



Regulatory Challenges Faced in Opening and Operating Family Child Care Homes: Voices from the Field

BACKGROUND

North Carolina received multiple federal Preschool Development Grants - Birth through Five. As part of this work, a comprehensive needs assessment update was conducted in 2022 that included focus groups and interviews with early care and education providers, stakeholders, and parents in North Carolina. This brief synthesizes what researchers learned from family child care home providers and other key system stakeholders regarding the regulatory challenges associated with opening and operating family child care homes. It is the second in a series of briefs, [Parent and Provider Voices on Home-Based Child Care in North Carolina](#), that explore the barriers and challenges family child care providers experience opening and operating their business in North Carolina.

INTRODUCTION

Family child care homes (FCCH) are an important part of the child care mixed delivery system in North Carolina. These child care providers make up 21% of all licensed child care in the state and are particularly valuable to families who work non-traditional hours or variable schedules, live in rural communities, earn low-income wages, and speak a primary language other than English. As detailed in [Home-Based Care and the Challenges to Increasing Family Child Care Homes](#), most children ages 0-5 in North Carolina live in households with all parents working. While 36% of these young children attend center-based care, and 1% attend licensed FCCHs, the remaining 63% are cared for by family, friends, neighbors or other providers either in their own homes or the homes of the providers. Licensed FCCHs are an important part of a solution to address the shortage of child care in North Carolina and yet, the number of licensed FCCHs in North Carolina and across the nation has declined in the last few decades.

One of the key issues noted by FCCH providers and other stakeholders are the many regulatory requirements and the barriers and challenges associated with meeting those requirements.

FCCHs are licensed by the State Division of Child Development and Early Education (DCDEE) under a process similar to that used for child care centers. The DCDEE has a comprehensive set of regulations designed to ensure child safety in all child care settings requiring FCCH providers: complete a pre-licensing workshop, complete training on infant/toddler safe sleep practices, show proof of a negative Tuberculosis screening, provide updated vaccination records for any pets residing in the home, provide water testing results, complete a health questionnaire, complete a criminal background check, and complete a pre-licensing consultation initial assessment as part of the process to gain temporary licensure.

In addition to state regulators, would-be licensed FCCH providers must interact with a number of other local or county entities and authorities to complete the license application process. For example, local regulators





must certify that a residence meets zoning requirements and local ordinances such as fire, sanitation, and building code regulations. These inspections can take considerable time to arrange and complete and are accompanied by fees. Any applicable homeowners associations must also be consulted and provide written approval to operate a family childcare home before a temporary license can be secured. The time, cost and complexities associated with meeting these requirements were noted in panel discussions as barriers to opening a family child care home in North Carolina. If the expansion of FCCHs are to be a part of the solution to addressing the child care shortages in our state, examining these barriers and identifying strategies to overcome them will be paramount in meeting the needs of our children and their families.



ZONING AND LOCAL ORDINANCES

Navigating zoning and local ordinances was noted as being particularly challenging. Many localities have zoning laws that differentiate between residential and commercial uses, sometimes prohibiting FCCHs from operating in a residential zone or in certain types of residences. These local ordinances vary widely and can create legal barriers for providers seeking to start child care businesses. Zoning ordinances may require special-use permits to run a home-based child care business adding bureaucratic hurdles like public hearings, various inspections and additional fees. Some local codes may require that a FCCH meet specific building safety requirements that go beyond state regulations including requiring upgrades to a home to meet additional fire codes (e.g., adding additional exits or fire safety equipment) which can be costly to implement. Other local ordinances may impose strict parking requirements for FCCHs dictating how many parking spots must be available for parents during pick-up and drop-off times or face restrictions on the number of vehicles allowed at their property at any given time. In addition, some zoning laws cap the total number of children that can be cared for in a FCCH. For example, they may only allow six children in an FCCH even if state regulations permit larger ratios, which significantly impacts providers' income potential. Overall the complexity and lack of coordination at the state and local levels has created a system that may feel daunting to would-be licensed FCCH providers. Panel discussions with FCCH providers and other ECE stakeholders noted the complexities of the licensing process and highlighted a number of these challenges.

- “Homes that are in rural areas, on septic systems, the septic tank, may not be rated in a way that supports additional occupants at the residence. We ran into that and had to work with inspectors on that.” - ECE Stakeholder
- “I know that they have said that they've [DCDEE] approved increasing our ratios, but the fact is that we still can't follow through on that until....we still have to go through our county to see if they're going to approve it.” - FCCH Provider
- “Many people get so frustrated....I just finished this whole checklist, I got all of this done, I'm going to call the fire department, the zoning, the health and safety, and you're ready to get that off of your list until they're like, Oh, you got the wrong checklist. And you're like, I got it directly from you, or this one is outdated, or who sent you this? So there's like an internal conflict going on within agencies where data and information is not updated or accurate....” - FCCH Provider

“I think one thing that we could do a better job of is putting some easy-to-read, easy-to-understand information available on the Division of Child Development website with some clear links so that people who are even just considering it, know where to start to grab information. It's so complicated just to even know where to start.” - ECE Stakeholder

The DCDEE is already working to address some of these issues, but more resources may be required to meet the need across the state in order to meaningfully expand the number of FCCHs. For example, the DCDEE supports the NC Statewide Family Child Care Project. The project aims to create family child care networks and establish a statewide family child care technical assistance and professional development program. The focus is on retaining existing FCCH providers, increasing the availability of FCCH providers to families across North Carolina, and increasing the star rating of FCCH programs through technical assistance, coaching, mentoring, and professional development.

COSTS OF COMPLIANCE WITH STATE AND LOCAL REGULATIONS

Representatives from Smart Start, Child Care Resource and Referral, and Community College early care and education programs highlighted that one of the main barriers for aspiring FCCH providers is the cost of getting their residence in compliance with state and local regulations. They noted that while the state has many small business grant programs, FCCH providers either do not qualify or are not the type of businesses that most of North Carolina's grant programs support. Estimates related to the start-up costs vary widely but range between \$10,000 and \$50,000.

“The funding to get a home state-approved, we don't really have you know...we can give them all the ideas and get them set up, but we don't really have the grant opportunities to then get them to the next level of where they might need to go.” - ECE Stakeholder

“I think some funding for the initial start-up costs of getting those homes retrofitted and getting them up to the place that they need to be [should be considered], because I just don't think a lot of people realize how many regulations and laws go into getting that home in place.” - ECE Stakeholder

Without grants, many prospective FCCHs cannot cover the costs to meet the requirements.

“Oh it was probably about \$10,000-\$12,000 because I had to make sure I had the insurance, the fence...I had to make sure I had toys, the cubbies, everything.” - FCCH Provider

“I am newly licensed...I don't believe that I would make a great score [FCCERS-3; Family Child Care Environment Rating Scale] because the quality of my things are not up to par...If we could just help with that especially for FCCHs because it is a struggle to get materials, books, blocks, height adjustable tables.” - FCCH Provider

“The start-up costs for getting a home retrofitted has been the biggest barrier that I've been able to see as far as doing startup kind of referrals.”
- ECE Stakeholder





HOMEOWNERS ASSOCIATIONS

In addition to local ordinances, many communities have homeowners associations (HOAs) that impose various rules that may also limit the operation of FCCHs. These can include added restrictions on parking, noise ordinances impacting outdoor play times, or a prohibition on operating businesses all together. HOA bylaws often allow boards to enact rules without a vote from the community of homeowners making it difficult for FCCHs to contest restrictions. Specifically, an HOA may use covenants, conditions and restrictions to limit or outright prohibit home-based childcare even if local zoning authorities allow for it. HOAs may allow child care operations but can still impose strict operational limits and establish the time, place and manner of how child care is provided such as limiting hours and days of operation (Minnesota Post, 2024). Further, outdoor play equipment or structures must typically be approved by the HOA and some have noise restrictions that specifically impact outdoor play time for children in these child care settings, which may conflict with state requirements for outdoor time. Finally, some HOAs impose requirements for FCCHs to carry additional insurance coverage adding an additional financial barrier to operation.

“*In our suburban areas, we are challenged by people not being able to have home-based daycare because of homeowners associations. So, we are a rapidly growing county and housing is being approved left and right, and that housing is being purchased by families with young children. And we have homeowners associations that won't allow home-based childcare.*” - ECE Stakeholder

These issues are not unique to North Carolina as home-based providers across the country have highlighted similar challenges. In response, a number of states have enacted legislation to help ease these challenges and cut red tape at the local level aimed at encouraging these operations to meet the needs and preferences of working families. California, Colorado, Connecticut, Kentucky, Oklahoma, and Oregon have all passed legislation since 2020 to address these challenges. The laws differ but generally are designed to allow homeowners and tenants to open and operate home-based child care programs by prohibiting landlords and HOAs from restricting the operation of FCCHs and in some cases, local governments from implementing zoning requirements that are different than those for the residents of other single and multi-family dwellings.

Ongoing efforts on the part of state leadership reflect an understanding of some of the key drivers behind the steady decline of FCCHs in our state and across the United States. However, addressing this systemic problem will require a multi-pronged approach that may also need to include additional supports around meeting state and local regulations as well as the removal of some local regulatory barriers and HOA restrictions to provide clear and consistent policy statewide. The following recommendations stemming from provider panels and stakeholder discussions may warrant further exploration to ensure that FCCHs remain a viable option for working families in in North Carolina.



Recommendations from the Field:

- ▶ The DCDEE and other stakeholders should coordinate with local governments to ensure that information on zoning and other ordinances are easily accessible and provide clear guidance on which local offices to contact to obtain information on zoning and local ordinances.
- ▶ Expand training and supports for the business aspects of running an FCCH, including navigating zoning and local ordinances, to would-be FCCH providers to increase the likelihood that they will successfully complete the licensing process.
- ▶ Shift the culture of licensing child care consultants who interface with providers during pre-licensing consultation from one where they see their role as enforcers to one where they see themselves as partners invested in helping applicants succeed.
- ▶ Provide more state grant opportunities that include potential and existing FCCH providers to help cover the costs associated with capital and quality improvements. FCCHs are small businesses, but they are often not eligible for the state's small business grant programs.
- ▶ DCDEE and other stakeholders should advocate for the expansion of grant opportunities like the Early Care & Learning Expansion and Access Grants, which awarded 200 providers in 33 high-need counties grants to assist with start-up costs associated with establishing a new licensed or regulated child care facility or family child care home. This funding came from \$20 million in non-recurring funds to support expanded access to child care allocated by the North Carolina General Assembly (NCGA) in 2021.
- ▶ The NCGA should consider legislation that would allow homeowners and tenants to open and operate licensed family child care homes without restrictions from HOAs and landlords and limit the ability of local governments to implement zoning requirements that are different than those for the residents of other single and multi-family dwellings.
- ▶ Utilize and provide resources for Home-Based Child Care Local Networks (like members of the [Home-Based Child Care Community of Practice](#)) who are providing essential services to help providers receive and maintain their license under the current system.

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