Equity Considerations for the Child Care Licensing System

The White House's 2021 *Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government* states the following:

> Equal opportunity is the bedrock of American democracy, and our diversity is one of our country's greatest strengths. But for too many, the American Dream remains out of reach. Entrenched disparities in our laws and public policies, and in our public and private institutions, have often denied that equal opportunity to individuals and communities. … Because advancing equity requires a systemic approach to embedding fairness in decision-making processes, executive departments and agencies … must recognize and work to redress inequities in their policies and programs that serve as barriers to equal opportunity. (para. 1–2)[1]

Although this quote focuses on the need to attend to equity within federal agencies, it also applies to state and territory systems that support children and adults, including the early care and education (ECE) system. There are documented inequities in the ECE system. For example, some ECE teachers who are Black earn less than their White colleagues,[2] and there are reports calling for change within the ECE system such as centering the voices of people of color to understand their experiences and how programs and policies can better support them.[3]

Licensing is an important part of the ECE system of supports for children and families because it regulates child care, sets the standards for providers to legally operate in states and territories, and ensures that those standards are met to protect children from harm.[4] Compared to other ECE entities, the licensing system typically impacts the most providers. Given the prominent role it plays, it is important to determine how the licensing system can be more equitable on behalf of children and families through its work with child care providers. It is also important to determine how licensing can partner with providers to address equity.

The purpose of this resource is to provide questions for licensing administrators and their staff to help identify and consider possible inequities in the licensing system. Questions address not only the what but also the who and how of licensing since all are important in addressing inequities. The questions in this resource can help identify areas in which to start exploring, and they serve as examples for guiding discussions. However, the questions are offered as examples rather than an exhaustive list. Although the questions may help foster discussion, this

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[1] White House. (2021). *Executive order on advancing racial equity and support for underserved communities through the federal government*. https://www.whitehouse.gov/briefing-room/presidential-actions/2021/01/20/executive-order-advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government/

[2] Austin, L. J.E., Edwards, B., Chávez, R., & Whitebook, M. (2019). *Racial wage gaps in early education employment*. Center for the Study of Child Care Employment. https://cscce.berkeley.edu/racial-wage-gaps-in-early-education-employment/

[3] Bipartisan Policy Center. (2021). *Family child care policy framework*. https://bipartisanpolicy.org/explainer/family-child-care-policy-framework/;Sethi, S., Johnson-Staub, & Gallagher Robbins, K. (2020). *An anti-racist approach to supporting child care through COVID-19 and beyond*. Center for Law and Social Policy. https://www.clasp.org/publications/report/brief/anti-racist-approach-supporting-child-care-through-covid-19-and-beyond

[4] National Center on Early Childhood Quality Assurance. (2020). *Trends in child care center licensing requirements and policies for 2017*. U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care. https://childcareta.acf.hhs.gov/resource/trends-child-care-licensing-requirements-and-policies-2017; National Center on Early Childhood Quality Assurance. (2020). *Trends in family child care home licensing requirements and policies for 2017*. U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care. https://childcareta.acf.hhs.gov/resource/trends-child-care-licensing-requirements-and-policies-2017

resource is not a discussion guide. It does not include information about how to structure the conversation, who to involve, or how to facilitate meaningful discussions. The questions in this resource should be considered in the context of broader licensing and agency efforts to address equity issues.

The questions are organized in eight sections. The first set focuses on questions for licensing leaders (for example, administrators and managers). The second set of questions focus on those for licensing staff. The next several sets of questions are organized by topic because they are not clearly associated with a particular role within the ECE licensing unit.

- Licensing Leadership
- Licensing Staff
- Communication
- Provider and Family Voices
- Data and Evaluation
- Regulations
- Prelicensure and Initial Support for Providers
- Provider Training and Technical Assistance

Licensing Leadership

- Define equity—what do you mean?

  - Which underserved communities are most prominent in your state or territory and may need to be prioritized in your work (for example, providers in rural communities, African American providers, providers who speak Spanish, or providers who earn less than 200 percent of the federal poverty level and are individuals of color)?

  - What does it mean for the licensing unit to promote equitable licensing policies and practices? How is equity addressed in the unit's vision or strategic plan?

- Are there licensing staff from the same race, ethnicity, and culture as the ECE providers and directors? If not, how could the licensing unit recruit and hire a more inclusive team?

- Are there licensing staff who speak the same languages as providers and directors? If not, what changes could help address this?

- Are there resources available to support communication among licensing staff and providers who do not speak the same language (for example, a translator or written materials in multiple languages)?

> ### What is *equity*?
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> The White House's 2021 *Executive Order on Advancing Racial Equity and Support for Underserved Communities through the Federal Government* defines equity as the following: "the consistent and systematic fair, just, and impartial treatment of all individuals, including individuals who belong to underserved communities that have been denied such treatment, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color; members of religious minorities; lesbian, gay, bisexual, transgender, and queer (LBGTQ+) persons; persons with disabilities; persons who live in rural areas; and persons otherwise adversely affected by persistent poverty or inequality." (para. 4)[1]

Training and Support for Licensing Staff

♦ Has the licensing agency provided staff with training and supports to understand culturally responsive practices and how culture might influence the implementation of licensing regulations?

♦ How does the licensing unit provide opportunities for licensing staff to reflect and discuss inequities, implicit bias, and their work to address equity within licensing as well as the broader ECE system?

♦ How do supervisors help licensing staff consider equity, reflect on their own implicit biases, and continue their professional growth?

♦ To what extent do licensing staff and subgroups of licensing staff (for example, newly hired, staff of color, and those working remotely) perceive the licensing unit's training and support as helpful?

♦ How has staff training been adapted based on feedback from licensing staff or providers?

The Decision-making Process

♦ To what extent are providers included when decisions are made about licensing policies and practices? To what extent are families included when decisions are made about licensing policies and practices?

♦ How can the licensing unit more meaningfully include providers and families when making decisions?

♦ When including providers in decisionmaking groups (for example, committees and task forces), does the racial composition of provider stakeholders in these groups match the population of providers? How does the licensing unit ensure representation of providers from priority subgroups?

♦ When including families in decisionmaking groups, does the racial composition of family stakeholders in these groups match the population of families in the state or territory? How does the licensing unit ensure representation of families from priority subgroups?

♦ How do decisionmaking teams consider how decisions will potentially affect different subgroups of providers (for example, those in rural communities, family child care, and those located in communities of color)? How can decisionmakers gather input from various subgroups of providers to learn about possible unintentional, negative consequences of their decisions?

Feedback

♦ Is there a process for documenting feedback and concerns from stakeholders (for example, providers and families)? What policies and practices are in place to ensure that providers and families feel comfortable offering feedback or expressing concerns to the licensing unit?

♦ Is there a process to document how the licensing unit uses the feedback (for example, does it make changes or provide a rationale for why changes were not made)? If so, how are the decisions documented and are they shared publicly?

♦ How does the licensing unit convey how it responds to feedback from providers and families about its work? Do providers and families know whether and how their feedback changed licensing policies or practices?

Licensing Staff

♦ How do licensing staff account for cultural variation when considering provider compliance with licensing regulations? How does licensing guidance help licensing staff consider cultural differences when meeting a regulation (for example, the guidance can explain the reason or intent of the regulation to help licensing staff consider different ways of meeting it)?

♦ How does licensing guidance help licensing staff understand the range of evidence demonstrating implementation of regulations, particularly for regulations like cultural awareness and appropriateness?

♦ For which regulations do providers most frequently request waivers? How do these waiver requests vary across priority subgroups (for example, rural providers and providers in the child care subsidy system)? Is the process for reviewing and approving waiver requests transparent and consistent?

♦ Do patterns of violations (for example, number and severity) differ across priority subgroups of providers? If so, how might licensing staff be contributing to these differences (for example, implicit bias)? How could the licensing unit help all providers have fewer violations?

♦ Do patterns of compliance differ across subgroups of providers? If so, how might the licensing unit be contributing to these differences? How can the licensing unit help all providers comply?

♦ Do patterns of enforcement actions (for example, fines and closures) differ across subgroups of providers? If so, how might the licensing unit be contributing to these differences?

♦ Are enforcement actions similar for providers with similar compliance patterns? Is the relationship similar across priority subgroups of providers? If not, how could the licensing unit be more consistent in tying enforcement actions to compliance across all types of providers?

Communication

♦ Are the licensing unit's key messages (for example, those for regulations and policy changes) available in multiple languages and in multiple formats (for example, on a website and in brochures)?

♦ How does the licensing unit help providers understand licensing regulations? Are there multiple ways for providers to learn about the regulations (for example, via interpretive guidelines and answers to frequently asked questions)? Are there multiple ways for providers to ask questions (for example, by calling a licensing consultant, participating in webinars, or calling a toll-free helpline)?

♦ How does the licensing unit share information about violations with providers? How does licensing help providers interpret the findings?

♦ How does the licensing unit share information about licensing reports with families (for example, via a website, hard copy reports)?

♦ How does the licensing unit help families interpret the information in the licensing reports?

♦ How does the licensing unit use information about providers' and families' communication preferences to inform what and how it shares information?

Provider and Family Voices

♦ How has the licensing unit involved providers, particularly those of color or from other priority subgroups, in creating, reviewing, and revising licensing regulations? What strategies have been successful (for example, having licensing staff attend provider meetings, providing virtual options so providers can offer feedback or

engage in discussions, holding meetings in the evenings or on weekends, offering stipends, or providing child care for providers' own children)?

♦ How is the licensing unit regularly gathering information about provider views of monitoring? To what extent do providers of color or providers of other priority subgroups view licensing monitoring as fair and flexible?

♦ To what extent do providers view licensing enforcement as fair, with attention to the views of provider priority subgroups? How and how often does the licensing unit gather information about provider views?

♦ To what extent do providers (and different subgroups of providers) perceive the training and technical assistance topics to be accessible, relevant, and helpful?

♦ How are providers and families involved in developing key communication messages from the licensing unit?

Data and Evaluation

♦ Are there data in the licensing system about key characteristics (for example, race and ethnicity and language[s] spoken) of licensing staff, directors and owners, providers, or children to help examine issues of equity?

  ▪ If yes, are data disaggregated by key characteristics?

  ▪ If no, how could the licensing unit begin collecting these data about licensing staff, providers, or children?

♦ Does the licensing unit keep track of family complaints about racism in licensed child care? Does the licensing unit keep track of provider complaints about racism in the licensing system?

♦ How does the licensing unit evaluate its efforts to address equity? What data does the licensing unit collect (or have access to)? Does the licensing unit ask providers for their perceptions about licensing (for example, via surveys or interviews)? Does the licensing unit ask families for their perceptions about licensing? How does the licensing unit use data to make improvements?

♦ How do stakeholders inform the licensing unit's evaluation of its efforts to address equity? What changes would providers most like to see? What changes would families most like to see? Has the licensing unit gathered information from priority subgroups of providers and families (for example, those in rural communities and those who do not speak English as their first language)?

♦ When gathering information from providers, how does the licensing unit ensure that priority subgroups of providers are represented in the data collection efforts?

♦ When gathering information from families, how does the licensing unit ensure that priority subgroups of families are represented in the data collection efforts?

Regulations

♦ How do regulations address cultural awareness and appropriateness and promote children's cultural development?

♦ How do licensing staff account for cultural variation when considering provider compliance with licensing regulations? How does licensing guidance help licensing staff consider cultural differences when meeting a regulation (for example, the guidance can explain the reason or intent of the regulation to help licensing staff consider different ways of meeting it)?

♦ Do licensing regulations prohibit harsh discipline practices (for example, expulsion) that may be used more frequently with children of color?[5]

♦ For which regulations do providers most frequently request waivers? How do these waiver requests vary across priority subgroups (for example, rural providers and providers in the child care subsidy system)? Is the process for reviewing and approving waiver requests transparent and consistent?

Prelicensure and Initial Support for Providers

♦ How could the licensing unit support the opening of new licensed centers or family child care homes with directors and owners of under-represented racial and ethnic groups in areas where ECE is needed?

♦ What barriers do providers face when trying to become licensed (for example, costs or local zoning laws)?

♦ For those whom costs are a barrier to becoming or staying licensed, what resources are available to help providers cover the costs of meeting licensing regulations?

♦ How can the licensing unit reduce barriers and provide supports to encourage those from priority subgroups to become licensed?

♦ How can the licensing unit provide supports and reduce barriers to increase the likelihood that newly licensed providers remain licensed?

Provider Training and Technical Assistance

♦ Do different subgroups of providers (for example, rural providers of color and providers primarily serving families with low-income who do not speak English as their first language) have equal access to training and technical assistance opportunities offered by the licensing unit? If not, how could the licensing unit support improved access?

♦ How does the licensing unit deliver training and technical assistance to ensure equitable access among various subgroups of providers (for example, via web-based or in person offerings across regions of the state or territory)?

♦ How are the licensing unit's provider training and technical assistance activities informed by provider needs?

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[5] National Center on Early Childhood Health and Wellness (n.d.). *Understanding and eliminating expulsion in early childhood programs*. U.S. Department of Health and Human Services, Administration for Children and Families, Office of Child Care. https://eclkc.ohs.acf.hhs.gov/publication/understanding-eliminating-expulsion-early-childhood-programs; Gilliam, W. (2010). *Implementing policies to reduce the likelihood of preschool expulsion*. Foundation for Child Development. https://www.fcd-us.org/implementing-policies-to-reduce-the-likelihood-of-preschool-expulsion/

Resources

The following are some related resources. Please note that this list is not exhaustive.

Addressing Equity in ECE

Johnson-Staub, C. (2017). *Equity starts early: Addressing racial inequities in child care and early education* policy. Center for Law and Social Policy. https://www.clasp.org/publications/report/brief/equity-starts-early-addressing-racial-inequities-child-care-and-early

Meek, S., Iruka, I. U., Allen, R., Yazzie, D., Fernandez, V., Catherine, E., McIntosh, K., Gordon, L., Gilliam, W., Hemmeter, M. L., Blevins, D., & Powell, T. (2020). *Fourteen priorities to dismantle systemic racism in early care and education*. Children's Equity Project. https://childandfamilysuccess.asu.edu/cep

National Association for the Education of Young Children. (2019). *Advancing equity in early childhood education position statement*. https://www.naeyc.org/resources/position-statements/equity

Sethi, S., Johnson-Staub, C., & Gallagher Robbins, K. (2020). *An antiracist approach to supporting child care through COVID-19 and beyond*. Center for Law and Social Policy. https://www.clasp.org/publications/report/brief/anti-racist-approach-supporting-child-care-through-covid-19-and-beyond

Using and Reporting Data and Research

Alliance for Early Success. (2021, February 17). *Using and communicating data to advance racial equity in early childhood policy* [Webinar]. https://earlysuccess.org/data-and-racial-equity-in-early-childhood-policy

Parekh, J., Andrews, K., & Peckoo, S. (2019). *Five guiding principles for integrating racial and ethnic equity in research*. Child Trends. https://www.childtrends.org/publications/five-guiding-principles-for-integrating-racial-and-ethnic-equity-in-research

Exploring Broader Equity

The Annie E. Casey Foundation has several resources about racial equity, including the following:

Annie E. Casey Foundation (2015). *Race equity and inclusion action guide. Embracing racial equity: 7 steps to advance and embed race equity and inclusion within your organization*. https://www.aecf.org/resources/race-equity-and-inclusion-action-guide/

Annie E. Casey Foundation. (2006). *Race matters toolkit: User's guide*. https://www.aecf.org/resources/race-matters-toolkit-users-guide/

The National Child Welfare Workforce Institute, which is supported by the Children's Bureau in the Administration for Children and Families, has several resources about racial equity for the child welfare field. Although not specifically about child care licensing, they may be helpful resources to consider. Resources include discussion guides, institutional analysis, and organizational and self-assessment tools. The full set of resources is available on the institute's website at https://ncwwi.org/index.php/resourcemenu/racial-equity.

The National Center on Early Childhood Quality Assurance (ECQA Center) supports state and community leaders and their partners in the planning and implementation of rigorous approaches to quality in all early care and education settings for children from birth through age 12. The ECQA Center is funded by the U.S. Department of Health and Human Services, Administration for Children and Families.

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