
EFFECTIVE PRACTICES IN ENFORCING CHILD CARE REGULATION

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INTRODUCTION

PURPOSE

The purpose of this report is to catalog effective practices encountered during our review of States' enforcement of child care regulations. Findings on State regulatory enforcement efforts are contained in a separate report, entitled "Enforcing Child Care Regulations," OEI-03-89-00700.

BACKGROUND

States have the primary responsibility for establishing and enforcing standards and regulations regarding child care. The Office of Human Development Services supports child care through the Social Services Block Grant (title XX). The Family Support Act of 1988 funds child care for Aid to Families with Dependent Children (AFDC) beneficiaries who take part in the Job Opportunities and Basic Skills (JOBS) program. Under both Federal programs, participating providers must meet applicable State standards.

There are three major kinds of child care settings in the United States. According to the U.S. Census Bureau, 41 percent of preschool children of working mothers spend their days in the homes of others. This is known as family child care. Although 48 States regulate family child care, 19 States define it in such a way that large numbers of homes are not covered.

Twenty-one percent of children under age 5 are in organized child care centers or preschools. All States regulate child care centers and only two do not inspect centers annually.

The third type of arrangement, for 30 percent of those under age 5, is supervision in the child's own home by a nanny, sitter, friend or relative. This type of care is not regulated in any State. The remaining 8 percent are cared for in other settings.

METHODOLOGY

We interviewed child care licensing officials and inspectors in all 50 States, the District of Columbia and New York City. In nine States and New York City, these interviews were conducted in person. Although we spoke with a variety of other persons, this report is based primarily on conversations with State licensing administrators and inspectors. These respondents were asked to identify practices they had found to be most effective in enforcing their child care regulations.

Categories Of Effective Practices

This report is a catalog of selected enforcement practices. We found a wealth of new ideas and protocols in child care regulation enforcement among State and local agencies. A sampling of these practices is presented in the following categories:

- Legal sanctions and procedures
 - *Administrative closures*
 - *Consent agreements*
 - *Investigative protocols*
- Inspection review techniques
 - *Indicator checklists*
 - *Use of interviews*
 - *Inspector training*
- Monetary incentives and penalties
 - *Financial incentives to encourage provider registration*
 - *Fines as enforcement procedures*
- Parental involvement
 - *Communication between States and parents*
 - *Communication between providers and parents*
- Training and technical assistance for providers
 - *State agency practices*
 - *Cooperative efforts with universities*

More information on these practices can be obtained from contacts listed in the appendix.

CATALOG OF SELECTED EFFECTIVE PRACTICES

LEGAL SANCTIONS AND PROCEDURES

To protect the health and safety of children, it is sometimes necessary to close a facility. In most States, this is a lengthy, time-consuming process. Staff unfamiliarity with judicial procedure and a lack of legal counsel cause some of the delays. Limited State legal authorities, due process procedures and continuing appeals also can allow a facility to remain open even when children's safety is threatened.

Several State licensing agencies have found administrative closures to be an effective enforcement mechanism. Although State authorities vary, the basic concept permits immediate closure of a facility due to serious safety or child abuse citations.

Other effective State procedures include consent agreements and investigative protocols. Consent agreements require that the State agency and the provider establish a legally binding agreement for the continued operation of the facility if it is repeatedly out of compliance. Investigative protocols train inspectors to develop paper trails to avoid legal problems when prosecuting. This is effective when legal counsel is separate from the licensing agency staff.

Administrative Closures

Four State administrators cited their authority to close a facility when children are in imminent danger. State officials in Illinois and Nebraska reported their administrative closure protocols have been effective.

The Illinois power of administrative closure forbids child care providers from operating during the appeals process. The State must initiate enforcement action within 10 days of the citation, but the facility may not operate in the interim. Throughout the process, the State agency is required to assist the provider in complying with regulations.

In Nebraska, when there is imminent danger to the health or safety of children in a facility, the State agency may order an immediate administrative closure. The facility remains closed during the 10-day appeal period. Nebraska and several other States indicated that at this point many providers choose to give up their licenses voluntarily.

Consent Agreements

State officials say "any legal action tends to get a provider's attention" and produce either corrective action or voluntary closure. For example, the Connecticut State agency for center licensing has the authority to negotiate a consent agreement which center providers must sign to keep their facility open while they correct deficiencies. In the event of further noncompliance

or refusal to sign the agreement, a center's license can be summarily suspended until the appeals process has been exhausted.

Investigative Protocols

Our interviews revealed that State officials feel that providers avoid prosecution by using legal loopholes. However, we found that most inspectors have educational backgrounds in social work rather than investigations. They are seldom trained by the State to collect evidence and obtain witnesses.

To address this, New Hampshire has established a comprehensive investigative protocol within the State agency. Inspectors are trained to take officially witnessed and signed statements when there is probable cause for litigation. Citations are sent to unlicensed providers via certified mail with copies to the State Attorney General.

INSPECTION REVIEW TECHNIQUES

On-site visits are the most common enforcement technique. Decisions to issue, renew or deny licenses are based on these visits. However, most visits are short and infrequent. Several States have developed innovative techniques to help inspectors make the most of these visits.

A number of State agencies use indicator checklists or conduct less extensive inspections if there has been past consistent compliance. These States are able to devote more enforcement resources to deficient facilities. Other States use interviews with children, parents and providers.

Inspector training through seminars, videos, and handbooks improves both the effectiveness and consistency of inspections. At least two States distribute a licensing handbook for inspectors. These handbooks serve as a quick accurate reference in the field.

Indicator Checklists

Indicator checklists are used in several States to inspect centers which are consistently in compliance. These checklists include items such as staff to child ratio, group size, and physical condition of the facility. Both Pennsylvania and Wisconsin use indicator checklists for monitoring. Their systems help direct inspection resources to the facilities most in need.

In Pennsylvania, the 15 checklist items have proven to be effective quality of care indicators. Pennsylvania administers the full-scale inspection instrument once every 3 years even if there are no problems indicated by the checklist.

Wisconsin conducts a more in-depth inspection if there are problems in one of the indicator categories or if other factors suggest it is necessary. Inspectors in Wisconsin reported that this method allows them to focus their energies more efficiently.

Prioritizing Inspections Based On Previous Performance

In most States, providers with a history of consistent regulatory compliance face the same detailed inspection as a facility with a poor compliance record. However, Tennessee has an incentive approach to inspections. Providers who maintain consistent regulatory compliance are rewarded with abbreviated inspections. The process allows inspection resources to be focused on problem providers.

Use of Interviews

Although in-person observations and measurements are the most common inspection techniques, several States are broadening their procedures with more subjective criteria. In New Hampshire, inspectors interview children at a facility as part of their inspection or complaint investigation. Unless parents prohibit an interview, children are questioned about nutrition, discipline, and other topics. New Hampshire inspectors also attempt to speak with parents if there are concerns about a facility or if it is under investigation.

In Washington County, Minnesota, the licensing agency has developed a questionnaire to assess home quality. This is administered as a separate inspection interview so that the provider is comfortable answering personal questions. The questions center on child rearing attitudes and personal family experiences. By raising such issues, inspectors probe for individual motivations while gaining insight about a provider's qualifications.

Inspector Training

Across the nation, inspectors wanted more training and assistance in their decision making. A variety of approaches were uncovered. In Minnesota, the Association of Family Child Care Licensors has developed a *Child Care Licensing Resource Handbook*. This handbook helps isolated inspectors improve the quality of their monitoring of providers. The handbook is a training manual written by inspectors for inspectors which allows them to be as consistent as possible Statewide.

The State agency staff has taken the lead in New Jersey and has created a *Technical Assistance Handbook for Child Care Centers* as a companion document to the State licensing manual. The guide follows the format of the licensing manual, offering inspectors ways to assist providers in complying with regulations. It contains sample forms for provider recordkeeping, explains the reasoning for certain regulations and offers answers to common questions. New Jersey inspectors feel this reference source helps them give quick comprehensive information to providers.

Michigan maintains a library of video tapes for inspector training which includes information on interviewing, documentation and safety measures. Videos are also available on more general topics such as communication skills, management and self-development. Michigan also offers traditional classroom training on topics such as courtroom credibility.

MONETARY INCENTIVES AND PENALTIES

FINANCIAL INCENTIVES TO ENCOURAGE PROVIDER REGISTRATION

Some States provide financial incentives to aid in the recruitment and retention of licensed or registered providers. These incentives help reduce the time inspectors spend investigating unlicensed care and conducting initial licensing procedures.

The most common financial incentive used by States is the U.S. Department of Agriculture Child Care Food Program. In most States, meeting registration or licensing requirements allows providers to be reimbursed for the cost of providing meals to children in their care.

Licensing Reward

Many States charge child care providers an annual fee. **New Hampshire** is unusual in that it has no State licensing fee. In one of New Hampshire's regions, a contract was awarded to an outside agency to recruit providers. The agency granted \$200 "rewards" to providers after they held a license for 6 months to help defer administrative and local licensing costs. Licensed providers are also listed in the computerized State Resource and Referral network.

Training Grant

In order to increase the supply of registered providers, **Pennsylvania's** Department of Public Welfare reimburses up to \$175 for approved training to registered family child care providers. About 600 family providers applied for and received training through this program in fiscal year 1989.

FINES AS ENFORCEMENT PROCEDURES

Fines are an intermediate sanction which permit inspectors to take limited punitive measures against providers found to be out of compliance. Twenty-four States have authorized fines, but many rarely use them due to complex restrictions.

Many licensing administrators in States without fining authority mentioned fines as the enforcement option they would most want added to their regulations. Administrators from both **California** and **Florida** reported their fining procedures are effective in motivating compliance among providers.

Civil Penalties

California uses a civil penalty process which allows inspectors to issue daily fines of \$25 to \$50 against licensed centers or unlicensed family homes. Fines are issued only after a center fails to meet a corrective action plan. California has strengthened enforcement of civil penalties with administrative procedures to ensure payment. The State will not renew a child care license if there is an outstanding fine. In accordance with the State tax offset program, an unpaid fine can also be deducted from the provider's State income tax refund.

Administrative Fines

Florida has used an administrative fine process for licensed child care centers since 1985. Fourteen out of 67 counties have home rule jurisdiction and conduct their own county inspections. All counties must meet or exceed State standards and can use State enforcement procedures.

There are three classifications of daily fines. Class One offenses involve imminent danger or life threatening accidents with fines up to \$100 per violation. Class Two involves more serious but not life threatening violations, with fines of \$30 to \$75. Class Three offenses involve less serious violations, with fines of \$10 to \$30.

When a violation is cited during a site inspection, the provider is given a corrective action due date. An administrative fine can be issued by the licensing agency only if the corrective action due date is not met.

PARENTAL INVOLVEMENT

Parents can assist inspectors by acting as "eyes and ears" for child care regulation enforcement. Their participation is considered vital to assuring quality care. However, many respondents reported that most parents may not know what to look for in assessing their child's care facility. Some suggestions for increasing parent awareness included workshops, education through the media, and participation in facility activities.

There are many ways parents can become more involved with their child's care facility even if they have little time. Parent involvement can include personal visits, participation on the facility's advisory board, conferences with staff and review of educational material. State administrators and inspectors believe that mandating a range of opportunities for parents to be involved in their child's care is a good way to be sure facilities comply with other regulations.

Communication between State and Parent

Most State agencies hear from parents only when they have a complaint. **New Hampshire** takes a more active approach, surveying parents as part of their inspection of facilities. A State licensing administrator reported that although parents are hesitant to initiate contact with

State agencies, when asked to make comments in an anonymous survey they “come out of the woodwork.”

In **Indiana**, the State licensing agency has developed a series of informative materials on child care for parents. Although the agency does not make recommendations regarding specific providers, the State does suggest to parents that they examine provider files. These files contain all complaints filed about the facility. Only Child Protective Service complaints are protected by confidentiality standards.

Communication Between Provider and Parent

To assure better communication between parents and their providers, more and more States are developing specific parental involvement regulations. In **Delaware**, regulations guarantee parental access anytime their child is in the facility. Parents must receive a written statement of the facility’s policies and procedures and must be informed of their child’s progress. Delaware also requires ongoing communication between providers and parents, including a minimum of one conference annually. Parents are encouraged to review licensing requirements and conduct a pre-enrollment interview with the provider.

Iowa mandates a special parental role in some child care centers. At least half of the seats on advisory boards of non-profit centers with more than 40 children must be parents of enrolled children.

To encourage planned communications with parents, **Illinois** regulations for centers require a written record of “parental dialogue to ensure that [the center’s] program harmonizes with the home.” The program must reflect respect for the family’s culture or background. Visits and participation must be encouraged and concerns about a child’s health, development and behavior must be communicated promptly to parents and daily to an infant’s parents. Both centers and family homes must have proof that parents have received facility policies and procedures and written information distributed by the State.

Tennessee homes and centers must provide parents with a copy of State licensing requirements. Tennessee encourages communication between parents and providers and requires unrestricted parental access. Centers must also provide parents with instructions on detecting and preventing child abuse.

Pre-enrollment visits and parent orientations are required in **Vermont’s** licensed centers. These providers must hold two formal conferences a year and meet with parents who request additional conferences. Registered family child care providers must distribute the State’s regulations for family homes and a parent handbook which includes a complaint form and a letter of praise form. Family homes must also display a journal containing their certification, policies, regulations for family child care and guidelines for the protection and care of children.

TRAINING AND TECHNICAL ASSISTANCE FOR PROVIDERS

STATE AGENCY PRACTICES

State administrators and inspectors in 19 States identified provider training as important to increasing compliance with regulations. Educated providers elevate the standard of care and allow better use of enforcement resources. Most officials view provider training and technical assistance as a preventive enforcement practice.

Nearly 80 percent of all States offer some form of training or technical assistance. Eighty-six percent of providers reported that they turned to inspectors first when they needed assistance. However, many officials believe that these efforts do not always meet their full potential as positive enforcement measures due to inspection staff shortages.

State Training Committee

A Child Care Training Committee with members appointed by the Governor has been established in Arkansas. The committee includes providers, State officials, a parent, and an early childhood education professional. This committee develops a training program for providers based on proposals for training projects it receives each year. The committee also purchases and lends out materials for providers to train their own staff. (See also: Cooperative Efforts With Universities.)

Training Seminars

Pennsylvania has developed a regional training seminar for family child care providers. The seminar is led by State staff but is voluntary for providers. This 6-hour session covers regulations, caregiver policies and techniques and a question/answer period. At the conclusion, providers receive a resource manual and other materials. Provider evaluation of the training has been very positive. Initial surveys indicate that there is greater compliance with regulations among the seminar participants than other providers. Pennsylvania inspectors hope to be conducting the seminar as a Statewide demonstration program in the near future.

Avoiding allegations of child abuse has become of increasing concern to providers. In Vermont, presentations are held based on their publication, *Protecting Your Business from Allegations of Child Abuse*. The session teaches how to recognize and report child abuse. It profiles offenders and the ways they gain access to children. The presentations make providers aware of preventive measures they can take to safeguard children in their care. The intent is to teach providers how to protect their professional interests while encouraging them to be affectionate caregivers.

COOPERATIVE EFFORTS WITH UNIVERSITIES

Several States have developed close working relationships with university programs for early childhood education. These university based programs offer valuable training opportunities to both providers and enforcement staff. Their independent perspective is valued by providers and State administrators alike.

Model Curriculum

In response to provider requests, the New York Bureau of Child Care, working with Cornell University, developed a model curriculum for preventing child abuse entitled, *Managing Children's Behavior*. It contains a series of practical, proven discipline techniques.

This training program teaches positive disciplinary techniques which are effective in controlling children's behavior problems. Seminars led by trained inspectors are now held throughout the State for center and home-based providers. The State reports it is their most popular training program.

Training Center

Under the auspices of the North Dakota State University (NDSU), North Dakota has established an Early Childhood Training Center (ECTC). The center has a training library for providers which lends video training tapes and other materials through county social services agencies.

The NDSU is a member of the State advisory board for overseeing regulation and enforcement policy. In addition, ECTC coordinates training among different groups such as the Day Care Providers Association and the Association for the Education of Young Children. Separation of the training component from the licensing agency prevents confusion of minimum licensing standards with efforts to create quality programs in the field of early childhood services.

Resource Center

The Arkansas Child Care Training Committee co-sponsors a Child Care Resource Center with the University of Arkansas and Arkansas Children's Hospital. The Center is housed in space donated by the University and contains a library of child care training materials. All licensed family homes and centers receive a User Card which enables them to borrow any materials they need from the center. Beginning in January 1990, the Center will also serve as a resource and referral network.

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APPENDIX

CONTACTS FOR SELECTED EFFECTIVE PRACTICES

ARKANSAS - Training and technical assistance

Ms. Kathy Stegall
Slot 720
Department of Human Services
P.O. Box 1437
Little Rock, AR 72201
(501) 682-8590

CALIFORNIA - Fines

Mr. David Smith
Community Care Licensing Division
California Department of Social Services
1315 5th Street
Sacramento, CA 95814
(916) 324-4324

CONNECTICUT - Legal sanctions and procedures

Mr. Wesley Bell
Home Health Care Division
Connecticut Department of Health Services
150 Washington Street
Hartford, CT 06106
(203) 566-2575

DELAWARE - Parental involvement

Ms. Pauline Koch
Licensing Services
Delaware Department of Services
for Children, Youths, and Families
First State Executive Plaza
330 East 30th Street
Wilmington, DE 19802
(302) 571-6436

FLORIDA - Fines
Ms. Pamela Hutchinson
Day Care Licensing
Children, Youth and Families Program
Department of Health and Rehabilitative Services
1317 Winewood Boulevard
Tallahassee, FL 32399-0700
(904) 488-4900

ILLINOIS - Legal sanctions and procedures
Ms. Pat Bennett
Office of Child Protective Services
Illinois Department of Children and Family Services
406 East Monroe Street
Springfield, IL 62701
(217) 785-2688

INDIANA - Parental involvement
Mr. Keith Carver
Day Care Licensing Unit
Child Welfare Division
Indiana Department of Welfare and Social Services
141 South Meridian Street
Indianapolis, IN 46225
(317) 232-4442

IOWA - Parental involvement
Mr. Harold Poore
Child Day Care Services
Iowa Department of Human Services
Des Moines, IA 50319
(515) 281-5521

MICHIGAN - Inspection review techniques
Ms. Pat Van Dyke
Department of Social Services
Division of Child Day Care Regulation
415 Franklin SE
Grand Rapids, MI 49507
(616) 943-3943

MINNESOTA - Inspection review techniques

Ms. Jan Rudich
Day Care Licensing
Washington County Government Center
Community Social Services
14900 61st Street - North
P.O. Box 30
Stillwater, MN 55082-0030
(612) 779-5050

NEBRASKA - Legal Sanctions and procedures

Ms. Debbie Dawson
Early Childhood Licensing
Human Services Division
Nebraska Department of Social Services
P.O. Box 95026
Lincoln, NE 68509-5026
(402) 471-3121

**NEW HAMPSHIRE - Legal sanctions and procedures,
inspection review techniques, parental involvement and monetary incentives**

Mr. Robert Letellier
Bureau of Child Care Standards and Licensing
Division of Public Health Services
New Hampshire Department of Human Services
6 Hazen Drive
Concord, NH 03301
(603) 271-4523

NEW JERSEY - Inspection review techniques

Mr. J. Patrick Byrne
Division of Youth and Family Services
New Jersey Department of Human Resources
Trenton, NJ 08625
(609) 292-1018

NEW YORK - Training and technical assistance

Dr. Robert Page
Bureau of Child Care
New York Department of Social Services
40 North Pearl Street #11-B
Albany, NY 12243
(518) 474-9324

NORTH DAKOTA - Training and technical assistance

Mr. Paul Ronningen
Early Childhood Services
Children and Family Services
North Dakota Department of Human Services
Judicial Wing
Bismarck, ND 58505
(701) 224-4809

OR

Ms. Helen Danielson
Early Childhood Training Center
State University Station
P.O. Box 5057
Fargo, ND 58105
(701) 237-8289

PENNSYLVANIA - Monetary incentives

Mr. Christopher Wolf
Bureau of Child Day Care Services
Office of Children, Youth & Families
Pennsylvania Department of Public Welfare
P.O. Box 2675
Harrisburg, PA 17015
(717) 787-8691

Training and technical assistance
Pennsylvania Department of Public Welfare
Day Care Services
Central Region
2330 Ararat Boulevard
P.O. Box 2675
Harrisburg, PA 17105
(717) 657-4463

Inspection review techniques
Mr. Richard Fiene
c/o Bureau of Child Day Care Services
Office of Children, Youth & Families
Pennsylvania Department of Public Welfare
P.O. Box 2675
Harrisburg, PA 17015
(717) 787-8691

TENNESSEE - Inspection review techniques
Ms. Caroline Deal
Day Care Licensing Services
Tennessee Department of Human Services
400 Deaderick Street
Nashville, TN 37219
(615) 741-7129

VERMONT - Parental involvement, training and technical assistance
Mr. Coleman Baker
Division of Licensing and Regulation
Vermont Department of Social and Rehabilitative Services
103 South Main Street
Waterbury, VT 05676
(802) 241-2158

WISCONSIN - Inspection review techniques
Mr. David Edie
Bureau for Children, Youth & Families
Wisconsin Department of Health and Social Services
P.O. Box 7851
Madison, WI 53707
(608) 266-8200