

A Fairer Way to Grade Childcare: The Regulatory Compliance Scale

Moving from Binary "Yes/No" Inspections to Nuanced, Quality-Infused Decisions

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THE PARADIGM SHIFT: FROM "ALL-OR-NOTHING" TO GRADIENTS

Traditionally, childcare licensing operates as a rigid, binary "nominal scale." A provider is either 100% in compliance with a rule, or they are out of compliance—there is no middle ground. For example, if a state requires staff to have 6 training hours, a provider with 5.5 hours is flagged as "non-compliant" just as severely as one with zero hours. This absolute approach ignores context, risk, and program quality.

Dr. Richard Fiene's new **Regulatory Compliance Scale (RCS)** shifts the paradigm to an **ordinal scale** (like a 1–7 Likert or A–D scale). By introducing compliance "buckets," regulators can measure the actual degree of safety and reward centers that go above and beyond with "Quality Indicators" (e.g., scoring +1 or +2 for exceeding training targets).

THE SWEET SPOT: "SUBSTANTIAL" COMPLIANCE

For decades, state compliance data has shown a counterintuitive phenomenon known as the **"ceiling effect" or "diminishing returns"**. When comparing licensing scores against actual learning environment quality (using scales like ECERS):

- Centers in **100% "Full" compliance** often score *lower* on actual developmental quality than those in **"Substantial" compliance** (1–2 minor violations).
- Strictly chasing zero technical violations can cause programs to focus on rigid, clinical checklists at the expense of warm, flexible, and high-quality child interactions.

EMPIRICAL VALIDATION

A decade-long analysis across 11 major studies in the US and Canada confirms that grouping violations into "buckets" (Full, Substantial, Medium, Low) predicts overall program quality far better than simply counting raw violations.

THE PROPOSED RCS SCALE

SCALE	CATEGORY	VIOLATIONS
7 (A)	Full	0 violations (100%)
5 (B)	Substantial	1-2 violations (99-98%)
3 (C)	Medium	3-9 violations (97-90%)
1 (D)	Low	10+ violations (<89%)

Note: This scale mimics the familiar 1–7 structure used in developmental quality assessments, aligning basic health/safety with education quality.

DATA-DRIVEN LICENSING DECISIONS

Currently, states run two separate, costly systems: 1) basic health/safety licensing, and 2) voluntary Quality Rating and Improvement Systems (QRIS). Dr. Fiene proposes using the RCS to merge these into a single, unified system where licensing inspectors evaluate both basic compliance and quality. This would allow states to "grade" centers publicly using a clear, color-coded scale (similar to restaurant health grades) with associated regulatory actions:

COMPLIANCE LEVEL	RCS THRESHOLD	COLOR GRADE	REGULATORY ACTION
Full / Substantial	98% - 100%	Blue / Green	Issue Regular License: High-performing program; eligible for fast-tracked monitoring.
Mid-Range / Low	90% - 97%	Yellow / Orange	Provisional Status: Target with technical assistance; temporary monitoring.
Very Low	< 89%	Red	No License / Revocation: Immediate risk to children; enforcement action.

CONCLUSION

The Regulatory Compliance Scale changes how we look at licensing. By moving from a strict binary system to a flexible scale, state and national agencies can reduce administrative duplication, accurately identify high-performing programs, and direct valuable coaching resources to the childcare providers that need them most.