

Inspections Report

Processes for Hiring and Training Direct Support Professionals

Austin State Supported Living Center



**Inspector
General**

Texas Health
and Human Services

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TABLE OF CONTENTS

| | |
|--|-----------|
| INTRODUCTION | 1 |
| INSPECTION RESULTS..... | 4 |
| <i>Observation 1: HHSC-HR Did Not Always Comply With Due Diligence Check Requirements</i> | <i>5</i> |
| Opportunities for Improvement..... | 5 |
| <i>Observation 2: Austin SSLC Did Not Always Document Compliance With Training Requirements.....</i> | <i>6</i> |
| Opportunities for Improvement..... | 7 |
| CONCLUSION..... | 9 |
| APPENDICES | 10 |
| A: <i>Detailed Methodology</i> | <i>10</i> |
| B: <i>Acronyms</i> | <i>11</i> |
| C: <i>Report Team and Report Distribution</i> | <i>12</i> |
| D: <i>OIG Mission, Leadership, and Contact Information</i> | <i>14</i> |

INTRODUCTION

Purpose and Objectives

The Texas Health and Human Services (HHS) Office of Inspector General Audit and Inspections Division (OIG Inspections) conducted an inspection to review the processes used by Austin State Supported Living Center (SSLC) for hiring and training employees.

The objectives of the inspection were to determine whether Austin SSLC with the support of Texas Health and Human Services Commission Human Resources (HHSC-HR):

- Hired direct support professionals consistent with Texas Administrative Code requirements for criminal history checks and registry clearance.
- Trained direct support professionals consistent with Texas Administrative Code requirements for new employees and direct support professionals.

Background

SSLCs provide around-the-clock, campus-based services to nearly 3,000 residents with intellectual and developmental disabilities in 13 facilities across Texas. SSLCs are administered by the Texas Health and Human Services Commission (HHSC). In fiscal year 2018, SSLCs had an annual budget of \$682 million¹ and employed more than 12,000 professionals. Employees at SSLCs must submit to due diligence checks and complete comprehensive training before serving residents unsupervised.^{2,3}

SSLCs provide a full array of services to residents, including housing, meals, behavioral health treatment, medical services, personal care, and life skills training. Health care professionals, such as physicians, registered nurses, and direct support professionals, provide services to SSLC residents. Direct support professionals assist in the daily care of residents by providing personal care services and support such as grooming, feeding, training, and reporting on the condition of residents. Due to the personal nature of these services and the vulnerability of the resident population, it is essential that SSLCs conduct all due diligence checks and training required by Texas Administrative Code.

¹ General Appropriations Act for the 2018–19 Biennium, Eighty-fifth Texas Legislature Regular Session, Texas Legislative Budget Board (2017).

² 40 Tex. Admin. Code § 3.401 (Apr. 10, 2012).

³ 40 Tex. Admin. Code § 3.402 (Apr. 10, 2012).

Due Diligence Checks for Direct Support Professionals

Texas Administrative Code requires that SSLCs complete due diligence checks, which include criminal background checks and registry clearance of an applicant prior to the applicant's first day of employment.⁴ Each SSLC must (a) obtain a criminal history check from the Texas Department of Public Safety, (b) obtain a criminal history check through the Federal Bureau of Investigation (FBI) using a complete set of fingerprints, and (c) conduct searches of the Nurse Aide Registry, the Employee Misconduct Registry, and the Client Abuse and Neglect Reporting System.

As outlined in Table 1, HHSC Human Resources (HHSC-HR) and NorthGateArinso, an entity contracted with HHSC to perform human resource services, complete five due diligence checks tested as part of this inspection.

Table 1: Due Diligence Checks Required Prior to First Day of Employment

| Type of Due Diligence Check | Description |
|--|---|
| Texas Department of Public Safety criminal history check | A statewide criminal history check based on an individual's name and date of birth |
| FBI fingerprint criminal history check | A nationwide criminal history search based on an individual's fingerprints |
| Nurse Aide Registry | A search of all nurse aides certified to provide services in nursing facilities and skilled nursing facilities licensed by HHSC |
| Employee Misconduct Registry | A search of unlicensed personnel who committed substantiated acts of abuse, neglect, exploitation, misappropriation, or misconduct against residents or consumers in HHSC-regulated facilities and agencies |
| Client Abuse and Neglect Reporting System | A search of confirmed instances of client abuse, neglect, or exploitation by caregivers |

Source: *OIG Audit and Inspections Division*

A facility may not employ an applicant who has been convicted of or received deferred adjudication for any of the criminal offenses specified by Texas Administrative Code.^{5,6} The listed offenses include but are not limited to homicide; robbery; aggravated assault; and injury to a child, elderly individual, or disabled individual. To prevent applicants barred from employment from being hired, HHSC-HR job requisition coordinators (JRCs) query the Client Abuse and Neglect Reporting System to ensure applicants are eligible for employment. This system provides a record of any person working at a care facility, such as a nursing facility, who has a confirmed instance of client abuse, neglect, or exploitation.

⁴ 40 Tex. Admin. Code § 3.201(a)(1) – (3) and (b)(4) – (5) (Oct. 6, 2011).

⁵ 40 Tex. Admin. Code § 3.201(b)(1) – (2) (Oct. 6, 2011).

⁶ 4 Tex. Health & Safety Code § 250.006(a) – (b) (Jan. 1, 2017).

Training for Direct Support Professionals

After being cleared through all due diligence check requirements, prospective direct support professionals are eligible for employment. Hired direct support professionals must receive training in accordance with Texas Administrative Code, which requires each direct support professional receive basic orientation and training in specific topics including abuse, neglect, exploitation, safety, security awareness, and workplace violence.^{7,8} According to the director for SSLC competency and training development, training consists of 14 days of classroom instruction covering the required topics, 40 hours of facility orientation, and 90 days of on-the-job training. This training must be completed before employees perform employment duties without direct supervision.

Methodology

To accomplish its objectives, OIG Inspections collected information for this inspection through (a) discussions and interviews with responsible staff at Austin SSLC, (b) observation of Austin SSLC campus operations, and (c) request and review of the following information:

- Relevant policies and procedures
- Documentation of completed due diligence checks and training requirements in the human resource files for the 30 direct support professionals selected for testing

The inspection focused on reviewing due diligence checks and analyzing training documentation to determine whether direct support professionals hired during calendar year 2018 at Austin SSLC received all required due diligence checks and training consistent with Texas Administrative Code requirements.

OIG Inspections presented preliminary inspections results, observations, and opportunities for improvement to HHSC- HR and the Texas SSLC state office in a draft report dated October 20, 2020. HHSC-HR and the Texas SSLC state office provided management responses to the opportunities for improvement, generally indicating that improvements to controls and processes designed to prevent future noncompliance with Texas Administrative Code requirements had been implemented or will be implemented. Management responses are included in the report following each opportunity for improvement.

⁷ 40 Tex. Admin. Code § 3.401 (Apr. 10, 2012).

⁸ 40 Tex. Admin. Code § 3.402 (Apr. 10, 2012).

INSPECTION RESULTS

HHSC-HR implemented processes to conduct due diligence checks required by Texas Administrative Code. Due diligence check results are documented as either (a) pass or fail or (b) eligible or ineligible, depending on the due diligence check.

After being cleared through all due diligence check requirements, prospective direct support professionals are eligible for employment. Hired direct support professionals must receive training in accordance with Texas Administrative Code, which requires each direct support professional receive basic orientation and training in specific topics including abuse, neglect, exploitation, safety, security awareness, and workplace violence.^{9,10} Training consists of 14 days of classroom instruction covering the required topics, 40 hours of facility orientation, and 90 days of on-the-job training. This training must be completed before employees perform employment duties without direct supervision.

HHSC-HR implemented processes to conduct due diligence checks required by Texas Administrative Code but did not always retain documentation or follow proper procedure to demonstrate compliance. Two applicants were employed as direct support professionals, but the FBI fingerprint criminal history check results did not support employment eligibility. Additionally, Austin SSLC documented its processes to conduct training required by Texas Administrative Code but did not always retain training transcripts to support the successful completion of all training by two direct support professionals.

As prescribed by its policy, HHSC-HR does not retain due diligence check source documentation. Instead, HHSC-HR's process is to document its review in VURV, which is a system that seamlessly integrates with the Centralized Accounting and Payroll/Personnel System (CAPPS), as (a) pass or fail or (b) eligible or ineligible. HHSC-HR did not always record its determination in this system.

Due diligence checks and training requirements are necessary to protect and properly care for SSLC residents. Due diligence checks help identify serious incidents related to crimes and past mistreatment of residents, and training helps prevent future mistreatment of residents. Direct support professionals require special knowledge, training, and skills to interact with and provide care for SSLC residents.

⁹ 40 Tex. Admin. Code § 3.401 (Apr. 10, 2012).

¹⁰ 40 Tex. Admin. Code § 3.402 (Apr. 10, 2012).

Observation 1: HHSC-HR Did Not Always Comply With Due Diligence Check Requirements

Direct support professionals are required to pass due diligence checks including an FBI fingerprint criminal history background check prior to employment.¹¹ Two separate instances did not comply with this requirement.

HHSC-HR conducted an FBI fingerprint criminal history background check for one direct support professional prior to employment but did not document the results or the employment eligibility determination; therefore, it is unclear if the individual was cleared through the criminal history background check. The direct support professional was employed for four days.

HHSC-HR approved an ineligible direct support professional for employment. The direct support professional was employed for 35 days, although the FBI fingerprint criminal history background check results indicated the direct support professional was ineligible for employment. An HHSC-HR monthly quality assurance review revealed the error, which resulted in termination of the direct support professional.

For these two individuals, Austin SSLC did not provide support indicating whether the direct support professionals provided unsupervised care services to any SSLC residents; however, allowing those individuals to work in the SSLC prior to completing all due diligence checks increases the risk of exposing residents to individuals with a criminal background that disqualifies them from SSLC employment.

Opportunities for Improvement

HHSC-HR should consider reviewing and revising its quality assurance process to ensure due diligence checks for direct support professionals are completed prior to hiring approval and employment.

HHSC-HR's Management Response

Action Plan

JRCs now note when SSLC Facility Directors grant a hiring exception (emergency appointment), which allows a new hire to start prior to obtaining fingerprint check results. JRCs note the date the exception is granted and the date the fingerprint results came back. JRCs note fingerprint appointment date and follow up to ensure

¹¹ 40 Tex. Admin. Code § 3.201(a)(2) (Oct. 6, 2011).

the new hire completes the appointment and the employee relations specialist sends eligibility determination to the Service Center.

SSLC Workforce Operations Manager reviews all offers to ensure due diligence is completed and/or whether a hiring exception was granted before approving offers submitted by JRCs.

JRCs review hiring spreadsheets prior to conducting New Employee Orientation (NEO) to ensure all due diligence is completed. SSLC Workforce Operations Manager reviews hiring spreadsheets monthly as a secondary check for due diligence completion and to ensure any pending checks are completed and communicated to the Service Center.

The Workforce Operations Management Operations Specialist verifies due diligence completion prior to archiving the hiring spreadsheets. Spreadsheets are archived when all due diligence is completed.

Responsible Manager

Workforce Operations Management Director

Target Implementation Date

Implemented March 2020.

Observation 2: Austin SSLC Did Not Always Document Compliance With Training Requirements

Texas Administrative Code requires that each direct support professional receive basic orientation and training in specific topics including abuse, neglect, exploitation, safety, security awareness, and workplace violence before having contact with residents without direct supervision.^{12,13}

Austin SSLC uses electronic transcripts to record training completions for each employee, and supervisors may obtain transcripts using an employee's identification number. Of the 30 direct support professionals tested, 2 did not have complete transcripts. For one direct support professional, the transcript did not indicate completion of all training courses, and for the other direct support professional, a transcript could not be located.

¹² 40 Tex. Admin. Code § 3.401 (Apr. 10, 2012).

¹³ 40 Tex. Admin. Code § 3.402 (Apr. 10, 2012).

Direct support professionals need specialized training to ensure unique situations that arise for SSLC residents are handled appropriately and safely; however, Austin SSLC did not consistently document whether the individuals tested completed all required training. In the time since this inspection was conducted in September 2019, Austin SSLC have implemented quality assurance processes to ensure compliance with Texas Administrative Code training requirements.

Opportunities for Improvement

Austin SSLC should verify that transcripts accurately reflect training completion. Transcripts should be reviewed by a supervisor when a direct support professional arrives at the facility to begin providing care to residents.

In addition, discussions with the associate commissioner of state supported living centers resulted in an agreed-upon recommendation that, as a protective measure, a written policy should be established regarding contact between a direct support professional and a resident. This policy should define and institute procedures to ensure contact between an employee and a resident does not occur without supervision prior to the direct support professional's completion of required training.

Texas SSLC state office's Management Response

Action Plan

State Supported Living Center state office will create a state-wide policy to standardize procedures to ensure that all Direct Support Professional (DSP) supervisors confirm successful completion of all required training prior to new staff being released to full duty. The policy will require Competency, Training and Development (CTD) staff to confirm all required pre-service training is complete, including on the job training, and confirm that electronic transcripts have been updated accordingly. Once CTD staff have confirmed completion of all training and the electronic transcripts are updated, CTD will notify the supervisor that the new employee is released to full duty.

In addition to the policy noted above, new staff will be asked to sign an affirmation during New Employee Orientation which states that they understand that they will not be put into coverage with supervision of residents until all required pre-service training is complete. This form will also be signed by the new employee's assigned supervisor.

Responsible Manager

State Office Director of Business Operations and Special Projects

Target Implementation Date

December 15, 2020

CONCLUSION

OIG Inspections completed an inspection to review the processes used by Austin SSLC for hiring and training direct support professionals. The objectives were to determine whether Austin SSLC, with the assistance of HHSC-HR, hires and trains direct support professionals in accordance with Texas Administrative Code requirements. OIG Inspections concluded that HHSC-HR usually documented the results of the due diligence checks prior to the first day of employment of direct support professionals, and Austin SSLC usually documented the completed training of direct support professionals. However, there were two instances in which HHSC-HR did not comply with Texas Administrative Code due diligence check requirements and two instances in which Austin SSLC did not document completed training to comply with Texas Administrative Code training requirements. Policies and procedures for background checks and training should be improved to help ensure direct support professionals meet all Texas Administrative Code requirements for due diligence checks and training.

OIG Inspections offered opportunities for improvement to Austin SSLC and HHSC-HR, which, if implemented, will correct deficiencies in documentation and provide evidence of compliance with Texas Administrative Code requirements for due diligence checks and training.

OIG Inspections thanks management and staff at Austin SSLC and HHSC-HR for their cooperation and assistance during this inspection.

Appendix A: Detailed Methodology

Methodology

To accomplish its objectives, OIG Inspections obtained HHSC-HR's determination of eligibility for employment due diligence check records based on information HHSC-HR obtained from the Texas Department of Public Safety, the Federal Bureau of Investigation, the Nurse Aide Registry, the Employee Misconduct Registry, and the Client Abuse and Neglect Reporting System. Training records and transcripts were obtained from Austin SSLC. Recorded dates were tested to determine whether due diligence checks were completed prior to each employee's first day of employment, and transcripts were tested to determine completion of required training.

There were 3,313 direct support professionals hired by SSLCs in Texas within the scope of the inspection between January 1, 2018, and December 31, 2018, with 237 direct support professionals hired for the Austin SSLC facility. The inspectors selected a non-statistical random sample of 30 direct support professionals to determine whether the due diligence checks and training records complied with Texas Administrative Code requirements.

Standards

OIG Inspections conducts inspections of Texas HHS programs, systems, and functions. Inspections are designed to be expeditious, targeted examinations into specific programmatic areas to identify systemic trends of fraud, waste, or abuse. Inspections typically result in observations and may result in recommendations to strengthen program effectiveness and efficiency. OIG Inspections conducted the inspection in accordance with *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency.

Appendix B: Acronyms

Acronyms Used in This Report

| | |
|-----------------|--|
| CAPPS | Centralized Accounting and Payroll/Personnel System |
| FBI | Federal Bureau of Investigation |
| HHS | Health and Human Services |
| HHSC | Health and Human Services Commission |
| HHSC-HR | Health and Human Services Commission Human Resources |
| JRC | Job requisition coordinator |
| OIG | Office of Inspector General |
| OIG Inspections | OIG Audit and Inspections Division |
| SSLC | State supported living center |
| VURV | Human resource system integrated with CAPPS |

Appendix C: Report Team and Report Distribution

Report Team

The OIG staff members who contributed to this report include:

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Texas Health and Human Services Commission Human Resources

- Amy Tippie, Deputy Director
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Appendix D: OIG Mission, Leadership, and Contact Information

The mission of OIG is to prevent, detect, and deter fraud, waste, and abuse through the audit, investigation, and inspection of federal and state taxpayer dollars used in the provision and delivery of health and human services in Texas. The senior leadership guiding the fulfillment of OIG's mission and statutory responsibility includes:

- Sylvia Hernandez Kauffman, Inspector General
- Susan Biles, Chief of Staff
- Dirk Johnson, Chief Counsel
- Christine Maldonado, Chief of Operations and Workforce Leadership
- Juliet Charron, Chief of Strategy
- Steve Johnson, Chief of Investigations and Reviews

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