

# Best Practices for Human Care Regulation

National Association for Regulatory Administration

National Center on Child Care Quality Improvement,

A Service of the Office of Child Care



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## Acknowledgements

*Best Practices for Human Care Regulation* is based on *Recommended Best Practices for Human Care Regulatory Agencies* (2009), which was developed by Carolynne Stevens and approved by the 2009 National Association for Regulatory Administration (NARA) Board of Directors.

In 2014, NARA collaborated with the Administration for Children and Families' Office of Child Care (OCC) and the National Center on Child Care Quality Improvement (NCCCQI) to revise the 2009 Best Practices document and develop an assessment tool for organizations to use in strengthening their regulatory practices.

In 2020, NARA along with recommendations from the National Center on Early Childhood Quality Assurance's Licensing Expert Panel revised the 2014 Best Practices document to align with current trends and best practices.

NARA recognizes Tara Lynne Orlowski, M.Ed. and Deborah Russo for their co-authorship of *Best Practices for Human Care Regulation* and the assessment tool.

## Background Information

NARA was founded in 1976 to support human care regulators, whose mission is to safeguard vulnerable populations in day and residential care settings. Those populations served span from infants to the elderly. While each population has both individual and group similarities and differences, they must be respected and provided with the best services, people, and resources that shape and impact their lives while they are in care.

NARA's primary role is to strengthen the knowledge and skills of regulators charged by their States, Provinces, and Territories with the responsibility to apply laws and regulations designed to protect and preserve consumers' health, safety, and well-being. Equally important, they also safeguard and enrich lives through the extensive technical assistance and other forms of support and resource and knowledge sharing provided to the program's managers and personnel.

In an effort to fully prepare human care regulators to accomplish the requirements of their role at the micro and macro levels, NARA has developed a comprehensive, multi-dimensional approach to strengthen concepts and practices in the profession. *Best Practices for Human Care Regulation* is one of the critical pieces intended to help define the key system characteristics of high-performing organizations. This document outlines the best practices, provides guidance to implement the best practices, and includes a self-study assessment tool to help organizations score their performance and facilitate process recognition and improvements as the organization moves toward excellence.

Quality improvement experts correctly take the position that most performance problems are system-driven problems rather than people-driven problems because the overwhelming majority of people want to do a good job. Individuals flourish when they can see themselves as knowledgeable contributors in a sharp, high-performing organization. This document lays the foundation for an organization to focus on and assess its resources and processes across the board in an effort to support the regulatory program. The best practices address three major areas: **Organizational Management** (agency level), **Programmatic Management** (program office level), and **Regulatory Management** (rules and regulations). Presented in a layered approach, they build upon and support one another for a cohesive, strong, and robust regulatory program and leadership driven organization. Each major area is divided into benchmarks that look at overall leadership; strategic planning; financial and human resources; professional development; communication; and statutory, rule, and policy responsibilities. Throughout the document there is an emphasis on equitable practices within the regulatory framework to help organizations think about how to provide support and resources to providers. Equitable practices means providers' needs are taken into consideration. While not all providers may be treated the same, they all will be treated in a fair and unbiased manner.

To be successful in assessing, establishing, or maintaining a high-functioning regulatory system, we recommend organizations assess their systems and associated functions over a period of time and document the levels of achievement for each best practice. Then they should put in place strategies to acknowledge successes and build upon gaps. Documentation should be clear, complete, and consistent so that it may be used as a tool throughout the process.

This assessment will give agencies an initial indication of improvement opportunities in their agency staff development programs. It is anticipated that organizations may not fully meet all criteria of *Best Practices for Human Care Regulation* initially; however, the publication can illuminate procedures or practices needed for organizational improvement. Using this structured assessment and planning process can give interested organizations a clearer sense of direction. They can then initiate a longer range planning process aimed at bringing their systems up to best-practice benchmarks, including those systems that are less within their control. Some identified gaps certainly can be closed within a short period. Other gaps (such as those most affected by funding and staffing shortages or by seriously flawed statutes or lack of political support) will require the organization to commit to longer range strategies. Strategies should be prioritized and combined with internal resources to help minimize any impacts on performance or mandates until the underlying problems can be overcome.

NARA recognizes that the training and education available to professional regulators is extremely limited when compared to the breadth and complexity of the knowledge and skills demanded by their roles and legal responsibilities. NARA offers online courses addressing the basics of regulatory enforcement; phases of licensing, investigation, and evidence; balanced use of authority, complaint investigation, and suppressing illegal operations; rule making and ethics; and regulatory writing. NARA also has developed the National Regulatory Professional Credential (NRPC) to recognize the qualifications of staff as professional regulators with the necessary knowledge, skills and abilities to perform quality work. Additional information is available at <http://www.naralicensing.org/>.

NARA's goal is to help organizations grow, support, and enhance their regulatory role in protecting the health and safety of our vulnerable populations. Go forth and assess! Join the ranks of others that have taken the first steps to becoming an exceptional regulatory organization.

## Instructions for Assessment Tool

The assessment tool is designed to identify if the organization's practices are aligned with the recommended best practices. An organization should evaluate its current practices, rather than future plans. There are three levels to the scale:

Exceeds	The organization is showing evidence that exceeds the minimum requirements for the best practice.
Meets	The organization is showing evidence of meeting the minimum requirements for the best practice.
Needs Attention	The organization is not demonstrating the minimum requirement for the best practice.

The tool is designed as a tiered scale and therefore an organization must clearly show evidence for the "Meets" criteria having been met before selecting "Exceeds."

## Glossary

**Administrative Actions** are measures taken through court proceedings to enforce the regulatory standards.

**Clients** are the individuals receiving direct services by the providers of care. For example, children in a child care program.

**Critical Incidents** are situations that are significant in nature and may raise attention due the nature of the situation. These may include injuries or death, emergencies, unusual circumstances, or events that caused or have the potential to cause a health or safety risk to the clients or the organization.

**Due process rights** are the legal rights of an individual impacted by the regulatory standards to defend himself or herself.

**High-risk cases** refer to programs and providers who have a history of repeated noncompliance or require additional monitoring due to their circumstances.

**HIPAA**, the federal *Health Insurance Portability and Accountability Act of 1996*, protects the privacy of an individual's health information.

**Organization** refers to the agency, department, or bureau that regulates out-of-home care for the identified population. For purposes of the self-assessment, the entity should determine if "organization" refers to the program office responsible for regulatory activities or the entire agency governing the program office.

**Procedure** refers to written, standardized actions established by the organization to conduct activities.

**Programs** refers to facilities or homes that provide care for individuals outside of their permanent residence.

**Protocol** refers to an official system of rules governing how the organization conducts business.

**Providers** refers to those who are employed by facilities or homes that provide care for individuals outside of their permanent residence.

**Risk analysis or assessment** is a process of using information to mitigate potential threats to individuals, a program, or an organization.

**Sanctions** are a type of enforcement related to obedience with the regulatory standards. Sanctions may include warnings, fines, or implications on a license to provide service, such as denial, revocation, or suspension.

**Staff** refers to individuals who are employed by the agency, department, or bureau that regulates out-of-home care for the identified population.

**Standards** refers to rules and regulations based on statutory authority.

**Telecommuting** is the practice of employees working from locations other than a centralized office.

# 1. Organizational Management

## 1.1. Leadership

### 1.1.1. Engages in a decision-making process that is inclusive of and guided by multiple sources of information.

#### GUIDANCE

Organizational management works systematically to achieve continuous improvement in all facets of the organization by being systems-focused and information-driven in conducting the full range of management functions, tasks, roles, and responsibilities. These are approached in an integrated method both within and across internal functions, in external linkages and coordination, and in human resource management.

All organizational practices, both programmatic and business/administrative, are conceived, planned, and executed to the highest standards of consumer protection, professional ethics, public stewardship, and operational transparency in the pursuit of effective, efficient public service.

The organization sets clear performance benchmarks that are monitored systematically through incremental increases of those benchmarks to improve the overall performance.

#### For Example:

- (1) Gathering information from providers to understand barriers that may exist that prevent or delay behavioral compliance to regulatory requirements (such as via focus groups or survey);
- (2) Collaborating with other regulatory agencies to promote coordination of interdependent processes (such as fire inspection, building inspection, public health inspection, etc.);
- (3) Utilizing information systems to measure process activity and compliance outcomes; and
- (4) Conducting internal audits to inform service delivery areas requiring quality improvement.

#### ASSESSMENT TOOL

Exceeds	The decision-making process involves integrating information from multiple resources in each of the "Meets" categories, or includes resources from the following additional categories: other state agencies, advocates, accreditation bodies, and early learning advisory councils.
Meets	The decision-making process involves integrating information from one resource in each of the following categories when applicable: national, state, territory, tribal, local, and providers.
Needs Attention	Only organization staff are involved in the decision-making process.

### 1.1.2. Manages risk to support decisions, policy, regulation, and enforcement through periodically conducting risk analysis for the organization.

#### GUIDANCE

The organization identifies industry-wide and program-specific risks, including both immediate and cumulative risks, by completing a research-based risk analysis. The identified risks are prioritized to focus inspections and technical assistance accordingly. The organization uses a structured process to review results from risk analysis in order to mitigate potential issues by coordinating with legislative, leadership, regulatory, and legal staff.

Risk-based analysis is an important tool in the regulatory arsenal, particularly in times of limited financial and human resources. Risk analysis or assessment is a technique used to identify and assess factors that may jeopardize the success of achieving a goal. Using a risk-based system is a good way to help the human care industry grow and improve, and is one of the ways to promote quality assurance. It helps to define preventive measures to reduce the probability of these factors occurring. It also can identify countermeasures to successfully deal with these constraints when they develop to avert possible negative effects to the organization. Risk analysis allows an organization to be proactive instead of reactive.

#### For Example:

- SWOT Analysis – Strengths, Weaknesses, Opportunities, and Threats;
- Brainstorming;
- Delphi Study;
- Probability Matrix; and
- Other risk analysis methods.

#### ASSESSMENT TOOL

Exceeds	Conducts risk analysis every 3 years and uses results on an ongoing basis to guide decisions.
Meets	Conducts risk analysis every 5 years and uses results to guide decisions.
Needs Attention	Does not conduct risk analysis.

### 1.1.3. Establishes effective partnerships for coordination of regulation and services.

#### GUIDANCE

The organization collaborates appropriately and effectively with other administrative or law enforcement agencies for services, investigation, or prosecution.

#### For Example:

- Fire inspection;
- Building inspection;
- Public health; and
- Nonprofit support services in the community.

The organization builds effective partnerships by engaging internal and external partners through workgroups, advisory councils, task forces, town hall meetings, conferences, and electronic communications.

This collaborative approach creates ground level support for initiatives, improvements, and effective enforcement.

Often there are a number of different governmental agencies involved in the regulatory process. Ideally, their responsibility is authorized by statute but often it is not. The involvement of these other agencies varies from State to State and locale to locale and by type of program. Sometimes the involvement of the other agencies is minimal. This presents many challenges for the licensing agencies charged with the overall responsibility of ensuring the health and safety of clients in programs, and reflects the enormous challenge of this task at the national level. Collaboration is critical to ensure the appropriate protection of children in care. It also informs other government and community organizations of the presence of and work performed by the regulatory agency regarding human care.

#### ASSESSMENT TOOL

Exceeds	Partnerships are collaborative, providing ongoing advisory recommendations and guidance through continuous engagement.
Meets	Partnerships are engaged to address focused topics with targeted groups throughout the year with time-limited, specific engagement.
Needs Attention	The organization does not seek or utilize partnership input.

### 1.1.4. Ensures transparency of performance and program activities and supports consumer education.

#### GUIDANCE

The organization maintains a consumer-friendly Web presence to provide and inform the public with regard to regulations, the state licensing process, background check processes, monitoring, and prohibited offenses, as well as inspection, substantiated complaints, and corrective action and sanction reports. This information assists families in having a clear understanding of licensing to guide them in choosing the best care environment and then continuing to monitor the programs' record on health and safety.

Inspection and other reports remain online for a period of *at least* 3 – 4 years, preferably longer, as this provides a truer picture of a provider's abilities than limited snapshots of time.

Transparency is intentional sharing of information in such a way that it is easy for others to see what actions are performed. As with collaboration and risk analysis, transparency lends itself to ground level support for initiatives, improvements and effective enforcement.

#### ASSESSMENT TOOL

Exceeds	The Web site includes information about sanctions, administrative actions, substantiated complaints, and validated critical incident reports for a period of 3 years.
Meets	The Web site includes a description of state processes and inspection information and will be maintained for a period of 3 years.
Needs Attention	The organization has Web site but does not include inspection or sanction information.

### 1.1.5. Remains current on trends and research-based practices.

#### GUIDANCE

The organization continuously reviews trend and research-based information by participating in conferences, Webinars, communities of learning, and professional organizations. Leadership and staff keep current by reading professional publications, research-based literature, and external news links. Multiple sources, including research on regulatory work in other fields, racial equity, behavioral psychology, and quality improvement outcome measurement, are critical to ensure relevance and applicability as human care regulation is a combination of art and science. This review helps to identify the recurring information needs of staff and the public, provides informative performance information about the program and, as appropriate, assists with the distribution of agency-initiated or externally assigned special reports. Knowing how regulations influence the regulated, both positively and negatively, is key to successful implementation. Keeping regulations current and research based ensures the best possible outcomes for the client. Information on current trends and research-based practices should be included when communicating about initiatives, legislation, rules, etc. with internal and external groups.

#### ASSESSMENT TOOL

Exceeds	Individual leaders within the organization seek trend- and research-based information through various professional development opportunities and professional research from multiple sources.
Meets	The organization relies on its central office to collect and distribute information internally to staff.
Needs Attention	The organization relies on program staff to share information.

## 1.2. Strategic Planning

### 1.2.1. Defines clear vision, mission, and values for the organization.

#### GUIDANCE

Strategic planning is an organization's process of defining its priorities for a specific period, and is used to guide decision-making and resource allocation to serve specific populations. It is important to develop a culture that supports operating with plans and being accountable for results in pursuit of continuous improvement.

The first step in strategic planning is to define a clear vision, mission, and values for the organization. A vision statement should be the organization's major goal for the future. The mission statement explains the reason the organization exists. Both of these statements should be clear and concise. The values define the standards of behavior, such as commitment, excellence, integrity, or teamwork. The vision, mission, and values should be transparent, shared, and evident in the daily work of the organization.

#### ASSESSMENT TOOL

Exceeds	The vision, mission, and values are transparent and externally accessible and reviewed on a periodic basis.
Meets	The vision, mission, and values are defined and are clearly identified and internally accessible.
Needs Attention	The vision, mission, and values are not clearly identified

## 1.2.2. Generates measurable and observable strategic and operating plans.

### GUIDANCE

Strategic plans must include measurable and observable benchmarks that the organization will focus on to achieve its vision and mission. The benchmarks should align with categories such as monitoring, staff development, provider support, etc. The organization must maintain and track performance against the desired benchmarks to support strategic and operating plan initiatives and update the plan at regular intervals as appropriate. When developing the strategic and operating plans, organizations should consider using data disaggregated by race, socioeconomic status, and language to the greatest extent possible.

#### For Example:

- Regulatory plans may include measures related impact, behaviors, resource efficiency, or activities.
- Outcomes should be S.M.A.R.T, which stands for:
  - ◆ Specific;
  - ◆ Measurable;
  - ◆ Achievable;
  - ◆ Realistic and Results-Oriented; and
  - ◆ Time-bound.

#### For Example:

- Complete 90 percent of licensing inspections on time within the fiscal year.
- New licensing staff will complete orientation within 30 days of employment.

### ASSESSMENT TOOL

Exceeds	The plan is comprehensive and addresses multiple outcomes that align with strategic plan.
Meets	Plan includes one measurable and observable outcome that align with strategic plan.
Needs Attention	The organization does not have a plan or the outcomes are not measurable or observable.

### 1.2.3. Collects data and monitors plans for assessment purposes.

#### GUIDANCE

After clear performance benchmarks are set, it is important to monitor them systematically through planned information gathering methods. The organization evaluates this information to determine how on track they are in meeting the performance benchmarks. The organization uses analysis to guide decisions for the organization, including any necessary follow-up actions or opportunities to celebrate successes. It is important to display the findings and outcomes for transparency. The organization also uses the assessment process to develop new strategic plans that should include incremental elevation of those benchmarks to improve organizational performance.

#### For Example:

- Collect information about when inspections are performed and evaluate the data to identify if inspections are performed in a timely manner.
- Monitor noncompliance findings to evaluate consistency in enforcement of standards
- Licensing data can be analyzed to identify areas needing additional attention such as to understand inequities in enforcement, inconsistencies between licensors or regions in citing violations, etc.

#### ASSESSMENT TOOL

Exceeds	The organization uses organizational monitoring data to guide decisions for continuous improvement.
Meets	The organization conducts comprehensive assessment at the conclusion of the plan period to develop a new strategic plan.
Needs Attention	The organization does not collect data or monitor achievement of outcomes.

## 1.3. Financial and Resource Controls

### 1.3.1. Establishes and monitors fiscal business practices to comply with all internal and external requirements.

#### GUIDANCE

The organization provides administrative support services to sustain the program by ensuring fiscal responsibility and effective work environments.

Fiscal responsibility includes budget forecasting and preparation; fiscal controls and accountability to operate within available funding; observance of procurement requirements; prompt collection; and accounting for fees, fines, and sales revenues, etc. Payments are timely, accounting practices are prompt and sound, and few if any errors are found during formal audits.

The organization establishes and implements a monitoring plan specially assigned to an individual or unit to assess compliance with the organization's business practices. The monitoring plan should include benchmarks and timelines to identify potential issues prior to formal audits.

#### For Example:

- An organization may overspend or underspend a contract if monitoring only takes place once per year. Compliance of business practices should be an ongoing activity to adjust promptly and accordingly to identify and mitigate the risks. This activity is embedded within the overall risk management of the organization and is part of the circular process of assessment.

#### ASSESSMENT TOOL

Exceeds	Fiscal policies are reviewed and updated as needed.
Meets	Administrative support provides strong fiscal business practices accountability and is reviewed annually.
Needs Attention	The licensing administrator has no involvement in or understanding of the organization's fiscal business practices.

### 1.3.2. Creates prioritized, itemized budgets that align with the strategic plan.

#### GUIDANCE:

The organization develops an annual budget that supports implementation of the overall strategic plan.

#### For Example:

- The funds support a specific program and its requirements, such as quality initiatives and projects.

Linking the itemized budget specifically to a goal within the strategic plan requires the organization to prioritize and allocate funds for a specific purpose.

#### For Example:

- Earmarking funds for improving Web site design to enables the public to locate licensed programs based on search criteria and preferences and provides information about licensing inspections. This activity circles back to the overall organizational strategic plan.

#### ASSESSMENT TOOL

Exceeds	The itemized budget links specifically to a goal within the strategic plan.
Meets	The itemized budget globally supports the overall strategic plan.
Needs Attention	The organization does not link the itemized budget to the strategic plan.

### 1.3.3. Monitors itemized budget for appropriate and timely spending throughout the fiscal year.

#### GUIDANCE

The organization monitors spending on a monthly basis throughout the year to adjust accordingly, and to react to situations and opportunities.

With limited resources available to most organizations, monitoring spending is critical so that funds are not overspent or underspent. Within funding streams and federal regulations, organizations have the flexibility to utilize funding within different scenarios. Without ongoing monitoring, priorities may not meet mandates, resulting in penalties, sanctions, or loss of recurring funds.

Monitoring may be formal or informal, to include trend reports, reimbursement audits, or other sound methodologies. It allows an organization or program to stay on track and requires commitment and discipline of the staff and the organization to maintain.

#### ASSESSMENT TOOL

Exceeds	The organization regularly monitors throughout the fiscal year.
Meets	The organization monitors annually.
Needs Attention	The organization does not monitor.

### 1.3.4. Establishes and maintains inventory systems for equipment, supplies, vehicles and services.

#### GUIDANCE

Inventory systems specifically assigned to an individual or team are in place to account for equipment and to prompt timely reordering of consumables or proper disposition of surplus. The inventory system should include methods for planned replacement of equipment.

Knowing what equipment it has, where it is, and who the user is assists an organization in reacting to immediate and long-range needs. Supplying staff with the tools to perform their job duties is key to the overall success of the organization. Poor equipment or ill-equipped staff directly influence the effectiveness and efficiency of the organization. Knowing what it has and what it need should be included in the organization's spending plans; which again is part of the circle of organizational management.

#### ASSESSMENT TOOL

Exceeds	The inventory system is proactively monitored to prevent lack of equipment or consumables.
Meets	The organization has an inventory system and records are kept up-to-date.
Needs Attention	The organization does not have an inventory system.

### 1.3.5. Creates a supportive work environment and gathers feedback from staff.

#### GUIDANCE

The organization applies research related to maintaining healthy, safe, and productive work environments and is aggressive in efforts to provide space and working conditions conducive to the well-being and productivity of its workforce.

Research has shown that positive work **environments** complement and encourage worker activities that lead to success with working with families and providers, greater job satisfaction, and higher levels of compliance both internally and externally.

Effective work environments include all required equipment and supplies including telephones, computers, mobile devices, office equipment, ergonomic furnishings, and materials needed to perform job duties. A workforce that feels supported by having the tools necessary to perform effectively in a pleasant working environment transmit this attitude to the providers they regulate. Many organizations have employee workgroups to help “take the temperature” of the workforce on a regular basis to ensure that leadership understands what the workforce wants and needs and not what they believe they need. Gathering information and input from the staff is part of the collaborative nature of the organization.

#### ASSESSMENT TOOL

Exceeds	The organization collects feedback from staff annually regarding work environments, uses feedback to ensure work environments are supportive, and continuously monitors the environment.
Meets	Work environments are reviewed annually by management and revisions are made as needed.
Needs Attention	The organization has no protocols to monitor workplace environment.

**1.3.6. Requires staff to be knowledgeable about the organization’s fiscal and work environment business practices as well as safety and security procedures.**

**GUIDANCE**

The organization has internal training opportunities, policies, and procedures to keep employees informed; tracks employee training on critical topics; repeats some critical topics annually, such as security protocols and HIPAA requirements; and repeats other topics less often (such as every few years) as refreshers or when information is revised. These include administrative protocols such as completing timesheets or records management. This practice ensures the knowledge is transmitted and supports the accountability and transparency of the organization to its staff.

**ASSESSMENT TOOL**

Exceeds	The organization reviews policies and procedures periodically and as changes occur.
Meets	The policies and procedures are accessible and new staff are trained upon hire.
Needs Attention	The staff are not trained or made aware of procedures.

## 2. Programmatic Management

### 2.1. Staffing

#### 2.1.1. Establishes job qualifications and job expectations that are clear, complete, and up-to-date.

#### GUIDANCE

Establishing job qualifications and expectations leads to having a highly qualified and trained licensing staff, which ensures licensing activities are carried out in a professional and consistent manner.

The minimum qualifications for licensing staff should be a bachelor's degree or higher and relevant to the care environment.

#### For Example:

- Child development, early childhood education, family studies, health care, human development, human services, psychology, public policy, sociology, social work, or any area related to the care environment being regulated.
- In the absence of these degrees, the organization can consider a bachelor's degree with at least 15 college credits in a related field and relevant experience.

The organization should provide staff with clear duties, expectations, and responsibilities and timely access to feedback and assistance. It should also review written job expectations periodically for proper classification, salary structure and equity, span of control, and knowledge and skill requirements. Job expectations should outline the expectations for each level of the job, such as licenser, senior licensing counselor, etc. The job expectations should include the performance measures that will be used in the evaluation process.

Job qualifications and expectations for management and support staff positions should align with the scope of work. While qualifications and positions may require similar backgrounds, it is the actual scope of work and the level of management that make the distinction. With staff shortages being commonplace for many organizations, it is sometimes difficult to see where one position begins and another position ends. Therefore, a conscious effort should be made for clear delineation as these positions should support rather than supplant, subsume, or duplicate one another.

#### ASSESSMENT TOOL

Exceeds	The organization requires staff to obtain regulatory certification, such as the National Regulatory Professional Credential.
Meets	The organization requires a bachelor's degree in an appropriate fields or has a minimum number of required credit hours in the field with experience.
Needs Attention	The organization does not have an in-field degree requirement.

### 2.1.2. Establishes internal protocols to implement Human Resources policies and procedures and monitors for compliance.

#### GUIDANCE

The organization institutes appropriate programmatic practices aimed at recruiting, selecting, and retaining qualified staff. These protocols should create a culture of acceptance of diversity and supplement the broad Human Resources policies. This is critical to ensuring a stable and competent regulatory workforce for consistent enforcement.

Recruitment of qualified staff, retention of strong performers, and ongoing succession planning provide support for program stability. Protocols maintain effective teamwork and actively use individual and group skill sets in developing both the organization and individuals.

#### ASSESSMENT TOOL

Exceeds	Protocols are reviewed annually, revised as needed, and include continuous monitoring.
Meets	The organization has written protocols and monitors annually.
Needs Attention	The organization has no written protocols or does not monitor.

### 2.1.3. Establishes policies for staff regarding off-duty communication and conduct.

#### GUIDANCE

Written policies shall guide staff in their off-duty behavior, which should align with NARA's *Code of Ethics for Regulators*. Professionalism and confidentiality shall be at the forefront of any of these policies. Staff need to be aware of their surroundings and to whom they are speaking at all times as it is their responsibility to protect children, families, providers, and other stakeholders' rights. Additionally, staff should apply these principles to their activities on social media, blogs, and other public forums.

#### ASSESSMENT TOOL

Exceeds	The management staff monitors policy implementation.
Meets	The written policy is shared with staff.
Needs Attention	The organization has no policy.

## 2.1.4. Conducts licensing workload assessment.

### GUIDANCE

There is no effective *universal* staff-to-program workload standard. Each organization should set effective workload standards through a systematic examination of how key workload variables drive staffing needs. Effective workload assessments use historical data to identify types of programs, types of activities, and time to conduct each activity. Time to conduct activities should be reviewed periodically to explore potential opportunities to reduce the time. Existing staff full-time equivalents (FTEs) should be reviewed for efficiency and rearranged from time-to-time to be more effective in service delivery. Workload assessments use geographic service areas and deployment patterns for efficient and effective program delivery. Workload calculation should include time for professional development activities.

When calculating workloads, NARA suggests using the following information as benchmarks for planning:

- A minimum of two inspections annually with the expectations that inspections will increase, as needed, to ensure protections are in place and satisfactory compliance is obtained; and
- No more than 50 - 60 facilities per inspector.

Licensing workload assessments should include methods to redistribute and rebalance workloads, mitigate temporary overloads due to extended leaves of absence, deployment of positions for critical response situations, and utilize team inspections and investigations.

#### For Example:

- Rebalance – adjust or shorten licensure periods by 3 – 6 months at limited intervals to reduce the disruptiveness of recurring peak loads that develop when numerous programs open near the same time, such as at the start of the school.
- Temporary overloads – used when a staff person is going to be absent for an extended period, such as parental leave or educational sabbatical.
- Deployment of positions – after emergencies, such as hurricanes or tornados, additional staff may be needed to inspect programs prior to reopening.
- Team inspections – could be used at times when a program may require multiple staff, such as unusually large programs or in the case of anticipated issues with a program.

Review workload assessments periodically, as well as when significant changes occur in the workload.

### ASSESSMENT TOOL

Exceeds	The organization conducts a licensing workload assessment every 3 years or sooner to address needs and includes all four areas: rebalance, temporary overloads, deployment of positions, and team inspections.
Meets	The organization conducts a licensing workload assessment every 5 years and includes at least two of the four areas: rebalance, temporary overloads, deployment of positions, and team inspections.
Needs Attention	The organization does not conduct a licensing workload assessment.

### 2.1.5. Develops and maintains a staffing plan based on licensing workload assessment.

#### GUIDANCE

The organization develops and follows a staffing plan that takes into account effective workloads and supervisory or managerial span of control. The staffing plan is useful as a basis for staffing requests and for reductions or reassignments when the organization is faced with budget cuts or insufficient staffing. It is important to ensure adequate supervisory and administrative staff are employed to support the staffing plan. This facilitates day-to-day supervision of licensing staff and the ability for supervisors to observe staff in the field as a means of support, and improve consistency during monitoring and enforcement.

#### ASSESSMENT TOOL

Exceeds	The organization utilizes a licensing workload assessment to develop its staffing plan every 3 years.
Meets	The organization utilizes a licensing workload assessment to develop its staffing plan every 5 years.
Needs Attention	The organization does not have a staffing plan.

### 2.1.6. Develops and implements a telecommuting policy.

#### GUIDANCE

A telecommuting policy should outline for staff whether telecommuting is allowed and under what circumstances. Telecommuting may or may not be practical depending on the size of the workforce, size of the geographic area, sensitivity of information, personal preference, or responsibilities. If telecommuting is permitted, its policies and procedures fully address productivity; confidentiality; and security of records, safety, equipment needs, and technical support. Methods are in place to preserve essential program needs, such as productivity measures, access to supervision, suitable and secure neutral locations for meetings with providers, etc. An organization's telecommuting policies and practices also avoid or control the introduction of biases, such as favoring hiring selections of candidates with suitable home-space or nonselection of candidates who do not work well in relative isolation.

#### ASSESSMENT TOOL

Exceeds	The organization's policy is reviewed annually and revised as needed.
Meets	The organization ensures all staff follow written policy.
Needs Attention	The organization has no policy.

## 2.1.7. Conducts organizational orientation and initial training program.

### GUIDANCE

The organization ensures new staff complete an orientation, which may be self-paced or instructor-led, to ensure administrative policies and protocols are explained. The initial training program should be formal and educate staff about regulatory policies, procedures, and program standards and practices. It should take into account that staff come with very different education and experience. In addition to training on the regulatory process, staff should also be familiar with the types of settings and development needs of children in the programs to be monitored. Initial training is critical for staff performance, consistent enforcement, and equitable treatment of providers. It should be completed before staff are permitted to independently conduct monitoring visits. Mentoring programs are relationship-based and provide an opportunity for a more knowledgeable professional to collaborate with less experienced professionals. Mentoring programs provide support that can reduce the rate of turnover. Additionally, mentoring can increase the knowledge, skills, and abilities of both the mentor and the mentee.

### ASSESSMENT TOOL

Exceeds	An orientation is conducted before staff work independently and training includes a mentoring program.
Meets	An orientation is conducted within 6 months of employment.
Needs Attention	The organization has no formalized training program for new staff.

### 2.1.8. Monitors staff performance systematically for correct implementation and response.

#### GUIDANCE

Supervisory conferences and unit meetings occur at prescribed, regular intervals and as needed to support staff development or to resolve performance issues. The organization provides feedback to staff throughout the year at periodic individual meetings for their continual improvement and avoids surprises at the annual evaluation. A typical pattern is monthly conferences to review or approve case actions, and quarterly unit meetings for work planning and skill building; these conferences can be held more frequently for new staff. Conferences could be held more frequently depending on geographic location or need of staff. Performance evaluations are in addition to the above meetings and conducted at least annually. A performance evaluation is a summary of how the staff have met their expectations during a specific period. Expectations should be shared with staff at the beginning of the process so each person understands what is expected. Typically, the performance evaluation is a formal organizational process, whereas the supervisory conferences and unit meetings are ongoing.

#### ASSESSMENT TOOL

Exceeds	The organization has a staff performance review system that includes monthly individual meetings and quarterly unit meetings.
Meets	The organization has a staff performance review system that includes quarterly individual meetings and biannual unit meetings.
Needs Attention	The organization holds meetings with individual staff less than quarterly or with the unit less than biannually.

## 2.2. Professional Development System for Organization Staff

### 2.2.1. Identifies an individual within the program responsible for oversight and management of the staff professional development system.

#### GUIDANCE

The organization creates a culture of learning and striving for excellence through ongoing staff development and knowledge sharing. The organization needs a formal professional development (PD) system for accountability and clarity of its knowledge management responsibilities. A PD system is important to ensure competency and continued professional growth of staff. Having a structured PD system builds a culture that encourages staff to read broadly, share relevant research and information with others in the organization, and to participate actively in the organization's strive for excellence. A PD system should include collecting information and tools for organizational knowledge management that supports assessment; planning; development; and tracking at individual, unit, and organization levels.

It is important to identify an individual within the program to oversee the PD system. The designated staff member plans, oversees, and tracks professional development needs and activities for the organization.

The system should provide information to staff and supervisors about staff development matters including available, or potentially available, resources within and beyond the organization for credit and noncredit courses. The organization's PD system should include new staff orientation and basic training, early and ongoing training and education in regulatory principles and methods, and knowledge to support strategic and operating plans and other change-preparation training needs of the organization. Professional development activities include training, professional reading, mentoring and coaching programs, coursework, and participation in the activities of professional organizations.

While portions of ongoing staff development may be developed in-house, one essential purpose of professional training and education is to acquire a comprehensive understanding of the profession and issues affecting the industry from multiple external perspectives at the national, state, territory, tribal, and local levels. This requires learning opportunities through broader contact with colleagues and methods external to the organization.

#### ASSESSMENT TOOL

Exceeds	The organization has a position dedicated to this function and training includes external learning opportunities.
Meets	The organization includes this position along with other job duties and training is mostly developed in-house.
Needs Attention	The organization has no job description including these duties.

### 2.2.2. Performs needs and effectiveness assessment to guide professional development activities so that staff remain current on programmatic and industry practices.

#### GUIDANCE

The professional development system should readily support analysis for correlations between professional development activities and indicators of unit and individual performance outcomes. The analysis should provide information about the strengths and weaknesses of current professional development activities. Opportunities and threats related to professional development are identified through the analysis phase. The analysis information as well as current research and data should guide follow-up professional development activities for critical and complex tasks, including remedial training identified as needed through performance measures.

#### For Example:

- After reviewing licensing inspection data, professional development activities may be developed for staff related to calculating the capacity of a program.
- After establishing trauma-informed care guidelines, professional development coursework and/or activities may be developed to train leadership and staff on trauma-informed care.
- To address inconsistencies or potential bias, professional development activities related to implicit and explicit biases may be developed.

#### ASSESSMENT TOOL

Exceeds	A needs and effectiveness assessment is performed annually.
Meets	A needs and effectiveness assessment is performed every 3 years.
Needs Attention	The organization does not perform a needs or effectiveness assessment.

### 2.2.3. Creates and monitors staff professional development plans.

#### GUIDANCE

The organization designs ongoing staff development to support succession planning, career advancement opportunities, and in-grade professional growth. Individual professional development plans are a tool to guide staff to grow their knowledge, skills, and abilities. The plan is a useful tool to help the organization and the staff meet the professional development goals.

The individual responsible for the staff development system develops methods to receive regular feedback from trainees and is available to plan or assist in planning individualized training for the special needs of staff and the organization. The professional development plan should include aspects of the organization and individual levels according to roles and responsibilities, and include staff development preparation for those who also serve as trainers. Individual staff professional development plans should address needs identified through the organization's monitoring and continuous improvement process, ongoing professional activities, and staff development in pursuit of NARA or other job-related credentials.

#### ASSESSMENT TOOL

Exceeds	Professional development plans monitored annually.
Meets	All staff have professional development plans.
Needs Attention	Only staff with performance issues have professional development plans, or no staff have professional development plans.

## 2.2.4. Plans the staff development services to assure that training is timely and accessible.

### GUIDANCE

Training should be accessible and timely to ensure appropriate and consistent enforcement and avoid allowing staff to assume job responsibilities that they are unprepared to perform well.

Licensing agencies' PD systems often deliver training and education through a combination of centralized and dispersed methods from internal and external sources. If distance, schedules, low turnover, or other conditions interfere with traditional training delivery methods, the training program adjusts to maintain timeliness without sacrificing the quality of the learning experience for staff.

### For Example:

- Agencies may train supervisors or peer instructors to use scripted curricula or recordings of previous sessions or by using computer-assisted or distance learning approaches.
- Supervisors and qualified peers may train, coach, and mentor newcomers or conduct performance assessment and debriefings on directed reading.
- Staff development may involve sessions provided by the organization, professional associations, universities, or other external agencies.

### ASSESSMENT TOOL

Exceeds	The organization has options for staff training to be accessible when and as soon as needed.
Meets	Services are scheduled within 6 months of need.
Needs Attention	No staff development services plan exists.

## 2.2.5. Ensures qualified individuals conduct professional development activities.

### GUIDANCE

The organization ensures anyone providing training services has suitable knowledge and skills in adult education principles and methods as well as in the subject matter. This includes, when relevant, course and curriculum design or development and applies to roles in staff development and provider support training. Close supervision, coaching, and additional preparation are available until new trainers are secure and fully meet standards for trainers. The evaluation system is utilized to provide all personnel providing adult education the benefit of ongoing assessment and access to formal and informal means of developing their knowledge and skills.

### ASSESSMENT TOOL

Exceeds	Professional development activities are conducted by qualified individuals who have degrees or certifications in instructional design or adult learning and content area background.
Meets	Professional development activities are conducted by qualified individuals who have an instructional design and content background.
Needs Attention	Professional development activities are conducted by individuals with content background but no instructional design or adult learning training.

## 2.2.6. Follows instructional design and adult learning best practices.

### GUIDANCE

The organization's PD system should offer courses that competently and appropriately use the full range of delivery methods and provide a suitable variety of methods to accommodate the diversity in learners' existing knowledge and needs, individual learning styles, and work situations. This includes instructor-led learning, synchronous and asynchronous distance learning, directed studies, self-paced learning, peer and supervisory mentoring and coaching, formal and informal training, or a combination of methods.

Training should be well-paced; engaging; and include opportunities for reflection, connection, and integration with related concepts and bodies of knowledge and interactive, hands-on or simulated practice.

The training curriculum is designed to support the learning goals while demonstrating respect for both efficiency and effectiveness. Simple content is handled efficiently, such as by directed reading followed by discussion and reflection. Complex subjects are given ample time and are approached from multiple dimensions and with phased follow-up training as necessary, including access to a trainer or coach to strengthen understanding and application techniques across different situations. Teaching strategies are especially sensitive to the need to address learner issues related to "unlearning and replacing" concepts and practices, which are typically more complex than issues confined to adding or expanding existing concepts and practices.

### ASSESSMENT TOOL

Exceeds	The organization conducts an external review to ensure courses are designed utilizing instructional design and adult learning best practices.
Meets	The organization conducts an internal review to ensure courses are designed utilizing instructional design and adult learning best practices.
Needs Attention	The organization does not conduct a review to ensure instructional design or adult learning best practices are being used.

### 2.2.7. Confirms professional development activities include assessment and evaluation to ensure the learner has achieved intended outcomes.

#### GUIDANCE

Assessment can be both formal and informal. Assessment may include instructional quizzes, discussions, observations, or learning activities to gauge knowledge. Assessment should be used throughout the training to measure learning and at the end to confirm competency of the intended goals.

There are multiple levels of evaluation to consider for a learning event. The most basic evaluations measure if individuals are happy with the professional development activity. Second, evaluations may measure if individuals increased their knowledge because of the professional development activity. Post-event evaluations measure if individuals are able to implement the gained knowledge in the workplace. The highest level of evaluations measure the impact on the overall organization. This is often seen in department performance measures.

#### ASSESSMENT TOOL

Exceeds	Multiple methods of assessment and at least three levels of evaluation are used.
Meets	A single comprehensive assessment and two levels of evaluation are used.
Needs Attention	The organization does not use assessment or evaluation methods.

### 2.2.8. Ensures appropriate follow-up during and after professional development activities.

#### GUIDANCE

The organization designs the PD system to include follow-up practices to answer questions that arise during training or very soon after the training. To the extent possible, trainees have opportunities to apply newly learned material within two weeks of training to promote content retention. Follow-up assessment strategies are used to identify implementation of the knowledge learned through the professional development activities in the daily work of staff, and use this information to guide future professional development opportunities.

#### ASSESSMENT TOOL

Exceeds	Post activity follow-up is conducted to guide future opportunities.
Meets	Follow-up identified during professional development activity is completed.
Needs Attention	The organization does not provide follow-up.

## 2.3. Quality Assurance for Improvement and Control

### 2.3.1. Develops and manages an integrated quality assurance system.

#### GUIDANCE

Quality assurance processes are in place to assure that documentation and enforcement actions are fair, objective, and consistent. The system is important for monitoring each licensing office on the consistent implementation of statutes, standards, and policies. The organization has a system that clearly identifies quality assurance staff, whose responsibility it is to guarantee consistent application of standards; ensure sanctions are issued when compliance is not maintained, and track and evaluate appropriate outcomes.

One method to ensure consistent application of standards is the use of an inter-rater reliability process, which means ensuring there is agreement between staff implementing standards. In other words, all staff should be interpreting the standards the same way. In the system, it is important to monitor case-rotation to ensure “fresh eyes” for consistency, balanced with the need to maintain staff’s reasonable familiarity with their assigned programs; to give staff the widest exposure to program issues; and to expose providers to the knowledge and skills of the widest array of regulatory staff. When feasible, the recommended rotation interval is approximately 2 – 4 years. The use of team inspections can also be used to increase consistency and identify areas in need of clarification.

The quality assurance system monitors to ensure that sanctions are applied appropriately and commensurate with the level and degree of the violation based on statute and standards, uses the information to ensure appropriate outcomes, and makes recommendations when variations, inequities, and/or inconsistencies are identified. Outcomes may be corrective actions, fines, settlement agreements, closure, probation, or suspension.

A quality assurance system includes all levels of staff from field inspectors to supervisors to managers.

#### ASSESSMENT TOOL

Exceeds	The system uses monitoring data to guide staff professional development, policy development, and program improvements.
Meets	The quality assurance system monitors consistent implementation of standards and enforcement.
Needs Attention	The organization has no quality assurance system.

### 2.3.2. Assesses the enforcement system for identification of trends and programmatic strengths and weaknesses.

#### GUIDANCE

Quality assurance staff collect noncompliance data to identify trends and make recommendations to mitigate weakness, expand strengths, guide professional development for staff, and revise standards. However, the analysis is only the beginning of the process of quality assurance. How the assessment is utilized is the key.

#### ASSESSMENT TOOL

Exceeds	The organization conducts data analysis annually and uses the data for program improvement.
Meets	The organization conducts data analysis every 3 years and uses the data for program improvement.
Needs Attention	The organization conducts no data analysis.

## 2.4. Communication

### 2.4.1. Establishes and maintains a clear communication plan, which includes the following:

- 2.4.1.1. Protocols for external sharing of required or best practices affecting the industry with leadership, legislative offices, and government officials.
- 2.4.1.2. Procedures for gathering and sharing information internally with staff.
- 2.4.1.3. Processes for gathering input and feedback as well as being responsive to providers, advocates, communities, families, and the media.
- 2.4.1.4. Providing outreach to the public.

## GUIDANCE

The organization maintains a written communication plan and implements the plan according to appropriate protocols directed by the situation or type of information.

The plan includes a variety of methods for sharing information and includes broad staff involvement and visibility in a variety of settings and events such as use of standing and ad hoc advisory groups, conference attendance and formal presentations, dialogue and training meetings, technical assistance, etc. As applicable during the operational and strategic planning process, organizations should include appropriate stakeholders. These may include internal staff, other agencies, community partners, and providers. This helps to identify challenges or potential inequities and contribute to greater support for the vision and plan. These types of settings are more general in nature and usually share information and updates on the overall organization. Targeted information sharing may take place in the form of standards development workshops and technical assistance or provider meetings. Effective communication should be customized for different audiences, including using images when appropriate.

Other plan protocols address public records requests and comply with the Freedom of Information Act and other “sunshine” laws. These requirements usually have strict timeframes. The plan ensures all parties are aware of the legal requirements.

Lastly, but by no means least, a communication plan must include information sharing with the public on regulatory and other activities affecting the client and families. When sharing information with the public, it should be provided in formats to accommodate the needs of the intended audiences, including individuals with disabilities, multi-language individuals, etc. Effective communication should be clearly written in plain language. The organization should have a consumer-friendly website or other platform to share information.

The plan clearly identifies when, how, and to whom information is sent, and includes communication throughout the organization.

The goal of a good communication plan is to keep leadership informed of service-significant trends (both worthy and problematic), and statutory issues affecting consumer well-being and the effectiveness of the regulatory program as a whole. Thus, this information should be used to recommend statutory or standards changes.

As applicable, it is recommended that a designated media representative be identified and used to share information on behalf of the organization. A designated media representative ensures consistency when sharing information. The media representative may be a person who has formal communications training or a senior staff member who has received media training.

## ASSESSMENT TOOL

### 2.4.1.1.

Exceeds	Procedures exist for information sharing with legislative offices and government officials, including other agencies.
Meets	Procedures exist for information sharing with the organization's executive leadership.
Needs Attention	The organization has no written protocols.

### 2.4.1.2.

Exceeds	Procedures exist to exchange information with the regulatory management staff on a monthly basis.
Meets	Procedures exist to exchange information with the regulatory management staff on a quarterly basis.
Needs Attention	The organization has no written procedures.

### 2.4.1.3.

Exceeds	Procedures exist to exchange information with external parties on a regular basis.
Meets	Procedures exist to exchange information with external parties on an annual basis.
Needs Attention	The organization has no written procedures.

### 2.4.1.4.

Exceeds	Public outreach is proactive in nature and for educational purposes.
Meets	Public outreach is reactive to situations.
Needs Attention	The organization does not conduct public outreach.

## 2.4.2. Uses a structured process to coordinate with legal staff.

### GUIDANCE

The organization establishes and implements a structured process to coordinate with legal staff for consultation when dealing with legal-risk decisions and support agency decision making in statutory guidance, policy development, and enforcement, as well as litigation. The structured process should provide staff with guidance on when and how to consult with legal staff.

#### For Example:

- Obtaining legal interpretation of statutes during the standards development process.
- Having legal staff review a regulatory policy prior to implementation.
- Seeking legal guidance on the development of a progressive enforcement system.

### ASSESSMENT TOOL

Exceeds	The written process includes legal consultation to support agency decision making in statutory guidance and policy development.
Meets	A written process exists to coordinate with legal staff for legal-risk decisions, enforcement, and litigation.
Needs Attention	The organization has no written processes.

### 2.4.3. Develops and monitors process for reporting critical incidents.

#### GUIDANCE

Critical incidents are ones in which serious injury, harm, or death have or may potentially occur, and includes child abuse, elder abuse, and neglect. Organization shall have written processes that specifically address these critical events and shall monitor for compliance. The process includes the methods to communicate these incidents promptly, consistently, and thoroughly. A database should be maintained to capture the critical information required for reporting purposes, electronic communication or other means of communicating the information, and must allow for auditing or monitoring. The processes may also include self-reporting protocols for providers to proactively report a critical incident resulting from a standards violation and includes a corrective action plan to avoid future incidents.

The organization analyzes this information to help with identifying, correcting, or mitigating trends through new or revised policies, standards, or legislation.

#### ASSESSMENT TOOL

Exceeds	The organization uses information from monitoring to guide quality assurance and technical assistance initiatives.
Meets	The organization has a written monitoring process to ensure critical incidents are reported.
Needs Attention	The organization has no written processes.

#### 2.4.4. Creates protocols for staff communication that address timeliness and content control.

##### GUIDANCE

All policies shall support professional and appropriate language, as all communication is public record and may be requested at any time by anyone. Communications should also be factual and not engage in supposition or opinion unless specifically asked and as it relates to the job capacity of the individual. Staff must also be aware of HIPAA and confidentiality requirements with regard to sharing information. Staff should be cognizant of the information they are putting in writing and careful not to divulge information such as Social Security numbers or other personal information. Policies should also encourage staff to meet and talk face to face when appropriate and not rely on quick email or text communication.

##### ASSESSMENT TOOL

Exceeds	The organization responds within 48 hours with a second-person content review as applicable.
Meets	The organization responds within 5 workdays and critical issue communications are reviewed by a second person.
Needs Attention	The organization has no written protocols.

#### 2.4.5. Monitors compliance with public records request requirements.

##### GUIDANCE

Organization should have one point of contact, which may be an individual or a unit, for public records requests to ensure timely and appropriate response. The plan or protocols are monitored to ensure the communication is provided within statutory timelines and is restricted to the information requested. Protocols shall include timeframes for calculating the cost of the public record, as applicable.

##### ASSESSMENT TOOL

Exceeds	The organization uses the information from monitoring to guide program improvement.
Meets	The organization monitors compliance of public records requests regularly.
Needs Attention	The organization does not monitor public records requests.

## 2.4.6. Establishes time boundaries for response to applicants.

### GUIDANCE

Dispositions of completed applications occur within 60 – 90 days and are usually contingent upon statutory guidelines. In the absence of specific laws regarding the processing of an application for license or registration, the organization must establish these boundaries, which should not exceed 90 days. If an application cannot be approved, or temporary or conditional license issued within that timeframe, it may need to be denied or withdrawn until the applicant is prepared.

Less formal communication with applicants shall be within written guidelines and should provide a reply or response within 24 - 72 hours. Consider a response such as “we are working on the information” or “someone will get back with you within \_\_\_ days” as appropriate replies.

### ASSESSMENT TOOL

Exceeds	One-hundred percent of licenses are issued by the legal deadline or within 90 days.
Meets	Ninety-five percent of licenses are issued by the legal deadline.
Needs Attention	Less than 95 percent of licenses are issued by the legal deadline.

## 3. Regulatory Management

### 3.1. Statutory Provisions

#### 3.1.1. Identifies authority, responsibility, and protective intent.

##### GUIDANCE

The organization's leadership knows regulatory best practices and consumer protection needs and makes diligent, consistent efforts through information and education to have these reflected in enabling statutes, regulations, internal operating policies or procedures, and coordination with relevant agencies and organizations.

Statutes must pose no conflict with federal law and implement federal law or regulations when authorized to do so. This may include legislative packages, bill analyses, and educational materials.

Statutes should designate the authority of the organization to regulate the care environment. They should outline the regulatory responsibility of organization. The statutes should also clearly define the protective intent and anticipate unintended consequences or inequities.

##### ASSESSMENT TOOL

Exceeds	
Meets	All three components (authority, responsibility, and protective intent) are addressed in statute.
Needs Attention	At least one of the three components (authority, responsibility, and protective intent) are missing in statute.

### 3.1.2. Defines distinctions in types of licenses.

#### GUIDANCE

Statutes provide clear language to define types of programs subject to regulation based on size, setting, characteristics of the population in care, and types of services provided. Definitions should be clear and distinct with no overlapping characteristics that could lead to confusion or inconsistent application of statute. Statutes should also define parameters for licensure periods but allow flexibility depending on compliance history or other factors such as provisional and probationary licenses. Statutes should address dual licensure for programs who serve two populations, such as a family child care home and foster home.

#### For Example:

- Broad distinctions include facilities versus home care versus group homes
- Subsets may include summer day camps, afterschool care, or other regulated settings.

#### ASSESSMENT TOOL

Exceeds	Within broad distinctions, subsets are defined.
Meets	Broad distinctions are defined.
Needs Attention	The organization does not define distinctions.

### 3.1.3. Affords similar protections to populations in similar risk categories or settings.

#### GUIDANCE

All clients and families deserve protections regardless of the program's business type, sponsorship, or status with voluntary approval or accreditation organizations. Child care programs should not be exempt from licensure, and these protections should be explicit through statute and standards.

In cases where exemptions from child care licensure exist, federal regulations require that States making payment to license-exempt providers must describe how the exemption does not endanger the health, safety, or development of clients in care.

#### ASSESSMENT TOOL

Exceeds	
Meets	No exemptions are allowed.
Needs Attention	Exemptions are allowed.

### 3.1.4. Provides flexibility to enable the organization to deal effectively with changes in the industry.

#### GUIDANCE

The statutes should identify the framework and parameters to guide standards development and allow the organization to stay current with research, trends, and conditions. Statutes should be carefully developed to provide clear guidance for developing processes, standards, and enforcement protocols.

#### For Example:

- Limited prescriptive language may establish fee structure and identify standard categories such as training, environment, and applications.
- Flexible frameworks may include authority to write about emergency preparedness, wherein the organization has the flexibility to write standards about any aspect of this topic, such as identifying the number of practice drills required in a licensure year.

#### ASSESSMENT TOOL

Exceeds	The statutes provide framework and parameters but are not prescriptive.
Meets	The statutes allow some flexibility and limited prescriptive language.
Needs Attention	The statutes allow no flexibility.

### 3.1.5. Delineates the licensure fee and fine parameters.

#### GUIDANCE

Statutes should provide parameters regarding fees and fines commensurate with program size, setting, and types of services provided, as well as levels of risk-related noncompliance. When developing fees, organizations should consider the impact on providers. Fees and fines should be collected for reinvestment into the regulatory program.

#### ASSESSMENT TOOL

Exceeds	Fee and fine parameters provide guidelines for establishing licensing fees and noncompliance fines.
Meets	Fee and fine parameters are prescriptive by providing the specific licensure fee and noncompliance fines.
Needs Attention	The organization has no fee and fine parameters.

### 3.1.6. Requires a minimum inspection frequency including unannounced inspections.

#### GUIDANCE

Statutes should set the parameters for the minimum number of inspections but shall not be construed to be the maximum number of inspections, as regulatory programs must have the flexibility to conduct reinspections, technical assistance visits, and complaint investigations, in addition to the minimum frequency. The minimum frequency should not be *less than* twice a year, with one or more inspection being unannounced. The statute may allow abbreviated, weighted, or risk-based inspections based on compliance history to supplant one of the two minimally required inspections. Complaint investigations should not be included in minimum inspection frequency and shall always be unannounced.

#### ASSESSMENT TOOL

Exceeds	The organization conducts more than two inspections per year with at least one unannounced inspection.
Meets	The organization conducts two inspections per year with at least one unannounced inspection.
Needs Attention	The organization conducts one or no inspections per year OR all inspections are announced.

### 3.1.7. Establishes sanction guidelines that serve as a basis for consistent enforcement and discretionary waivers.

#### GUIDANCE

Statutes should provide flexible enforcement parameters for consistent implementation through the development of policies and procedures. Parameters provide a range of options for enforcement that the organization can define in the policies.

Progressive enforcement is a series of actions that may be taken when a program is found in noncompliance depending on the severity and number of times noncompliant.

#### For Example:

- Exceeds – Options could include a fine range (\$100 to \$500) per day or per standard; or suspension, probation, etc.
- Meets – Probationary licenses can only be issued for a specific timeframe.

#### ASSESSMENT TOOL

Exceeds	The statutes provide a framework and parameters but are not prescriptive.
Meets	The statutes allow some flexibility and limited prescriptive language.
Needs Attention	The statutes are prescriptive.

### 3.1.8. Outlines due process rights and court engagement.

#### GUIDANCE

Statutes should provide for due process rights for licensing decisions (suspend, deny, revoke) and noncompliance sanctions. They should allow for both informal and formal appeal opportunities that are clearly written so providers easily understand them.

Statutes should also address regulatory options to engage the court system for critical situations, such as emergency closures, that put the client at risk.

#### ASSESSMENT TOOL

Exceeds	
Meets	The statutes outline due process rights.
Needs Attention	The statutes do not outline due process rights.

## 3.2. Standards Development

### 3.2.1. Uses processes and methods to develop and revise effective regulations.

#### GUIDANCE

The organization bases standards development on current research and industry trends. During the standards development process, it is important to include key stakeholders; this ensures the standard has community support and avoids gaps or conflicting or ambiguous standards among agencies. Key stakeholders include a cross section of individuals to represent regulatory staff, providers, advocates, agency and community partners, and opponents to develop well-balanced and purposeful standards. When selecting stakeholders consider providers of all types, sizes, and locations, including the full range of racial, ethnic, cultural, and linguistic diversity. To encourage as much participation as possible, consider the best times to reach the most stakeholders, such as virtual events, conferences, evenings, or weekends. This is validated through rule development materials, advertised public meetings, or written input.

#### ASSESSMENT TOOL

Exceeds	Internal staff and external partners are engaged in guiding standards development as well as the use of monitoring data.
Meets	The standards development process is limited to internal staff and a limited number of key stakeholders.
Needs Attention	The organization does not use processes or methods to develop regulations.

**3.2.2. Develops standards that are clearly written and measurable, addressing at a minimum: applications, background screening, behavior and guidance, environment, family engagement, food preparation and service, health, personnel training, ratio and group size, safety requirements, supervision, and transportation.**

## GUIDANCE

Standards provide sound preventive protection against risks to health and safety and promote quality care. The organization writes standards in plain language. Standards should be both observable and consistently measurable by differing regulatory staff. Each category of standards listed shall be comprehensive and address the major components. It is the organization's responsibility to identify if any of the above categories are regulated by another agency and how collaboration occurs to ensure children's safety.

### Categories for Regulation

- Application – clearly identify all demographic information, disclosure of corporate ownership, and pertinent education or training skills.
- Background screening – inclusive of national, state, territory, tribal, and local criminal, abuse and neglect, and sex offender checks, a federal fingerprint check, employment history verification, etc.
- Behavior and guidance – staff-client interactions, trauma-informed care practices, positive guidance, prohibited practices.
- Environment – internal and external physical premises such as lighting, flooring, air quality, pest management, and management of hazardous substances.
- Family engagement – promote involvement in decisions and program activities.
- Food preparation and service – inclusive of kitchen practices as well as food delivery.
- Health – safe sleep practices, sanitization, bedding and linens, immunization records, medication administration, first aid and CPR training, the prevention and control of infectious disease, nutrition and physical activity.
- Personnel training – initial and ongoing training requirements, timeframes for completion, required topics, and credential or degree requirements.
- Ratio and group size – address square footage, personal space, overall capacity, ratios, and group size appropriate to the activity.
- Safety requirements – emergency preparedness, equipment and maintenance, water safety, prevention and response to allergic reactions, and management of toxic and hazardous materials.
- Supervision – requirements should be age appropriate, commensurate with the individual's abilities, and be both direct and indirect, as applicable. It should prohibit abusive and high-risk behaviors by staff.
- Transportation – vehicle safety, maintenance, seat belts, restraints, supervision, field trip requirements, and insurance.

**ASSESSMENT TOOL**

Exceeds	Standards include all 12 categories and are clearly written and measurable.
Meets	Standards include 9 of the 12 categories and are clearly written and measurable.
Needs Attention	Standards include less than 9 categories.

### 3.2.3. Develops and maintains an up-to-date interpretive guide for use in applying regulations consistently.

#### GUIDANCE

The organization develops an interpretive guide for each set of standards; a manual that includes the rationale and an explanation of the expectations for each standard. Program staff use interpretive guides for the purpose of consistent and uniform enforcement across all settings, therefore, the guides must be updated regularly to keep current and consistent with the standards. These guides supplement standards to explain the expectations more clearly and may contain examples to help providers successfully implement the statutes and standards. The guidance supports legal actions but does not supersede the authority of the statutes and standards. The organization shares the interpretive guide with the public during the promulgation process and makes it available to providers thereafter.

#### ASSESSMENT TOOL

Exceeds	An interpretive guide is developed for internal and external use.
Meets	An interpretive guide is developed and used with internal staff.
Needs Attention	The organization does not have an interpretive guide.

### 3.3. Programmatic Policy

#### 3.3.1. Uses structured cycles to comprehensively review and develop effective regulations.

##### GUIDANCE

The organization schedules a comprehensive review of each standard at least every 5 years with revisions initiated more often, if warranted, based on current trends and research.

The organization bases the review on interpretation issues, technical assistance provided to staff and providers, legal interpretations, and staff input. Standing or ad hoc advisory committees are comprised of a cross section of stakeholders to identify significant revisions of regulations. Stakeholders may include agencies, families, providers, advocates, and specialists. When reviewing standards and compliance data, consideration should be given if there are barriers impacting the provider's ability to meet the standard and if so, it should be addressed.

##### ASSESSMENT TOOL

Exceeds	A comprehensive review is conducted every 3 years and targeted revisions are made as needed.
Meets	A comprehensive review is conducted every 5 years.
Needs Attention	The organization does not maintain a structured review cycle.

### 3.3.2. Develops procedures and protocols to achieve consistent enforcement.

#### GUIDANCE

Consistent enforcement is an important element of a strong regulatory system. The organization includes methods to detect and evaluate deviations and to ensure consistent, correct interpretation and enforcement. The organization should include guidance on consistently enforcing standards while respecting cultural and language differences.

Procedures should ensure that inspections are prompt, appropriately spaced throughout the year, objective, thorough, and include direct observations and interviews, as applicable. Procedures and protocols should include requirements for programs that offer services during nontraditional hours.

#### For Example:

- If the program offers 24-hour care, observations need to be conducted at various times, including an evening observation.
- If there is a health outbreak in a program, the licensing program should have protocols in place to allow for flexibility while achieving consistency. This may include suspending specific rules that would be impossible to enforce.
- Granting waivers for specific regulations posing a cultural or language barrier but not creating a safety or health risk.

#### ASSESSMENT TOOL

Exceeds	Enforcement is prescriptive for each standard and substandard with limited flexibility based on severity of noncompliance.
Meets	Procedures are prescriptive at the broad category level.
Needs Attention	The organization has no procedures and protocols for consistent enforcement.

## 3.4. Legal Enforcement

### 3.4.1. Establishes and maintains an automated regulatory data collection system and uses standard file-organization methods for case files and office records.

#### GUIDANCE

The organization should establish a file structure for ease of access, quick response to record requests, caseload transition between staff, and government management record compliance guidelines. The files should be electronic and captured in a database or file management system and comply with security, confidentiality, and HIPAA requirements. If the file system is not completely electronic the organization should be consistently working toward electronic record keeping.

The organization has an efficient data collection repository and generates an array of recurring and ad hoc management reports that support both internal and external inquiries and research, strengthen program management and improvement efforts, promote consistency and quality controls, and enhance effective communications and training.

This includes a well-planned and conscientiously implemented electronic records management system with lawful and practical retention and purging protocols and procedures. Automated information and knowledge management systems are designed for efficient and effective support for the organization's information and legal needs.

#### ASSESSMENT TOOL

Exceeds	The organization has an automated system with additional data collection, such as administrative actions, illegal operations, closures, and fines.
Meets	The organization has an automated system for inspection reports, with reporting capabilities.
Needs Attention	The organization does not have an automated system established for data collection.

### 3.4.2. Conducts licensing inspections.

#### GUIDANCE

Routine unannounced monitoring inspections occur with sufficient frequency to protect clients and to prevent or reduce compliance deterioration—at least twice-yearly with one or more unannounced inspection—unless the organization has a reliable system to reduce the frequency of routine monitoring for stable, high-compliance programs, and provided that all programs are inspected at least once a year. Higher frequency inspections occur within organizational guidance and focus on client protection while resolving systemic issues within a timeline or on prompt determination that client well-being demands enforcement escalation. Inspections can be more frequent, to include reinspections or abbreviated inspections for previously identified issues, or weighted or risk-based inspections to help problematic providers and reward high-functioning programs. Onsite inspections provide the greatest opportunity for successful oversight and technical assistance.

#### ASSESSMENT TOOL

Exceeds	The organization conducts additional onsite inspections that exceed the minimum statutory requirement.
Meets	The organization conducts onsite inspections twice a year within program expectation timeframes.
Needs Attention	The organization does not conduct unannounced onsite inspections, or conducts one inspection a year without a reliable system to determine the need for additional inspections for compliance, or inspections are not conducted within program expectation timeframes.

### 3.4.3. Ensures that inspection documentation is clear, accurate, and objective.

#### GUIDANCE

Documentation is key to success for staff—so that a provider understands the situation and what can be done to improve—as well as being the foundation for any litigious issues down the road. Documentation is well written in terms of structure and grammar and is professional in nature. An automated system promotes clear and consistent inspections using standardized input whenever possible, and staff training includes information about writing expectations.

#### ASSESSMENT TOOL

Exceeds	The automated inspection system uses standardized language templates and includes tools such as spelling and grammar check to promote professionalism.
Meets	Inspection documentation is written in plain language using complete sentences and is professional in nature and monitored for quality assurance.
Needs Attention	The inspection system has poor documentation that may include use of slang, illegible comments, or shorthand.

### 3.4.4. Ensures that licensing decisions are appropriate and actions are timely, fair, objective, and consistent.

#### GUIDANCE

The organization has a written process for imposing sanctions on a provider that includes his or her due process rights. If the organization has waivers or alternative ways to meet the intent of a standard as an effort to be responsive to extenuating, cultural, or socioeconomic circumstances, it should be consistency enforced. The process ensures licensing decisions are consistent across staff and units as well as equitably applied commensurate with the level of risk.

#### ASSESSMENT TOOL

Exceeds	A quality assurance review is conducted to ensure decisions are appropriate, timely, and consistent.
Meets	Procedures clearly identify the decision-making process, timeframes, and circumstances for review.
Needs Attention	The organization has no processes.

### 3.4.5. Investigates complaints and reports of illegal operations.

#### GUIDANCE

The organization has written guidelines to include timeframes for conducting complaint investigations and allegations of illegal operations. Guidance takes into consideration the severity of the complaint and applies timeframes based on this severity. Complaints may be received by and from any individual or organization and all should be treated with the same level of response, as the health and safety of clients being served is the primary focus of any complaint. Timeframes should range from immediate to no longer than 5 days.

The organization should be clear on whether complaints may be anonymous. It is recommended that reporters identify themselves for the sake of the client and family, as anonymous complaints limit the opportunity to truly protect the client or family because they provide no means of follow-up or clarification by the licensor.

All complaints should be investigated, whether the reporter is identified or is anonymous.

#### ASSESSMENT TOOL

Exceeds	A quality assurance review is conducted to monitor that investigations are appropriate, timely, and consistent.
Meets	The organization has established timeframes based on severity and risk.
Needs Attention	The organization has no established timeframes.

### 3.4.6. Requires corrective actions be based on cause and monitored systematically for compliance.

#### GUIDANCE

The organization has a written plan that includes the corrective action expectations, templates, required signatures, and expected follow-up by both the provider and the regulatory program. The plan requires corrective action completion within appropriate timeframes, which are at a minimum at the next licensing inspection or at an additional monitoring inspection and consistent with the level, frequency, and type of violation.

#### For Example:

- The plan should include ample time for staff to complete training if that is the concern, reasonable time to complete repairs of the physical structure as documented by a work order, immediate closure, and reopening consistent with an approved inspection. If closure is the outcome, the organization has a plan to work with other community providers to serve affected clients and families.

#### ASSESSMENT TOOL

Exceeds	A quality assurance review is conducted to monitor that corrective actions are completed and licensing staff have followed up.
Meets	The organization has established guidelines for appropriate, timely, and consistent corrective actions to be applied based on noncompliance situations.
Needs Attention	The organization has no established corrective action guidelines.

### 3.4.7. Maintains close monitoring and regular management review for high-risk cases.

#### GUIDANCE

The organization has a process in place to review high-risk cases that may include programs on enforcement watch because of compliance deficits, forcible closure cases operating during appeals, and programs operating on probationary or provisional licenses or on settlement agreements. The organization keeps sold or closed programs under watch until they are satisfied that care has been discontinued. This review is conducted with regulatory, legal, and leadership staff, as appropriate.

#### ASSESSMENT TOOL

Exceeds	A quality assurance review is conducted to ensure that decisions are appropriate, timely, and consistent.
Meets	Procedures clearly identify the decision-making process, timeframes, and circumstances for review.
Needs Attention	The organization has no processes.

### 3.4.8. Develops a process for handling interagency reports with regard to licensure.

#### GUIDANCE

The organization has established relationships that include regular and ongoing communication with other agencies regarding licensure. The process includes the review reports from involved regulatory, placement, or subsidy agencies as necessary to evaluate compliance with licensing standards, and are included as part of the complaint processes. The electronic system also generates reports of licensure compliance to share with partner agencies or organizations.

#### For Example:

- Interagency reports may be between programs such as school readiness programs, adult and child food programs, and subsidy programs.

#### ASSESSMENT TOOL

Exceeds	Communication is automated and electronic.
Meets	The process includes regularly scheduled communication with partners.
Needs Attention	The organization has no processes.

### 3.5. Technical Assistance

#### 3.5.1. Provides inquirers with access to timely information and orientation on compliance expectations to assist their decision-making on whether to apply for licensure.

#### GUIDANCE

The organization provides applicants with timely orientation and pre-licensure training that teaches mutual responsibilities and expectations and that provide assistance in establishing compliance systems for programs. Orientation and pre-licensure training can assist organizations with ensuring providers understand their responsibilities before becoming licensed. They provide extra monitoring and technical assistance to new providers during the initial licensure period to promote the success of their business to provide quality care. It is important to remember, technical assistance is not a substitute for a noncompliance finding.

#### ASSESSMENT TOOL

Exceeds	Orientations are held more than once a year and frequently enough to meet community need.
Meets	Orientations are held annually.
Needs Attention	The organization provides no technical assistance.

### 3.5.2. Establishes plans and guidance to provide appropriate technical assistance and other support services to providers.

#### GUIDANCE

The organization develops, manages, or coordinates provider support services that help providers meet the needs for sustained compliance management and for professional growth. Effective technical assistance programs include both structured provider training and informal technical assistance based on compliance level. They should explain the how and why of non-compliance. Technical assistance should consist of readily available resources and support services for providers who are seeking information or are in noncompliance with the standards. As part of technical assistance, the organization should connect providers with resources and/or other community partners if they need help. This can include community and professional organization resources, training, and materials. Technical assistance is provided for new legislation, revised standards, or changes in organization functions. Technical assistance should also allow providers an opportunity to express concerns or needs to regulatory staff. Response to technical assistance requests should be timely and commensurate with the communication plan.

#### ASSESSMENT TOOL

Exceeds	Technical assistance is ongoing and available to providers on a regular schedule as well as on an as-needed basis.
Meets	Technical assistance includes providing resources and annual training opportunities.
Needs Attention	The organization provides no technical assistance.

### 3.5.3. Ensures that all personnel make referrals to other agencies as appropriate.

#### GUIDANCE

The organization staff comply with their reporting requirements to other protective services and law enforcement agencies and enforce reporting requirements by licensed programs. The organization provides resource and referral information to providers upon request or as program or regulatory staff identify needs.

#### For Example:

- Providers should be supported in offering information to parents on child development, social-emotional health, developmental screening, economic support services, or educational resources.

#### ASSESSMENT TOOL

Exceeds	The organization conducts a quality assurance review and periodic training updates to ensure referrals are appropriate and timely.
Meets	Information about making referrals is provided formally to staff through orientation and resource documentation.
Needs Attention	The organization provides no information formally to staff.

## Useful Web Sites

**American Bar Association, Center on Children and the Law**

[www.americanbar.org/groups/child\\_law.html](http://www.americanbar.org/groups/child_law.html)

**Annie E. Casey Foundation**

[www.aecf.org](http://www.aecf.org)

**Child Welfare Information Gateway**

[www.childwelfare.gov/](http://www.childwelfare.gov/)

**Generations United**

[www.gu.org](http://www.gu.org)

**National Association for Regulatory Administration**

<http://naralicensing.org/>

**National Association for the Education of Young Children**

[www.naeyc.org](http://www.naeyc.org)

**National Resource Center for Health and Safety in Child Care and Early Education**

<http://nrckids.org/>

**Office of Child Care, an office of the Administration for Children & Families**

[www.acf.hhs.gov/programs/occ](http://www.acf.hhs.gov/programs/occ)

**Office of Child Care Technical Assistance Network**

[childcareta.acf.hhs.gov/](http://childcareta.acf.hhs.gov/)

**Office of Head Start, an office of the Administration for Children & Families**

[www.acf.hhs.gov/programs/ohs](http://www.acf.hhs.gov/programs/ohs)

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