



Washington State Department of

Early Learning

**Department of Early Learning
Standards Alignment Project
Enforcement Approach**



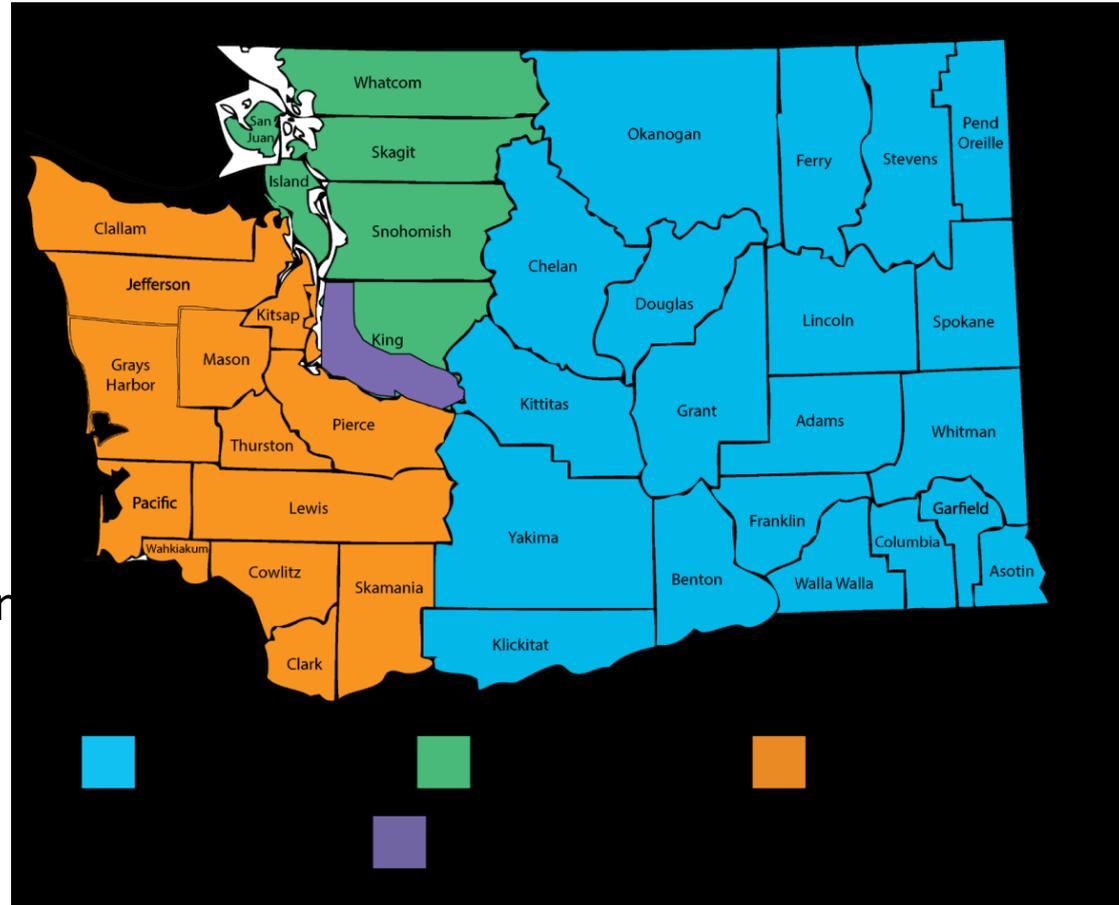
Objectives

- Today's presentation will provide a framework for the
 - ▢ Background behind the alignment work and timeline in WA state
 - ▢ Methodology and approach to weighted WAC process
 - ▢ Washington's new enforcement approach

DEL licenses about 5,500 child care facilities in four regions, serving approx. 165,000 children:

Licensing includes approx. 124 staff consisting of...

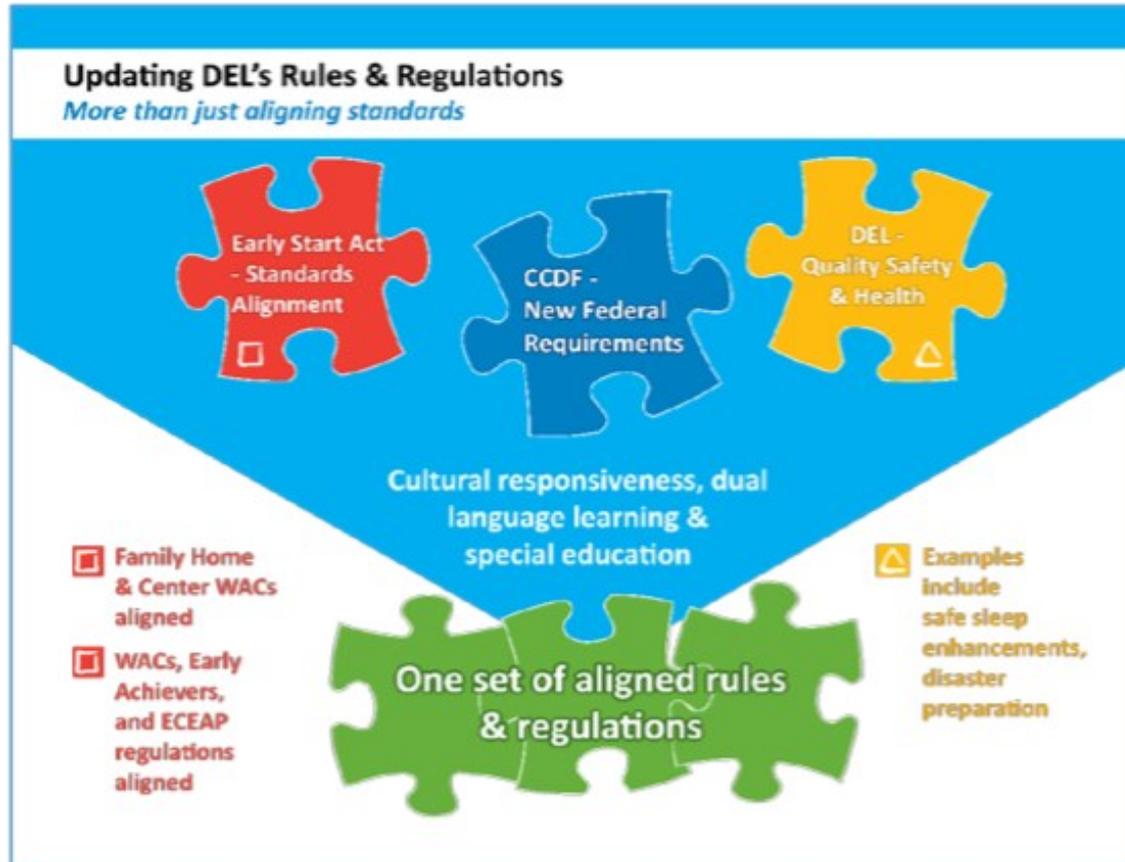
- Licensors
- Supervisors and Regional Administrators
- Administrative staff, licensing analysts, technical trainers and health specialists



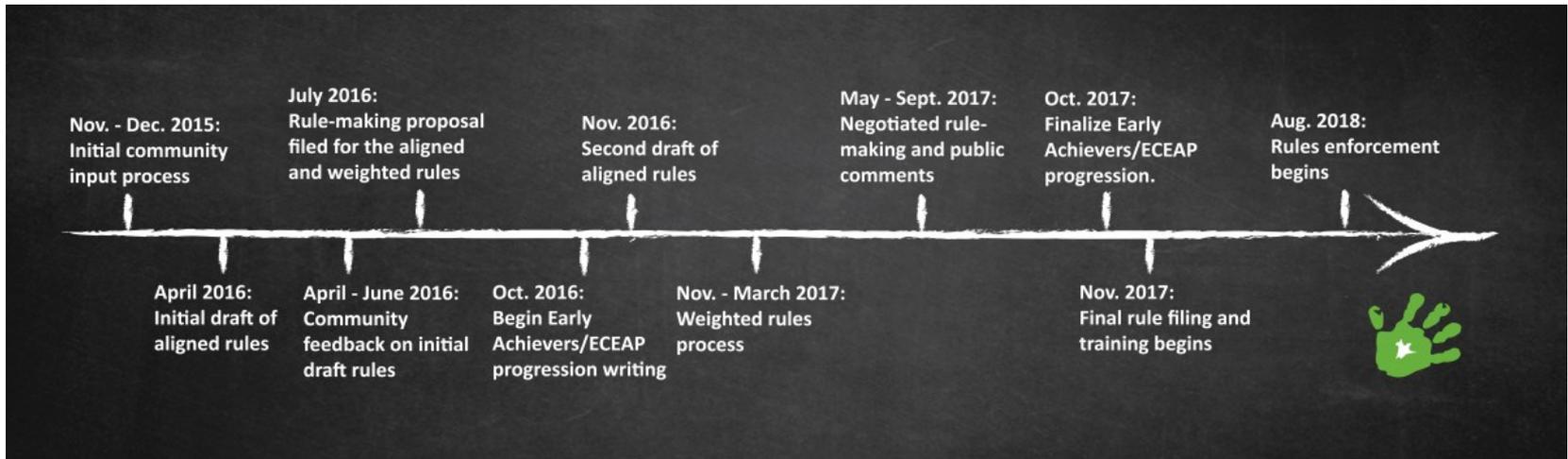
Standards Alignment

- ❑ Early Start Act mandates the alignment of standards in DEL
- ❑ Creates a progression of standards and regulations

Alignment



Timeline



Weighted WAC

Licensing regulations ...

-  Serve as a foundational level of protection for children.
-  Clarify the connection between deficiencies and consequences for repeated noncompliance
-  Establish a common understanding of risk

Weighted WAC

- ❑ The processing of weighting regulations..
 - 🕒 Assigns value to regulations that apply to the health and safety of children in care
 - 🕒 Identifies regulations that do not put children at risk for harm if violated
 - ⚠️ Not all regulations present the same level of risk to children

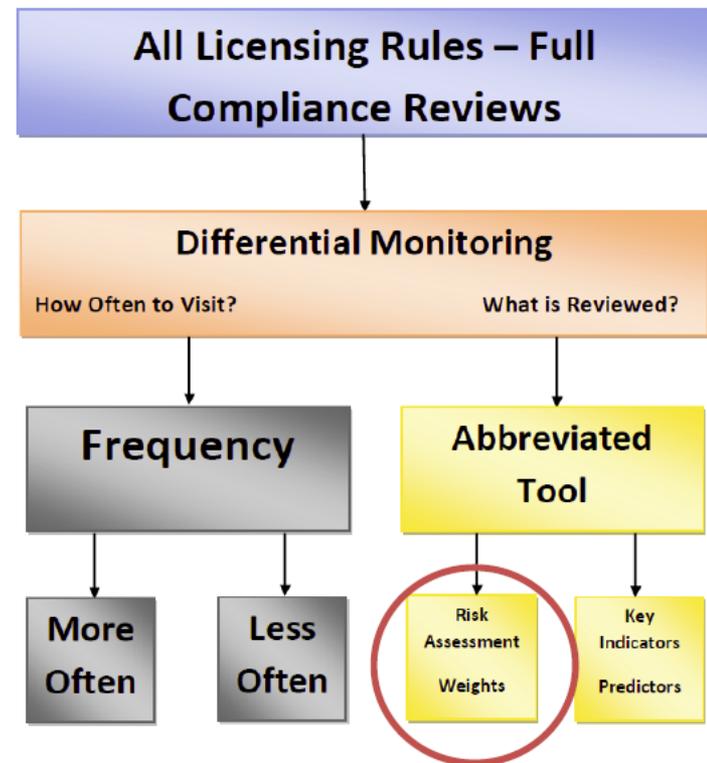
Research Based Methodology – WA Approach

Dr. Richard Fiene research and implementation

Differential Monitoring: A regulatory method for determining the *frequency or depth of monitoring* based on an assessment of a facility's history of compliance with rules

Key Indicators: An approach that focuses on identifying and monitoring those rules that statistically predict compliance with all the rules.

Risk Assessment: An approach that focuses on identifying and monitoring those rules that place children at *greater risk of mortality or morbidity* if violations or citations occur



- ❑ **Establish Focus Groups:** Determine the set of rules (from the WAC) that will be included in the “Washington Weighted WAC Survey”
- ❑ **Survey Participants:** Determine the weight for each rules (from the WAC)
- ❑ **Engage in weighted WAC process**

Focus groups



Focus Groups, Roles and Responsibilities

Focus groups will distinguish which of the rules will be weighted

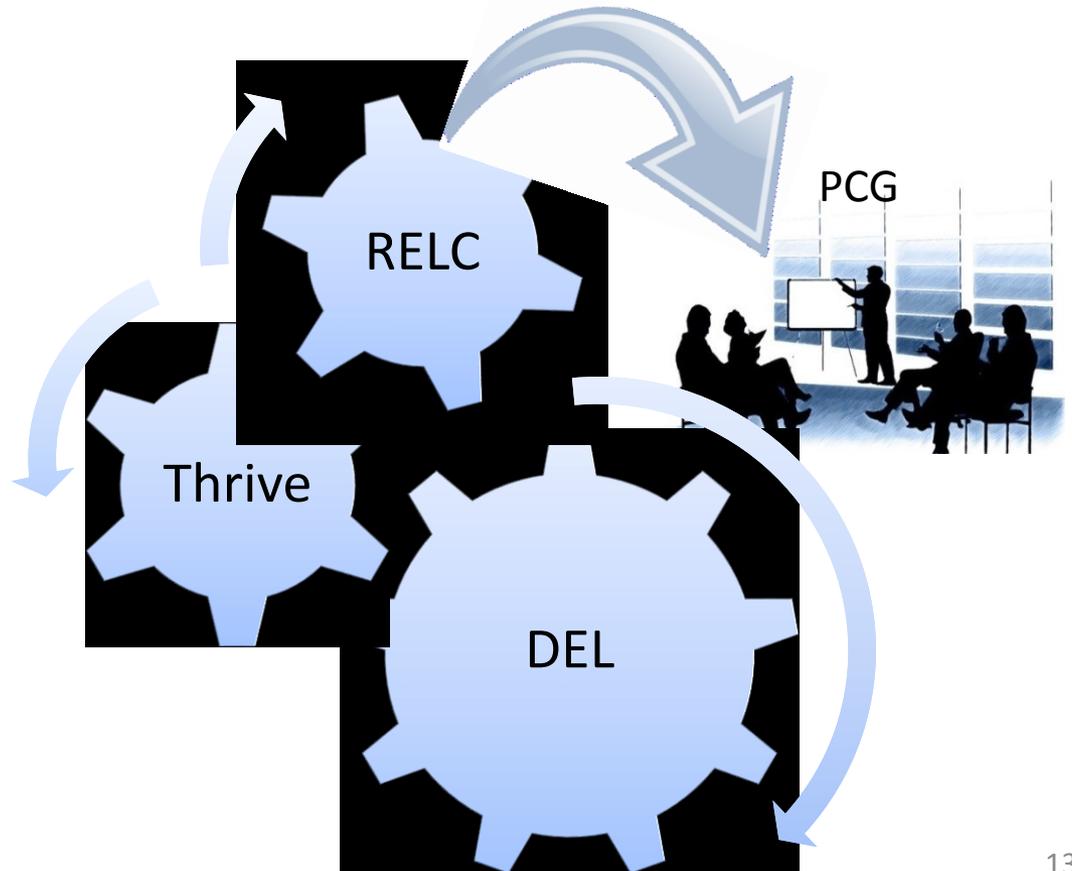
The focus group work has been coordinated and supported by:

DEL – Process facilitation

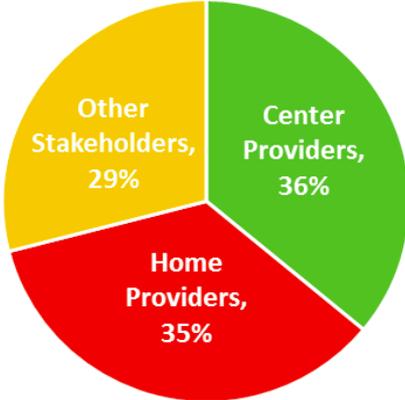
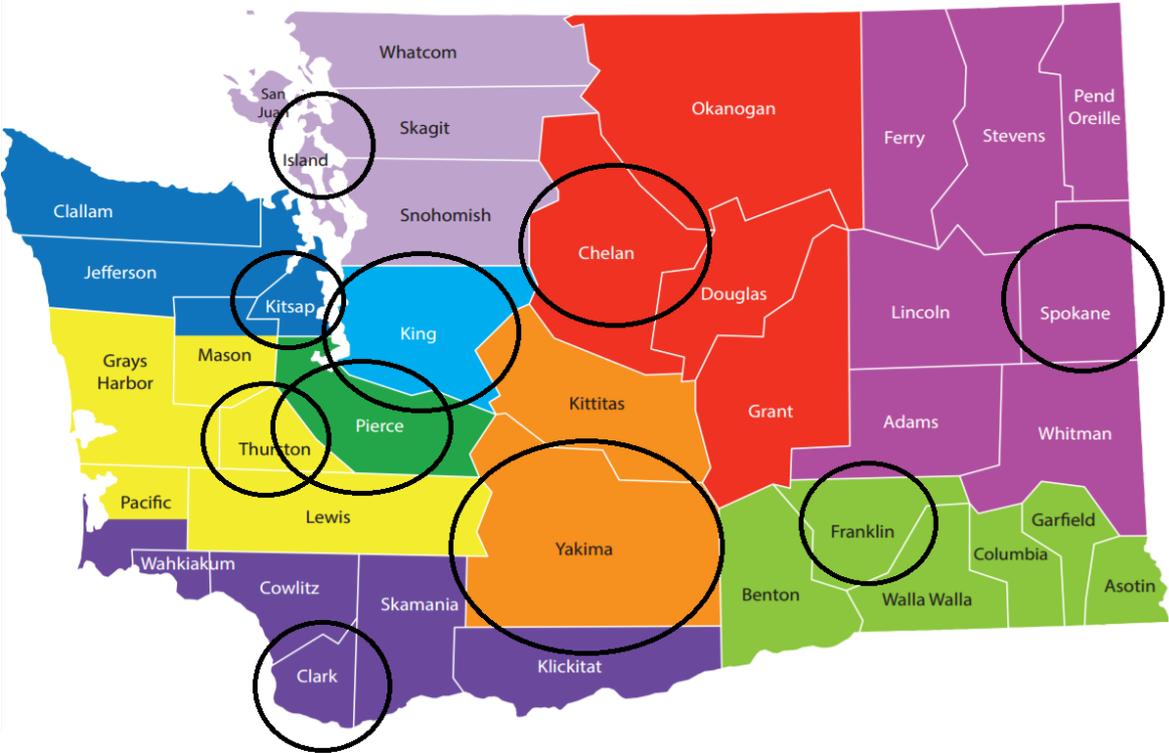
Thrive – Support RELCs, translation and interpretation requests

RELCs – Recruit participants, organize meetings

PCG – Facilitation, data collection



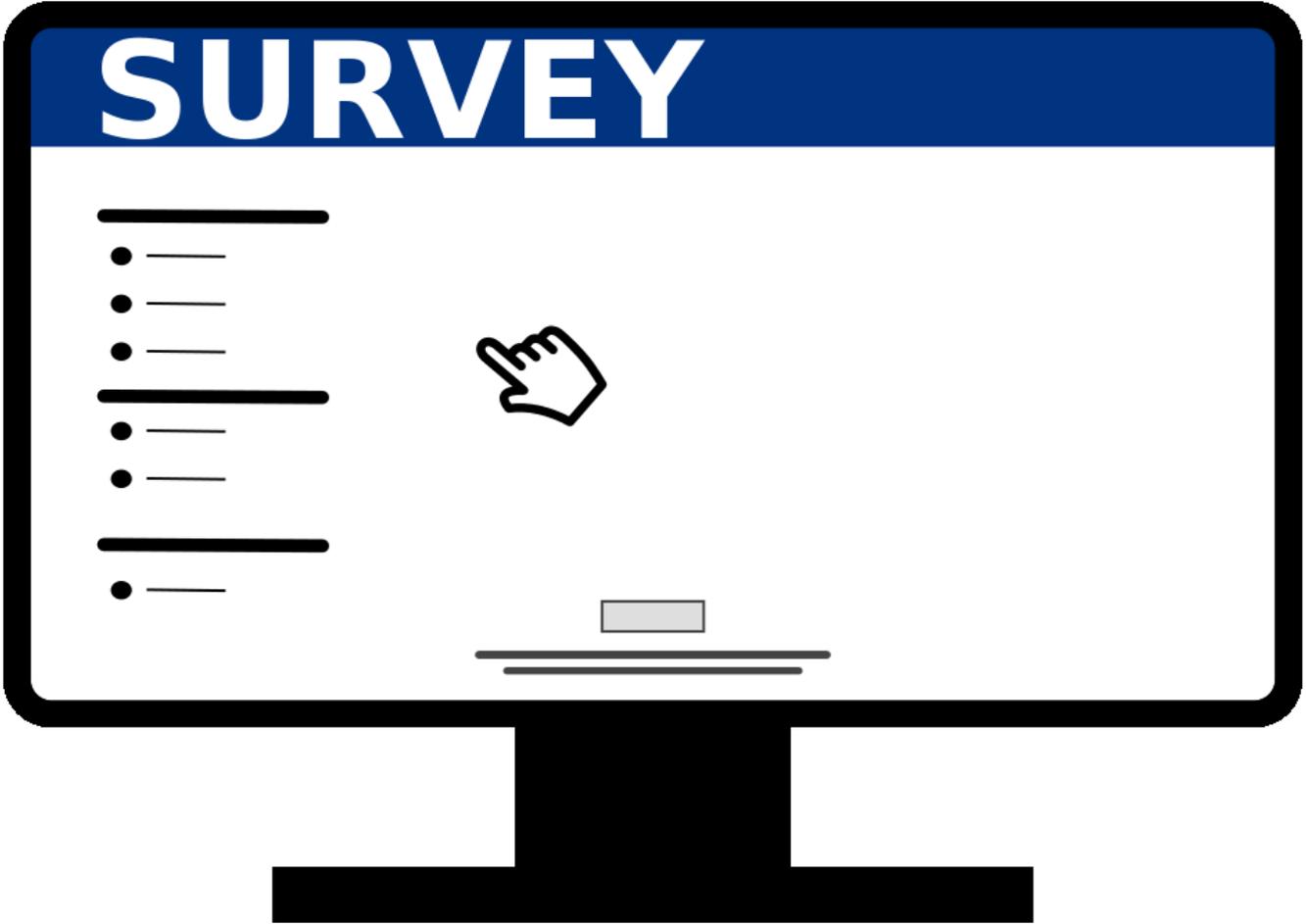
Results: 14 Regional Focus Groups



196 participant

Focus Groups Informed Survey Development:

- Decided to include or remove each WAC
- Some WAC were automatically removed from the survey (i.e. definition, directives, etc.)



Step Two: Develop, Deploy and Collect

- 🕒 PCG collected, organized and analyzed the data from the focus groups to create a survey
- 🟡 Likert Scale with the standards identified from the focus groups
- 🔴 The survey participant will be instructed to click their rating choice of 1, 2, 3, 4, 5, 6, 7, 8.

Example: If this regulation is violated, on a “risk” scale of 1 (lowest risk) to 8 (highest risk), how likely is it that a child or children would be harmed?

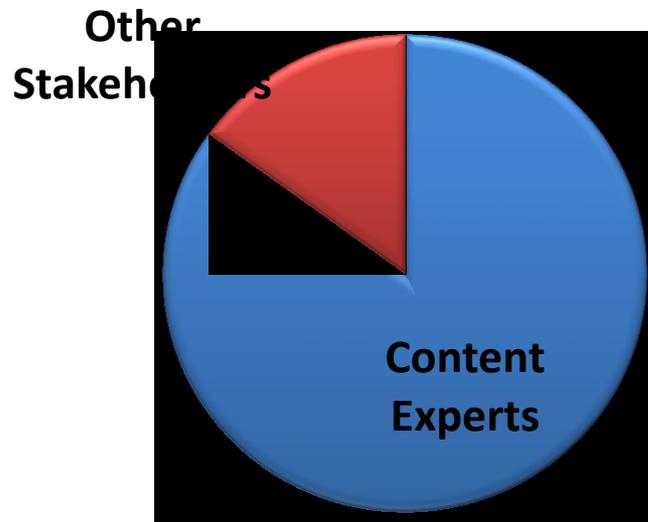
1 (lowest risk)	2	3	4	5	6	7	8 (highest risk)
<input type="radio"/>							

Participants asked to assess the level of risk of harm by considering:

- 1. Direct Harm:** Any injury/illness requiring immediate or follow up medical treatment or hospitalization and/or situations which can immediately negatively affect a child's physical, psychological or emotional well-being
- 2. Indirect Harm:** Situations where non-compliance may not immediately impact children's health/safety; however, may result in harm with repeat non-compliance and/or in combination with other non-compliance.

Sampling Methodology

1,530 stakeholders invited to take survey
391 took the survey



Early Learning Experts: Representative Sample

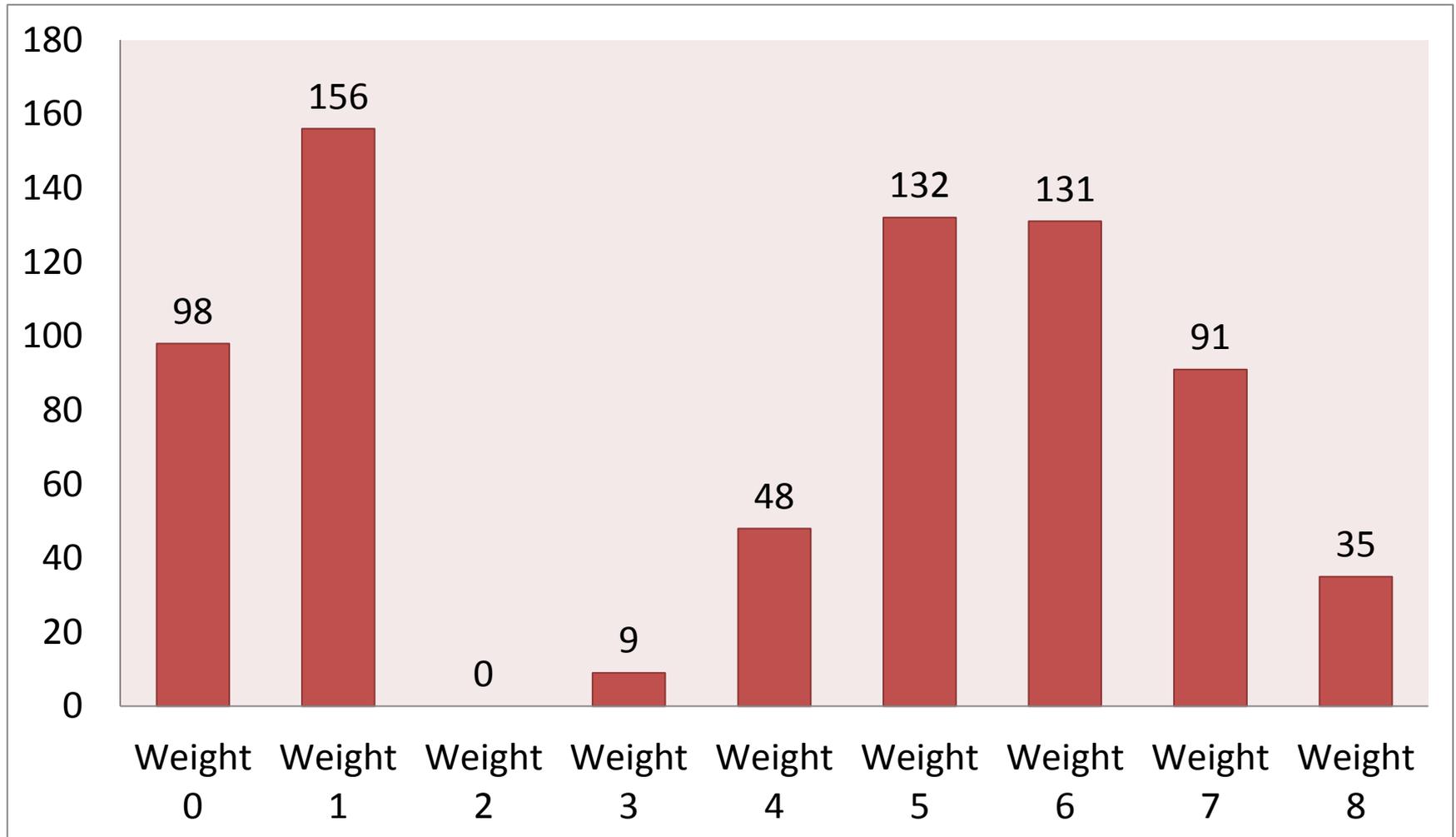
- Stakeholder type
- Geography
- Primary Language
- Race/Ethnicity
- Union Affiliation
- Head Start/ EHS
- Subsidy
- State Preschool (ECEAP)
- Program Size
- Serves Homeless

Other Stakeholders: Convenience Sample

- Parents
- Health & Safety Professionals
- Higher Edu.

Distribution of Median

Focus Group & Survey



Next Step:

Get industry input

Robust plan to engage the early learning community:

- 1) Public comments process
- 2) Negotiate with affected parties*

DEL shall “engage in negotiated rule making [...] with the exclusive representative of the family child care licensees [...] and with other affected interests before adopting requirements that affect family child care licensees.” RCW 43.215.355.

Enforcement Approach

Project Background and Introduction

Purpose of the Washington Administrative Code

“If a statute is ambiguous, an agency's promulgated rules help our interpretation because they ‘fill in the gaps’ where necessary to the effectuation of a general statutory scheme.”

Quinault Indian Nation v. City of Hoquiam

Washington State Supreme Court, January 12, 2017

Rules and Enforcement for DEL

Revised Code of Washington

Grants DEL authority, scope

Overarching mission,
minimal detail



Washington Administrative Code

DEL's rules that "fill in the gaps"

Must comply with RCWs, guide
work with structural framework



DEL Policies and Procedures

Detailed DEL plans and
action steps

Must comply with WACs,
minutiae

Rules and Enforcement for DEL - Examples

Revised Code of Washington

Enforcement actions (due process right, administrative appeal)

Deny, modify, suspend, revoke a license or issue a fine



Washington Administrative Code

Compliance actions (no due process right, alternate appeal)



DEL Policies and Procedures

Internal steps on how to take these specific actions

Licensors policies 10.2.1 to 10.4.1

Current Challenges

- ❏ Current WAC language is unclear
- ❏ WACs do not “fill in gaps” of RCWs
- ❏ Inconsistent enforcement throughout state
- ❏ Unwritten rules → a lack of transparency in enforcement

Goals of Enforcement Project

- 🕒 Greatest level of protection for children
- ⚠️ Common understanding of risk (direct and indirect)
- 📊 Better identify trends, disparities, and risk to children
- 🕒 Consistent actions taken for similar compliance history
- ⚠️ Clarify connection: Noncompliance → Consequences

Making it Work for Washington

1. Summarized best practices from other states and Canada
2. DEL Licensing Leadership Input:
 - 🕒 Be specific/actions to weight
 - 📐 Allow some flexibility
 - 📄 Be automatic/WA Compass
 - 🕒 Maintain cultural and linguistic considerations
3. Project intents:
 - 🕒 Use the experience and expertise of Washington Providers (focus groups and survey of experts)
 - 📐 Be consistent
 - 📄 Use a system that provides reliable and consistent data
 - 🕒 Data driven making decision making

The Enforcement Approach

Two Part Approach

P1. Single Finding Score

 Any Current Site Visit

 Individual WAC Weight → Action

P2. Overall Licensing Score

 Inclusive of Licensing History

 Overall Score = Action

P1 Single Finding Scores/Enforcement Actions



- | | | | | | |
|--|--|--|--|---|--|
| <ul style="list-style-type: none"> • Technical Assistance | <ul style="list-style-type: none"> • Technical Assistance • On 4+ Repeat violations: Civil Penalty | <ul style="list-style-type: none"> • Technical Assistance • On 3+ Repeat violations: Civil Penalty | <ul style="list-style-type: none"> • Technical Assistance • On 2+ Repeat violations: Civil Penalty • Safety Plan • Office Conference | <ul style="list-style-type: none"> • Technical Assistance • On 1+ violation: Civil Penalty • Pre-probation • License Modification • Suspension | <ul style="list-style-type: none"> • Denial • Suspension • Revocation |
|--|--|--|--|---|--|

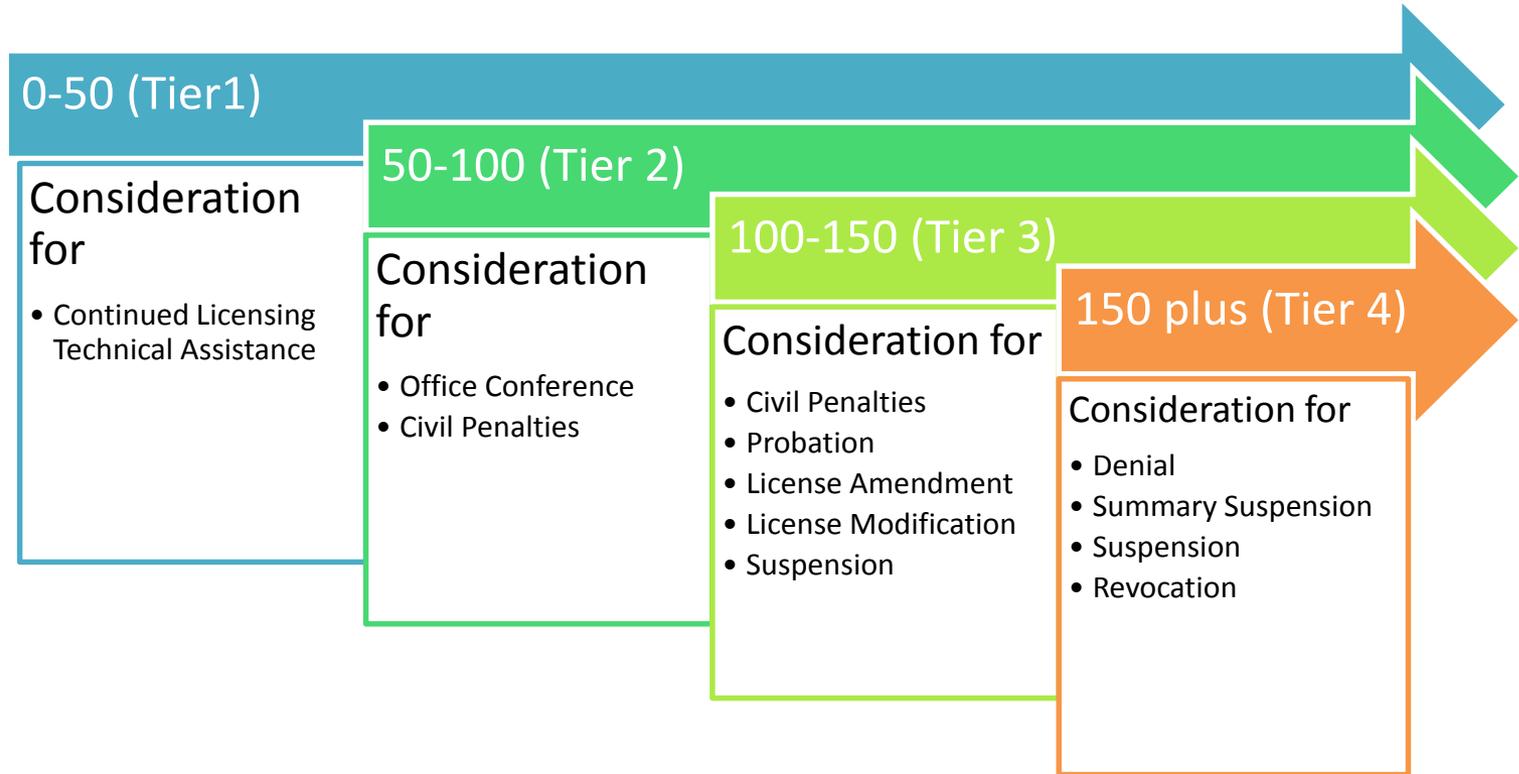
P1

Snapshot Enforcement Analogy



- 2 mph over → small fine
- 60 mph vs 100 mph on 55 mph freeway
- Lower speed limit = higher risk (school zone)

P2 Overall License Score/Enforcement Actions



- 🕒 Multiple data points over 3 year history
- 📊 Data points → equation to calculate 'licensing score'
- 📌 Lower licensing scores = higher compliance

Fines

Governed by statute, structured by DEL

DEL may...

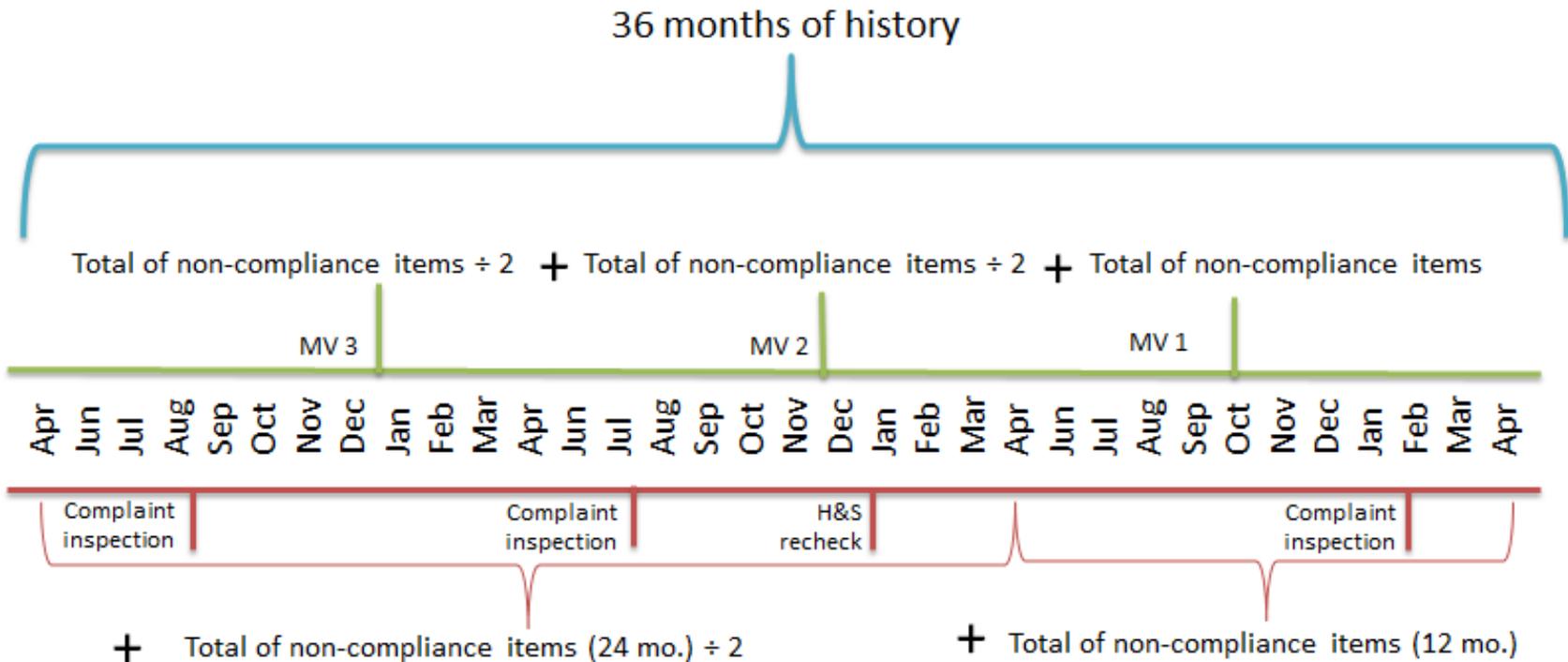
- Fine a provider for failing or refusing to comply with rules and suspend, revoke, or not renew a license if fines go unpaid
- Civil monetary penalties shall not exceed:
 - \$150 per violation for a family day care home
 - \$250 per violation for child day care centers

“Each day upon which the same or substantially similar action occurs is a separate violation subject to the assessment of a separate penalty.” RCW 43.215.300.

Calculating Scores

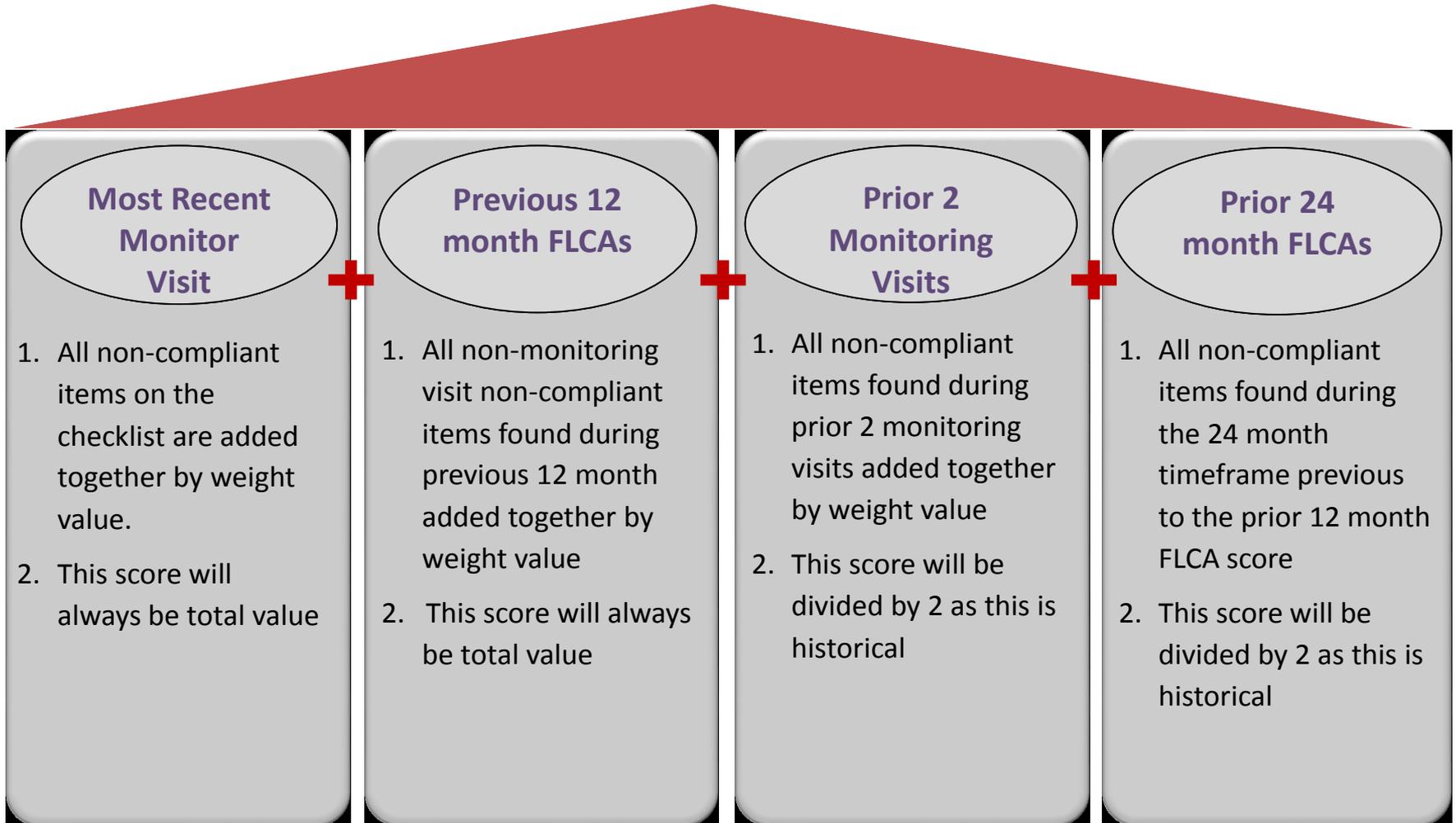


- The calculation will consider only the three most recent annual monitoring visits.
- ▲ Because non-monitoring visits happen on an “as needed” basis and the number of visits will vary. The calculation will consider only 36 months of history



Calculating the Overall License Score

Current MV Score + 12 Month Non-MV scores + (Prior 2 MV Score ÷ 2) + (Prior 24 Month Non-MV scores ÷ 2)



Data Source

- 🕒 All scores will come from WA Compass (new licensing database system).
- ⚠️ Data will be collected after ANY licensing visit if a regulation(s) is not met. This will include the assigned weights next to each finding.

Examples:

Annual monitoring visit

Health and safety re-check/inspection

Complaint inspection

Safety plan follow ups

Probation visit

- 📄 The overall score will be available to the provider via the WA Compass portal once the licenser uploads findings into the database.

Sample Scoring Sheet

	WAC	Weight	Times
Current MV			
	1250(2)(g)	2	
Licensee and staff records.	2075(6)	5	3
Materials that must be posted.	2175(3)	4	
Parent/guardian policies (handbook)	2375(1)	2	
Staff policies	2425(4)	3	
Request local fire department visit	2550(1)	4	
Fire, disaster training	2875(1)(a)	4	
Play equipment	5000(2)	5	
Diversity	6775(1)	1	
High chairs	7225(3)	4	
	Total	33	
Previous 2 years MV			
Background checks	1200(1)	6	2
Ongoing training	1800(1)(b)	4	
Ongoing training	1800(3)	3	
Child records—Contents.	2050(1)(d)	5	2
Licensee and staff records	2075(2)	4	
Licensee and staff records	2075(4)	4	
Record of emergency drills	2925(5)	4	
Monthly fire inspection	3050	4	
Ground cover—Fall zones	5075(4)	5	
Background checks	1200(1)	6	1
First aid and CPR certification	1825(3)(a)	5	
Child records—Contents.	2050(1)(b)	4	
Child records—Contents.	2050(1)(d)	5	1
Child records—Contents.	2050(1)(i)5	4	
Licensee and staff records.	2075(6)	5	2
Licensee and staff records	2075(7)	2	
Licensee and staff records	2075(8)	3	
Poisons, chemicals...	4100(2)(c)	5	
	Total	68	
Past 12 mo. non-MV Valid			
Child care subsidy	1075	2	
Child attendance records	2125(1)(b)	5	
	Total	7	
Prior 24 mo. Non-MV Valid			
Licensee and staff records.	2075(6)	5	1
	Total	5	

Current visit single WAC actions

Only those repeated violations that happen at the current visit are used to assess any individual licensing actions. In this case, we have one WAC (weighted 5) that was violated for a third time automatically assessing a Civil Penalty.

Past MV licensing actions

The previous MV had one repeat violations with a weight of 6 and would have assessed a civil penalties.

Overall Licensing Score:

A score of 74 would allow the licensing team to consider level two licensing actions. In this case, the majority of the citations have to do with record keeping; proof of identity and background checks for staff. It may be that given the pattern of non-compliance, the supervisor may recommend an office meeting with the provider for additional support.

$$33 + (68 \div 2) + 7 + (5 \div 2) = 76.25$$

Ensuring Fair and Reasonable Scoring

Licensing staff
will **NOT** do the
calculations

P1

Single
WAC
Actions

1. WAC violations will automatically be linked to licensing actions by WA Compass according to weight values once a licensor uploads the findings into the system.
2. Individual non-compliant WACs that qualify, will automatically be flagged for civil penalties by the system.
3. Recommendations for further action falling within each of the levels would be sent to the licensor and supervisor.
4. Decisions for further action will be made by the licensing team.
5. Weights falling in Level 5 and above will include the RA in decision making; scores in Level 6 will include the SLA in decision making.

P2

Overall
Licensing
Score

1. Scores will be calculated by the system once the findings are uploaded into the system.
2. Recommendations for further actions will be sent to the licensing team.
3. Decisions for further action will be made by the licensing team.
4. Scores falling in Tier 3 and above will include the RA in decision making; scores in Tier 4 will include the SLA in decision making.

Thank-you Questions?