



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

The National Park Service Should Clarify Oversight Responsibilities for Childcare Centers Operating in National Parks

This is a revised version of the report prepared for public release.



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MANAGEMENT ADVISORY

In the course of other work, we learned that Yosemite National Park Childcare Center (Yosemite Childcare Center) operates two childcare facilities at Yosemite National Park (Yosemite). We identified what appears to be a lack of clarity regarding the requirements set forth in the relevant National Park Service (NPS) guidance (namely, *Special Directive 85-1*,¹ a 1985 directive that established requirements for all daycare centers on NPS lands). In particular, there appears to be uncertainty as to whether the two facilities must be licensed by California and, if not, what requirements apply to these centers and what entity should enforce those requirements. Additionally, the current special use permit, which authorizes Yosemite Childcare Center to operate, has not been updated to reflect guidance provided by the Office of the Solicitor in 2021 or otherwise.

The lack of clarity and the absence of an updated special use permit has led to potentially inconsistent implementation of health and safety standards (including fire inspections). The lack of clarity has also led to unresolved questions regarding staffing, training requirements, and the two buildings in which the childcare center operates (for example, the buildings' square footage).

To determine whether these types of issues were more widespread, we more broadly examined NPS' practice of operating childcare centers within national parks. We learned that the NPS has six other childcare centers of this type, and we moreover learned that, unlike the Yosemite Childcare Center, all of the other childcare centers are licensed with their respective States. We did, however, identify various inconsistencies in the operating status of these facilities. In particular, although relevant NPS guidance provides that such childcare centers will operate under special use permits, NPS has in some cases used leases and general agreements for granting authority to operate childcare centers. We also learned that the various instruments—including the special use permits that are contemplated by the Special Directive—contain inconsistent language regarding health and safety requirements and the level of required NPS involvement and oversight.

We make four recommendations that focus on the need to provide clarity and updated guidance regarding these childcare centers. These recommendations are intended to assist the NPS in its current efforts to update guidance regarding these issues.

Background

Federal, departmental, and NPS guidance all allow for the operation of childcare centers on NPS lands under special use permits, and this guidance consistently explains that permittees must comply with all applicable Federal, State, and local laws and regulations.² The NPS has seven childcare centers operating on NPS lands, all which are listed in Appendix 1.

¹ *Special Directive 85-1*, Day Care Facilities (April 8, 1985).

² Pub. L. No. 107-217, §1, Aug. 21, 2002, 116 Stat. 1062, 36 C.F.R. 1.6, and *Special Directive 85-1*.

NPS Special Directive 85-1

In April 1985, the NPS issued *Special Directive 85-1*, setting forth the authority for daycare centers to operate on NPS lands nationwide.³ This Special Directive, which is only two pages long, specifically requires childcare centers to operate under special use permits and states that the “operation of day care facilities must comply with all applicable Federal, State, and local laws and regulations.” It does not, however, provide guidance on what laws and regulations may, in fact, be applicable. The Special Directive provides that the NPS is not responsible for supervising or managing childcare centers and that “[d]ay care in government agencies is generally limited to the furnishing of appropriate space, with the affected employees cooperating together to arrange for or provide needed services, supervision, and other requirements.”

Yosemite Childcare Center’s History of Special Use Permits

The Yosemite Childcare Center was established in 1984, before promulgation of the Special Directive, through a special use permit issued by the Yosemite Superintendent at the time to “support park employees with childcare needs.” Since 1984, Yosemite Childcare Center has operated under similar special use permits, although no special use permit was in place from January 29, 2012, through December 16, 2019. The 2019 permit remains in place and extends through 2024. Current Yosemite management stated that what they described as the “essential services” offered by Yosemite Childcare Center were “critical” to the operations of the park because most of the attendees are the children of NPS [REDACTED], although it also serves full-time or seasonal employees.

The 2019 special use permit allows the use of two NPS buildings for childcare services:

- The Yosemite Valley facility accommodates approximately [REDACTED] children and is centrally located adjacent to the park’s administrative buildings, including the Superintendent’s office, law enforcement, and the fire department. It is located within an historic building that is subject to restrictions governing renovations or expansion.
- The El Portal facility accommodates approximately [REDACTED] children. It is outside the gates of Yosemite National Park but also on NPS lands. This building is a 30-minute drive from the Yosemite Valley facility.

In accordance with *Special Directive 85-1* and the current special use permit, both facilities are allowed to operate free of rent or utility costs because the NPS does not need the buildings for other operations, and the services provided by Yosemite Childcare Center support park staff. Additionally, the NPS does not allocate funds to the Yosemite Childcare Center or its equipment.

Findings

We identified an overall lack of clarity regarding applicable requirements as well as who is responsible for making decisions regarding these requirements. Although we summarize a number of specific issues below, we note that these concerns overlap and reflect a general ambiguity about roles and responsibilities that may affect the NPS’ ability to ensure a safe and appropriate childcare setting.

³ *Special Directive 85-1*.

1. There is a Lack of Clarity within DOI Regarding California's Role

We first identified inconsistent guidance within DOI regarding the extent to which state licensing requirements apply to the Yosemite Childcare Center and how, if applicable, those requirements will be implemented.

Special Directive 85-1 states, “[t]he operation of day care facilities must comply with all applicable Federal, State, and local laws and regulations” and that “[w]aivers or modifications of these policies may only be made by the Director, National Park Service.”

Section 8 of Yosemite Childcare Center’s special use permit states that it “will operate” in accordance with California Title 22, Division 12, Chapter 1, *Childcare Center General Licensing Requirements* (“Title 22 Requirements”). However, Section 8 also states that Yosemite Childcare Center is exempt from California’s licensing requirements “due to exclusive federal jurisdiction.”

In May 2021, Yosemite management made inquiries to the DOI’s Office of the Solicitor (SOL) on this topic. An attorney with the SOL’s San Francisco Field Office stated in an email that “[REDACTED].” The May 2021 emails did not address a January 2000 finding by the California Department of Social Services set forth in the letter that the El Portal facility is “located on Federal Government property and is, therefore exempt from licensure.”

When we made inquiries on this topic, California’s Community Care Licensing Division stated to us that neither childcare facility falls under California’s jurisdiction. Officials further stated that neither facility can be licensed or inspected by California and that neither is eligible for a California license that would otherwise be required for a facility in the State. When we discussed these points with the current Yosemite Superintendent, who was not aware that California had drawn these conclusions and had been relying on the SOL opinion from 2021.

Although we do not express an opinion on the merits of any particular approach, we do note that other childcare facilities on NPS lands appear to have sought State licensing. In particular, we found that the NPS has six other childcare centers operating within national parks and verified that all six centers are currently licensed by the respective States and have been designated as being in good standing (that is, they have a clear history of inspections and no unresolved issues) with those States.⁴

2. There is a Lack of Clarity Regarding Compliance with Standards Incorporated into the Yosemite Childcare Center’s Special Use Permit

Separate from the question of whether California *may* license the Yosemite Childcare Center, the special use permit states in Section 8 that Yosemite Childcare Center “will consistently strive to operationally meet the requirements of Title 22 to the greatest extent possible.” It explains, though, that Yosemite Childcare Center may not be able to comply with all Title 22 requirements because of “square footage constraints, shortage and availability of qualified staff, and ongoing [Yosemite

⁴ Appendix 1 contains a list of the childcare centers as well as the State licensure status.

Childcare Center] funding challenges.” In Section 8 of the permit, the NPS and Yosemite Childcare Center agree to collaborate and continually evaluate compliance with Title 22 requirements and find solutions to identified gaps.

Section 8 of the special use permit also states that Yosemite Childcare Center will prepare an annual assessment report for the Yosemite Superintendent that contains a self-evaluation of Yosemite Childcare Center’s compliance with Title 22, along with relevant recommendations to obtain compliance and a work plan and schedule to address any deficiencies. We reviewed the Yosemite Childcare Center’s annual assessment report from 2022, which, consistent with the special use permit itself, described ongoing questions related to staffing, training, fire inspections, and building requirements.

We identified two concerns associated with these provisions.

First, in the May 2021 email described previously, the SOL attorney [REDACTED]

[REDACTED] Yosemite management, however, did not amend the 2019 special use permit, and the original language remains unchanged.

Second, there does not appear to be ongoing collaboration and active engagement regarding compliance with the checklist and with California standards. Most notably, Yosemite Childcare Center’s Director stated that the assessment checklist used by Yosemite Childcare Center includes facility requirements that cannot be met without substantial renovations to its current NPS facilities. The Center’s Director was aware of the NPS’ restrictions on new construction and renovations of historic NPS facilities and that it is unlikely that Yosemite Childcare Center could satisfy California’s building requirements for licensed childcare centers given these constraints. We identified no evidence suggesting that there had been any ongoing communication regarding these issues.

3. There is a Lack of Clarity Regarding Roles and Responsibilities for Completion of Public Health and Safety Inspections

Section 8 of the special use permit states:

- The NPS and Yosemite Childcare Center will “routinely and consistently” inspect, evaluate, and correct health and safety conditions to provide adequate safety and health protection for enrollees and staff.
- The U.S. Public Health Service and the Yosemite Office of Safety Management will represent the Yosemite Superintendent regarding matters of public health and safety.

In addition, Section 7 of the special use permit requires Yosemite Childcare Center to “comply with all applicable public health and sanitation standards and codes.” It states that the Yosemite Public Health Officer will provide Yosemite Childcare Center “with all requirements to perform periodic health and sanitation inspections for compliance.”

In a March 2021 memorandum to NPS management at Yosemite, however, the NPS Public Health Officer stated that the role of the Yosemite Public Health Officer is limited to assisting with the “identification, prevention, and control of public health hazards and infectious diseases as needed” on NPS lands, “similar to that of local and county health departments,” and that this position “is unable to properly fulfill” the responsibility for assessing Yosemite Childcare Center’s compliance with California’s childcare regulations, as “child care regulations are monitored by dedicated inspectors, specifically trained in and focused on child care operations.” When we inquired regarding the extent to which inspections had occurred, the Yosemite Public Health Officer expressed the belief that Yosemite Childcare Center is required to be licensed by the State. The Yosemite Public Health recounted not inspecting the center or otherwise assessing compliance with Section 8 of special use permit. We note that we identified no direct response from NPS management at Yosemite to the Public Health Officer’s expressions of concern in the 2021 memorandum or of any other action.

As noted previously, our review of other childcare centers in national parks found that other States were, in fact, routinely involved in health and safety inspections. Given that California officials have apparently concluded, however, that Yosemite Childcare Center is exempt from State licensure, it does not appear likely that California health officials would agree to inspect the childcare facilities or potentially enforce the State regulations.

In short, although we found that Yosemite Childcare Center has made efforts to meet California’s Title 22 requirements, it remains unclear whether the facilities are subject to all or some of those requirements and who or what entity is responsible for assessing compliance. Based on our review, it appears that the conflicting interpretations of the special use permit have led to inconsistent and delayed health and safety and inspections.

4. NPS Childcare Centers Are Not Consistently Relying on the Special Use Permit Set forth in the Special Directive and Are Accordingly Applying Inconsistent Authorities for Operating Childcare Centers

NPS Special Directive 85-1 requires all childcare centers to operate under a special use permit. Our review of the six NPS childcare centers revealed that the NPS inconsistently applied this requirement. In particular, we found one childcare center operates under a general agreement,⁵ two operate under a lease, and four operate under varying forms of a special use permit.⁶

Additionally, the general agreements, leases, and special use permits included inconsistent language regarding health and safety requirements and the level of NPS oversight. We reviewed documentation related to the six additional childcare centers operating on NPS property and found the following:

⁵ The general agreement between the NPS at Yellowstone National Park in Wyoming and Little People Learning Center (LPLC) established the terms and conditions under which LPLC provides childcare services and the NPS agrees to provide annual funding for these services.

⁶ The NPS also has an active concessionaire agreement with the Aviator Sports & Events Center at Gateway National Recreation Area, New York, which offers special event and seasonal childcare options to the public, unlike the other facilities, which offer services exclusively to NPS personnel. The concessionaire agreement does not refer to *Special Directive 85-1* or address Aviator’s requirement to pursue State licensure for the seasonal childcare services offered. We accordingly do not analyze the practices of this concessionaire.

- Kaibab Learning Center’s special use permit does not reference *Special Directive 85-1*; however, the terms and conditions detailed in the special use permit appear to align with those in the directive.
- Sandy Hook Childcare Center’s 10-year lease with the NPS does not reference *Special Directive 85-1* but states that the childcare center is subject to general supervision or inspection by the NPS regarding ingress, egress, safety, sanitation, and security.
- Montessori Children’s House’s 40-year lease agreement with NPS does not refer to *Special Directive 85-1* and does not describe the NPS’ role regarding routine health, safety, and fire inspections.
- Moose Corner Children’s Academy and Gardiner Snoopy Cooperative Preschool operate under 5-year special use permits, while the Little People Learning Center operates under a 10-year general agreement. All three of these childcare centers operate in Wyoming. Moose Corner Children’s Academy’s special use permit includes an operating plan requiring it to maintain a license with Wyoming. It states that the NPS Public Health Officer or Park Safety Officer will conduct mandatory health and safety checks or evaluations and that the NPS conduct annual fire safety inspections. Gardiner Snoopy Cooperative Preschool’s special use permits and Little People Learning Center’s general agreement, however, do not include these requirements.

Conclusion

NPS currently does not have a standard practice or guidance regarding the operation of childcare centers on NPS lands. For example, there is inconsistent alignment with the 1985 *Special Directive 85-1*, and this document itself is both generalized and almost 40 years old. During our review, we learned that the NPS’ Office of Public Health had initiated an NPS-wide committee to oversee and standardize the NPS’ role and oversight of childcare centers operating within national parks. We believe this is a positive step but emphasize the importance of resolving the inconsistencies and lack of clarity that currently affect NPS’ various childcare centers.

Recommendations and Response Summary

We provided a draft of this report to the NPS for review. The NPS did not specifically respond to individual recommendations but rather addressed the report’s overall findings. The NPS also stated generally that it “concur[s] with the report’s finding that more clarity and direction is needed for oversight of childcare centers in national parks.” We construe this as concurrence with each of the four individual recommendations. Based on the information in the NPS’s response, we consider Recommendations 1 through 4 resolved. Below we summarize the NPS’ response to our recommendations, as well as our comments on its response. The NPS’ response can be found in its entirety in Appendix 2.

We recommend that the NPS:

1. Resolve the apparent conflict between an Office of Solicitor opinion and California’s decision regarding the oversight role of the State of California with respect to the Yosemite Childcare Centers and revise the special use agreement as necessary.

NPS Response: The NPS concurred with this recommendation and stated that it revoked the current special use permit providing authority to operate the two childcare centers in Yosemite National Park. The NPS also stated it informed Yosemite National Park management, the operators, and stakeholders that California State licensure will be required for any future operation of childcare centers in Yosemite National Park.

OIG Comment: Based on the NPS' response, we consider Recommendation 1 resolved. We will consider this recommendation implemented when the NPS provides evidence demonstrating that it has resolved the conflict between the Office of Solicitor and the State of California pertaining to the oversight role with respect to the Yosemite Childcare Centers. As it moves forward, the NPS may wish to consult with the Office of Solicitor as part of this process.

2. Develop and implement bureau-level policies and procedures to ensure consistent oversight of all childcare centers operating on NPS lands.

NPS Response: The NPS concurred with this recommendation and acknowledged that "more consistency is needed when authorizing operators to manage childcare centers Servicewide." The NPS stated that it plans to draft and implement a new policy requiring State licensure for operation of childcare centers on NPS lands. The NPS stated that the policy will be accompanied by a standardized special use permit that "all parks must use when permitting operators of childcare centers to ensure consistent application of the authorities aligned with Special Directive 85-1." The NPS also stated it would ensure all parks with childcare centers comply with the new policy within 90 days of issuance.

OIG Comment: Based on the DOI's response, we consider Recommendation 2 resolved. We will consider it implemented when the NPS provides evidence demonstrating that it has developed and issued NPS-wide guidance to ensure the consistent oversight of childcare centers on NPS lands.

3. Develop and implement guidance for health and safety inspections of all childcare centers operating on NPS lands.

NPS Response: The NPS concurred with this recommendation and stated it plans to draft and implement a new policy, as described in response to Recommendation 2. According to the NPS, the policy will identify inspection protocols, including responsible personnel, when State licensure relies upon local public safety offices. NPS also stated that the policy will identify protocols for inspections and other actions that fall under the park's responsibility.

OIG Comment: Based on the NPS' response, we consider Recommendation 3 resolved. We will consider it implemented when the NPS provides evidence demonstrating that it has developed and issued NPS-wide guidance for health and safety inspections of childcare centers on NPS lands.

4. Assess *Special Directive 85-1* to determine whether it addresses all requirements necessary to ensure the safe and compliant daycare operations on NPS properties and revise *Special Directive 85-1* if appropriate.

NPS Response: The NPS concurred with this recommendation and stated that it will consider rescinding *Special Directive 85-1* if it finds that other authorities are better suited for managing childcare centers and that it will update future policy to implement these authorities.

OIG Comment: Based on the NPS' response, we consider Recommendation 4 resolved. We acknowledge that NPS is still considering whether to rescind *Special Directive 85-1*, and we will work with the NPS to ensure it provides the necessary supporting documentation demonstrating that it assessed *Special Directive 85-1*. If the NPS decides to rescind, replace, or amend *Special Directive 85-1*, we note that closure of this recommendation will require provision of supporting documentation establishing that changes are included in relevant policies and the standardized special use permit in Recommendation 2.

Appendix 1: Childcare Centers on National Park Service Lands

Location	Childcare Center	Authority	State Licensed	Operations Began	Last Health Inspection
<i>Arizona</i>					
Grand Canyon National Park	Kaibab Learning Center	Special Use Permit	Yes	07/17/2001	10/27/2022
<i>California</i>					
Yosemite National Park	Yosemite Childcare Center	Special Use Permit	No	1984	
<i>New Jersey</i>					
Fort Hancock	Sandy Hook Childcare Center	Lease	Yes	10/03/1980	10/31/2022
<i>Pennsylvania</i>					
Valley Forge National Historic Park	Montessori Children's House	Lease	Yes	06/06/1977	03/21/2023
<i>Wyoming</i>					
Grand Teton National Park	Moose Corner Children's Academy	Special Use Permit	Yes	12/23/1991	02/02/2023
Yellowstone National Park	Gardiner Snoopy Preschool	Special Use Permit	Yes	10/28/2002	01/23/2023
	Little People Learning Center	General Agreement	Yes	10/31/2018	01/18/2023

Appendix 2: Response to Draft Report

The National Park Service's response to our draft report follows on page 11.



United States Department of the Interior

NATIONAL PARK SERVICE
1849 C Street, NW
Washington, DC 20240

IN REPLY REFER TO:
10.A (2400)

Memorandum

To: Assistant Inspector General for Investigations

From: Associate Director (A), Visitor and Resource Protection

Subject: Response to DOI OIG Referral: (OI-CA-22-0609-I)

This memorandum transmits the National Park Service's (NPS) concurrence with the four recommendations in DOI OIG's January 4, 2023 draft management advisory Case No. OI-CA022-0609-I, titled "*The NPS should Clarify Oversight Responsibilities for Childcare Centers Operating in National Parks.*"

Upon receipt of the draft advisory and after further fact-finding the NPS concurs with the report's finding that more clarity and direction is needed for oversight of childcare centers in national parks. The NPS specifically finds that the childcare centers in Yosemite National Park need to meet CA state licensure, establish inspection protocols, and identify the responsible parties regarding these protocols. The NPS also identifies that more consistency is needed in authorizing entities to manage childcare centers Servicewide.

In consideration of these findings, the NPS has:

- 1) Revoked the current Special Use Permit providing authority to operate the two childcare centers in Yosemite National Park.
- 2) Informed Yosemite National Park management, the operators, and stakeholders that CA state licensure will be required for any future operation of childcare centers in Yosemite National Park.

In consideration of these findings the NPS will:

- 1) Draft and implement a new NPS Servicewide policy identifying State Licensure as a requirement for operation of childcare centers on NPS administered lands. The policy will also a) identify inspection protocols, including responsible personnel, when/if State Licensure relies upon local public safety offices; and b) identify the protocols for inspections and other actions that parks are responsible for. The policy will be accompanied by a standardized Special Use Permit that all parks must use when permitting operators of childcare centers ensuring consistent application of authorities aligned with Directive 85-1.
- 2) Ensure all park managers with childcare centers comply with the new policy within 90 days of its issuance.

- 3) Consider rescinding Directive 85-1 if other authorities are found to be better suited for management of childcare centers and update future policy to implement these authorities.

If you have any questions or need additional information, please contact Billy Shott, Acting Associate Director, Visitor and Resource Protection, at [REDACTED] [@nps.gov](mailto:[REDACTED]@nps.gov).