

Management Audit Committee

*Representative Randall Luthi, **Chairman***
*Senator Hank Coe, **Vice Chairman***

Senator April Brimmer Kunz
Senator Grant Larson
Senator Mike Massie
Senator Carroll Miller
Senator Bill Vasey

Representative Ross Diercks
Representative Alan Jones
Representative Tom Lockhart
Representative Jane Warren

Report Staff

Barbara J. Rogers
Program Evaluation Manager

Wendy *Madsen*
Senior Program Evaluator

Paula *Gordinier*
Program Evaluator

Johanna *Brukardt*
Associate Program Evaluator

EXECUTIVE SUMMARY

Childcare Licensing

Purpose

The Management Audit Committee requested an evaluation of the childcare licensing process within the Department of Family Services (DFS). The Committee requested information about whether DFS has adequate resources to perform licensing, whether licensing duplicates other regulatory functions, and whether the agency has sufficient authority to enforce licensing rules.

Additionally, the Committee asked about the impact of regulation on the supply of providers. At the time of the review, DFS was in the process of promulgating new licensing rules. We did not evaluate the appropriateness of current or proposed rules, but this report does consider larger childcare issues that impact the cost and availability of care.

Background

In recent decades, as more mothers have entered the workforce, the demand for childcare has risen. Because children in care are vulnerable, every state regulates childcare providers in some form. Wyoming statute requires all childcare providers that care for more than two children, and are not specifically exempt, to be licensed.

As of December 2000, Wyoming had 722 licensed providers who were caring for approximately 15,000 children. About 53,000 children in Wyoming under the age of 12 are in need of childcare, but we estimate only 28 percent of them are receiving care from licensed providers.

DFS' childcare licensing unit is primarily federally funded, along with a mandatory General Fund match. The unit has 18 full-time-equivalent positions, including 15 licensers placed in eight regional offices.

DFS rules for childcare licensing set the basic health and safety standards providers must meet in order to operate legally. Potential childcare providers must submit an application and pass a facility inspection to obtain a license, and must renew the license annually.

Licensers may observe non-compliance with standards during on-site visits or when investigating complaints. DFS uses a variety of approaches to ensure compliance, from offering technical assistance to revoking the license.

Results in Brief

Currently, the licensing unit finds itself straining to fulfill its mission. We identified several areas in which changes are needed to ensure the effective implementation of childcare standards to best serve children in care.

High turnover and inconsistent workloads have undermined the unit's ability to perform its primary regulatory mission, and the unit has not established performance goals to measure the effectiveness of the licensing process. DFS lacks explicit authority to investigate illegally operating providers, and prosecutions are rare. Also, the licensing unit does not consistently enforce its rules among licensed providers. Finally, local regulations can impact capacity, or the number of children for whom providers can care, but the different entities involved in childcare regulation do not duplicate one another.

We identified other childcare issues needing attention that are outside the licensing unit's statutory mandate. Regulation by DFS is just one of many factors affecting the availability, affordability and quality of care.

Principal Findings

We found that since 1999, the licensing unit has been experiencing high turnover and difficulty filling licenser positions. As a result, DFS incurs financial and other costs. The prime reason for high turnover is that licensers work in contract positions, without benefits. We recommend the Legislature consider making licenser positions permanent, with benefits.

Additionally, licensers have inequitable, and often high, caseloads and workloads that impact the unit's mission. DFS has not established workload standards, and often focuses on ancillary activities that hinder licensers' ability to perform essential duties. DFS should develop appropriate standards for caseload and workload, so licensers can focus on their primary regulatory mission.

The licensing unit has not developed performance measures to guide data collection. In response to an evolving program, management has focused on day-to-day operational demands. The unit needs to develop performance measures and ensure that it collects the data necessary to evaluate program effectiveness.

Statute requires all but exempt childcare facilities to be licensed before providing care. However, most Wyoming children in childcare are cared for not by licensed providers, but by unlicensed providers, who may not be legally exempt. When DFS receives reports of illegally operating providers, it lacks explicit authority to investigate them in order to build a case for prosecution. Prosecuting attorneys appear to be hesitant to prosecute illegal providers. DFS needs to take the lead in developing a workable process to investigate and prosecute illegal providers.

We identified inconsistencies in how licensers implement and enforce current rules with providers. As a result, children may not be uniformly protected and providers may not be treated equitably. We found the primary reason for inconsistencies is the lack of written policies and procedures. The unit should develop a policy manual to reduce reliance on licenser discretion in making decisions that affect individual providers.

Policymakers have expressed concerns about whether sanitation, fire, and nutrition agencies that also inspect childcare facilities are performing duplicative inspections. However, we determined that these inspections are not duplicative with each other or with DFS. Further, consolidated inspections are

impractical because specific expertise is needed to ensure compliance with certain requirements, and the inspections need to be conducted under different conditions.

Some childcare providers in Wyoming must meet local requirements that are more stringent than DFS rules. These requirements can limit the capacity of providers. We recommend the Legislature consider either exempting childcare facilities from local regulations or working with local officials to expand childcare supply.

Finally, many of the issues at the heart of the debate over childcare are much broader than the regulation of providers. Even if the licensing unit were working optimally, larger childcare issues are not appropriate for the licensing function to take on. Further, DFS cannot address these matters alone. We recommend the Legislature authorize a task force to develop options for increasing the affordability, availability, and quality of childcare in Wyoming.

Agency Comments

The agency agrees with seven of the eight recommendations in the report and partially agrees with the recommendation about developing appropriate standards for caseload and workload. The agency believes it has taken other activities into account when distributing workloads to its licensers.

Recommendation Locator

Recommendation Number	Page Number	Recommendation Summary	Party Addressed	Agency Response
1	22	The Legislature should consider making licensers permanent, benefited positions.	Legislature	Agree
2	27	The licensing unit needs to develop appropriate standards for caseload and workload.	DFS	Partially Agree
3	32	The licensing unit should configure its computer system to provide program-level information.	DFS	Agree
4	37	DFS needs to take the lead in developing a workable process for enforcement of licensure.	DFS	Agree
5	43	The licensing unit should develop a policies and procedures manual.	DFS	Agree
6	51	The different entities currently involved in inspecting childcare facilities should continue to conduct separate inspections.	DFS/ Other	Agree
7	54	The Legislature should consider options to eliminate barriers to childcare supply.	Legislature	Agree
8	68	The Legislature should consider authorizing a task force to begin addressing larger childcare issues.	Legislature	Agree

INTRODUCTION

Scope and Methodology

Scope

W.S. 28-8-107(b) authorizes the Legislative Service Office to conduct program evaluations, performance audits, and analyses of policy alternatives. Generally, the purpose of such research is to provide a base of knowledge from which policymakers can make informed decisions.

In October 2000, the Management Audit Committee directed staff to undertake a review of Childcare Licensing in Wyoming. The Childcare Licensing Unit is part of the Department of Family Services (DFS). This report focuses on issues directly related to the regulatory function of the licensing unit, with research centering around the following questions:

- Does the licensing unit have sufficient and appropriate resources to carry out its regulatory function?
- Do staff within the licensing unit maintain reasonable workloads?
- How does DFS use management information to inform the program's mission and goals?
- To what extent is DFS able to ensure that all providers are operating legally?
- Once licensed, does DFS ensure that providers continue to comply with minimum regulations?
- How consistent are licensers across the state in their implementation of regulations?
- Are other entities duplicating functions of DFS licensers?
- What impact do local regulations have on childcare providers?

During our research, we identified other childcare issues needing attention that are outside the licensing unit's statutory mandate. While not the primary focus of our study, we found it important to consider the following question:

- Are there ways to balance availability, affordability and quality of childcare in the state?

We completed the research for this report in May 2001, when DFS was in the final stages of promulgating new rules for childcare regulation. We refer to the 1990 Minimum Rules for Day Care Licensing as "current rules"

and to the rules that DFS was in the final stages of promulgating as “new” or “proposed” rules. In this report, we do not evaluate the current or proposed rules, or DFS’ process for promulgating rule change.

Methodology

This evaluation was conducted according to statutory requirements and professional standards and methods for governmental audits. The research was conducted between November 2000 and May 2001.

In order to compile basic information about the childcare regulation and the enforcement process in Wyoming, we reviewed relevant statutes, current minimum rules, proposed rules, statutory history, annual reports, budget documents, previous studies, and internal agency documents. We analyzed quarterly reports, hand-written logs, as well as information available through the licensing unit’s database system. We reviewed professional literature on childcare issues and childcare regulation, including a broad review of how other states regulate childcare.

We surveyed and conducted interviews with all 15 licensers located throughout the state, and interviewed the unit manager, regional supervisors, and other DFS officials. Interviews were also conducted with childcare experts from around the state as well as children’s advocacy groups. We shadowed licensers on several different types of regulatory visits and attended a local provider association meeting.

Utilizing human resource data from DFS, we calculated licenser turnover for the past five years. Using a methodology developed for the LSO report *Turnover in Four Occupations*, we calculated the cost per turnover for licensers for the year 2000. We also mailed 421 surveys to providers chosen at random from around the state, to gauge their views of the licensing function, and received a 54 percent response rate.

Acknowledgements

The Legislative Service Office expresses appreciation to those who assisted in this research, especially to licensers and staff in the unit and other personnel in the Department of Family Services. We also thank the many other individuals who contributed their expertise, including Children’s Nutrition Services, Children’s Action Alliance, and early childhood experts from the University of Wyoming. Finally, we extend appreciation to the childcare providers who contributed to our understanding.

CHAPTER 1

Background

Every state, including Wyoming, regulates childcare in some form.

During the past several decades, the demand for childcare has risen dramatically. Childcare is a regulated industry, with every state regulating providers in some form. This regulation reduces risks to a highly vulnerable segment of the population: young children. States mandate minimum standards for childcare providers in areas believed to affect children's health and safety. Licensing rules are minimum requirements that must be met in order to operate a childcare business and represent the floor below which a program cannot legally operate.

Wyoming Has Been Regulating Childcare for 35 Years

Out-of-home care is the only type of care regulated by the state.

States generally regulate childcare that takes place outside of the child's home. Out-of-home care, meaning care delivered in a setting other than the child's own home, is the only type of care regulated by Wyoming and is the focus of this study. In Wyoming, the Department of Family Services' (DFS) Childcare Licensing Unit licenses out-of-home childcare providers. DFS, along with other entities including the State Fire Marshal and the Department of Agriculture, ensures licensed providers are meeting a variety of minimum standards.

Licensing rules set minimum standards for childcare.

W.S. 14-4-101 through 14-4-116 (see Appendix A) authorizes DFS to regulate childcare facilities. Wyoming began regulating childcare in 1966 and the first childcare certification standards, only four pages long, were adopted the same year. After revising rules every three to five years through the 1980s, DFS most recently revised them in 1990. The current rules set minimum standards for childcare, regulating all out-of-home childcare providers who, unless exempted by statute or rule, care for more than two unrelated children.

As of this writing, DFS is in the process of revising its childcare licensing rules. DFS began the rule promulgation process in the spring of 2000 and the new rules are slated to go into effect July 1, 2001. DFS has modified the final version of rules in response to provider concerns about specific aspects of the proposed rules, and has also created a one-year variance period to allow providers who apply time to come into compliance with the new rules. DFS also reports that during the next year, licensers will continue to focus on their primary regulatory

mission. At the same time, the agency will work to educate providers about the requirements of the new rules, evaluate the economic impact of the rules, and build childcare capacity.

Demographic Changes Have Increased Demand for Childcare

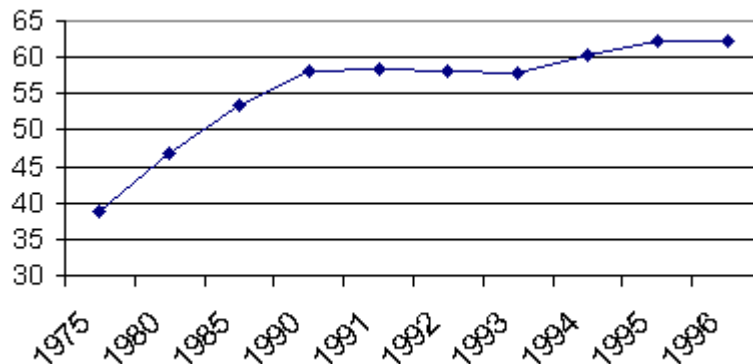
As more mothers enter the workforce, more children will be spending time in a childcare setting.

Increasing numbers of children will rely on caregivers during critical years of development.

One of the most significant social and economic trends in recent U.S. history has been the increase in percentage of women participating in the workforce. Consequently, regulation has taken on more importance: as more mothers enter the workforce, more children will be spending time in a childcare setting while parents are working. Over the past 40 years, mothers have come to account for most of the rise in women's overall labor force rates, with a steady growth in participation of mothers with young children. As shown in Figure 1, the percentage of women in the workforce who have young children has increased substantially in the last 20 years.

Recent evidence that learning begins at birth has had a significant impact on the field of early childhood development. In a broad sense, this means that during the critical early years of development, increasing numbers of children will rely upon caregivers in a childcare setting for at least part of their stimulation and development.

Figure 1: Percentage of Women In the Workforce With Children Under Six



Source: LSO analysis of Bureau of Labor Statistics data

Parents Use Many Different Types of Care for Their Children

In Wyoming, the great majority of children in care are

Most children in Wyoming are not receiving care from licensed providers. According to Bureau of Census estimates, in 1999 there were 85,800 children under the age of 12 in Wyoming. Of these children, we estimate 62 percent, or about 53,000, require regular childcare (see

not in licensed facilities.

Appendix B for estimation process); we call them the “childcare population.” Regulated childcare providers, who are the focus of this study, care for about 15,000 children, or 28 percent of the childcare population. The remaining 72 percent of the childcare population is receiving care in unregulated facilities.

Parents often utilize care that the state does not regulate.

While this report focuses on regulated out-of-home care, parents utilize a variety of other types of care that the state does not regulate. Some providers are, by law, exempt from regulations; the categories are listed in the next section. Others should be licensed, but either do not know of licensing requirements or choose not to comply. They are operating illegally. In addition, some children may stay at home alone, or parents may adjust their work schedules to lessen the need for childcare. Many parents may rely on a combination of childcare arrangements.

Childcare Exempt from Regulation

W.S. 14-4-102(a) requires all childcare facilities to be licensed by the state before caring for children, unless specifically exempted. The following types of care are exempt from state regulation:

Statute requires all childcare facilities, unless specifically exempt, to be licensed.

- A legal parent’s or legal relative’s care of a minor
- Occasional care of a neighbor’s or a friend’s child if the caretaking person does not regularly engage in this activity
- Parents exchanging childcare on a mutually cooperative basis
- Childcare by a person employed to come to the home of the child’s parent or guardian
- Childcare facilities providing care for less than three minors
- Childcare facilities providing care to the children of only one immediate family unit
- Childcare facilities supervised by the state, any local government, school district, agency or political subdivision.

Current Rules Regulate Three Types of Providers

Childcare licensing rules establish three classifications of regulated out-of-homeproviders:

Providers are licensed according to classifications by number of children in care.

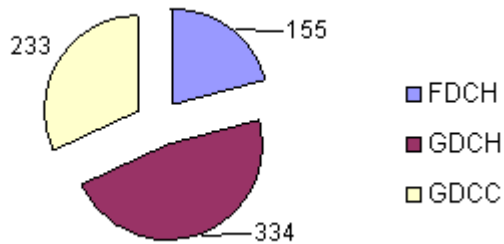
- The Family Day Care Home (FDCH) is a day care facility in which care is provided for 3, but no more than 6, unrelated children for part of a day in a home setting. FDCH providers are also allowed to care for up to 2 school-age children above capacity for no more than three hours per day when school is in session.

- The Group Day Care Home (GDCH) is a day care facility in which care is provided for up to, but no more than, 11 unrelated children for part of a day in a family setting. GDCH providers are also allowed to care for up to 3 school-age children above capacity for no more than three hours per day when school is in session.
- The Group Day Care Center (GDCC) is a person, partnership, association or corporation that is operating a business for profit or otherwise where 12 or more unrelated children are cared for on a regular basis.

The 722 licensed providers operating in Wyoming care for a total of 15,000 children.

Under current classifications, 722 licensed providers were operating in Wyoming as of December 2000, and were caring for approximately 15,000 children. (See Appendix C for locations of licensed childcare providers in Wyoming.) Most children in licensed care in Wyoming receive care in centers, not home settings. The majority of licensed facilities are Group Day Care Homes, yet most children are cared for in Group Day Care Centers. The number of children cared for in Group Day Care Centers is ten times greater than the number cared for in Family Day Care Homes. Figure 2 shows the number of licensed facilities by provider classification, while Figure 3 shows the number of children cared for by type of facility.

Figure 2: Number of Licensed Providers By Type of Facility December 2000

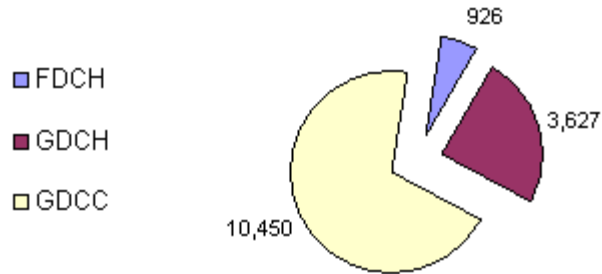


The majority of licensed providers in Wyoming are Group Day Care Homes (GDCH).

Source: LSO analysis of DFS-provided data as of December 31, 2000

**Figure 3: Number of Children in Licensed Care
By Type of Facility
December 2000**

But most children in licensed care in Wyoming are in centers (GDCC).



Source: LSO analysis of DFS-provided data as of December 31, 2000

Proposed Rules Change Provider Classifications

The proposed rules will change these classifications, establishing four categories of regulated providers. The new classifications are:

Proposed rules add a fourth classification, enabling one provider to have multiple facilities.

- Family Child Care Home (FCCH) means a childcare facility in which care is provided for 3 to 10 unrelated children from more than one immediate family for part of a day in the home of the provider.
- Family Child Care Center (FCCC) means a childcare facility in which care is provided for 3 to 15 unrelated children for part of a day, which may be a residential, or commercial type structure. This gives providers the flexibility to offer care in their own homes or at another location.
- Child Care Center (CCC) means a private person, partnership, association or corporation that is operating a business for profit or otherwise, where 16 or more children receive care for part of the day.
- Multiple Location Facility (MLF/CCC or MLF/FCCC) means any person, partnership or association or corporation that is operating CCC or FCCC at multiple locations.

Unit Staff and Budget

Reflecting increased societal demands for protection of children in out-of-home care, the licensing unit has evolved and grown. In the past five years, the size of its staff has expanded, as has its budget.

Unit Staffing Has Grown

Between 1966 and 1987, social workers in each county were responsible for enforcing childcare certification standards, performing licensing

Licensing did not have a full-time state-level staff until 1991.

along with their other duties. Without central administration, consistency between counties could not be ensured, so beginning in 1987, regional licensing officers were phased in. In 1991, a state-level licensing manager was added to supervise licensers across the state.

In 1999, the Day Care Licensing Task Force report recommended more staff.

Currently, the licensing unit employs 21 staff, some of them part time, for an equivalent of 18 full-time employees. The unit has more than doubled in size since 1997 when the executive branch announced a plan to eliminate the unit and transfer childcare licensing responsibilities to local governments. In 1998, in response to objections from providers and parents, the Legislature restored the program for two years and authorized a Day Care Licensing Task Force study.

The task force recommended keeping the unit's four full-time positions, changing its four part-time positions to full time, and adding four additional full-time positions plus two new regional supervisors. However, during the 1999 Session, the Legislature eliminated the four part-time positions but authorized up to four full-time AWEC (at-will employee contractor) positions.

The licensing unit used federal funds to expand to its current size.

In 1999, DFS used funding from the federal Childcare Development Fund (CCDF) to expand the licensing unit to its current size, by adding more AWEC positions. The unit has a program manager located in Cheyenne, three administrative assistants, two regional field supervisors, and eight regions, with offices in Sheridan, Wheatland, Cody, Riverton, Casper, Cheyenne, Lyman and Laramie. All but two of the 15 licensers are AWECs.

Licensers Have Many Responsibilities

Licensers must ensure children in licensed facilities are cared for in safe environments.

Licensers' caseloads normally consist of the three different types of facilities. Licensers recommend whether licenses will be issued and renewed; they also monitor providers and enforce minimum childcare licensing standards. Additional responsibilities include travel and offering technical assistance and training to providers.

Licensers receive training in regulatory administration, health and safety issues, child development, the essentials of a good childcare program, and child abuse detection and prevention. Licensers are charged with ensuring that providers are in compliance with minimum standards and that children are cared for in safe environments.

The Unit's Budget Has Also Increased

The Child Care Development Fund (CCDF), mostly federal monies, funds the unit.

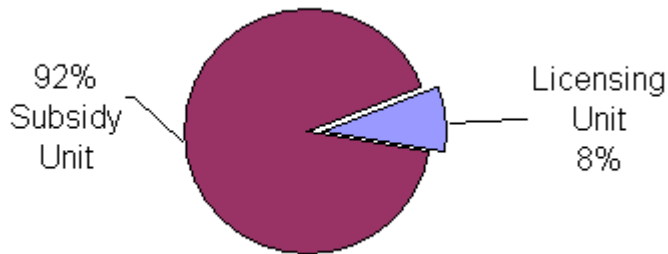
The licensing unit, together with the childcare subsidy function, is funded by the CCDF. One staff member in the subsidy function administers a federal reimbursement program, under which low-income parents can qualify for subsidies to defray the costs of childcare.

DFS also contracts with other entities to perform services related to childcare. DFS contracts with Children's Nutrition Services (CNS) to perform resource and referral services for the state, in addition to maintaining a training calendar for providers. Parents can contact CNS to find licensed childcare providers in their community. DFS contracts with the Children's Action Alliance to approve provider training and track the training they complete.

The CCDF consists largely of federal funds plus a mandatory General Fund match. For the 2001-2002 biennium, the Legislature appropriated \$16,990,987, of which \$4,034,839 was general funds. Of that amount, DFS has budgeted \$1,528,399 for the licensing unit. Figure 4 shows the budget for the licensing unit's portion of the CCDF.

Figure 4: Child Care Development Fund: Licensing Unit's Projected Budget, 2001-02 Biennium

The licensing unit accounts for a small portion of the CCDF.

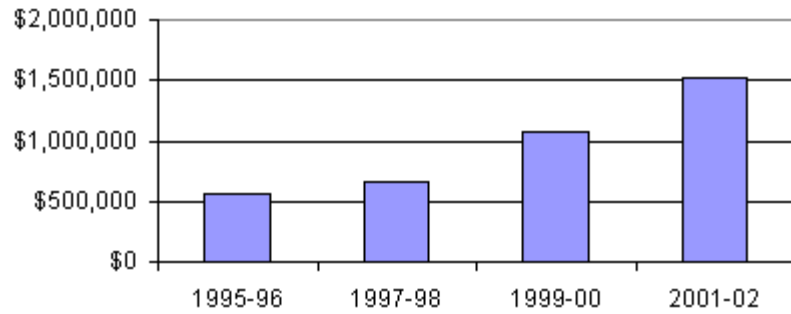


Source: LSO analysis of DFS-provided data

Estimated expenditures for the licensing unit for the 2001-02 biennium are approximately \$480,000 more than for the previous biennium. This increase is due to the 1999 expansion of staff from 7 to 18 full time employee positions, including administrative support. Figure 5 shows recent and projected expenditures for the unit.

Figure 5: Licensing Unit Expenditures, 1995-2002

Staff expansion accounts for increased funding from 1997 to 2002.



Source: LSO analysis of DFS-provided data

Funding for the licensing and subsidy unit is flexible.

According to DFS, funding for the licensing and subsidy unit is flexible. Within certain federal guidelines, monies can be transferred within the CCDF, and from Temporary Assistance for Needy Families (TANF) and the Social Security Block Grant (SSBG) to the CCDF. This flexibility is seen as beneficial because of the unpredictability of program needs from year to year.

The Licensing Process

Licensing childcare providers is the state's primary means to ensure that they meet or exceed the minimum threshold defining a healthy and safe environment for children in out-of-home care. To that end, the licensing unit is responsible for setting standards defining acceptable provider performance and ensuring standards are met.

DFS Sets Standards For Childcare Providers

DFS rules expand on standards specified in statute.

W.S. 14-4-104(b) specifies that providers must demonstrate good moral character; have practical experience; provide uncrowded, safe, sanitary, and well-repaired facilities; and prepare wholesome food in a clean and healthy environment. Licensing rules go on to define more explicit standards in each of these categories. The rules address:

- Screening of new providers
- Monitoring of licensed providers
- Enforcing minimum standards in licensed facilities
- Suppressing illegal operations

Screening Applicants

Ideally, screening takes place before a provider begins offering care. Screening is the first opportunity the licensing unit has to assess

Providers must submit an application and be screened by DFS.

whether applicants are able to maintain a safe and healthy environment for children who will be in their care. To apply for a license, providers must undergo a background check, provide a physician's statement, take a tuberculosis test, submit a list of references, and provide a list of education, training and experience. Where applicable, providers must also include evidence of local zoning approval.

Once a provider has submitted a completed application, a DFS licenser will inspect the applicant's facility for compliance with licensing requirements. An initial facility inspection determines whether the physical environment meets DFS standards. Where applicable, providers must also demonstrate compliance with other requirements, such as fire and sanitation inspections, by including inspection results from the relevant entities.

Monitoring Licensed Providers

On-site visits enhance licensers' effectiveness.

After a license is issued, on-site visits are necessary to ensure continued compliance with standards. Currently, providers must renew their licenses annually, at which time DFS conducts an on-site renewal inspection. DFS also conducts investigations in response to complaints. Although complaint investigations are corrective in orientation, they give licensers an opportunity to offer targeted training and technical assistance. On-site visits, whether for renewal or monitoring purposes, also enable licensers to update providers; they can pass on new information before concerns become compliance issues, thereby enhancing the preventive nature of the licensing function.

Sanctioning Non-Compliant Providers

The goal of enforcement is to protect children in licensed care.

When licensers observe non-compliance with standards, either through renewal inspections, monitoring visits, or as a result of complaint investigations, they can use a variety of approaches to encourage, or if necessary, compel, provider compliance. Examples of non-compliance include isolated incidents, such as a piece of playground equipment needing a small repair, or chronic and potentially dangerous supervision problems such as leaving children unattended in a car. Licensers use various approaches, from providing technical assistance and consultation to revoking a license, to gain compliance.

Ultimately, the goal of enforcement is to protect children. DFS uses negative actions, such as closing an unsafe facility, only as a last resort. Negative actions such as this, in addition to removing unsafe providers from the childcare market, also serve as a deterrent to noncompliance by other providers.

Providers who operate illegally may be referred for prosecution.

Suppressing Illegal Operations

DFS licensers investigate complaints regarding unlicensed providers to determine whether they are in fact operating illegally. Often, an initial visit is the first step taken after a licenser receives information about an unlicensed provider. During this visit, the licenser informs the provider of the licensing requirement and gives the provider 24 hours to either claim exemption through statute or rule, or begin the application process. Current rules state providers who continue to operate without certification after that time may have their cases referred to the county or district attorney (prosecuting attorney) for prosecution.

Broad Childcare Issues, Not Just Licensing, Need Policy Attention

The licensing unit is struggling to carry out its regulatory duties.

Since Wyoming began regulating childcare in 1966, licensing has evolved from a secondary job of social workers to its current status as a dedicated unit within DFS. During the intervening 35 years, the composition of the workforce and the demand for childcare have changed drastically. By 2001, the childcare licensing unit finds itself straining to deliver a program intended to protect children in out-of-home care.

We note areas where changes can enhance the unit's ability to protect children.

Nevertheless, we found staff in the childcare licensing unit committed to protecting children in out-of-home care. We also believe Wyoming childcare providers, as a group, are dedicated to the children in their care. Many report they remain in the childcare business because of their love of children.

This report assesses areas in which changes are needed to ensure the effective implementation of minimum childcare standards to best serve children in care and to build on the dedication of Wyoming licensers and providers to protect children in childcare. The chapters are laid out in the order in which we recommend issues be addressed.

The final chapter examines regulation in the context of larger childcare issues.

Chapter 2 analyzes the staffing issues that have created problems for the unit. Chapter 3 discusses the lack of management information available to DFS officials for program management and decision making. In Chapter 4, we identify ways in which the unit has been unable to consistently enforce its rules. Chapter 5 reviews the roles of different entities involved with childcare licensing.

Finally, Chapter 6 presents the issues of childcare regulation in a larger context. Regulation by DFS is just one of many factors that can affect the availability, affordability and quality of care. We show that DFS is

not solely responsible for this “trilemma,” and we lay out ways in which the state can begin to more effectively address childcare issues as a matter of important public policy.

CHAPTER 2

Staffing the Licensing Function

The licensing unit has evolved to need additional management attention.

Staffing in the licensing unit has more than doubled in the past two years, creating a function that demands additional attention from DFS management. Currently, the unit has a high turnover rate, has difficulty recruiting qualified licensers, and its childcare licensers have uneven and sometimes high workloads.

These problems call for a variety of administrative and legislative solutions. In order to facilitate a more stable and productive licensing staff, DFS and the Legislature need to immediately address the issues discussed in this chapter, and bring renewed focus to the primary mission of regulating. Staffing is the first and most critical issue for DFS to address.

Finding 1: Licenser Turnover Brings With It High Financial and Other Costs

Since 1999, the licensing unit has been experiencing high turnover and difficulty filling vacant positions. As a result, DFS incurs both financial and non-financial costs that affect the unit's ability to perform its regulatory mission. We found many of the unit's problems with attracting and retaining staff are related to the AWEC status of the position. Where licensers once held permanent, benefited positions, most now serve as "at-will employee contractors" (AWECs).

Unit has Difficulty Maintaining a Stable and Well Qualified Staff

Since 1999, the unit has experienced high turnover.

Turnover among licensers has been high since the change of the majority of licensers to AWEC status. In 1999, the licensing unit lost close to 40 percent of its staff and in 2000, one-third. Between January and May 2001, the unit lost 20 percent of its staff, suggesting that attrition of licensers is continuing at a similarly high rate. By contrast, turnover in state government as a whole averaged 13.7 percent in 1999.

The average tenure of current licensers is only 19 months.

The negative effects of high turnover are compounded by the relatively short tenures, and therefore inexperience, of licensers

currently employed by DFS. As of April 2001, the average tenure among licensers was only 19 months; in addition, half the licensers had been with the unit for less than one year. Very few experienced licensers remain in the unit: only three have more than 24 months' experience.

Vacant Positions Are Not Immediately Filled

Licenser positions remain vacant for an average of three months.

DFS has not been able to fill vacant licenser positions in a timely manner. An LSO analysis of DFS-provided data showed that during 2000, licenser positions remained vacant an average of 95 days, or over three months. Licensers who remained with the unit needed to absorb the workload from each vacancy. Positions that remain vacant for an extended period of time intensify the burden on remaining licensers by increasing the length of time during which they carry a larger workload.

Qualified Staff Are Difficult to Attract

Many applicants lack the desired qualifications and experience.

Both the National Association for the Education of Young Children (NAEYC) and National Association Of Regulatory Agencies (NARA) agree that licensing staff should be qualified and well trained, and that this is essential for the effective implementation and enforcement of licensing requirements. NAEYC adds that licensers should "have preparation and demonstrated competence in early childhood education and child development, program administration, and regulatory enforcement, including the use of sanctions."

However, the licensing unit has found it difficult to recruit well-qualified staff to fill vacant licenser positions. The program manager and regional supervisors report they have trouble attracting applicants with desired qualifications and experience. While the program manager expressed a preference for hiring licensers with four-year degrees, she added this standard must be compromised to fill positions.

Unit Incurs Costs That Compromise Mission

DFS devotes many resources to training and mentoring new licensing staff.

Due to difficulty in recruiting and retaining well-qualified licensers, the licensing unit incurs financial as well as non-financial costs, which in turn, compromise the unit's primary mission. DFS invests a significant amount of time and money into training and mentoring each new hire. When licensers leave, not only is that investment lost,

but as well, the regulatory function of licensing suffers in other less quantifiable ways.

Each Departure Represents Financial Loss to Agency

In 2000, each licenser departure cost DFS at least \$9,000.

We estimate that each time a licenser left the unit in 2000, the departure cost DFS at least \$9,000 (see Appendix D for methodology). This amount includes the funds expended when the licenser separated from the agency, the cost of the vacancy, the cost to replace the licenser, and the cost of initial training for a new licenser. Initial training, which lasts three weeks, accounts for the largest portion of the total cost per turnover. In addition, a licenser typically does not take over a full caseload for at least three months, and a newly hired licenser is mentored for a full year by an experienced licenser. We did not assign a portion of the cost of ongoing training provided for licensers, which was \$48,000 in 2000, but some percentage of that training could also be included in the cost per turnover.

Other Consequences Are Not Quantifiable

Many licensers leave their positions before reaching proficiency.

Additional consequences of turnover cannot be quantified, but they impact the licensing unit's ability to fulfill its primary mission. DFS officials and licensers report that it takes from one to two years to develop a solid understanding of the licensing position. However, the average tenure of licensers who have left since 1999 is only 11 months and thus, many licensers are not staying with the job long enough to reach proficiency. Other non-financial consequences of turnover include: inconsistencies within the unit, negative provider attitudes towards licensing unit, and lost opportunities to facilitate relationships with providers.

Turnover affects the timeliness of applications and renewals as well as working conditions.

The timeliness of renewals and initial applications is often affected by turnover. While data regarding the timeliness of licenser duties is incomplete, the program manager, supervisors, licensers and outside observers all report problems with timeliness when turnover occurs. Likewise, providers have expressed frustration that licensers are not consistently punctual with their renewal visits.

Turnover also has an immediate and pervasive effect on working conditions for those who remain. Licensers report that turnover in any part of the state can increase their caseload or workload, as will be discussed in Finding 2. When experienced licensers train or mentor new licensers, the additional duties create extra workload that can detract from their primary responsibilities. DFS officials and

licensors report an increased stress level and low morale within the unit when licensor turnover occurs.

Turnover Impacts Providers

Providers are dissatisfied with constantly changing staff.

In addition to the costs incurred by DFS, turnover negatively impacts providers and the children for whom they care. We believe provider dissatisfaction also negatively impacts their perception of DFS and the licensing function. Responses to our survey of providers show they are dissatisfied with a constantly changing licensing staff. Analysis of the provider survey, broken down by region, shows that providers in the regions with the highest licensor turnover since 1999 appear to have the most negative impression of their licensors. We also found that providers in the regions with the lowest amount of turnover have the most positive impression of their licensor.

Turnover may compromise the health and safety of children in licensed care.

When several different licensors inspect a provider over a period of time, as can happen when turnover is high and the remaining licensors fill in, licensors say providers can “get away with more.” If providers are not meeting minimum standards, the health and safety of children in their care is compromised.

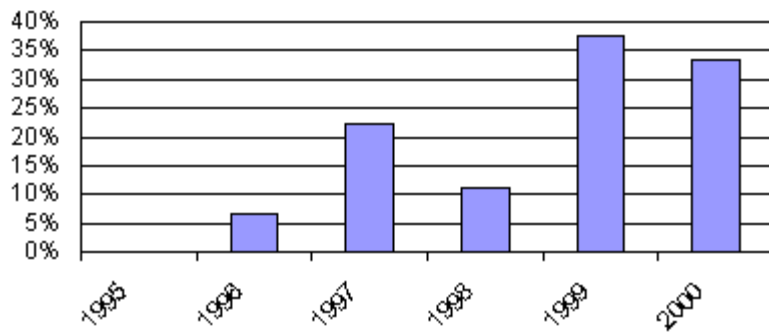
AWEC Position Primary Reason for Turnover

A major contributor to the licensing unit’s recruitment and retention difficulty is classification of licensor positions as AWECs, without benefits. Currently, 13 of the 15 licensors are AWECs and do not receive paid vacation, health insurance, sick leave, or retirement, while two are permanent, benefited state employees.

Since many of the licensor positions became AWEC, the unit has lost 13 licensors.

As Figure 6 shows, turnover among licensors was significantly lower when the positions were permanent and included benefits. In the four years before April 1999, the licensing unit had turnover in four positions. In the two years since AWEC positions have been in place, the licensing unit has lost 13 staff. DFS reported that a majority of the licensors who resigned after the 1999 change in classification said they did so because of their status as an AWEC.

Figure 6: Turnover of DFS Childcare Licensors



Source: LSO analysis of DFS-provided data

Minimum Qualifications Not Established for AWECs

The agency reports that since most licenser positions became AWECs, the unit has had more difficulty attracting well-qualified applicants. When the positions were permanent, four-year degrees or equivalent experience were required. When they became AWEC positions, there were no longer any official requirements for the position of licenser. As of April 2001, only 64 percent of licensers held a bachelor's degree. While the range of professional backgrounds of licensers may be appropriate, we note that it places an additional burden on DFS to supplement licensers' knowledge through training.

***Less experienced
licensing staff places
additional training
burden on DFS.***

Licensers Leave for Permanent Positions

Individual licensers report, and information provided by DFS shows, that most licensers who vacated their positions after April 1999 left for benefited positions. Licensers agree that the lack of benefits is a major drawback to the job. We interviewed current licensers and all reported some dissatisfaction with being an AWEC, as well as dissatisfaction specifically with not having benefits.

***Licensers cite lack
of benefits as a
primary concern
with AWEC status.***

***Different
compensation
arrangements cause
licenser frustration.***

While lack of benefits seems to cause the most dissatisfaction with AWEC positions, we learned that licensers have other objections as well. Some have found that being an AWEC does not create a sense of attachment to the job, allowing for a sentiment wherein a licenser may leave without giving notice. Also, since two of the licensers in the unit have permanent benefited positions, while the others receive no benefits, frustration among AWECs has flourished. Licensers said they did not understand why those with permanent positions were being compensated differently when all licensers have the same job responsibilities.

Recommendation: The Legislature should consider making licensers permanent benefited positions.

Changing licensers' employment status could bring many improvements.

The expansion of the licensing unit has been a positive step for the regulation of childcare facilities in Wyoming. However, the type of positions created has contributed to a constantly changing workforce of licensers. This turnover presents costs to the state and negatively impacts the regulatory function of licensing. To reduce the attrition rate of licensers and thereby save money, and to improve the program's regulatory functioning, the Legislature should consider making licensers permanent benefited positions.

With minimal cost to the state, positions could be made permanent.

Currently, the state is losing close to \$9,000 dollars each time a licenser leaves. We calculated the cost of changing a full-time AWEC position to a full-time benefited position, and found the state would expend \$7,400 to provide full benefits to a licenser currently paid at the rate of \$11 per hour. The lack of benefits and the temporary nature of the positions appear to be major reasons for the high attrition rate since 1999. We believe an investment in the form of creating permanent, benefited positions for licensers can reduce the turnover rate within the unit as well as generate savings to the state.

Finding 2: Inequitable Workload Distribution Impacts Primary Mission of Unit

Uneven and high caseloads make it difficult for licensers to fulfill their primary regulatory duties.

DFS has not distributed the caseloads and workloads of licensers in an equitable manner, and some licensers exceed the caseload level recommended by industry standards. Licensers with high workloads have difficulty fulfilling their primary regulatory mission; high workloads also negatively impact licensers' relationships with providers. We found that this inequitable distribution has occurred, in part, because DFS has not developed reasonable workload standards.

Distribution of Workload is Inequitable

Caseloads and workloads are inequitably distributed among DFS licensers. We found that many licensers had higher than industry recommended caseloads, and some of them are covering several thousand square miles of territory.

Caseload Does Not Equal Workload

Licensers are assigned a primary caseload, or a number of providers to license, plus many additional duties. The combination of caseload plus additional duties creates a licenser's total workload; workload includes such activities as the following:

A licenser's caseload plus many additional duties create total workload.

- Inspections and monitoring visits
- New applications and denials
- Closures, revocations, and suspensions
- Complaint investigations
- Staff meetings, unit training, and assignments
- Travel
- Fielding provider questions and training providers
- Communicating with other entities
- Training and mentoring new staff

Distribution of Caseload is Inconsistent With National Standards

Caseloads are not distributed evenly across state.

LSO analysis of data provided by DFS shows an unequal caseload distribution among licensers around the state. In Laramie County, with 1,075 square miles, the average caseload per position in April 2001 was 52 cases; one half-time licenser was assigned only 12 cases. However, in the same month, the licenser in Park County, assigned to three counties covering 12,361 square miles, had a caseload of 95. The time needed to travel within that territory added to the licenser's workload.

Current caseload per position is higher than recommended NAEYC standards.

Distribution of caseloads is inconsistent with NAEYC standards, which recommend a caseload of 75 facilities per licenser position, with preference for 50. We calculate that if the licensing unit had been fully staffed with experienced licensers in April 2001, the average caseload would have been 71 cases per position. However, when vacancies and the limitations of new hires were accounted for, we found the average caseload per position was actually 85.

While the NAEYC standard is generally accepted, a General Accounting Office (GAO) report adds that a single such standard does not account for all variables, such as travel time to and from providers and other responsibilities licensers may have. In Wyoming, licensers with the smallest caseloads are located in areas requiring the least

travel time. For example, licensers in Laramie County reported traveling less than ten hours per month, while licensers based in Sheridan County, who cover five counties, reported traveling as much as 31 hours per month.

Despite the Increase in Staff, Workloads Remain High

Turnover plus added responsibilities make reasonable workloads difficult to maintain.

While the number of licensers in the unit has grown over the past two years, caseloads and workloads remain high. This has occurred because the licensing unit has taken on additional responsibilities since its 1999 expansion, and because constant staff turnover makes it difficult for DFS to maintain reasonable workloads.

Unit's Primary Mission is Compromised

Monitoring visits, essential to ensuring compliance, are not routinely conducted.

As a result of uneven and sometimes high licenser workloads, children in out-of-home care may not be uniformly protected across the state. Experts maintain that monitoring visits are essential to ensure that rules are being complied with and that children are uniformly protected. According to the manager of the licensing unit, monitoring visits should be conducted between renewal visits to ensure that providers continue to meet minimum standards throughout the year. However, licensers report that when workloads are high, the first responsibility to “go on the back burner” is monitoring visits.

Increased workloads can strain licensers' relationship with providers.

High workloads place a strain on provider relations and reduce providers' satisfaction with the licensing function. Results of our survey show that providers in regions with the highest average caseloads per licenser were not as likely as providers in regions with lower caseloads to agree that their licensers were consistent, knowledgeable, or timely. Licensers report that when they have a high workload, they are less likely to visit their providers in order to build relationships with them.

DFS Has Not Developed Standards for Workload

While management has set a standard for caseload per licenser, the standard is well above NAEYC's recommendation. Although the unit reports it tries to keep licensers to a maximum of 100 cases, this is higher than NAEYC's recommendation of 75, and some licensers struggle with close to 100 cases.

The unit currently keeps licensers at a maximum of 100 cases.

DFS does not have a way of ensuring that licensers are kept within the unit's own standard for appropriate caseloads. As will be discussed in Chapter 3, management information is essential to make strategic and informed decisions regarding staff workloads. DFS may not have accounted for different factors when distributing workload because it lacks the information necessary to perform a workload analysis.

We believe travel time is not factored into caseload distribution.

More importantly, DFS has not taken other responsibilities into account when dividing cases among licensers. For example, since licensers with some of the highest caseloads have the largest territories to cover, we believe DFS has not taken travel time into account when distributing caseload and workload. In a larger town, visiting a facility may entail a five or ten minute drive, while in a rural area a similar visit may involve a two hour or longer drive each way.

Ancillary Activities Increase Workload

Additionally, ancillary activities other than licensing have a significant impact on licensers' workloads. One professional organization states that technical support is not part of the official job description of childcare inspectors, and if carried too far, could detract from their fundamental regulatory mission.

Secondary assignments can interfere with licensers' primary duties.

We learned that secondary assignments from DFS often interfere with licensers' primary regulatory duties. For example, DFS recently completed a resource manual for providers. While a manual may be helpful to providers, writing one is not part of the unit's primary mission of licensing. Licensers report that drafting the manual consumed much of their time for several months. Often, they found it necessary to delay renewal visits, omit monitoring visits, and defer other work in order to meet the project deadline.

Turnover Impacts Workload

Turnover in one position can increase the workload of licensers across the state, and high turnover has had a major impact on the caseload and workload distribution among licensers. Some travel to other parts of the state to take over cases, while others spend one or two weeks training a new staff member, and yet others mentor new staff for as long as a year.

Licensers often must travel to cover vacancies in the unit.

Although the unit created a rover position in the western half of the state to help to reduce licensers' caseloads and workloads, the rover is often unavailable for that purpose. The rover is called upon to fill

vacancies around the state when turnover occurs. When the rover is acting in this capacity, she is unable to help with the work of licensers in the western half of the state.

Recommendation: The licensing unit needs to develop appropriate standards for caseload and workload.

Fulfilling the unit's primary regulatory duty should become a priority.

DFS management should develop appropriate standards for caseload and workload that take into account travel time and other responsibilities. While DFS studies and adjusts workloads and caseloads, fulfilling primary regulatory duties should become the priority for licensers. Ancillary activities can be resumed after DFS is able to ensure that primary regulatory duties are being fulfilled and licensers have realistic and appropriate caseloads and workloads that are more consistent with national standards.

CHAPTER 3

Management Information and the Licensing Function

Finding 3: Without Program-Level Data, the Unit Cannot Make Strategic Decisions

Available data is of limited use for management decisions.

For information about the licensing program's performance, the unit relies largely on paper files and electronic information about individual providers. Neither source provides management with the information needed to inform decisions about program effectiveness.

The unit has not developed performance measures to guide the collection of program-level data because in recent years, it has focused on managing turnover in its workforce, implementing structural change, and handling political complications related to rule revision. Now, it needs to turn immediate attention to developing performance measures that will lead to the collection of data at the program level. Then, the unit needs to configure its new computer system so it can produce program-level information to evaluate its effectiveness.

The Unit Has Not Identified Critical Information Needs

The new computer system is unlikely to generate relevant data without more direction.

An essential step in developing relevant and useful management information is to identify the critical elements that need to be measured. These critical elements, such as measurable targets for accomplishment and indicators that measure progress along the way, derive from a program's performance goals. However, the licensing unit has not established performance goals, making it less likely that its new computer system will be developed to generate program-level information.

Current program data provides a very limited picture.

Data Not Collected at the Program Level

The unit can currently only answer basic questions about individual providers' performances and staff caseload, such as the number of providers by type of facility, the number of licensed childcare slots available statewide, and the number of inspections and complaint investigations completed. While these facts present a rudimentary view of licensing activities and the number of children in care, they do not present the "big picture." The unit has relied on licensers' individual paper files and on an old computer system that was organized to generate information about the individual provider but not about the program as a whole.

External data also can contribute to understanding the licensing function.

DFS Has not Obtained Data From Other Entities

Additionally, DFS has not used valuable information about childcare that exists outside of the licensing unit. The subsidy unit can provide data about providers who receive subsidies and the number of children in their care. This information could help the unit identify illegally operating providers who receive money from the state. Child Protective Services (CPS) tracks neglect and abuse cases involving childcare providers. CPS information could alert the licensing unit to non-compliance among licensed providers, and could help identify illegally operating providers. The Department of Health's Reportable Injury program produces data that can inform the unit of accident trends in childcare facilities. Collectively, these types of information could help inform the unit at the program level.

Licensers spend a substantial amount of their time amassing data.

DFS Cannot Gauge Program Effectiveness

Program-level information is necessary to evaluate the effectiveness of the licensing unit. Lacking this type of information, DFS cannot provide evidence that the unit is effective in gaining compliance from providers, or ensuring that providers meet minimum standards. While licensers estimate they spend 18 to 36 percent of their time documenting initial and renewal inspections as well as complaint investigations, this information cannot be used to determine whether the licensing program is working as expected.

Decisions Not Based on Program-Level Information

The licensing unit has been unable to rely on performance data to help make decisions about the best approach to take on important management and policy issues. The lack of performance data has limited the unit's ability to demonstrate its successes, and similarly, to correct deficiencies. Additionally, the unit lacks the feedback needed to adjust its licensing process. Currently, to answer questions about program performance at all levels, it would be necessary to conduct an extensive review of hundreds of paper files.

DFS can answer questions about individual provider performance but not about program performance.

Without labor-intensive research, the unit cannot answer questions about the effectiveness of the program. DFS cannot easily ascertain if the licensing unit is treating providers equitably or uniformly protecting children in licensed care, which is core to its mission. The unit is not currently able to use the information it collects to evaluate: providers as a group; licensers as a group; procedural effectiveness; or overall program performance. For example, DFS cannot answer questions about:

- How effective the unit is in providing uniform protection for children in childcare facilities.
- How effective different incentives and sanctions are when used in different locales.
- How often illegally operating providers become licensed, once approached by a licenser.
- Whether licensers are meeting required deadlines.

The Unit Has Focused on Managing Other Priorities

Given operational concerns, the unit has not been able to set performance goals and identify data collection needs. These concerns include recent developments that have consumed the unit's attention at the management level: in 1999, the number of licensers more than doubled, creating an immediate need to conduct training and develop a new organizational structure and communications system; since

Operational concerns have dominated management's attention.

1999, high turnover among licensers has made training of new hires an ongoing necessity; and since 1995, the unit has been concentrating effort on revising childcare rules.

Additionally, manager and supervisor duties are not clearly defined and do not reflect the program's increased size and demands. For

example, the manager, by necessity, is often involved in the day-to-day activities of the licensing unit, rather than focusing on the bigger picture to guide the direction of the program.

Recommendation: The licensing unit should develop performance measures and collect data that gauge program effectiveness.

With a new computer system slated for full implementation in January 2002, the unit is positioned to identify performance measures and set data collection priorities that will generate program-level information. The licensing unit needs to develop performance measures that will demonstrate whether it is effective in accomplishing its statutory mission. If performance measures are not identified quickly, the unit's new computer system, still in the development stage, may merely replicate the old system's data capabilities.

With a well-designed management information system, DFS can evaluate and improve the licensing process.

An enhanced management information system, geared to providing strategic program data, will enable DFS to evaluate its licensing process and make adjustments that will support continual improvement. An enhanced system can also present providers and policymakers with hard data about new requirements that may be necessary to protect the health and safety of children.

CHAPTER 4

Ensuring Compliance with Licensing Requirements

Statute requires all childcare providers, unless explicitly exempted, be licensed by DFS; once licensed, they must continue to demonstrate their ability to meet DFS minimum standards. Since the goal of childcare licensing is to minimize the risk of harm to children in out-of-home care, a licensing entity must first define the point at which the level of risk to children is unacceptable. Second, it needs to devise rules and policies to ensure no provider operates below this level.

Provider compliance with licensing requirements helps protect children's health and safety.

Enforcing compliance with statute and rules is not intended to force providers out of business, but rather to ensure that they at least meet minimum standards that protect the health and safety of children in their care. In that vein, DFS management reports it is shifting to a more facilitative and supportive approach to enforcement. While this is a legitimate approach, DFS also needs to identify a means of ensuring provider compliance when the facilitative approach fails. In this way, truly unsafe providers, whether licensed or unlicensed, can be removed from operation.

Finding 4: Illegally Operating Providers Undermine Licensing System

W. S. 14-4-102 requires that all childcare facilities, except those specifically exempted, be licensed before they provide care to minors. However, DFS is not regulating all providers of this description. We found that the current process for requiring illegally operating providers to become licensed is ineffective.

DFS Does Not Regulate All Providers Required to Hold Licenses

Most children are not in licensed care.

Most Wyoming children in childcare are not cared for by licensed providers. Of the 86,000 children in the state, we estimate that about 53,000 require regular childcare, but only about 28 percent of them are in licensed care. Providers known by DFS to be exempt from the licensing requirement care for another 8 percent of children. Little is known about the care for the remaining 64 percent of children (see Appendix B), although evidence suggests that these children are cared for in both legally exempt and illegally unlicensed care.

Illegally Operating Providers Exist in Wyoming

Many childcare providers are legally exempt from the requirement to be licensed, but some providers are operating illegally, without licenses. Because of the higher visibility of childcare centers and the ease with which home childcare can go undetected, it is likely that most illegal providers are home childcare providers.

Many agree illegally operating providers are a problem.

We found strong agreement among providers that illegally operating providers are substantial in number. In our survey of licensed providers, we asked them to respond to statements about illegally operating providers; 79 percent of those responding believed that providers were operating illegally in their communities.

DFS staff and child advocates around the state believe illegally operating providers are a ubiquitous problem that is more serious in some areas than others. Licensers estimated that the proportion of providers operating illegally ranges from ten percent to 80 percent of all providers, depending on the area of the state.

DFS is Unable to Determine Extent of Illegal Population

DFS is aware of illegally operating providers, but knows little about them.

DFS does not know how many illegal providers are operating in Wyoming, but does know of their existence. In 2000, 61 percent of the recorded complaints DFS received concerned providers alleged to be operating illegally. DFS investigated 233 of these complaints and substantiated 126, but did not track what became of them and thus does not know whether they ceased operations, went on to become licensed, or continued to operate illegally.

Another source of information on the illegally operating provider population could be the licensing application receipt. When picking up a licensing application, providers fill out a receipt including name and address. However, DFS does not track prospective providers who collect but fail to turn in the application. Following up on this information could be a rich source of information about the size and makeup of the illegally operating population in Wyoming.

Illegally Operating Providers Undermine Licensing Mission

Requiring licensed providers to meet standards while other providers ignore them undermines the credibility of the licensing unit with parents, legally operating providers, and the public. We learned that

Some believe licensing is voluntary.

even some DFS staff see the licensing requirement as voluntary, rather than mandatory. Additionally, licensers expressed frustration based on their perception that DFS is unable to compel illegally operating providers to become licensed.

DFS Cannot Assure Protection of Children in Unlicensed Care

DFS cannot ensure children in illegal care are receiving the same level of protection as children in licensed care. DFS standards are meant to ensure that children in out-of-home care receive a minimally acceptable level of protection. The health and safety of children who are cared for by an unlicensed provider cannot be guaranteed, and these children may be at risk.

DFS cannot ensure that unlicensed providers meet minimum standards.

For example, license applicants must undergo a Child Protective Services Central Registry Screen and a Division of Criminal Investigation prescreen. This prevents inappropriate providers from offering licensed care. However, DFS has no way to prevent such providers from operating illegally, so children in unlicensed care are not assured the same protection from inappropriate providers.

Illegally Operating Providers Create Unfair Competition

By not ensuring that all providers are operating legally, unfair competition may inadvertently be supported. The state has an obligation to protect a regulated industry from unfair competition. According to NARA, once a state begins to regulate an industry, it has an obligation to apply regulations to the industry fairly and equitably. This obligation is broken when a state allows illegal providers to continue providing care. Illegal providers can undercut licensed providers by avoiding the costs involved in responsible care as defined by statute and rule.

Illegally operating providers can avoid costs associated with being licensed.

Current Methods for Dealing With Illegally Operating Providers Are Ineffective

DFS has not developed an effective procedure for suppressing illegal childcare operations. Although statute stipulates that providing childcare without a license is a misdemeanor for those prosecuted and convicted, and provides for a fine of \$50 to \$200 per day of illegal operation, this fine has rarely been used. DFS does not believe this provision is enforceable because it does not believe it has the authority to investigate unlicensed providers. Moreover, the perception that

Fines for illegal operation are rarely levied.

prosecuting childcare providers is not a priority for most prosecuting attorneys is pervasive.

State Lacks System to Investigate Illegally Operating Providers

DFS does not have explicit authority to investigate illegal providers. Consequently, the agency has difficulty gathering the evidence necessary to prosecute a criminal case. If a provider claims to be exempt under state law, the licenser has little means to verify this claim.

Statute does not explicitly authorize DFS to investigate unlicensed providers.

Statute provides licensers with the right of access to the facilities of all licensed providers and applicants for license, to inspect licensed and applicants' facilities, verify the number and ages of children present, and check the condition of the facilities, among other factors.

Statute is silent regarding DFS' right to access the facilities of unlicensed providers. Without access to unlicensed facilities, DFS cannot hold unlicensed providers to screening, monitoring, and complaint investigation processes. In essence, DFS cannot verify whether unlicensed providers are legally exempt; therefore licensers have difficulty gathering enough evidence to recommend a case for prosecution.

Prosecution of Illegal Providers Rare

Prosecution requires support and cooperation from county or district attorneys.

If providers do not comply with requirements to become licensed, they are considered to be operating illegally and can be referred for prosecution. However, DFS prefers that licensers try to work with illegally operating providers by encouraging them to meet exemption criteria or become licensed, rather than referring them for prosecution. Prosecution is seen as the last step for DFS to ensure all appropriate providers are operating legally, and inappropriate providers are enjoined from operation.

Prosecuting an illegal provider requires evidence of illegal operation as well as the support and cooperation of county and district attorneys. However, prosecution rarely if ever occurs. DFS staff say prosecuting attorneys will not take legal action in these cases, while some prosecuting attorneys indicate that cases are not referred to them. Absent program-level policy or procedures, individual licensers are dependent on their own efforts to interest prosecuting attorneys in prosecuting local childcare providers.

Like DFS, many prosecuting attorneys do not believe they have the resources to investigate such cases. In addition, expecting locally elected officials to prosecute someone who may be the only provider in town and who appear to be doing a good job, is at best a low priority. Without the threat of being prosecuted and fined, illegal providers cannot be compelled to become part of the licensing system.

Recommendation: DFS needs to take the lead in developing a workable process for enforcement of licensure.

The current process is not protecting children.

DFS needs to explore, with the Legislature and prosecuting attorneys, statutory changes that will create an effective means by which licensers can investigate and require illegally operating providers to either become licensed, meet exemption criteria, or cease operations. The current system, where licensers believe investigation and prosecution of illegal providers is not a real alternative, and prosecuting attorneys are asked to do a politically unpopular job, is at an impasse and does not serve to protect children in care.

Other states have addressed the investigative issue through statutory changes. A recent change in Oregon's statute allows licensers access to all childcare providers, not just licensed providers, when they have a reasonable suspicion that a provider is operating without a license. This investigative authority enablesthe licensers to determinewhetherproviders are operating illegally or are truly exempt from licensure.

Some attorneys in Wyoming have suggested that changing the penalty from criminal to civil and enforcing it at the state level, or increasing the fine, might be a solution. However, until all parties involved are comfortable with the process and are willing to participate, it is unlikely that enforcement actions will be taken against illegal providers.

Finding 5: Inconsistencies Mean Children in Licensed Care May Not Be Uniformly Protected

Licensers in different areas are inconsistent in their implementation and enforcement of current rules. As a result, children may not be uniformly protected and providers may not be treated equitably

Licensers enforce rules differently across the state.

throughout the state. We believe the primary reason for inconsistency within the unit is the lack of clear and concise written policies and procedures, an issue that requires prompt attention from DFS.

Licensing Unit Not Consistent With Rule Implementation

Collectively, inconsistencies undermine the mission of the unit.

Inconsistencies within the unit occur in many different forms, some of which are readily apparent while others are more subtle. For example, an individual licenser may not be consistent in regulating different providers. Similarly, several different licensers may treat one provider differently, or a whole class of providers, such as FDCH providers, might receive different treatment from different licensers. We observed many inconsistencies and while each may seem minor on its own, we believe that collectively, they undermine the mission of the unit and put children in licensed care at risk.

Consistency Is Necessary in a Regulatory Setting

Experts agree that consistency within a regulatory function is a necessity. In one of its principles for effective regulation, NAEYC states that regulations should be vigorously and equitably enforced. According to a recent GAO report, licensers need to learn to apply a state's childcare requirements in a consistent and objective manner.

Similarly, NARA's training curriculum states that licensing rules and procedures must be uniformly and consistently applied statewide.

When a state's childcare requirements are enforced in a consistent and fair manner, the public can have confidence that children are receiving uniform protection and providers are treated equally. If rules are not enforced consistently, questions of safety and fairness can arise.

Monitoring of Providers Is Sporadic

Monitoring is a key oversight activity to effectively enforce regulations.

We found that DFS does not consistently monitor all licensed providers during the year's time that elapses between renewal inspections. While the program manager stated that monitoring visits are supposed to be done at least once a year, only one licenser reported being able to make such visits on a regular basis. Instead, monitoring of providers consists primarily of investigations undertaken in response to complaints about particular providers.

Without a system for routinely monitoring providers, DFS lacks a means of ensuring that licensed providers are complying with requirements. NAEYC and NARA both agree that on-site monitoring visits, or unannounced visits throughout the year, are a key oversight activity for the effective enforcement of regulation.

Regions Implement Rules Differently

We identified variations in enforcement procedures throughout the state. For example, the two regional supervisors direct their licensers to seek compliance differently. In both regions a “Licensing Information Request Form” is sent to providers who have not yet come into compliance with DFS standards. However, licensers in one region send out the form, sometimes repeatedly, as a gentle reminder to providers asking them for compliance, while in the other region, licensers send the form out as a final notice to providers that if specific compliance requests are not met, a negative action will be taken against their license. We did not find written policy regarding how this form is to be appropriately used, nor does the form itself provide indication.

Licensers in different regions vary in their approach to ensuring provider compliance.

Another inconsistency within the unit is the timeliness with which licenses are issued to providers. One regional supervisor issues licenses one time a month, while the other issues them weekly. Consequently, providers in one region may have to wait more than a month to receive their licenses, while those in the other region receive licenses in a more timely manner. For many providers who need a current license to receive subsidies from the state, a delay in license renewal could mean lost revenue.

Licensers Have Different Ideas About Regulating Providers

Licensers across the state do not share the same attitudes regarding how providers should be treated. Some believe their job is to help a provider become licensed and remain compliant with standards, while others believe this is primarily the provider’s responsibility. One licenser reported, “I don’t like enabling them (providers)... I am tired of holding their hands,” while another said, “I am trying to educate providers and I stress that I am there to help them.”

Licensers disagree on how strictly compliance should be enforced.

We also found differences among licensers in their understanding of how licensing rules should be implemented. Their opinions regarding when standards should be strictly enforced vary widely, from “We’re supposed to bend over backwards to keep all providers in business” to “I draw the line immediately.” Furthermore, some licensers readily

acknowledge differences in the ways rules are implemented across the state.

Providers Not Treated Equitably

Providers appear to receive different treatment, depending on the region in which they provide care. Licensers reported that the way in which childcare licensing is carried out across the state varies, with one licenser acknowledging that she might not even be consistent from one inspection to another.

Providers do not believe licensers treat them equally.

We found that some providers believe they are not treated fairly by licensers. The results of our provider survey show that about one-third of providers do not agree that licensers interpret rules consistently. Additionally, some provider comments indicate that licensers may not be treating providers consistently across the state, nor are they always consistent within the same area. As one provider stated, "... interpretations of the current rules and regulations differ among licensing individuals and the daycares they license in the same community."

Furthermore, DFS' inconsistent style of enforcement is frustrating to some providers who do comply with DFS regulations. We found that about half the providers who responded to our survey disagreed or strongly disagreed with the following statement: "DFS enforces regulations against licensed providers who are not following licensing rules."

Children May Not be Adequately Protected

Regulations cannot be effective unless they are enforced.

Licensing of childcare providers provides a basic protection for children in out-of-home care. NAEYC states that, "The fundamental purpose of public regulation is to protect children from harm, not only threats to their immediate physical health and safety, but also threats of long-term developmental impairment." When states fail to vigorously and equitably enforce standards, regulations become less effective and the health and safety of children in out-of-home care cannot be assured.

DFS Cannot Ensure Provider Compliance with Regulations

Without consistent implementation of rules and regulations, as well as an effective monitoring system, DFS cannot ensure that all providers comply with minimum standards. When licensers are only in a

Without effective monitoring, noncompliance cannot be detected.

provider's facility once a year for a renewal visit, it is likely that incidents such as these will not be brought to the attention of DFS.

Without an effective monitoring system, chronic non-compliant providers may be allowed to continue to operate while not meeting minimum standards; this is an inherent risk to the health and safety of children. Some licensers believe that a portion of providers in the state are chronically non-compliant. Lacking program data, we were unable to determine how prevalent non-compliance is among providers. However, several licensers agreed that 80 percent of their non-compliance problems come from 20 percent of their providers.

Compliance May not be Perceived as Mandatory

In the absence of an effective and consistent monitoring system, compliance with licensing rules may not be perceived as mandatory. Without routine monitoring, non-compliance is less likely to be discovered, and under these circumstances, providers may come to see compliance with standards as optional. If the standards are not evenly enforced, there is risk that even those children in licensed care are not being uniformly or adequately protected from harm.

Unit Lacks Policies and Procedures Manual

Written direction available to licensers is confusing and contradictory.

We found the primary reason for inconsistencies among licensers is the lack of a clear and concise policies and procedures manual to which they can turn for guidance. The NARA curriculum explains that it is particularly important for the licensing agency to have written expectations of rule intent, and consistency among licensers can only occur when staff have a clear understanding of the licensing process.

While licensers have both a training manual and a clarification manual available to them, the content of both is often unclear or outdated. Much of the language in the training manual is permissive, using words such as *may*, *optional*, and *can*. DFS officials admit that the clarification manual is also confusing and that very few of its clarifications are recent. It contains memos clarifying rules that no longer exist, and responses to letters or e-mails that provide no context for a licenser needing guidance.

Interpretation of Rules Not Available to Licensers

Several licensers believe they could be more consistent in many areas if there were a place to turn for written information. However, we found that DFS has been reluctant to provide written clarification. For example, one rule reads, “Measures that unduly frighten or demean a child shall not be allowed.” Because this rule has not been clarified in writing, each licenser must interpret on their own what the measures might be that could unduly frighten or demean a child.

***Licensers must
rely on their
own interpretations
of the rules.***

DFS also has not clarified procedures created for implementing rules at an operational level. For example, complaint protocol requires that investigations of “emergency” complaints begin within 24 hours of complaint receipt, investigations of “serious” complaints within one week, and of “routine” complaints within three weeks. Without written guidelines regarding the definition of these categories, licensers are left to decide for themselves what category a complaint falls under.

***Licensers rely on
experience and
discretion rather
than policy to direct
their decisions.***

More importantly, DFS has not developed an operational definition of the point at which risk to children is unacceptable. Without clear guidelines, licensers use their discretion in deciding when non-compliance with rules endangers the health and safety of children in a provider’s care, and should be reported to a supervisor or the program manager. While licensers agree that when a problem is truly important, they will take action, what is “truly important” is left to individual interpretation.

DFS Believes Licenser Discretion Appropriate

We found part of the reason DFS has not provided written interpretation is a belief among DFS staff that licensers should be able to exercise discretion. However, according to NARA, allowing licensers to exercise discretion when regulating is less appropriate for a licenser than for a child protective services worker. NARA stresses that this is because the application of licensing rules must be consistent and uniform. DFS officials and some licensers seemed comfortable with allowing licensers discretion in applying rules. One DFS official said, “there should be room left for licensers to have discretion.” However, other licensers were not comfortable interpreting rules on their own and wanted additional guidance from DFS.

***Experts believe rules
must be applied
uniformly to the
regulated
population.***

Turnover Breeds Inconsistencies

Turnover also has a significant impact on the consistent implementation of licensing rules. Without a policies or procedures manual to refer to, new licensers tend to rely on their own limited experience, or on their trainer and mentor's interpretation of rules.

Recommendation: The licensing unit should develop a policies and procedures manual.

Without a policies and procedures manual in which DFS interprets rules and clarifies procedures for implementing them, licensers will continue to interpret rules and policy individually and will use discretion when applying the rules. A policies and procedures manual can reduce inconsistencies among licensers and help create a situation where rules are equitably enforced statewide. We believe such a manual is even more important because of the high turnover the unit has been experiencing.

Written policies and procedures will help licensers enforce regulations equitably across the state.

The licensing unit should devote the variance period, during which providers will transition under the new rules, to creating a policies and procedures manual for licensers. We urge the unit to develop a manual that interprets the new rules and spells out how licensers are to apply them, by the end of the variance period, July 1, 2002.

CHAPTER 5

Other Entities Regulate Childcare Providers

Childcare providers must comply with several different regulatory requirements.

Childcare providers must comply with local zoning, building and fire safety, and health and sanitation codes, when applicable, in addition to DFS licensing requirements. We found there has been confusion over the roles of different childcare regulators in Wyoming for several years. Specifically, policymakers have raised concerns about whether multiple regulators duplicate efforts in inspecting childcare facilities and whether these inspections create an undue burden on the provider.

Childcare experts stress that a lack of coordination between agencies that regulate childcare providers can frustrate new and existing providers and undermine the overall effectiveness of the regulatory system. If providers react by going underground, children in their care are at risk. Local requirements can also discourage potential providers from entering the market, or some providers may choose to operate illegally. For these reasons, it is important for DFS to coordinate its role with those of other state and local regulators.

Finding 6: Childcare Facilities are Inspected by Additional Regulatory Entities

Some confusion exists as to why different agencies inspect childcare facilities.

We found confusion over the roles of different agencies that inspect childcare facilities as well as concerns about whether DFS and other entities were performing duplicative inspections. However, we found the agencies involved in inspecting childcare facilities do not duplicate each other's efforts. Multiple inspections enhance the protection of children in out-of-home care and provide additional opportunities for providers to receive education and technical assistance. Also, specific expertise is needed to ensure compliance with certain requirements, and the inspections need to be conducted under different conditions.

Regulatory Inspections Do Not Duplicate Each Other

Experts recommend that inspections of childcare facilities be coordinated and streamlined so that overlap is reduced to a

Only one state conducts consolidated inspections.

minimum. Although the inspections of childcare facilities are not streamlined, we found the agencies that inspect childcare facilities do not duplicate one another because each inspector examines different aspects of the childcare operation.

In Wyoming, four state agencies inspect childcare providers.

In maintaining separate inspections, Wyoming's process mirrors the regulatory environment in most states, where multiple entities are responsible for inspecting different aspects of childcare provision. Utah is the only state we identified where licensers conduct consolidated health, sanitation, and fire inspections as part of licensing.

In Wyoming, four state agencies, or their local counterparts, are responsible for conducting inspections of childcare facilities. The agencies are: DFS, the Fire Marshal's Office, the Department of Agriculture, and the Department of Education. The responsibilities of each are explained below.

DFS Inspects for Compliance with Childcare Licensing Rules

DFS inspects for compliance with the portion of the rules that require childcare expertise.

DFS inspections focus on examining facilities for compliance with those agency rules related to health and safety issues that do not relate to fire safety and sanitation issues. Licensers specifically inspect facilities for compliance with the portions of the rules that require childcare expertise. The on-site contact allows them to explain the underlying purpose of licensing requirements to providers.

NAEYC recommends that rules and inspections be coordinated between the licensing agency and other agencies responsible for building and fire safety and health and sanitation codes so that any overlap is reduced to a minimum. DFS' licensing rules include sections on fire and sanitation requirements, but those inspections are usually carried out by other agencies, as described in the next two sections.

Currently, licensing rules require DFS licensers to conduct an abbreviated fire and sanitation inspection in facilities that care for fewer than six children. Rules allow DFS licensers to call fire and sanitation inspectors into these facilities on a consulting basis. As part of the licensing inspection for facilities that care for more than six children, DFS licensers simply look for records of current fire and sanitation inspections; they do not perform inspections for fire and sanitation in the larger facilities.

DFS Requires Providers to Obtain Annual Fire Inspections

Facilities caring for more than six children are the only facilities currently required to have an annual fire inspection, while all facilities will be required to have fire inspections under the proposed rules.

The Fire Marshal's Office inspects for compliance with state fire codes.

The Department of Fire Prevention and Electrical Safety (Fire Marshal's Office) conducts the fire inspections for DFS, except in communities that have requested "home rule" fire inspection authority. The Fire Marshal's Office grants "home rule" authority to municipalities and counties requesting authority to enforce state fire standards. In these areas, the Fire Marshal's Office relinquishes jurisdiction for enforcement of fire standards to local officials. As of May 2001, 35 political subdivisions were enforcing fire codes locally. The Fire Marshal's Office estimates its jurisdiction covers half the state's square mileage, representing about half the state's population.

When a prospective provider applies for a license, the fire inspector conducts an on-site inspection of the facility to determine compliance with state fire codes. This inspection occurs before the applicant is granted a license to operate. Once licensed, providers fill out a self-inspection form at the time of license renewal indicating compliance with fire standards. To verify the reports, each year the Fire Marshal's Office randomly selects a portion of providers for on-site inspections. All providers are inspected at least once every three years.

Providers Must Also Obtain Annual Sanitation Inspections

Current licensing rules require facilities caring for more than six children to undergo a separate annual health and sanitation inspection. Under the proposed rules, all facilities must have an annual inspection.

The Department of Agriculture inspects for compliance with state sanitation requirements.

The Department of Agriculture's Division of Consumer Health Services inspects these facilities for compliance with sanitation requirements on behalf of DFS, except in communities with local health departments. Laramie, Natrona, Teton, Sweetwater, and Sublette Counties, and the City of Laramie maintain health departments whose inspectors perform these inspections locally.

The inspectors conduct an annual on-site inspection of childcare providers, but the Department of Agriculture is considering changing to a self-inspection process for home providers similar to the process the Fire Marshal's Office uses. The purpose of the change would be to accommodate the increased workload presented by DFS' new rules requiring inspection of all providers.

Sanitation inspectors review a childcare provider's food preparation and food service process, and inspect the facility for compliance with state health requirements. For example, inspectors may test water pressure and temperature, sewage and waste disposal systems, and food temperatures. Inspectors also inspect the lavatories and diapering areas of the facility to ensure they are clean.

Facilities Participating in the Federal Nutrition Program Must Undergo Additional Inspections

As a condition of being licensed, providers must agree to DFS, fire, and sanitation inspections. Additionally, providers who participate in a voluntary federal nutrition program must allow periodic on-site monitoring visits. This program, known as the Child and Adult Care Food Program (CACFP), reimburses childcare providers for some of the costs of meals and snacks provided to children in care.

Providers who participate in a federal nutrition program also receive on-site inspections.

The Wyoming Department of Education administers CACFP at the state level and is mandated to monitor the food services of all facilities receiving federal nutrition subsidies. Inspections occur three times per year to ensure participating providers are complying with nutrition program requirements. This program's inspectors are precluded by federal law from performing any other regulatory functions.

Multiple Inspections Enhance Protection of Children in Care

Regulators who inspect childcare facilities provide additional assurances of health and safety for children in care, and also offer providers technical assistance and educational opportunities.

Experts recommend that states protect children in care from

Childcare advocates note that individuals with different expertise can enhance the protection of children in care. NAEYC recommends that basic protection of children include procedures to prevent the spread of disease, fire in buildings as well as other structural safety hazards, personal injury, child abuse or neglect,

several different types of harm.

and developmental impairment. We found the inspections performed by DFS, the Fire Marshal's Office, and the Department of Agriculture serve these purposes.

While sanitation inspectors and fire inspectors are not trained in early childhood development, their visits help to ensure provider compliance with DFS standards. If a regulatory inspector notices that a provider is out of compliance with other licensing requirements, the inspector can contact DFS. In essence, other agencies' inspectors can become additional eyes and ears for the state throughout the year, as well as offering educational opportunities and technical assistance to providers. Each inspector has different expertise, and licensors often approach them with questions and requests for assistance. The expertise these regulators bring to their inspections enhance the health, safety and welfare of children in care.

Inspections Require Different Expertise and Circumstances

It would not be practical for one inspector to conduct a consolidated inspection.

Conducting these various inspections requires different expertise and circumstances, making it impractical for one inspector to conduct all inspections jointly. The Day Care Licensing Task Force came to the same conclusion in 1998, finding that inspections of childcare facilities were not duplicative. According to the task force's report, "It became apparent that the various childcare inspections represent different areas of jurisdiction and expertise integral to the safety and well-being of young children." One participant concluded, "All of the inspections that are done on providers are needed for different regulatory requirements and because we all have different expertise."

Inspections require different education, knowledge, and skills.

Inspectors from the Fire Marshal's Office and the Department of Agriculture have different expertise than DFS licensors; this expertise enables them to proficiently conduct fire and sanitation inspections. We reviewed position descriptions and vacancy notices for the three different types of inspectors and found a wide divergence in their prerequisites. Each of these positions requires different education, knowledge, and skills.

Because of the need for specialized expertise, many DFS licensors reported they do not feel comfortable conducting abbreviated fire inspections of childcare homes, and are concerned they may "miss something" that could affect the safety of children in

care. Officials from the Fire Marshal's Office agree, noting that inspecting for compliance with fire codes is extremely technical. They believe only certified fire inspectors should be conducting fire inspections of childcare facilities.

However, many DFS licensers said they are more comfortable conducting sanitation inspections in childcare homes. The Department of Agriculture believes sanitation inspections of childcare providers are fairly simple, compared to inspecting full-service food operations. Agriculture believes it could train DFS licensers to perform sanitation inspections for childcare homes, but perhaps not for centers.

Nevertheless, given the problems with turnover among DFS licensers, we do not believe DFS should conduct its own sanitation inspections at this point. Unless DFS can reduce turnover, making an investment in training childcare licensers to conduct sanitation inspections would not be worthwhile at this time.

Inspections Require Different Conditions

Inspectors evaluate different aspects of childcare provision.

Fire and sanitation inspectors evaluate different aspects of childcare provision and thus requires different conditions for the inspection. The Fire Marshal's Office inspects the physical structure and prefers to make initial inspections before occupancy. By contrast, the Department of Agriculture prefers to inspect during the food preparation process to ensure compliance with food safety standards. In this case, the provider must already be in operation for a sanitation inspection to occur. The Department of Education inspects only facilities that participate in the reimbursement program.

Many Providers Support Multiple Inspections

Policymakers are concerned about the regulatory burden on childcare providers.

Policymakers are concerned that dealing with several different regulators may represent an undue burden on childcare providers and may provide a disincentive to be licensed. However, we found indications that many providers welcome these inspections, believing they help to protect the children in their care and are part of operating a small business.

When DFS began its current round of rule revisions, it surveyed providers and found many agreed that all facilities should undergo annual fire and sanitation inspections. DFS also held town meetings around the state during the summer of 2000 to obtain

feedback about the proposed rule changes. Of the 147 participants who provided written comments on the proposed changes to the fire and sanitation inspections, 135 agreed that all childcare facilities should receive an annual fire and health inspection.

Recommendation: The different entities currently involved in inspecting childcare facilities should continue to conduct separate inspections.

Under the new rules, separate fire and sanitation inspections will be required in all facilities.

We recommend that entities currently involved in regulating childcare providers continue to conduct separate inspections. Under the new rules, separate fire and sanitation inspections for all facilities will be required.

The Fire Marshal's Office is supportive of expanding its inspection process to include all childcare facilities, but reports that it may need additional staff to accommodate the increased workload. The Department of Agriculture is also concerned about the adequacy of its resources to conduct inspections of all facilities.

DFS should continue to work with the Department of Agriculture to develop a mutually agreeable process to accommodate sanitation inspections in all childcare facilities, including the possibility of adopting a self-inspection process similar to the system the Fire Marshal's Office is currently using for renewal inspections.

Finding 7: Childcare Facilities Are Subject to Local Regulation

Local regulations can limit the capacity of providers.

As a condition of operating, some childcare providers in Wyoming must meet local requirements that are more stringent than DFS rules. These requirements can limit the capacity of childcare providers. The state does not exempt childcare providers from local zoning requirements and has not engaged local officials in a dialogue about ways to increase the supply of care in the state.

Some Local Regulations are More Stringent than State Requirements

Local requirements range from city zoning ordinances to homeowners' association covenants.

Providers in some communities are required to meet additional local requirements to operate in certain areas, as a condition of being licensed by the state. These requirements range from city zoning ordinances to covenants in local homeowners' associations.

Childcare experts recommend streamlining the regulatory process by removing local zoning barriers to obtaining and maintaining a license. NAEYC believes centers and family childcare homes should be regarded as a needed community service rather than as a commercial development and should be permitted in any residential zone. However, Wyoming providers must comply with all applicable local regulations, in addition to DFS regulations, as a condition of being licensed.

Experts recommend streamlining the regulatory process by removing local barriers.

DFS does not track how local ordinances and homeowners' association covenants impact childcare providers. DFS believes it is each provider's responsibility to understand local zoning requirements that may impact their facility. Consequently, we do not know how many providers are affected by local regulations. Nevertheless, we found several indications that providers are impacted by local requirements.

Licensers reported that some communities in their areas impose additional regulations on providers. For example, in Laramie County, group home providers are not allowed to care for more than 11 children, so they cannot care for three additional after-school children, as allowed under current licensing rules. Furthermore, 40 respondents to our survey (18 percent) reported that they are required to meet more stringent local zoning requirements than what DFS requires.

Local Regulations Can Diminish Childcare Capacity

Childcare experts report that local restrictions have limited the development of licensed childcare services around the country. In many communities, restrictions on local land use, building, and zoning act as barriers to building childcare supply. Citizens concerned about the character of their neighborhoods, noise levels, property values and traffic have sought to restrict childcare provision in residential areas.

Local regulations have reduced the supply of

In Wyoming, it is clear that local regulations have diminished the available capacity of some providers. For example, some local

care in some communities.

regulations impose more restrictive limits on the number of children a provider can take, while others prohibit a childcare facility from operating in certain neighborhoods. Still others do not allow providers to employ additional staff in their homes, effectively limiting the number of children they can care for by themselves. Some local ordinances do not allow fencing in residential areas, yet providers must provide fencing or other natural barriers in outdoor play areas to obtain a license from DFS.

State Allows Local Entities to Impose Additional Regulations on Providers

Through broad zoning authority granted by the state, local jurisdictions may impose additional requirements on childcare providers. In its licensing application packet, DFS notes that it cannot grant any license without being assured that the facility meets city or county ordinances on zoning and other regulations these governmental entities may require. Rules require applicants to show evidence of zoning approval, when required locally.

Some states have exempted childcare providers from local regulations.

Wyoming has not developed a procedure for working with local jurisdictions to address the issue of childcare capacity in local communities. By contrast, some states have exempted childcare providers from local regulations. Such “preemption laws” prohibit local zoning and private homeowners’ associations from placing restrictions on childcare providers. These laws typically state that family childcare is a permitted residential use requiring no further approval. According to the National Conference of State Legislatures (NCSL), at least nine states have recently enacted zoning preemption laws for childcare providers. For example, NCSL reports:

- Connecticut prohibits municipal zoning commissions from banning the operation of daycare homes in residential areas.
- Hawaii requires childcare homes to be zoned residential and permitted in all residential zones with no limitations.
- Maryland prevents homeowners’ associations from prohibiting the use of a residence as a family childcare home.
- Nebraska allows licensed family day care homes in residential areas regardless of city zoning ordinances.

Wyoming's state and local leaders have not collaborated to maximize childcare capacity.

- New Hampshire took a slightly less restrictive approach, passing a law that urges municipal planning and zoning boards to take care not to discourage or eliminate family-based childcare when developing regulations.

However, preemption laws are not the only alternative available to address this issue. According to NARA, states can better coordinate zoning, building, fire safety, health, and licensing agencies to minimize barriers to licensing. NAEYC recommends reform at a statewide level, since different requirements derive from different laws and are implemented by various agencies. In Wyoming, state and local leaders are not systematically working together to minimize barriers to entry in the childcare market.

Recommendation: The Legislature should consider options to eliminate barriers to childcare supply.

A tension exists between maintaining local control and building greater capacity.

The Legislature may wish to consider exempting childcare facilities from local regulations to expand childcare supply. However, the impact of local regulations on childcare supply creates a tension between local control and childcare capacity. Alternatively, if the Legislature wishes to continue the tradition of local control in this arena, it should engage local officials as part of a larger childcare debate to increase supply, as will be discussed in the next chapter. The state may be able to balance both issues by including local officials in an ongoing forum dedicated to addressing childcare issues in the state.

CHAPTER 6

Larger Childcare Issues

The first five chapters of this report deal with issues that pertain strictly to the licensing process and improvements that can be made to that process. Recommendations in these chapters should strengthen the licensing process and can largely be addressed by DFS and the Legislature.

Childcare issues are much broader than the regulation of providers.

However, childcare issues go beyond the licensing of out-of-home providers. During the course of this evaluation, we learned that many of the issues at the heart of the debate over childcare are much broader than the regulation of childcare providers and are not ones that the licensing function can address. Rather, they relate to the affordability, availability, and quality of childcare. Even if the licensing unit were working optimally, it alone could not address these matters. This chapter gives a summary and overview of larger childcare policy issues and recommends a state-level forum to tackle wide-ranging childcare matters as interrelated concerns.

Licensing Unit is Not Appropriate Entity to Address Larger Childcare Issues

Statute charges DFS with licensing childcare providers.

Although childcare experts note an effective program regulating childcare facilities is essential to provide quality early childcare, it is not the only element necessary. Nevertheless, we found inherent assumptions that the licensing unit should be responsible not only for regulating childcare, but also for ensuring that care is affordable and available.

DFS is not responsible for ensuring care is affordable and available.

Wyoming statute does not charge the licensing unit with ensuring that care is affordable and available, or even of an optimal quality level. Childcare is a regulated industry, and DFS is tasked in statute only with conducting a process that provides official permission to operate an otherwise restricted business. The licensing process described in this report provides assurances of a minimum threshold of protection for children; it does not guarantee an ideal educational or developmental environment for children in care. According to NARA, licensing rules are just one piece of a quality childcare system.

***Addressing larger
childcare issues
conflicts with
licensing's
regulatory role.***

At present, the state lacks a function dedicated to considering larger childcare issues, one that could establish policy on how to improve childcare quality, affordability, and availability. We believe such a purpose cannot be accomplished effectively by the same governmental entity that licenses and regulates childcare providers. Tasking the licensing function with responsibilities for greater childcare issues conflicts with its regulatory role and could well detract from the primary mission of the licensing unit.

***Other entities must
assume a primary
role in developing
affordable and
available care.***

NARA notes that although licensing agencies cannot completely separate themselves from an interest in capacity building, this must not be their primary objective or even a major piece of their responsibilities as an agency. Other entities must assume a primary role in developing options for more affordable and available care, so that the licensing agency can perform its core function of consumer protection. NAEYC also notes that government needs to play a key role in addressing childcare issues, but only one of those roles, regulation, should be carried out by the governmental licensing function.

***A Broader Forum is Needed
to Address Childcare Issues***

***Responsibility for
meeting childcare
needs should be
shared among many
stakeholders.***

Childcare experts note that these issues can be successfully addressed only through the coordinated and active participation of many different agencies and institutions. Responsibility for meeting childcare needs should be widely shared among individuals, families, voluntary organizations, employers, providers, and government at all levels. As one national childcare expert stated, "Childcare is a labor problem, a social problem, a regulatory problem, an intergovernmental problem, and of course, a familial problem."

To achieve childcare goals, experts recommend states create an infrastructure charged with conducting comprehensive statewide planning to allocate resources in a systematic manner. Such planning should bring together the many stakeholders in the early childhood arena. Other states have created forums to address childcare issues, separate from the licensing function. According to a study by the National Academy of Public Administration, several states have created children's cabinets or councils to develop a strategic plan for achieving childcare goals. For example:

***Several states have
created state-level***

- Alaska's governor created a children's cabinet to support collaborative program planning across state agencies and departments that deal with young children. The cabinet is charged with overseeing an interdepartmental workplan for ensuring a

**forums to resolve
childcare issues.**

comprehensive, high-quality system of services for young children. Alaska also developed a media campaign to help parents make informed childcare choices.

- Georgia has created state-level partnerships among families, communities, advocates, business leaders, non-profit organizations and state agencies to create a comprehensive system of childcare services.
- North Carolina has created a state-level non-profit corporation to support and guide county partnerships that provide comprehensive, integrated services to children, including childcare services.

**These entities
are charged
with statewide
strategic planning
for childcare.**

Other states have created offices within government agencies to address larger childcare issues. In 1990, the Utah Legislature established an Office of Child Care within its Department of Workforce Services. It carries out long-term planning and coordination of statewide childcare issues, and is separate from the licensing program in Utah, which is housed in the Department of Health. The Utah legislature established this office to provide policy and planning to increase the quality and availability of care in the state.

**All Stakeholders Should Be
Included in Childcare Forum**

Although several entities in the state are devoted to addressing early childhood issues, we found that these groups have not been brought together to most effectively address childcare issues in Wyoming. Also, because early childhood issues have impacts across many different areas of society, we believe additional stakeholders need to be included in designing comprehensive childcare policy for the state.

**Employers can help
alleviate childcare
supply problems.**

For example, childcare is a major issue for employers because, when there are failures in childcare arrangements, worker productivity can suffer. Employers have found that offering childcare assistance to employees helps attract and retain workers. Employers can also play a role in alleviating childcare supply problems by allowing employees to work flexible schedules, thereby potentially reducing the need for childcare.

Childcare issues

Different government functions also need to play a key role in establishing childcare policy because of the impact of childcare on their programs. Schools have a stake in early childcare issues, since high-quality childcare programs improve the likelihood that children will enter school ready to learn. Childcare experts also note that

also impact a wide range of government programs.

schools can help alleviate parental need for after-school childcare by providing after-school programs. Human service agencies need to be included in a childcare forum; experts note that one of the key indicators of whether welfare-to-work participants will remain employed is whether they have found adequate childcare. Studies also have shown that quality childcare programs can reduce the incidence of juvenile delinquency as children grow up.

Forum is Needed to Balance Issues of Affordability, Availability, and Quality

Affordability, availability, and quality are at the heart of the childcare debate.

A major concern for working parents is to find good childcare that is affordable. These needs are often referred to in childcare literature as the “trilemma” of quality, affordability, and availability. This trilemma represents the heart of the childcare debate that the state needs to address. Public policies to improve childcare need to balance concerns for the quality, availability, and affordability of childcare.

Experts note that childcare quality entails tradeoffs. Although higher quality childcare is desirable because it enhances developmental outcomes for children, it also usually costs more than lower quality care. According to NARA, generally, the lower the quality the more affordable and plentiful the service. On the other hand, the higher the quality, the better children will be served, which can reduce governmental expenditures in the long run.

Some experts have raised concerns that although regulations are intended to improve the quality of licensed care, they can have the opposite effect if they force children into unregulated care of lower quality and cost. Other experts believe policies that keep regulations at a minimum and exempt categories of providers from regulation in order to help expand supply, encourage the use of lower quality informal and unregulated care and thus are harmful to children.

Quality, Affordability, and Availability are Not Mutually Exclusive Options

Childcare policy should strive to balance all three needs.

Choices between quality, availability, and affordability do not need to be mutually exclusive options: childcare policy should strive to balance all three needs. One national childcare expert believes that tradeoffs between affordability, availability and quality can often be avoided or mediated. These three needs should be pursued as fundamental goals of childcare policy, rather than pursuing one at the expense of others.

Many childcare experts recommend that policy makers use financial incentives to help providers meet licensing requirements. They contend additional resources are necessary to meet the cost of quality care at an affordable price. Numerous states have increased the quality of care while maintaining availability and affordability; they offer financial incentives to providers to help meet more stringent childcare regulations. According to the U.S. Department of Health and Human Services, 21 states have established grant and loan programs to assist childcare providers in meeting or maintaining the standards required by state and local licensing regulations. For example:

Many states have increased quality, while maintaining affordability and availability.

- Kansas offers grants up to \$1,500 per provider to help maintain or meet licensing requirements.
- Louisiana makes grants to providers for minor remodeling and repair to assist them in coming into compliance with state and local licensing and safety standards.
- Nevada maintains a revolving loan account that can be used by first-time family childcare providers who have completed training, but cannot afford the costs of minor modifications to meet minimal facility standards.
- New Mexico funds training for a 45-hour entry-level childcare course for providers entering the field.

Wyoming has also used federal funds to offset the costs of providing childcare. For example, DFS recently awarded \$1.7 million in grants to providers for start-up and operating costs, equipment, and salary support in 22 programs. Wyoming has also offered grants to providers to purchase fire extinguishers and smoke alarms and to have telephones installed. Additional efforts such as grant programs may help providers meet childcare regulations, while maintaining affordable and available care.

States Use Federal Childcare Subsidy Programs to Balance Affordability, Availability, and Quality

We found that many states are using their federal childcare subsidy programs to balance affordability, availability, and quality. While Wyoming participates in this program, the state may have opportunities to more effectively leverage federal funds from the program to address the trilemma.

Wyoming may be able to more effectively leverage its subsidy funds to balance these needs.

To increase the availability of care, some states require all providers who receive reimbursement funds to be licensed, an incentive that may help expand licensed supply. To ensure affordable care, several states,

including Wyoming, have expanded eligibility in the reimbursement program so that more families have access to affordable care. Additionally, to increase the quality of care available, some states have established differential reimbursement systems that reward providers who meet higher quality standards.

Quality, Availability, and Affordability in Wyoming

The full impact of proposed childcare rules is not known.

During this study, we evaluated how regulatable features of quality in Wyoming compare to other states' regulations and national standards. We also analyzed the availability and cost of care in Wyoming. We do not offer definitive conclusions about the impact of current and proposed regulations on the affordability and availability of care, and the academic literature available about the impact of regulation on these issues is not conclusive. However, as noted, we did find that many states are trying to increase childcare quality by raising licensing standards, while also maintaining the affordability and availability of care through increased public funding.

Regulations do Not Ensure Quality Childcare

We have found that “quality” childcare can have many different meanings to people. Childcare experts define quality as having two interrelated components: process quality, which relates to the experiences of children in childcare, and structural quality, which relates to aspects of the childcare environment that can be regulated.

Although rules do not ensure quality, they create an environment in which it is more likely to occur.

In this evaluation, we examined only the “regulatable” aspects of quality. However, regulations alone do not necessarily ensure “quality” care. We found that the current minimum standards for childcare enforced by DFS are meant to ensure the health and safety of children, not the quality of care provided. For example, Wyoming regulates only certain aspects of care, ensuring that providers are meeting minimum standards in those specific areas. Areas such as the education and stimulation of young children are outside the realm of regulatable aspects of childcare in Wyoming.

While regulation does not guarantee quality of care, it does create an environment in which quality care is more likely to occur. NCSL research indicates that regulated facilities are more likely to have higher quality programs. Experts agree that the most important aspects of care, known as the “iron triangle” are group size, ratios, and staff qualifications. Of these, Wyoming currently regulates the last two and

High-quality care reduces the need for later governmental interventions.

will regulate all three under the new rules. NCSL adds that licensing standards that address ratios, group size, and training and education of staff have been correlated with higher quality care.

Many contend that high-quality childcare is in the interest of the state. Several studies have shown that high-quality care improves the developmental and educational outcomes of children, reducing the need for later governmental interventions. Early intervention programs are said to generate savings to government through increased tax revenues, decreased welfare outlays, and reduced spending on health, education and social services, and criminal justice.

Wyoming's Regulations are Less Stringent Than Many Other States

Few states, including Wyoming, meet national standards, and Wyoming is actually less stringent than many states in regulating childcare. We found that Wyoming lies somewhere in the middle of the 50 states in the stringency of most aspects of its childcare regulations. With the new rules, Wyoming's place among the 50 states will rise somewhat, but still fall short of national standards. The following comparison of specific regulations to other states helps place Wyoming's regulations in perspective:

Wyoming's ratios, groups sizes, and provider qualifications are less stringent.

- Under current rules for infants, Wyoming's ratio of one staff member to five children is higher than most states. The proposed rules appear to bring Wyoming into alignment with the majority of states, at 1:4. However, the proposed rules allow a single provider to take care of more infants and toddlers than do the current rules.
- Currently, Wyoming is one of 16 states that does not regulate group size. The proposed rules begin to regulate group size, but the standards for group size would be considered poor by a leading study comparing states' childcare regulations.
- Most states, including Wyoming, do not require pre-service training. However, under the new rules, Wyoming will require pre-service training for all license applicants.
- Most states require more ongoing training for center teachers than Wyoming does, although the proposed rules will bring Wyoming into the mainstream with 31 other states.
- Wyoming is one of eight states whose rules require providers caring for more than two children to be licensed. This the only area where Wyoming meets NAEYC standards. The proposed rules will not change this regulation.

Supply of Care in Wyoming Has Been Decreasing

***Although supply
has declined, so
has the number of
children in the state.***

Between 1990 and 1999, both the number of childcare providers and the number of licensed childcare slots in the state declined. Policy makers and members of the public have expressed concern about this decline. However, the number of children also decreased during this period. Although the decline in licensed slots (18 percent) was somewhat greater than the decline in population (15 percent), we found that the proportion of the childcare age population actually accommodated in licensed childcare slots increased 25 percent for the state overall, and increased in most counties.

Nevertheless, Wyoming still faces shortages of care in several different areas. While various shortages are found in different parts of the state, depending on demand, we found some shortages to be universal. Wyoming appears to be lacking infant slots, slots during non-traditional hours, and after-school care.

Regulation Does Not Appear to be the Primary Reason Providers Leave the Market

***Most providers who
left the childcare
profession did so
for financial reasons.***

We examined why the decline in the number of providers over the last decade has occurred. We found that providers leave the market for a variety of reasons, but the level of regulation does not appear to be a significant factor. Children's Nutrition Services (CNS) conducted exit interviews with 71 providers who recently left the childcare profession. They found that 45 percent of the respondents reported leaving for financial reasons, another 28 percent left for personal reasons and 15 percent moved out of state. Only 7 percent reported they left the profession because of licensing requirements.

***The childcare
profession is one
of the lowest paid
occupations in
Wyoming.***

The childcare profession is one of the lowest paid occupations in Wyoming, a fact that is compounded by lack of benefits and long hours of work. In the past, many providers depended on the federal nutrition reimbursement to supplement their income. However, a recent federal change in payments reduced the subsidy and thus decreased the providers' income. These changes have been cited as a reason some providers left the market.

The Wyoming Department of Employment (DOE), Research and Planning Division tracks occupational wage rates in the state. Their 1999 wage study reveals that childcare workers earned a mean wage of \$6.35 per hour. This was the ninth lowest hourly wage rate in the state for occupations tracked by DOE. Maids, bartenders, and service

station attendants all earned higher hourly wages than childcare workers in 1999.

Entry-level wages for childcare workers start at \$5.80 per hour according to the wage study. This rate is not appreciably different than the earnings reported in a wage study of childcare providers in 1991. At that time, home providers earned an average of \$5.13 per hour and center providers earned an average of \$5.78 per hour.

Regulation Can Affect Supply

While providers may not leave the market because of regulation, regulation can affect the supply of licensed slots. Regulations impact supply by limiting the number of children a provider can care for because of square footage, staff to child ratios, or the ages of the children in care. As discussed in Chapter 5, local zoning regulations can also have a major impact on the ability of a provider to care for children, thus limiting supply.

Regulations limit the number of children in a provider's care.

Nevertheless, the proposed rules actually have the potential to increase overall capacity in childcare facilities in the state, specifically in the infant/toddler category. Home providers currently may care for only two children up to the age of two. Under the new rules, home providers will have the opportunity to care for up to four children under the age of two.

Providers currently classified as FDCH will be allowed to expand their capacity from 6 up to 10, depending on the ages of children in their care, under the new FCCH classification. Those currently classified as GDCH providers have the choice, if at capacity, to drop one child and become reclassified as a FCCH, or increase capacity from 11 up to 15 children and become reclassified under the new FCCC designation.

However, new provider classifications have the potential to increase capacity.

These options have the potential to expand the overall childcare capacity in the state, depending on other factors that can limit capacity for individual providers. As noted above, whether providers will increase their capacity under the new categories depends on whether they have enough space in their facility, the ages of the children in their care, the number of staff they employ, and local restrictions. Further, many providers may only want to care for a limited number of children and may not want to increase capacity.

Finally, it appears that a number of providers already meet the proposed ratio and group size changes, so many of them will not need to reduce the number of children they care for when the new regulations go into effect. In our survey of providers, 36 percent

reported they already meet the proposed ratio changes and 30 percent report that they already meet the maximum group size requirement.

Childcare Costs Represent a Major Expense for Families

Childcare costs represent a significant expense for parents. A 1995 study of childcare costs by the University of Colorado found that even mediocre childcare is costly to provide. This is because childcare is a labor-intensive service and the largest proportion of a childcare program's budget is devoted to staff salaries.

Childcare represents the fourth largest household expense for families.

According to the U.S. Census Bureau, childcare represents the fourth largest household expense for families, behind food, housing, and taxes. The Wyoming Children's Action Alliance conducted a survey of childcare fees in the spring of 2001, and reported that childcare costs range from \$3,600 to \$4,700 annually for Wyoming families, depending on the child's age and type of facility chosen.

Childcare expenses represent a large portion of family income in Wyoming. Using household income data from the Department of Administration and Information's Economic Analysis Division, we calculated the percent of income these childcare costs represent for Wyoming families. We found that full-time costs for one child in care range from 17 to 22 percent of the income of two full-time minimum wage (\$5.15 per hour) workers in Wyoming. The percentage depends on the age of the child and whether care is obtained from a home provider or a center. Full-time care for one child represents 10 to 13 percent of the median household income in Wyoming, which was \$36,712 in 1999.

Parental Fees do not Reflect the True Costs of Care

Although childcare expenses represent a substantial portion of family income, parents alone do not pay the costs of childcare. Childcare is a subsidized industry. Many providers receive a portion of their income from government subsidies or other donations. A University of Colorado study found that cash payments from government and philanthropies represent one-third of income for childcare centers.

Nevertheless, parents do not pay the total costs of childcare.

Additionally, studies of childcare costs reveal that most providers have a low rate of return on their investment and they subsidize the true costs of care through forgone wages and benefits. The Colorado study found that about a quarter of the full cost of childcare is covered by foregone wages and benefits of childcare workers.

Providers are reluctant to raise their rates, even when operating costs increase.

We found evidence that providers are foregoing income to maintain affordable care. We compared the monthly costs of care over the past decade and found that costs have not increased substantially over the past ten years. Many observers of the childcare system in Wyoming and childcare providers themselves reported that they are reluctant to raise their rates for any reason, even when operating costs increase.

Providers report that they do not increase rates because they are concerned about affordability for their clients. Nonetheless, childcare advocates note that providers need to view their services as a profession, and that like any small business, should recognize that they must increase their rates as their overhead costs rise. This is especially important to increase the quality of care.

Forum is Needed to Address Market Failures in the Childcare Industry

There are indications the childcare market has failed to allocate resources efficiently.

Studies of the childcare industry indicate that this sector shows signs of market failure. Serious market imperfections often justify public action and provide impetus for government action. Economists define market failure as a situation in which a market left on its own fails to allocate resources efficiently. When this occurs, a variety of public-sector interventions may be needed to address these failures.

The childcare literature we reviewed pointed to two primary reasons market failure may be occurring in the childcare industry. First, we found evidence that parents may not be able to act as informed consumers in the childcare marketplace. Second, quality childcare accrues benefits to society as a whole, not just to the individual consumer. These issues are explained in the two sections below.

To address market failure in the childcare industry, government can engage in activities to provide information to consumers, regulate providers through licensing, offer financial incentives to providers, subsidize the cost of care for consumers, and provide incentives for employer participation in addressing childcare issues.

Parents May not be Able to Act as Informed Consumers in the Childcare Marketplace

The introduction to Wyoming's childcare licensing rules states that, "Ultimately, parents are responsible for finding quality day care for their children. These rules will assist in that search, but the final determination of choosing a day care rests with the parents." Although

Wyoming parents may not have the tools they need to make informed childcare decisions.

parents should make decisions about the most appropriate care for their children, Wyoming parents may not currently have the tools they need to make informed decisions about care for their children.

Economists note that one of the key characteristics of an effective market is that informed consumers will demand quality in the goods and services they purchase. However, the U.S. Department of Health and Human Services notes that it is difficult for parents to acquire information about the comparative quality, cost, and availability of care, and they are unsure how to evaluate the information they do acquire. Parents generally have limited knowledge of the childcare options available to them and thus make decisions for care based primarily on convenience and cost.

Many parents overestimate the quality of care they purchase.

Furthermore, several childcare studies have found that parents may overestimate the quality of care they purchase. A 1995 study by the University of Colorado about the cost and quality of care found that although parents report that they value good-quality care, they substantially overestimate the quality of their own children's care.

Parents may overestimate the quality of care their children receive because, in childcare, the purchaser is not the consumer. According to the Colorado study, parents need to make judgments based on imperfect information about the product they are purchasing. This is because parents are not present to see what happens throughout their child's day to accurately assess the quality of services the child receives.

According to economists, for a market to function well, buyers must know exactly what they are purchasing. A key way to address the need for enhanced consumer knowledge is to engage in a media campaign educating parents about the factors that affect quality. Consumer education efforts will enhance parents' ability to make informed decisions in the childcare marketplace.

Quality Childcare Benefits Society as Well as the Consumer

Services that benefit individuals other than the consumer are considered collective goods.

A second cause of market failure in the childcare industry is what economists call "externalities," which are effects beyond the primary consumer. Quality childcare benefits society as a whole, and not just the consumer.

As already noted, quality childcare is believed to reduce costs of future governmental interventions in the public school system, the welfare

system, and the correctional system. Quality childcare also accrues benefits to employers through increased worker productivity. Studies show that workers with reliable childcare arrangements are more securely attached to the labor market.

Society often subsidizes collective goods to create an optimal amount of the service.

When goods and services benefit individuals other than the direct consumer, they are known as “collective goods.” Society often subsidizes collective goods in order to create an optimal amount of the service to benefit society. To the extent that policymakers view childcare as a collective good, it becomes the concern of public in addition to a concern of the consumer, elevating childcare issues to a matter of public debate and public action.

Recommendation: The Legislature should consider authorizing a task force to begin addressing larger childcare issues.

The goal is to develop a statewide consensus on larger childcare issues in the state.

We recommend the Legislature authorize and fund a task force that brings together major stakeholders to develop a state-level policy for balancing childcare issues in Wyoming. The purpose of this task force is not to duplicate the efforts of the many other childcare entities that currently exist in the state. Rather, the goal is to effectively coordinate the independent efforts of these entities and other stakeholders to develop a statewide consensus on larger childcare issues in the state. The task force should report to the Legislature within a year on the results of its work and make recommendations to the Legislature for childcare policy in Wyoming.

The task force should develop policy options to ensure available, affordable, quality childcare in the state.

The task force should not oversee childcare regulation in the state, but should focus on coordinating larger childcare issues. The task force should be charged with developing policy options to balance the availability, affordability, and quality of care. It should also determine what funding options may be available to balance these needs. Specifically, the task force should consider how to most effectively leverage available funds to increase the availability of affordable care while protecting the health and safety of children in care. The task force should consider options that will help providers meet the state’s licensing requirements, and help parents pay for care that meets the state’s licensing standards.

The task force should also consider whether Wyoming should create a permanent entity to coordinate larger childcare policy issues. Based on the task force's recommendations, the Legislature may wish to create a dedicated entity in state government to coordinate childcare issues in the state or charge an existing entity with coordinating these issues.

Task force representation should include a broad cross-section of Wyoming citizens.

The task force should include representation from a broad cross-section of Wyoming citizens. Some of the stakeholders that should be represented in this forum include parents, providers, employers, advocacy groups, local government officials, and state government officials, including legislators.

State government representation should include officials from existing councils and boards that deal with childcare issues, the Department of Education, the Department of Agriculture, the Department of Health, the Fire Marshal's Office, the Department of Workforce Services, the Wyoming Business Council, and officials in DFS who represent welfare programs, juveniles services, and the licensing and reimbursement program.

STATE OF WYOMING

DEPARTMENT OF FAMILY SERVICES

Jim Geringer, Governor
Susan E. Lehman, Director



HATHAWAY BUILDING, 2300 CAPITOL AVENUE, CHEYENNE, WY 82002-0490 (307)777-7561
FAX (307)777-7747 INTERNET:TTASSE@STATE.WY.US

July 2, 2001

Representative Randall B. Luthi, Chairman
Management Audit Committee
c/o Legislative Service Office
State Capitol, Room 213
Cheyenne, WY 82002

REF: SEL-01-304

Dear Representative Luthi:

This letter is in response to the report completed for the Management Audit Committee entitled Childcare Licensing.

Chapter 1 – Background

Page 11-12: The Child Care Program is inaccurately depicted as solely a subsidy program. The purpose of the Child Care & Development Fund is to improve the quality and availability of child care and to assure equal access to child care for low income working families.

Page 12: A reference is made to allowable transfers from the Social Security Block Grant. This should be referenced as the Social Services Block Grant (SSBG). Up to ten percent (10%) of the TANF block grant may be transferred to the SSBG. The total amount of funding available to the SSBG is needed for those services. Therefore, funding has not been available to transfer funds from the SSBG to the Child Care & Development Fund.

Chapter 2 – Staffing the Licensing Function

FINDING 1: Licenser Turnover Brings With It High Financial and Other Costs

Recommendation: The Legislature should consider making licensers permanent benefited positions.

Response: Agree. There is little to add to this finding and recommendation. In an attempt to slow the attrition rate of licensers, the Department has re-negotiated licensor contracts to add compensation reflecting a percentage of costs for benefits. If this effort is not effective, future attrition costs will be larger than those reported in this audit.

In order to address the larger child care issues (see Chapter 6) and improve the licensing function, the Department is entering into a process to reorganize the licensing and quality functions which may require additional staff.

FINDING 2: Inequitable Workload Distribution Impacts Primary Mission of Unit

Recommendation: The licensing unit needs to develop appropriate standards for caseload and workload.

Response: Partially agree. Licensing activities, travel, meetings, training and mentoring have not been ignored in workload distribution. However, without established standards for caseload and workload, it is difficult to assess the success of current practice. And as indicated in the report, established workloads are difficult to assess with the amount of turnover the program has experienced.

While creation of the resource manual was time intensive for licensing staff, it was developed to address specific issues around licensed child care and to address provider turnover and retention. The resource manual will be used in the delivery of provider orientation.

The LSO report states “One professional organization states that technical support is not part of the official job description of child care inspectors, and if carried too far, could detract from their fundamental regulatory mission.” The Department of Family Services disagrees. The National Association for Regulatory Administration (NARA) considers provider support services to be an essential part of licensing. So much so, that it is included as an entire module by NARA in their Licensing Curriculum. They state, “For strong and consistent compliance to occur, the provider himself must understand the rules, their intent, and ways to meet them. He must develop the internalized motivation to comply. It follows that licensing staff must be strongly prepared to offer skillful assistance to licensees and to prospective licensees at each stage of the licensing process.” NARA considers technical assistance to be the most common form of provider support licensing staff can offer.

The Department is currently researching assessment and auditing procedures of other states that can be adapted for use to assess current workloads and establish clear means of workload distribution. Until staff turnover is adequately addressed, any attempt to implement this recommendation may be undermined by the need to cover areas of the state where vacancies exist.

Chapter 3 – Management Information and the Licensing Function

FINDING 3: Without Program-Level Data, the Unit Cannot Make Strategic Decisions

Recommendation: The licensing unit should develop performance measures and collect data that gauge program effectiveness.

Response: Agree. The lack of performance measures and data does make it difficult to identify successes and deficiencies within the program. Focus has been on staffing, training, structure and communication systems due to staffing changes and turnover of staff. Development of performance measures for the child care licensing program will begin immediately so that development of the new computer system targeted for completion in February 2002, will include capture of essential data for management of the program.

The planned inclusion of provider data such as inspection and compliance history will enable collection and analysis of data to guide development of key indicators of compliance and streamline the inspection process.

While information sharing does occur between DFS field staff and licensing field staff in areas of subsidies and Social Services, the Department continues to develop linkages between programs and databases.

Chapter 4 – Ensuring Compliance with Licensing Requirements

FINDING 4: Illegally Operating Providers Undermine Licensing System

Recommendation: DFS needs to take the lead in developing a workable process for enforcement of licensure.

Response: Agree. The licensing program will continue to actively assess enforcement issues. This will include examining current practice to determine if enforcement can be improved through policy development. The new rules begin to address this issue by affording new opportunities for licensing staff to work with uncertified providers more effectively.

Policy will also include clear reporting of illegally operating providers to prosecuting attorneys.

The Department has investigative access to exempt providers who receive subsidy payments from DFS. This authority, through the CCDF subsidy program, can be used to ensure that exempt providers receiving subsidy payments are meeting exemption criteria. Increased human resources will be necessary to actively investigate and document the operation of uncertified providers.

The Department will continue to include all stakeholders on a community level to work toward addressing illegal, uncertified care.

FINDING 5: Inconsistencies mean Children in Licensed Care May Not Be Uniformly Protected

Recommendation: The licensing unit should develop a policies and procedures manual.

Response: Agree. The child care licensing program recognizes and concurs with the importance of developing a policy and procedures manual. The Department will proceed immediately. The manual will be completed by July 1, 2002 as recommended.

Chapter 5 – Other Entities Regulate Childcare Providers

FINDING 6: Childcare Facilities are Inspected by Additional Regulatory Entities

Recommendation: The different entities currently involved in inspecting child care facilities should continue to conduct separate inspections.

Response: Agree. The Department is coordinating the separate inspections by other agencies involved in the regulation of child care facilities under the newly adopted licensing rules. We concur that coordination to avoid duplication is essential and that ongoing communication between agencies is necessary to accommodate inspection of all child care facilities. The Department hopes to continue dialogue with the other agencies to facilitate linkage of data systems.

FINDING 7: Childcare Facilities Are Subject to Local Regulation

Recommendation: The Legislature should consider options to eliminate barriers to childcare supply.

Response: Agree. During the revision of child care licensing rules, attempts were made to engage local authorities in the dialogue. There is no doubt that local restrictions impact the availability of childcare and need attention. The debate over local vs. state control makes this situation highly controversial.

Through the new computer system, the Department will begin tracking local regulatory requirements on providers. The data may facilitate discussion of the impact of local regulation on availability of quality child care. Also, the Department will have an economic impact study conducted to assess variables, including local regulation, that impact the availability and affordability of child care.

Chapter 6 – Larger Childcare Issues

Page 56: “At present, the state lacks a function dedicated to considering larger childcare issues, one that could establish policy on how to improve childcare quality, affordability, and availability.”

Response: The Child Care & Development Fund requires expenditures to improve the quality of child care in Wyoming. The Child Care program has a Quality Initiatives Committee that assists the Department in establishing goals and strategies to address these issues. The committee is comprised of members from other state agencies, child care facilities (both licensed and legally exempt), parents, employers, Head Start, Developmental Preschools, early childhood professional organizations and state policy makers. See attached Wyoming Childcare & Development Fund State Plan.

On a broader level, Governor Geringer established through Executive Order, the Wyoming Early Childhood Development Council. This Council serves in a policy recommending capacity for enhancing early childhood development opportunities for Wyoming’s children. Issues of childcare quality, affordability, and availability represent a single component of their mission to advocate for healthy growth and development of Wyoming’s children. Please see the attached for members of the Wyoming Early Childhood Development Council.

Page 60: “To increase the availability of care, some states require all providers who receive reimbursement funds to be licensed, an incentive that may help expand licensed supply.”

Response: 45 CFR § 98.30 requires states to allow parents to enroll the child with an eligible childcare provider. Eligible providers include relative care. This requirement would mandate the licensing of all relatives caring for children. Legally exempt providers also meet the need for care during non-traditional hours, which few licensed facilities provide.

The Department is creating a Childcare Provider Forum to continue dialogue with these professionals. In addition to this forum, the Department plans to conduct a visioning process to develop long term goals and strategies for the Child Care & Development Fund. This process should be completed by January 1, 2002.

Recommendation: The Legislature should consider authorizing a task force to begin addressing larger childcare issues.

Response: Agree. The Department has already begun identifying partners and developing plans to conduct a formal visioning process to address larger childcare issues. Any task force must include representation from the Early Childhood Development Council.

Quality projects to address issues surrounding the availability, accessibility and affordability of child care are currently managed through the Child Care & Development Fund to meet federal requirements. The Department is actively involved in projects to improve the quality and availability of child care. Currently, the following projects and programs are in place:

- Increased training for providers through WestEd Infant training and the statewide childcare conference.
- Improved training evaluation and resources with the Statewide Training and Resource System (STARS).
- Statewide child care resource and referral services (Child Care Finder) to assist parents in finding childcare and information on what quality child care is and what to look for. Child Care Finder also provides resources to providers such as training and a statewide training calendar.
- Expansion of Head Start/Child Care collaborations to increase the availability of full day, full year programs to address this issue at the community level.
- An Infant/Toddler Credential to certify the demonstrate competency of caregivers for these children. The credential was created in collaboration with the University of Wyoming and Casper College.
- The provider resource manual to provide technical assistance for new providers. This resource manual was created in collaboration with the Licensing Program.

The state plan for the Child Care & Development Fund which was submitted to the Administration for Children and Families (ACF) for implementation on October 1, 2001 outlined the following quality activities:

- Partnerships with local governments, businesses and child care facilities to expand the availability of care at the local level. Work to develop these partnerships has begun and will be prioritized. Campbell and Natrona counties currently are working to identify partners, access needs and convene meetings of stakeholders.
- Comprehensive consumer education to educate the public about quality child care.
- Training grants to providers to improve accessibility to quality training in early childhood.
- Statewide delivery of the Mother Goose Asks “Why” program. This program will be delivered in partnership with the Wyoming State Library to address literacy and the importance of reading in early childhood programs.

- Implementation of a career ladder and professional development system for early childhood professionals. This system will provide a vehicle to address compensation and retention issues in the early childhood profession.

Sincerely,

Susan E. Lehman
Director

cc: Barbara Rogers
Dan Stackis
Les Pozsgi
Glenda Lacey
Sue Bacon

APPENDIX A

Childcare Licensing Statutes

CHAPTER 4 CHILD CARE FACILITIES

14-4-101. Definitions.

(a) As used in W.S. 14-4-101 through 14-4-115:

(i) "Applicant" means any person making formal application to the certifying authority for certification to operate a child caring agency in the state of Wyoming;

(ii) "Board" means the certification board;

(iii) "Board of review" means the "certification board" sitting as a board of review;

(iv) "Certified agency" means any person certified to do business under the provisions of W.S. 14-4-101 through 14-4-111;

(v) "Certifying authority" means the department of family services operating as the agency which issues certificates, makes inspections, enforces standards and handles all administrative details relating to enforcement of W.S. 14-4-101 through 14-4-111;

(vi) "Child caring facility" means any person who operates a business to keep or care for any minor at the request of the parents, legal guardians or an agency which is responsible for the child and includes any of the following privately operated facilities:

(A) Children's institutions;

(B) Child placing agencies whether for permanent or temporary placement;

(C) Foster homes not supervised by the state, any local government, school district or agency or political subdivision thereof;

(D) Group day care agencies;

(E) Detention homes;

(F) Public or private receiving homes;

(G) Correctional schools;

(H) Homes for defective children;

(J) Ranches for children whether for summer operation only or otherwise;

(K) Day or hourly nurseries, nursery schools, kindergartens or any other preschool establishment not accredited by the state board of education;

(M) Boarding homes not supervised by the state, any local government, school district or agency or political subdivision thereof;

(N) Boards of cooperative educational services established under W.S. 21-20-104 and providing services to children with disabilities of any school district; and

(O) Except as provided under subparagraph (a)(vi)(N) of this section, any other person not legally related to a minor, having legal or physical care, custody or control of the child, receiving payment therefor and not supervised by the state, any local government, school district or agency or political subdivision thereof.

(vii) "Person" shall mean any individual, partnership, association or corporation.

14-4-102. Certification required; exceptions.

(a) All child caring facilities except those excluded in subsection (b) of this section, are required to be certified by the certifying authority before exercising care, custody or control of any minor.

(b) W.S. 14-4-101 through 14-4-111 do not apply to:

(i) A legal parent's or legal relative's care of a minor;

(ii) Occasional care of a neighbor's or friend's child if the caretaking person does not regularly engage in this activity;

(iii) Parents exchanging child care on a mutually cooperative basis;

(iv) Child care by a person employed to come to the home of the child's parent or guardian;

(v) Day-care agencies providing care for less than three (3) minors;

(vi) Foster homes supervised by the state, any local government, school district or agency or political subdivision thereof;

(vii) Ranches or farms not offering services to homeless, delinquent or retarded children;
and

(viii) Summer camps operated by nonprofit organizations;

(ix) Day-care facilities providing care to the children of only one (1) immediate family unit.

14-4-103. Certification board; establishment; composition; appointment of lay members; duties.

(a) A certification board of not more than fifteen (15) members reflecting statewide representation is established and shall be composed of:

(i) One (1) representative from the department of family services;

(ii) One (1) representative from the state department of education;

(iii) Repealed by Laws 1991, ch. 161, 4.

(iv) The state fire marshal or his designee;

(v) Six (6) lay members who are residents of the state and operators of child caring facilities or parents;

(vi) Not more than four (4) additional lay members with an interest in child care;

(vii) One (1) representative from the state department of agriculture or other state or local agency which may be responsible for sanitation inspections of child care facilities; and

(viii) One representative from the state department of health.

(b) The lay members shall be appointed by the governor for terms of two (2) years and may be removed by the governor as provided in W.S. 9-1-202. Any vacancies among the lay members shall be filled by gubernatorial appointment.

(c) The board shall:

(i) Designate investigators to investigate any child caring facility within the provisions of W.S. 14-4-101 through 14-4-111;

(ii) Act as the board of review; and

(iii) Act as an advisor to the state in all matters pertaining to child care programs and child care facility licensing.

(d) When the board is acting as a board of review pursuant to paragraph (c)(ii) of this section, the chairman of the board may designate, on a case by case basis, a committee of the board made up of at

least three (3) disinterested members of the board to hear the case and recommend a decision on behalf of the board.

14-4-104. Certification; application; standards; notification to certify or refuse; term.

(a) Application for certification of a child caring facility within W.S. 14-4-101 through 14-4-111 shall be made to the certifying authority.

(b) A certificate shall be issued upon compliance with the following standards:

(i) Good moral character of the applicant, his employees and any other person having direct contact with a child under the care, custody or control of the applicant;

(ii) Practical experience, education or training of the applicant in child care and treatment;

(iii) Uncrowded, safe, sanitary and well repaired facilities; and

(iv) Wholesome food prepared in a clean and healthy environment.

(c) The certifying authority shall notify the applicant of its decision to certify or refuse certification of the applicant within thirty (30) days after the application has been filed.

(d) All full certificates are nontransferable. Duration of the certificate shall be determined pursuant to rules and regulations of the department, subject to an annual continuation fee.

(e) The department is authorized to establish pursuant to rules and regulations full and provisional certificate fees and fees for continuation of a full certificate. Fees for continuation of a full certificate shall be due on the anniversary date of the original certificate. Fees collected by the department under this section shall be deposited in the general fund to offset the cost of administration of the board. For the balance of the biennium that began July 1, 1998, the governor may add the fees collected under this section to the department's budget through the B-11 process.

14-4-105. Provisional certificate.

The certifying authority may issue a provisional certificate if a substandard child caring agency is attempting to meet the standards or to comply with the rules and regulations pursuant to W.S. 14-4-101 through 14-4-111. A provisional certificate is effective for a period of not more than six (6) months and is nonrenewable.

14-4-106. Repealed by Laws 1995, ch. 179, § 2.

14-4-107. Inspection by certifying board; right of entrance.

(a) The certifying board shall periodically and at reasonable times inspect, investigate and examine all certified agencies and applicants for certification.

(b) Any certified agency or applicant for certification shall give right of entrance and inspection of the facility to inspectors authorized by the certifying board. Any certified agency or applicant who denies admission to any authorized inspector shall have the certificate revoked or application denied.

14-4-108. Suspension, revocation or nonrenewal of certificate; grounds; approval.

(a) Any certificate made or issued pursuant to W.S. 14-4-101 through 14-4-111 may be suspended, nonrenewed or revoked by the certifying authority upon proof of violation of any provision within W.S. 14-4-101 through 14-4-111.

(b) Thirty (30) days prior to initiating suspension, revocation or nonrenewal of any certificate made or issued pursuant to W.S. 14-4-101 through 14-4-111, the certifying authority shall give written notice to the certified agency of the alleged facts warranting the intended action and provide the certified agency an opportunity to request a hearing with the board of review within ten (10) days of the receipt of notice. The hearing shall be conducted in accordance with the Wyoming Administrative Procedure Act.

(c) Notwithstanding subsection (b) of this section, if the certifying authority finds the life, health or safety of a child is in imminent danger, the certifying authority may immediately temporarily suspend certification of the agency pending hearing.

(d) The certified agency may appeal to the district court for review of any adverse decision of the board of review as provided by the Wyoming Administrative Procedure Act.

14-4-109. Denial of certification; notice and hearing; appeal.

(a) Upon receiving a notice of denial of certification, any applicant may request a hearing with the board of review by serving proper notice to the certifying authority. The hearing shall be conducted in accordance with the Wyoming Administrative Procedure Act.

(b) Any applicant may appeal to the district court for review of the decision of the board of review as provided by the Wyoming Administrative Procedure Act.

14-4-110. Enjoining operations in violation.

Any person may be enjoined from operating a child caring facility for violating any provision within W.S. 14-4-101 through 14-4-111.

14-4-111. Penalty for uncertified operation.

Any child caring facility operating without certification under W.S. 14-4-101 through 14-4-111 is guilty of a misdemeanor and shall be fined not less than fifty dollars (\$50.00) nor more than two hundred dollars (\$200.00) for each offense. Each day of operation without certification is a separate offense.

14-4-112. Contracts by department of family services.

The department of family services is authorized to contract with any lawful authority of any child caring facility for the care and custody of Wyoming children which have been placed therein by court order under the Juvenile Court Act or otherwise. The department shall select those child caring facilities requiring the least expense to the state for the care and custody of children.

14-4-113. Commitment of uncontrollable child; refusal to receive.

(a) If a child is committed to a child caring facility by a court under the Juvenile Court Act [§§ 14-6-201 to 14-6-252] or otherwise and the child caring facility cannot exercise proper control over the child, the child caring facility may report the facts to the court with jurisdiction for a reconsideration or rehearing on the order. If the facts warrant, the child shall then be committed to the industrial institute [Wyoming boys' school], the Wyoming girls school, or such other privately or publicly operated facility as the court deems appropriate.

(b) If a child caring facility refuses to receive a child under court order, then the court of competent jurisdiction shall provide for placement under other provisions of law.

14-4-114. State payment to facility.

No payment shall be made by the state to any child caring facility receiving a child under court order.

14-4-115. Authority of counties and municipalities to have detention homes.

The board of county commissioners of any county or the governing body of any municipal corporation may acquire and maintain a detention home for care of delinquent minors, provided the detention home is not used for any other purpose.

14-4-116. Mandatory immunizations for children attending child caring facilities.

(a) As used in this section "child caring facility" means a facility required to be certified under W.S. 14-4-102.

(b) All persons over eighteen (18) months old attending or transferring into a child caring facility are required to be completely immunized in a similar manner to W.S. 21-4-309.

(c) The operator of the child caring facility shall be responsible for an audit of the immunization status of any child attending the child caring facility in a similar manner to W.S. 21-4-309.

APPENDIX B

Estimate of Demand for Childcare

To determine the childcare age population in Wyoming, we used 1999 Bureau of Census estimates, which were the most recent available. We defined the childcare age population as children birth through age 12. To estimate the demand for childcare, we applied Urban Institute estimates of the proportion of these children whose mothers were in the work force to the census population estimates. In their analysis of the 1997 Survey of Households, the Urban Institute found that 57 percent of children birth through age 5 had mothers in the workforce; this increased to 66 percent for children age 6 through 12.

Table A: 1999 Wyoming Childcare Age Population and Estimated Number of Children Needing Childcare

County	Population 0 to 5 Years Old	Population 6 to 12 Years Old	Total Childcare Age Population	LSO Estimate of Demand
Albany	1,746	1,958	3,704	2,288
Big Horn	813	1,124	1,937	1,205
Campbell	3,077	4,140	7,217	4,486
Carbon	1,069	1,512	2,581	1,607
Converse	991	1,366	2,357	1,466
Crook	445	638	1,083	675
Fremont	2,843	3,968	6,811	4,239
Goshen	856	1,147	2,003	1,245
Hot Springs	225	388	613	384
Johnson	416	589	1,005	626
Laramie	6,258	6,920	13,178	8,134
Lincoln	1,250	1,861	3,111	1,941
Natrona	4,731	6,079	10,810	6,709
Niobrara	150	204	354	220
Park	1,821	2,363	4,184	2,598
Platte	610	797	1,407	874
Sheridan	1,501	2,246	3,747	2,338
Sublette	420	511	931	577
Sweetwater	3,266	4,781	8,047	5,017
Teton	1,119	1,288	2,407	1,488
Uinta	2,061	3,385	5,446	3,409
Washakie	598	1,017	1,615	1,012
Weston	408	782	1,190	749
Wyoming	36,674	49,064	85,738	53,286

Source: LSO analysis of Census and Urban Institute data

To calculate the percent of children accommodated in licensed or known legally exempt care we used the estimated number of children needing care as the denominator. We used DFS data showing the total

number of licensed slots to determine the percent of demand met by licensed providers. We used the subsidy unit's data to determine the percent of demand met by legally exempt reimbursed providers. Finally, we used DFS state-level data to determine the percent of demand met by known legally exempt providers who do not receive reimbursement. Because we were unable to obtain the number of children in the other legally exempt category at the county level, we distributed the state total among the counties according to the distribution of the reimbursed exempt population. The sum of these categories provides an estimate of the total percent of demand met by licensed and known legally exempt providers.

Table B: Percent of Estimated Childcare Population Accommodated by Licensed Slots or Known Legally Exempt Slots

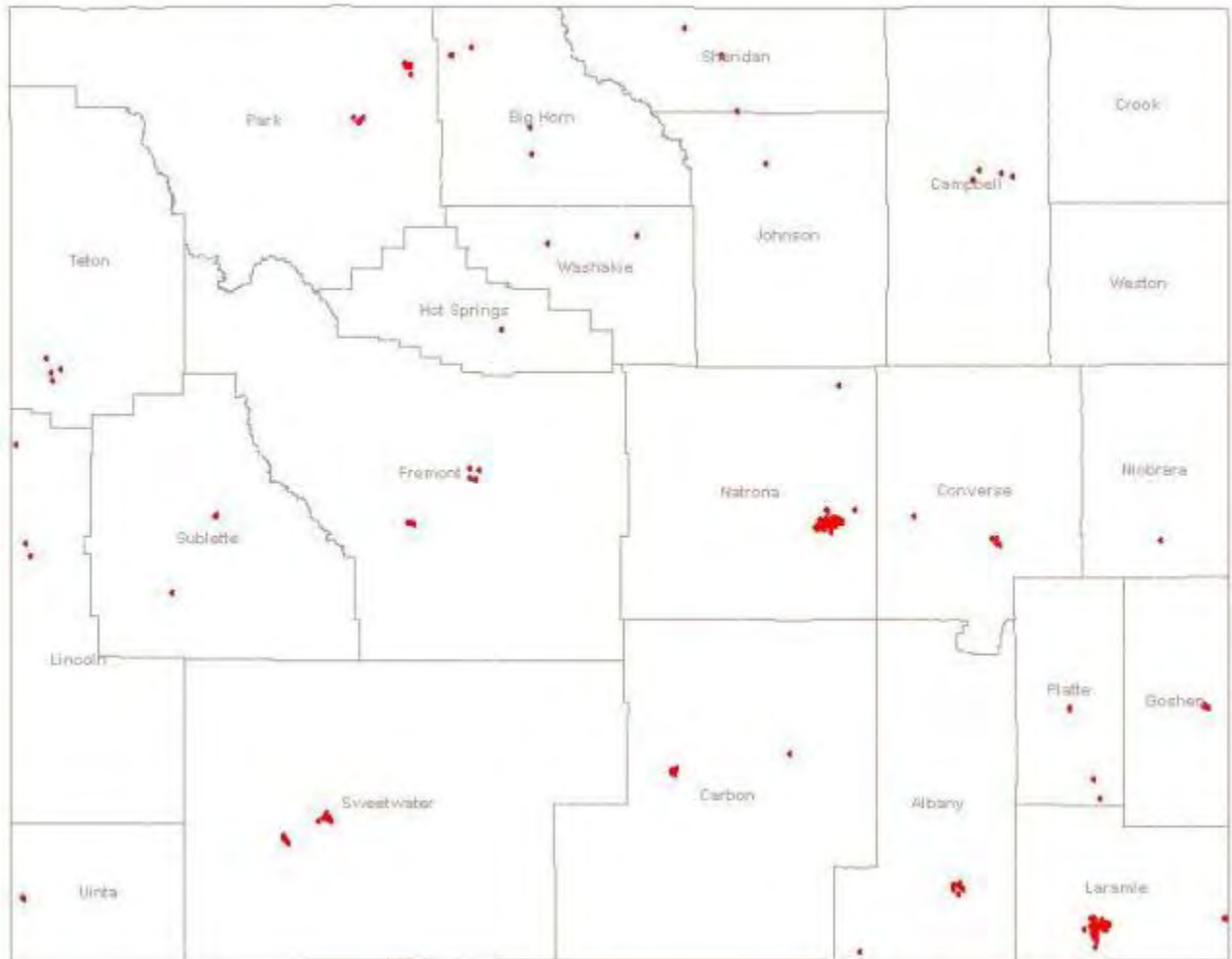
County	LSO Estimate of Demand	Licensed Care	Legally Exempt Reimbursed Care	Other Legally Exempt Care	Percent of Estimated Demand Met
Albany	2,288	70%	2%	2%	74%
Big Horn	1,205	25%	4%	4%	33%
Campbell	4,486	12%	2%	2%	15%
Carbon	1,607	43%	6%	6%	55%
Converse	1,466	38%	7%	7%	52%
Crook	675	27%	0%	0%	27%
Fremont	4,239	17%	5%	5%	27%
Goshen	1,245	27%	10%	10%	47%
Hot Springs	384	34%	5%	5%	44%
Johnson	626	37%	5%	5%	46%
Laramie	8,134	23%	5%	5%	34%
Lincoln	1,941	19%	1%	1%	21%
Natrona	6,709	42%	5%	5%	52%
Niobrara	220	90%	4%	4%	98%
Park	2,598	41%	3%	3%	48%
Platte	874	39%	6%	6%	52%
Sheridan	2,338	20%	4%	4%	29%
Sublette	577	14%	1%	1%	15%
Sweetwater	5,017	18%	3%	3%	24%
Teton	1,488	48%	0%	0%	48%
Uinta	3,409	16%	2%	2%	21%
Washakie	1,012	25%	2%	2%	29%
Weston	749	5%	3%	4%	12%
Wyoming	53,286	28%	4%	4%	36%

Source: LSO analysis of DFS-provided data

APPENDIX C

Type of Licensed Provider by Location

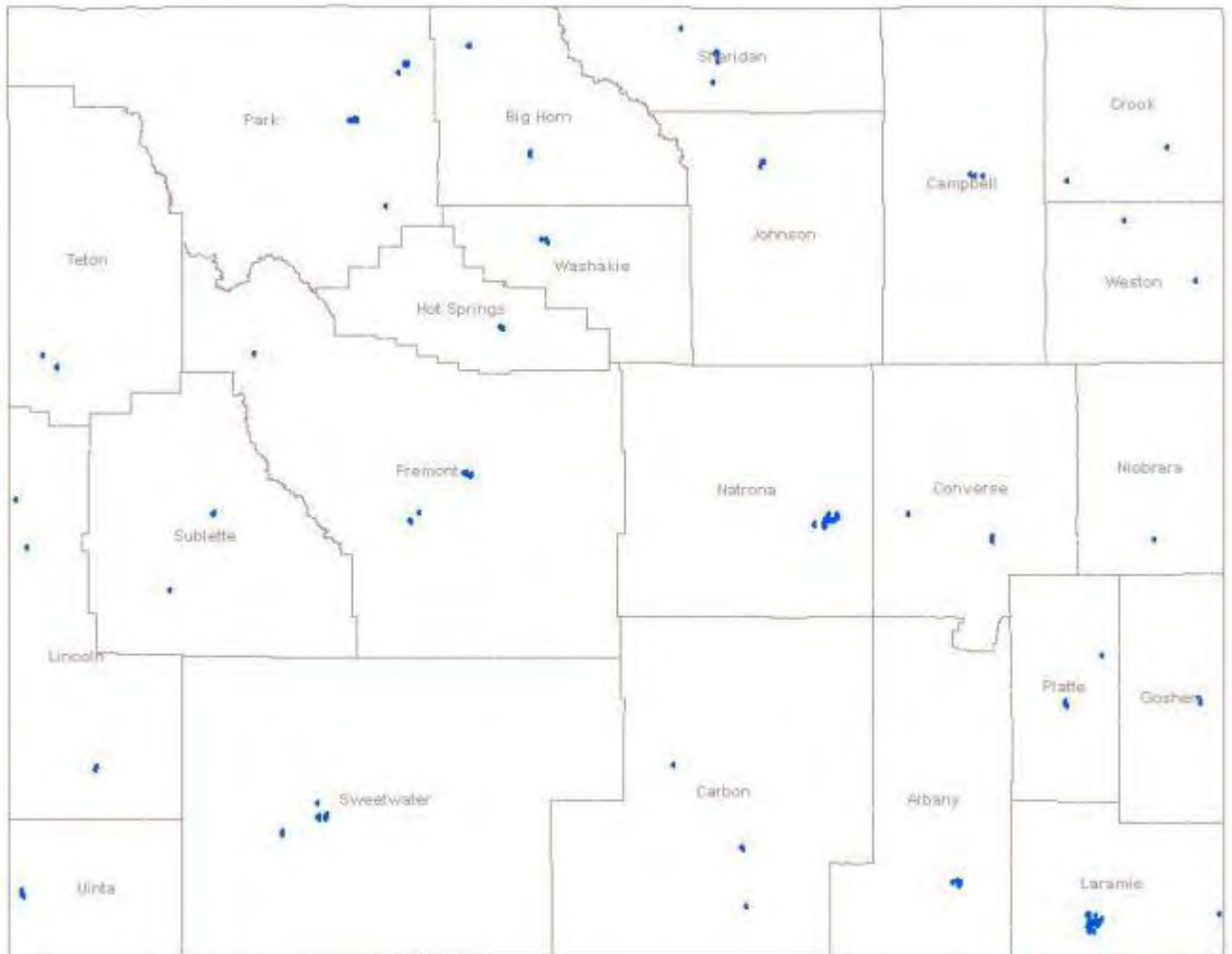
Figure 1: Family Day Care Home Providers



Source: Maps prepared by Carol Norris, GIS Specialist, LSO, using Tiger 2000 from the U.S. Census Bureau and data from DFS, as of April 2001.

Figure 2: Group Day Care Home Providers

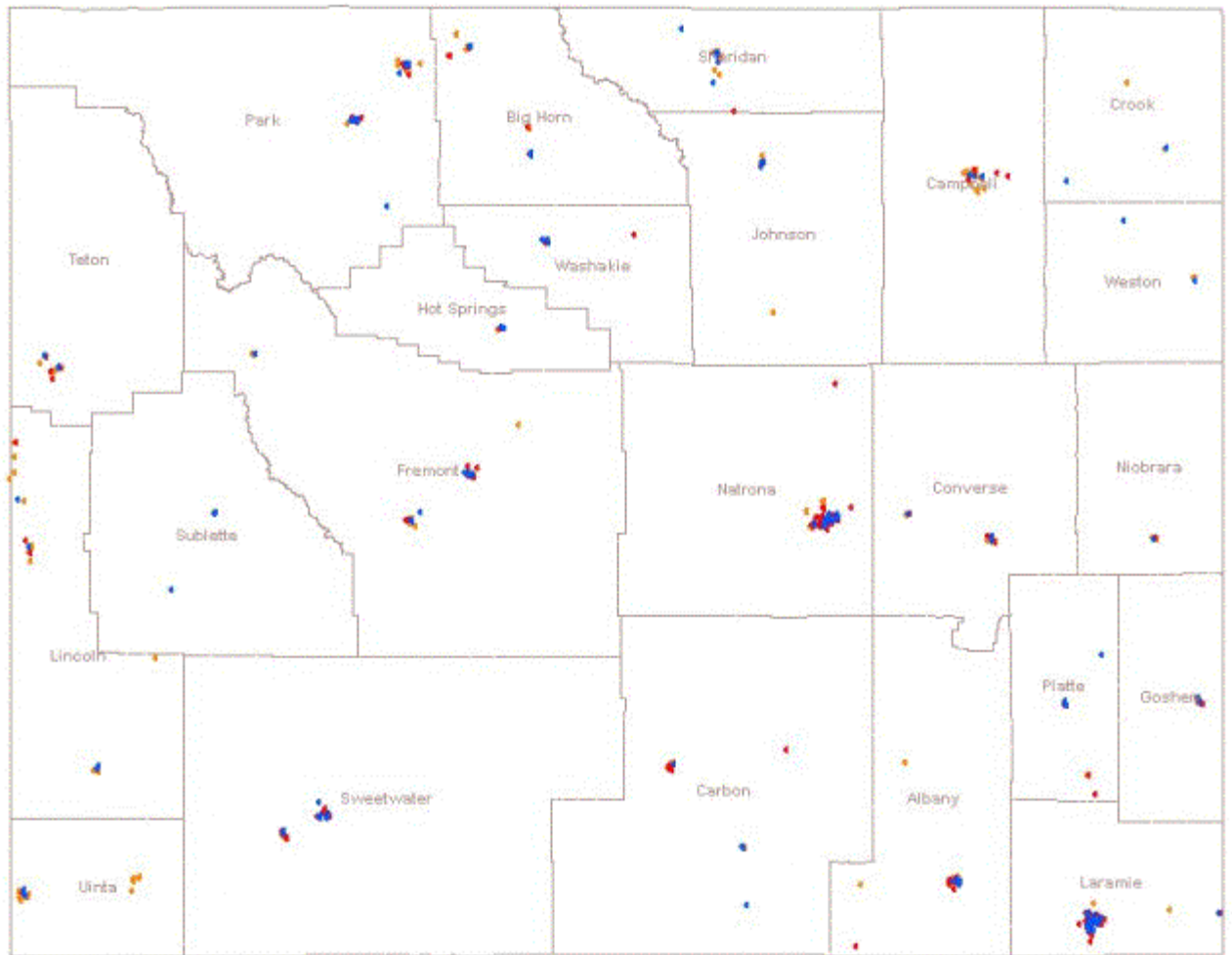
Figure 3: Group Day Care Center Providers



Source: Maps prepared by Carol Norris, GIS Specialist, LSO, using Tiger 2000 from the U.S. Census Bureau and data from DFS, as of April 2001.

Figure 4: All Licensed Providers

Source: Maps prepared by Carol Norris, GIS Specialist, LSO, using Tiger 2000 from the U.S. Census Bureau and data from DFS, as of April 2001.



APPENDIX D

LSO Turnover Cost Methodology for Childcare Licensers

We adapted our turnover cost methodology from the Legislative Service Office Program Evaluation entitled *Turnover and Retention in Four Occupations* dated May 2000. After a series of discussions with the manager of the DFS licensing unit, changes were made to the methodology to tailor it specifically for the licensing unit. Adaptations were made to account for the fact that all licensers who terminated their positions in calendar year 2000 were AWECs, or contract employees.

To estimate turnover costs for child care licensers, we asked DFS to fill out a worksheet about the costs they incurred in the following four areas: separation costs; vacancy costs; replacement costs; and training costs. After we received the raw data from DFS, we estimated the costs of turnover using the methodology described below. All costs were DFS-reported and were not verified by LSO. The assumptions we make to calculate these costs are also noted.

Separation Costs

We calculated the turnover rate for child care licensers for calendar year 2000 from data provided by DFS. We included all licenser terminations from the DFS licensing unit in the turnover rate. We estimated turnover costs for licensers and not for supervisor/manager positions or for assistants.

We calculated the hourly pay rate of departing employees by determining the average salary for departing licensers from data provided by DFS. For full time permanent state positions, we included benefits in the wage costs we calculated. We did not include sick and vacation leave pay outs in our turnover costs. Although the agency incurs these costs when a permanent state employee separates, it is an unfunded liability for the agency.

SAO officials compiled cost information for administrative costs they incur when an employee separates service from the State.

Separation Costs =

+ Unemployment benefits =

total claims paid + [(weighted sum of the hourly pay rates of staff time to administer claims) x (number of claims filed)]

+ Administrative costs =

[weighted sum of the hourly pay rates of staff time to process employee out x (number of turnovers - promotions)] + [time of departing employee x hourly pay rate x (number of turnovers – promotions)] + SAO costs]

+ Other separation costs identified by agencies

Vacancy Costs

DFS reported data provided us with the extra hours worked because of vacancies. We did not include offsetting savings that may accrue during turnover, such as salary costs, because there is room for debate about whether the salary savings represent a vacancy savings or cost.

Vacancy Costs =

Vacancy costs identified by agencies

Replacement Costs

We calculated the turnover rate for licensers from data provided by DFS. We included all terminations from the agency in the turnover rate. We estimated turnover costs for licensers and not for supervisor/manager positions. Additionally, we did not include promotions to a supervisor or manager level in the turnover rate. We assumed the number of turnovers equaled the number of positions to be replaced.

We calculated the hourly pay rate of replacement employees by using the hiring rate reported by DFS. We used this number to calculate the value of a replacement employee's time, excluding benefits.

SAO compiled cost information for administrative costs they incur when a new employee begins service with the State.

Replacement Costs =

Communicating job availability =

Total advertising + (weighted sum of staff costs to prepare ads) + (weighted sum of staff costs to meet with job service)

+ Screening candidates =

[(weighted sum of in-house screening costs for one application) x (number of applications per opening x number of turnovers)]

+ Interviewing candidates =

[(prep time and duration of interview x sum of pay rates of staff who conduct interview) x (number of interviews conducted for one position x number of turnovers)]

+ Selecting candidates =

(weighted sum of staff costs to select a candidate) x number of turnovers

+ Administrative Costs =

[(weighted sum of staff costs to process a new employee) x number of turnovers] + [(time of employee to complete administrative functions x hourly pay rate) x number of turnovers] + SAO costs]

+ Other replacement costs identified by agencies

Training Costs

We calculated the turnover rate for licensers from DFS provided data. We included all terminations from the agency in the turnover rate. We estimated turnover rates for licensers and not for supervisor/manager positions. We assumed the number of turnovers equaled the number of employees to be trained.

We calculated the hourly pay rate of trainees by using the starting wage for new employees reported by the agencies. We used this amount to calculate the value of a replacement employee's time, excluding benefits.

We estimated the costs of training during a new hire's first year and not subsequent training provided by DFS. A&I compiled information about costs they incur to provide the new employee orientation. All other training costs were agency reported, and were not verified by LSO.

Training Costs =

A&I Orientation =

[(weighted sum of A&I costs to prepare and provide one training for one trainee) + (length of training x average pay rate of trainees) x (number of new employees who attend as a percent of turnovers)]

+ Formal Skills Training =

[(weighted sum of staff costs to prepare and provide one training + contract costs + materials + overhead, if offsite) x (number of turnovers/number of trainees per training)] + (length of training in hours x average pay rate of trainees x number of turnovers) + (daily per diem rate x length of training in days x number who travel) + (average travel costs x number who travel)]

+ Informal Training =

[(hrs per week spent mentoring x number of weeks) x (average hourly pay rate of staff who mentor) x (reduction in productivity of experienced employee) x (number of experienced employees who mentor)] + [(hrs per week spent with mentor x number of weeks) x (average hourly pay rate of new staff) x (reduction in productivity of new staff) x (number of turnovers)]

TOTAL COSTS =

Separation costs + vacancy costs + replacement costs + training costs

COST PER TURNOVER =

Total costs/number of turnovers