

December 1, 2022

Mary B. Jones
ACF/OPRE Certifying Officer
Office of Planning, Research, and Evaluation Administration for Children and Families
US Department of Health and Human Services 330 C Street SW
Washington, D.C. 20201

RE: Request for Comments: Proposed Information Collection Activity; The Role of Licensing in Early Care and Education (TRLECE); 87 FR 65775

Dear Ms. Jones:

Home Grown appreciates this opportunity to provide comments in response to the Office of Planning, Research, and Evaluation (OPRE), Administration for Children and Families (ACF), Department of Health and Human Services notice of proposed rulemaking (NPRM) regarding the Role of Licensing in Early Care and Education (TRLECE) project. The mission of [Home Grown](#) is to increase access to and the quality of home-based child care. To achieve this vision, Home Grown works to remove policy barriers, strengthen home-based child care practices and business models, and support the growth and recognition of the sector so that all providers offer quality care and parents choose quality care.

Home-based child care (HBCC) represents the most prevalent non-parental child care arrangement for children under age five in the U.S. according to the National Survey of Early Care and Education (NSECE, 2013). Home-based child care includes a range of providers offering child care in a home, licensed or regulation exempt, as an alternative to a commercial (center) or institutional (school) setting. Over 12 million children under the age of 13 receive care in a home-based child care setting. Nearly 1 million of these children are served in licensed family child care homes, while more than 11 million of these children receive care in settings that are not required to be licensed in their local jurisdiction ([NSECE, 2021](#)). Most states allow family, friend and neighbor (FFN) caregivers to be legally license exempt, or legally nonlicensed, meaning they are not required to pursue licensure to serve the (usually smaller) number of children they care for.

Home-based providers offer a critical service to families and communities and are an essential part of the early childhood landscape. Home-based child care is the most prevalent child care placement for infants and toddlers: 30% of infants and toddlers attend home-based child care as their primary care arrangement ([Bromer, Melvin, et al., 2021](#)). Children whose parents work non-traditional hours depend on home-based child care; currently only 8% of child care centers offer care during nontraditional work hours whereas over 60% of informal home-based child care providers do ([NSECE, 2015](#)). Families from marginalized communities of color (including Black, Latine, immigrant, and Indigenous), families experiencing poverty, and families living in rural communities rely on home-based child care settings ([Bromer, Melvin, et al., 2021](#); [Henly & Adams, 2018](#)).

The TRLECE project aims to interview program owners or directors who oversee the day-to-day operations in a licensed center, as well as owners or operators of licensed family child care. Home Grown, together with our partners, funders, and provider advisors, appreciate ACF's commitment to understanding the child care licensing system from the perspective of providers. Our comments offer context regarding the impact of licensing systems on home-based providers and strongly urge ACF to expand its group of survey participants to include regulation exempt care, particularly family, friend, and neighbor providers. The inclusion of a broader range of providers will ensure that different perceptions and experiences with licensing systems are captured and will provide valuable insight into the barriers faced by providers in meeting federal and state requirements. Our comments also provide recommended questions and proposed strategies for ensuring data collection includes home-based child care providers.

1. Home Grown provides the following background about family child care for the TRLECE project:

According to a 2021 report from the Erikson Institute entitled: *The Shifting Supply of Regulated Family Child Care in the U.S.*, the supply of licensed FCC has been declining for the past decade ([Bromer, Melvin, et al., 2021](#)). The report notes that data from “the longitudinal Child Care Licensing Studies estimate a 42% overall decrease in licensed FCC supply between 2005 and 2017, with small FCC settings accounting for this steep drop (NCECQA, 2020). During the same period, the availability of subsidized FCC for children whose families have low incomes fell by more than half (51%; NCECQA, 2020).”

The report goes on to identify through literature review three core areas which contribute to the decrease in FCC supply including 1) working conditions (e.g. long hours and isolation); 2) business sustainability (e.g. income and enrollment); and 3) provider experiences participating in ECE systems (e.g. licensing, Quality Rating Improvement Systems, and subsidy). The latter two relate to the scope of the TRLECE project.

Business Sustainability

The full Erikson Institute report provides a nuanced discussion of challenges with business sustainability that influence FCC providers' decisions to leave the field. For the purpose of this public comment, we would highlight these findings:

Management of business responsibilities may be particularly challenging for FCC providers who experience juggling multiple roles in their programs ... Qualitative studies suggest the experience of taking on multiple roles may be a source of work-related stress for FCC (Gerstenblatt et al., 2014; Hooper, 2020). In addition, FCC providers may also make tradeoffs between an ethic of caregiving and sound business practices. As Nelson (1991) showed in her landmark semi-ethnographic study of white FCC providers in Vermont, providers experienced tensions between their roles as caregivers and entrepreneurs. Some took on a second mother, kin-like role with children and families enrolled in their programs, making it even more difficult to enforce business rules... Other studies extend these findings about providers' willingness to make tradeoffs between their business income and supporting families. ([Bromer, Melvin, et al., 2021](#)).

FCC providers may depend on their home-based businesses to support their households as well as to provide benefits such as health insurance and pensions. Low income and lack of benefits may be significant factors in exit from FCC. Child care workers, in general, tend to earn low incomes (Bureau of Labor Statistics, 2020a). ([Bromer, Melvin, et al., 2021](#)).

These findings of the Erikson report related to business sustainability have important implications for the TRLECE project when exploring the impact of licensing requirements on home-based providers. Specifically, the TRLECE project offers the opportunity to examine the administrative burden of the licensing system on home-based providers and to surface possible solutions for creating efficiencies so that home-based providers, who are already stretched thin, can demonstrate compliance without pulling them away from their caregiving work. It would also be important that the data collection of the TRLECE project itself, did not introduce additional administrative burden, which we provide further recommendations about in Section 3. The TRLECE project also offers the opportunity to understand the cost burden of licensing regulations and processes for home-based providers which is critical given that 2016 NSECE reports that half of listed Family Child Care providers earn \$22,978 or less annually for providing care. Ensuring that ample publicly funded financial and material resources are available to support low earning home-based providers in meeting key health and safety requirements of the licensing system is necessary as many home-based providers are earning poverty wages. The TRLECE project can surface particularly expensive licensing requirements and pain points for the home-based providers and inform resource development. This understanding is essential to rebuilding the supply of licensed child care in this country.

ECE System Factors

The Erikson report offer insight regarding early childhood education system factors influencing FCC providers' decisions to exit the field. Most relevant to the TRLECE report are these findings:

Changes in licensing, subsidy, and quality system standards and implementation provide examples of how policy changes may lead to unintended consequences and increased inequities for participating providers. Between 2011 and 2014, for example, half of the states enacted new, more complex licensing requirements, including higher pre-service requirements and new in-service training hours, nutrition and health regulations, orientation trainings, and inspections required before granting a license (NCECQA, 2015b).). Similarly, requirements for subsidy participation have become more stringent since the 2014 CCDBG reauthorization, including new monitoring and health and safety training requirements as well as criminal background checks for household members (Office of Child Care, 2016). Many states are simultaneously revising or have revised their quality rating and improvement (QRIS) standards with new requirements for FCC providers such as increased educational and degree requirements (BUILD Initiative & Child Trends, 2019). While many of these changes are important to protect child health, well-being, and access to high-quality ECE experiences, little attention has been paid to the financial difficulty they may present to FCC and other home-based providers without additional compensation and support ([Bromer, Melvin, et al., 2021](#)).

Porter and Bromer (2020) reported that more than a quarter of FCC network directors indicated that administrative requirements for licensing, subsidy and QRIS were a significant burden for FCC providers who had difficulty "weeding through the paperwork," (p.22) which was often overwhelming, and sometimes contributed to providers' decisions to leave the field. Paperwork may also be a systemic barrier for providers not fluent in English who cannot access documentation in their language (Porter & Bromer, 2020). ([Bromer, Melvin, et al., 2021](#)).

Cross system inconsistencies, lack of access to information, cost burden, paperwork burden, and limited language access are named among the ECE systems factors highlighted in Erikson's report that contribute to the decline of FCC (2021). The TRLECE project offers the opportunity to understand the system inconsistencies, information access barriers, limited

language access barriers as well as the cost and paperwork burden resulting from licensing regulations and monitoring systems. Exploring these issues can inform our understanding of what is needed to support system and process improvements that allow for alignment across ECE systems including the licensing system, reduced administrative and cost burden to home-based providers and language access for those home-based providers that speak languages other than English.

2. Home Grown proposes the following questions be included in the data collection:
 - a. Questions that Address Barriers to Attaining and Maintaining Licensing:
 - i. Are the licensing requirements appropriate or relevant to the type of care that you provide?
 - ii. Do licensing staff have knowledge of the type of care that you provide?
 - iii. To what extent are the costs of licensing a financial burden?
 - iv. Which licensing requirements incur the most financial burden?
(Consider asking about the financial burden by licensing category (ex: Program, Facilities/Equipment, Personnel/Staff Child Ratios, Fire Safety, Business, Insurance, Administration of Records, Health and Safety, Training etc).
 - v. How much time do you spend preparing for an inspection?
 - vi. How much time do you spend, monthly, maintaining licensing requirements?
 - vii. To what extent do you feel confident that you understand the licensing process?
 - viii. To what extent do you feel confident that you understand the licensing deadlines?
 - ix. Which licensing regulation do you find hardest to maintain? Why?
 - x. Has licensing affected your ability to provide care for families?
 1. Families receiving subsidy
 2. Children with disabilities
 3. Infants and Toddlers
 4. Other
 - xi. Which of these options have been offered to you by your licensing representative/office?
 1. Virtual trainings
 2. In-person training
 3. Virtual monitoring visits
 4. In-person monitoring visits
 5. General information, resources, and trainings offered in your home language
 6. Trainings offered at a location in close proximity to your residence
 7. Trainings offered at various times including morning and evenings, weekday and weekends
 - xii. Are you able to demonstrate competency through years of service in order to meet licensing requirements?

- xiii. When you have a change in your licensing representative, do you know about the change when it happens, and are you provided with contact information for your new licensing representative?
 - xiv. When you have a change in licensing representative do you experience consistency in inspection procedures?
 - xv. How confident are you that if you call your licensing representative with questions, that you will get the answers to your questions without trigger an inspection or being penalized?
 - xvi. Are you aware of a waiver process for providers who have a barrier to accessing trainings and requirements in a timely manner?
 - xvii. Are you aware of appeals process for failure to meet licensing standards?
 - xviii. Is there a process to remove unsubstantiated license complaints from your public child care program record?
 - xix. Rate your agreement with this statement. Licensing inspections are conducted in a fair and respectful manner.
 - xx. Rate your agreement with this statement. I am confident that the licensing process in my state is a fair one.
 - xxi. Rate your agreement with this statement. I understand my rights in the licensing process.
 - xxii. Rate your agreement with this statement. Licensing representatives understand how to complete an inspection in my home while respecting my personal items.
- b. Questions that Address Supports to Attain Licensing:
- i. Have you, your peer providers or your professional support organizations been invited by the state agency or licensing administrator to offer input on licensing standards?
 - ii. Have you, your peer providers or your professional support organizations been invited by the state agency or licensing administrator to offer input on licensing monitoring processes?
 - iii. Is pre-licensing support or guidance accessible to prepare for and meet licensing requirements in your state? Who offers this support?
 - iv. Are education opportunities or resources available to meet licensing requirements? Who offers this support?
 - v. Are there opportunities to engage with other child care providers on licensing and training? Who offers this support or convenes these groups?
- c. Questions for nonlicensed child care providers:
- i. How long have you been caring for children?
 - ii. Do you plan to become a licensed child care provider?
 - iii. If not, what are reasons why you choose not to?
 - iv. Are there any licensing regulations that are a financial barrier for you to consider pursuing becoming licensed?
 - v. Are there any concerns about the licensing process or requirements that keep you from pursuing becoming licensed?

3. Home Grown proposes the following methods be employed to support home-based providers to participate in data collection of the TRLECE project including:
 - a. Use simple data collection tools.
 - b. Ensure data collection methods are accessible and can be completed by caregivers during times of their availability.
 - c. Provide meaningful language access support.
 - d. Allocate funds specifically for recruitment and engagement to facilitate home-based provider participation in data collection.
 - e. Partner with trusted community based and grassroots organizations that hold relationships with home-based providers to recruit and support home-based provider participation.
 - f. Elevate provider voice in designing data collection processes, tools and even vendor selection to ensure alignment between provider perspective and data collection approaches.
 - g. Utilize a home-based provider advisory or focus group to review data collection tools and approaches to ensure they can be meaningfully used.

Home Grown appreciates the opportunity to comment on this NPRM and welcomes further questions as we work collectively to invest in a high-quality early childhood education system that supports all children, families, and educators.

Sincerely,



Natalie Renew

Executive Director

[Home Grown](#)

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