

**Developing Child Care Monitoring and
Enforcement Systems: A Guide for
American Indian and Alaska Native
Grantees**

CCDF Health and Safety Requirements Series
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ADMINISTRATION FOR
CHILDREN & FAMILIES

Developing Child Care Monitoring and Enforcement Systems: A Guide for American Indian and Alaska Native Grantees

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PURPOSE OF THIS TRAINING GUIDE

We all want child care facilities where children are provided with the love and care they need to be safe and to grow up healthy, confident, and ready to learn. Therefore, it is important that we make sure that every child care facility funded through the Child Care and Development Fund (CCDF) is providing safe, healthy, and high-quality care. Because you, as a Tribal CCDF Administrator, are crucial to the success of that effort, this training guide and its companion videos were designed to help you, your staff, and your elected Tribal Leaders:

- ◆ Understand your responsibilities for ensuring that all of the child care facilities you fund and operate are providing safe, healthy, and high-quality care; and
- ◆ Develop and implement a monitoring and enforcement system for child care providers that participate in the Tribe's CCDF program.

Using this Guide

To meet these goals, this guide outlines the parts of a monitoring and enforcement system and describes many important skills, tools, and strategies needed by Tribal CCDF Lead Agency staff to implement the monitoring program and meet the variety of challenges they will encounter in their work. This training guide includes:

- ◆ Monitoring and enforcement policy guidelines.
- ◆ Effective communication skills.
- ◆ How to conduct a monitoring visit.
- ◆ Tips on handling commonly found situations in the monitoring process.

This multi-media training package includes:

- ◆ Guide on Monitoring Child Care Homes.
- ◆ Guide on Monitoring Child Care Centers.
- ◆ Guide on Developing Child Care Monitoring and Enforcements Systems.
- ◆ Comprehensive Appendices.
- ◆ One video on monitoring family child care homes.
- ◆ Two videos on monitoring child care centers.

A number of appendices, referenced throughout the guide, provide details of policies and procedures, pertinent resources to use with each part of the process, sample letters, and check lists and examples of various policies and monitoring skills.

NOTE: The information contained in this guide applies to both child care homes (including relative providers) and centers (including Tribally operated centers) unless otherwise noted in the text. The generic terms “facility” and “provider” are used throughout the guide to represent both home and center-based child care settings.

Three videos, one on family child care and two on child care centers, supplement the written training guides by showing actual monitoring visits to Tribal facilities. The video clips demonstrate positive interactions between provider and monitor and serve as models for conducting a monitoring visit – how to begin the visit, put the provider at ease, observe how the provider works with the children, observe compliance with health and safety

standards, and complete the visit. Voice-overs explain what is happening at each step of the visit, why that step is important to the monitoring process, and other best practice information.

We hope that you will find this multi-media training package easy to use and helpful to you in the monitoring of Tribal child care facilities.

GETTING STARTED

Tribal CCDF Requirements

All Tribal CCDF Lead Agencies must establish health and safety standards that apply to all child care providers that receive CCDF funds. Tribal Lead Agencies must have in place health and safety standards for all categories of care that they provide (defined in the 2016 Final Rule as child care centers, family child care homes (including group home child care), and in-home child care providers). However, Tribal Lead Agencies have the option to exempt certain relative providers (grandparents, great-grandparents, aunts, uncles, and siblings living in a separate residence) from some or all of the Tribe's standards. While allowable, exempting providers from health and safety standards is not considered best practice.

In addition to health and safety requirements, Tribal standards may also reflect other best practices in early care and education as well as the unique cultural practices and expectations that exist in Tribal communities. Written child care standards developed or adopted by the Tribal Lead Agency should be approved by the Tribal governing body and shared with providers, parents, and community members. It is then the responsibility of the Tribal Lead Agency to ensure these standards are being met through periodic monitoring inspections of each child care provider's facility and the enforcement of standards when providers/facilities are not in compliance.

In order to be an eligible CCDF provider, child care facilities must meet the Tribal CCDF health and safety standards and must be operating legally in the jurisdiction in which they are located. Depending on the laws of the jurisdiction, this means that providers need to have a valid child care license, certificate, or similar authorization used by that jurisdiction. A Tribal CCDF Lead Agency must, therefore, be aware of the child care requirements and standards in place in any jurisdiction where Tribally-funded providers may operate.

Licensing

A child care license is the Tribal, State, or local government's permission for an individual or organization to care for children and is based on approved standards. The applicant must demonstrate full compliance with licensing standards prior to being issued a license. The Tribe, State, or locality then issues a license that gives the person/organization the right to provide care. In some cases, a temporary or provisional license, with a time limit, may be issued to allow the applicant an opportunity to come into full compliance. Remember that many Tribes do not use the term "license" for their permission to operate but may choose to use other terms such as certification or approval process.

If a child care facility is located on non-Tribal land, it is subject to any State or local licensing standards in effect for that type of child care provider. Some Jurisdictions choose to exempt certain types of child care providers from their licensing standards; those providers are often referred to as "license-exempt." It is important to remember that some states do not require licensing for their family child care homes until they have a specific number of children in care. That number can be as high as 11 children, depending on the state. If the provider you are dealing with is legally exempt by the state, the only standards the provider may be required to meet is your Tribal health and safety standards. **You would also be the only staff monitoring the facility.**

Child care facilities that meet the Tribe's standards may be "approved" or "certified" to receive CCDF subsidy payments if they have a valid license or are determined to be license-exempt.

The Difference Between a License and Approval

A license issued by a Tribe, State, or locality which gives that person the legal right to provide care is considered a “property right” which cannot be taken away without giving the provider the right to a hearing.

A person who gets a license often signs a subsidy contract with the Tribe to care for children paid for with federal subsidy money along with those paid for by parents.

A license is a more formal regulatory process allowed by Tribe, State or local law, with providers generally held to higher standards. To develop a licensing program, the Tribal Council would pass a law/ordinance that requires a license for any person who wishes to care for children not related to the person and authorizes the development of standards and policies and procedures for issuing and enforcing the license. The Tribe, State, or locality then develops standards (as described in the “Standards” section of this guide) which applicants must meet in order to be given the license. The provider is monitored for compliance with the standards before being issued the license and at least yearly, or more often, after that to make sure they remain in compliance with the law and the license standards.

An approval, certificate, or other authorization is a less formal permission to care for children and may have fewer standards. Often the permission is tied to the provider receiving CCDF subsidy funds for eligible Tribal children they are serving. If it is tied to a subsidy, the person granted an approval, certificate, or other authorization, would sign a contract or agreement. The contract is the formal document that details the responsibilities for both the provider and Tribe. Refer to **Appendix A** for an example of a typical agreement. It is important for the provider to know and understand their responsibilities in this contract/agreement. If an applicant for a child care license, approval, certificate or other authorization is not in full compliance with the standards, she/he may be granted a temporary or provisional authorization for a limited period of time, to give her/him time to come into compliance. The time limit is usually no more than 90 days. It is important to monitor the program more frequently during the terms of the authorization.

Tribal Lead Agencies should have laws and procedures that describe the actions the licensing/approval program can apply to providers who are not in compliance with the law and standards as described in the “Enforcement” section. The enforcement processes can apply to all forms of authorization. However, with a license or approval, the enforcement procedures include revocation, in which the license or approval is taken away for serious violations of the law and standards. Often, when a provider is found in serious noncompliance, instead of, or with other enforcement actions, the Tribal grantee will cancel the contract or agreement for care of children paid for with the subsidy funds. Usually, in these cases, the provider can continue caring for non-subsidy children.

Reasons to Monitor

While enforcement of standards is the primary purpose of monitoring, other purposes include:

- ◆ Assisting caregivers in understanding and meeting the standards.
- ◆ Providing caregivers with information on health and safety best practices.
- ◆ Identifying challenges that caregivers may be having and assisting them in meeting those challenges.
- ◆ Building child care quality through providing resources to caregivers.
- ◆ Reassuring parents that the individuals/facilities they choose for child care are safe and healthy places for their children to be in care.

YOU Are the Staff Providing Monitoring

As the CCDF Administrator, you are the one responsible for ensuring the monitoring of child care providers that you are or will be using. You and/or one of your staff (if you have program staff) will be going into the facilities to

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check on whether they meet the Tribe approved standards. For the purposes of this guide, standards are defined as “the health and safety requirements that Tribal child care providers must meet.” You will need to go into the home or center, make the provider/director comfortable, and look at how the provider/staff is caring for children, what kind of equipment the program has for the children, how children are fed, where they nap, where they go out to play, and if it is all safe. You will need to know the Tribe’s standards, what each standard means, and how to determine if the provider is meeting them.

You and your staff will have to develop both the written standards and the aligned check lists that help you document whether or not each provider is meeting the standards

Therefore, this training is meant for you and/or your program staff who will be visiting homes and centers on a regular basis to inspect them to be sure they meet your CCDF health and safety standards and, if applicable, your Tribal licensing standards. The training will help you to:

- ◆ Know how to develop the standards, check lists, and compliance threshold guidance.
- ◆ Better understand the nervousness that a provider may feel when the “Tribal government” is coming in to inspect the home or center and how to make the provider feel comfortable with you and your work.
- ◆ Be prepared to make these inspections and use them as an opportunity to support your providers.

STANDARDS

Let’s start with the standards that you will use in your program. CCDF regulations require Lead Agencies to have health and safety standards, applicable to all CCDF-funded providers

CCDF regulations require that you monitor CCDF-funded providers for compliance with the standards you establish in each of the categories in which you provide care.

What Are Your Standards?

There are different ways to develop the Tribal standards:

- ◆ You can develop your own Tribal CCDF Health and Safety standards. If you do not know where to begin, you may want to use [Minimum Standards for Tribal Child Care: A Health and Safety Guide](#) and/or [Caring for Our Children Basics: Health & Safety Foundations for Early Care and Education](#) as a framework.
- ◆ You can choose to adopt your state licensing standards as the ones you will use in your program.
- ◆ You can do both – adopt the state licensing standards (or parts of them) and add some other standards to better represent the preferences and concerns of your Tribal community.

Let’s review the guidelines for writing your own Tribal standards for both family child care homes and child care centers:

- ◆ First, review the CCDF requirements for the standards that must be included and the resource documents referred to in the previous section.
- ◆ The next step is to take advantage of the knowledge and experience of the Tribal elders in caring for children.
- ◆ You may want a group of providers and other community leaders to advise and help you as you write the standards.

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- ◆ You want to make sure that the standards you write are supported by your community and the community agrees that these are the standards that are important to protect the health and safety of children and give them the experiences they need to grow and develop to their fullest.
- ◆ The standards need to be realistic – consider the cost and difficulty for providers to meet them. The standards need to be clearly written so that all providers can understand them and the monitors can consistently determine if the programs are meeting them.
- ◆ For certain standards, like hand washing and diapering, you may want to include a requirement that the providers develop their own internal policies and procedures. To ensure that the provider's policies reflect best practices, you can specify specific items that must be included and/or you can refer to resources like [Caring for Our Children Basics: Health and Safety Foundations for Early Care and Education](#) as a guide.

Sample Diaper Changing Standard:

The facility shall have an established procedure for changing diapers or training pants that includes at least the following requirements:

- Diapers or training pants are only changed in the diaper changing or toileting area;
- Each child is cleaned with an individual disposable sanitary wipe or single service washcloth;
- The hands of the child and of the caregiver who changed the diaper or training pants are washed with soap and water immediately after each diaper change.

There are many resources you can use to help you as you write the draft Tribal standards. A list of suggested resources can be found in **Appendix B**.

- ◆ Make sure that several people work on the draft, not just one person. This allows for more than one point of view to be considered and also makes the work easier, whether you write a few standards or a large number.
- ◆ You can use a number of ways to make sure that providers have input on the standards as you write them:
 - You can put them on the Tribal website or the bulletin board of the Tribal office for the providers to see.
 - You can hold open meetings to write the standards, inviting providers to attend.
- ◆ The final step is to have the standards approved by the Tribal government.
- ◆ After the standards are approved by the Tribal government, you will send a copy to all providers and work with them to understand the standards. As you visit, you will provide them technical assistance to help them to better understand what the standards mean and how to meet them.
 - If you have a large number of child care providers, you may want to hold a group meeting(s) to explain the standards and give examples of how they can meet them.

Do You Know Your Standards?

Now that you have standards, you need to study them and discuss them with your supervisor and other staff (if applicable) to understand what each one means. As you monitor, you need to demonstrate that you understand what each standard means and how the provider can meet it.

Some standards can be met in a variety of ways; there is not just one way to meet them. The important point for the provider to know is the compliance threshold for each specific standard; that is, what is expected to be considered to have met the requirement.

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Let's say you have a standard that says that providers must "store drugs and medicines out of the reach of children." What are the options for meeting that standard? Do they differ depending on whether the facility is a home or a center? For example:

In a child care home:	In a child care center:
Does it have to be in a medicine cabinet or is it okay just on a shelf that is high enough to be out of the reach of children? If it has to be in a medicine cabinet, does that door have to be locked or can the door just be shut?	If the center administers medication, must the medicines be stored in a high cabinet? Must the cabinet be locked at all times?

As you prepare to study the standards, it may be useful to write notes to help you explain to the provider what each standard means and how they can put it in place. Formal notes for the standards are often known as Interpretive Guidelines. Interpretive Guidelines explain what each standard means, how a provider can meet the standard, and how the monitor will determine compliance. These notes are very helpful to make sure that you and other monitors are consistent in what your Tribal Lead Agency expects of each center/home for each standard. Here are two examples of Interpretive Guidelines from the State of Indiana:

Example 1:

470 IAC 3-4.7.9 Inspections

Authority: IC 12-13-5-3

Affected: IC 12-17.2-4

Sec. 9 (a) The division may, at any time, monitor, visit, or inspect the child care center.

(b) The center shall provide the division access to the premises, personnel, children in care, and records.

(c) The center shall provide access to personnel from other state agencies or other persons who provide inspections at the request of the division.

(d) Failure to permit immediate access to the child care center may result in suspension or revocation of the child care license.

Intent:

To ensure that the Division can readily determine if the Center is operating in compliance with licensing rules at all times of the Center's operation.

Threshold of Compliance:

A finding of noncompliance would result from the Center's failure to allow entrance during hours of operation.

In the example above, the text of the standard is shown in bold. The standard specifies what the child care program is required to do and what may happen if the program fails to meet the standard; in this case, the program is required to allow the State access for inspection purposes. The interpretative guidance, such as information about the purpose of the standard ("intent") and how to determine if the standard has been met (the "threshold of compliance"), is shown in blue and italics. The intent of requiring access for inspections is to help the State be sure that programs are following its standards. In this case, the threshold of compliance is straightforward: the State must be allowed access during operating hours or the program has not met the standard.

Example 2

(e) Unscheduled visits by a custodial parent or guardian of a child shall be permitted at any time the child care center is in operation.

Intent:

To ensure parents/guardians of enrolled children are free to visit the Center unannounced at any time the center is in operation. This is the most effective tool available to parents to monitor the care their child is receiving.

Assessment Method:

Ask the director about procedures to ensure parents/guardians access to the Center to observe their children at any time the center is in operation.

Threshold of Compliance:

Noncompliance with this rule would normally result from failure for this to be included in the program's written policies or it may be revealed through a complaint.

In this example we see the standard clearly stated in bold with the intent of ensuring that parents/guardians can freely visit the facility shown in blue and italics. The method of determining compliance is requesting information on policy procedures from the director. The threshold with this standard would be absence of policy and procedures and/or a substantiated complaint.

MONITORING PROCESS

There are many things to consider as you get ready to monitor. First, the providers must know what is expected of them. They need to know what the standards are and how to meet them. They also need to understand the monitoring process and what to expect before, during, and after the monitoring visit. You will need to create processes and resources that help providers understand both their responsibilities and yours.

Monitoring Check Lists

As we noted earlier, you should develop a check list for each set of standards to document whether the provider meets the standards at each monitoring visit. The check list should have spaces for:

- ◆ Marking whether or not each standard is being met.
- ◆ Writing comments on good practices observed and improvements made.
- ◆ Noting any standards that are not being met and what the provider must do to comply.
- ◆ Your signature and that of the provider, to be signed when the form is completed and discussed with the provider.

Usually, you will leave a copy of this completed form with the provider at the end of a monitoring visit, along with instructions about what must be done to come into compliance on standards that are not currently being met.

Supporting Providers in Their Child Care Operations

Throughout the process, you are responsible for ensuring that the provider understands your standards and how to meet them. At every step, one of your key responsibilities is to be the “teacher of the standards.” You are the key to the providers’ success. The better they understand what is expected of them and are given helpful hints and assistance to meet the standards, then the better the providers should be able to meet them and stay in compliance.

There are a number of ways to help providers better understand and meet your new or revised standards. Monitors provide technical assistance to help providers know how to meet the standards and consultation to help providers know about best practices in topics such as caring for children, appropriate daily activities, and working with parents. You can provide one-on-one technical assistance by giving explanations, helpful hints, materials, and case-specific guidance during your monitoring visits and by telephone and email. If you have the resources, you may also want to hold a series of provider trainings to explain the meaning of, and how to meet each standard. These can be very helpful and allow providers to learn from one another as well. Training and technical assistance topics can include:

- ◆ How to meet the standards.
- ◆ Activities to use with children to help them grow and develop.
- ◆ Information on how to run a family child care home or child care center.
- ◆ Healthy and nutritious meals (the Child and Adult Food Care Program should be able to provide this training).
- ◆ Fire safety and environmental health (cleanliness, storage of medicines and toxic materials).
- ◆ Working with parents.

Training is one way to provide support to providers for their child care programs. There are other methods to provide support as described in **Appendix C**.

Facility File

You are responsible for monitoring the child care facility, which includes the physical environment (the home or center in which the care is provided) and the child care provider/staff who care for the children. You will need a file on each facility you monitor. This file is a folder where you keep the important forms and other materials for the provider’s home or the child care center, such as:

- ◆ The provider’s completed application for licensing/approval/certification by your Tribal Lead Agency.
- ◆ Background checks, health records, and other forms you require the provider to complete during the application process.
- ◆ A copy of the actual license/approval/certificate, as well as a copy of the cover letter you sent the provider with the official document.
- ◆ All completed inspection check lists/forms, including those for inspections conducted by other entities, such as the fire department, Indian Health Services, etc.
- ◆ Reports of complaint investigations.
- ◆ Letters and other documents you gave the provider to document the violations of the standards (plan of correction, non-compliance letters, etc.).
- ◆ Documentation of any other communication with the provider.

This file needs to be kept up to date and, when the provider is no longer active, should be closed and archived according to your CCDF program's document retention policy.

Informing the Provider about Your Monitoring Process

As you begin to monitor for compliance with the standards, inform child care homes and centers of what the expectations are:

- ◆ How often they will be monitored.
- ◆ Who will monitor.
- ◆ What will happen during the visit.
- ◆ What is expected following the monitoring visit.

You can also share the plan for future visits to be unannounced, as recommended by best practice.

Provider Self-Assessment

Being in compliance is not just a once or twice a year activity; rather, continuous compliance with all standards is what is expected to ensure that children are always cared for in safe and healthy environments. Therefore, self-assessment should be an ongoing practice for all providers.

Self-assessment is a strategy that providers can use between your formal monitoring visits to ensure that they are maintaining continuous compliance with your child care standards. You can help providers monitor their own facilities in between inspections by offering a variety of check lists to help the providers conduct daily/monthly health and safety checks. For example,

- ◆ Daily checks to use in each area of the facility before children arrive, such as checking the bathroom to make sure that toothbrushes and toothpaste are out of reach of the children, trash cans are empty, there is enough toilet paper on the roll, etc.
- ◆ Monthly checks might include inspecting playground equipment and other large items for signs of deterioration like rust, missing pieces, and faulty operation.
- ◆ A check list tool can also be helpful for new providers to determine if their program is ready to care for children or if additional work must be done before care begins. You may want to include one or more self-assessment check lists in your application packet for new providers.

Keep in mind that **self-assessment alone is not sufficient monitoring**. Your monitoring visits are still essential to ensure the health and safety of children while in child care.

Your Role When You Use State Licensed and Monitored Facilities

When using state licensed facilities, some Tribes have elected not to issue a Tribal license but rather just have an agreement/contract or approval to make payments to the facility. However, you still have responsibility to confirm that the provider is meeting all of the Tribal standards that you have in place. Therefore, it is important that you work closely with the state licensing agency to ensure that your state licensed providers are meeting all of the standards that both you and the state expect them to meet. Below are some suggestions to help make your partnership with the state work smoothly:

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- ◆ Establish a relationship with the state licensing agency. Consider developing a formal agreement, such as a Memorandum of Understanding (MOU) or a Cooperative Work Agreement (CWA), which explains how information on state licensed facilities will be shared. A sample MOU is included as **Appendix D**.
- ◆ Maintain a working relationship with the state worker assigned to the providers that your Tribe is using.
- ◆ Ensure that your facility files include a current copy of the facility's authority to operate (state license or certification), as well as copies of all inspection reports and/or monitoring forms regarding the facility.
- ◆ Know and understand what the state standards require. If they do not address working with different cultures, you will want to give your providers information that is culturally relevant for the children your Tribal families have placed in their care.
- ◆ If your Tribe has standards that are not included in the state standards, you need to inform the provider of those additional Tribal standards and you need to monitor the facility to ensure they are met. Unless you have included this in your agreement with the state, monitoring for compliance with these standards would not be the state's responsibility.
- ◆ Monitor the facility yourself (at least once a year) in addition to what the state is doing.
- ◆ It is good for you to observe the care your Tribal children are receiving and to confirm that your providers are indeed meeting all the standards that they have agreed to meet.
- ◆ Consider setting aside quality dollars to assist providers in meeting state standards.

Monitoring Tribally Operated Centers

Unless licensed by the state, most Tribally operated centers are responsible for their own monitoring plan. Having clear policies and procedures on how your Tribe's facility will be monitored, the instrument(s) that will be used, who will do the monitoring, how often, and how areas of non-compliance will be handled is crucial. Your policies should include:

- ◆ Who authorizes the child care center to operate (Tribal government, Tribal department) and who issues the license, approval, or certificate?
- ◆ Is there an expiration date of the license/approval and what is the renewal process?
- ◆ Will you have outside governmental and other agencies monitoring your Tribe's facility (IHS Environmental Health, USDA Child Care and Adult Food Program, Fire Dept.)? Do you have a copy of the standards they will be monitoring against, are you familiar with them?
 - Are the monitors familiar with the Tribal child care standards and policies and procedures you are utilizing? How do you assure that the CCDF Tribal health and safety standards are being monitored?
 - Do you receive a copy of the final report? How will non-compliance issues be handled?
- ◆ Are your Tribal child care standards and monitoring/enforcement policies and procedures approved by the Tribal Council or other Tribal agency?
- ◆ If center staff will be doing the monitoring,
 - Do you have written procedures and provide adequate training to guide the process?
 - Will staff be monitoring their own rooms, another caregiver's room, or the entire facility? Remember to be sensitive to the emotions or anxiety of the staff they will be monitoring and to be aware of their own emotions and how they handle themselves.

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- Is staff clear on how they would handle observing another staff person not following standards/best practices, such as not washing their hands after changing a diaper? Would they intervene or just report the infraction?
- Is your policy clear regarding confidentiality? For example, does it prohibit monitors gossiping with center staff, parents, or community members regarding their observations during the process or the results of the monitoring visit?
- ◆ When areas of non-compliance are identified in the monitoring report, how is this information shared and with whom? Is a plan of correction developed and, if so, by whom? What is your follow-up process to ensure corrections are made? The bottom line is that violations must be corrected.
- ◆ How do you interact with other Tribal entities such as Tribal Council/government, Tribal Maintenance Department, or Indian Health Services (IHS) to correct violations?
- ◆ Is everyone who monitors your program aware of the Mandatory Reporter requirements?

Complaint investigations involving Tribally operated centers are difficult, particularly when the complaint is filed against your center. Your policies and procedures need to address how complaint investigations will be handled and who will do the investigations. If the complaint suggests possible child abuse or neglect, it will immediately be referred to your Tribe's child welfare staff or child protection team and followed up by the monitor. If the complaint alleges a serious violation of your Tribal child care standards, you may want to refer the investigation to another Tribal department or division. That department can do the monitoring inspection, review previous monitoring records, conduct interviews, and take the other necessary actions to obtain information about the alleged violations. The goal is to determine in a fair and impartial manner if the violation occurred and, if so, to correct it so that it no longer presents a risk of harm to children.

Monitoring Training

Training to be a monitor of child care facilities is important and valuable. Take advantage of all available training on how to handle yourself in the monitoring process, how to understand the standards, and what is needed for a child care program to provide safe, healthy care that helps the children grow and develop and that prepares them for school and life.

There are many ways to get the training you need to be a good monitor. For example, you can:

- ◆ Attend face-to-face training sessions that might include hands-on learning activities like role playing of different monitoring situations and practicing what to do on a complaint investigation visit.
- ◆ Reach out to the state licensing agency about participating in the training they provide to their staff.
- ◆ Take the National Association for Regulatory Administration's (NARA) online training courses and/or attend their annual national licensing seminar.
- ◆ Watch the videos that accompany this Guide.
- ◆ Contact the Office of Child Care for technical assistance, support, and training.

Safety of Monitoring Staff

The safety of monitoring staff should always be kept in mind. If there is a concern that someone may be aggressive or violent, the issue should be discussed with a supervisor. A strategy to consider may include the utilization of a witness and/or coordination with Tribal law enforcement officials. Caution should also be taken when monitoring in an unfamiliar community.

POLICIES AND PROCEDURES

Before heading into the field, let's talk about the role and importance of policies and procedures. To help you know what to look for when you inspect a center or a family child care home and how to conduct the inspection, you need a road map. Monitoring is a complicated process that needs a good road map detailing how the process is put in place. This is where policies and procedures come in.

What are Policies and Procedures?

Policies are statements that guide you in the process you use to approve and monitor child care programs. These policy statements will guide your actions from the time a person or organization inquires through the decision to approve and continued monitoring. Policies will also help you in developing the standards, the check lists, and other inspection forms.

Procedures are the step-by-step details of how you will put each element of the monitoring policy in place. Each procedure will help you know:

- ◆ What responsibilities are yours and when you will do them.
- ◆ What you do at each point in the monitoring process, such as how a potential provider applies for an approval, how to teach the standards, what you do when you inspect a program, how to enforce the standards when they are not being met.
- ◆ Which forms and other documents you will use at each point, such as the provider application, monitoring visit check lists, etc.
- ◆ Some of the procedures might be instructions; some may be forms, check lists, or pamphlets.

Sample Policy:

A person who requests an application should receive at least:

- Tribal approval/licensing ordinance
- Tribal child care health and safety standards
- Process for receiving approval/license
- Application form

Sample Procedure:

Within 2 days of receiving a call from a person who is interested in applying for an approval/license, staff will put in the mail the standards, law, licensing process, and application form.

Policies and procedures protect you as the staff person doing the monitoring by providing you with documented methods to do your job. If you follow the policies and procedures, then you and your staff can be more confident in defending your findings if challenged. You will be able to document that you acted based on existing procedures and not because you just did not like someone. Well-written policies and procedures also protect providers by giving them the right to know what you expect of them at each step of the process and by helping you to treat each provider in the same way as you do your work enforcing the standards.

There are many things to consider before you start monitoring. It is important to resolve these issues and address them in your policies and procedures to help prevent problems when you monitor. A guideline for writing monitoring policies and procedures can be found in **Appendix E** and gives you questions to think about and put into writing. An example of policies for monitoring child care homes can be found in **Appendix F**.

Inspections and Frequency

Your policies and procedures should outline how often the Tribe will inspect programs every year and whether those inspections are announced or unannounced. It is important to inspect programs frequently since research tells us that programs inspected more frequently:

- ◆ Are more likely to stay in compliance with the Tribe's and CCDF standards to protect children's health and safety.
- ◆ Have lower rates of accidents requiring medical attention.

According to the best practices outlined in [CONTEMPORARY ISSUES IN LICENSING: Child Care Licensing Inspection Policies](#)¹, visits to accept an initial licensing/approval application or review a renewal application may be announced (previously scheduled) to make sure that paperwork is complete and standards are met. Routine monitoring visits, follow-up inspections, and inspections to investigate complaints are more likely to be unannounced. Unannounced inspections help prevent programs from covering up violations.

Most national experts recommend no fewer than two inspections per year for every licensed child care center, and family and group child care homes. Recommendations vary:

- ◆ ***Caring for Our Children*** recommends at least **two** licensing inspections per year.
- ◆ **NARA** recommends routine monitoring of facilities **twice a year, increasing to four times or more a year until compliance is stable OR the facility is closed.**
- ◆ **Child Care Aware®** recommends that all child care programs have regular **unannounced** inspections (at least once a year and preferably more often).

Complaint Policies and Procedures

Beyond the day-to-day monitoring activities, policies and procedures should guide you in other parts of the process as well, such as how to investigate complaints. It will not happen often but, from time to time, you will get complaints about improper care in a child care home or center. Policies and procedures can help you know what to do when someone from the community tells you that they have concerns about a provider.

A complaint is information from a parent or someone else in the community that children are at risk in a child care program or that something has happened that is a violation of the licensing standards. Sometimes the complaint is not specific, it is just an expression of concern by the complainant. Complaints may often be called in to the Tribal CCDF office but also may be given to you in person or received by mail.

Some common complaints are:

- ◆ Children are being left alone.
- ◆ A child was seriously hurt.
- ◆ There are too many children being cared for by the child care home.
- ◆ The child care facility is dirty.
- ◆ Someone who is not suitable is living in the child care home.

¹ National Center on Child Care Quality Improvement. 2014. Fairfax, VA: Office of Child Care.

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- ◆ Children are not being fed properly.
- ◆ Children are being hit.

Remember that the CCDF rules and regulations require the Tribes to do the following in relation to parental complaints:

- ◆ Maintain a record of substantiated parental complaints (best practice is to maintain records of all complaints).
- ◆ Make information regarding such parental complaints available to the public on request.
- ◆ Provide a detailed description of how such record is maintained and is made available.

Policies and procedures will help you determine if the complaint is valid and guide you in conducting the complaint investigation. The goal of the investigation is to determine if the allegation occurred and to come up with one of the following findings:

- ◆ **Substantiated** means that the findings of the investigation clearly indicate that the provider violated one or more standards.
- ◆ **Unsubstantiated** means that the findings do not lead to a definite conclusion.
- ◆ **Ruled out** means that the finding of the investigation clearly indicated that there was not a violation of the standards.

It is important to be open-minded when you investigate; do not go in with a pre-conceived opinion of whether the complaint is true or not. Following your written policies and procedures, approved by the Tribe's governing body, will ensure that you can act quickly to ensure the safety of the children in care while protecting provider's right to be treated fairly and ethically. Refer to **Appendix G** and **Appendix H** for guidance and resources on writing your complaint policies and procedures. Refer to **Appendix I** for a sample Child Care Complaint Intake Form.

ENFORCEMENT

What about those facilities that do not meet the standards? Now what do you do? You must enforce your standards according to your policies and procedures, which should be clear so that you know up front what to do in most situations. Procedures provide the enforcement tools that you will use to tell a provider that something has to be corrected and to help her/him solve the problem with their child care. The following is a list of enforcement tools with a brief definition of each:

- ◆ **Plan of Correction**—When you have found a problem during an inspection, often the first step is to do a plan of correction. This is a plan that you and the provider develop that outlines how the provider will correct the violation(s) found during the visit. Refer to **Appendix J** for sample plan.
- ◆ **Administrative Review**—If the provider does not meet the standard at your follow-up visit, you can do an “administrative (office review of violations and provider problems/actions) review” of the monitoring/licensing record to decide whether to continue subsidy payments.

It is important to make sure that children are being properly cared for and not harmed, so following up on ongoing and recurring problems is essential. There are other tools, listed below, that you can use when the provider continues to have problems meeting a particular standard(s). You will need to know the purpose of each of these tools. Your program's policies and procedures will outline the steps of when and how to use them. Be sure that your policies and procedures are approved by your Tribe's government body. Refer to **Appendix K** for more details and examples of each of the following tools.

- ◆ **Non-compliance Letter**—When you find more serious non-compliance that puts children at greater risk of harm, you can prepare a non-compliance letter which outlines the standard with the non-compliance that you

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found, what actions need to be taken, the time frame for correction, and what the consequences are if the corrections are not made. Refer to **Appendix L** for a sample non-compliance letter.

- ◆ **Witnessed Visits**—Sometimes with more serious non-compliance or if the provider does not seem willing or able to correct the non-compliance, you can do an inspection with your supervisor or other staff person. It is also often used if the monitoring staff feels threatened or uncomfortable going to the home alone.
- ◆ **Office Conference**—When the non-compliance is serious and/or the provider does not seem to be able to correct the problems or stay in compliance with all the standards even after much help from you, you can schedule an office conference with you and your supervisor (or director of the agency) to discuss the non-compliance and the importance of correcting the problem.
- ◆ **Consent Agreement**—Sometimes at the office conference or with a non-compliance letter the provider agrees to meet a specific set of conditions to avoid having their license/approval revoked. A consent agreement puts these conditions in writing.
- ◆ **Cancel the Contract**—When there is serious non-compliance that could result in a strong enforcement action or revocation, the Tribal approval/licensing office instead cancels the subsidy contract, taking away the subsidy payment. The provider cannot be paid with CCDF funds to care for children, but may still provide care for them and/or other children as the license is not taken away. Refer to **Appendix M** for a sample contract cancellation letter.
- ◆ **Revocation and Denial**—Sometimes after the home/center has been given a license/approval, you will have to take the license/approval away. In licensing systems and often in approval systems, this is called revocation and happens when the provider has such serious non-compliance that the children are or could be severely harmed.
- ◆ **Emergency Order**—When the children are in immediate danger of harm, an emergency order can be issued which means the provider must stop care right away. Examples of situations for an emergency order are: no heat on a cold, snowy day; power turned off for several days; sexual abuse by the provider or someone living in a child care home. The provider must be given a hearing very quickly after this action.

One of the hardest things a monitor has to do is to make a decision on revoking a license or cancelling a subsidy contract when a monitoring inspection or complaint investigation shows that the children are in danger of harm. Some of the questions to consider when establishing your enforcement and revocation policies include:

- ◆ Should you revoke the license or cancel the contract even if the provider is a friend or relative of the child?
- ◆ In a poor or geographically isolated community with limited child care options, will parents be forced to leave children in a worse situation? Do you let those children stay in a harmful situation that we would not allow for other children?
- ◆ Are you being unfair to other providers if you do not take strong action with this provider?

Enforcement Steps for the Smaller Tribal Grantee

If you are from a Tribe that does not have a judicial system in place, you can still enforce your Tribal child care health and safety standards. Here are some simple steps to follow that should be in your written policies and procedures:

- ◆ Ensure that your procedures as well as your standards have the written approval (signature) of Tribal administration/governing body so that they will support the enforcement actions you take (including termination of a provider's contract).
- ◆ If you have a provider who consistently is not following your standards, you must be sure to document the areas of non-compliance when you make a visit to her/his home. Be clear about what standard is being violated and what you observe.

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- ◆ Sit down with the provider and explain the violation and, if the violation does not put children at immediate risk, give her/him an opportunity to write a plan of correction which includes a specific date for corrections to be made. Make sure the provider signs the plan of correction.
- ◆ Offer technical assistance to the provider in an effort to help her/him come into compliance. For example, if the provider has not been properly supervising children, you could give her/him materials on supervision or refer her/him to training that addresses supervision of children.
- ◆ Make a follow-up visit on, or shortly after, the date the violation(s) are to be corrected.
- ◆ If violations are not corrected, you want to be more firm with the provider and explain that her/his ability to receive payment from the Tribe for child care is dependent upon meeting the standards that they agreed to when they applied to be a Tribally- funded provider. Continued non-compliance may well lead to the withdrawal of their approval or, if you issued a license, loss (revocation) of their license. Again, this information must be given to the provider in writing, commonly referred to as a non-compliance letter.
- ◆ Depending on the severity and frequency of the standards violation(s), you may repeat the previous step. However, if the non-compliance continues, at some point you must make the decision when to revoke or withdraw the approval and stop making payment to the facility. This is followed with another letter informing the provider of the intended action. Depending on what your written policies and procedures state, parents might continue to use a legally-operating provider but WITHOUT subsidy from your Tribe.
- ◆ If the standards that are not met are putting children at risk, you would want to act more quickly.
- ◆ If you are revoking a license, your policies, and procedures need to include an appeal section.

Due Process and Appeals

Whenever an enforcement action is taken against a provider who is licensed or approved, the person/organization should have the right to “due process.”

- ◆ If you issue a license, remember that we said that the license is a “property right” which cannot be taken away without giving the provider the right to a hearing. The hearing is a meeting in which the Tribe explains why the license is being taken away and the provider has a chance to say why she/he should be able to keep that license or to continue to receive federal child care subsidy.
- ◆ If your Tribe approves a provider instead of issuing a license, due process should be built in, giving providers an opportunity to be heard when the decision to remove the approval is made.
- ◆ The same is true if you have a contract or agreement to make payment to a provider. They also should be afforded due process to a lesser degree which should be spelled out in the agreement or contract.

CONCLUSION

Hopefully this guide has provided you with the guidance you need to develop a monitoring and enforcement system for family child care homes, child care centers, and relative providers in your Tribal community. We hope that you will find the guide, along with the guides on homes and centers and the supplemental videos, helpful as you work to protect the health and safety of children in child care facilities licensed and/or approved by the Tribal government.

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GLOSSARY

Certified or Approved – The permission granted to child care programs that meet the Tribe’s standards to receive CCDF subsidy payments if they have a valid license or are determined to be license-exempt. A program is often referred to as being “certified” or “approved.”

Child Care License – The State, local and sometimes Tribal government’s permission, provided by law, for an individual or organization to care for children, after demonstrating compliance with licensing standards.

Complaints – Information received from a parent or someone else in the community that children are at risk in a child care program or that something has happened that is a violation of the licensing standards.

Compliance Threshold – This term refers to what is required for someone to demonstrate compliance with or meet a standard.

Continuous Compliance – With a license or approval, the expectation is for compliance with all standards at all times, throughout the terms of the license or approval, not just once or twice a year.

Comprehensive Background Check – This refers to the background screening of a person who applies for a license/approval or to be a caregiver in a child care programs, as required in the State and/or Tribe’s standards. The comprehensive background screening should include the following:

- A. A search of the State criminal and sex offender registry or repository in the State where the child care staff member resides, and each State where such staff member resided during the preceding 5 years;
- B. A search of State-based child abuse and neglect registries and databases in the State where the child care staff member resides, and each State where such staff member resided during the preceding 5 years; and
- C. A Federal Bureau of Investigation fingerprint check using Next Generation Identification.

Due Process – Whenever an enforcement action is taken against a provider who is licensed or approved, the person/organization has the right to be heard. This means that the person has an opportunity to have the Tribe/State explain why the license/approval is being taken away and the provider has a chance to say why she/he should be able to keep that license or approval to continue to receive federal child care subsidy.

Enforcement – This term refers to all actions you take, both positive and negative, to help providers come into and remain in compliance with the CCDF and tribal standards. The policies and procedures outline the tools that are used to advise providers that corrections are needed for them to stay in compliance.

Inspection – A licensing/approval inspection is a thorough examination of the applicant or licensed/approved provider to determine compliance with the CCDF/State/tribal standards. This can be referred to as monitoring.

Interpretive Guidelines – Formal notes that help to explain to providers what each standard means, how a provider can meet the standard, and how the monitor will determine compliance.

License-Exempt – Child care programs that are not required, by law, to be licensed in certain tribal jurisdictions.

Monitoring – This term refers to the inspection of child care centers and family child care homes to determine if they are meeting the tribal child care licensing or approval standards.

Procedures – This term refers to the details of each licensing/approval step for the policy that has been developed. Procedures tell the licenser/monitor what to do in each step of the licensing/approval and monitoring process.

Revocation – This term refers to the action taken by the Tribe as the licensing/approval agency to take the license/approval certificate away, which happens when the home/center has such serious non-compliance that children in care are, or could be, severely harmed.

Self-Assessment – This term refers to the process the provider can use between the formal monitoring visits to make sure they remain in continuous compliance (all the time) with the CCDF and tribal child care standards.

Standards – This term is defined as the health and safety requirements that Tribal child care providers must meet.

Technical Assistance – This term refers to the assistance given to applicants and licensed/approved providers to help them come into compliance with the child care standards and to remain in compliance. Technical assistance is offered during each monitoring visit.

Violation – This term is used when a provider is not meeting a particular child care standard or the law. It is often referred to as non-compliance.

CCDF Commonly Used Terms

Categories of Care (i.e., Child Care Settings)

Center-based child care provider – Provider licensed or otherwise authorized to provide child care services for fewer than 24 hours per day per child in a non-residential setting, unless care in excess of 24 hours is due to the nature of the parent(s)' work.²

Family child care provider – One or more individual(s) who provides child care services for fewer than 24 hours per day per child, in a private residence other than the child's residence, unless care in excess of 24 hours is due to the nature of the parent(s)' work.²

In-home child care provider – An individual who provides child care services in the child's own home.²

Tribally operated centers – Tribal grantees who use CCDF funds to operate a center-based child care business are said to have a Tribally Operated Center (TOC). The Tribe oversees all operations of the program: paying facility costs (e.g. rent and utilities), hiring and managing staff, purchasing equipment and supplies, and screening families for eligibility.³

Relative Provider – Providers who are certain relatives of the children they care for (grandparents, great grandparents, aunts, uncles, siblings who are over 18 and living in a separate residence).²

² Child Care and Development Block Grant; Final Rule, 45 C.F.R § 98.2 (1992).

³ National Center on Child Care Data and Technology. (2012). Tribal Annual Report, ACF-700.

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