



# Approaches to Managing Complaints in Child Care and Early Education Licensing



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## Introduction

Child care and early education (CCEE) licensing agencies establish regulations that CCEE providers<sup>1</sup> serving young children must meet to operate legally in a state or territory and monitor providers to ensure they comply with licensing regulations (Lapp Payne, 2011; NCCQI, 2014). One responsibility of CCEE licensing agencies is to manage formal complaints made by families or others about CCEE providers. This responsibility includes receiving, investigating, and determining findings from complaints. Licensing agencies may investigate complaints for providers who are licensed, legally license-exempt, or operating illegally. The purposes of a fair and constructive complaint investigation process are to increase compliance with licensing regulations and to reduce risk for children. Clear and publicly available documentation of complaint findings may help families choose and continue evaluating their child's CCEE provider.

In the 2016 Child Care and Development Fund (CCDF) final rule (45 C.F.R. § 98, 2016), Congress added requirements about complaint investigations. States and territories must “(a) establish or designate a hotline or similar reporting process for parents to submit complaints about child care providers; (b) maintain a record of substantiated parent complaints; and (c) make information regarding such parental complaints available to the public on request” (45 C.F.R. § 98.32, 2016). The CCDF lead agency must provide a detailed description of the process for substantiating and responding to complaints for providers who do and do not receive CCDF subsidy funds. States and territories are strongly encouraged to establish appropriate time frames for following up on a complaint depending on the urgency or severity of the complaint and to implement a process that includes unannounced inspections or monitoring visits (45 C.F.R. § 98, 2016). The hotline number or other reporting process must be included in a summary provided to parents receiving federal child care assistance (e.g., subsidies; 45 C.F.R. § 98.33, 2016).

The National Association for Regulatory Administration (NARA) developed a licensing curriculum to guide licensing staff. In it, they note that “complaint investigations are one of the most demanding responsibilities of licensing” because providers and individuals making complaints often have different perspectives (NARA, 2000, Chapter 8, p. 1). Families, for example, may be primarily concerned with what their child experienced or what they observed and may be upset with the provider. Providers may not believe that the complaint is warranted or may be concerned about the possible impact on their jobs and reputations. It may be challenging for licensing staff to manage the emotions of people involved while gathering information from individuals with different perspectives—information needed to determine whether there was a licensing regulation violation. These investigations may also include media attention and coordination with other entities, such as fire and health departments, child protective services, and law enforcement.

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<sup>1</sup>The term *CCEE providers* refers to center-based programs, family child care homes, and group child care homes. Even if complaints are about an individual, the licensing agency investigates complaints for the entity or program that holds the license.

The findings presented in this brief are based on data from the 2017 Child Care Licensing Study (CCLS; Fischer & Orlowski, 2020) and the federal fiscal year (FFY) 2019 Quality Progress Report<sup>2</sup> (QPR; Office of Child Care, 2019). The 2017 CCLS provides data from all 50 states and the District of Columbia, while the FFY 2019 QPR includes data from all 56 states and territories<sup>3</sup>.

We analyzed the data to answer the following questions regarding the CCEE licensing complaint process:

- How could families and others report complaints about CCEE providers?
- What were the most frequent complaints that licensing agencies received?
- What was the average time between receiving a complaint and taking steps to respond?
- Who investigated complaints?
- How often were on-site inspections completed after a complaint was received?
- What proportion of complaints were substantiated?
- Were complaints against legally license-exempt providers investigated?

The 2020 *Best Practices for Human Care Regulation* was developed by the National Association for Regulatory Administration and the National Center for Child Care Quality Improvement. It applies to child care, adult care, and child welfare regulation. It suggests benchmarks for organizational, programmatic, and regulatory management. There are two associated tools: the *Best Practices for Human Care Regulation Self-Assessment Tool* to help identify strengths and areas for growth; and the *Best Practices for Human Care Regulation Follow-Up Tool* to help develop improvement plans.

These resources are available at [www.naralicensing.org/best-practices](http://www.naralicensing.org/best-practices)

## Methods to Report Complaints

In the 2017 CCLS, state licensing agencies (n=51) were asked how parents and others could submit complaints about licensed providers. States often reported multiple ways, including calling the licensing agency (73%; Table 1). States could also specify other methods besides those listed in the survey; 13 states (25%) listed email as an option.

**Table 1.** Methods to submit complaints about licensed CCEE programs (n=51)

	Number of states	Percentage of states
Telephone call to the general licensing agency	37	73%
Form to submit a complaint on the licensing agency website	24	47%
Telephone complaint hotline for licensing	22	43%
Other (e.g., email, walk-ins, fax)	21	41%
Telephone complaint hotline shared with another program, such as child protective services	18	35%

**Source:** Authors' analysis of the Child Care Licensing Study, 2017 (Fischer & Orlowski, 2020; n=51, including all states, and the District of Columbia).

<sup>2</sup> The Quality Progress Report (QPR; ACF-218) is an annual report in which Child Care and Development Fund (CCDF) lead agencies provide information about how CCDF quality funds were expended and the measures used by states/territories to evaluate progress in improving the quality of CCEE programs. The FY 2019 QPR only included questions about two types of inspection consequences: CCDF funding revocation and program closures. For more information about QPRs, see <https://www.acf.hhs.gov/occ/data/quality-progress-report-acf-218-ccdf-program-fiscal-year-2019>.

<sup>3</sup> The data presented in this brief may not represent current complaint processes because processes may have changed since these data were collected.

Anonymity is another aspect of reporting complaints. Although the *Best Practices for Human Care Regulation* (NARA and National Center for Child Care Quality Improvement {NCCQI}, 2020, Benchmark 3.4.5) suggests that all complaints, including those that are anonymous, should be investigated, they note it is preferable to obtain the name and contact information for people who submit complaints in case clarification or follow up is needed. In the 2017 CCLS, 42 states (82%) reported that the licensing agency investigates complaints filed anonymously for all licensed programs.

## Most Frequently Filed Complaints

In an open-ended question of the 2017 CCLS, state licensing agencies were asked to list the four most frequently filed types of complaints, based on areas of alleged licensing violations. We coded the responses to determine which complaints were most frequently filed across the U.S.<sup>4</sup> Based on responses from 38 states, the most common complaints were about not following regulations for supervision, ratio and group size, and health and safety (Table 2).

**Table 2.** Licensing complaints filed most frequently by states (n=38)

Category <sup>5</sup>	Number of states	Percentage of states
Supervision (e.g., provider not in sight of children)	30	79%
Ratio and group size (e.g., too many children in a classroom)	27	71%
Health and safety (e.g., unsafe sleep practices)	22	58%
Behavior guidance and discipline (e.g., inappropriate discipline),	21	55%
Administrative (e.g., failure to report a problem)	9	24%
Staff qualifications (e.g., providers do not meet the minimum qualifications)	8	21%
Program activities (e.g., indoor or outdoor activities for children)	5	13%
Illegally operating care (e.g., provider should be licensed but is not)	5	13%
Abuse and neglect (e.g., child left alone)	3	8%
Nutrition (e.g., fruit not served)	2	5%

**Source:** Authors' analysis of the Child Care Licensing Study, 2017 (Fischer & Orlowski, 2020; n=38).

**Note:** Responses were not mutually exclusive; therefore, the percentages do not sum to 100%. States may have reported more than one complaint within the listed categories.

## Timeliness of Investigations

States and territories typically have policies on how quickly complaint investigations must be launched. These timeframes may vary based on the severity of the complaint. *Best Practices for Human Care Regulation* (NARA and NCCQI, 2020; Benchmark 3.4.5) notes that timeframes should range from immediate to no

<sup>4</sup> Seven responses did not fit into these categories and were coded as "other." They included responses such as custodial care, personal rights, and infant care.

<sup>5</sup> The examples provided are for illustrative purposes only. The data did not include information about specific complaints.

longer than five days. When asked in the FFY 2019 QPR about the average length of time between receiving the complaint and taking steps to respond,<sup>6</sup> 30 states/territories (63%) reported responding to complaints within five days (Table 3).

**Table 3.** Average time between receiving a complaint and taking steps to respond (n=47)

	Number of states/territories	Percentage of states/territories
3 days or less	19	40%
3.1 to 5 days	11	23%
5.1 to 10 days	10	21%
10.1 to 30 days	6	1%
More than 30 days	1	2%

**Source:** Authors' analysis of FFY 2019 State/Territory Quality Progress Report, Section 7.3.2 (n=47 states and territories, including all states, the District of Columbia, American Samoa, Guam, Northern Mariana Islands, and Virgin Islands). Florida, Hawaii, Idaho, Iowa, Maine, North Dakota, Puerto Rico, Tennessee, and Virginia were excluded due to missing data.

## Staff Conducting Investigations of Licensed Programs

In the 2017 CCLS, 46 states (90%; Table 4) reported that the same staff who conduct routine licensing compliance inspections also conduct complaint investigations for at least one provider type (i.e., CCEE centers, family child care homes [FCCH], and group child care homes [GCCH]). Nine states reported relying on another agency, such as child protective services, law enforcement, the department of health, the department of human services, or the fire department, to investigate CCEE provider complaints. Depending on the nature of the complaint, these other entities may be responsible for determining findings related to their own specific rules and policies in addition to coordinating on licensing's complaint investigation.

**Table 4.** Types of staff investigating complaints (n=51)

	Number of states	Percentage of states
Same licensing staff who conduct compliance inspections conduct complaint investigations for at least one provider type (centers, FCCH, GCCH)	46	90%
Separate licensing staff who only conduct complaint investigations for at least one provider type (centers, FCCH, GCCH)	8	16%
Staff from another agency conduct complaint investigations for at least one provider type (centers, FCCH, GCCH)	9	18%

**Source:** Authors' analysis of the Child Care Licensing Study, 2017 (Fischer & Orlowski, 2020; n=51, including all states and the District of Columbia).

Licensing agencies vary in their response to child abuse and neglect complaints filed against licensed programs. According to the 2017 CCLS, in many states (73%; Table 5), child protective services conduct child abuse and neglect investigations against licensed providers although multiple agencies may be involved. Each entity may play a different investigative role based on the severity of the allegations and

<sup>6</sup>The QPR did not define what "taking steps to respond" means.

their agency's purview, from focusing on the well-being of the child to imposing licensing sanctions on programs or filing criminal charges for individuals.

**Table 5.** Agency investigating child abuse and neglect complaints against licensed providers (n=51)

	Number of states	Percentage of states
Child protective services investigates	37	73%
Licensing agency investigates	26	51%
Law enforcement investigates	16	31%

**Source:** Authors' analysis of the Child Care Licensing Study, 2017 (Fischer & Orlowski, 2020; n=51, including all states and the District of Columbia).

**Note:** Responses were not mutually exclusive; therefore, the percentages will not sum to 100%.

## Type and Frequency of On-site Follow-up Inspections

*Best Practices for Human Care Regulation* (NARA and NCCCQI, 2020) advises that complaint investigations always be unannounced (Benchmark 3.1.6). In the 2017 CCLS, some state licensing agencies (35%) reported that an unannounced inspection is conducted for every complaint received, while many (63%) reported conducting unannounced inspections when needed.

The FFY 2019 QPR asked states and territories how many complaints received an on-site follow-up inspection. We used QPR data to calculate a percentage of complaints that received an on-site follow-up inspection out of the total number of complaints received (Table 6). This analysis shows that many states/territories (63%) completed on-site follow-up inspections more than 75% of the time. On-site inspections might not be completed for various reasons, such as the alleged non-compliance does not place children at risk of harm (e.g., nutrition), evidence addressing the complaint can be submitted by the provider (e.g., staff records), or the allegation does not include a violation of requirements or statute (e.g., payment disputes).

**Table 6.** Number and percentage of complaints receiving an on-site follow-up inspection, per total complaints (n=56)

	Number of states/territories	Percentage of states/territories
On-site inspections completed on 0 to 25% of complaints	6	11%
On-site inspections completed on 26% to 50% of complaints	6	11%
On-site inspections completed on 51% to 75% of complaints	9	16%
On-site inspections completed on 76% to 100% of complaints	35	63%

**Source:** Authors' analysis of FFY 2019 State/Territory Quality Progress Report, Sections 7.3.3 and 7.3.1 (n=56 states and territories, including all states, the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and Virgin Islands).

**Note:** Percentages were calculated by dividing the number of complaints resulting in an on-site follow-up inspection in FFY 2019 by the total number of complaints reported in FFY 2019, including licensed and license-exempt providers.

## Rate of Complaint Substantiation

Not all complaints are substantiated. Sometimes when complaints are investigated, there is no evidence of a CCEC licensing violation. In the FFY 2019 QPR, states/territories were asked how many complaints during the 2019 FFY (October 1, 2018–September 30, 2019) resulted in one or more substantiated violations. We calculated a percentage of substantiated complaints out of the total complaints received (Table 7). Many states/territories (74%) substantiated more than a quarter (25%) of all complaints. More research is needed to understand issues such as how the complaint substantiation process can help providers understand licensing regulations, whether some types of complaints are more likely to be substantiated than others, or factors that predict whether a complaint is substantiated or not.

**Table 7.** Percentage of complaints resulting in one or more substantiated violations (n=56)

	Number of states/territories	Percentage of states/territories
Substantiated up to 25% of complaints	15	27%
Substantiated between 26% and 50% of complaints	30	54%
Substantiated between 51% and 75% of complaints	7	13%
Substantiated between 76% and 100% of complaints	4	7%

**Source:** Authors' analysis of FFY 2019 State/Territory Quality Progress Report, Sections 7.3.4 and 7.3.1 (n=56 states and territories, including all states, the District of Columbia, American Samoa, Guam, Northern Mariana Islands, Puerto Rico, and Virgin Islands).

**Note:** Percentages were calculated by dividing the number of complaints resulting in one or more substantiated violations in FFY 2019 by the total number of complaints reported in FFY 2019, including licensed and license-exempt providers.

## Investigations of Legally License-Exempt Providers

The 2017 CCLS asked state licensing agencies about complaint investigations of providers who are legally license-exempt (Table 8). States vary in the purpose of the investigation and may take multiple actions, as noted in the following table. About half of states (49%) reported that they investigate to determine or verify that the provider is legally exempt from and not subject to licensing. A quarter of states (25%) reported that the licensing agency investigates all complaints made against providers who are legally exempt from licensing. More than half of states (57%) refer allegations of abuse or neglect to the child protective services agency.

Sometimes the licensing agency investigates complaints themselves, and sometimes they refer the complaints to another entity. The varied findings likely reflect state policies about the responsibilities of licensing and other agencies in investigating legally license-exempt providers and certain types of complaints, like child abuse and neglect.

The 2017 CCLS also asked about complaints of providers who might be operating illegally (i.e., they should be licensed but are not). Nearly all state licensing agencies (50; 98%) reported responding to complaints from the public about providers who might be operating illegally.

**Table 8.** Actions taken by the licensing agency to address complaints against legally license-exempt providers (n=51)

	Number of states	Percentage of states
Refer allegations of abuse or neglect to the child protective services agency	29	57%
Investigate to determine legal exemption	25	49%
Investigate allegations of serious health and safety risks	14	27%
Investigate allegations against providers who receive subsidy payment	14	27%
The licensing agency investigates all complaints	13	25%
Refer complaints to the subsidy program if the provider received federal or state funding	12	24%
Licensing does not investigate complaints against legally license-exempt providers	9	18%

**Source:** Authors' analysis of the Child Care Licensing Study, 2017 (Fischer & Orlowski, 2020; n=51, including all states and the District of Columbia).

**Note:** Responses were not mutually exclusive; therefore, percentages will not sum to 100%.

## Conclusion

CCEE licensing agencies are often responsible for documenting and investigating complaints about licensed programs, legally license-exempt providers, and illegally operating providers. The data in this brief highlight the variability in approaches to processing and addressing complaints, from how complaints can be made (e.g., by phone or email) to who conducts the investigations and how the investigations are conducted.

Although CCDF lead agency administrators in all states and territories reported the number of complaints received and the total number of licensed providers in the QPR, these data cannot be used to determine the prevalence of complaints because multiple complaints could be received for the same provider. To calculate prevalence among licensed providers, the total number of licensed providers who received at least one complaint in the past year could be divided by the total number of licensed providers in that same year. The reporting of complaint prevalence could help state and territory licensing staff, policymakers, and others better understand the extent to which the public uses the complaint process to express concerns about providers—and if patterns of these complaints suggest that some providers could benefit from additional supports.

While the CCLS and QPR provide some information about complaint investigations, additional research could address other important questions such as:

- What are the characteristics of programs (e.g., setting type, size, years licensed, receipt of child care subsidy funds, quality level) that receive multiple complaints?
- What is the relationship between complaints and licensing violations? Are programs with more severe or a greater number of violations more likely to have complaints?
- How are complaints prioritized? If all complaints do not receive on-site investigations, what factors are considered when determining whether to conduct an on-site investigation?
- How do providers perceive the complaint investigation process?

- If a parent of an enrolled child files a complaint against a program, how likely are they to change programs in the year after filing the complaint? What factors contribute to a parent deciding to stay or leave?
- What supports are available to programs with substantiated complaints? What supports help reduce the number of future complaints?

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