitation, or trafficking (see Finding [7](#)).

LGBTQ Youth Recommendations

To determine whether EEC ensured that its licensees supported LGBTQ children and teenagers by adopting the recommendations made by the Massachusetts Commission on LGBTQ Youth in its fiscal years 2021 and 2022 *Report and Recommendations*, we interviewed EEC management regarding EEC's implementation status for each of the five recommendations. We noted that some of the recommendations made in the fiscal years 2021 and 2022 reports had been recommendations in the annual reports since fiscal year 2018. In addition to the interview, we reviewed written responses from EEC summarizing its implementation status of the recommendations.

We determined that, during the audit period, EEC had not yet implemented the recommendations (see Finding [8](#)).

Noncompliant Funded Programs

To determine whether EEC ensured that noncompliant funded programs addressed deficiencies within 14 days in accordance with the EEC Essentials Training Requirements and Applicability policy, we obtained

funded program and EEC Essentials training noncompliance data from LEAD. We identified and tested all 50 noncompliant funded programs that were active during the audit period. We calculated the number of days between the notification of corrective action by EEC and the date the corrective action was implemented. This allowed us to determine whether the funded programs complied with EEC Essentials training and whether any instances of noncompliance were addressed within the required 14-day period.

We determined that, during the audit period, 26 (52%) funded programs out of our population of 50 did not address their EEC Essentials training noncompliance in a timely manner (see Finding 9).

High-Risk Complaints

To determine whether EEC investigated high-risk complaints of unlicensed care in accordance with its Internal Policy Handbook for EEC Childcare Operations Staff, we obtained a list of unlicensed care complaints from LEAD. There were 286 total unlicensed care complaints during the audit period. We found that 94 of these 286 unlicensed care complaints were categorized as high risk in LEAD. We tested all 94 of these high-risk unlicensed care complaints. We determined whether EEC had an EEC investigator or licenser investigate each high-risk unlicensed care complaint by reviewing the investigation files in LEAD.

We determined that, during the audit period, EEC investigators did not investigate 9 high-risk unlicensed care complaints out of our population of 94 (10%), but rather, EEC licensors conducted these investigations (see Finding 3).

We used a combination of statistical and nonstatistical sampling methods for testing. Where we used nonstatistical sampling methods, we did not project the results of our testing to any of the populations.

Data Reliability Assessment

To determine the reliability of the data within LEAD for licensed programs, funded programs, visits, and cases, we interviewed EEC and Executive Office of Education information system and technology employees who were knowledgeable about the data. We reviewed information security policies and procedures from EEC as well as System and Organization Control reports.¹⁵ Specifically, we reviewed these documents for security management, configuration management, contingency planning, and segregation of duties. We also tested user access controls to ensure that EEC's LEAD users had completed

15. A System and Organization Control report is a report issued by an independent contractor on controls about a service organization's systems relevant to security, availability, processing integrity, confidentiality, or privacy.

cybersecurity awareness training and state background checks, had their accounts removed upon termination, had their access rights updated with position changes, and that EEC conducted annual user reviews. We performed further electronic checks of the data for duplicates, missing information, and data outside of the audit period.

We obtained a list of employees and interns who were active during the audit period from each of the 40 residential programs in our sample directly from these programs. However, we were unable to test the completeness and accuracy of this data without payroll information, which was necessary for tracing and vouching.¹⁶ EEC could not provide this data to us because EEC does not gather payroll information from its programs. We used the list of employees and interns that we obtained directly from the programs, as that was the only source available for our audit purposes. For more information, see Finding [4](#).

We obtained a spreadsheet of 51A Reports from DCF and PDFs of 51A Reports from EEC that it received during the audit period. We used data analytics tools to extract key information—such as intake numbers, dates, and screening statuses—from the EEC PDF 51A Reports and generated a spreadsheet of 51A Reports. We then reconciled the information in this spreadsheet to the spreadsheet of 51A Reports from DCF and filtered the dataset to include only those reports that DCF screened in for testing.

Based on the results of the data reliability assessment procedures described above, we determined that the information we obtained was sufficiently reliable for the purposes of our audit.

16. Vouching is the inspection of supporting documentation to corroborate data.

DETAILED AUDIT FINDINGS WITH AUDITEE'S RESPONSE

1. The Department of Early Education and Care did not conduct licensing visits to residential programs within required timeframes.

During the audit period, the Department of Early Education and Care (EEC) did not conduct licensing visits to residential programs within required timeframes. Specifically, EEC did not conduct these visits within required timeframes for 18 (45%) of the 40 residential programs in our sample, resulting in a compliance rate of only 55%. The breakdown of program visit exceptions are as follows:¹⁷

- Of these 18 residential programs, 10 (56%) had one late visit during the audit period.
- Of these 18 residential programs, 7 (39%) had only one of the two visits that were required during the audit period.
- Of these 18 residential programs, 1 (6%) had no visits during the audit period.

EEC cannot ensure that its residential programs operate within safe and healthy environments if it does not complete licensing visits within the required timeframes.

Authoritative Guidance

EEC's Differential Licensing Residential Handbook states,

The year after the issuance of the [program's or] provider's first full two-year license, the [program or] provider will be eligible for a Monitoring Visit. The Monitoring Visit will be conducted annually approximately 12 months after the Full Licensing Review Visit, within a four-month window (two months before or after the date). . . .

Following a [program's or] provider's first Monitoring Visit, a Licensor will conduct an Enhanced Monitoring Visit. The Enhanced Monitoring Visit will be conducted approximately 12 months after the Monitoring Visit, within a four-month window (four months prior to the renewal date). . . .

Approximately 12 months after the Enhanced Monitoring Visit, within a four-month window (two months before or after the date), a [program or] provider will again be due for another Monitoring Visit. . . .

Following the second Monitoring Visit, the licensing cycle will restart for the [program or] provider. The next visit (approximately 12 months after the Monitoring Visit) will thus be a Full Licensing Review Visit, where all licensing regulations are inspected by a Licensor and the [program's or] provider's license may be renewed for another two years.

17. The percentages in the breakdown do not add to 100% due to rounding.

Reasons for Late/Missing Visits

EEC told us that the policies and annual due dates for residential licensing visits are self-imposed by the agency and are not required by federal or state law. EEC told us that it paused annual visits during the COVID-19 pandemic, up until June 15, 2021; however, EEC did not provide a reason why it did not follow its policies for residential licensing visits during the rest of the audit period.

Recommendations

1. EEC should conduct all licensing visits to residential programs within required timeframes.
2. EEC should follow its self-imposed policies for the timelines of residential licensing visits.

Auditee's Response

EEC recognizes the importance of regular monitoring visits to residential programs. EEC applies the differential licensing lifecycle to residential programs. EEC's Differential Licensing Residential Handbook (VII)(b) states that:

The year after the issuance of the provider's first full two-year license, the provider will be eligible for a Monitoring Visit. The Monitoring Visit will be conducted annually approximately 12 months after the Full Licensing Review Visit, within a four-month window (two months before or after the date).

EEC tracks these deadlines in the Licensing Education Analytic Database (LEAD) system, which automatically generates an internal "deadline" for annual monitoring visits. 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 automatically marked as satisfying the "licensing visit" deadline.

Prior to the COVID-19 pandemic, annual monitoring visits were conducted by EEC at residential programs. During the audit period, annual visits were suspended or delayed due to the COVID-19 State of Emergency declared by then-Governor Baker from March 10, 2020, through June 15, 2021. After that time, annual visits resumed and were brought back into alignment with the differential licensing lifecycle. Annual visits are currently being conducted in accordance with EEC's Differential Licensing Residential Handbook.

Auditor's Reply

EEC states that the deadlines tracked in the Licensing Education Analytic Database (LEAD) system are internal benchmarks not dictated by statute or regulation. We believe EEC's dismissal of its own policies as "internal benchmarks" is problematic. Agency policies are typically developed over a period of time,

using a process that considers multiple elements, including, in this case, child safety. Disregarding these policies implies a disregard for the factors that led to their development. By failing to follow its established policies without any justification for overruling them, EEC is not fulfilling its oversight duties, which may have a negative impact on children in residential programs.

EEC states that various types of visits—such as new license application site visits, license renewals, investigations, focused monitoring, or technical assistance—are tracked separately and not automatically marked as satisfying the “licensing visit” deadline in LEAD. However, the purpose of this audit objective was to determine whether EEC conducted the required licensing visits within the established timeframes. The occurrence of other types of visits does not substitute for the mandated licensing visits, which are critical for comprehensive compliance assessments.

Regarding the suspension or delay of annual visits due to the COVID-19 state of emergency from March 10, 2020, through June 15, 2021, we understand that this period posed challenges. However, the majority of the audit period occurred after the state of emergency was lifted. Additionally, all of the exceptions occurred after the state of emergency ended, so EEC did not conduct all required licensing visits within the prescribed timeframes during the remainder of the audit period. EEC did not provide any reason for not following its policies for residential licensing visits after June 15, 2021.

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

EEC did not always review or initiate investigations of 51A Reports at residential programs that it licensed. We reviewed 60 of these reports and their associated investigations in the Licensing Education Analytical Database (LEAD) and found that 2 (3%) of these 60 investigations of 51A Reports were internal investigations performed by the programs where the 51A Report incident occurred, rather than EEC investigations.

EEC cannot determine whether children are at risk of abuse or neglect or ensure that reported incidents are addressed if it does not investigate all 51A Reports.

Authoritative Guidance

According to Section 3.04(5)(c) of Title 606 of the Code of Massachusetts Regulations (CMR),

The [program or] 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 [EEC] and may subject the program to further legal action by [EEC], Department of Children and Families and the District Attorney.

Section 9(c) of Chapter 15D of the General Laws states,

[EEC] shall promptly investigate and evaluate any notice transmitted to the department by the department of children and families. . . . 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. If, during the course of any such investigation or licensing study conducted by the department, any agent or employee of [EEC] receives or discovers information concerning the occurrence of child abuse or neglect, such agent or that employee shall make a report to the department of children and families under said section 51A of said chapter 119.

Reasons EEC Did Not Investigate 51A Reports

EEC told us that it relied upon the residential programs to conduct internal investigations. EEC stated that it determined that the residential programs took the necessary measures to address 51A Reports based on its review of these internal investigations.

Recommendation

EEC must perform its own investigations of all 51A Reports that it receives from the Department of Children and Families (DCF). Even if the residential program against which there was a report conducts an internal investigation, EEC must still perform an investigation of the residential program.

Auditee's Response

EEC recognizes the importance of its role in reviewing or initiating investigations of all reports of suspected abuse and neglect of children in its licensed programs.

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 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. See 606 CMR 3.04(5). 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 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 regulations. EEC does not have jurisdiction over and does not investigate individuals reported on in a 51A Report or 51B Report. For every 51A Report or 51B Report that falls within its jurisdiction, EEC creates a case, from which a course of action for investigation is determined.

In the two instances identified by the Auditor, EEC licensors reviewed the 51A Reports, the programs completed internal investigations, EEC reviewed those internal investigations, and EEC ensured that the programs took appropriate measures to alleviate the health and safety concerns at issue. EEC will conduct investigations of all 51A Reports under its jurisdiction for residential programs.

Auditor's Reply

According to 606 CMR 3.04(5)(c), a report of abuse or neglect "shall initiate an investigation by [EEC]." Additionally, Section 9(c) of Chapter 15D of the General Laws stipulates that EEC "shall promptly investigate and evaluate any notice transmitted to the department by the department of children and families." These regulations clearly mandate that EEC must conduct its own investigations upon receiving 51A Reports from DCF, regardless of any internal investigations conducted by the licensed programs.

It is concerning that EEC has failed to meet its legal obligations to conduct mandated investigations into allegations of abuse and neglect. EEC reports that it relies on programs' internal investigations. This not only violates statutory requirements but also may endanger vulnerable children by allowing potential issues to go unaddressed.

In its response, EEC states that its authority to investigate is limited to the domain of the licensed program and that it does not have jurisdiction over individuals reported in 51A or 51B Reports. We did not suggest that EEC had jurisdiction over the individuals reported in 51A or 51B Reports. We also did not suggest that

EEC investigate these individuals but rather that EEC perform an investigation of the allegations as the agency is required to do by law. While EEC may not investigate individuals outside its jurisdiction, it is nonetheless required to investigate the licensed programs to ensure they are operating in compliance with all applicable laws and regulations. This includes assessing whether the program's environment, policies, and practices adequately protect children from abuse and neglect.

EEC also mentions that it reviewed the internal investigations conducted by the residential programs and ensured that appropriate measures were taken. However, relying on a program's internal investigations does not satisfy EEC's regulatory obligation to conduct its own independent investigations. Internal investigations by the programs may lack objectivity and may not fully address systemic issues that could compromise child safety. EEC's independent investigations are crucial for providing an unbiased assessment and enforcing compliance with regulatory standards.

Furthermore, EEC's practice of not conducting its own investigations in these instances could lead to gaps in oversight and potentially allow for unsafe or harmful conditions to persist for children. The regulations are designed to ensure that an external, impartial authority evaluates allegations of abuse or neglect to protect the welfare of children in licensed programs.

3. The Department of Early Education and Care compromised high-risk investigations by not assigning its investigators to investigations of high-risk complaints.

During our audit, we found that EEC investigated all 94 high-risk complaints that we reviewed. However, EEC did not always assign EEC investigators to investigations of high-risk complaints and instead assigned EEC licensors to conduct some investigations of high-risk complaints. Specifically, 9 (10%) of the 94 investigations of high-risk complaints were conducted by an EEC licensor instead of an EEC investigator.

Examples of allegations of unlicensed care complaints from the 9 investigations of high-risk complaints mentioned above include the following:

- alleged unlicensed caregiver with a prior 51A Report submitted to DCF;
- alleged incident of children hanging out of a second-story window with no screen; and
- alleged neglect of an infant left in a car seat outside on a day with temperatures exceeding 90 degrees.

Assigning EEC licensors—instead of EEC investigators—to handle investigations of high-risk complaints compromises these investigations because EEC licensors may lack the specialized skills and training necessary to effectively address and resolve critical safety violations involving children.

Authoritative Guidance

EEC's Internal Policy Handbook for EEC Childcare Operations Staff, effective September 7, 2021, states,

All 'High Risk' . . . [complaints] will continue to be managed by the Investigations Unit. . . .

Assigning for Investigation: EEC Investigations Unit

Complaints/incidents investigated by investigators should be limited to . . . high-risk issues, including investigations that require coordination with local law enforcement or programs with numerous repeated non-compliances that impact the health and safety of children.

Complaints/Incidents escalated to the Investigations Unit are those that match the following evaluation criteria findings:

- 1. Within EEC's regulatory jurisdiction (i.e. in violation of EEC regulations); and*
- 2. High or serious risk to child safety; and/or*
- 3. Related to a screened in 51A report with high risk or serious concerns; and/or*
- 4. One of several repeat and founded non-compliances that are determined to pose enhanced risk to child safety.*

Reasons for EEC Investigators Not Conducting Investigations

In response to this finding, EEC told us that it had improperly coded five of the nine complaints as high-risk and claimed that these complaints were not actually high risk. We dispute this claim, however, as the three example complaints we mentioned above satisfy the definition of high-risk complaints according to EEC's Internal Policy Handbook for EEC Childcare Operations Staff. One of these three complaints was of a caregiver with a previous history of 51A Reports. The other two complaints involved children observed hanging out of an unscreened second-story window and an infant left unattended in a car seat outside on a day with temperatures exceeding 90 degrees. All three of these complaints include allegations that pose high or serious risk to the safety of the children. Therefore, we do not believe EEC is correct in claiming that five of the nine complaints were improperly coded as high risk. Additionally, EEC stated that it did not have a Portuguese-speaking investigator to investigate the remaining four cases, so EEC assigned a Portuguese-speaking licensor instead.

Recommendations

1. EEC should ensure that its investigators are assigned to investigations of high-risk complaints.
2. EEC should review the coding procedures with its employees to ensure that all investigations are coded correctly.
3. When EEC must use licensors or interpretation services for investigations of high-risk complaints, it should still assign EEC investigators to conduct these investigations.

Auditee's Response

EEC recognizes the importance of its role in high-risk investigations. As noted in the Internal Handbook for EEC Child Care Operations Staff, investigations are routinely conducted by both EEC Licensing staff and EEC Investigation staff. The Handbook states that "High Risk" cases are typically assigned to investigators in cases where the regulatory compliance issue is of a serious nature. Specific examples of cases that meet the definition of high risk and are typically investigated by investigators are as follows:

- *Death of a child.*
- *Allegation of abuse or neglect against a child.*
- *Screened in 51A.*
- *Staff verbally threaten a child and a 51A is screened in.*
- *Major injury to a child with regulatory concerns.*
- *Domestic, family, or third-party violence that is reported to have occurred during program operation hours and witnessed by child care children, as determined following consultation with the Investigations Supervisor.*

The nine (9) cases identified by the Auditor were investigated by EEC. Of those nine (9), five (5) cases were coded incorrectly as High Risk by an intake staff member, and should have been coded as regulatory, as defined in the Internal Policy Handbook. Accordingly, those five (5) cases were investigated by EEC licensors in accordance with EEC policy. The remaining four (4) cases marked as high risk did not meet the definition of a case that would be assigned to an investigator. Those cases were therefore also investigated by EEC licensors in accordance with EEC policy.

Three (3) of the cases involved persons previously licensed by EEC and [Family Child Care (FCC)] Licensing staff were assigned to investigate due to their knowledge and prior working relationship with the individuals.

Four (4) of the cases involved Portuguese speaking providers and were investigated by a team of two Licensing staff, one of whom was a bilingual licensor. From November 2021, through December 2022, EEC did not employ a Portuguese speaking investigator due to the prior Portuguese speaking

investigator leaving for another employment opportunity. EEC filled and has maintained this position since December 2022.

EEC is currently in the process of updating its Investigation handbook, which will include an unlicensed care policy.

Auditor's Reply

EEC asserts that five of the nine cases were incorrectly coded as high risk by an intake staff member and should have been classified as regulatory. EEC's claim that these high-risk cases were misclassified is, at best, inaccurate. The severity of each of these complaints satisfies the criteria for investigator involvement. Assigning licensors instead of trained investigators to such serious matters is a violation of EEC's own policies related to child endangerment. This disregard for proper procedure reflects a failure in EEC's duty of care.

The examples we provided—including an alleged unlicensed caregiver with a prior 51A Report submitted to DCF, children hanging out of an unscreened second-story window, and an infant left unattended in a car seat on a day with temperatures exceeding 90 degrees—clearly meet the criteria for high-risk complaints as defined in EEC's Internal Policy Handbook for EEC childcare operations employees. According to the handbook, high-risk cases include those that present a "high or serious risk to child safety" and those related to a "screened in 51A report with high risk or serious concerns." It is inaccurate to claim that these cases were incorrectly coded, as an infant left unattended in a car seat outdoors with temperatures exceeding 90 degrees, a child hanging out of an unscreened second-story window and the other cited issues each present a "high or serious risk to child safety." Therefore, these cases should have been assigned to EEC investigators, not licensors.

EEC also mentions that three of the cases involved individuals previously licensed by EEC and that Family Child Care (FCC) Licensing staff were assigned due to their knowledge and prior working relationships. Familiarity with the individuals involved does not supersede the requirement to assign high-risk cases to investigators. In fact, assigning an independent investigator could enhance the objectivity and integrity of the investigation, ensuring that any potential biases are minimized.

EEC states that the remaining four cases did not meet the definition of cases that would be assigned to an investigator and notes that they involved Portuguese-speaking providers. While we understand the challenges posed by language barriers, EEC's policies do not provide exceptions based on language when assigning high-risk cases. The appropriate course of action would have been to assign an investigator and

use interpretation services or bilingual support to ensure a thorough and compliant investigation. Assigning licensors instead of investigators to high-risk cases, regardless of language considerations, is a violation of with EEC's own policies, compromises child safety, and is inequitable to both the children in EEC's care and to the non-English speaking providers in the Commonwealth.

EEC's Internal Policy Handbook explicitly states that all high-risk complaints "will continue to be managed by the Investigations Unit." Deviating from this policy undermines the effectiveness of investigations into serious allegations that could impact the health and safety of children. Licensing staff may not possess the specialized training and expertise that investigators have in handling high-risk cases, which could result in less effective oversight and potentially leave serious issues unaddressed.

EEC stated it is in the process of updating its Investigation Handbook to include an unlicensed care policy. This does not address the immediate concern that, during the audit period, EEC did not fully comply with its existing policies. It is crucial for EEC to ensure that all high-risk cases are properly classified and assigned to investigators in accordance with its current guidelines so that children are protected to the fullest extent possible.

4. The Department of Early Education and Care did not conduct all required background record checks for all employees of its licensed residential programs.

EEC did not conduct background record checks for all employees of its licensed residential programs. Of the 2,852 employees from the 40 residential programs we sampled,¹⁸ we identified 243 exceptions across 39 of the 40 residential programs. Specifically, 19 (8%) of these 243 employees did not have any completed component of the background record checks; 89 (37%) of the 243 employees did not have a completed fingerprint check; and 1 (<1%) of the 243 employees did not have either a completed Criminal Offender Record Information check or a completed DCF check. We found that 50 (21%) of these 243 employees did not receive the required renewed background record check. EEC also did not ensure that 84 (35%) of the 243 employee fingerprint checks were completed within the required 120 days. In fact, the average number of days to complete the fingerprint checks was 343 (or 223 beyond the required 120 days).

18. We were unable to test the completeness and accuracy of this data because EEC did not provide us with payroll information, which was necessary for tracing and vouching. Instead, we used the list of employees and interns that we obtained directly from the programs, as that was the only source available for the purposes of our audit.

Background Record Check Exception Types for Licensed Residential Programs

Exception Type by Employee	Number of Exceptions*	Percentage**
No Background Record Check	19	8%
No Fingerprint Check	89	37%
No Criminal Offender Record Information or DCF Check	1	<1%
No Renewed Background Record Check	50	21%
FP Checks Completed > 120 days	84	35%
Total	<u>243</u>	<u>100%</u>

* This table examines the exceptions to our testing sample, not all exceptions that may exist in the entire population. Given the nature of sampling, we would expect the total number of exceptions to be higher than the number provided here.

** Discrepancy in total is due to rounding.

EEC cannot ensure the safety of children in its residential programs if it does not complete background record checks for all employees from those programs in a timely manner or at all.

Authoritative Guidance

According to 606 CMR 14.05(1),

The following candidates must complete an EEC [background record check] regardless of type:

(a) All candidates who are directly employed or intern within Programs must complete a full [background record check] through the Program, regardless of whether such individuals work in an unsupervised capacity.

Section 7(a)(i) of Chapter 15D of the General Laws states,

As part of the department's licensing and background record check process, the department, prior to issuing any license, shall: (1) obtain from the sex offender registry board all available sex offender registry information, including all registration forms and documents maintained by the sex offender registry board considered necessary by the department to investigate background record checks or licensing violations, associated with the address of the program, center, facility or home; and (2) conduct fingerprint-based checks of the state and national criminal history databases. . . . Additionally, the department shall obtain all available criminal offender record information through the department of criminal justice information services . . . and all supported findings and pending investigations of abuse or neglect available through the department of children and families.

EEC's Background Record Check Unit Policy Number: 19-009 states,

Conditional hiring is authorized after a candidate has completed all components of an EEC [background record check] with the exception of the fingerprint-based check of state and national

criminal databases. . . . Candidates in this status are urged to complete fingerprint-based checks as quickly as possible.

Candidates may only be in unsupervised conditional status for a maximum of 120 days from the date of the implementation of this status unless the Program receives a written extension of the status from EEC.

Reasons for Issues with Background Record Checks

EEC told us that it is each program's responsibility to track employee background record checks and renewals. While we understand that residential programs must report employees to EEC for background record checks and renewals to be conducted, it is ultimately the responsibility of EEC to ensure that the programs' employees have had the required background record checks.

Recommendations

1. EEC should actively monitor the process to ensure that it completes and renews background record checks for all residential program employees as required.
2. EEC should not rely solely on the residential programs to track and manage the renewal of background record checks for their employees but should instead implement its own oversight to ensure compliance.

Auditee's Response

EEC recognizes its role in ensuring background record checks have been completed for all employees of its licensed residential programs.

During the audit period, a [Criminal Offender Record Information (CORI), [Sex Offender Registry Information (SORI)], and DCF check was still required for any candidate working in a program even where a fingerprint-based check had not yet been completed. Additionally, due to the COVID-19 pandemic, the federal Department of Health & Human Services issued guidance on April 15, 2020, stating that child care institutions could conduct all available name-based criminal background checks and complete the fingerprint-based checks as soon as they could safely do so, in situations where only name-based checks were completed. EEC followed this guidance during the COVID-19 pandemic from April 15, 2020, until the state of emergency was lifted in June 2021. After June 2021, candidates who were fingerprinted outside of the 120-day timeframe were brought into compliance.

During the audit period, residential programs could only view fingerprint status, which was updated when suitability was determined. This suitability date is what the programs relied on to ascertain the date for renewal.

Additionally, during the audit period, residential programs were responsible for initiating the background record checks for their employees. After the CORI, SORI, and DCF checks were run, a fingerprint-based check was run. If an individual had no history on the fingerprint-based check,

the programs were responsible for approving certain checks and providing that decision to EEC for a suitability determination.

Currently, EEC is responsible for completing all background record checks and suitability determinations for employees in licensed residential programs. All residential program candidates must obtain a fingerprint-based check within 45 days of submission. Once the fingerprint-based check has been completed, CORI, SORI and DCF checks are initiated. EEC no longer allows conditional status for employees of residential programs. A full suitability determination must be issued by EEC prior to any residential candidate working in an EEC licensed residential program. Additionally, since August 2023, background record checks for residential candidates have been processed through the BRC Navigator system. This system now allows EEC licensors and BRC staff to monitor candidates in the renewal period. EEC is now using reports within the Navigator and LEAD systems to assist licensing staff to monitor timeframes for BRC renewals and EEC is continuing to enhance these systems to provide better notifications to candidates and programs regarding renewal statuses.

Auditor's Reply

EEC claims that during the audit period, Criminal Offender Record Information, Sex Offender Registry Information, and DCF checks were still required for a candidate even when a fingerprint check had not yet been completed. However, this does not appear to be the case as we identified candidates in our finding without one or more of these checks. These program employees have unsupervised access to the children in EEC's care, and as such, failure to conduct required background screenings creates unnecessary risk to child safety. It is likely that this is why these checks are required by law, regulation and policy, and this is why it is important for EEC to comply with them.

EEC attributes some of these deficiencies to the challenges posed by the COVID-19 pandemic and references federal guidance issued on April 15, 2020, which allowed for name-based criminal background checks in lieu of fingerprint-based checks during the pandemic. It is important to note that the cited federal guidance emphasized the importance of completing fingerprint-based checks "as soon as they could safely do so." We remind EEC that our finding indicates that the average number of days to complete the fingerprint checks was 343. We believe it is reasonable to expect that a fingerprint check could be scheduled and safely conducted within less time than the nearly one-year we identified. This does not appear to align with the federal guidance cited by EEC. Moreover, the state of emergency in Massachusetts ended on June 15, 2021, and the majority of the audit period occurred after this date. The federal guidance cited by EEC did not apply to the majority of the audit period. Additionally, all exceptions noted in our finding occurred after the end of the COVID-19 state of emergency. We found that many employees' background record checks remained incomplete or were not conducted in a timely manner

throughout the remainder of the audit period. Therefore, it appears to be inaccurate or misleading to cite COVID-19 as the cause of the finding.

EEC also states that, during the audit period, residential programs were responsible for initiating background record checks and that EEC's role was limited to conducting certain checks upon notification from the programs. While residential programs play a role in initiating checks, EEC acknowledges in its response that it is ultimately responsible for ensuring compliance with background record check requirements and determining a candidate's suitability. Reliance on programs to self-manage this process without sufficient oversight from EEC may result in noncompliance and pose potential risks to child safety.

EEC states it has since taken steps to improve its processes, such as eliminating conditional status for employees, requiring full suitability determinations before employment, and implementing new systems to monitor renewals. These are positive developments that, if effectively implemented and monitored, could address some of the deficiencies identified.

5. The Department of Early Education and Care did not conduct background record checks on Family Child Care program providers and their household members.

EEC did not conduct background record checks for FCC program licensees, their household members, or persons regularly on the premises. Specifically, 14 (23%) of the 60 FCC program licensees were noncompliant with the required background record checks. We projected these findings onto the entire FCC program licensee population of 5,799 using a 95% confidence level, suggesting the true proportions of noncompliance with background record check regulations. The breakdown of these exceptions and projections are as follows:

- Of the 14 exceptions, 6 (43%) had none of the required background record check components completed. The projected noncompliance equates to an estimated 220 individuals in the FCC program licensee population, or approximately 3.8%.
- Of the 14 exceptions, 5 (36%) did not have the required fingerprint background record checks (some of which had been run but were still pending). The projected noncompliance equates to an estimated 162 individuals in the FCC program licensee population, or approximately 2.8%.
- Of the 14 exceptions, 3 (21%) had not undergone the required background record check renewal every three years. The projected noncompliance equates to an estimated 62 individuals in the FCC program license population, or approximately 1.1%.

Individuals who no longer reside or work on a program's premises may still be listed as household members in LEAD in error, potentially leading to inaccurate background record check results. Without accurate background record checks for FCC program licensees, EEC cannot ensure the safety of the children in these programs.

Authoritative Guidance

According to 606 CMR 14.05(2),

Family Child Care Background Record Check (BRC) candidates include the following:

- (a) Current family child care [programs or] licensees and applicants for licensure;*
- (b) Household members . . . 15 years of age or older, regardless of whether such individuals are present while child care children are present; and persons regularly on the premises (including volunteers and other regular visitors) 15 years of age or older in family child care programs; and*
- (c) All current and prospective family child care assistants and volunteers, regardless of whether such individuals are present in an unsupervised capacity with children in the Program.*

The above candidates will be required to complete a [Criminal Offender Record Information], DCF, [sex offender registry information], [National Sex Offender Registry], fingerprint-based check and all out of state checks . . . according to the timelines defined by EEC policy.

Reasons for Issues with FCC Program Licensee Background Record Checks

EEC told us that it cannot update the information in LEAD on household members and individuals on premises of FCC programs unless those programs submit a signed affidavit confirming that the individual no longer resides or works at the program.

Recommendations

1. EEC should require FCC programs to submit signed affidavits to EEC immediately upon any change to the program's household members.
2. EEC must ensure that all relevant individuals related to FCC programs receive background record checks and renewed background record checks every three years.

Auditee's Response

EEC recognizes the importance of background record checks on FCC program providers and their household members.

During the audit period, due to the COVID-19 pandemic, FCC providers were closed from March 23, 2020, through June 29, 2020, when some, but not all, programs began to reopen and were brought into BRC compliance. Additionally, funded programs, which are closed in the summer, were brought into compliance after they reopened.

Currently, EEC requires that all relevant individuals related to FCC programs receive background record checks and renewed background record checks every three years. EEC will not issue a license to an FCC where the relevant individuals have not passed the background record checks. The LEAD system sends providers an email notifying them of any individual requiring a renewal in their program at 120, 90, 60, and 30 days before expiration. EEC further implemented a policy that cancels any BRC candidate who fails to submit a fingerprint within 45 days. This information is shared between the Navigator and LEAD systems so that a license will not be issued when there are employees with outstanding or expired background record checks. Finally, EEC requires FCC programs to submit signed affidavits upon any change to the program's household members, including when an individual without a completed background record check vacates the premises.

Specifically, in response to the 14 exceptions identified by the Auditor, those exceptions relate to 14 programs and 19 individuals within those programs. Of those 19 individuals:

- 1 provider was closed and not providing care during the audit period.*
- 2 household members had valid fingerprints for different roles that were not properly transferred in the system.*
- 1 household member had a valid fingerprint that was incorrectly attached to an older submission.*
- 1 household member was not 15 at the time of the renewal visit, and thus did not require a BRC.*
- 7 household members were listed as not active, were not listed as a household member or "regularly on premises" (ROP), and/or were not living with the provider during the audit period.*
- 1 household member had a valid fingerprint according to the suitability letter.*

Auditor's Reply

EEC states that, during the audit period, FCC providers were closed from March 23, 2020 through June 29, 2020, due to the COVID-19 pandemic and that some programs began to reopen thereafter. However, this closure period occurred before the audit period began. Therefore, the closures during that time do not explain the deficiencies during the audit period that we identified. The majority of the audit period occurred well after FCC programs had resumed operations, and EEC had ample opportunity to ensure compliance with background record check requirements. It is unclear why EEC would cite unrelated facts from before the audit period.

Regarding the specific exceptions identified, EEC provides explanations for the 19 individuals involved in the 14 exceptions, suggesting that many of these exceptions were due to inaccuracies or misclassifications. However, these explanations point to underlying issues (described below) in EEC's recordkeeping and oversight processes, which require improved management to both resolve and prevent in the future.

- **Provider Closure:** EEC notes that one provider was closed and did not provide care during the audit period. However, according to EEC's own records, this provider was listed as active during the audit period when we collected the evidence in 2024. If the provider was indeed closed in 2021 or 2022, it is imperative that EEC's records accurately reflect this status to prevent potential risks. Inaccurate records hinder EEC's ability to monitor compliance effectively.
- **Fingerprint Errors:** For the two household members whose valid fingerprints were not properly transferred in the system, and the one household member whose valid fingerprint was incorrectly attached to an older submission, these issues highlight deficiencies in EEC's recordkeeping. Accurate and up-to-date records are essential for ensuring compliance with background record check requirements and for keeping children safe.
- **Age Misclassification:** EEC states that one household member was under 15 years old at the time of the renewal visit and did not require a background record check. However, the data within LEAD indicates that household member was in fact 15 years of age and did not have a background record check during the audit period. Our audit work relied upon the accuracy of the EEC records contained within the LEAD system. It is possible that, if EEC's records contain additional inaccurate data, the true number of exceptions is understated. EEC's self-reported inability to maintain accurate records and effectively oversee background record checks is a serious concern, as relying on outdated or incorrect information could compromise the safety of children in FCC programs.
- **Inactive or Non-Resident Household Members:** The seven household members who EEC claims were listed as not active, were not listed as household members or "regularly on premises," or were not living with the provider during the audit period suggests inconsistencies in EEC's records. If these individuals were no longer residing within the homes of the FCC programs, EEC should have received and processed signed affidavits to update its records accordingly. These inconsistencies in EEC's records not only hinder its ability to monitor compliance effectively but also limit our capacity to assess the full scope of noncompliance. The purpose of conducting background record checks on household members in the FCC program homes is to ensure that none of these individuals pose a threat to the safety of children in FCC programs. Inaccurate records could potentially allow dangerous individuals near these vulnerable children.
- **Discrepancy in Suitability Letter:** The household member who EEC claims had a valid fingerprint according to the suitability letter but was not reflected accurately in EEC's system indicates a disconnect between documentation and data records. This discrepancy underscores the need for EEC to ensure consistency across all records and to verify that suitability determinations are accurately recorded in its systems.

We note that EEC only attempted to explain 13 of the 19 individuals identified in the 14 exceptions. They have not provided any explanation for the remaining 6 individuals.

While EEC attributes many of these exceptions to administrative or recordkeeping errors, the fact remains that during the audit period, EEC did not ensure that all required background record checks were completed. Accurate recordkeeping and effective oversight are critical components of EEC's responsibility to protect the safety and well-being of children in FCC programs.

Moreover, EEC notes that it requires FCC programs to submit signed affidavits upon any change to the program's household members. However, relying solely on FCC programs to self-report changes without robust oversight increases the risk of incomplete or outdated information, which can lead to noncompliance with background record check requirements.

6. The Department of Early Education and Care did not update its language access plan every two years.

EEC did not update its language access plan every two years. It was last updated in 2013.

Failure to regularly update the language access plan limits EEC's ability to effectively communicate with, and serve, non-English speaking populations. This noncompliance could hinder access to vital educational services for those who rely on language assistance.

Authoritative Guidance

Section IV(a) of the Office of Access and Opportunity's Language Access Policy and Implementation Guidelines, effective March 20, 2015, states, "After development and implementation of revised language access plans pursuant to these Guidelines, each Agency shall update its language access plan every two (2) years."

Reasons for Not Updating Language Access Plan

EEC told us that former administrators had previously prioritized other initiatives and did not have a plan to update the language access plan during the audit period.

Recommendation

EEC should update its language access plan as soon as possible and every two years thereafter.

Auditee's Response

EEC is committed to ensuring all families and providers have equitable and meaningful access to the programs, services, activities, and materials overseen and provided by the agency. Commissioner Kershaw was named Acting Commissioner in March 2022 and EEC began the work to update its Language Access Plan in June 2022. In September 2023, Governor Healey signed an Executive Order 615 requiring state agencies to develop or update their Language Access Plans. EEC finalized its updated Language Access Plan in February 2024.

Auditor's Reply

Regularly updating the Language Access Plan is crucial for effectively communicating with and serving non-English-speaking populations. Failure to update this plan over the last decade is a failure of EEC's oversight responsibility and hinders access to vital educational services for those who rely on language assistance and may limit EEC's ability to meet the evolving needs of the diverse communities it serves.

We are pleased that EEC has taken steps to address this issue by finalizing its updated Language Access Plan. Moving forward, we encourage EEC to adhere to the requirement of updating its Language Access Plan every two years. This will help ensure ongoing compliance and enhance EEC's ability to provide equitable access to all constituents.

7. The Department of Early Education and Care did not ensure that its programs provided staff members with trainings to recognize signs of and prevent abduction, sexual exploitation, or human trafficking.

EEC did not require its programs to provide staff members with trainings that aim to prevent or screen for child abduction, sexual exploitation, or trafficking. We found that 30 (75%) of the 40 sampled residential programs' Runaway Policies did not have a procedure in place for staff members to screen runaway children for signs of sexual exploitation or human trafficking. (See the "[Trainings to Recognize Trafficking](#)" section of this report.)

If EEC does not ensure that its programs have comprehensive Runaway Policies in place, then there is a higher-than-acceptable risk that instances of sexual exploitation or human trafficking may go undetected for children in EEC's care.

Authoritative Guidance

The Massachusetts Interagency Human Trafficking Policy Task Force published a report in 2013 highlighting that training for educators on identification and screening of missing or runaway children is a

key component to the prevention and detection of sexual exploitation or human trafficking. The report recommends that entities involved in child welfare, such as residential programs licensed by EEC, implement comprehensive policies and training programs aimed at preventing and identifying signs of sexual exploitation and human trafficking among children. We believe these recommendations serve as best practices for the expected level of vigilance and proactive measures in child welfare institutions to ensure the safety and security of vulnerable children.

Reasons for Lack of Training

EEC did not give a reason that its current training for programs does not cover this area. Additionally, EEC did not have any policy requiring programs to screen children who are found or return to residential programs.

Recommendations

1. EEC should require residential programs to include trainings for staff members to recognize the signs of, and screen to prevent, sexual exploitation or human trafficking of children in their care.
2. EEC should monitor residential program staff members to ensure that they are completing the recommended trainings.

Auditee's Response

EEC recognizes the importance of addressing the issues of abduction, sexual exploitation, and human trafficking. Under EEC's licensing regulations, all programs are required to submit runaway procedures. See 606 CMR 3.03(1)(a)(3) and 606 CMR 3.07(10). The current licensing regulations regarding runaway procedures do not require screening. See id. Additionally, all programs have runaway plans within LEAD and specific language regarding missing and exploited children may be in a program's contractual language. EEC is also currently in the process of revising its residential program regulations, including proposed regulatory changes and updates in this area.

Auditor's Reply

By not requiring residential programs to include this specific training for their staff members, EEC may be missing critical opportunities to protect children who are at risk. EEC cites licensing regulations 606 CMR 3.03(1)(a)(3) and 606 CMR 3.07(10) that require programs to submit runaway procedures; however, as EEC itself notes, these regulations do not mandate staff training on screening for signs of sexual exploitation or human trafficking. The absence of these training requirements means that employees may not be equipped to identify or respond appropriately to these critical issues when children return after

running away. Therefore, despite the cited regulations, EEC should include screening procedures in its runaway policies to protect vulnerable children in residential programs.

EEC stated it is in the process of revising its residential program regulations, including proposed changes and updates in this area. We strongly recommend that these revisions incorporate requirements for residential programs to provide its employees with training to recognize the signs of, and screen to prevent, sexual exploitation or human trafficking of children.

8. The Department of Early Education and Care did not implement any of the inclusivity recommendations from the Massachusetts Commission on LGBTQ Youth.

EEC did not implement any of the fiscal years 2021 and 2022 inclusivity recommendations from the Massachusetts Commission on LGBTQ Youth. These five recommendations aimed to enhance support and promote inclusivity by fostering safe spaces, affirming identities, and providing tailored resources for LGBTQ youth and their families. As previously mentioned, some of the recommendations made in the fiscal year 2021 and 2022 reports have been in the annual reports since fiscal year 2018.

The incomplete implementation of these recommendations limits the effectiveness of EEC's efforts to ensure a fully inclusive and supportive environment for LGBTQ youth and families in its programs.

Authoritative Guidance

According to the Department of Early Education and Care section of the Massachusetts Commission on LGBTQ Youth's *[Fiscal Year 2021] Report and Recommendations*, EEC should do the following:

- 1. Develop an online training module on best practices for serving LGBTQ youth and families, developed on Articulate 360 for incorporation into [EEC's] new Learning Management System and tied to [EEC's] Core Knowledge and Competencies for early educators.*
- 2. Clarify that [programs or] providers can and should house transgender youth based on their gender identity.*
- 3. Share information about LGBTQ-affirming residential placements with the Department of Children and Families (DCF).*
- 4. Continue to collaborate with the Department of Elementary and Secondary Education (DESE) and other state agencies on the Statewide Family Engagement Framework (prenatal through post-secondary) to ensure that LGBTQ content and family diversity are well-represented.*

5. *Include a nonbinary gender marker option during development of the new Professional Qualifications Registry database.*

Reasons for Not Implementing Recommendations

EEC told us that former administrators had previously prioritized other initiatives and did not have a plan to place to implement the recommendations from the Massachusetts Commission on LGBTQ Youth during the audit period.

Recommendation

EEC should implement the inclusivity recommendations from the Massachusetts Commission on LGBTQ Youth.

Auditee's Response

EEC's current administration is committed to inclusion related to LGBTQ Youth. EEC hired its first Director of Diversity, Equity, and Inclusion in FY2024. Additionally, over the past two years, EEC has made and continues to make progress on these goals. EEC is working closely with the LGBTQ Youth Commission and with Safe Schools to offer training in support of LGBTQ+ children and youth to EEC staff in FY2025. Resources are allocated for an FY2025 rollout of an online training module on best practices for supporting LGBTQ+ children, youth, and families in the StrongStart LMS. EEC is adapting Safe Schools content for this purpose. EEC also continues to work closely with partners at the Department of Elementary and Secondary Education (DESE) around adoption of the Statewide Family Engagement Framework in addition to development of the online training model. For example, Coordinated Family and Community Engagement (CFCE) grantees have been trained on use of the Framework, and the newly formed Family Access and Engagement Division has made the Framework a cornerstone of new child care financial assistance policy, which rolled out in FY2025. As EEC improves its public-facing online applications, a nonbinary gender marker option has been added to all online software applications. EEC relies on DCF to ensure that all residential placements are LGBTQ-affirming. However, EEC's residential and placement team is also in the process of drafting updated regulations, which will include language about housing transgender/nonbinary youth based on their gender identity.

Auditor's Reply

While we are encouraged by EEC's proposed initiatives planned for fiscal years 2024 and 2025, the lack of implementation during the audit period limited EEC's effectiveness in ensuring a fully inclusive and supportive environment for LGBTQ youth and families in its programs. The Massachusetts Commission on LGBTQ Youth's recommendations are critical for fostering safe and affirming spaces.

In its response, EEC stated it relies on DCF "to ensure that all residential placements are LGBTQ-affirming." However, as the licensing authority, EEC ultimately bears the responsibility for ensuring that all programs

under its purview actively support and affirm LGBTQ youth. The ongoing drafting of updated regulations including language about housing transgender and nonbinary youth based on their gender identity could be a positive development, but timely implementation is essential as some of the Massachusetts Commission on LGBTQ Youth's recommendations have not been addressed since fiscal year 2018.

9. The Department of Early Education and Care did not ensure that noncompliant funded programs submitted corrective action plans for trainings in a timely manner.

EEC did not ensure that funded programs submitted corrective action plans within 14 days of EEC identifying noncompliance with EEC Essentials training. (See the "[EEC Essentials Training for Funded Programs](#)" section of this report for more information.) Specifically, 26 (52%) of the 50 programs did not address their noncompliance in a timely manner. Untimely corrective action plan submissions ranged from 2 days to 121 days beyond the 14-day requirement, with an average of 54 days. We identified the following issues with these 26 programs:

- Twenty-two (85%) of the programs did not address EEC Essentials training noncompliance in a timely manner;
- Two (8%) of the programs did not address EEC Essentials training noncompliance in a timely manner for only one of the two years identified as noncompliant; and
- Two (8%) of the programs did not address EEC Essentials training noncompliance in a timely manner for both years identified as noncompliant.¹⁹

Additionally, EEC accepted corrective action plans from funded programs without requiring evidence that EEC Essentials training was completed.

The absence of EEC enforcement in requiring corrective action plans in a timely manner, and EEC's acceptance of corrected plans without evidence that the training had actually been completed, may compromise the effectiveness of EEC Essentials training. This may lead to ongoing noncompliance, potentially endangering children in EEC care.

19. The percentages in the breakdown do not add to exactly 100% due to rounding.

Authoritative Guidance

The EEC Essentials Training Requirements and Applicability Policy, effective October 1, 2019, states,

Individuals working with children in Funded Programs are required to be trained in . . . EEC Essentials topics. . . .

Failure to complete all required EEC Essentials trainings in accordance with this policy may result in . . . [the program being] required to complete and submit to [EEC] a corrective action plan within 14 days documenting the program's plan to come into compliance with the EEC Essentials training requirements.

We believe it is a best practice to require evidence, such as verifiable and credible sources, when a funded program submits a corrective action plan and to ensure that the information provided is accurate, reliable, and traceable to its origin.

Reasons for Noncompliance

EEC told us that the delays in submitting corrective action plans were primarily because of programs reopening after the COVID-19 lockdown, which required time for schools to onboard staff members and complete initial planning. Additionally, EEC told us that for funded programs closed during the summer break, programs did not provide responses to the corrective action plan until they reopened at the beginning of the school year.

Recommendations

1. EEC should develop policies for funded programs to follow during and after a state of emergency.
2. Because individuals working in funded programs can complete the training online, EEC should ensure that programs follow the 14-day requirements during a state of emergency and under normal conditions.

Auditee's Response

EEC recognizes the importance of corrective action plans for noncompliant funded programs.

During the COVID-19 pandemic, EEC granted funded programs extensions on a case-by-case basis to respond to corrective action plans due to the complexities of operating funded programs within school settings during the public health emergency.

Due to the COVID-19 pandemic, the Governor issued an Emergency Order closing all schools in Massachusetts on March 24, 2020. Schools returned to in-person learning between April and June 2021. Delays in responding to corrective action plans were predominately due to the reopening of programs, where EEC provided schools time to onboard staff and implement processes to prepare

schools for reopening. Fifteen (15) visits occurred during March, April and May 2021. Ten (10) visits occurred in June 2021 and two (2) visits occurred in July 2021.

After the 14-day period lapsed, EEC, through LEAD, continued to send reminder emails to notify the funded programs that their responses were late. Funded programs are closed for the summer months. Typically, programs provide a response to the corrective action plan when the program reopens at the beginning of the school year. No corrective action plans are missing, and all trainings were completed.

Additionally, during the audit period, funded programs had monitors to ensure compliance with corrective action plans. In March 2024, EEC licensing staff was trained on working with funded programs and EEC now manages this task.

Auditor's Reply

EEC states the COVID-19 pandemic and the associated school closures presented significant challenges for both EEC and the programs it oversees. However, the audit period spanned from January 1, 2021, through December 31, 2022. While schools began returning to in-person learning between April and June 2021, the delay in submitting corrective action plans persisted well beyond this period. This indicates that, despite the initial reopening phase, substantial delays continued throughout the audit period.

EEC's response references specific visits and dates during which these visits occurred. However, our finding focused on the timeliness of corrective action plan submissions and the lack of required evidence of training completion, not on the timing or frequency of site visits. Further, a corrective action plan is only required after EEC conducts a site visit and identifies a program's noncompliance with EEC Essentials training. Thus, EEC was able to conduct site visits for the exceptions we identified, and these site visits are not in dispute. While citing these visits may provide context, EEC does not address the core issues identified in our exceptions.

EEC further states that after the 14-day period lapsed, it continued to send reminder emails to notify funded programs that their responses were late. The effectiveness of these reminders is questionable given the extent and frequency of the delays we observed.

Finally, our finding also highlights that EEC accepted corrective action plans without requiring evidence that the EEC Essentials training was completed. We believe it is a best practice to require verifiable evidence—such as completion certificates or training logs—when a funded program submits a corrective action plan. Accepting plans without such evidence compromises the effectiveness of the training program and could potentially endanger children in EEC care due to unaddressed noncompliance.

OTHER MATTERS

The Department of Early Education and Care did not always complete its 51A Report investigations by their due dates.

Of the 60 51A Report investigations that we examined as part of our sample, 27 (45%) were completed after the established due dates. The 51A Report investigations were completed 1 day to 585 days beyond the established due dates, with an average of 131 days late.

The Department of Early Education and Care's (EEC's) staff members establish investigation due dates within the Licensing Education Analytical Database when they are assigned to investigations.

EEC does not have a policy for investigation timelines. EEC explained that over the course of an investigation, it collaborates with the Department of Children and Families, law enforcement agencies, and other parties, which can result in investigations taking longer than EEC's self-imposed 30-day timeframe.

Delays in investigating 51A Reports could potentially place children at risk of abuse and neglect.

EEC should develop and implement a policy with a timeline for investigations and communicate that timeline to all stakeholders involved. EEC should ensure that reported issues are addressed quickly, by or before established due dates, to avoid exposing additional children in EEC's care to abuse or neglect if the cause is not resolved in a timely manner.

APPENDIX A

Tasks Performed During a Licensing Visit

The tasks listed below are examples of items that may be reviewed when EEC conducts a licensing visit, from a report we generated from the Licensing Education Analytical Database. Depending on the nature and purpose of the visit, not all of these items will be reviewed during any single visit.

Visit Items	Description
Accurate medication log	Review medication log
Adequate staffing	Observation of daily activities
[Administrator]/staff in charge of shift	Interviews with staff, [surroundings] observation
Administrator or designee on shift	Observation of daily activities
Appropriate supervision	Observation of daily activities
Bathing and toilet spaces	Facility inspection
Behavior management	Interviews with residents, [surroundings] observation
Behavior support, de-escalation techniques/physical intervention techniques	Observation of daily activities
[Background record check] licensee and reviewer	Check on licensee and reviewer [background record check] application and approval.
Building and grounds	Facility inspection
Case management	Interviews with residents, interviews with clinical staff
Cleaning / physical plant [COVID-19] related	—Written procedure of cleaning, sanitizing, and disinfecting —Separate space for sick and symptomatic residents
Cleaning/maintenance/physical plant	—Evidence of cleaning, maintenance —Good repair, homelike —Emergency procedures near phone —Emergency evacuation drills completed —Kitchen/dining/food
Communication log	Review of communication log
CPR/first aid—certified staff	Training/certification review
Current building, fire, and health certificates	Document review
Daily routine and structure activities	Observation of daily activities
Discharge	Review of resident discharge record
Discretionary [background record check]	Review personnel files
Evacuation drills	Review fire drill log

Visit Items	Description
Evacuation routes posted	Facility inspection
Grooming and hygiene	Observation of daily activities, brief conversations with residents
Handbook	Interviews with residents, review of handbook
Health and safety 1	—Universal precautions and infection control —Plan for meeting emergency needs
Health and safety 2	—Behavior management and support and role of childcare —Interactions with residents
Health and safety [COVID-19] related	—Staff have access to [COVID-19] related health and safety policies and supplies: masks, cleaning materials, physical distancing, visits, group sizes, screening, etc. —Visit policy updated
Incident reports	Resident record review
Indoors clean, safe, good repair, appropriately furnished	Facility inspection
Kitchen and dining	Facility inspection
Living units	Facility inspection
Med storage	Facility inspection
Medical and dental	Resident record review
Medication	—Policy/procedure —Accurate log
Medication	Interviews with residents, [resident] record review, [medical demonstration], interviews with staff, interviews with nursing
Medication administration	Observation of daily activities
Medications and hazards secured	Facility inspection
Notification and reporting	—Internal investigation submissions —Required notification occurring as needed
Notification and Reporting—[COVID-19] related	—Weekly census reporting —[COVID-19] cases and exposures, close contacts
Nutrition	Facility inspection
Ongoing training	Staff interviews, review of personnel records
Organizational chart	Request current [organizational] chart
Orientation	Staff interviews, review of personnel records
Outdoor area clean and free of hazards	Facility inspection
Personnel records	Review of personnel records
Placement agreement	Resident record review
Placement register	Review of placement register (shelter only)

Visit Items	Description
Positive interactions with residents	Observation of daily activities
[Preparation] for new resident	Interviews with residents, interviews with staff
Preplacement visit	Interviews with residents
Programming	Interviews with residents, milieu observation
Quarterly restraint reporting	System/file review
Recreational services	Interviews with staff, interviews with residents, milieu observation
Required inspections	Document review
Resident discharge summary	Review of resident discharge summary
Resident handbook	Brief conversations with residents
Resident records	Resident record review
Residents aware of rules	Resident interviews
Residents aware of rules and evacuations procedures	Observation of daily activities
Restraint	Interviews with resident, restraint [demonstration]
Restraint curriculum	System/file review
Restraint incident reports	Resident record review
Review of incident reports	Review of incident reports
Role of childcare staff	Interviews with resident, milieu observation
Separation	Observation of daily activities
Service planning	Interview with residents, resident record review, clinician interviews
Staff aware of individual resident plans	Observation of daily activities
Staff orientation	Training/certification review
Staff supervision	Brief conversations with staff
Staff training	Training/certification review
Staffing and supervision	<ul style="list-style-type: none"> —Orientation/training provided —Protection from abuse and neglect —Written description of staffing —CPR/[first aid] available at all times —Plan for on-call
Staffing schedule	Review four weeks of staffing schedules
Submitted documents	Review of submitted documents
Submitted policies	System/file review
Substantial program changes	Entrance/[administrator] interview

Visit Items	Description
Supervision	Staff interviews
Transportation vehicles	Vehicle inspection
Visits, mail, [telephone]	Observation of daily activities, brief conversations with residents

APPENDIX B

The Department of Early Education and Care's Process for Unlicensed Care

According to the Unlicensed Care section of the Department of Early Education's Field Operations and Investigations Units 2018–2019 policy,

Complaints of unlicensed care are prioritized and addressed in the following ways.

If the caregiver once had a license, a licenser will visit the home. If unlicensed care is occurring, the licenser will write a report citing only unlicensed care. The cover letter to the report should note any special dangers to children in care. The Family Child Care Supervisor will draft a Cease and Desist Order regarding the unlicensed care that will be reviewed by the Regional Director and forwarded to the Deputy Commissioner for Field Operations for review and approval. Once approved, the Regional Director will issue the Cease and Desist Order. After the Regional Director issues the Cease and Desist Order, the licenser will conduct a follow-up visit to confirm that the caregiver has stopped caring.

If the caregiver never had a license and the complaint identifies dangerous conditions in the home, the licenser will plan an immediate visit. If the licenser finds that there is a danger to the health, safety or well-being of children in care, the licenser will write a report and the Supervisor will draft a Cease and Desist order. If the circumstances warrant an investigation, an investigator may be assigned by the Associate Commissioner for Field Investigations.

If the caregiver never had a license and the complaint does not identify dangerous conditions in the home, the licenser will send the caregiver a letter and an application that is stamped "Unlicensed Care". The letter instructs the caregiver to call the licenser or Supervisor immediately upon receipt of the letter. If the caregiver calls within five (5) days of the letter's issuance, the licenser will determine whether the care is licensable. If the caregiver appears to be exempt, the licenser will send an exemption request form. If the caregiver agrees to stop providing care, the licenser will make a follow-up visit to confirm that care is no longer being provided. If the caregiver does not stop, the Supervisor will draft a Cease and Desist Order regarding the unlicensed care. If the care is licensable, the licenser will plan a visit to the home.

If the caregiver does not call within 5 days of the letter's issuance, the licenser will plan to visit the home in consultation with the Supervisor. At the home visit, the licenser will determine whether care is occurring and whether it is licensable. If the care is within an acceptable range, the licenser will ask the caregiver whether she will stop or apply for a license. If the caregiver agrees to stop providing care, the licenser will make a follow-up visit to confirm that care is no longer being provided. If the caregiver does not stop, the licenser will inform the Supervisor who will draft a Cease and Desist Order and follow the procedure as outlined above. If care is within an acceptable range and the caregiver will apply for a license, the licenser will advise the caregiver that:

- *s/he may not enroll any new children until she is licensed;*

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- *s/he must complete and submit the application to [the Department of Early Education and Care (EEC)] within 5 days;*
 - *s/he must submit Consent for Background Record Check forms for all household members and those regularly on the premises; references; a check payable to the Commonwealth; and proof that she has scheduled dates for CPR and First Aid training, attended an orientation training, and has completed a medical exam.*

The Consent for Background Record Check [(BRC)] will be sent to the EEC BRC unit for immediate processing. The licensor will write a follow-up letter to the caregiver explaining that if the completed application form and all required information is not received by EEC within 5 business days of the home visit, EEC will issue a Cease and Desist order.

If the caregiver submits a complete and timely application packet, it will be reviewed with the regular applicant pool.