

A PROCESS FOR DEVELOPING CHILD CARE ENFORCEMENT POLICIES: MODELED BY THE GEORGIA DEPARTMENT OF EARLY CARE AND LEARNING

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Introduction

The field of human/social services generally recognizes three accepted standards for implementing effective strategies, programs, and policies: (1) evidence-based practices, (2) best practices, and (3) promising practices. *Evidence-based practices* have the highest degree of proven effectiveness supported by objective and comprehensive research. *Best practices* have been shown to work effectively and produce successful outcomes, supported to some degree by subjective and objective data sources. *Promising practices* are innovative and show at least preliminary, objective evidence of effectiveness and have the potential to be replicated in other settings¹.

For more than a decade, the National Association of Regulatory Administration (NARA) and the Office of Child Care (OCC) in the Administration for Children and Families (ACF) of the U. S. Department of Health and Human Services have urged child care agencies to develop enforcement systems based on best practices. These best practices are evidence-based strategies that define key system characteristics of high performing child care licensing agencies. NARA and the OCC provide guidance on best practices through multiple publications².

An effective group process is essential to developing policies based on best practices. In 2014 the Georgia Department of Early Care and Learning (DECAL) engaged in a nine-month facilitated process to revise its enforcement system for violations of child care licensing rules. The ultimate product of the process was an Enforcement Chart, a graphic representation of how Georgia will approach enforcement violations. While studying and discussing best practices in the field was a major part of the group process, the chart resulted from also studying evidence-based practices (research) and promising practices (what was working in other states).

The process used by DECAL included eight key components.

¹ http://en.wikipedia.org/wiki/Best_Practice

² *Recommended Best Practices for Human Care Regulatory Agencies (2009)*, *Strong Licensing: The Foundation for a Quality Early Care and Education System (2011)*, *Risk Assessment and Licensing Compliance (2013)*, *Enforcement Strategies with Licensed Child Care Providers (2014)*, and *Contemporary Issues in Licensing Reports #1 through #6 (2014)*

- ✓ Strong Leadership from the Top
- ✓ Diverse and Active Advisory Committee
- ✓ Engaged Organizational Team
- ✓ Structured Group Facilitation
- ✓ Values-based Discussions
- ✓ Informed Decision-Making Based on Data, Best Practices and Research
- ✓ Simulation (Modeling) of New Policy Outcomes
- ✓ Comprehensive Communication and Training Plan

Strong Leadership from the Top

Any time an organization wants to make significant policy change, strong leadership is essential. When the head of an organization supports and leads policy development, the organization's staff, partners, and other stakeholders take the effort seriously and are more likely to actively participate.

The Georgia enforcement policy project originated with former DECAL commissioner, Bobby Cagle. Commissioner Cagle knew that many models for enforcement decision making had been created, but he had a vision for developing a structured enforcement system that could be represented graphically in a violation enforcement chart. His previous experience led him to the concept of guided enforcement decision making based on the severity of violations and the prior violation history of the facility. He demonstrated the importance of the effort by chairing the new Child Care Enforcement Policy Task Force. When he left DECAL, Kristie Lewis, Assistant Commissioner for Child Care Services, assumed the role of chair of the task force with the full support of the new commissioner, Amy Jacobs.

Diverse and Active Advisory Committee

A diverse and active advisory committee is critical to a successful policy-making process. With input and buy-in from stakeholders, policies are more likely to be meaningful and accepted. Stakeholders should represent a variety of viewpoints that will help identify and discuss proposed policy changes before the policies are implemented. Stakeholders need to actively engage in the decision-making process so their constituents are well-represented and well-informed about potential impact

DECAL invited 15 people to participate on the Child Care Enforcement Policy Task Force. They represented child care providers, advocates for children, industry associations, DECAL divisions, and other state agencies that serve children. DECAL convened the task force in February 2014 and charged them to (1) review enforcement policies, (2) develop a clear, consistent protocol for applying enforcement actions, and (3) ensure that any new enforcement protocol could be used in a preventive capacity. Based on these objectives, the task force quickly identified its overall goal to create a new enforcement structure (later culminated in an enforcement chart).

Engaged Organizational Team

An informed organizational team made up of internal policy, program, research, and legal staff are critical to informed decision making. These internal experts work as a team to describe current policies, problems and outcomes, and information needed to develop new enforcement strategies. Organizational team members serve as content experts and work intensively behind the scenes to synthesize data and information critical to policy development. When there is an engaged, knowledgeable organizational team, the policy-making process is credible to stakeholders.

DECAL assembled an organizational team that included members from the Child Care Services, Legal, and Research divisions. The team of seven managers met regularly with the group facilitator and among themselves between task force meetings to plan agendas for meetings, obtain information, research other states' practices, analyze data, and review facility violation scenarios. They made presentations and answered questions at every task force meeting. The success of the process was linked to the motivated and productive work of the organizational team.

Structured Group Facilitation

Skilled facilitation is a core ingredient of successful group policy making. A skilled facilitator guides groups to realize their creative and problem-solving potential. Facilitation requires an understanding of group dynamics and the ability to structure a meeting so that recommendations are well thought out and based on best practices and research. A skilled facilitator is adept at process planning and engaging all group members in the process. The group facilitator being a content expert definitely adds value to the process.

DECAL contracted with consultant, Sandy Pearce, who is skilled in group process, planning, policy analysis, and facilitation to assist with the project. Ms. Pearce guided the organizational team to engage in an informed decision-making process. The consultant developed a nine-month work plan for the task force which they approved. She advised the organizational team about approaches for each meeting, prepared each meeting agenda, and facilitated the discussion at meetings. During the meetings the consultant assisted the task force members in coming to consensus on policy recommendations. Task force members accepted her as a neutral, credible facilitator.

Values-based Discussion

Policy decisions are based on the values of an organization. Clearly articulating policy goals and identifying what the policies should achieve is an integral part of the policy-making process. Continuously reiterating the underlying values and principles of the organization and the goals of the project unite decision makers in a common goal and help maintain focus during discussions.

From the beginning of the project, DECAL articulated the goal of the task force. i.e., to develop a new enforcement system for child care facilities. DECAL ensured that the task force know the department's values that included a transparent set of clear, fair, consistent, and predictable policies. The DECAL team kept these values in the forefront of the task force at meetings and included the values in written materials about the group's work. The organizational team also identified the following underlying beliefs about the project:

- *Licensed child care facilities in Georgia strive to protect the health, safety, and well-being of children.*
- *Licensed child care facilities strive to meet all required rules.*
- *When Child Care Services issues a citation for a rule violation, the child care facility strives to correct the violation as soon as possible.*
- *A new enforcement structure should focus on the frequency and seriousness of repeated (uncorrected) violations over a 12-month period and on serious incidents that result or could result in serious injury to children.*
- *Rule violations should be addressed through a graduated continuum of enforcement actions ranging from technical assistance or a citation to license revocation.*

Informed Decision Making Based on Data, Best Practices, and Research

Informed decision making is a rational, deliberate process based on a well thought out plan for providing decision makers with the information and tools they need to produce credible policies. Planning processes involve:

- Identifying current problems
- Examining current laws, policies, and outcomes
- Studying evidence-based practices, best practices and promising practices
- Analyzing data and information
- Researching and debating options
- Negotiating consensus within the group
- Modeling potential outcomes
- Formulating recommendations

The consultant and members of the organizational team reviewed published materials on best practices in licensing, monitoring, and enforcing child care rule violations published by the OCC and NARA. They also researched relatively new child care enforcement policies and practices in Arizona, Florida, Ohio, Oklahoma, North Carolina, Texas, Utah, and Virginia. This information provided a sound foundation for the work of the task force.

The task force came to an early consensus to produce an Enforcement Chart to guide enforcement decisions. The consultant presented a model for developing the Enforcement Chart that had been used successfully in other policy areas. The task force agreed that the Enforcement Chart would be a grid consisting of three intersecting components – Violation Classes (Classes A, B, C, D), Violation History Levels (Levels I, II, III, IV), and Enforcement Actions (Prevention, Intervention, and Closure). The Violation Classes are based on core rule severity levels, a previous DECAL initiative in practice for approximately ten years. Core rules are rules identified to have the greatest impact on health and safety when violated. The Violation History Levels assign points for the number and severity of repeat (uncorrected) violations and prior serious violations that result in or could result in harm to children. The Enforcement Actions include a progressive range of actions that become more restrictive as the seriousness of the current violation(s) and prior history are taken into account.

The consultant developed a work plan allotting two meetings to discuss each of the three components of the new Enforcement Chart, allowing the task force to make decisions, review them, and modify them as needed (see Figure 1). At each of these six meetings, the task force determined specific decision rules about how to use the Enforcement Chart. During the meetings, they reviewed data and information on the outcomes of the current system and on the potential outcomes under the new Enforcement Chart. At the end of the nine-month process, the task force felt that they had negotiated sound policies that were transparent, clear, fair, consistent, and predictable.

Figure 1. Georgia DECAL Child Care Services Enforcement Chart (2015)

V I O L A T I O N C L A S S	Incident results in or could result in:	VIOLATION HISTORY LEVEL			
		I 0 Points	II 1-3 Points	III 4-9 Points	IV 10 + Points
	D • Extreme Harm • Imminent Danger	I3-C			
	C • High Harm	I1-I2	I1-I3	I2-C	I3-C
	B • Medium Harm	N/A**	P2-P3	I1-I2	I2-C
	A ▪ Low Harm	P1-P2	P1-P3	P2-P3	I1-I2

Simulation (Modeling) of New Policy Outcomes

In a rational planning process, policy outcomes are predictable. However, new policies can sometimes lead to unintended consequences. To lessen the impact of unintended consequences, new policies should be scrutinized by analyzing data, conducting case studies, and/or field testing. Simulating the impact of policy outcomes involves using historical data to model future outcomes. This due diligence can avoid unexpected outcomes that detract from the intent of the policies.

DECAL is committed to avoiding unintended consequences from the new policies that could jeopardize their successful implementation. During the policy development process, the organizational team reviewed over one hundred actual case scenarios and modeled the outcome of the new policies using data from nearly 8,000 actual site inspections. DECAL is also conducting three distinct field tests before implementing the policies to compare outcomes under the old policies with the new policies in the Enforcement Chart. This research will allow DECAL to recommend necessary changes to rules and policies before implementation.

Comprehensive Communication and Training Plan

A multi-faceted communication and training plan is critical to the success of implementing new policies. The purpose of a communication plan is to ensure that all stakeholders are informed about and understand changes to policies long before they become effective. Communication involves clarifying the most important messages in orientation and training sessions. Training should include multiple approaches that provide opportunities for stakeholders to receive information in different formats and that allow ample time for stakeholders to process, adapt

to, and ask questions about the new information. The communication and training plan should encompass not only what the new policies are, and how they will be implemented, but also why they are being introduced, how they were determined, and who participated in the development and decision making.

DECAL developed a comprehensive communication and training plan that included internal agency staff, the child care provider community, and other stakeholders. The organizational team clarified the essential messages and intended outcomes of the enforcement project. The changes to enforcement policies were so significant that the organizational team determined the communication needed to occur in stages beginning with a high-level overview, and then moving to more detailed instruction regarding the mechanics and application of the Enforcement Chart.

DECAL conducted the high-level overview via webinars and face-to-face community meetings across the state. This effort began more than a year before the new enforcement policies will be implemented. The next phase includes communicating key messages about the new policies during exit conferences at the end of onsite inspections at every child care program over a six-month period. The third phase will begin six months before planned implementation and includes webinars and community meetings on the mechanics of exactly how the new Enforcement Chart works. The third phase will also include a discussion, during exit conferences, of what the outcome would be for that program if the new Enforcement Chart was already in place. Additionally, DECAL will post information on the agency website progressively, supplementing and in alignment with, the information being conveyed during orientation and training sessions, and during exit conferences.

An Effective Process for Developing Child Care Enforcement Policies

Developing policy successfully includes a mechanism for gathering preliminary evidence of the policy's effectiveness and for determining if the policy has the potential for generalizing the results to other settings.

The task force's process for developing effective enforcement policies resulted in the following tangible outcomes:

- Credible policies predicated on the use of an informed decision-making process based on data, best practices, and research
- Consensus on recommendations from a diverse group of multi-discipline early childhood professionals
- Values of the project – transparency, fairness, consistency, and predictability - embedded in a new Enforcement Chart

These outcomes support the fact that the process used by the task force can also be used by other jurisdictions tackling similar policy changes. Strong leadership from the top, a diverse and active advisory committee, and an engaged organizational team provide a foundation for a productive policy-making process. Engaging in structured groups facilitated by experienced professionals; values-based discussions; informed decision making based on data; best practices and research; and simulation modeling of new policy outcomes can lead similar organizations to develop sound, credible policies. Finally, a comprehensive communication and training plan to carry new policies through to implementation is the final key to ensure a successful, effective policy-making process.

Sandy Pearce owns Strategic Policy and Training Solutions, a consulting business specializing in policy analysis, training and curriculum development, strategic planning, and best practices research.

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