



CONTEMPORARY ISSUES IN LICENSING Child Care Licensing Inspection Policies

Introduction

Inspection policies – guidelines and rules on monitoring providers' compliance with the law and the regulations¹ - are critical: strong licensing regulations, without a commitment to routine inspections, do not protect children from harm. Inspection of child care programs by licensing agencies and other regulators helps ensure that child care programs are following the State's rules for protecting children's health and safety.

This report, one in a series of reports about contemporary issues in licensing, focuses on States' inspection policies and practices, providing a national perspective as well as insights from the nine States the authors surveyed and interviewed.

As a characteristic of strong licensing programs, the National Association for Regulatory Administration's (NARA) Call to Action – Strong Licensing: The Foundation for a Quality Early Care and Education System (2010) recommends:

Monitoring of child care facilities twice annually, increasing to four or more times annually as needed until satisfactory compliance is stable or the facility is closed. The workload standard for inspectors should be 50-60 facilities. (p. 3)

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¹ Because licensing of child care facilities most often occurs at the state level, there are variances in terminology from State to State. For the purposes of this brief, the terms identified are defined as follows and are used interchangeably throughout: Regulations, Rules, Requirements, Standards, Policies and Administrative Code, Laws, Statutes.

Background

Licensing inspections are an integral part of the licensing process, as conceptualized in the NARA Licensing Curriculum, Chapter 3, The Phases of Licensing. This chapter outlines both announced and unannounced inspections as a part of the process, with announced inspections used primarily for initial licensing. The purpose of inspections is to “gather and examine all information, documents, and facts necessary to make an informed and responsible decision on license issuance or refusal” (NARA, 2000, p. 12). A report issued by the HHS Office of Inspector General about state monitoring practices (OIG, November, 2013) noted that “when States do not conduct monitoring, they miss opportunities to identify deficiencies and recommend provider improvements (p. 15).”

“The power to inspect the facilities operated by licensees and to make investigations regarding compliance with the requirements of the law is central to effective enforcement of licensing standards.” —Monrad Paulsen, 1968

ACF has partnered with the National Resource Center for Health and Safety in Child Care and Early Education to disseminate *Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Out-of-Home Child Care Programs (CFOC)* (AAP, 2013). According to industry experts, the standards represent the foremost evidence and expertise on best practices for health and safety in early education settings. According to the CFOC standards, the state licensing agency should conduct onsite inspections to measure compliance with licensing rules prior to issuing an initial operating license to a child care provider, and at least two inspections per year. At least one of the annual inspections should be unannounced; more unannounced inspections should be conducted if needed for the facility to demonstrate satisfactory compliance.

Congressionally-directed quarterly inspections of military child care programs resulted in significant improvement in the military services’ child care programs (Campbell, 2000). According to an evaluation conducted by Zellman and Johansen (1998), changes in the type and frequency of monitoring played a key role in the significantly improved quality of care in the military child care system. To comply with passage of the Military Child Care Act of 1989, the military services began conducting four unannounced inspections of each center each year.

Two aspects of the military inspection process were critical to its success—the visits were unannounced and there were serious consequences for noncompliance.
—Zellman and Johansen, 1998

Fiene (1996) reported that unannounced visits are especially effective when targeted to providers who have a history of poor compliance with state rules. Currie and Hotz (2001) quantified a link between increased safety in child care and more frequent regulatory actions. The authors concluded that having more than one annual inspection was associated with a lower rate of accidents requiring medical attention. Kagan and Rigby (2003) encouraged States to mandate and fund licensing agencies to monitor all child care centers and family child care (FCC) homes at least twice per year.

Child care programs are more likely to adhere to regulations when they are inspected more frequently (Gormley, 1995). The National Association of Young Children, in its position statement on licensing and public regulation of early childhood programs, emphasizes the importance of an effective system of public regulation and monitoring to protect children’s health and safety in early education settings (NAEYC, 1997).

Methodology

In support of the Office of Child Care's goal that children are served in safe, healthy child care settings, the National Center on Child Care Quality Improvement (NCCCQI) contracted with a group of consultants with expertise in administering and researching licensing systems to prepare a series of written briefs about critical licensing issues.

The information provided in these briefs was obtained by surveying and interviewing representatives of state licensing agencies in nine States: CT, FL, GA, NC, OH, OK, TX, UT, and WA. The States selected are not a representative sample but were chosen based on the consultants' knowledge that they are implementing effective and innovative practices which may be helpful to other state licensing agencies. Additionally, an effort was made to achieve some degree of geographic representation through the States selected.

Licensing personnel from the nine States selected first completed a written survey instrument and then spoke with the consultants in a telephone interview. All individuals interviewed were licensing agency directors or top-level administrators.

Information from Research Brief #1: Trends in Child Care Center Licensing Regulations and Policies for 2011 (NCCCQI, 2013a) and The 50-State Child Care Licensing Study: 2011-2013 Edition (NARA, 2013) are also included to provide national data and context to the information gathered from the nine States. Both of these reports include data gleaned from a national survey of licensing agencies conducted by NARA. Responses to the NARA survey were received from licensing agencies in all 50 States and the District of Columbia².

Authorization for Inspections

A strong licensing statute is critical to States' protection of vulnerable children and adults. Statutes and administrative policies authorize licensing agencies to conduct inspections. It's important that the statute or administrative policy specify the types and frequency of inspections and include clear direction for conducting each inspection type. The States surveyed for this brief have varied statutory language, but most have detailed policy manuals or operating procedures to guide staff in conducting licensing inspections. This guidance is necessary to ensure consistent and equitable enforcement of the law and rules.

The authority to conduct inspections and the frequency and type of inspections may be found in state statutes and agency administrative policies and procedures. With the exception of Connecticut, the policy and procedures manual of each of the surveyed States specifies the process for conducting announced and unannounced inspections.

- The Texas statute requires that child care centers and group child care homes be inspected annually, and at least one inspection must be unannounced. However, recent changes to the statute permit the licensing agency to develop rules to identify providers who may qualify for biennial inspections;
- The Ohio statute and administrative policies require at least one unannounced inspection per year to licensed child care centers and group child care homes;

Nationwide polling of parents of young children has revealed that two-thirds of parents assume child care programs are regularly inspected (NACCRRA, 2005).

²In the NCCCQI and NARA reports, as well as in this report, the District of Columbia is included in state counts and not listed separately.

- While Oklahoma’s inspection practices are not in statute, the policies specify that a minimum of three unannounced inspections must be conducted of licensed centers and homes that operate a full-year program; and
- Washington’s inspection policies are not in statute or administrative policies. However, the Governor’s Office has measures of accountability and performance which require FCC homes be inspected at least every 18 months and centers at least every 12 months.

Frequency and Type of Inspections: Announced or Unannounced

The frequency with which inspections occur and whether they are announced or unannounced is dependent in part on the purpose of the inspection—initial, routine, or follow-up monitoring to assure violations are corrected; complaint investigation; or license renewal.

- Monitoring visits to accept an initial licensing application or review a renewal application may be announced (previously scheduled) to ensure that paperwork is complete and rules are met;
- Routine and follow-up inspections and monitoring visits to investigate complaints are more likely to be unannounced.

Inspections Prior to Full Licensure

The Initial licensing application period is an important phase of licensing with the onus on the applicant to demonstrate the ability and willingness to comply with all applicable licensing rules. The time and attention that licensors give to this up-front phase of licensing is a valuable use of licensing resources to screen out the applicants that are less likely to be successful in complying with the rules and less able to provide safe and healthy care for children.

The majority of States conduct inspections of centers and FCC homes before issuing a license to provide child care. In most of these States, the inspections of centers or FCC homes to obtain an initial license are announced, as shown in the following table. This means that providers often know when the inspection will occur.

States Conducting Inspections Prior to Licensing

Inspections Prior to Licensing	Child Care Centers (N=50)	FCC Homes (N=42)	Group Child Care Homes (N=38)
Inspection conducted prior to issuing a license	50	38	38
Inspections are announced only	34	23	27
Inspections are unannounced only	9	8	6
Both announced and unannounced	7	7	5
No inspection conducted	0	4	0

N=the number of States that regulate the type of facility.

Source: NCCCQI analysis of State responses to the 2011 NARA Child Care Licensing Programs and Policies Survey.

However, three of the States surveyed defy this trend—North Carolina, Ohio and Utah, require that initial inspections be unannounced. In Connecticut, only initial inspections and inspections in response to a change affecting licensure, (for example, change of address), are announced. Florida commented that although all other inspections are unannounced, initial licensure inspections are announced because this allows better use of staff time to ensure the building is accessible and the records available. Florida also noted that several unannounced

visits are often made to programs preparing to become licensed to ensure compliance with minimum health and safety standards prior to the issuance of a license to operate. Oklahoma conducts an announced initial visit and equipment inventory visit.

Routine Inspections

Frequency

In most States, routine inspections of child care programs are conducted annually or more frequently to assess compliance with state child care regulations. Both centers and FCC homes are most commonly inspected once or twice a year, as shown in the following table from the NCCCQI trends analysis (2013a, 2013b, 2013c).

States' Frequency of Routine Inspections

Frequency of Routine Inspections	Child Care Center (N=50)	FCC Homes (N=42)	Group Child Care Homes (N=38)
More than 3 times a year	4	4	3
Three times a year	3	2	1
Twice a year	14	9	13
Once a year	24	14	14
Once every 2 years	3	5	2
Once every 3 years	0	2	1
Less than once every 3 years	1	1	1
Facility not inspected	0	3	0
Other frequency of inspection	1	3	3

Notes:

N=the number of States that regulate the type of facility.

"Other frequency of inspection" includes monitoring based on compliance history or size of the facility.

The frequency of inspections varied across the States surveyed from less than one inspection per year to three or more per year. Most States indicated that facilities in noncompliance are visited more often than the frequency dictated by statute or policy. Many States use a differential monitoring approach, a method for determining the frequency or depth of monitoring based on an assessment of a facility's complaint history and compliance with regulations. A more recent focus has been on identifying key indicators or using a risk assessment as the basis for differential monitoring. (See Risk Assessment and Licensing Compliance [NCCCQI, 2013d] at https://childcare.gov/sites/default/files/117_1304_risk_assessment_licensing_final.pdf.)

National experts recommend no fewer than two inspections per year for every licensed child care center, and family and group child care home.

Increase in Frequency of Routine Inspections

Although many States have experienced budget shortages in the last five years, there has been some movement toward increasing the frequency with which child care programs are inspected. NCCCQI analyzed the Child Care Licensing Study³ data over several years and reported increases in the frequency of child care facilities being inspected (NCCCQI, 2013a). Three States that reported in 2005 that they inspect less often than once a year, reported in 2011 that they now inspect programs at least once a year. Alabama increased inspections to once a year; Alaska is now inspecting twice a year; and New York is inspecting more than three times a year. There has also been some improvement in the frequency with which FCC homes are inspected. NCCCQI (2013b) reported that since 2005, 24 percent of the States reported an increase in the number of inspections of FCC homes conducted each year. Four States that inspected FCC homes less than once a year in 2005 reported in 2011 that they are now inspecting at least once a year. Alabama increased inspections to once a year; Alaska and Georgia are now inspecting twice a year; and New York is inspecting more than three times a year.

Similarly, since 2005, NCCCQI (2013c) found that 18 percent of States reported an increase in the number of inspections conducted each year in group child care homes. Six States that inspected less than once a year in 2005 reported that they inspect at least once a year in 2011. Alabama increased inspections once a year; Alaska, North Dakota, and New Mexico are now inspecting twice a year; and New York and Wyoming are inspecting more than three times a year.

Since 2005, at least 20 percent of the States reported an increase in the number of inspections of centers conducted each year.

Announcement of Routine Inspections

Most States conduct unannounced inspections as part of their routine compliance process regardless of whether they are inspecting a center or FCC home. The following table shows that most States do not inform providers about when the inspection will occur.

States Conducting Announced and Unannounced Inspections for Routine Compliance

Routine Inspections for Compliance	Child Care Centers (N=50)	FCC Homes (N=42)	Group Child Care Homes (N=38)
Routine inspection conducted for compliance	49	41	37
Inspections are announced only	0	1	0
Inspections are unannounced only	39	29	26
Both announced and unannounced	10	10	10
No inspection conducted	1	2	1

Note: One State did not specify if inspections are announced or unannounced for FCC homes and group child care homes. Source: NCCCQI analysis of State responses to the 2011 NARA Child Care Licensing Programs and Policies Survey.

³ A collaboration of the National Child Care Information Center (NCCIC) and the National Association for Regulatory Administration (NARA) produced three Child Care Licensing Studies in 2005, 2007, and 2009. Additional information is available at http://www.naralicensing.org/Licensing_Study.

Of the nine States surveyed for this brief, seven States require that full compliance inspections be unannounced. A full compliance review is an inspection during which compliance with each rule is checked and is most often done for license issuance, renewal, or when there’s been a significant change at the facility such as a new director. Texas is the only State surveyed that does not require all complaint investigations or routine inspections to be unannounced.

The States surveyed were asked if there had been any changes in the use of announced or unannounced inspections since the national data were collected in 2012. Texas Child Care Licensing was recently authorized to conduct biennial unannounced inspections of licensed programs, and in 2011, Ohio required that all inspections be unannounced. In Washington, routine inspections are unannounced, but the licensing supervisor can authorize licensing staff to notify the provider of an upcoming visit on a case-by-case basis dependent upon the circumstances (for example, providers who are several hours from the licensing office or where repeated attempts have been made and the provider has not been home).

License Renewal Inspections

In most States, licenses are renewed annually for child care centers and every one or two years for FCC homes. Eleven States have instituted a nonexpiring license, seeking to reduce paperwork and focus on continuous, rather than point-in-time, compliance (NCCCQI, 2013a). Other States believe that the renewal process provides an opportunity to complete a more comprehensive assessment of compliance.

In most States, an inspection is conducted as part of the license renewal process. The following table shows that most States conduct unannounced renewal inspections, but several States do inform providers of when the inspection will occur.

States Conducting Announced and Unannounced Inspections for License Renewal

Inspections for License Renewal	Child Care Centers (N=50)	FCC Homes (N=42)	Group Child Care Homes (N=38)
Licenses are renewed*	39	33	32
Inspection conducted for license renewal	35	26	29
Inspections are announced only	11	7	12
Inspections are unannounced only	19	14	14
Both announced and unannounced	5	5	3
No inspection conducted	4	7	3

N=the number of States that regulate the type of facility.

*Note: Remaining States have a nonexpiring license.

Source: NCCCQI analysis of State responses to the 2011 NARA Child Care Licensing Programs and Policies Survey.

Challenges in Conducting Unannounced Inspections

The States surveyed identified several challenges involved in unannounced inspections. For example, there are times when the provider isn’t home at the time of the inspection, children are not present, or the provider has closed without notifying the licensing agency. Multiple trips, especially when long drives are required, can impact staff resources. States have found different ways to deal with this challenge.

- Florida notes that capturing operating hours of a program on the application for licensure assists licensing staff when planning their daily inspections to avoid arriving to conduct an inspection when the program is closed;
- In Utah, the staff member sends a letter asking for the provider's daily schedule after a second visit attempt; and
- In Georgia, licensing staff leave their business card and send a letter to the provider informing them that they were there. The automated system notes this activity and cues when the next inspection is due. If no one is home on the second attempt, a letter is sent from the Regional Manager requesting a care schedule. The letter may indicate a window of time during which the next visit will be made. If the provider is not home on the third attempt, the agency may move to revoke the provider's license.

While Ohio licensing staff are very supportive of their current policy of unannounced inspections of child care programs, they have generally found that a program's paperwork is in better shape and easier to assess when the inspections are announced.

Licensing agencies may also be concerned about the impact of unannounced inspections on the child care program and quality of care provided.

- Texas and Connecticut offered that unannounced inspections may be more disruptive and stressful in small facilities that have only one staff person, especially if their paperwork is not organized. Connecticut has observed this to be especially true during the summer—perhaps because enrollment and staffing are reduced at that time—and for FCC. The staff try to be respectful and not disrupt the program.
- The Washington licensing staff representative did not view unannounced inspections as more disruptive overall, but felt that inspections may be more disruptive during certain parts of the day; for example, during arrival, departure, and rest and meal times. Licensing staff are directed to follow inspection policy and procedures, avoid being disruptive, and take into consideration what the providers are doing at the time of the inspection. For example, if the provider is caring for an injured child, inspectors can use the time to look at paperwork instead of interviewing the provider.

Use of Technology to Aid in the Inspection Process

The use of technology is having a significant impact on how inspections are conducted and how inspection results are reported and stored. NARA (2013) found that every State has a computerized database to store information about child care facilities. The databases are being used to:

- Manage caseloads (44 States);
- Evaluate workload needs (38 States);
- Provide supervisory oversight (44 States);
- Determine differential monitoring levels (22 States);
- Assess potential enforcement actions; for example, risk management (33 States);
- Analyze compliance data (37 States); and
- Determine individual staff performance (33 States).

Use of Technology to Enhance Licensing Administration (NCCCQI, 2012), describes States’ increasing use of mobile technology such as portable, hand-held notebooks or tablets with software that can both capture the licensing inspection information and provide data and resources to support staff in the field.

Since oversight of child care programs may involve several agencies (fire safety, environmental health, and building or zoning), linkages between the licensing agency’s database and other agencies can improve communication and coordination. Additional data linkages between the licensing agency and programs such as the child care subsidy system, quality rating and improvement system, child protection services, professional development practitioner registry, and the Child and Adult Care Food Program, can provide important information for licensing staff in preparing for a routine inspection or complaint investigation (NCCCQI, 2012).

Public Access to Inspection and Enforcement Actions

An increased number of States are providing access to the results of inspections through the Internet. Information about a provider’s licensing status, the findings from onsite monitoring visits, and any compliance actions can provide critical insight into the safety and quality of care. Parents need clearly stated descriptions of who is required to be licensed, how often inspections occur, and the provider background check process. Some States post full licensing inspection reports, while others limit posted information to rule violations, complaints, and enforcement actions taken against facilities. Some States such as Utah and Washington list family child care providers by city, state and zip code but not by street address due to safety concerns. For descriptions and links to state licensing Web sites, see Licensing Information Posted on the Internet (NCCCQI, 2013e) at <https://childcareta.acf.hhs.gov/resource/licensing-information-posted-internet>.

The U.S. Department of Health and Human Services (HHS) has proposed new regulations that would support parents in being better informed when making choices about care for their children. Proposed provisions would require that the Lead Agency make available on a Web site: (i) Provider-specific information about any health and safety, licensing or regulatory requirements met by the provider, including the date the provider was last inspected; (ii) any history of violations of these requirements; and (iii) any compliance actions taken. A description of health and safety and licensing requirements including background checks and monitoring processes would also be required (HHS, 2013).

Based on information collected in December 2013 (NCCCQI, 2013f), the following table shows the number of States that post licensing information (inspection reports or complaints) about child care facilities on the Internet for access by parents and the general public. A total of 10 States posted licensing information on the Internet in 2005, and 32 states posted inspection reports or complaint findings in 2013 (NCCCQI, 2013a).

States Posting Licensing Information on the Internet

Types of Licensing Information Posted on the Internet	2005	2013
Licensing Inspection Reports		
Full report	7	17
Inspection summary	2	14
Licensing Complaints		
All complaints (substantiated and unsubstantiated)	2	6
Substantiated complaints only	6	19

N = 50 States, including DC and excluding ID.

Note: In some cases, States only post information about complaints on the Internet; they do not include inspection reports.

Providers want assurance of fairness and consistency regarding information on the Internet that may affect their business. In some States, providers are given an opportunity to first review the posting or publicly respond when complaints or violations are posted.

- In Texas, licensing staff review the inspection findings during an exit interview and inform that provider that they have 15 days to request an administrative review if they disagree with a cited violation. The results of the inspection are not posted on the public website until the 15 days have passed or the provider has waived the administrative review option. For Texas' detailed Licensing Policy and Procedures Handbook, see <http://www.dfps.state.tx.us/handbooks/Licensing/Menu/MenuLIC4000.asp>.
- In an effort to ensure that violations including substantiated complaints are acknowledged, providers in Washington must complete a Facility Licensing Compliance Agreement when there are violations which is posted online. It includes an agreement to correct the violations within a specified timeframe, request technical assistance and be subject to fines. Alternatively, the provider can indicate on the form his or her request for a supervisory review. For more information, see <https://apps.del.wa.gov/check/checksearch.aspx>.

In research conducted in Florida, Witte and Queral (2004) found that when inspections are posted on the internet:

- Programs are inspected more frequently;
- Inspectors are more likely to provide more nuanced reviews of programs; and
- The quality of child care, especially care received by low-income families, increased after inspection reports were made available on the Internet.

When States do not make licensing reports available on the Internet, parents must visit licensing offices to get the reports or wait for written responses to inquiries about specific programs. Few parents have the time and resources required to do so and may unknowingly place their child in situations that jeopardize their well-being.

Summary

This brief has explored state practices in conducting licensing inspections to ensure children's health and safety while in care, citing national data and the findings from surveys and interviews conducted with nine States. It is encouraging to see the growth in the frequency of inspections over the last several years.

However, the majority of States still conduct just one inspection per year. As recommended by national experts, it is important and necessary for States to conduct no less than two inspections per year for every licensed child care center, and family and group child care home, with more inspections as needed to assure compliance. These should be unannounced for all routine and follow-up monitoring inspections. Some States surveyed indicated they require two unannounced inspections in the first year of licensing, in addition to the announced inspections prior to licensing, to better ensure and reinforce the teaching and understanding of the rules.

States should seek opportunities to assess and strengthen their statutes, administrative policies, and procedures based on research, lessons learned from other States and regulatory fields, and best practice. The use of new technologies and innovative approaches using risk assessment, key indicators, and differential monitoring all provide strategies to maximize resources and focus on programs needing the most oversight. States must work

Investing the time prior to full licensure to support new programs through technical assistance and more frequent and comprehensive inspections may pay dividends both in reducing future monitoring costs and increasing children's safety.

together in developing forward-thinking inspection practices, including policy guidance manuals, and materials and tools to guide licensing monitoring decisions. Lastly, clear and understandable inspection information must be accessible to the public so that parents can easily review program compliance information and make more informed child care choices.

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