

PROMOTING HEALTHY EATING, PHYSICAL ACTIVITY, SCREEN TIME REDUCTION AND BREASTFEEDING SUPPORT IN THE EARLY CARE AND EDUCATION SETTING

Licensing and Administrative Regulations

Issue 1



National Center for Chronic Disease Prevention and Health Promotion
Division of Nutrition, Physical Activity and Obesity



The Centers for Disease Control and Prevention (CDC) supports embedding obesity prevention best practices into state and community early care and education (ECE) systems.

CDC's framework for obesity prevention in the ECE setting, the Spectrum of Opportunities (see Figure below), illustrates several avenues through which states, and to some extent communities, can support ECE facilities to achieve recommended obesity prevention standards and best practices. Each opportunity represents a unique avenue for changing the ECE environment to improve nutrition, breastfeeding support, and physical activity and to reduce screen time in ECE facilities. Not all opportunities need to be pursued to achieve impact; however, pursuing multiple opportunities as part of a coordinated approach may be most effective. One way to encourage obesity prevention best practices in the ECE setting is through the use of licensing and administrative regulations.

IN THIS ISSUE...

Read about how licensing and administrative regulations can be used to support obesity prevention in the ECE setting.



SPECTRUM OF OPPORTUNITIES FOR OBESITY PREVENTION IN THE EARLY CARE AND EDUCATION SETTING



The Basics

Licensing is defined as permission from the state to operate an ECE facility.¹ ECE programs and providers that are not legally exempt from licensing are required by law to meet state-specific minimum standards of care. In the United States, regulation of ECE facilities, including licensing, is the responsibility of the individual state, territory, or district; and each has an agency responsible for regulation oversight and enforcement.² Regulations and enforcement standards vary considerably by state and, in some cases, may be legislated. Some municipalities, unless preempted by their state, have the authority to regulate ECE facilities within their jurisdiction and can pass more stringent standards.

What Obesity Prevention Standards are Recommended for Licensing Regulations?

National evidence-based guidance for licensing regulations has been available since 1992 in the form of *Caring for Our Children: National Health and Safety Performance Standards: Guidelines for Out-of-Home Child Care Programs (CFOC)*.³ The third edition of CFOC (2011) contains the first standards specific to obesity prevention. These 49 standards, which include more than 250 components, are also published as a stand-alone document.⁴

Sample CFOC Obesity Prevention Components

- Provide 90–120 minutes of moderate to vigorous physical activity per 8-hour day for preschoolers; 60–90 minutes of moderate to vigorous physical activity for toddlers; outdoors when possible; and at least 30 minutes of teacher-led activity.
- Limit screen time to half an hour per week of educational or physical activity programming for children 2 years or older; no screen time for children younger than 2 years.
- Have water accessible and available throughout the day.
- Limit juice to one 4- to 6-oz serving of 100% juice per day (1- to 6-year-olds).
- Provide 1% or lower-fat milk for children 2 years and older.
- Provide nutrition guidelines to parents for food brought into facilities from other sources.
- Provide support for breastfeeding mothers.

How well are Obesity Prevention Standards Incorporated into State Regulations?

A comprehensive assessment of how well any state incorporates all 250+ CFOC obesity prevention standard components has yet to be performed. However, since 2010, an annual national assessment⁵ has been completed to determine how well each state's licensing regulations include 47 “high-impact” CFOC obesity prevention standard components. Results indicate that most of these 47 components are either absent or insufficiently captured within regulations. In some cases, what is written contradicts a standard component. For the most recent national assessment data please consult the National Resource Center for Health and Safety in Child Care and Early Education's Achieving a State of Healthy Weight Report (<http://nrckids.org/index.cfm/products/achieving-a-state-of-healthy-weight1/>), which tracks state child care regulations on the 47 “high impact” obesity prevention standard components.

Key Considerations and Assessment Questions

To help determine how licensing and administrative regulations may be used for obesity prevention efforts in your jurisdiction, review the key considerations and assessment questions provided below.

Key Considerations

- States differ in the types of facilities they regulate (e.g. large and small family child care homes, large and small child care centers, and infant-only centers) and often have different sets of regulations for each facility type. Some types of legally operating facilities, such as those affiliated with religious organizations, may be exempt from regulations.
- States differ on the process for changing regulations. A governing body empowered by the state ECE licensing agency may be responsible, or changes may have to be made through the state legislature. Some states allow changes through either mechanism. Many states require a public comment period. Having stakeholder support before this stage is especially important to prevent the delay or halting of progress.
- The licensing and regulatory efforts of other states and communities, whether successful or not, may provide informative guidance and lessons learned. For examples, visit www.eceobesityprevention.org

- Consider timing. ECE program and policy changes may occur on a regular schedule and may narrow the window of opportunity for change. For example, your state may evaluate their licensing and administrative regulations every 10 years. If you have missed this window, you may be more successful targeting voluntary standards or Quality Rating and Improvement Systems (QRIS), both of which would help lay the groundwork for future regulatory changes.
- The ECE community's perspective on proposed regulation changes is critical. The change process should not be undertaken without their participation and support.
- Understanding the level of support of key decision makers such as politicians and ECE regulators is important when considering new regulations.
- Members of the ECE community must have the training and resources they need to implement new standards. Conducting surveys or focus groups with a variety of members from the ECE community (e.g., family-home providers, center directors, teachers, and health consultants) can help determine the type and amount of support and resources needed and identify how these needs can be reasonably met.
- Physical inspections of ECE facilities are conducted by trained professionals who critically observe and evaluate facilities for adherence to regulations. Consider the resources required to assess compliance of new regulations, as well as the frequency of inspections.
- Military ECE facilities in your state are regulated by the Department of Defense. To review policies and regulations from the Department of Defense and to see a list of military ECE facilities in your state, visit www.militaryhomefront.dod.mil
- Some states preempt local jurisdictions from mandating stricter standards. The Public Health Law Center—a nonprofit organization of law and policy specialists—has conducted a 50-state review of statutes, regulations, and court cases relating to this preemption issue. The results of this analysis are available on the Center's website at www.publichealthlawcenter.org/resources/healthy-child-care-local-authority/

Sample Assessment Questions for States and Communities

- What types of ECE facilities are regulated and do regulations vary by type?
- How many children participate in the different types of licensed care?
- What is the process for changing licensing and administrative regulations? If there is more than one process, what are the pros and cons of each?
- When were the regulations last updated?
- How well do current regulations align with CFOC national standards for obesity prevention in the ECE setting?
- How would proposed regulation changes be viewed by the ECE community?
- Might certain regulation changes be more acceptable given current provider practices? Are data on provider practices available?
- Are there reasons to target regulatory change to all types of facilities or just some?
- What resources are needed to support ECE providers to successfully implement new regulations?



What are States and Communities Doing?

Increasingly, states and localities are pursuing this opportunity to help ensure that minimum standards for obesity prevention are required in most ECE facilities.⁶ For example:

- In 2007, New York City implemented regulations for licensed group day care centers, including a) requiring 60 minutes of physical activity time per day; b) limiting viewing of television, videos, and other visual recordings to no more than 60 minutes per day of educational programs or programs that actively engage child movement; and c) strengthening requirements that food supplied to children be wholesome, of good quality, and properly prepared in accordance with nutritional guidelines. In 2015, these regulations were amended to increase the age at which children could be offered juice from 8 months of age to 2 years of age; to lower the amount of 100% juice served from 6 ounces to 4 ounces per day; to reduce the amount of screen time for children 2 years of age and older from 60 minutes per day to no more than 30 minutes per week; and to reduce the amount of sedentary time from 60 minutes to 30 minutes continuously, except during scheduled rest or nap times.
- In 2009, Chicago passed a resolution that recommended specific nutrition, physical activity, and screen time standards, which included the prohibition of beverages with added sweeteners; age and portion restrictions for 100% juice; age-specific time requirements for physical activity and restrictions on sedentary time; and restrictions for television viewing. In 2011, an amendment to the resolution was made adding the recommendation that low-fat or nonfat milk be served to children ages two and older.
- In January 2010, the Arizona Department of Health Services adopted the Empower program, a voluntary program in which licensed ECE facilities in the state could enroll and receive a 50% reduction in licensure fees by adopting 10 Empower policies and standards that support healthy eating, active living, and tobacco prevention. Based on the success of Empower, in October 2010, the Arizona Department of Health Services implemented mandatory rules and regulations for licensed ECE

centers, including structured physical activity, screen time limitations, exclusion of sugar-sweetened beverages, family-style meals, and breastfeeding accommodations.

- In August 2010, California passed legislation establishing healthy beverage standards for all licensed ECE facilities that required providing low-fat and nonfat milk for children 2 years and older, limiting portion sizes of 100% fruit juice to one serving per day, serving no beverages with added sweeteners and making water readily available throughout the day.
- In September 2014, the Broward County Commission (FL) passed a law strengthening child care regulations. The legislation included a number of new requirements for ECE providers to follow including: providing at least 40 minutes of physical activity for every three and a half hours in care for children ages 1 to kindergarten enrollment, excluding nap/quiet time; restricting screen time for children under 2 years of age and limiting screen time to 2 hours per day for educational or physical activity only for children 2 and older; and not serving whole milk to children 2 and older.

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Community Story: Boise, Idaho

In October 2014, the City of Boise passed an ordinance which enacted the Healthy Child Care Initiatives Plan making it the first city in the state of Idaho to do so. The ordinance affects about 300 child care providers in the city. Through the new ordinance, the city will monitor and disclose to the public each child care facility's compliance to a set of voluntary standards for physical activity, screen time, nutrition menus, and infant feeding standards, which align with the goals of *Let's Move!* Child Care. Specifically, the ordinance requires that: children ages one and older should receive a minimum of 20 minutes of physical activity every three hours between the hours of 7am to 7pm; children (age 1-5) should have a limit of one hour per day or up to five hours in a calendar week of screen time with television, computers and cell phones; and the inclusion of a private, designated location for breastfeeding at the child care facility, as well as additional breastfeeding support practices.

To aid in their understanding of and compliance with the new voluntary standards child care facilities in the city, with the exception of those accredited by the National Association for the Education of Young Children; the National Association for Family Child Care; or accredited Montessori Schools as defined in the ordinance, are required to complete a free, four-hour Healthy Child Care Initiatives training in order to obtain a license from the city. Although, failure to comply with the new standards will not result in enforcement action, all records of compliance or non-compliance will be made publicly available via the city's child care website. Thus, providing the parents and other stakeholders with information regarding which ECE programs meet the standards as they make decisions about child care.

The ordinance came about in response to the state's low ranking for healthy eating and physical activity regulations in a national report supported by the Robert Wood Johnson Foundation Healthy Eating Research program⁷. Boise city councilman, TJ Thomson, worked with the Central District Health Department and the Idaho Association for the Education of Young Children, to develop guidelines for a new child care licensing program. Prior to the city council vote, a series of hearings were held to provide the public with an opportunity to learn about the proposed ordinance and to give comment.

State Story: Massachusetts

Massachusetts revised the Department of Early Education and Care's (DEEC) Child Care Licensing Standards by including a requirement that all children in licensed child care programs receive 60 minutes of physical activity a day in all full-day child care programs and 30 minutes a day in half-day programs. Effective in January 2010, the revised regulation applies to all types of facilities (e.g., family child care, center-based, and after school). The physical activity regulation affected the more than 2,500 licensed child care centers in the state and was part of a larger set of new regulations that included revised standards on child tooth-brushing and EEC provider training.

Implementation of Massachusetts Licensing Standards

Although they were aware of the regulation, many child care providers responding to a state survey noted that they did not have the time or resources to do anything about it on their own. The MA Department of Public Health (DPH) teamed up with members of the Departments of Early Education and Care and Elementary and Secondary Education to create Massachusetts Children at Play (MCAP), a free policy development training program to help child care providers meet the requirement.

MCAP recruited and trained early education specialists as consultants, referred to as MCAP Mentors, to help child care providers incorporate active movement and healthy food and beverage options into child care settings. As one mentor put it, "The main barrier at the centers was a lack of knowledge, so as soon as I explained how they could easily make small changes, they were excited to do so." During the first two years of implementing MCAP, program partners were able to make enhancements along the way, always asking: "What's working? What could we do better?" The evaluation helped the workgroup pinpoint several areas in need of tweaking that would have otherwise gone unnoticed. Almost all MCAP child care providers and centers have made significant changes in their settings, including:

- reaching the 60-minute physical activity requirement,
- providing healthy foods and snacks, like fruits, vegetables and whole grains,

- providing water instead of sugary drinks for all children and low-fat or skim milk instead of whole milk for children age 2 and older and,
- spending more time being active and less time in front of the TV or computer

A MCAP Toolkit has been developed which incorporates Head Start’s I Am Moving, I Am Learning program and North Carolina’s Nutrition and Physical Activity Self-Assessment for Child Care (NAP SACC). Trained MCAP Mentors use these and other tools to help child care centers develop practices to support healthy eating and create opportunities for increased physical activity to meet the new state regulation. To date staff in over 270 child care centers and family child care providers have been trained to implement components of MCAP. In addition to this, MCAP trainings have been held for Massachusetts Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) program staff. In 2013 the Massachusetts Nutrition, Physical Activity and Obesity (NPAO) Program continued to work with Early Childhood Services through their DEEC “Race to the Top Early Learning Challenge” grant and the Mass in Motion – Kids initiative (one of three Childhood Obesity Research Demonstration projects funded by CDC) to expand training and establish a professional learning community for child care providers across the state.

Lessons Learned

- The Massachusetts DPH and the DEEC spent nearly two years carefully laying the groundwork and securing stakeholder buy-in for the regulatory changes. This process was critical to facilitate the acceptance of the proposed regulations.
- After draft regulations were approved by DEEC’s Board of Directors, DEEC delayed implementation of the regulations to ensure that the necessary information and resources were available to the EEC community to maximize compliance. Although other states have implemented new regulations in shorter periods of time, it was important to consider the substantial investment of time required for the regulatory change in Massachusetts.
- The meaning of the word “policy” should be better explained to child care providers as a practice or as just an agreed-upon way of doing things in the center.

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