

REGULATION OF CHILD CARE PROVIDERS

LOUISIANA DEPARTMENT OF EDUCATION



PERFORMANCE AUDIT SERVICES
ISSUED OCTOBER 10, 2018

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LOUISIANA LEGISLATIVE AUDITOR
DARYL G. PURPERA, CPA, CFE

October 10, 2018

The Honorable John A. Alario, Jr.,
President of the Senate
The Honorable Taylor F. Barras
Speaker of the House of Representatives

Dear Senator Alario and Representative Barras:

This report provides the results of our evaluation of the Louisiana Department of Education's (LDE) regulation of child care providers. Act 868 of the 2014 Regular Session transferred the regulation of child care providers from the Department of Children and Family Services to LDE on October 1, 2014.

The report contains our findings, conclusions, and recommendations. I hope this report will benefit you in your legislative decision-making process.

We would like to express our appreciation to the management and staff of LDE and other stakeholders we interviewed for their assistance during this audit.

Sincerely,

Daryl G. Purpera, CPA, CFE
Legislative Auditor

DGP/aa

LDE REGULATION OF CHILD CARE PROVIDERS

Louisiana Legislative Auditor

Daryl G. Purpera, CPA, CFE



Regulation of Child Care Providers Louisiana Department of Education

October 2018

Audit Control # 40170010

Introduction

We evaluated the Department of Education's (LDE) regulation of Louisiana's child care providers.¹ This function was transferred to LDE in October of 2014. We conducted this audit because effective regulation of child care providers is important to ensure the overall safety and well-being of children in Louisiana. In addition, a 2013 Child Care Aware of America report² ranked Louisiana 49th in the nation for child care regulation and oversight. An August 2014 audit by the Department of Health and Human Services' Office of Inspector General³ also found that DCFS's oversight of family and in-home providers did not ensure that providers complied with regulations because the state was not conducting unannounced inspections of these providers.

As a result of Act 868 of the 2014 regular session, the licensing authority over child care providers in the state was transferred from the Department of Children and Family Services (DCFS) to LDE on October 1, 2014.

LDE oversees the safety and well-being of children in child care through a variety of regulatory activities, including:

- **Developing Licensing Standards** – LDE works with the Board of Elementary and Secondary Education (BESE) to develop standards, such as child-to-staff ratios, supervision requirements, background check requirements, and incident reporting requirements. LDE then ensures compliance with licensing standards prior to issuing a license.
- **Conducting Inspections** – LDE inspects child care providers annually to follow up on deficiencies, or due to an incident.
- **Investigating Complaints** – LDE investigates complaints against providers, including allegations that providers are operating without a license.
- **Issuing Enforcement Actions** – LDE may issue sanctions, such as corrective action plans and license revocations, to providers who have deficiencies.

¹ DCFS regulates specialized providers, such as a child-placing agency, maternity home, or residential group home.

² http://usa.childcareaware.org/wp-content/uploads/2015/10/wecandobetter_2013_final_april_11_0.pdf

³ <https://oig.hhs.gov/oas/reports/region6/61300037.pdf>

LDE regulates three types of child care providers.⁴ During calendar year 2017, there were a total of 1,780 child care providers with the capacity for 44,656 children; 44,032 (98.6%) of the capacity was for licensed providers, and the remaining 624 (1.4%) was for certified family and in-home providers. Family and in-home providers are regulated (certified) by LDE only if they receive Childcare Assistance Program (CCAP) funds.⁵ Exhibit 1 describes the different provider types, and includes the number of child care providers and their capacity by provider type for calendar year 2017.

| Exhibit 1: Child Care Provider Statistics Calendar Year Ending 2017 | | | |
|---|---|-----------------------------|-------------------------|
| Provider Type | Provider Description | Number of Providers* | Total Capacity** |
| Licensed | Early learning center ⁶ that provides care for seven or more children daily, not including children related to the caregiver, unaccompanied by parent or legal custodian, on a regular basis for at least 12.5 hours in a continuous seven-day week. | 1,454 | 44,032 |
| Family | One individual who provides care for fewer than 24 hours per day per child, as the sole caregiver, for six or fewer children, in a private residence. Family providers receiving CCAP funds must be certified by LDE. | 313 | 602 |
| In-home | An individual who provides child care services in the child or children's home, such as a nanny. In-home providers receiving CCAP funds must be certified by LDE. | 13 | 22 |
| Total | | 1,780 | 44,656 |
| *Number of open providers as of August 2017. | | | |
| **The capacity of children is based on numbers submitted by LDE in "Statistics for Child Care Providers – Calendar Year Ending 2017." | | | |
| Source: Prepared by legislative auditor's staff using data from LDE. | | | |

Since the child care regulatory function was transferred to LDE in October 2014, the department has made some improvements to child care in Louisiana. For example, LDE has implemented requirements for comprehensive, fingerprint-based background checks, increased training requirements for child care providers and staff, limited the amount of screen time (e.g. television, video games) for children, and prohibited the use of corporal punishment. In addition, LDE requires licensing specialists to have a bachelor's degree in early childhood education or a related field.

The objective of this performance audit was:

To evaluate LDE's regulation of child care providers.

The issues we identified are summarized on the following page and discussed in detail throughout the remainder of the report. Appendix A contains LDE's response to this report, and Appendix B details our scope and methodology.

⁴ LDE refers to child care providers as early learning centers and categorizes them as Types 1, 2, or 3; however, for this report we will refer to them generally as child care providers.

⁵ CCAP funds are federal subsidies paid to providers on behalf of children who meet certain income requirements.

⁶ Any child day care center, early head start center, head start center, or stand-alone prekindergarten program that is not attached to a school. Early learning centers operated by a recognized religious organization that is tax-exempt are exempt from licensure.

Objective: To evaluate LDE's regulation of child care providers

We found that LDE conducted most of its required annual inspections of licensed providers. However, the department needs to strengthen its regulatory processes in the following areas:

- **Louisiana child care licensing standards do not meet all national best practices related to child-to-staff ratios, group sizes, and oversight of family and in-home providers.** For example, Louisiana is one of only eight states that allows family and in-home providers to care for more than six children without requiring a license.
- **During fiscal year 2016 through fiscal year 2017, LDE conducted annual inspections on 91.6% (1,145 of 1,250) of licensed providers within 365 days, as required by state law.** However, the department needs to strengthen its inspection process for family and in-home providers.
- **LDE does not have an effective process to collect, investigate, and monitor complaints on licensed child care providers, and family and in-home providers.** LDE does not centrally track complaints and does not consistently document whether complaints were substantiated. In addition, from fiscal year 2016 to fiscal year 2017, LDE did not investigate 251 (31.8%) of 789 complaints on licensed providers in accordance with its current priority timeframes.
- **LDE did not effectively investigate complaints on unlicensed providers that may be operating illegally and did not issue required fines when it found that providers were operating without a license.** During fiscal years 2016 through 2017, LDE did not investigate 38 (52.8%) of 72 complaints on 69 unlicensed providers in a timely manner, and in 16 (22.2%) of 72 cases, LDE did not complete all investigation procedures, such as issuing a Cease and Desist letter or conducting follow-up visits.
- **LDE did not always issue enforcement actions to address deficiencies in accordance with state law.** We found that 1,702 (99.1%) of the 1,718 inspections during fiscal year 2016 and fiscal year 2017 that identified at least one deficiency requiring a corrective action plan did not have a formal corrective action plan issued after the inspection, as required by law.
- **LDE does not have criteria regarding when to conduct follow-up inspections to verify that deficiencies identified during complaint investigations or inspections have been corrected.** We found that 40 (21.6%) of 185 inspections that cited child-to-staff ratio or supervision deficiencies during fiscal years 2016 through 2017 did not have a follow-up inspection, and providers with the same deficiencies had follow-up inspections, while others did not.

- **LDE did not ensure that its child care provider website contained all information required by law.** Incomplete information on inspections and deficiencies prevents parents from making informed decisions when selecting child care providers.

These findings, along with recommendations to help LDE strengthen its regulation of child care providers, are explained in more detail on the following pages.

Louisiana child care licensing standards do not meet all national best practices related to child-to-staff ratios, group sizes, and oversight of family and in-home providers. For example, Louisiana is one of only eight states⁷ that allows family providers to care for more than six children without requiring a license.

Since the regulation of child care providers was moved to LDE, the department has begun providing training and support for providers by increasing the number of consultants that work with providers and offering training modules on the department website. However, LDE still needs to improve its child care standards in other areas to meet national best practices. While there are no federal regulations that dictate state licensing standards, the Department of Health and Human Services' Administration for Children and Families (ACF) has guidance intended to create a common framework to align basic health and safety efforts across all early childhood settings. In addition, various entities have established best practices that states can adopt.

Both Louisiana's child-to-staff ratios and group sizes are larger than what national best practices recommend. Louisiana is one of only 13 states that do not require the recommended child-to-staff ratios for any age, and Louisiana is one of only four states that allows a 1:11 or above ratio for two-year-olds. Research⁸ indicates that low child-to-staff ratios, meaning more staff per child, lead to children having positive interactions with providers because children are safer and form stronger emotional bonds with caregivers. Twenty-two states require National Association for the Education of Young Children (NAEYC) group size standards for at least one age group. Exhibit 2 compares the child-to-staff ratios and group sizes allowed in Louisiana to national NAEYC best practices.

⁷ According to the 2012 ranking of states by the National Association of Child Care Resources & Referral Agencies (NACCRRRA), the eight states are Idaho, Indiana, Louisiana, Mississippi, New Jersey, Ohio, South Dakota, and Virginia.

⁸ "We Can Do Better: Child Care Aware of America's Ranking State Child Care Center Regulations and Oversight," 2013 Update

| Exhibit 2 Recommended vs. Louisiana Child-to-Staff Ratios and Group Sizes | | | | |
|---|--------------------|------------------|------------------------|-----------------------|
| Age Group | Recommended Ratios | Louisiana Ratios | Recommended Group Size | Louisiana Group Size* |
| Birth to 1 year | 1:4 | 1:5 | 6-8 | 15 |
| 1 year | 1:4 | 1:7 | 6-8 | 21 |
| 2 years | 1:6 | 1:11 | 8-12 | 22 |
| 3 years | 1:9 | 1:13 | 12-18 | 26 |
| 4 years | 1:10 | 1:15 | 16-20 | 30 |
| *Prior to April 2017, Louisiana did not have any group size standards. Source: Prepared by legislative auditor's staff using NAEYC standards | | | | |

Louisiana does not meet national best practices for oversight of family child care providers. In family child care settings, the National Resource Center for Health and Safety in Child Care (NRC) recommends a maximum number of six children before a provider is required to obtain a license.⁹ This recommendation⁹ includes providers' own children, as well as any other children in the home temporarily requiring supervision. In contrast, Louisiana requires licensure for providers caring for seven or more children in their homes, excluding children related to the provider. As a result, a single person with six children of their own could care for a total of 12 children without any state oversight or monitoring.¹⁰

Licensing child care providers is important because licensing standards establish the minimum requirements necessary to protect the health and safety of children. The actual number of children in the home is important because insufficient supervision affects the safety of the children, as well as the provider's ability to effectively interact with each child. Louisiana is one of only eight states that allows providers to care for over six children without requiring a license. In contrast, Arkansas, Mississippi, and Florida require that child care providers be licensed if they care for six or more children.

Louisiana does not require unannounced inspections of family and in-home providers as recommended by national best practices. National best practices recommend¹¹ that monitoring agencies conduct unannounced inspections of family and in-home providers. In Louisiana, these providers are subject to federal inspection requirements, which mandate only one annual inspection. Unannounced inspections could help prevent providers from covering up violations, especially when there is history of violations, sanctions, or complaints. For example, we compared the addresses of registered sex offenders with addresses of family and in-home providers and found a convicted rapist residing in a home of a family provider.¹² The individual had lived in the home for more than five years and likely was not present during annual inspections because they are announced beforehand. Unannounced inspections could help increase the likelihood that LDE discovers serious violations. LDE has since terminated the

⁹ National Resource Center for Health and Safety in Child Care (NRC), *Caring for Our Children: National Health and Safety Performance Standards*

¹⁰ Family providers that are certified CCAP providers can only care for six children or fewer, including those related to the caregiver.

¹¹ Division of the Department of Health and Human Services: Administration for Children and Family (ACF)

¹² We informed LDE of the sex offender living at the family provider's address. LDE removed the provider's ability to participate in CCAP and receive federal funds. The facility is no longer a child care provider.

provider's access to federal funding and has an ongoing system in place to ensure that new providers applying for certification do not provide care in residences of registered sex offenders.

Recommendation 1: LDE should ensure requirements for child-to-staff ratios and group sizes to comply with national best practices.

Summary of Management's Response: LDE agrees with this recommendation and states that it has worked diligently to bring the licensing regulations closer to national best practices. For example, in 2018 a Licensing Task Force, established to review licensing regulations, recommended that child-to-staff ratios for Type II and III centers be aligned with Type I centers. This recommendation will become effective in November 2018 with a timeframe for compliance for Type I centers. See Appendix A for management's full response.



Recommendation 2: LDE should conduct unannounced inspections of family and in-home providers, as recommended by national best practices.

Summary of Management's Response: LDE agrees with this recommendation and states that effective July 1, 2018, it instituted new tracking procedures to ensure that each family and in-home provider receiving CCAP funds receives one announced and one unannounced inspection per year. See Appendix A for management's full response.

Matter for Legislative Consideration: The legislature may wish to consider revising Louisiana Revised Statute (La. R.S.) 407.33 so that children related to a provider are included for licensure determination.

During fiscal years 2016 through 2017, LDE conducted annual inspections on 91.6% (1,145 of 1,250) of licensed providers within 365 days, as required by state law; however, it needs to strengthen its inspection process for family and in-home providers.

The purpose of annual inspections is to ensure that child care providers are meeting child care standards set by federal law, state law, and state regulations. Licensing specialists use a checklist during their inspections and cite providers for deficiencies when providers do not meet standards. La. R.S. 17:407.43 requires LDE to inspect licensed child care providers at regular intervals not to exceed one year. We found that during fiscal years 2016 through 2017, LDE conducted annual inspections on 1,145 (91.6%) of 1,250¹³ licensed providers within 365 days, as required by state law. The licensed providers that we identified with inspections exceeding one year often had annual inspections conducted early, which resulted in the next annual inspection exceeding 365 days. Of the 105 inspections that exceeded 365 days, 93 (88.6%) exceeded a year by less than two months, 11 (10.5%) exceeded a year by two to six months, and

¹³ We tested licensed child care providers that were open the entire two years of our scope.

one (<1%) exceeded a year by more than six months. While these late inspections did not specifically meet state law, allowing specialists to inspect providers up to three months early decreases the predictability of inspections.

LDE needs to strengthen its process of inspecting family and in-home providers. Federal law¹⁴ requires LDE to annually inspect family and in-home providers who receive CCAP funds.¹⁵ It is important that LDE have an effective process to inspect these providers because they receive federal funding. In addition, a 2014 audit by the Department of Health and Human Services' Office of Inspector General found that family and in-home providers did not always comply with state and federal requirements. LDE used a contractor to conduct these inspections in fiscal year 2016 but did not maintain any data on these inspections. According to LDE, contracting out inspections was not effective, so it began conducting its own inspections in fiscal year 2017. However, we identified 14 (7.3%) of 193 family and in-home providers who received \$167,870 in CCAP funds but did not have any inspections in fiscal year 2017. According to LDE staff, this occurred because employees were cancelling inspection requests in the system in order to remove duplicate entries; however, due to system errors, it also removed providers that still required an inspection.

Recommendation 3: LDE should ensure that it conducts required inspections of family and in-home providers.

Summary of Management's Response: LDE agrees with this recommendation and states that effective July 1, 2018, it instituted new tracking procedures to ensure that each family and in-home provider receiving CCAP funds receives one announced and one unannounced inspection per year. See Appendix A for management's full response.

Recommendation 4: LDE should develop policies and procedures regarding if and when employees can cancel inspection requests.

Summary of Management's Response: LDE agrees with this recommendation and states that it has since refined its procedures for duplicate entries. See Appendix A for management's full response.

¹⁴ 45 CFR Part 98

¹⁵ Family and in-home providers that do not receive CCAP funds are not required to be licensed or certified; therefore, the state does not require LDE to regulate them.

LDE does not have an effective process to collect, investigate, and monitor complaints on licensed child care providers, and family and in-home providers. LDE does not centrally track complaints, does not consistently document whether complaints were substantiated, and does not always investigate complaints timely.

According to the National State Auditors Association (NSAA¹⁶), complaints are an important source of information for determining whether entities are operating in compliance with standards. NSAA recommends that regulatory agencies have a systematic process for handling complaints. This process should include setting guidelines for which complaints need action, and the timeframes in which they should be handled. In addition, the NSAA states that agencies should track and oversee complaints to ensure they are being addressed appropriately and that none fall through the cracks.

LDE does not use a centralized system to track and monitor complaints. LDE receives complaints regarding child care providers from several sources, including a hot line, email, and referrals from other agencies. Instead of centrally tracking these complaints, the department tracks certain complaint details, such as the specific steps taken in the investigation process in its data system, BLAS, and uses three separate Excel spreadsheets to track complaints on licensed providers, unlicensed providers, and family and in-home providers. According to LDE, it uses these spreadsheets because BLAS is not user-friendly and does not create reliable reports to help the department oversee and monitor complaints. It is important to centrally track complaints so that management can effectively monitor the process and ensure that complaints are addressed in a timely manner. According to LDE, it is developing a new data system that should address these issues and is scheduled to be implemented in the summer of 2019.

LDE does not consistently document whether complaints were substantiated. Federal law requires states to maintain a record of substantiated parent complaints for facilities that receive CCAP assistance, and best practices¹⁷ recommend this for all child care facilities. We found that the department does not consistently document its overall determination of whether a complaint was substantiated in BLAS or in the monitoring spreadsheet. According to BLAS data, 8.2% of complaints were substantiated during fiscal years 2016 through 2017; however, according to LDE's monitoring spreadsheet, 19% of complaints were substantiated during this same timeframe. In addition, we found that the finding code in 1,145 (55.2%) of 2,072 complaints in BLAS and 76 (3.6%) of 2,095 complaints in the monitoring spreadsheet were blank. As a result, the department is unable to reliably determine how many complaints were substantiated.

LDE's timeframes for investigating complaints are longer than what best practices recommend. However, in practice, LDE's timeframes for investigating complaints are even longer, because it does not follow its own procedures. In January 2016, LDE began assigning each complaint a priority level to ensure that complaints are investigated timely based on risk

¹⁶ "Carrying Out a State Regulatory Program," 2004

¹⁷ "Best Practices for Human Care Regulation," NARA and U.S. Office of Child Care, 2017

level. The National Association for Regulatory Administration (NARA) recommends that agencies have written guidelines regarding complaints that include timeframes, ranging from immediately to five days, for conducting inspections based the severity of the complaint. LDE procedure requires priority 1 complaints to be investigated within five calendar days, priority 2 complaints to be investigated within 10 calendar days, and priority 3 complaints to be investigated within 30 calendar days. However, in practice, licensing specialists calculate priority timeframe requirements based on business days, not calendar days as outlined in department procedures,¹⁸ which only extends the amount of time agency staff investigate complaints.

From fiscal year 2016 through fiscal year 2017,¹⁹ LDE did not investigate 251 (31.8%) of 789 of complaints on licensed providers in accordance with its current priority timeframes. Once LDE receives a complaint and reviews it to determine risk level, the complaint is assigned to a licensing specialist who conducts an on-site visit of the provider to investigate the complaint within the required number of days based on the complaint’s priority level. We analyzed complaints on licensed providers and found that for both priority 1 and 2 complaints, LDE did not investigate 226 (39.6%) of 571 complaints within the required timeframe. For priority 3 complaints, LDE didn’t investigate 25 (11.5%) of 218 complaints within the required timeframe. Exhibit 3 shows examples of complaints by priority level and the timeliness of complaint inspections for licensed providers based on priority level for fiscal years 2016 through 2017.

Exhibit 3
Timeliness of Complaints on Licensed Providers by Priority Levels
Fiscal Years 2016 through 2017*

| Priority Level | Example | Number of Complaints | Not Inspected Timely | Percent Not Inspected Timely |
|-------------------------|---|----------------------|----------------------|------------------------------|
| Priority 1 (5 days) | Death, severed finger or limbs, broken bones, medical attention, children being found by others inside or outside the center, children left in van, children left unsupervised in heat for any amount of time, and teacher yelling, hitting, or being rough with children and still employed. | 100 | 39 | 39.0% |
| Priority 2 (10 days) | Child having bruises and no one knows what happened, children left unsupervised for 2-5 minutes, children being forced to clean toileting accidents, and teacher yelling, hitting, or being rough with children and terminated. | 471 | 187 | 39.7% |
| Priority 3 (30 days) | Children being left unsupervised for a minute or less, child-to-staff ratio, underage employee, children on the floor to eat, staff sleep at nap time, center dirty, center hot or cold, verification of operation for unlicensed centers. | 218 | 25 | 11.5% |
| Total | | 789 | 251 | 31.8% |

*LDE began prioritizing complaints in January 2016. Our analysis only includes complaints that had a priority assigned.
Source: Prepared by legislative auditor’s staff using data from LDE.

¹⁸ LDE refers to internal policy as procedures because it refers to Bulletin 137 as policy. Therefore, we will refer to internal policies as procedures in this report.

¹⁹ LDE began prioritizing complaints in January 2016. Our analysis only includes complaints that had a priority assigned.

From July 2016 through February 2017, LDE did not have a formal process to investigate complaints on family and in-home and family providers. As a result, it did not track, assign a priority level, or investigate complaints on these providers. According to LDE, it only received five complaints during this timeframe. Of these complaints, only one received a timely inspection because Provider Certification, the section responsible for complaints against in-home and family providers, did not implement a formal process for this function until March 2017. According to LDE, in March 2017, Provider Certification created formal procedures, started documenting and tracking complaints in a spreadsheet, and began inspecting all complaints. Exhibit 4 summarizes the only five complaints on family and in-home providers received in fiscal years 2016 and 2017.

| Exhibit 4 In-home and Family Provider Complaints Fiscal Years 2016 through 2017 | | | | | |
|--|-------------------------|---|-------------------------|------------------------------------|-------------------------------|
| Number | Type of Provider | Description of Complaint | Priority Ranking | Date Complaint was Received | Date of Inspection |
| 1 | Family | An older sibling of a 10-month-old reported that the provider was picking up and holding the baby by the neck. The parent took the baby to the doctor, who informed them that the baby was having seizures. | Not Ranked | 9/29/2016 | None Conducted |
| 2 | Family | Provider unable to care for children and overly rough with them due to advancing dementia/ Alzheimer's. | Not Ranked | 10/24/2016 | None Conducted |
| 3 | Family | Child sustained unexplained bruising on her shoulder, chest, arm, and thigh, and could not pick up her arm. The child was treated at a hospital. | Not Ranked | 2/21/2017 | 2/23/2017 (Annual inspection) |
| 4 | Family | Child left unsupervised in room with an open flame heater. Child sustained second degree burns to his left hand and had to be treated at LSU Burn Center.* | Not Ranked | 2/23/2017 | None Conducted |
| 5 | Family | Child had a near-drowning experience after falling head-first into a 5-gallon bucket of water. CPR was performed at the facility, and the child was treated at a hospital. | 1 | 4/27/2017 | 5/15/2017 (Untimely) |
| *DCFS CPI's investigation of this specific complaint is still ongoing as of August 2018. Source: Prepared by legislative auditor's staff using data provided by LDE complaint files and complaint summaries. | | | | | |

Effective documenting and tracking of complaints on family and in-home providers is important to ensure the safety of children cared for in these settings. For example, one complaint involved an unsupervised child who sustained second degree burns from an open flame heater that had to be treated at a burn center; however, LDE never conducted an inspection of this facility, which could have put other children in danger.²⁰

²⁰ DCFS CPI's investigation of this specific complaint is still ongoing as of August 2018.

Recommendation 5: LDE should ensure that each complaint is investigated within the timeframe for its assigned priority level.

Summary of Management's Response: LDE agrees with this recommendation and states that because the initial timeframes set forth in its priority levels were ambitious, it has updated the timeframes and will ensure that it is following the revised procedure. See Appendix A for management's full response.

Recommendation 6: LDE should follow its policy and investigate complaints using calendar days instead of business days.

Summary of Management's Response: LDE disagrees with this recommendation and states that, as a majority of early learning centers are open only during weekdays, using business days for investigation is more appropriate. LDE has revised its procedure to reflect business days. See Appendix A for management's full response.

LLA Additional Comments: Because using business days may extend the required timeframe for an onsite visit from five to seven days, calendar days are more in line with best practices which recommend up to five days.

Recommendation 7: LDE should ensure that all complaints are documented and tracked, including when the complaint was received, the timeframe for investigating the complaint and outcome of the investigation.

Summary of Management's Response: LDE agrees with this recommendation and states that effective July 11, 2018, it began tracking complaints, the timeframe for investigating the complaint, and the outcomes of the investigation in its Licensing system. Effective July 1, 2018, it began tracking complaints concerning family home and in-home providers in the Claims, Fraud and Referral System. See Appendix A for management's full response.

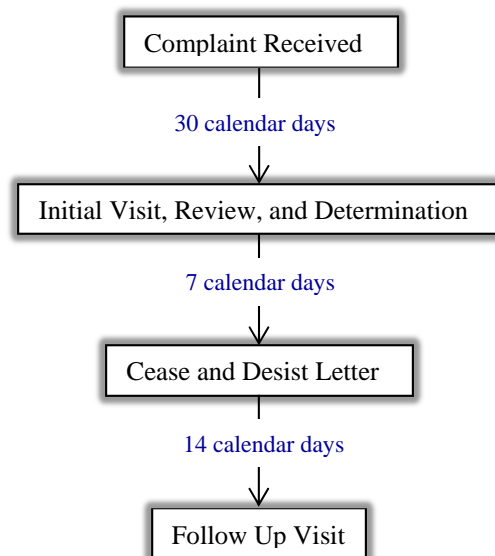
LDE did not effectively investigate complaints on unlicensed providers that may be operating illegally and did not issue required fines when it found providers fine providers operating without a license.

LDE investigates complaints on potentially unlicensed providers to determine whether they are actually providing care for seven or more children and are in violation of the law. If a provider continues to operate after warnings from LDE, they can face criminal penalties such as a fines, prison time, or license ineligibility. Because these providers are unregulated and not inspected, they pose a greater risk of harm to children.

An **unlicensed child care provider** is any place or facility that provides care to six or fewer children that are not related to the provider. Providers caring for seven or more children must be licensed.

When LDE receives a complaint regarding an unlicensed facility, staff must inspect the facility and determine whether they should be licensed. If the facility is operating illegally, LDE issues a Cease and Desist letter to the provider and then conducts a follow-up visit within 14 calendar days to determine if it is still operating illegally. After the follow-up visit, LDE alerts its legal section, who initiates legal proceedings on the provider if they are still operating illegally. Exhibit 5 outlines the unlicensed inspection process and time requirements to complete the initial visit, review/determination, Cease and Desist letter, and follow up visit steps in the investigation according to procedures. This process should take no more than 51 days to complete, according to LDE’s internal procedures.

**Exhibit 5
Inspection Process for Complaints
on Unlicensed Providers**



LDE did not investigate 38 (52.8%) of 72 complaints²¹ on unlicensed providers in a timely manner, and 16 (22.2%) of 72 were not fully investigated from fiscal years 2016 through 2017. We reviewed 72 complaints on unlicensed facilities during fiscal years 2016 through 2017 and found that LDE conducted initial site visits in a timely manner for 64 (88.9%) complaints, and sent Cease and Desist letters in a timely manner for 67 (93.1%) complaints. However, 26 (36.1%) of 72 determinations and 23 (31.9%) of 72 follow up visits were untimely. In addition, 7 (9.7%) of 72 complaints never had a Cease and Desist letter sent²² and 9 (12.5%) of 72 complaints never had a follow-up visit even though records indicate that the complaint was substantiated. Exhibit 6 summarizes the results of our analysis on complaint investigations regarding unlicensed providers.

| Exhibit 6 Investigation Compliance for Targeted Selection of 72 Complaints on Unlicensed Providers Fiscal Years 2016 through 2017 | | | | |
|--|--|-----------------------------|---|-----------------------------|
| Step in Investigation | Investigation Step Completed Untimely | Percent of Selection | Investigation Step Never Completed | Percent of Selection |
| Initial Inspection | 8 | 11.1% | 0 | 0% |
| Final Determination | 26 | 36.1% | 6 | 8.3% |
| Cease and Desist Letter Issued | 5 | 6.9% | 7 | 9.7% |
| Follow Up Inspection | 23 | 31.9% | 9 | 12.5% |
| Source: Prepared by legislative auditor’s staff using data provided by LDE. | | | | |

²¹ We reviewed a targeted selection of 72 of a total of 330 complaints regarding unlicensed providers who were potentially operating illegally. We selected complaints that resulted in a Cease and Desist order, because those providers are high risk for operating illegally. See Appendix B for our methodology.

²² Two of the seven providers signed a Statement of Understanding that they could only care for six or fewer children; however, LDE did not conduct a follow-up visit.

We also found that 15 (20.8%) of 72 of unlicensed complaint investigations were not investigated in accordance with procedures. For two of the complaints, staff had unlicensed facilities sign a Statement of Understanding that said they would change certain policies instead of sending them a Cease and Desist letter and conducting a follow-up visit as required by procedures. For eight other complaints, staff conducted the initial site visit but could not make a determination because the provider would not answer the door. A follow-up visit was never scheduled to make a final determination. For the final five complaints, staff did not follow the correct order of steps in the investigation.

State regulations require that LDE fine providers up to \$1,000 per day and file a suit in district court for knowingly operating without a license; however, LDE did not assess any fines in fiscal years 2016 through 2017. LAC tit. 28, pt. 161, § 305 (Bulletin 137) states that whoever operates any early learning center²³ without a valid license shall be fined by the Licensing Division not less than \$1,000 per day for each day of such offense. It further states that LDE shall file suit for a court order mandating that the provider cease operations. During this time, nine (12.5%) of the 72 complaints we reviewed were substantiated and found to still be operating illegally even after an initial visit, a Cease and Desist letter, and a follow-up visit were conducted. According to procedures, once a center is determined to be still operating illegally after a follow-up visit, staff refer the case to its legal section so it can initiate legal proceedings and either file a Petition for Injunctive Relief, file a Rule for Contempt, or report to the sheriff's office. While LDE did initiate legal proceedings for these nine cases, it did not assess any fines on these centers as required by state regulations.

Recommendation 8: LDE should ensure that all complaints concerning potentially unlicensed providers are investigated timely and in accordance with agency procedures.

Summary of Management's Response: LDE agrees with this recommendation and states that it has revised its procedures. See Appendix A for management's full response.

LDE did not always issue enforcement actions to address deficiencies in accordance with state law. We found that 1,702 (99.1%) of the 1,718 inspections with at least one deficiency requiring a corrective action plan, did not have a formal corrective action plan issued after the inspection.

The NSAA²⁴ states that regulatory agencies should develop a systematic, fair, and progressively stringent enforcement process to ensure that the public is protected. For example, the NSAA recommends that agencies should set graduated sanctions, specify the number and severity of violations that trigger each sanction and timeframes, and follow up as needed to determine whether the problem is corrected. In addition, NARA recommends that states develop procedures and protocols to achieve consistent enforcement.

²³ Early learning center are providers caring for seven or more children, excluding those related to the provider.

²⁴ "Carrying Out a State Regulatory Program," 2004

State law and LDE regulations outline sanctions that LDE can impose when it identifies certain deficiencies, including deficiencies related to child-to-staff ratios and failure to report critical incidents. Specifically,

- La. R.S. 17:407.46 states that for violations related to supervision, criminal history records check, state central registry disclosure, child-to-staff ratios, motor vehicle passenger checks, and failure to report critical incidents, the department may issue a written warning that includes a corrective action plan *in lieu of* revocation if the violation does not pose an imminent threat to the health, safety, rights or welfare of a child. Failure to implement a corrective action plan may result in either the assessment of a civil fine not to exceed \$250 per day up to \$2,000, or license revocation or may result in both actions.
- LAC tit. 28, pt. 161, § 1105 outlines the same requirements as La. R.S. 17:407.46 but states that if the corrective action plan is not timely implemented or if a second violation related to the same standard occurs within a 24 month period and does not result in the revocation or refusal to renew a license, the department must issue a written notice of violation that may include additional corrective action and may include the assessment of a civil fine not to exceed \$250 per day up to \$2,000 as well as the factors to be used in determining the type of sanction imposed.

LDE did not issue formal corrective action plans, as required by the above laws and regulations, for 1,702 (99.1%) of the 1,718 inspections that identified at least one deficiency requiring a corrective action plan²⁵ during fiscal years 2016 through 2017. Issuing enforcement actions, such as formal corrective action plans, are important to help ensure that providers correct deficiencies and continually maintain healthy environments for children. During fiscal years 2016 through 2017, LDE revoked 16 licenses and issued formal written corrective action plans to 38 providers.²⁶ LDE gives providers a statement of deficiencies after an inspection, which includes a cover sheet signed by both the provider and licensing specialist indicating that they discussed each violation and how to correct them. While LDE considers this an informal corrective action plan, the document does not include specific actions providers should take to correct deficiencies or completion dates.

LDE's practice of issuing informal corrective action plans is not always effective. We identified 182 (20.5%) of 886 providers²⁷ who had a repeat deficiency at the next inspection or had three of the same deficiencies in a 24-month period. However, none of these providers received a formal corrective action plan or were issued fines as allowed by state regulations. Requiring formal corrective action plans would help LDE hold providers accountable for correcting deficiencies and help ensure that licensing specialists are providing consistent guidance to providers.

²⁵ As defined in La. R.S. 17:407.46

²⁶ Formal corrective action plans may be issued to providers with repeated non-compliance according to LDE procedures.

²⁷ 886 providers in our scope were cited for deficiencies requiring a corrective action plan as defined in La. R.S. 17:407.46

Recommendation 9: LDE should ensure deficiencies are addressed in accordance with state law and regulations.

Summary of Management’s Response: LDE disagrees with this finding and recommendation and states that, at the completion of a monitoring visit, licensing staff consults with the provider on the cited deficiencies, and corrective action required. The provider is given a list of deficiencies, and the provider signs the document attesting that the provider understands the deficiencies and corrective action required. See Appendix A for management’s full response.

LLA Additional Comments: While licensing staff discuss needed corrective action at the completion of a monitoring visit, written corrective action plans that include specific steps and deadlines for compliance are important for holding providers accountable and ensuring that systemic deficiencies are corrected.

Recommendation 10: LDE should develop more specific corrective action plans for providers with the deficiencies outlined in law that include specific steps providers should take to correct deficiencies.

Summary of Management’s Response: LDE disagrees with this finding and recommendation and states that LDE provides a corrective action plan with a list of deficiencies at the completion of each monitoring visit. See Appendix A for management’s full response.

LLA Additional Comments: A list of deficiencies does not constitute a corrective action plan, as it does not include written, specific steps that providers need to take and deadlines for compliance. In addition, a list of deficiencies does not address the root cause of provider issues; therefore, providers may not be adequately addressing systemic problems.

LDE does not have criteria regarding when to conduct follow-up inspections to verify that deficiencies identified during complaint investigations or inspections have been corrected. As a result, some providers with the same deficiencies had follow-up inspections, while others did not.

According to the NSAA,²⁸ regulatory agencies should develop criteria indicating the types of corrective actions needed for each type of violation and the timeframes in which those corrective actions must be taken. In addition, agencies should track the inspections conducted, violations found, and actions taken to ensure violations are handled appropriately. The NSAA also states that on-site re-inspections may be necessary depending on the severity of the violations.

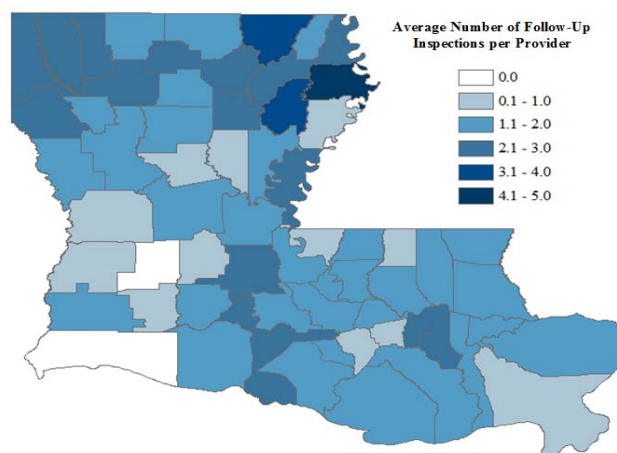
²⁸ “Carrying Out a State Regulatory Program,” 2004

LDE does not have procedures that outline what kinds of deficiencies warrant a follow-up inspection. LAC tit. 28, pt. 161, § 1101 states that licensing specialists may allow providers to immediately remedy non-critical violations that are identified on an on-site inspection. In practice, licensing specialists may also require providers to submit documentation to LDE as evidence of correcting deficiencies, or may conduct follow-up inspections to determine if deficiencies have been corrected. However, LDE procedures do not specify what types of deficiencies require a follow-up inspection. Exhibit 7 shows the top ten most common deficiencies LDE identified at child care providers during fiscal years 2016 through 2017.

| Exhibit 7 Top Ten Types of Deficiencies Fiscal Years 2016 through 2017 | |
|--|-------------------------|
| Deficiency | Number of Deficiencies* |
| Missing state central registry form | 587 |
| Incomplete daily attendance records – children | 586 |
| Missing criminal background check | 563 |
| Missing public health or fire marshal inspection | 492 |
| Lack of medication management training | 446 |
| Observed health services issues | 437 |
| Not free of hazards | 375 |
| Incomplete daily attendance records – staff and owners | 372 |
| Child-to-staff ratio above average | 372 |
| Missing behavior management policy or inappropriate behavior management by staff | 355 |
| *This is the total number of deficiencies identified on all inspections conducted in fiscal years 2016 through 2017. | |
| Source: Prepared by legislative auditor’s staff using data from LDE. | |

Because LDE does not have formalized procedures outlining when to conduct follow-up inspections, licensing specialists determine follow-up on a case-by-case basis. As a result, we found variation across parishes regarding the frequency of follow up inspections. This indicates that licensing specialists may be conducting follow-up inspections inconsistently. For example, for fiscal years 2016 and 2017, the average number of follow-up inspections per provider per parish ranges from 4.5 per provider in one parish to some parishes having zero follow-up inspections. Exhibit 8 shows the average number of follow-up inspections per provider per parish for fiscal year 2017.

**Exhibit 8
Average Number of Follow-Up Inspections
per Provider per Parish
Fiscal Year 2017**



We also found that 40 (21.6%) of 185 annual inspections that cited child-to-staff ratio or supervision deficiencies during fiscal years 2016 through 2017 did not have a follow-up inspection.²⁹ We reviewed child-to-staff ratio and supervision deficiencies because these deficiencies would likely require a follow-up inspection to physically observe whether providers are in compliance with these standards. As a result, providers with the same deficiencies identified during annual inspections, with some receiving follow-up visits while others did not. While there are instances of non-compliance which likely do not merit an on-site follow-up visit, such as missing policies or paper work, LDE should develop procedures to consistently follow up on more serious deficiencies.

Recommendation 11: LDE should develop procedures that outline what kinds of deficiencies warrant a follow-up inspection.

Summary of Management's Response: LDE disagrees with the finding but agrees with recommendation. According to LDE, at the time of the audit monitoring, the department did not have written criteria regarding when to conduct follow-up inspections. For a number of findings, providers have the opportunity to make corrections at the time of the visit, so often, follow-up visits were not necessary. Also, after many complaint investigations and inspections were completed, telephone follow-up discussions were conducted by licensing staff. LDE has developed a procedure to address follow-up inspections. See Appendix A for management's full response.

LDE did not ensure that its child care provider website contained all information required by law. Incomplete information on inspections and deficiencies prevents parents from making informed decisions when selecting child care providers.

State law³⁰ requires that LDE include information on each licensed facility for the last fifteen inspections, and beginning on November 19, 2017, federal law requires³¹ states to post three years of detailed inspection information on each provider. States must include program statistics related to CCAP payments, provider-specific information, as well as information regarding injuries and deaths at providers state-wide. In November 2017, LDE launched an interactive website called the Louisiana School Finder³² that publishes child care provider deficiencies resulting from inspections and complaints. This website allows the public to make more informed decisions about what child care providers to enroll their children in.

²⁹ Of the 21.6% without a follow-up inspection, 22 (11.9%) had a subsequent inspection, but it was not a follow-up inspection. For example, the subsequent inspection may have been due to a complaint or incident.

³⁰ La. R.S. 17:407.38

³¹ 45 CFR Section 98.33

³² <http://www.louisianaschools.com>

We reviewed inspection information for family and in-home providers and licensed providers with the most deficiencies during inspections conducted during fiscal years 2016 through 2017³³ and found that 22 (46.8%) of 47 inspections were not easily accessible online. Seventeen (36.2%) inspections were only available for users via a request through LDE and a fee of \$0.25 per page, and five (10.6%) resulted in a website error. LDE deficiency data shows an instance of a staff member licking a child and other instances such as a staff member hitting multiple one-year old children on the arm, in the face, on the leg, and slamming a child's face down in a bean bag. However, none of these deficiencies were available online.

In addition, LLA staff anonymously requested a deficiency report from LDE for a family provider whose report, according to LDE's website, was only *available via request*. Despite following the directions listed on the website and speaking with several LDE staff, LLA audit staff was never able to obtain the deficiency report. Without access to deficiency reports, parents are not able to make informed decisions regarding where to enroll their children in child care. Exhibit 9 shows the availability of inspection data on LDE's child care website.

| Exhibit 9 Child Care Website Inspection Availability Fiscal Years 2016 through 2017 | | | | | | |
|--|---------------------------|---------------|----------------------|---------------|-----------------|---------------|
| Website Results | Family/In-Home Providers* | | Licensed Providers** | | Total Providers | |
| | Number | Percent | Number | Percent | Number | Percent |
| Available online | 7 | 28.0% | 18 | 81.8% | 25 | 53.2% |
| Available upon request (\$0.25 per page) | 14 | 56.0% | 3 | 13.6% | 17 | 36.2% |
| Website error | 4 | 16.0% | 1 | 4.6% | 5 | 10.6% |
| Total | 25 | 100.0% | 22 | 100.0% | 47 | 100.0% |
| *Family/In-home providers with three or more deficiencies. | | | | | | |
| **Licensed providers with 20 or more deficiencies. | | | | | | |
| Source: Prepared by legislative auditor's staff using LDE's child care website and data from LDE. | | | | | | |

LDE's website does not always include complete and accurate data on instances of serious injury, as required by federal law. Licensing regulations³⁴ require that licensed childcare providers must report all serious injuries to the state within 24 hours. When a provider is cited during an inspection for not notifying the state in a timely manner, the finding is cited in the inspection deficiency report and entered into the LDE system. However, we found that LDE staff does not consistently list the injuries when entering information from complaints into its data system. As a result, LDE cannot track serious injuries by provider and therefore cannot provide this information for parents on their website. Federal law³⁵ requires states to include on its website any health and safety violations, including any fatalities and serious injuries occurring at the provider, and prominently displaying such on the inspection report or summary. Informing the public about serious incidents is important for parents to make child care decisions. For

³³ We reviewed family and in-home providers with three or more deficiencies and licensed providers with 20 or more deficiencies.

³⁴ Bulletin 137 (LAC tit. 28, pt. 161)

³⁵ 45 CFR 98.33

example, we found one instance where a child was left unsupervised, choked during mealtime, and died. The deficiency report does not indicate that there was a fatality and only cites the provider for leaving children unsupervised, serving prohibited food, and not reporting a critical incident. That a death occurred as a result of these deficiencies is not clearly indicated on LDE's website as required by federal law. LDE has begun working on this issue.

Recommendation 12: LDE should ensure that information all inspections with deficiencies are easily accessible for parents.

Summary of Management's Response: LDE agrees with this recommendation and states that it identified a system issue that caused the monitoring site to charge a fee per page rather than displaying the monitoring forms. This system has been resolved and all monitoring inspections are easily available online for free. See Appendix A for management's full response.

Recommendation 13: LDE should ensure that instances of serious injury, death, and substantiated child abuse are clearly indicated on its website and are linked to the associated providers, as required by federal law.

Summary of Management's Response: LDE agrees with this recommendation and states that aggregate data is available online and instances of serious injury and death are noted as required by federal law. See Appendix A for management's full response.

APPENDIX A: MANAGEMENT'S RESPONSE



LOUISIANA DEPARTMENT OF EDUCATION

September 28, 2018

Mr. Daryl G. Purpera, CPA, CFE
Louisiana Legislative Auditor
1600 North Third Street
Baton Rouge, LA 70804

Re: Progress Report: Regulation of Child Care Providers

Dear Mr. Purpera:

The Louisiana Department of Education (LDOE) appreciates the opportunity to submit an official response to the Louisiana Legislative Auditor (LLA) report on Regulation of Child Care Providers.

The Board of Elementary and Secondary Education (BESE) establishes statewide minimum standards for the health, safety and well-being of children in early learning centers and Child Care Assistance Program (CCAP) certified homes. LDOE ensures maintenance of these standards in early learning centers and CCAP certified homes.

LDOE program management worked to develop systems that addressed recommendations identified in the 2007 Department of Children and Family Services (DCFS) (formerly known as the Department of Social Services) audit as well as the *We Can Do Better: Child Care Aware of America's Ranking of State, Child Care Center Regulations and Oversight: 2013 Update* referenced in the performance audit. LDOE management will continue to address audit recommendations from the 2018 report in a timely manner to ensure the health, safety and well-being of children in child care in Louisiana.

LDOE management agrees with existing improvements identified in the 2018 performance audit which include the following:

- LDOE has developed formal procedures for its licensing program and its enforcement of minimum licensing standards.
- LDOE has implemented a comprehensive child care criminal background check (CCCBC) which includes a fingerprint-based check of Louisiana's criminal history information, and federal criminal history information, a search of Louisiana's state sex offender and child predator registry, a search of the national sex offender registry and a search of Louisiana's state central registry of child abuse and neglect. A CCCBC must now be obtained for all early learning center staff, family child care providers, in-home child care providers, adults employed in the home or on the property of the home where care is provided, and adults living in the residence where care is provided.
- LDOE has created an easily accessible online search of child care providers which includes health and safety monitoring reports of annual visits, complaints, and other information about providers. (<http://louisianaschools.com>).
- LDOE has prohibited the use of corporal punishment in early learning centers.
- LDOE has revised BESE Bulletin 137 – Louisiana Early Learning Center Regulations, to lower minimum child to staff ratios for Type I centers to align ratios to the ratios in Type II and Type III centers.

Louisiana Believes.

- LDOE has increased training and education requirements for lead teachers and staff.
- LDOE has required provider training in specific topics which include child abuse identification and reporting, emergency preparedness, safe sleep practices, child development, child guidance, health and safety, shaken baby prevention, CPR and first aid, and infectious diseases. Additional training is required if the early learning center transports children.
- LDOE has established maximum group sizes which is the maximum number of children assigned to a teacher or team of teachers occupying an individual classroom or well-defined space within a large room.
- LDOE has required safe sleep positions for infants.
- LDOE has developed a statewide Louisiana Early Learning Center Emergency Plan, a Child Care Facility Tool Kit that includes an Early Learning Center Emergency Plan template, as well as checklists for providers to use to prepare and respond to any disaster that may occur in their area. These resources focus heavily on the health and safety of all children being cared for by providers during a disaster.
- LDOE has established initiatives to assist providers with various licensing processes including providing checklists on the LDOE website to assist with initial applications, renewal applications, change of ownership applications and change of location applications. In addition, LDOE conducts quarterly training sessions and provides four online modules covering BESE Bulletin 137 (Licensing Regulations) both of which are for new and established providers.
- LDOE has established pre-service training as part of the initial Child Care Assistance Program (CCAP) provider agreement process. All providers must take this pre-service orientation prior to initial certification for CCAP. LDOE signs a provider agreement with each CCAP provider that details rules, regulations, rates, and other information pertinent to delivering high quality child care.
- LDOE has created a Provider Help Desk as a resource for Louisiana's CCAP providers. Training is tailored to meet provider needs and incorporates areas where providers are assessed to need improvement based on case sampling.

The Department acknowledges receipt of the report and offers clarifications and comments regarding the findings in the report.

Finding 1: Louisiana child care licensing standards do not meet all national best practices, related to child to staff ratios, group sizes, and oversight of family and in-home providers. For example, Louisiana is one of only eight states that allow family providers to care for over six children without requiring a license.

Recommendation 1: LDOE should ensure requirements for staff to child ratios and group sizes to comply with national best practices.

The Department agrees with this recommendation. Since the responsibility for licensing child day care centers transferred to LDOE, the agency has worked diligently to bring the licensing regulations closer to national best practices. Prior to April 2017, Louisiana did not have a definition of group size nor established group sizes. Group sizes were discussed with the Early Childhood Care and Education (ECCE) Advisory Council in November 2016 and group sizes were recommended to the Board of Elementary and Secondary Education (BESE) in December 2016. Regulations limiting group sizes became effective in April 2017.

In 2018, a Licensing Task force was established to review BESE Bulletin 137 – Louisiana Early Learning Center Licensing Regulations. Child to staff ratios were discussed at length. At the May 2018 ECCE Advisory Council, child to staff ratios for

Louisiana Believes.

Type I centers was discussed in an effort to align the child to staff ratios for Type I centers with those for Type II and III centers. Type I centers were previously allowed a larger child to staff ratio and group size than Type II and III centers. This recommendation for alignment was approved by BESE in June 2018 and will become effective in November 2018 with a timeframe for compliance for Type I centers.

LDOE is following state statutory law that allows family providers to care for fewer than seven children unrelated to the caregiver without requiring a license.

LDOE agrees that licensing standards do not meet the recommended standards of the National Association for Education of Young Children (NAEYC) for child to staff ratios and group sizes but has taken significant steps to improve child to staff ratios and group sizes.

Recommendation 2: LDOE should conduct unannounced inspections of family and in-home providers, as recommended by national best practices.

LDOE agrees with this recommendation. Effective July 1, 2018, LDOE instituted new policies and tracking procedures to ensure that each family and in-home provider receiving CCAP funds receives one announced and one unannounced inspection visit per year.

Finding 2: During fiscal year 2016 through fiscal year 2017, LDOE conducted annual inspections on 91.6% (1,145 of 1,250) of licensed providers within 365 days as required by state law; however, it needs to strengthen its inspection process for family and in-home providers.

Recommendation 3: LDOE should ensure that it conducts required inspections of family and in-home providers.

LDOE agrees with this recommendation. Effective July 1, 2018, LDOE instituted new tracking procedures to ensure that each family and in-home provider receiving CCAP funds receives one announced and one unannounced inspection visit per year. This procedure includes a reporting system for improved tracking.

Recommendation 4: LDOE should develop policies and procedures regarding if and when employees can cancel inspection requests.

LDOE agrees with this recommendation. The electronic system does not allow permanent deletions of announced or unannounced inspection requests from the system's record. Staff removed duplicate entries only. LDE has since refined its procedures for duplicate entries.

Finding 3: LDOE does not have an effective process to collect, investigate, and monitor complaints on licensed child care providers and family and in-home providers. Specifically, LDOE does not centrally track complaints, it does not consistently document whether complaints were substantiated, and it does not always investigate complaints timely.

Recommendation 5: LDOE should ensure that each complaint is investigated within the time frame for its assigned priority level.

LDOE agrees with this recommendation. Prior to LDOE assuming responsibility for licensing of early learning centers, there were no priorities established for complaints. In January 2016, LDOE began establishing priority levels. LDOE acknowledges that the initial time frames set forth in the priority levels were ambitious. LDOE has updated the time frames and will ensure it is following the revised procedure.

Recommendation 6: LDOE should follow its policy and investigate complaints using calendar days instead of business days.

Louisiana Believes.

LDOE disagrees with this recommendation. As the majority of early learning centers are open only during weekdays, using business days for investigation is more appropriate. LDOE has revised its procedure to reflect business days.

Recommendation 7: LDOE should ensure that all complaints are documented and tracked, including when the complaint was received, the time frame for investigating the complaint and outcome of the investigation.

LDOE agrees with this recommendation. Effective July 11, 2018, LDOE began tracking complaints, the time frame for investigating the complaint, and the outcomes of the investigation in the Licensing system rather than in Excel spreadsheets. Effective July 1, 2018, LDOE began tracking complaints concerning family home and in-home providers in the Claims, Fraud and Referral System.

Finding 4: LDOE did not effectively investigate complaints on unlicensed providers that may be operating illegally and did not issue required fines when it found providers fine providers operating without a license.

Recommendation 8: LDOE should ensure that all complaints concerning potentially unlicensed providers are investigated timely and in accordance with agency procedures.

LDOE agrees with this recommendation. LDOE provides assistance to unlicensed child day care centers to comply with current law by either reducing the number of children in attendance, the hours of operation, or by becoming licensed. During the audit period, if the provider took steps toward becoming licensed, the timelines set forth in the procedures were not sufficient for compliance with the law. LDOE has revised its procedures.

LDOE acknowledges that Section 305 of BESE Bulletin 137 regarding fines is mandatory while the corresponding state statute is permissible; therefore, Bulletin 137 needs to be amended to correspond with current state law. LDOE will recommend to BESE during the 2018-2019 state fiscal year this that section 305 regarding fines be changed to be permissible.

Finding 5: LDOE did not always issue enforcement actions to address deficiencies in accordance with state law. Specifically, we found that 1,702 (99.1%) of the 1,718 inspections with at least one deficiency requiring a corrective action plan, did not have a formal corrective action plan issued after the inspection.

Recommendation 9: LDOE should ensure deficiencies are addressed in accordance with state law and regulations.

LDOE disagrees with this finding and recommendation. At the completion of a monitoring visit, licensing staff consults with the provider on the cited deficiencies and corrective action required. The provider is given a list of deficiencies and the provider signs the document attesting that the provider understands the deficiencies and corrective action required. This is a corrective action plan.

Recommendation 10: LDOE should develop more specific corrective action plans for providers with the deficiencies outlined in law that include specific steps providers should take to correct deficiencies.

LDOE disagrees with this finding and recommendation. LDOE provides a corrective action plan with a list of deficiencies at the completion of each monitoring visit as described in the response to Recommendation 9 above.

Finding 6: LDOE does not have criteria regarding when to conduct follow-up inspections to verify that deficiencies identified during complaint investigations or inspections have been corrected. As a result, some providers with the same deficiencies had follow-up inspections while others did not.

Recommendation 11: LDOE should develop procedures that outline what kinds of deficiencies warrant a follow-up inspection.

Louisiana Believes.

LDOE disagrees with this finding but agrees with the recommendation. At the time of the audit monitoring, LDOE did not have written criteria regarding when to conduct follow-up inspections to verify that deficiencies identified during complaint investigations or inspections had been corrected. For a number of findings, providers have the opportunity to make corrections at the time of the visit, so often, follow up visits were not necessary. Also, after many of complaint investigations and inspections were completed, telephone follow-up discussions were conducted by Licensing staff members, including consultants and program managers. LDOE has developed a procedure to address follow-up inspections.

Finding 7: LDOE did not ensure that its child care provider website contained all information required by law. Incomplete information on inspections and deficiencies prevents parents from making informed decisions when selecting child care providers.

Recommendation 12: LDOE should ensure that information all inspections with deficiencies are easily accessible for parents.

LDOE agrees with this recommendation. LDOE identified a system issue which caused the monitoring site to state a fee of \$0.25 required per page rather than displaying the monitoring forms. This system issue has been resolved and all monitoring inspections are easily available online for free.

Recommendation 13: LDOE should ensure that instances of serious injury, death, and substantiated child abuse are clearly indicated on its website and are linked to the associated providers as required by federal law.

LDOE agrees with this recommendation. Aggregate data is available online and instances of serious injury and death are noted as required by federal law.

Thank you for allowing us the opportunity to respond to the audit recommendations.

Sincerely,



John White

Louisiana Department of Education State Superintendent

Louisiana Believes.

APPENDIX B: SCOPE AND METHODOLOGY

This report provides the results of our performance audit of the Louisiana Department of Education (LDE). We conducted this performance audit under the provisions of Title 24 of the Louisiana Revised Statutes of 1950, as amended. This audit primarily covered the time period of July 1, 2015, through June 30, 2017. Our audit objective was:

To evaluate LDE's regulation of child care providers.

We conducted this performance audit in accordance with generally-accepted *Government Auditing Standards* issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. To answer our objectives, we reviewed internal controls relevant to the audit objectives and performed the following audit steps:

- Researched and reviewed relevant state and federal statutes and regulations related to child care providers, including requirements regarding eligibility certification for licensed and certified family and in-home providers, inspections, and complaints.
- Researched child care related audits and best practices in other states and studies conducted by local and national organizations.
- Interviewed LDE staff and child care stakeholders, such as the House Committee on Education and the Senate Education Committee.
- Shadowed LDE licensing specialists during child care provider inspections.
- Obtained and reviewed LDE's internal procedures regarding child care providers.
- Obtained and analyzed BLAS data for child care licensing, inspections, complaints, and CCAP payments for fiscal years 2016 through 2017 using Excel and Audit Command Language (ACL).
 - Tested BLAS data for reliability.
 - To test inspection compliance, we only included in our analysis child care providers that were open the entirety of our two-year scope, for a total of 1,250 providers.
 - Using GIS, we created a map to show the average number of follow-up inspections per provider per parish.

- Obtained sex offender addresses from Louisiana State Police and compared them to family and in-home provider addresses.
- Obtained and analyzed complaint data maintained in multiple spreadsheets.
 - To test compliance with complaint priority timeframes, we analyzed only complaints that were assigned a priority level during or after January 2016, when LDE implemented priorities.
 - Reviewed files for all five family and in-home complaints LDE received during our two-year scope, including reviewing DCFS's intake forms for complaint details.
 - Conducted a targeted selection of 72 complaints out of 330 complaints regarding unlicensed providers that were potentially operating illegally. We analyzed the spreadsheet LDE uses to track cease and desist orders (indicating high risk providers), which included a total of 50 providers. We also pulled 22 records from the BLAS dataset that included the term "cease and desist" in the description that were not included in LDE's spreadsheet. We then reviewed the case file details for each complaint to test compliance with LDE internal procedures.
- To determine whether inspection reports were available on LDE's Louisiana School Finder website, we selected providers with the highest number of deficiencies to look up on the website. Specifically, open licensed providers with 20 or more deficiencies, totaling 21 providers, and open family and in-home providers with three or more deficiencies, totaling 23 providers.
 - Audit team staff anonymously requested from LDE a deficiency report for a provider whose report was not on the LDE website and only available upon request for \$0.25 per page.
- Discussed the results of our analyses with LDE management and provided LDE with the results of our data analyses.