

# Title 170 WAC

## EARLY LEARNING, DEPARTMENT OF

<p><b>Chapters</b></p> <p><b>170-03</b>     <b>DEL hearing rules.</b></p> <p><b>170-06</b>     <b>DEL background check rules.</b></p> <p><b>170-12</b>     <b>State funding of local head start programs.</b></p> <p><b>170-100</b>    <b>Early childhood education and assistance program.</b></p> <p><b>170-151</b>    <b>School-age child care center minimum licensing requirements.</b></p> <p><b>170-290</b>    <b>Working connections child care.</b></p> <p><b>170-292</b>    <b>Seasonal child care program.</b></p> <p><b>170-295</b>    <b>Minimum licensing requirements for child care centers.</b></p> <p><b>170-296</b>    <b>Child care business regulations for family home child care.</b></p>	<p>170-15-0030</p> <p>170-15-0035</p> <p>170-15-0040</p> <p>170-15-0045</p> <p>170-15-0050</p> <p>170-15-0055</p> <p>170-15-0060</p> <p>170-15-0065</p> <p>170-15-0070</p> <p>170-15-0075</p>	<p>When might my ongoing eligibility for SCC subsidies stop, and when might I be eligible again? [06-15-075, recodified as § 170-15-0030, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0030, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0030.</p> <p>What income is counted when determining eligibility and copayment for the SCC program? [06-15-075, recodified as § 170-15-0035, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0035, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0035.</p> <p>How is my family's average monthly income calculated for the SCC program? [06-15-075, recodified as § 170-15-0040, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0040, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0040.</p> <p>What is not counted, or is deducted, when figuring income eligibility for the SCC program? [06-15-075, recodified as § 170-15-0045, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0045, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0045.</p> <p>How is my family's income eligibility and copayment amount determined for the SCC program? [06-15-075, recodified as § 170-15-0050, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0050, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0050.</p> <p>When might my SCC program copayment change? [06-15-075, recodified as § 170-15-0055, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0055, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0055.</p> <p>What rights do I have when I apply for or receive SCC program subsidies? [06-15-075, recodified as § 170-15-0060, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0060, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0060.</p> <p>What responsibilities do I have when I apply for or receive SCC program subsidies? [06-15-075, recodified as § 170-15-0065, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0065, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0065.</p> <p>Who are the SCC program staff and what responsibilities do they have? [06-15-075, recodified as § 170-15-0070, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0070, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0070.</p> <p>Do I have the right to ask for a hearing regarding SCC program subsidy payments, and how do I request one? [06-15-075, recodified as § 170-15-0075, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0075, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-</p>
--	---	---

**DISPOSITION OF CHAPTERS FORMERLY  
CODIFIED IN THIS TITLE**

**Chapter 170-15  
SEASONAL CHILD CARE PROGRAM**

<p>170-15-0001</p> <p>170-15-0003</p> <p>170-15-0005</p> <p>170-15-0010</p> <p>170-15-0015</p> <p>170-15-0020</p> <p>170-15-0025</p>	<p>Introduction. [06-15-075, recodified as § 170-15-0001, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0001, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0001.</p> <p>What is the purpose of the seasonal child care program? [06-15-075, recodified as § 170-15-0003, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0003, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0003.</p> <p>Am I eligible for the SCC program? [06-15-075, recodified as § 170-15-0005, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0005, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0005.</p> <p>How is my family size defined for SCC program eligibility purposes? [06-15-075, recodified as § 170-15-0010, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0010, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0010.</p> <p>Are there special circumstances when I might be eligible for the SCC program? [06-15-075, recodified as § 170-15-0015, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0015, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0015.</p> <p>What activities must I be involved in to be eligible for the SCC program? [06-15-075, recodified as § 170-15-0020, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0020, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0020.</p> <p>What additional criteria does my family need to meet to be eligible for SCC program subsidies? [06-15-075, recodified as § 170-15-0025, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0025, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0025.</p>
--	---

<p>170-15-0080</p> <p>170-15-0085</p> <p>170-15-0090</p> <p>170-15-0095</p> <p>170-15-0100</p> <p>170-15-0102</p> <p>170-15-0105</p> <p>170-15-0110</p> <p>170-15-0115</p> <p>170-15-0120</p> <p>170-15-0125</p>	<p>130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0075.</p> <p>Can I use SCC programs subsidies while waiting for the outcome of a hearing, and when might it need to be repaid? [06-15-075, recodified as § 170-15-0080, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0080, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0080.</p> <p>What child care providers can I choose under the SCC program? [06-15-075, recodified as § 170-15-0085, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0085, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0085.</p> <p>When are the DSHS child care subsidy rates, used by the SCC program in this chapter, effective? [06-15-075, recodified as § 170-15-0090, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0090, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0090.</p> <p>What DSHS child care subsidy rate does the SCC program use when my child is five years old? [06-15-075, recodified as § 170-15-0095, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0095, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0095.</p> <p>What services can be authorized for the SCC program, and at what rates? [06-15-075, recodified as § 170-15-0100, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0100, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0100.</p> <p>When can my child care provider charge me more than the amount authorized by the SCC program? [06-15-075, recodified as § 170-15-0102, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0102, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0102.</p> <p>When can additional SCC program subsidy payments be authorized? [06-15-075, recodified as § 170-15-0105, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0105, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0105.</p> <p>What additional SCC program subsidy payments can be authorized? [06-15-075, recodified as § 170-15-0110, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0110, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0110.</p> <p>If I am determined eligible for the SCC program, when does my child care subsidy begin? [06-15-075, recodified as § 170-15-0115, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0115, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0115.</p> <p>Can I be authorized for the SCC program before I start a job? [06-15-075, recodified as § 170-15-0120, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0120, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0120.</p> <p>I am preauthorized for the SCC program, when do my SCC program child care subsidies begin? [06-15-075, recodified as § 170-15-0125, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0125, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0125.</p>	<p>170-15-0130</p> <p>170-15-0135</p> <p>170-15-0140</p> <p>170-15-0145</p> <p>170-15-0150</p> <p>170-15-0155</p> <p>170-15-0160</p>	<p>If I am reauthorized for the SCC program, when do my SCC program subsidies begin? [06-15-075, recodified as § 170-15-0130, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0130, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0130.</p> <p>When are my eligibility and copayment information for the SCC program looked at? [06-15-075, recodified as § 170-15-0135, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0135, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0135.</p> <p>How are my SCC program subsidies reauthorized and when may they continue? [06-15-075, recodified as § 170-15-0140, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0140, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0140.</p> <p>When might I receive advance and adequate notice of change in my SCC program subsidies? [06-15-075, recodified as § 170-15-0145, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0145, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0145.</p> <p>When won't I receive advance and adequate notice of changes in my SCC program subsidies? [06-15-075, recodified as § 170-15-0150, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0150, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0150.</p> <p>What is an overpayment and when might I receive one? [06-15-075, recodified as § 170-15-0155, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0155, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0155.</p> <p>When might a child care provider receive an overpayment? [06-15-075, recodified as § 170-15-0160, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0160, filed 6/30/03, effective 8/1/03.] Decodified by 06-16-130, filed 8/1/06, effective 8/1/06. Recodified as WAC 170-292-0160.</p>
--	--	--	---

**Chapter 170-03 WAC  
DEL HEARING RULES**

**WAC**

**I. GENERAL PROVISIONS**

- 170-03-0010 Purpose and scope.
- 170-03-0020 Definitions.
- 170-03-0030 Computing time for meeting deadlines in the hearing process.

**II. HEARING RIGHTS AND REQUESTS**

- 170-03-0040 The right to a hearing.
- 170-03-0050 Requesting a hearing.
- 170-03-0060 Filing the request for hearing.
- 170-03-0070 Location of office of administrative hearings.
- 170-03-0080 Service of notice and documents.
- 170-03-0090 Proof of service.
- 170-03-0100 Representation during the hearing process.

**III. INTERPRETER SERVICES**

- 170-03-0110 The right to an interpreter in the hearing process.
- 170-03-0120 Definitions.
- 170-03-0130 Interpreter qualifications.
- 170-03-0140 Waiver of interpreter services.
- 170-03-0150 Requirements that apply to the use of interpreters.
- 170-03-0160 Requirements that apply to decisions involving limited English-speaking parties.

## IV. PREHEARING PROCEDURES

170-03-0170	Notice of hearing.
170-03-0180	Prehearing conferences.
170-03-0190	Purposes of prehearing conference.
170-03-0200	Prehearing order.
170-03-0210	Assignment and challenge of assignment of administrative law judge.

## V. LAWS APPLIED IN ADMINISTRATIVE HEARINGS

170-03-0220	Rules an ALJ or review judge must apply when making a decision.
170-03-0230	Challenges to validity of DEL rules.
170-03-0240	Amendment to DEL notice or party's request for hearing.
170-03-0250	Changes of address.
170-03-0260	Continuances.
170-03-0270	Order of dismissal.
170-03-0280	Vacating an order of default or order of dismissal.
170-03-0290	Stay of DEL action.
170-03-0300	Stay of summary suspension of child care license.

## VI. HEARINGS

170-03-0340	Conduct of hearings.
170-03-0350	Authority of the administrative law judge.
170-03-0360	Order of the hearing.
170-03-0390	Evidence.
170-03-0400	Introduction of evidence into the record.
170-03-0410	Objections to evidence.
170-03-0420	Stipulations.
170-03-0430	Exhibits.
170-03-0440	Judicial notice.
170-03-0450	Witnesses.
170-03-0460	Requiring witnesses to testify or provide documents.
170-03-0470	Serving a subpoena.
170-03-0480	Testimony.
170-03-0490	Burden of proof.
170-03-0500	Equitable estoppel.
170-03-0510	Closing the record.

## VII. INITIAL ORDERS

170-03-0520	Timing of the ALJ's decision.
170-03-0530	Contents of the initial order.
170-03-0540	Finality of initial order.
170-03-0550	Challenges to the initial order.
170-03-0560	Correcting clerical errors in ALJ's decisions.

## VIII. REVIEW OF INITIAL ORDERS

170-03-0570	Appeal of the initial order.
170-03-0580	Time for requesting review.
170-03-0590	Petition for review.
170-03-0600	Response to petition for review.
170-03-0610	Decision process.
170-03-0620	Authority of the review judge.

## IX. REVIEW OF THE FINAL ORDER

170-03-0630	Request for reconsideration.
170-03-0640	Response to a request for reconsideration.
170-03-0650	Ruling on request for reconsideration.
170-03-0660	Judicial review.

## I. GENERAL PROVISIONS

**WAC 170-03-0010 Purpose and scope.** (1) **Application.** This chapter contains the procedural rules that apply to adjudicative proceedings involving the department of early learning (DEL) and:

(a) Individuals or entities who are applicants for child care licenses or who are licensees of DEL and are aggrieved by a DEL denial of an application or a revocation, suspension, or modification of a license;

(b) Applicants for employment or employees of licensed child care agencies, child care providers, staff, volunteers, contracted providers, or other individuals who are required to meet background check standards before being authorized to care for or have unsupervised access to children in child care and who are disqualified by DEL;

(2009 Ed.)

(c) Individuals receiving child care subsidies under the seasonal child care program who dispute a program decision or licensed/certified providers who dispute an overpayment under the seasonal child care program.

(2) **Relation to statutes and rules.** The rules of this chapter are intended to supplement RCW 43.215.305, the statute governing hearing rights for applicants and licensees; the Administrative Procedure Act (APA), chapter 34.05 RCW; and the model rules, chapter 10-08 WAC, adopted by the office of administrative hearings (OAH). If a provision of this chapter conflicts with a provision in any chapter containing a substantive rule, the provision in the chapter containing the substantive rule governs.

(3) **Relation to actions and rules of other agencies.** Actions of DEL sometimes rely in part on actions taken by other agencies, most notably the department of social and health services (DSHS), or are taken in conjunction with the actions of other agencies. For example, DSHS's division of licensed resources/child protective services (DLR/CPS) has statutory responsibility for investigating allegations of child abuse or neglect in licensed child care agencies. If DLR/CPS finds child abuse or neglect occurred in a child care facility, the person who is the subject of the finding will have a right to a hearing to challenge that finding under DSHS rules. If the subject is a licensed provider, the child care license may be denied, revoked, suspended, or modified as a result of the circumstances and finding and the provider also would have a right to a hearing under DEL hearing rules. To the extent the child abuse or neglect case and the licensing case can be consolidated or combined in one hearing, they should be combined.

(4) **Application and amendments.** This chapter and any amendments to this chapter apply to cases pending at the time of the adoption of the rule or amendment, unless the amendment or rule-making order specifically states that it does not apply to pending cases. An amendment to this chapter does not require that anything already done be redone in order to comply with the amendment, unless the amendment expressly says so.

(5) **Effective date.** This chapter is initially effective July 3, 2006. In addition to cases arising on or after the effective date, this chapter, and not its DSHS predecessor, applies to all pending DEL cases that have not gone to a full hearing before an ALJ by July 3, 2006, and to cases in which an initial decision is subject to review, but in which a petition for review has not been filed by July 3, 2006. This chapter does not apply to cases in which the hearing was held or begun prior to July 3, 2006, and/or which are awaiting initial decisions; Provided, Parts VIII and IX of this chapter, governing review of initial and final orders, will apply to review of any initial orders mailed after the effective date of this chapter.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0010, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0020 Definitions.** The following definitions apply to this chapter:

(1) **"Adjudicative proceeding"** means a hearing before an administrative law judge concerning an appeal of department action pursuant to RCW 43.215.305.

(2) **"Administrative law judge"** or **"ALJ"** means an impartial decision-maker who is an attorney and presides at

an administrative hearing. The office of administrative hearings (OAH), which is a state agency, employs the ALJs. ALJs are not DEL employees or DEL designees.

(3) "**Business days**" means all days except Saturdays, Sundays and legal holidays.

(4) "**Calendar days**" means all days including Saturdays, Sundays and legal holidays.

(5) "**Case**" means the entire proceeding following the filing of a request for hearing with OAH.

(6) "**Continuance**" means a change in the date or time of a prehearing conference, hearing or deadline for other action.

(7) "**DEL**" or "**department**" means the department of early learning.

(8) "**Documents**" means papers, letters, writings, or other printed or written items.

(9) "**Ex parte contact**" means a written or oral communication with an ALJ or review judge about something related to the hearing when the other parties are not present. Procedural questions are not considered an ex parte contact. Examples of procedural questions include clarifying the hearing date, time, or location or asking for directions to the hearing location.

(10) "**Final order**" means an order that is the final DEL decision. An ALJ's initial order becomes a final order if the ALJ's initial order is not appealed to a review judge. If an ALJ's initial order is appealed to a review judge, the review judge's order is DEL's final decision.

(11) "**Good cause**" means a substantial reason or legal justification for an action or for failing to appear, act, or respond to an action required under these rules.

(12) "**Hearing**" means a proceeding before OAH that gives an aggrieved party an opportunity to be heard in disputes resulting from actions taken against the party by DEL. For purposes of this chapter, hearings include administrative hearings, adjudicative proceedings, and any other similar term referenced under chapter 34.05 RCW, the Administrative Procedure Act, Title 170 of the Washington Administrative Code, chapter 10-08 WAC, or other law.

(13) "**Initial order**" is a decision made by an ALJ that may be reviewed by a review judge.

(14) "**OAH**" means the office of administrative hearings. This is a separate agency and not part of DEL.

(15) "**Party**" means a person or entity to whom a DEL adverse action is directed and who has a right to be involved in the hearing process. DEL also is a party.

(16) "**Representative**" means the person selected by a party to represent that party in an administrative hearing. "**Lay representative**" means a person or advocate who is assisting a party in presenting that party's case in administrative hearings. "**DEL representative**" means an employee of DEL, a DEL contractor, or an employee of the office of the attorney general authorized to represent DEL in an administrative hearing.

(17) "**Record**" means the official documentation of the hearing process. The record includes tape recordings or transcripts, admitted exhibits, decisions, briefs, notices, orders, and other filed documents.

(18) "**Review**" means the act of reviewing initial orders and issuing the DEL final order as provided by RCW 34.05.-464.

(19) "**Review judge**" or "**DEL review judge**" means an attorney employed by or designated by DEL to act as the reviewing officer and who is authorized to review initial orders and to prepare and enter the final agency order.

(20) "**Rule**" means a state regulation, including a licensing standard. Rules are found in the Washington Administrative Code (WAC).

(21) "**Stay**" means an order temporarily halting the DEL decision or action.

(22) Words of command such as "**will**," "**shall**," and "**must**" are words that impose a mandatory obligation on a participant in the hearing process. The word "**may**" is used when referring to a discretionary act to be taken by a participant in the hearing process.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0020, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0030 Computing time for meeting deadlines in the hearing process.** (1) When counting days to find out when the time allowed or prescribed for an action under these rules or to meet a hearing deadline:

(a) Do not include the day of the action, notice, or order. For example, if an initial order is mailed on Tuesday and a party has twenty-one days from the date of mailing to request a review, count Wednesday as the first day. Similarly, if a DEL notice of denial, revocation, suspension, or modification of a license is received on a Wednesday and an individual has twenty-eight days from the date of receipt to file a request for an adjudicative proceeding, count Thursday as the first day.

(b) Count the last day of the period, unless the last day is a Saturday, Sunday or legal holiday, in which case the deadline is the next business day.

(2) For periods of seven days or less, count only business days. For example, if you have seven days to respond to a review request that was mailed to you on Friday, May 10, the response period ends on Tuesday, May 21.

(3) For periods over seven days, count every day, including Saturdays, Sundays, and legal holidays.

(4) The deadline ends at 5:00 p.m. on the last day.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0030, filed 3/5/08, effective 4/5/08.]

## II. HEARING RIGHTS AND REQUESTS

**WAC 170-03-0040 The right to a hearing.** (1) A person or entity has a right to a hearing only if a law or DEL rule expressly gives that right and a hearing is timely requested.

(2) A party has only a limited time to request a hearing. The deadline for the request is set by statute or DEL rule. In most cases, DEL will send a notice of adverse action that gives specific information about how, where and when to request a hearing.

(3) A challenge to a DEL adverse action is heard in an administrative hearing by an administrative law judge (ALJ) employed by the office of administrative hearings (OAH). Not all actions of DEL may be challenged through the hearing.

(4) If a party requests a hearing, one will be scheduled.

(5) If DEL or the ALJ questions a party's right to a hearing, the ALJ decides whether the party has that right. The ALJ will decide either:

- (a) There is no right to a hearing and dismiss the case; or
- (b) There is a right to a hearing and proceed with the hearing.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0040, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0050 Requesting a hearing.** (1) A request for hearing must be made in writing. DEL will provide forms that requesting parties may use to request a hearing. The request for hearing can be made by the party requesting the hearing or by the party's representative.

(2) The hearing request shall include:

- (a) The requesting party's name, address, and telephone number;
- (b) A brief explanation of why the requesting party disagrees with the DEL adverse action;
- (c) Any assistance, such as a foreign or sign language interpreter or accommodation for a disability, needed by the requesting party;
- (d) A copy of the notice from DEL stating the adverse action.

(3) Within twenty-eight days of receipt of notice of DEL's adverse action, the request shall be filed with OAH and served on DEL.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0050, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0060 Filing the request for hearing.** (1) Filing is the act of delivering documents to OAH at the location listed in WAC 170-03-0070.

- (2) The date of filing is the date documents are actually received by OAH during office hours.
- (3) A party may file documents with OAH by:
  - (a) Personal service (hand delivery);
  - (b) First class, registered, or certified mail;
  - (c) Fax transmission, if the party also mails a copy of the document the same day;
  - (d) Commercial delivery service; or
  - (e) Legal messenger service.
- (4) A party cannot file documents by e-mail.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0060, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0070 Location of office of administrative hearings.** (1) The office of administrative hearings (OAH) is open from 8:00 a.m. to 5:00 p.m. Monday through Friday, except legal holidays.

(2) The address for the office of administrative hearings (OAH) is:

Office of Administrative Hearings  
2420 Bristol Court S.W., 1st Floor  
P.O. Box 42488  
Olympia, WA 98504-2488  
360-664-8717  
360-664-8721 (fax)

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0070, filed 3/5/08, effective 4/5/08.]

(2009 Ed.)

**WAC 170-03-0080 Service of notice and documents.**

(1) Service is the act of delivering a copy of documents to the opposing party. Service gives the opposing party notice of the request for hearing or other action. When a document is given to a party, that party is considered served with official notice of the contents of the document.

(2) A party may serve another party by:

- (a) Personal service (hand delivery);
  - (b) First class, registered, or certified mail;
  - (c) Fax, if the party also mails a copy of the document the same day;
  - (d) Commercial delivery service; or
  - (e) Legal messenger service.
- (3) A party cannot serve documents by e-mail.
- (4) A party must serve all other parties or a party's representative, if the party is represented, whenever the party files a pleading (request for hearing), brief or other document with OAH or the review judge or when required by law.
- (5) Service is complete when:
- (a) Personal service is made;
  - (b) Mail is properly stamped, addressed and deposited in the United States mail;
  - (c) Fax produces proof of transmission;
  - (d) A parcel is delivered to a commercial delivery service with charges prepaid; or
  - (e) A parcel is delivered to a legal messenger service with charges prepaid.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0080, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0090 Proof of service.** A party may prove that an opposing party was served with documents by providing any of the following:

- (1) A sworn statement by the person who served the document;
- (2) The certified mail receipt signed by the recipient;
- (3) An affidavit or certificate of mailing;
- (4) A signed receipt from the person who accepted the commercial delivery service or legal messenger service package;
- (5) Proof of fax transmission; or
- (6) Acknowledgment by the party being served.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0090, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0100 Representation during the hearing process.** (1) The party requesting the hearing may represent himself or herself or may have another person, except a DEL employee, act as the representative.

(2) The representative may be a friend, relative, community advocate, attorney, paralegal, or lay representative.

(3) The representative shall provide OAH and the other parties with the representative's name, address, and telephone number. If the representative is an attorney or lay representative, the representative must file a written notice of appearance in the action. If the representative is not an attorney, the party must provide a written statement to DEL authorizing the release of information about the party to the representative.

(4) DEL may be represented by an employee of DEL, a DEL contractor, or an assistant attorney general.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0100, filed 3/5/08, effective 4/5/08.]

### III. INTERPRETER SERVICES

**WAC 170-03-0110 The right to an interpreter in the hearing process.** (1) If a party or witness has limited English proficiency (LEP), OAH will provide an interpreter during the hearing at no cost.

(2) If OAH is notified that a party is a limited English-speaking person (LES), all notices concerning hearings must:

- (a) Be written in the party's primary language; or
- (b) Include a statement, in the primary language, explaining the importance of the notice and informing the party how to get help in understanding the notice and responding to it.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0110, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0120 Definitions.** The following definitions apply to rules relating to interpreter services.

(1) **"Limited English proficient person"** includes limited English-speaking persons or other persons unable to readily communicate in spoken English.

(2) **"Limited English-speaking person"** means a person who, because of non-English-speaking cultural background or disability (including a hearing impairment), cannot readily speak or understand the English language.

(3) **"Hearing impaired person"** means a person who, because of a hearing or speech impairment, cannot readily speak, understand or communicate in spoken language.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0120, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0130 Interpreter qualifications.** (1) OAH must provide a qualified interpreter to assist any person who:

- (a) Has limited English proficiency; or
- (b) Is limited English speaking or hearing impaired; and
- (c) Is a party or witness in a hearing.

(2) OAH may hire or contract with persons to interpret at hearings.

(3) Relatives of any party and DEL employees may not be used as interpreters.

(4) The ALJ must determine, at the beginning of the hearing, if an interpreter can accurately interpret all communication for the person requesting the service.

(5) The parties or their representatives may question the interpreter's qualifications and ability to be impartial.

(6) If at any time before or during the hearing the ALJ finds that the interpreter does not provide accurate and effective communication, OAH must provide another interpreter.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0130, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0140 Waiver of interpreter services.** (1) An eligible party may waive interpreter services.

(2) A request for waiver must be made in writing or through a qualified interpreter on the record.

(3) The ALJ must determine that the waiver has been knowingly and voluntarily made.

[Title 170 WAC—p. 6]

(4) A waiver of interpreter services may be withdrawn at any time before or during the hearing.

(5) A waiver of interpreter services at the hearing constitutes a waiver of a right to challenge any aspect of the hearing based on a lack of understanding resulting from an inability to understand or a lack of proficiency in the English language.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0140, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0150 Requirements that apply to the use of interpreters.** (1) Interpreters must:

(a) Use the interpretive mode that the parties, the limited English proficient, limited English speaking, or hearing impaired person, the interpreter, and the ALJ consider the most accurate and effective;

(b) Interpret statements made by the parties, witnesses, and the ALJ;

(c) Not disclose information about the hearing without the written consent of the parties unless required by law; and

(d) Not comment on the hearing or give legal advice.

(2) The ALJ must allow enough time for all interpretations to be made and understood.

(3) The ALJ may videotape a hearing and use it as the official transcript for hearings involving a hearing impaired person.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0150, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0160 Requirements that apply to decisions involving limited English-speaking parties.** (1) When an interpreter is used at a hearing involving limited English-speaking parties, the ALJ must explain that the decision will be written in English but that a party using an interpreter may contact the interpreter for an oral translation of the decision at no cost.

(2) Interpreters must provide a telephone number where they can be reached to the ALJ and to the LES party. This number must be included in any decision or order mailed to the parties.

(3) OAH or the review judge must mail a copy of a decision or order to the interpreter for use in oral translation.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0160, filed 3/5/08, effective 4/5/08.]

### IV. PREHEARING PROCEDURES

**WAC 170-03-0170 Notice of hearing.** (1) When a hearing is requested, OAH sends the parties a written notice of the hearing or prehearing conference.

(2) The notice of hearing or prehearing conference will include:

(a) The names, mailing addresses, and telephone numbers of all parties and of their representatives;

(b) The name, mailing address, and telephone number of the ALJ;

(c) The date, time, place, and nature of the hearing or prehearing conference;

(d) The legal authority and jurisdiction for the hearing or prehearing conference; and

(e) The date of the hearing request.

(2009 Ed.)

(3) OAH also will send information with the notice of hearing or prehearing conference stating:

(a) If a party and the party's representative fail to attend or participate in a prehearing conference or a hearing, that party may lose the right to a hearing and the ALJ may enter an order of default or an order dismissing the case.

(b) If a party or witness needs a qualified interpreter because the party or witness is entitled to an interpreter under WAC 170-03-0110 and 170-03-0130, OAH will provide an interpreter at no cost.

(c) Whether the hearing or prehearing conference is to be held by telephone or in person, and how to request a change in the way it is held.

(d) How to indicate any special needs for a party or witness.

(e) How to contact OAH if a party or witness has a safety concern.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0170, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0180 Prehearing conferences.** (1) A prehearing conference is a formal meeting that may be conducted by an ALJ before a full hearing. A prehearing conference may not be conducted in some cases. In others, more than one prehearing conference may be necessary.

(2) Either the ALJ or a party may request a prehearing conference, but the ALJ decides whether to hold a prehearing conference. OAH sends notice of the time and date of the prehearing conference to all parties.

(3) An ALJ may conduct the prehearing conference in person, by telephone conference call, by electronic means, or in any other manner acceptable to the parties.

(4) Attendance of the parties and their representatives is mandatory. A party may lose the right to participate during the hearing if that party and their representative does not attend the prehearing conference. Your appeal may be dismissed if you and your representative do not attend.

(5) Additional prehearing conferences may be requested by the parties and/or set by the ALJ to address the procedural or other issues specific to the case.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0180, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0190 Purposes of prehearing conference.** (1) The purposes of the prehearing conference are to clarify issues, set deadlines for the parties to exchange information regarding witnesses and evidence, and set the time for the hearing.

(2) During a prehearing conference the parties and the ALJ may:

(a) Simplify or clarify the issues to be decided during the hearing;

(b) Agree to the date, time and place of the hearing;

(c) Identify accommodation and safety issues;

(d) Agree to postpone the hearing;

(e) Allow the parties to make changes in their own documents, including the DEL notice of adverse action or the appealing party's hearing request;

(f) Agree to facts and documents to be entered during the hearing;

(2009 Ed.)

(g) Set a deadline for each party to file and serve the names and phone numbers of witnesses, and copies of all documents or other exhibits that will be presented at the hearing;

(h) Schedule additional prehearing conferences;

(i) Resolve the dispute;

(j) Consider granting a stay if authorized by law or DEL rule;

(k) Consider a motion for summary judgment or other motion; or

(l) Determine any other procedural issues raised by the parties.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0190, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0200 Prehearing order.** (1) After the prehearing conference ends, the ALJ will send a prehearing order describing:

(a) The decisions made or actions taken during the conference;

(b) Any changes to DEL's or other party's initial documents; and

(c) Any agreements reached.

(2) A party may object to the prehearing order by notifying the ALJ in writing within ten days after the mailing date of the order. The ALJ must issue a ruling on the objection.

(3) If no objection is made to the prehearing order, the order determines how the hearing is conducted, including whether the hearing will be in person or held by telephone conference or other means, unless the ALJ changes the order for good cause.

(4) Prehearing orders are not final appealable orders of the department.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0200, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0210 Assignment and challenge of assignment of administrative law judge.** (1) OAH assigns an ALJ at least five business days before the hearing and discloses that assignment in writing to the parties. A party may ask which ALJ is assigned to the hearing by calling or writing the OAH field office listed on the notice of hearing.

(2) A party may file a motion of prejudice against an ALJ under RCW 34.12.050 by:

(a) Sending a written motion of prejudice at least three business days before the hearing, and before the ALJ rules on a discretionary issue in the case.

(b) The motion of prejudice must include an affidavit that a party does not believe that the ALJ can hear the case fairly.

(c) The party must send the request to the chief administrative law judge in care of the OAH field office where the ALJ works and send a copy of the request to all other parties or, if other parties are represented, to the representatives.

(3) The first timely request for a different ALJ is automatically granted. Any later request may be granted or denied by the chief ALJ or a designee.

(4) A party may also request that an ALJ or review judge be disqualified under RCW 34.05.425, for bias, prejudice, conflict of interest, or any other good cause or if one of the

parties or a party's representative has an ex parte contact with the ALJ or review judge by:

(a) Sending a written petition for disqualification. A petition for disqualification is a written explanation to request assignment of a different ALJ or review judge. A party must promptly make the petition upon discovery of facts establishing grounds for disqualification.

(b) A party must send or deliver the petition to the ALJ or review judge assigned to the case and send a copy of the petition to all other parties or, if other parties are represented, to the representatives. The ALJ or review judge must decide whether to grant or deny the petition and must state the facts and reasons for the decision.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0210, filed 3/5/08, effective 4/5/08.]

## V. LAWS APPLIED IN ADMINISTRATIVE HEARINGS

**WAC 170-03-0220 Rules an ALJ or review judge must apply when making a decision.** (1) ALJs and review judges must first apply the DEL rules adopted in the Washington Administrative Code.

(2) If no DEL rule applies, the ALJ or review judge must decide the issues according to the best legal authority and reasoning available, including federal and Washington state constitutions, statutes, rules, and published appellate court decisions.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0220, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0230 Challenges to validity of DEL rules.** (1) Neither an ALJ nor a review judge may decide that a DEL rule is invalid or unenforceable. Only a court may decide this issue.

(2) If the validity of a DEL rule is raised during the hearing, the ALJ or review judge may allow argument for later court review.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0230, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0240 Amendment to DEL notice or party's request for hearing.** (1) The ALJ must allow DEL to amend (change) the notice of a DEL adverse action before or during the hearing to match the evidence and facts.

(2) If DEL amends its notice, it must put the change in writing and give a copy to the ALJ and the other parties.

(3) The ALJ may allow an appealing party to amend a hearing request before or during the hearing to conform with an amended DEL notice.

(4) If there is an amendment to either the DEL notice or the appealing party's request for hearing, the ALJ must offer to continue or postpone the hearing to give the parties more time to prepare or present evidence or argument if there is a significant change from the earlier DEL notice or from the appealing party's request for hearing.

(5) If the ALJ grants a continuance, OAH must send a new hearing notice at least seven business days before the new hearing date.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0240, filed 3/5/08, effective 4/5/08.]

[Title 170 WAC—p. 8]

**WAC 170-03-0250 Changes of address.** (1) Parties and representatives must tell DEL and OAH, as soon as possible, when the party's or the representative's name, mailing address or telephone number changes.

(2) If OAH and DEL are not notified of a change in a party's or a representative's mailing address and either DEL or OAH continues to send documents to the address stated in the file, the ALJ and DEL may assume that the documents were received.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0250, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0260 Continuances.** (1) Any party may request a continuance either orally or in writing.

(2) Before contacting the ALJ to request a continuance, a party shall contact the other parties, if possible, to find out if they will agree to a continuance.

(3) The party making the request for a continuance must let the ALJ know whether the other parties agree to the continuance.

(a) If the parties agree to a continuance, the ALJ will grant the request, unless the ALJ finds that good cause for a continuance does not exist.

(b) If the parties do not agree to a continuance, the ALJ will set a hearing to decide whether there is good cause to grant or deny the request for continuance.

(4) If a request for continuance is granted, OAH will send written notice of the changed time and date of the hearing.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0260, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0270 Order of dismissal.** (1) An order of dismissal is an order sent by the ALJ to end the hearing. The order is made by agreement of the parties, or because the party who requested the hearing withdrew the request, failed to appear, or refused to participate.

(2) If a hearing is dismissed because the appealing party withdrew the request, did not appear, or refused to participate, the DEL decision stands.

(3) If the hearing is dismissed due to a written agreement between the parties, the parties must follow the agreement.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0270, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0280 Vacating an order of default or order of dismissal.** (1) A party may ask the ALJ to vacate (set aside) an order of default or dismissal.

(a) A request to vacate an order must be filed with OAH within twenty-one calendar days after the date the order of default or dismissal was mailed. If no request is received within that deadline, the order becomes a final order.

(b) The request to vacate an order of default or dismissal must specify why the party believes there is good cause for the order to be vacated.

(2) OAH will schedule a hearing on the request to vacate the order.

(3) At the hearing, the ALJ will receive evidence and argument from the parties on whether there is good cause for an order of default to be vacated.

(2009 Ed.)

(4) The ALJ will vacate an order of dismissal and reinstate the hearing if the defaulted party shows good cause or if the DEL representative agrees to waive the deadline.

(5) An agreed order of dismissal may be vacated only upon proof that a party has violated a condition of the agreed order of dismissal.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0280, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0290 Stay of DEL action.** (1) Except as set forth in WAC 170-03-0300, at any point in the proceeding before OAH or the review judge, the appealing party may request that an ALJ or review judge stay (stop) a DEL action until there is a decision entered by the ALJ or review judge.

(2) The ALJ shall not grant a stay unless the ALJ makes specific findings that the stay is in the public interest or is made for good cause. In finding good cause the ALJ must determine:

(a) The party requesting the stay is likely to prevail in the hearing on the merits;

(b) The party requesting the stay will suffer irreparable injury, if the stay is not granted; and

(c) The threat to the public health, safety, or welfare is not sufficiently serious to justify the agency action in the circumstances of the case.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0290, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0300 Stay of summary suspension of child care license.** (1) The department may immediately and summarily suspend a license when:

(a) It finds that conditions in the licensed facility constitute an imminent danger to a child or children in care; or

(b) The public health, safety, or welfare requires emergency action.

(2) A licensee who contests suspension of a license by the department may obtain a stay of the effectiveness of that order only as set forth in this section.

(3) The licensee may request a stay by including such a request in the request for hearing or in a subsequent motion. The request for stay must be accompanied by a statement of grounds justifying the stay and a description of evidence setting forth the factual basis upon which the request is based.

(4) Upon receipt of a request for a stay, the ALJ will schedule a hearing on the request. The hearing may be combined with a prehearing conference. If it appears that a hearing on the merits and issues of the case should be consolidated with the request for a stay, the ALJ may advance the hearing date on its own initiative or by request of the parties.

(5) The ALJ shall not grant a stay unless the ALJ makes specific findings that the stay is in the public interest or is made for good cause. In finding good cause, the ALJ must determine:

(a) The licensee is likely to prevail in the hearing on the licensing action;

(b) The licensee will suffer irreparable injury, if the stay is not granted; and

(c) The threat to the public health, safety, or welfare inherent in the licensee's operation of a child care facility is not sufficiently serious to justify the suspension of the license.

(2009 Ed.)

(6) Economic hardship of itself shall be an insufficient reason for a stay of a suspension of a license.

(7) Unless otherwise stipulated by the parties, the ALJ, after granting or denying a request for a stay, will expedite the hearing and decision on the merits.

(8) The decision on the request for the stay is subject to review by the review judge at the request of either DEL or the licensee. The request for review must be filed not later than seven days following the date the decision on the request for stay is mailed by OAH to the parties.

(9) A request for review by the review judge shall be promptly determined. The decision on the request for review by the review judge shall not be subject to judicial review.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0300, filed 3/5/08, effective 4/5/08.]

## VI. HEARINGS

**WAC 170-03-0340 Conduct of hearings.** (1) Hearings may be held in person or by telephone conference or other electronic means.

(2) All parties, their representatives and witnesses may attend the hearing in person or by telephone conference or other electronic means at the discretion of the ALJ.

(3) Whether a hearing is held in person or by telephone conference, the parties have the right to see all documents, hear all testimony and question all witnesses.

(4) When a hearing is held by telephone or other electronic means, all documentary evidence must be filed and served in advance of the hearing.

(5) All hearings must be recorded.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0340, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0350 Authority of the administrative law judge.** (1) The ALJ must hear and decide the issues de novo (anew) based on what is presented during the hearing, provided that the ALJ's authority shall be limited to determining whether the sanction imposed or action taken by the department was warranted and/or justified under the evidence presented during the hearing. The ALJ shall not have authority to substitute or impose an alternative sanction, remedy or action.

(2) As needed, the ALJ may:

(a) Administer oaths and affirmations;

(b) Determine the order for presenting evidence;

(c) Issue subpoenas and protective orders as provided in the Administrative Procedure Act;

(d) Rule on objections, motions, and other procedural matters;

(e) Rule on motions for summary judgment;

(f) Rule on offers of proof and receive relevant evidence;

(g) Pursuant to RCW 34.05.449(5), close parts of a hearing to public observation or order the exclusion of witnesses upon a showing of good cause;

(h) Question witnesses called by the parties in an impartial manner to develop any facts deemed necessary to fairly and adequately decide the matter;

(i) Request additional exhibits and/or testimony following a finding that the additional evidence is necessary to com-

plete the record provided all parties are given a full opportunity for cross-examination and/or rebuttal;

(j) Take official notice of facts pursuant to RCW 34.05.-452(5);

(k) Regulate the course of the hearing and take any appropriate action necessary to maintain order during the hearing;

(l) Permit or require oral argument or briefs and determine the time limits for submission thereof;

(m) Issue an order of default pursuant to RCW 34.05.-440;

(n) Hold prehearing conferences;

(o) Allow a party to waive rights given by chapter 34.05 RCW or these rules unless another law prevents it;

(p) Decide whether a party has a right to a hearing;

(q) Permit and regulate the taking of discovery;

(r) Consider granting a stay if authorized by law or DEL rule; and

(s) Take any other action necessary and authorized by any applicable statute or rule.

(3) The ALJ may, upon his or her own motion or the motion of any party, order that multiple administrative proceedings be consolidated for hearing if they involve common issues or parties.

(4) The ALJ may waive any of the department's procedural rules, other than a rule relating to jurisdiction, for any party not represented by legal counsel or a lay representative upon specific findings that:

(a) The waiver is necessary to avoid manifest injustice to the unrepresented party; and

(b) That the waiver would not prejudice any other party.

(5) The ALJ shall make findings of fact based on the preponderance of the evidence unless otherwise required by law.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0350, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0360 Order of the hearing.** (1) At the hearing, the ALJ:

(a) Explains the rights of the parties;

(b) Marks and admits or rejects exhibits;

(c) Ensures that a record is made;

(d) Explains that a decision is mailed after the hearing; and

(e) Notifies the parties of appeal rights.

(2) The parties may:

(a) Make opening statements to explain the issues;

(b) Offer evidence to prove their positions, including oral or written statements of witnesses;

(c) Question the witnesses presented by the other parties; and

(d) Give closing arguments about what the evidence shows and what laws apply.

(3) At the end of the hearing if the ALJ does not allow more time to send in evidence, the record is closed.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0360, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0390 Evidence.** (1) Evidence includes documents, objects, and testimony of witnesses that parties give during the hearing to help prove their positions.

(2) Evidence may be all or parts of original documents or copies of the originals.

(3) Parties may offer statements signed by a witness under oath or affirmation as evidence, if the witness cannot appear.

(4) Testimony given with the opportunity for cross-examination by the other parties may be given more weight by the ALJ.

(5) The ALJ may only consider admitted evidence to decide a case.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0390, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0400 Introduction of evidence into the record.** (1) The ALJ may set a deadline before the hearing for the parties to provide proposed exhibits and names of witnesses to the ALJ and to all other parties. If the parties miss the deadline, the ALJ may refuse to admit the evidence unless the parties show:

(a) They have good cause for missing the deadline; or

(b) The other parties agree to waive the deadline.

(2) The ALJ may admit and consider hearsay evidence.

Hearsay is a statement made outside of the hearing used to prove the truth of what is in the statement. The ALJ may only base a finding on hearsay evidence if the ALJ finds that the parties had the opportunity to question or contradict it.

(3) The ALJ may reject evidence, if it:

(a) Is not relevant;

(b) Repeats evidence already admitted;

(c) Is from a privileged communication protected by law;

or

(d) Is otherwise legally improper.

(4) Except in cases where the department's notice of adverse action alleges the person lacks the character to provide for the needs of any child in care or to have unsupervised access to any child in care, evidence regarding character or reputation shall not be admissible. In cases where such evidence is admissible, the ALJ shall exercise reasonable control over the number of character witnesses so as to avoid duplication of testimony and evidence and needless consumption of time.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0400, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0410 Objections to evidence.** (1) Although a party may offer any documents and testimony at the hearing to support the party's position, other parties may object to the evidence and may question the witnesses. For example, a party may object to the authenticity or admissibility of any exhibit, or offer argument about how much weight the ALJ should give the exhibit.

(2) The ALJ determines whether to admit the evidence and what weight (importance) to give it.

(3) If the ALJ does not admit the evidence, the party may make an offer of proof to show why the ALJ should admit it. The offer of proof preserves the issue for appeal. To make an offer of proof, a party presents evidence and argument on the record to show why the ALJ should consider the evidence.

(4) If a witness refuses to answer any question ruled proper by the ALJ, the ALJ has discretion to strike all testimony previously given by that witness on the proceeding.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0410, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0420 Stipulations.** (1) A stipulation is an agreement among two or more parties that certain facts or evidence is correct or authentic.

(2) If an ALJ accepts a stipulation, the ALJ must enter it into the record.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0420, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0430 Exhibits.** (1) Proposed exhibits are documents or other objects that a party wants the ALJ to consider when reaching a decision. After the document or object is accepted by the ALJ, it is admitted and becomes an exhibit.

(2) The ALJ may require the parties to mark and number their proposed exhibits before the hearing and to provide copies to the other parties as far ahead of the hearing as possible.

(3) The ALJ admits proposed exhibits into the record by marking, listing, identifying, and admitting the proposed exhibits.

(4) The ALJ may also exclude proposed exhibits from the record.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0430, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0440 Judicial notice.** (1) Judicial notice is evidence that includes facts or standards that are generally recognized and accepted by judges, government agencies, or national associations, such as a calendar, building code or standard of practice.

(2) An ALJ may consider and admit evidence by taking judicial notice.

(3) If a party requests judicial notice, or if the ALJ intends to take judicial notice, the ALJ may ask the party to provide a copy of the document that contains the information.

(4) The ALJ must give the parties time to object to judicial notice evidence.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0440, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0450 Witnesses.** (1) A witness is any person who makes statements or gives testimony that becomes evidence in a hearing.

(2) One type of witness is an expert witness. An expert witness is qualified by knowledge, experience, and education to give opinions or evidence in a specialized area.

(3) Witnesses may include:

(a) The appealing party or a DEL representative;

(b) Anyone a party or the ALJ asks to be a witness.

(4) The ALJ decides who may testify as a witness.

(5) Unless DEL agrees, a current or former DEL employee may not be an expert witness against DEL if that employee was actively involved in the case while working for DEL.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0450, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0460 Requiring witnesses to testify or provide documents.** (1) A party may require witnesses to testify or provide documents by issuing a subpoena. A sub-

(2009 Ed.)

poena is an order to appear at a certain time and place to give testimony, or to provide books, documents, or other items.

(2) ALJs, DEL, and attorneys for the parties may prepare subpoenas.

(3) If a party is not represented by an attorney, the party may ask the ALJ to prepare a subpoena on that party's behalf.

(a) The ALJ may schedule a hearing to decide whether to issue a subpoena.

(b) There is no cost to prepare a subpoena, but a party may have to pay for:

(i) Serving a subpoena;

(ii) Complying with a subpoena; and

(iii) Witness fees according to RCW 34.05.446(7).

(4) A party may request that an ALJ quash (set aside) or change the subpoena at any time before the deadline given in the subpoena.

(5) An ALJ may set aside or change a subpoena if it is unreasonable.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0460, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0470 Serving a subpoena.** (1) Any person who is at least eighteen years old and not a party to the hearing may serve a subpoena.

(2) Service of a subpoena is complete when the server:

(a) Gives the witness a copy of the subpoena; or

(b) Leaves a copy at the residence of the witness with a person over the age of eighteen.

(3) To prove that a subpoena was served on a witness, the person serving the subpoena must sign a written, dated statement including:

(a) Who was served with the subpoena;

(b) When the subpoena was served;

(c) Where the subpoena was served; and

(d) The name, age, and address of the person who served the subpoena.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0470, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0480 Testimony.** (1) Direct examination. All witnesses may be asked questions by the party that calls the witness to testify. Each witness:

(a) Must affirm or take an oath to testify truthfully during the hearing;

(b) May testify in person or by telephone;

(c) May request interpreters from OAH at no cost to the parties;

(d) May be subpoenaed and ordered to appear according to WAC 170-03-0460.

(2) Cross-examination. The parties have the right to cross-examine (question) each witness called by any other party.

(3) If a party has a representative, only the representative, and not the party, may question the witness.

(4) The ALJ may also question witnesses.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0480, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0490 Burden of proof.** (1) The party who has the burden of proof is the party who has the responsibility

to provide evidence to persuade the ALJ that a position is correct under the standard of proof required.

(2) Standard of proof refers to the amount of evidence needed to prove a party's position. Unless the rules or law states otherwise, the standard of proof in a hearing is a preponderance of the evidence. This standard means that it is more likely than not that something happened or exists.

(3) The ALJ decides if a party has met the burden of proof.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0490, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0500 Equitable estoppel.** (1) Equitable estoppel is a legal doctrine defined in case law that may prevent DEL from taking some action against a party in a proceeding to challenge an overpayment notice issued by DEL.

(2) There are five elements of equitable estoppel that must be proved by clear and convincing evidence. All of the following elements must be proved:

(a) DEL made a statement or took action or failed to take action, which is inconsistent with its later claim or position regarding an overpayment.

(b) The appealing party relied on DEL's original statement, action or failure to act.

(c) The appealing party will be injured if DEL is allowed to contradict the original statement, action or failure to act.

(d) Equitable estoppel is needed to prevent a manifest injustice.

(e) The exercise of government functions is not impaired.

(3) If the ALJ concludes that all of the elements of equitable estoppel in subsection (2) of this section have been proved with clear and convincing evidence, DEL is stopped or prevented from taking action or enforcing its claim for repayment of the overpayment.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0500, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0510 Closing the record.** When the record is closed, no more evidence may be taken, without a showing of good cause. The record is closed:

(1) At the end of the hearing if the ALJ does not allow more time to send in evidence or argument; or

(2) After the deadline for sending in evidence or argument is over.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0510, filed 3/5/08, effective 4/5/08.]

## VII. INITIAL ORDERS

**WAC 170-03-0520 Timing of the ALJ's decision.** (1) After the record is closed, the ALJ must write an initial order and send copies to the parties.

(2) The maximum time an ALJ has to send an initial order is ninety calendar days after the record is closed.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0520, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0530 Contents of the initial order.** The ALJ initial order must:

(1) Identify the hearing decision as a DEL case;

(2) List the name and docket number of the case and the names of all parties and representatives;

(3) Find the specific facts determined to exist by the ALJ, based on the hearing record, and relied on by the ALJ in resolving the dispute;

(4) Explain why evidence is credible when the facts or conduct of a witness is in question;

(5) State the law that applies to the dispute;

(6) Apply the law to the facts of the case in the conclusions of law;

(7) Discuss the reasons for the decision based on the facts and the law;

(8) State the result;

(9) Explain how to request changes in the decision and the deadlines for requesting them;

(10) State the date the decision becomes final; and

(11) Include any other information required by law or DEL program rules.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0530, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0540 Finality of initial order.** If no one requests review of the initial order or if a review request is dismissed, the initial order becomes the DEL final decision twenty-one calendar days after the date it is mailed to the parties by OAH.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0540, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0550 Challenges to the initial order.** (1) If a party disagrees with an ALJ's initial order because of a clerical error, the party may ask for a corrected decision from the ALJ as provided in WAC 170-03-0560.

(2) If a party disagrees with the reasoning and result of an initial order and wants it changed, the party must request review by the review judge as provided in WAC 170-03-0570 through 170-03-0620.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0550, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0560 Correcting clerical errors in ALJ's decisions.** (1) A clerical error is a mistake that does not change the result or intent of the decision. Some examples of clerical error are:

(a) Missing or incorrect words or numbers;

(b) Dates inconsistent with the decision or evidence in the record such as using May 3, 1989, instead of May 3, 1998; or

(c) Math errors when adding the total of an overpayment.

(2) A party may ask for a corrected ALJ decision by making the request in writing and sending it to the OAH office that held the hearing. A copy of the request must be sent to the other parties or their representatives.

(3) A request to correct a clerical error must be made within ten days of the date the decision was mailed to the parties by OAH.

(4) When asking for a corrected decision, a party must clearly identify the clerical error.

(5) When a party requests a corrected initial or final order, the ALJ must either:

- (a) Send all parties a corrected order; or
- (b) Deny the request within three business days of receiving it.

(6) If the ALJ corrects an initial order and a party does not request review, the corrected initial order becomes final twenty-one calendar days after the original initial order was mailed.

(7) Requesting a corrected initial order for a case does not extend the deadline to request review of the initial order by the review judge.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0560, filed 3/5/08, effective 4/5/08.]

## VIII. REVIEW OF INITIAL ORDERS

### **WAC 170-03-0570 Appeal of the initial order.** (1)

Review of the initial order may occur when a party disagrees with or wants a change in an initial order, other than correcting a clerical error.

(2) A party must request review of an initial order from the DEL review judge as provided in WAC 170-03-0580 through 170-03-0640.

(3) If more than one party requests review, each request must meet the deadlines in WAC 170-03-0580.

(4) The review judge considers the request, the initial order, and record, before deciding if the initial order may be changed.

(5) Review does not include another hearing by the DEL review judge.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0570, filed 3/5/08, effective 4/5/08.]

### **WAC 170-03-0580 Time for requesting review.** (1)

The review judge must receive the written petition for review on or before the twenty-first calendar day after the initial order was mailed.

(2) A review judge may extend the deadline if a party both:

- (a) Asks for more time before the deadline expires; and
- (b) Shows good cause for requesting more time.

(3) A review judge may accept a review request after the twenty-one calendar day deadline only if:

(a) The review judge receives the review request on or before the thirtieth calendar day after the deadline; and

- (b) A party shows good cause for missing the deadline.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0580, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0590 Petition for review.** (1) A party must make the review request (petition for review) in writing and clearly identify the:

(a) Parts of the initial order with which the party disagrees; and

- (b) Arguments supporting the party's position.

(2) The petition for review must be filed with the review judge and a copy sent to the other parties and their representatives.

(3) The review judge can be contacted at the following address or at the address stated on the letter containing instructions for obtaining review mailed with the initial order:

(2009 Ed.)

Review Judge  
Department of Early Learning  
P.O. Box 40970  
Olympia, WA 98504-0970  
360-725-4665

(4) After receiving a party's review request, the review judge will send a copy to the other parties, their representatives and OAH.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0590, filed 3/5/08, effective 4/5/08.]

### **WAC 170-03-0600 Response to petition for review.**

(1) A party does not have to respond to the review request. A response is optional.

(2) If a party responds, that party must send the response so that the review judge receives it on or before the seventh business day after the date a copy of the petition for review was mailed to the party by the review judge.

(3) The responding party must send a copy of the response to any other party or representative.

(4) If a party needs more time to respond, the party must contact the review judge by the deadline in subsection (2) of this section and show good cause for an extension of time.

(5) A review judge may accept and consider a party's response even if it is received after the deadline.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0600, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0610 Decision process.** (1) After the response deadline, the record on review is closed unless there is a good cause to reopen the record.

(2) A review judge is assigned to the review after the record is closed.

(3) The review judge only considers evidence given at the original hearing.

(4) The review judge will decide the appeal without oral argument, unless the review judge determines that oral argument is necessary for resolution of the appeal.

(5) The review judge enters a final order that affirms, changes, dismisses or reverses the initial order, or remands (returns) the case to OAH for further specified action.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0610, filed 3/5/08, effective 4/5/08.]

### **WAC 170-03-0620 Authority of the review judge.** (1)

The review judge has the same decision-making authority as an ALJ, but must consider the ALJ's opportunity to observe the witnesses.

(2) The review judge's order is the DEL final order in the case. If the review judge's final order upholds the department's adverse action, the appealing party must comply with the final order unless the appealing party obtains a stay of the effectiveness of the final order from the review judge.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0620, filed 3/5/08, effective 4/5/08.]

## IX. REVIEW OF THE FINAL ORDER

**WAC 170-03-0630 Request for reconsideration.** (1) If a party disagrees with the final order issued by a review judge

and wants it reconsidered, the party may ask the review judge to reconsider the final order because the party believes the review judge made a mistake. However, the appealing party must comply with the final order pending reconsideration. Filing a petition for reconsideration does not stay the effectiveness of the final order.

(2) If a party asks for reconsideration of the final order, the reconsideration process must be completed before judicial review is sought.

(3) A request for reconsideration must be made in writing and must clearly state the reasons why the party wants the final order reconsidered.

(4) The review judge must receive the written reconsideration request on or before the tenth calendar day after the final order was mailed by the review judge to the parties. The party requesting reconsideration must send a copy of the request to all parties or, if the parties are represented, to their representatives.

(5) If a reconsideration request is received by the review judge after the deadline, the final order will not be reconsidered. However, the review judge may extend the deadline if a party:

- (a) Asks for more time before the deadline expires; and
- (b) Demonstrates good cause for the extension.

(6) After receiving a reconsideration request, the review judge will send a copy to the other parties and representatives giving them time to respond.

(7) If a party does not request reconsideration or ask for an extension within the deadline, the final order will not be reconsidered.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0630, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0640 Response to a request for reconsideration.** (1) A party does not have to respond to a request for reconsideration. A response is optional.

(2) If a party responds, that party must send a response to the review judge by or before the seventh business day after the date OAH or the review judge mailed the request to the party.

(3) A party must send a copy of the response to any other party or representative.

(4) If a party needs more time to respond, OAH or the review judge may extend the deadline if the party demonstrates good cause for an extension within the deadline in subsection (2) of this section.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0640, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0650 Ruling on request for reconsideration.** (1) After the review judge receives a reconsideration request, within twenty calendar days the review judge must either:

- (a) Dispose of the petition; or
- (b) Send all parties a written notice setting a date by which the review judge will act on the petition.

(2) If the review judge does not dispose of the petition or send the parties written notice setting a date by which the review judge will act on the petition within twenty days of receipt of the reconsideration request, the request is denied.

(3) The review judge decision is final when the reconsideration decision is mailed or the date the reconsideration request is denied.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0650, filed 3/5/08, effective 4/5/08.]

**WAC 170-03-0660 Judicial review.** (1) Judicial review is the process of appealing a final order to a court.

(2) Any party, except DEL, may appeal a final order by filing a written petition for judicial review that meets the requirements of RCW 34.05.546. The petition must be properly filed and served within thirty calendar days of the date OAH or the review judge mails the final order in the case.

(3) Filing an appeal of a final order does not stay the effectiveness of the final order.

(4) RCW 34.05.510 through 34.05.598 contain further details of the judicial review process.

[Statutory Authority: Chapter 43.215 RCW, RCW 34.05.220, chapter 34.05 RCW, 2006 c 265. 08-06-102, § 170-03-0660, filed 3/5/08, effective 4/5/08.]

## Chapter 170-06 WAC

### DEL BACKGROUND CHECK RULES

#### WAC

170-06-0010	Purpose and scope.
170-06-0020	Definitions.
170-06-0030	Reason for background checks.
170-06-0040	Background clearance requirements.
170-06-0050	Department action following completion of background inquiry.
170-06-0060	Additional information the department may consider.
170-06-0070	Disqualification and reconsideration.
170-06-0080	Notification of disqualification.
170-06-0090	Administrative hearing to contest disqualification.
170-06-0100	Request for administrative hearing.
170-06-0110	Limitations on challenges to disqualifications.
170-06-0120	Director's list.

**WAC 170-06-0010 Purpose and scope.** (1) The purpose of this chapter is to establish rules for background checks conducted by the department of early learning (DEL or department). The department does background checks on individuals who are authorized to care for or have unsupervised access to children in child care agencies or in facilities that are certified by DEL. Background checks are conducted to find and evaluate any history of criminal convictions, pending charges, negative actions, or other information that raises concerns about an individual's character, suitability and competence to care for or have unsupervised access to children in child care.

(2) This chapter applies to all individuals who are applying for a new or renewal license or certification, applying for authorization to care for or have unsupervised access to children in child care and to persons who are licensed, certified by DEL or authorized to care for or have unsupervised access to children in child care.

(3) If any provision of this chapter conflicts with any provision in any chapter containing a substantive rule relating to background checks and qualifications of persons who are authorized to care for or have unsupervised access to children in child care, the provisions in this chapter shall govern.

(4) These rules implement chapters 43.215 and 43.43 RCW, including DEL responsibilities in RCW 43.215.200, 43.215.205, 43.215.215, 43.43.830, and 43.43.832.

(5) Effective date: These rules are initially effective July 3, 2006, and apply prospectively.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0010, filed 4/30/08, effective 5/31/08.]

**WAC 170-06-0020 Definitions.** The following definitions apply to this chapter:

(1) **"Agency"** has the same meaning as "agency" in RCW 43.215.020(2).

(2) **"Appellant"** means only those with the right of appeal under this chapter.

(3) **"Applicant"** means an individual who is seeking a DEL background check authorization as part of an application for a child care agency license or DEL certification or who seeks DEL authorization to care for or have unsupervised access to children in child care.

(4) **"Authorized"** or **"authorization"** means approval by DEL to care for or have unsupervised access to children in child care or to work in or reside on the premises of a child care agency or certified facility.

(5) **"Certification"** or **"certified by DEL"** means an agency that is legally exempt from licensing that has been certified by DEL as meeting minimum licensing requirements.

(6) **"DEL"** or **"department"** means the department of early learning.

(7) **"Director's list"** means a list of crimes, the commission of which disqualifies an individual from being authorized by DEL to care for or have unsupervised access to children in child care, WAC 170-06-0120.

(8) **"Disqualified"** means DEL has determined that a person's background information prevents that person from being licensed or certified by DEL or from being authorized by DEL to care for or have unsupervised access to children in child care.

(9) **"Negative action"** means a court order, court judgment or an adverse action taken by an agency, in any state, federal, tribal or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability and competence to care for or have unsupervised access to children in child care. This may include but is not limited to:

(a) A decision issued by an administrative law judge.

(b) A final determination, decision or finding made by an agency following an investigation.

(c) An adverse agency action, including termination, revocation or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification or contract in lieu of the adverse action.

(d) A revocation, denial or restriction placed on any professional license.

(e) A final decision of a disciplinary board.

(10) **"Unsupervised access"** means:

(a) An individual will or may have the opportunity to be alone with a child in child care at any time for any length of time; and

(b) Access that is not within constant visual or auditory range of the licensee, an employee authorized by DEL, nor a relative or guardian of the child in child care.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0020, filed 4/30/08, effective 5/31/08.]

(2009 Ed.)

**WAC 170-06-0030 Reason for background checks.**

The department does background checks to reduce the risk of harm to children from caregivers or others who have been convicted of certain crimes or who pose a risk to children. The department's rules and state law require the evaluation of background information to determine the character, suitability and competence of persons who will care for or have unsupervised access to children in child care.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0030, filed 4/30/08, effective 5/31/08.]

**WAC 170-06-0040 Background clearance requirements.**

(1) At the time of application for a license or certification or for authorization to care for or have unsupervised access to children in child care, the applicant shall submit to the department a completed background check form and fingerprint card, if required. A fingerprint card is required for a Federal Bureau of Investigation check if the applicant has resided in the state of Washington for less than three years. This requirement applies to:

(a) Each individual applicant for a license or certification;

(b) All staff of the licensed child care agency or certified facility, whether they provide child care or not, including but not limited to:

(i) Primary staff persons;

(ii) Assistants;

(iii) Volunteers;

(iv) Interns;

(v) Contracted providers;

(vi) Each person residing on the premises of a licensed facility who is sixteen years of age or older; and

(vii) All individuals who are sixteen years of age or older who will care for or have unsupervised access to children in child care.

(2) Each person identified in this section must complete a DEL background check form, disclosing:

(a) Whether he or she has been convicted of any crime;

(b) All pending criminal charges; and

(c) Negative actions, to which he or she has been subject, as defined by WAC 170-06-0020(9).

(3) An agency, licensee, or certified facility shall require an applicant to submit to the licensee or facility a completed background check form:

(a) By the date of hire of new staff, assistants, volunteers, interns or contracted providers;

(b) By the date a person age sixteen or older moves onto the premises; or

(c) By the date a person who resides on the premises turns sixteen years old.

(4) The licensee or certified facility must submit the background check form to the department within seven days of the staff, assistant, volunteer, intern or contracted provider's first day of employment, date the person moves on the premises or turns sixteen years old, as applicable.

(5) An individual shall not have unsupervised access to children in child care unless he or she has obtained a DEL authorization under this chapter.

(6) Agencies, licensees and facilities shall not permit any individual to care for or have unsupervised access to children in child care, unless the individual has been authorized by

DEL to care for or have unsupervised access to children in child care.

(7) An individual who has been disqualified by DEL shall not be present on the premises of a licensed or certified facility.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0040, filed 4/30/08, effective 5/31/08.]

**WAC 170-06-0050 Department action following completion of background inquiry.** After the department receives the background information it will conduct a character, suitability and competence assessment as follows:

(1) Compare the background information with the DEL director's list, WAC 170-06-0120, to determine whether the applicant must be disqualified under WAC 170-06-0070 (1) and (2). In doing this comparison, the department will use the following rules:

(a) A pending charge for a crime or a deferred prosecution is given the same weight as a conviction.

(b) If the conviction has been renamed it is given the same weight as the previous named conviction. For example, larceny is now called theft.

(c) Convictions whose titles are preceded with the word "attempted" are given the same weight as those titles without the word "attempted."

(d) The term "conviction" has the same meaning as the term "conviction record" as defined in RCW 10.97.030 and shall include convictions or dispositions for crimes committed as either an adult or a juvenile. It shall also include convictions or dispositions for offenses for which the person received a deferred or suspended sentence, unless the record has been expunged according to law.

(e) Convictions and pending charges from other states or jurisdictions will be treated the same as a crime or pending charge in Washington state. If the elements of the crime from the foreign jurisdiction are not identical or not substantially similar to its Washington equivalent or if the foreign statute is broader than the Washington definition of the particular crime, the defendant's conduct, as evidenced by the indictment or information, will be analyzed to determine whether the conduct would have violated the comparable Washington statute.

(f) The crime will not be considered a conviction for the purposes of the department when the conviction has been the subject of an expungement, pardon, annulment, certification of rehabilitation, or other equivalent procedure based on a finding of the rehabilitation of the person convicted, or the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on a finding of innocence.

(2) Evaluate any negative action information to determine whether the applicant has any negative actions requiring disqualification under WAC 170-06-0070(3).

(3) If the applicant is not disqualified under WAC 170-06-0070 (1), (2) or (3), evaluate any negative action information and any other pertinent background information, including nondisqualifying criminal convictions, to determine whether disqualification is warranted under WAC 170-06-0070 (4), (5) or (7).

(4) Notify the child care agency, licensee, or certified facility whether or not the department is able to authorize the

applicant to care for or have unsupervised access to children in child care.

(5) The department will discuss the result of the criminal history and background check information with the licensee or management staff of a licensed or certified facility, when applicable.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0050, filed 4/30/08, effective 5/31/08.]

**WAC 170-06-0060 Additional information the department may consider.** (1) If DEL has reason to believe that additional information is needed to determine the character, suitability and competence of the applicant to care for or have unsupervised access to children in child care, additional information will be requested. Upon request, the applicant must provide to the department any additional reports or information requested. This additional information may include, but is not limited to:

- (a) Sexual deviancy evaluations;
- (b) Substance abuse evaluations;
- (c) Psychiatric evaluations; and
- (d) Medical evaluations.

(2) Any evaluation requested under this section must be conducted by an evaluator who is licensed or certified under RCW 18.130.040. The evaluation will be at the expense of the person being evaluated.

(3) The applicant must give the department permission to speak with the evaluator in subsection (1)(a) through (d) of this section prior to evaluation, to establish the need for and scope of the evaluation, and after the evaluation to discuss the results.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0060, filed 4/30/08, effective 5/31/08.]

**WAC 170-06-0070 Disqualification and reconsideration.**

**Background information that will disqualify an applicant.**

(1) An applicant who has a background containing any of the permanent convictions on the director's list, WAC 170-06-0120(1), shall be permanently disqualified from providing licensed child care, caring for children or having unsupervised access to children in child care.

(2) An applicant who has a background containing any of the nonpermanent convictions on the director's list, WAC 170-06-0120(2), shall be disqualified from providing licensed child care, caring for children or having unsupervised access to children in child care for five years after the conviction date.

(3) An applicant shall be disqualified when their background contains a negative action, as defined in WAC 170-06-0020(9) that relates to:

(a) An act, finding, determination, decision, or the commission of abuse or neglect of a child as defined in chapters 26.44 RCW and 388-15 WAC.

(b) An act, finding, determination, decision, or commission of abuse or neglect or financial exploitation of a vulnerable adult as defined in chapter 74.34 RCW.

**Background information that may disqualify an applicant.**

(4) An applicant may be disqualified for other negative action(s), as defined in WAC 170-06-0020(9) which reasonably relate to the applicant's character, suitability and competence to care for or have unsupervised access to children in child care.

(5) An applicant may be disqualified from caring for or having unsupervised access to children if the individual is the subject of a pending child protective services (CPS) investigation.

(6) An applicant who has a "founded" finding for child abuse or neglect will not be authorized to care for or have unsupervised access to children during the administrative hearing and appeals process.

(7) The department may also disqualify an applicant if the applicant has other nonconviction background information that renders the applicant unsuitable to care for or have unsupervised access to children in child care. Among the factors the department may consider are:

(a) The applicant attempts to obtain a license, certification, or authorization by deceitful means, such as making false statements or omitting material information on an application.

(b) The applicant used illegal drugs or misused or abused prescription drugs or alcohol that either affected their ability to perform their job duties while on the premises when children were present or presented a risk of harm to any child in child care.

(c) The applicant attempted, committed, permitted, or assisted in an illegal act on the premises. For purposes of this subsection, an applicant attempted, committed, permitted, or assisted in an illegal act if he or she knew or reasonably should have known that the illegal act occurred or would occur.

(d) The applicant lacks sufficient physical or mental health to meet the needs of children in child care.

(e) The applicant had a license or certification for the care of children or vulnerable adults terminated, revoked, suspended or denied.

**Reconsideration of disqualification.**

(8) If an applicant who has been disqualified can demonstrate by clear and convincing evidence that he or she has the character, suitability and competence to care for or have unsupervised access to children in child care, the department may consider authorizing the applicant to care for or have unsupervised access to children in child care.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0070, filed 4/30/08, effective 5/31/08.]

**WAC 170-06-0080 Notification of disqualification.**

(1) The department will notify the applicant in writing if the applicant is disqualified by the background check.

(2) If the department sends a notice of disqualification, the applicant will not be authorized to care for or have unsupervised access to children in child care.

(3) Any decision by the department disqualifying an applicant under this chapter is effective immediately upon receipt of notice by the applicant.

(2009 Ed.)

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0080, filed 4/30/08, effective 5/31/08.]

**WAC 170-06-0090 Administrative hearing to contest disqualification.** (1) An applicant may request an administrative hearing to contest the department's disqualification decision.

(2) The employer or prospective employer cannot contest the department's decision on behalf of any other person, including a prospective employee.

(3) The administrative hearing will take place before an administrative law judge employed by the office of administrative hearings, pursuant to chapter 34.05 RCW, and chapter 170-03 WAC.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0090, filed 4/30/08, effective 5/31/08.]

**WAC 170-06-0100 Request for administrative hearing.** (1) Any person who has a right to contest the disqualification under this chapter must request a hearing within twenty-eight days of receipt of the decision.

(2) A request for a hearing must meet the requirements of chapter 170-03 WAC.

(3) Any decision by the department disqualifying a person under this chapter shall remain in effect pending the outcome of the administrative hearing or review under chapter 170-03 WAC, notwithstanding any provision of chapter 170-03 WAC to the contrary.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0100, filed 4/30/08, effective 5/31/08.]

**WAC 170-06-0110 Limitations on challenges to disqualifications.** (1) If the disqualification is based on a criminal conviction, the appellant cannot contest the conviction in the administrative hearing.

(2) If the disqualification is based on a finding of child abuse or neglect, or a finding of abandonment, abuse, neglect, exploitation, or financial exploitation of a vulnerable adult as defined in chapter 74.34 RCW, the appellant cannot contest the finding if:

(a) The appellant was notified of the finding by the department of social and health services (DSHS) and failed to request a hearing to contest the finding; or

(b) The appellant was notified of the finding by DSHS and requested a hearing to contest the finding, but the finding was upheld by final administrative order or superior court order.

(3) If the disqualification is based on a court order finding the applicant's child to be dependent as defined in chapter 13.34 RCW, the applicant cannot contest the finding of dependency in the administrative hearing.

(4) If the disqualification is based upon a negative action as defined in WAC 170-06-0020(9) the appellant cannot contest the underlying negative action in the administrative hearing if the appellant was previously afforded the right of review or hearing right and a final decision or finding has been issued.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0110, filed 4/30/08, effective 5/31/08.]

**WAC 170-06-0120 Director's list.** (1) An applicant's conviction for any crimes listed in column (a) in the table below shall permanently disqualify the applicant from authorization to care for or have unsupervised access to children in child care.

(2) An applicant's conviction for any crime listed in column (b) in the table below shall disqualify the applicant from authorization to care for or have unsupervised access to children in child care for a period of five years from the date of conviction.

<b>(a) Crimes that permanently disqualify an applicant</b>	<b>(b) Crimes that disqualify an applicant for five years from date of conviction</b>
Abandonment of a child	Abandonment of a dependent person not against child
Arson	Assault 3 not domestic violence
Assault 1	Assault 4/simple assault
Assault 2	Burglary
Assault 3 domestic violence	Coercion
Assault of a child	Custodial assault
Bail jumping	Custodial sexual misconduct
Carnal knowledge	Extortion 2
Child buying or selling	Forgery
Child molestation	Harassment
Commercial sexual abuse of a minor	
Communication with a minor for immoral purposes	Identity theft
Controlled substance homicide	Leading organized crime
Criminal mistreatment	Malicious explosion 3
Custodial interference	Malicious mischief
Dealing in depictions of minor engaged in sexually explicit conduct	Malicious placement of an explosive 2
Domestic violence (felonies only)	Malicious placement of an explosive 3
Drive-by shooting	Malicious placement of imitation device 1
Extortion 1	Patronizing a prostitute
Harassment domestic violence	Possess explosive device
Homicide by abuse	Promoting pornography
Homicide by watercraft	Promoting prostitution 1
Incendiary devices (possess, manufacture, dispose)	Promoting prostitution 2
Incest	Promoting suicide attempt
Indecent exposure/public indecency (felonies only)	Prostitution
Indecent liberties	Reckless endangerment
Kidnapping	Residential burglary
Luring	Stalking
Malicious explosion 1	Theft
Malicious explosion 2	Theft-welfare
Malicious harassment	Unlawful imprisonment
Malicious mischief domestic violence	Unlawful use of a building for drug purposes

<b>(a) Crimes that permanently disqualify an applicant</b>	<b>(b) Crimes that disqualify an applicant for five years from date of conviction</b>
Malicious placement of an explosive 1	Violation of the Imitation Controlled Substances Act (manufacture/deliver/intent)
Manslaughter	Violation of the Uniform Controlled Substances Act (manufacture/deliver/intent)
Murder/aggravated murder	Violation of the Uniform Legend Drug Act (manufacture/deliver/intent)
	Violation of the Uniform Precursor Drug Act (manufacture/deliver/intent)
Possess depictions minor engaged in sexual conduct	
Rape	
Rape of child	
Robbery	
Selling or distributing erotic material to a minor	
Sending or bringing into the state depictions of a minor	
Sexual exploitation of minors	
Sexual misconduct with a minor	
Sexually violating human remains	
Use of machine gun in felony	
Vehicular assault	
Vehicular homicide (negligent homicide)	
Violation of child abuse restraining order	
Violation of civil anti-harassment protection order	
Violation of protection/contact/restraining order	
Voyeurism	

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-06-0120, filed 4/30/08, effective 5/31/08.]

**Chapter 170-12 WAC**

**STATE FUNDING OF LOCAL HEAD START PROGRAMS**

(Formerly chapter 365-40 WAC)

**WAC**

- 170-12-010 Purpose and authority.
- 170-12-020 Definitions.
- 170-12-041 Financial support application process.
- 170-12-051 Eligibility criteria.
- 170-12-071 Method of payment and reporting requirements.

**WAC 170-12-010 Purpose and authority.** (1) The purpose of this chapter is to outline the conditions and procedures under which state funds will be made available for Head Start programs.

(2) This activity is undertaken pursuant to RCW 43.06.110 and chapter 43.330 RCW.

[06-15-075, recodified as § 170-12-010, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 43.06.110 and 43.330.040 (2)(g). 97-21-005, § 365-40-010, filed 10/1/97, effective 11/1/97. Statutory Authority: RCW 43.63A.060, 85-13-006 (Order 85-03), § 365-40-010, filed 6/7/85. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-010, filed 10/25/78.]

**WAC 170-12-020 Definitions.** (1) "Applicant" means a public or private nonsectarian organization which receives federal Head Start funds.

(2) "Contractor" means an applicant which has been allocated state Head Start funds under the Head Start state match program.

(3) "Department" means the department of community, trade and economic development.

(4) "Director" means the director of the department of community, trade and economic development.

(5) "Head Start program" means an operation undertaken in accordance with the program performance standards set forth in the federal Head Start Act as amended and relevant federal regulations.

[06-15-075, recodified as § 170-12-020, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 43.06.110 and 43.330.040 (2)(g). 97-21-005, § 365-40-020, filed 10/1/97, effective 11/1/97. Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-020, filed 10/16/89, effective 11/16/89; 88-01-058 (Order 87-20), § 365-40-020, filed 12/16/87; 86-18-026 (Order 86-02), § 365-40-020, filed 8/27/86. Statutory Authority: RCW 43.63A.060, 85-13-006 (Order 85-03), § 365-40-020, filed 6/7/85. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 78-11-059 (Order 78-04), § 365-40-020, filed 10/25/78.]

**WAC 170-12-041 Financial support application process.** (1) Each potential applicant will be notified by the department that application for Head Start state match financial assistance is to be made to the department.

(2) An applicant must make formal application in the form and manner specified by the department. Failure of an applicant to make application in the specified time will result in no Head Start state match funds being allocated.

(3) Applications for Head Start state match financial assistance shall contain a description of the services to be provided with Head Start state match funds.

(4) The department shall provide a contract for signature to the applicant or a request for additional information.

[06-15-075, recodified as § 170-12-041, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 43.06.110 and 43.330.040 (2)(g). 97-21-005, § 365-40-041, filed 10/1/97, effective 11/1/97. Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-041, filed 10/16/89, effective 11/16/89; 86-18-026 (Order 86-02), § 365-40-041, filed 8/27/86. Statutory Authority: RCW 43.63A.060, 85-13-006 (Order 85-03), § 365-40-041, filed 6/7/85. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-041, filed 7/20/79.]

**WAC 170-12-051 Eligibility criteria.** In order to receive Head Start state match funds, a contractor must currently be receiving federal funds to operate a Head Start program. Head Start state match funds may be used only for activities which result in direct and measurable services to

(2009 Ed.)

Head Start program children. The department shall determine the formula for distribution of state funds based on federal enrollment levels at the time of funding.

[06-15-075, recodified as § 170-12-051, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 43.06.110 and 43.330.040 (2)(g). 97-21-005, § 365-40-051, filed 10/1/97, effective 11/1/97. Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-051, filed 10/16/89, effective 11/16/89; 88-01-058 (Order 87-20), § 365-40-051, filed 12/16/87; 86-18-026 (Order 86-02), § 365-40-051, filed 8/27/86. Statutory Authority: RCW 43.63A.060, 85-13-006 (Order 85-03), § 365-40-051, filed 6/7/85. Statutory Authority: RCW 43.06.110 and 43.63A.060, 82-07-066 (Order 82-01), § 365-40-051, filed 3/22/82. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-051, filed 7/20/79.]

**WAC 170-12-071 Method of payment and reporting requirements.** (1) Head Start state match funds will be paid in accordance with the provisions of the applicable contract and these regulations.

(2) Reports to the department to assure that funds are being expended for purposes authorized in the approved contract are required in a format approved by the department.

(3) The contractor shall submit annually a current report of the audit of funds conducted by an independent auditor or office of state auditor in accordance with generally accepted auditing standards. Such audit may be that conducted for and provided to other funding sources. The audit report must identify state funds by contract number. Responses to any unresolved management findings and disallowed or questioned costs shall be included with the audit report.

[06-15-075, recodified as § 170-12-071, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 43.06.110 and 43.330.040 (2)(g). 97-21-005, § 365-40-071, filed 10/1/97, effective 11/1/97. Statutory Authority: Chapter 43.63A RCW. 89-21-056 (Order 89-04), § 365-40-071, filed 10/16/89, effective 11/16/89; 88-01-058 (Order 87-20), § 365-40-071, filed 12/16/87; 86-18-026 (Order 86-02), § 365-40-071, filed 8/27/86. Statutory Authority: RCW 43.63A.060, 85-13-006 (Order 85-03), § 365-40-071, filed 6/7/85. Statutory Authority: RCW 43.06.110 and 43.63A.060, 82-07-066 (Order 82-01), § 365-40-071, filed 3/22/82. Statutory Authority: RCW 43.06.110 and chapter 43.63A RCW. 79-08-050 (Order 79-02), § 365-40-071, filed 7/20/79.]

## Chapter 170-100 WAC

### EARLY CHILDHOOD EDUCATION AND ASSISTANCE PROGRAM

(Formerly chapter 365-170 WAC)

#### WAC

170-100-010	Authority.
170-100-020	Purpose.
170-100-030	Definitions.
170-100-040	Process for allocating or awarding funds.
170-100-050	Use of funds.
170-100-060	Comprehensive service delivery.
170-100-070	Nondiscrimination.
170-100-080	Eligibility for services.
170-100-090	Staff qualifications.

**WAC 170-100-010 Authority.** These rules are adopted under the authority of chapter 28A.215 RCW.

[06-18-085, recodified as § 170-100-010, filed 9/5/06, effective 9/5/06. Statutory Authority: Chapter 28A.215 RCW. 06-13-046, § 365-170-010, filed 6/16/06, effective 7/17/06. Statutory Authority: RCW 28A.34A.060, 88-18-039 (Order 88-04), § 365-170-010, filed 8/31/88. Statutory Authority: RCW 43.63A.060, 87-04-007 (Order 87-02), § 365-170-010, filed 1/23/87.]

**WAC 170-100-020 Purpose.** The early childhood education and assistance program (ECEAP) provides preschool education, family support, and health and nutrition services to low-income three- and four-year-old children to promote school success.

[06-18-085, recodified as § 170-100-020, filed 9/5/06, effective 9/5/06. Statutory Authority: Chapter 28A.215 RCW. 06-13-046, § 365-170-020, filed 6/16/06, effective 7/17/06. Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-020, filed 9/22/99, effective 10/23/99; 87-04-007 (Order 87-02), § 365-170-020, filed 1/23/87.]

**WAC 170-100-030 Definitions.** (1) "Contractor" means a nonsectarian public or private organization that contracts with the department of early learning to provide local early childhood education and assistance services.

(2) "Department" means the department of early learning.

(3) "Director" means the director of the department of early learning.

[Statutory Authority: Chapter 43.215 RCW. 07-20-034, § 170-100-030, filed 9/25/07, effective 10/26/07. 06-18-085, recodified as § 170-100-030, filed 9/5/06, effective 9/5/06. Statutory Authority: Chapter 28A.215 RCW. 06-13-046, § 365-170-030, filed 6/16/06, effective 7/17/06. Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-030, filed 9/22/99, effective 10/23/99. Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-030, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-030, filed 1/23/87.]

**WAC 170-100-040 Process for allocating or awarding funds.** (1) Public or private nonsectarian organizations are eligible to apply for funding as early childhood education and assistance programs.

(2) Funds shall be awarded on a competitive basis or allocated by the department, consistent with the amount allocated by the legislature.

(3) An applicant must use the application procedures established by the department.

(4) Successful applicants will be awarded a contract with the department. This contract must be signed by an official with authority to bind the recipient.

[06-18-085, recodified as § 170-100-040, filed 9/5/06, effective 9/5/06. Statutory Authority: Chapter 28A.215 RCW. 06-13-046, § 365-170-060, filed 6/16/06, effective 7/17/06. Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-060, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-060, filed 1/23/87.]

**WAC 170-100-050 Use of funds.** (1) Contracting agencies must provide comprehensive early education and family support services free of charge to enrolled families.

(2) Early childhood education and assistance program funds must be used as dollars of last resort for medical, dental, nutrition, and mental health services.

(3) Administrative costs funded under this program are limited to fifteen percent of the total award.

[06-18-085, recodified as § 170-100-050, filed 9/5/06, effective 9/5/06. Statutory Authority: Chapter 28A.215 RCW. 06-13-046, § 365-170-070, filed 6/16/06, effective 7/17/06. Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-070, filed 9/22/99, effective 10/23/99. Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-070, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-070, filed 1/23/87.]

**WAC 170-100-060 Comprehensive service delivery.** (1) Contractors must conduct a community assessment, and

must plan and deliver the following comprehensive services to enrolled children:

(a) Early childhood education;

(b) Family support;

(c) Parent involvement including options for participation in their child's classroom, program policy decisions, service delivery system development, and parent education and training; and

(d) Health screening, information, and referral, including medical, dental, nutrition, and mental health.

(2) Contractors must comply with the early childhood education and assistance program contract, performance standards, and policy memos in the delivery of all services.

(3) Contractors may request exceptions to rules, performance standards, or policies. Contractors must receive written approval from the department before implementing exceptions.

[06-18-085, recodified as § 170-100-060, filed 9/5/06, effective 9/5/06. Statutory Authority: Chapter 28A.215 RCW. 06-13-046, § 365-170-07005, filed 6/16/06, effective 7/17/06.]

**WAC 170-100-070 Nondiscrimination.** Contractors must not deny service to, or discriminate against, any person who meets the eligibility criteria for the early childhood education and assistance program on the basis of gender, race, color, religion, age, national origin, citizenship, ancestry, physical or mental disability, family configuration, sexual orientation, culture, or public assistance recipient status.

[06-18-085, recodified as § 170-100-070, filed 9/5/06, effective 9/5/06. Statutory Authority: Chapter 28A.215 RCW. 06-13-046, § 365-170-07010, filed 6/16/06, effective 7/17/06.]

**WAC 170-100-080 Eligibility for services.** (1) Contractors must recruit, document eligibility, and enroll children based on available funds. Enrolled children must not be participants in the federally funded head start program. Contractors must give priority for enrollment to children from families with the lowest incomes or to children from families with multiple needs.

(2) To be enrolled, children must meet the following age criteria.

(a) First priority for enrollment must be given to children who are four years old, but not yet five years old, by August 31 of the program year.

(b) Second priority may be given to children who are three years old by August 31 of the program year and meet other eligibility criteria.

(c) Contractors may not enroll children who are younger than three years old or older than five years old on August 31 of the program year.

(3) To be enrolled, children must meet either the following income or risk factor criteria:

(a) Family income. Children are eligible if their family income is at or below one hundred ten percent of the Federal Poverty Guidelines established by the United States Department of Health and Human Services. Contractors may choose which time period below best reflects the family's current financial circumstances:

(i) Previous calendar year before enrollment;

(ii) Twelve months before enrollment; or

(iii) Previous or current month, when annual family income has been documented and shows a significant recent decrease due to death, divorce, unexpected job loss, or similar circumstance.

(b) Risk factors. Up to ten percent of funded slots may be used for children from families who are not income eligible and are impacted by:

(i) Developmental factors, such as developmental delay or disability; or

(ii) Environmental factors, such as domestic violence, chemical dependency, child protective services involvement, or other factors affecting school success.

[06-18-085, recodified as § 170-100-080, filed 9/5/06, effective 9/5/06. Statutory Authority: Chapter 28A.215 RCW. 06-13-046, § 365-170-080, filed 6/16/06, effective 7/17/06. Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-080, filed 9/22/99, effective 10/23/99. Statutory Authority: RCW 28A.34A.060. 88-18-039 (Order 88-04), § 365-170-080, filed 8/31/88. Statutory Authority: RCW 43.63A.060. 87-04-007 (Order 87-02), § 365-170-080, filed 1/23/87.]

**WAC 170-100-090 Staff qualifications.** (1) Contractors must provide adequate staff to comply with all ECEAP performance standards. Contractors must have written policies and procedures for recruitment and selection of staff, including procedures for advertising all position openings to the public.

(2) All persons serving in the role of lead teacher must meet one of the following qualifications:

(a) An associate or higher degree with the equivalent of thirty college quarter credits of early childhood education. These thirty credits may be included in the degree or in addition to the degree; or

(b) A valid Washington state teaching certificate with an endorsement in early childhood education (pre-K - grade 3) or early childhood special education.

(3) All persons serving in the role of assistant teacher must meet one of the following qualifications:

(a) Employment as an early childhood education and assistance program assistant teacher in the same agency before July 1, 1999;

(b) The equivalent of twelve college quarter credits in early childhood education; or

(c) A Child Development Associate (CDA) credential awarded by the Council for Early Childhood Professional Recognition.

(4) All persons serving in the role of family support specialist must meet one of the following qualifications:

(a) Employment as an early childhood education and assistance program family service worker in the same agency before July 1, 1999; or

(b) An associate's or higher degree with the equivalent of thirty college quarter credits of adult education, human development, human services, family support, social work, early childhood education, child development, psychology, or another field directly related to their job responsibilities. These thirty credits may be included in the degree or in addition to the degree.

(5) All persons serving in the role of family support aide or health aide must meet one of the following qualifications:

(a) Employment as an early childhood education and assistance program family support aide or health aide in the same agency before July 1, 1999; or

(2009 Ed.)

(b) The equivalent of twelve college quarter credits in family support, public health, health education, nursing, or another field directly related to their job responsibilities.

(6) The early childhood education and assistance program health professional must meet one of the following qualifications:

(a) Licensed in Washington state as a registered nurse; or

(b) A bachelor's or higher degree in public health, nursing, health education, or related field.

(7) The early childhood education and assistance program dietitian must meet all of the following qualifications:

(a) A bachelor's or higher degree in nutrition science, public health nutrition, dietetics, or other related field; and

(b) Registered dietitian with the American Dietetic Association or certified as a dietitian under chapter 18.138 RCW.

(8) The early childhood education and assistance program mental health professional must meet one of the following qualifications:

(a) Licensed by the Washington state department of health as a mental health counselor, marriage and family therapist, social worker, psychologist, psychiatrist, or psychiatric nurse; or

(b) Credentialed by the Washington state office of the superintendent of public instruction as a school counselor, social worker, or psychologist.

(9) Contractors may provisionally hire lead teachers, assistant teachers, family service workers, family service aides, or health aides who do not fully meet the qualifications for the position if all of the following conditions are met:

(a) Contractors have attempted to recruit and hire fully qualified staff and are unable to because of a documented labor pool shortage;

(b) Contractors are able to recruit a person competent to fulfill the role and implement all related performance standards; and

(c) Contractors write a professional development plan describing how the provisional hire will obtain full qualifications within five years of appointment.

(10) Equivalent degrees and certificates from other states and countries are accepted for ECEAP staff qualifications.

[06-18-085, recodified as § 170-100-090, filed 9/5/06, effective 9/5/06. Statutory Authority: Chapter 28A.215 RCW. 06-13-046, § 365-170-095, filed 6/16/06, effective 7/17/06. Statutory Authority: RCW 43.63A.060. 99-19-176, § 365-170-095, filed 9/22/99, effective 10/23/99.]

**Chapter 170-151 WAC**

**SCHOOL-AGE CHILD CARE CENTER MINIMUM LICENSING REQUIREMENTS**

(Formerly chapter 388-151 WAC)

**WAC**

170-151-010	What definitions are important for the school-age child care center program?
170-151-020	Who needs to be licensed?
170-151-040	What local ordinances and codes apply?
170-151-045	What is the basis for the department's issuance or denial of a license?
170-151-070	How do I apply or reapply for a license?
170-151-075	How do I get a waiver of the licensing requirements contained in this chapter?
170-151-080	How does the department determine my licensed capacity?
170-151-085	How do I get an initial license?

170-151-090	When can my license application be denied and when can my license be suspended or revoked?
170-151-092	Under what conditions does the department impose civil penalties against me?
170-151-093	What is the amount of the civil penalty the department may impose?
170-151-094	Must I post the department's notice of civil penalty?
170-151-095	May the department assess civil penalties on unlicensed programs?
170-151-096	May the department impose civil penalties for separate violations?
170-151-097	What if I do not pay the civil penalty?
170-151-098	Under what circumstances may the department issue a probationary license?
170-151-100	What must I include in the center's activity program?
170-151-110	What learning and play materials must I provide?
170-151-120	How must my child care center staff interact with the children?
170-151-130	How must I discipline the children and manage the children's behavior?
170-151-150	What does the department require for evening and nighttime care?
170-151-160	What does the department require for off-site trips?
170-151-165	What does the department require for transportation?
170-151-170	What does the department require for parent communication?
170-151-180	What staff patterns and qualifications does the department require?
170-151-190	What group size and staff-child ratios must I maintain?
170-151-200	What requirements must I meet for center staff development and training?
170-151-210	What must my required health care plan contain?
170-151-220	What steps must I take to address health supervision and infectious disease prevention?
170-151-230	What requirements must I meet for medication management?
170-151-240	What nutrition requirements must I meet?
170-151-250	What requirements must I meet for kitchen and food service?
170-151-260	What requirements must I meet for drinking and eating equipment?
170-151-280	What general safety, maintenance, and site requirements must I meet?
170-151-290	What must I do to ensure water safety in my facility?
170-151-310	What first-aid supplies must I have available in my child care center?
170-151-320	What requirements must I meet for an outdoor play area?
170-151-330	What requirements must I meet for indoor space?
170-151-340	What are the department's requirements for toilets and handwashing sinks?
170-151-380	What kind of program atmosphere must I provide?
170-151-390	What requirements must I meet regarding nondiscrimination?
170-151-410	What special requirements regarding American Indian children must I meet?
170-151-420	What are my responsibilities regarding child abuse, neglect, and exploitation?
170-151-430	What requirements does the department have regarding prohibited substances and tobacco products?
170-151-440	What are the department's limitations regarding persons on premises?
170-151-450	What child records and information must I maintain?
170-151-460	What program records must I maintain?
170-151-470	What personnel policies and records must I develop and maintain?
170-151-480	What requirements must I meet for reporting of death, injury, illness, epidemic, or child abuse?
170-151-490	Under what circumstances must I report circumstantial changes to the department?
170-151-500	What informational items must I post in my center?
170-151-991	Waiver of fees.
170-151-992	Fee payment and refunds.
170-151-993	Denial, revocation, suspension, and reinstatement.

**WAC 170-151-010 What definitions are important for the school-age child care center program?** The following definitions are important under this chapter:

**"Capacity"** means the maximum number of children the licensee is authorized to have on the premises at a given time.

**"Child abuse or neglect"** means the injury, sexual abuse, sexual exploitation, or negligent treatment or maltreatment of a child as defined in RCW 26.44.020 and chapter 388-15 WAC.

**"Department"** means the state department of early learning (DEL), or its predecessor the department of social and health services (DSHS), the state agency with the legal authority to regulate and certify school-age child care centers.

**"Department of health"** means the state department of health.

**"I," "you," and "your"** refer to and mean the licensee or applicant for child care license.

**"License"** means a permit issued by the department to a person or organization to operate a school-age child care center and affirming the licensee meets requirements under licensure.

**"Licensee"** means the person, organization, or legal entity named on the facility license and responsible for operating the center.

**"Licensor"** means the person employed by the department to regulate and license a school-age child care center.

**"Premises"** means the building where the center is located and the adjoining grounds over which the licensee has control.

**"School-age child"** means a child five years of age through twelve years of age enrolled in a public or private school.

**"School-age child care center"** means a program operating in a facility other than a private residence, accountable for school-age children when school is not in session. The program must meet department licensing requirements, provide adult-supervised care, and a variety of developmentally appropriate activities.

**"Staff"** means a person or persons employed by the licensee to provide child care and to supervise children served at the center.

**"The Washington state training and registry system (STARS)"** means the entity approved by the department to determine the classes, courses, and workshops licensees and staff may take to satisfy the department's training requirements.

**"We"** or **"our"** refer to and mean the department of early learning (DEL), including DEL licensors.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-151-010, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-151-010, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapter 74.15 RCW, RCW 74.08.090. 02-16-062, § 388-151-010, filed 8/2/02, effective 10/1/02. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-010, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 98-24-052, § 388-151-010, filed 11/25/98, effective 12/26/98. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-010, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-020 Who needs to be licensed?** (1) The person or organization operating a school-age child care center must receive a license from the department to provide school-age child care, in accordance with chapter 43.215 RCW.

(2) The department does not need to license the person or organization operating a school-age child care center if chapter 43.215 RCW exempts the person or organization from the licensing requirements. The person or organization claiming

an exemption from the licensing requirements must provide the department proof of entitlement to the exemption at the licensor's request.

(3) You may use the following matrix to determine whether or not you are exempt from licensing:

Child care The child care facility assumes responsibility for the child and his welfare. Children are signed in and can only be released to an authorized adult.	Recreational Children are free to come and go as they choose.
A specific registration procedure and required forms must be completed.	No responsibility is assumed in lieu of parent.
Must adhere to DEL standards; has specific requirements regarding staff-child ratio and group size.	No registration form or procedure.
Specific DEL requirements regarding policies and procedures are in a parent handbook.	No required staff-child ratio or group size requirements.
There are specific program goals and activities; calendars of activities are posted and available.	No specific detailed policies and procedures. General "house rules" apply at each site. Activities occur on a daily basis; no long-term goals or activities exist.

(4) The person or organization that serves state-paid children must:

- (a) Be licensed or certified;
- (b) Follow billing policies and procedures in Child Care Subsidies, a brochure for providers, DEL 22-877; and
- (c) Bill the department at the person's or organization's customary rate or the state rate, whichever is less.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-151-020, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-151-020, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapter 74.15 RCW and RCW 34.05.395. 02-13-073, § 388-151-020, filed 6/14/02, effective 7/15/02. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-020, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-020, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-040 What local ordinances and codes apply?** The licensee or applicant for license must comply with city ordinances and county codes, including zoning and building regulations.

[06-15-075, recodified as § 170-151-040, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-040, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-040, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-045 What is the basis for the department's issuance or denial of a license?** The department must issue or deny a license on the basis of the applicant's compliance with school-age child care licensing requirements.

[06-15-075, recodified as § 170-151-045, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-045, filed 12/22/00, effective 1/22/01.]

**WAC 170-151-070 How do I apply or reapply for a license?** (1) You must comply with the department's application procedures and submit to the department:

(a) A completed department-supplied application for school-age child care center license, including attachments, ninety or more days before the:

- (i) Expiration of your current license;
- (ii) Opening date of your center;
- (iii) Relocation of your center; or
- (iv) Change of the licensee.

(b) A completed background check form for each staff person or volunteer having unsupervised or regular access to the child in care; and

(c) The annual licensing fee. The fee is forty-eight dollars per year for the first twelve children plus four dollars for each additional child over the licensed capacity of twelve children.

(2) In addition to the required application materials specified under subsection (1) of this section, you must submit to the department:

(a) An employment and education resume of the person responsible for the active management of the center and of the site coordinator;

(b) Copies of diplomas or education transcripts of the director and site coordinator; and

(c) Three professional references each for you, the director, and the site coordinator.

(3) You, as the applicant for a license under this chapter must be twenty-one years of age or older.

(4) You must conform to rules and regulations approved or adopted by the:

(a) State department of health and relating to the health care of children at school-age child care centers;

(b) State fire marshal's office, establishing standards for fire prevention and protection of life and property from fire, under chapter 212-12 WAC.

(5) The department must not issue a license to you until the state fire marshal's office has certified or inspected and approved the center.

(6) The department may exempt a school site possessing a fire safety certification signed by the local fire official within six months prior to licensure from the requirement to receive an additional fire safety inspection by the state fire marshal's office.

(7) You must submit a completed plan of deficiency correction, when required, to the department of health and the department licensor before the department will issue you a license.

(8) You, your director and site coordinator must attend department-provided orientation training.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-151-070, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-151-070, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-070, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-070, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-075 How do I get a waiver of the licensing requirements contained in this chapter?** (1) In an individual case, the department, for good cause, may waive a specific requirement and approve an alternate method for you to achieve the specific requirement's intent if:

(a) You submit to the department a written waiver request fully explaining the circumstances necessitating the waiver; and

(b) The department decides the department's approval of the waiver approval will not jeopardize the safety or welfare of the child in care or detract from the quality of licensee-delivered services.

(2) The department may approve a waiver request only for a specific purpose or child and for a specific period of time not exceeding the expiration date of your license.

(3) The department may limit or restrict a license the department issues to you in conjunction with a waiver.

(4) You must maintain a copy of the department's written waiver approval on the premises.

(5) You may not appeal the department's denial of your request for waiver under chapter 34.05 RCW or 170-03 WAC.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265, 08-08-012, § 170-151-075, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-151-075, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020, 01-02-031, § 388-151-075, filed 12/22/00, effective 1/22/01.]

**WAC 170-151-080 How does the department determine my licensed capacity?** (1) The department issues the applicant or licensee a license for a specific number of children depending on:

(a) The department's evaluation of your center's premises, equipment, and physical accommodations;

(b) The number and skills of you, your, staff, and your volunteers; and

(c) The ages and characteristics of the children you serve.

(2) The department:

(a) Must not issue you a license to care for more children than this chapter permits; and

(b) May issue you a license to care for fewer children than your center's maximum capacity.

[06-15-075, recodified as § 170-151-080, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020, 01-02-031, § 388-151-080, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW, 93-02-020 (Order 3493), § 388-151-080, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-085 How do I get an initial license?** (1) The department may issue an initial license to you if you are not currently licensed to provide child care when you:

(a) Can demonstrate compliance with the rules contained in this chapter pertaining to the health and safety of the child in care; but

(b) Cannot demonstrate compliance with the rules pertaining to:

(i) Staff-child interactions,

(ii) Group size and staff-child ratios,

(iii) Behavior management and discipline,

(iv) Activity programs,

(v) Child records and information, and

(vi) Other rules requiring department observation of the applicant's ability to comply with rules.

(c) Can provide a plan, acceptable to the department, to comply with rules found in subsection (1)(b) of this section.

(2) The department may issue an initial license to you for a period not to exceed six months, renewable for a period not to exceed two years.

(3) The department must evaluate your ability to comply with all rules contained in this chapter during the period of initial licensure prior to issuing a full license.

(4) The department may issue a full license to you if you demonstrate your compliance with all rules contained in this chapter at any time during the period of initial licensure.

(5) The department must not issue a full license to you if you do not demonstrate the ability to comply with all rules contained in this chapter during the period of initial licensure.

[06-15-075, recodified as § 170-151-085, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020, 01-02-031, § 388-151-085, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030, 96-20-095, § 388-151-085, filed 10/1/96, effective 11/1/96.]

**WAC 170-151-090 When can my license application be denied and when can my license be suspended or revoked?** (1) We must deny your license application, or suspend or revoke your license if you do not meet the requirements outlined in this chapter.

(2) If more than one person applies for a license or is licensed under this chapter to provide child care at the same facility, we will consider qualifications separately and together. We may deny your license application, or suspend or revoke your license if one person fails to meet the minimum licensing requirements.

(3) We must deny, suspend, or revoke your license if you:

(a) Have been found to have abused, neglected, or sexually exploited a child as defined in chapters 26.44 RCW and 388-15 WAC;

(b) Have a disqualifying criminal history under chapter 170-06 WAC;

(c) Have had a license denied, suspended, or revoked for the care of adults or children in this state or any other state. The exception: If you can demonstrate by clear and convincing evidence that you have taken enough correction action or rehabilitation to justify the public trust and to operate the center according to the rules of this chapter, we may issue you a license;

(d) Commit or allow an illegal act on the licensed premises;

(e) Allow a child in your care to be abused, neglected, exploited, or treated with cruelty or indifference;

(f) Use illegal drugs, or use alcohol excessively;

(g) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office to inspect the premises; or

(h) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office access to records related to the center's operation or to interview staff or a child in care.

(4) We may deny, suspend, or revoke your license if you:

(a) Try to get a license by deceitful means, such as making false statements or leaving out important information on your application;

(b) Do not provide enough staff in relation to the numbers, ages, or characteristics of children in care;

(c) Allow a person who is not qualified by training, experience or temperament to care for or be in contact with a child in care;

(d) Fail to provide adequate supervision to a child in care;

(e) Are not able to exercise fiscal responsibility and accountability while operating the center;

(f) Knowingly allow an employee or volunteer on the premises who has made false statements on an application for employment or volunteer service;

(g) Refuse to supply additional information reasonably requested by the department; or

(h) Fail to comply with the minimum licensing requirements set forth in this chapter or any provision of chapter 43.215 RCW.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387, 08-10-041, § 170-151-090, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-151-090, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapter 74.120 RCW, RCW 74.12.340, and 74.15.030. 02-14-085, § 388-151-090, filed 6/28/02, effective 7/29/02. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-090, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 96-10-043 (Order 3974), § 388-151-090, filed 4/26/96, effective 5/27/96. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-090, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-092 Under what conditions does the department impose civil penalties against me?** (1) Before imposing a civil penalty, the department must provide written notification to you by personal service, by the licenser or another person, or certified mail that includes:

(a) A description of the violation and citation of the applicable requirement or law;

(b) A statement of what you must do to achieve compliance;

(c) The date by which the department requires compliance;

(d) The maximum allowable penalty if you do not achieve timely compliance;

(e) The means to contact any technical assistance services provided by the department or others; and

(f) Notice of when, where, and to whom you may file a request with the department to extend the time to achieve compliance for good cause.

(2) The length of time you have to comply depends on:

(a) The seriousness of the violation;

(b) The potential threat to the health, safety and welfare of children in care; or

(c) Previous opportunities to correct the deficiency.

(3) The department may impose a civil penalty based on but not limited to these reasons:

(a) The department previously has imposed an enforcement action for the same or similar type of violation of the same statute or rule on your child care center; or

(b) The department has previously given your child care center notice of the same or similar type of violation of the same statute or rule; or

(c) The violation represents a potential threat to the health, safety, and/or welfare of children in care.

(4) The department may impose a civil penalty in addition to or in conjunction with other disciplinary actions

(2009 Ed.)

against a child care license including probation, suspension, or other action.

(5) You must pay the civil fine within twenty-eight days after receipt of the notice or later as specified by the department.

(6) The department may forgive the fine if you come into compliance during the notification period.

(7) You, as the center or person against whom the department assesses a civil fine, have a right to an adjudicative proceeding under RCW 43.215.307 and chapter 170-03 WAC.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-151-092, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-151-092, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-092, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 96-20-095, § 388-151-092, filed 10/1/96, effective 11/1/96.]

**WAC 170-151-093 What is the amount of the civil penalty the department may impose?** Whenever the department imposes a civil monetary penalty, the department must impose a penalty of two hundred and fifty dollars per violation per day. The department may assess and collect the penalty with interest for each day of noncompliance.

[06-15-075, recodified as § 170-151-093, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-093, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 96-20-095, § 388-151-093, filed 10/1/96, effective 11/1/96.]

**WAC 170-151-094 Must I post the department's notice of civil penalty?** (1) You must post the final notice of a civil penalty in a conspicuous place in the facility.

(2) You must continue to post the notice until the department receives your payment.

[06-15-075, recodified as § 170-151-094, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-094, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 96-20-095, § 388-151-094, filed 10/1/96, effective 11/1/96.]

**WAC 170-151-095 May the department assess civil penalties on unlicensed programs?** If the department receives information that a school-age program is operating without a license, the department will investigate. The department may contact the program, send a letter, or make an on-site visit to determine that the agency is operating without a license. Where the department has determined that an agency is operating without a license, the department must send written notification to the unlicensed program by certified mail or other means showing proof of service. This notification must contain the following:

(1) Notice to the agency of the basis for the department's determination that the agency is providing child care without a license and the need for the department to license the agency;

(2) The citation of the applicable law;

(3) The assessment of seventy-five dollars per day penalty for each day the agency provides unlicensed care. The department makes the fine effective and payable within thirty days of the agency's receipt of the notification;

(4) How to contact the department;

(5) The unlicensed agency's need to submit an application to the department within thirty days of receipt of the department's notification;

(6) That the department may forgive the penalty if the agency submits an application within thirty days of the notification; and

(7) The unlicensed agency's right to an adjudicative proceeding as a result of the assessment of a monetary penalty and the appropriate procedure for requesting an adjudicative proceeding.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-151-095, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-151-095, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-095, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 96-20-095, § 388-151-095, filed 10/1/96, effective 11/1/96.]

**WAC 170-151-096 May the department impose civil penalties for separate violations?** Each violation of a law or rule constitutes a separate violation. The department may penalize each violation. The department may impose a penalty for each day the violation continues.

[06-15-075, recodified as § 170-151-096, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-096, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 96-20-095, § 388-151-096, filed 10/1/96, effective 11/1/96.]

**WAC 170-151-097 What if I do not pay the civil penalty?** The department may suspend, revoke or not renew a license for failure to pay a civil monetary penalty the department has assessed within ten days after such assessment becomes final.

[06-15-075, recodified as § 170-151-097, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapter 74.15 RCW and RCW 34.05.395. 02-13-073, § 388-151-097, filed 6/14/02, effective 7/15/02. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-097, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 96-20-095, § 388-151-097, filed 10/1/96, effective 11/1/96.]

**WAC 170-151-098 Under what circumstances may the department issue a probationary license?** (1) The department must base the decision to issue a probationary license on the following factors:

- (a) Willful or negligent noncompliance by you,
- (b) History of noncompliance,
- (c) Extent of deviation from the requirements,
- (d) Evidence of a good faith effort to comply,
- (e) Any other factors relevant to the unique situation.

(2) Where the negligent or willful violation of the licensure law does not present an immediate threat to the health and well-being of the children but would be likely to do so if allowed to continue, the department may issue a probationary license in addition to civil penalties or other sanctions. Such situations may include:

- (a) Substantiation that a child (or children) was abused or neglected while in the care of the center,
- (b) Disapproved fire safety or sanitation report,
- (c) Use of unauthorized space for child care,
- (d) Inadequate supervision of children,
- (e) Understaffing for the number of children in care,
- (f) Noncompliance with requirements addressing:
  - (i) Children's health,
  - (ii) Proper nutrition,
  - (iii) Discipline,
  - (iv) Emergency medical plan,

(v) Sanitation and personal hygiene practices.

(3) You must notify parents of all children in care or who may apply for care when the department issues a probationary license to you:

(a) You must notify the parents or guardians of all children in care of the program's probationary status within five working days of receiving the department's notification that the department has issued a probationary license;

(b) You must notify parents and guardians in writing, and the department must approve the notice before you send the notification;

(c) You must provide documentation to the department that you have notified parents or guardians of all children in care within ten working days after you receive notification that the department has issued a probationary license. Documentation must consist of a copy of the letter you have sent to the parents;

(d) The department may issue a probationary license for up to six months, and at the department's discretion, the department may extend the probationary license for an additional six months.

[06-15-075, recodified as § 170-151-098, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-098, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 96-20-095, § 388-151-098, filed 10/1/96, effective 11/1/96.]

**WAC 170-151-100 What must I include in the center's activity program?** (1) You must implement an activity program designed to meet the developmental, cultural, and individual needs of the children you serve. You must ensure the program contains a range of learning experiences for the children to:

(a) Gain self-esteem, self-awareness, conflict resolution, self-control, and decision-making abilities;

(b) Develop socially, emotionally, intellectually, and physically;

(c) Learn about nutrition, health, and personal safety; and

(d) Experiment, create, and explore.

(2) You must ensure the center's program offers variety and options including a balance between:

(a) Child-initiated and staff-initiated activities;

(b) Free choice and organized events;

(c) Individual and group activities; and

(d) Quiet and active experiences.

(3) You must ensure that the center's program provides the child daily opportunities for small and large muscle activities and outdoor play.

(4) You must operate the center's program under a regular schedule of activities with allowances for a variety of special events. You must implement a planned program of activities by using a current, written activity schedule that includes staff classroom planning time.

(5) You must manage child and staff movements from one planned activity or care area to another to achieve smooth, unregimented transitions by:

(a) Establishing familiar routines;

(b) Contributing to learning experiences; and

(c) Maintaining staff-to-child ratio and group size guidelines.

[06-15-075, recodified as § 170-151-100, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-100, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-100, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-110 What learning and play materials must I provide?** You must provide the children in care a variety of easily accessible, developmentally appropriate equipment and materials of sufficient quantity to implement the center's program. You must ensure that materials are culturally relevant and promote:

- (1) Social development;
- (2) Communication ability;
- (3) Self-help skills;
- (4) Large and small muscle development; and
- (5) Creative expression.

[06-15-075, recodified as § 170-151-110, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-110, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-110, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-120 How must my child care center staff interact with the children?** (1) You must furnish the children a nurturing, respectful, supportive, and responsive environment through frequent interactions between the children and staff:

- (a) Supporting the children in developing an understanding of self and others by assisting the children to share ideas, experiences, and feelings;
- (b) Providing age-appropriate opportunities for growth and development of the children's social and communication skills, including encouraging the children to ask questions;
- (c) Helping the children solve problems;
- (d) Fostering creativity and independence in routine activities, including showing tolerance for mistakes; and
- (e) Treating equally all children in care regardless of race, religion, culture, sex, and ability.

(2) You must furnish the children in care a pleasant and social atmosphere at meal and snack times. Your staff must provide good models for nutrition habits and social behavior.

[06-15-075, recodified as § 170-151-120, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-120, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-120, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-130 How must I discipline the children and manage the children's behavior?** (1) You must guide the children's behavior based on an understanding of the individual child's needs and stage of development. You must support the child's developmentally appropriate social behavior, self-control, and respect for the rights of others.

(2) You must ensure that your behavior management and discipline practices are fair, reasonable, consistent, and related to the child's behavior. Your staff must not administer cruel, unusual, hazardous, frightening, or humiliating discipline.

(3) You must be responsible for implementing the behavior management and discipline practices of the center.

(4) You must prohibit and prevent any person on the premises from:

- (a) Biting, jerking, shaking, spanking, slapping, hitting, striking, or kicking the child, or exercising other means of inflicting physical or emotional pain, or causing bodily harm;
  - (b) The use of a physical restraint method injurious to the child;
  - (c) The use of a mechanical restraint, locked time-out room, or closet;
  - (d) The use of verbal abuse; or
  - (e) The withholding of food as a punishment.
- (5) In emergency situations, you or your staff person may use limited physical restraint not injurious to the child when:
- (a) Protecting a person on the premises from physical injury;
  - (b) Obtaining possession of a weapon or other dangerous object; or
  - (c) Protecting property from serious damage.
- (6) You must document any incident involving the use of physical restraint and notify the child's parent of the use of the restraint.

[06-15-075, recodified as § 170-151-130, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-130, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-130, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-150 What does the department require for evening and nighttime care?** (1) For the center offering school-age child care during evening and nighttime hours, you must, in addition to meeting daytime regulations, adapt the program, equipment, and staffing pattern to meet the physical and emotional needs of the child away from home at night.

(2) You must maintain the same staff-to-child ratio in effect during daytime care. At all times, your staff must keep the child within continuous visual or auditory range.

[06-15-075, recodified as § 170-151-150, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-150, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-150, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-160 What does the department require for off-site trips?** (1) You may transport or permit the supervised off-site travel of children to participate in field trips or engage in other off-site activities only with written parental consent.

- (2) The parent's consent may be:
  - (a) For a specific date and trip; or
  - (b) A blanket authorization describing the full range of trips the child may take. In such a case, you must notify the parent in advance about each trip.
- (3) For group field trips, you must ensure that:
  - (a) Emergency information and medical treatment authorization for each child in the group accompanies the child;
  - (b) A first-aid kit is available;
  - (c) You maintain a written list of children participating; and
  - (d) You maintain required staff-child ratios.

[06-15-075, recodified as § 170-151-160, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-160, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-160, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-165 What does the department require for transportation?** When you furnish transportation for the child in care:

(1) You must maintain the motor vehicle in a safe operating condition and ensure that the Washington state patrol has approved the vehicle, when applicable;

(2) You or the driver must carry liability and medical insurance;

(3) The driver must have a current driver's license, valid for the classification of motor vehicle the driver operates, and current first-aid and CPR certification;

(4) You must ensure that a minimum of one staff person other than the driver is present in the motor vehicle, when necessary, to comply with the staff-to-child ratio requirement; and

(5) You must ensure that the number of passengers does not exceed the seat belt capacity of the motor vehicle.

(6) You do not need seat belts for buses approved by the Washington state patrol.

[06-15-075, recodified as § 170-151-165, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-165, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-165, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-170 What does the department require for parent communication?** (1) You must orally:

(a) Explain the center's policies and procedures to the parent;

(b) Orient the parent to the center's philosophy, program, and facilities;

(c) Communicate to the parent issues relating to the child's care and individual practices concerning the child's special needs; and

(d) Encourage parent participation in center activities.

(2) You must give the parent the following written policy and procedure information:

(a) Enrollment and admission requirements;

(b) The fee and payment plan;

(c) A typical activity schedule, including hours of operation;

(d) Meals and snacks served, including guidelines on food brought from the child's home;

(e) Signing in and signing out requirements;

(f) Child abuse reporting law requirements;

(g) Behavior management and discipline;

(h) Nondiscrimination statement;

(i) Religious activities, if any;

(j) Transportation and field trip arrangements;

(k) Policy on homework, study time, and space necessary to accommodate these activities;

(l) Practices concerning an ill child;

(m) Medication management;

(n) Medical emergencies;

(o) Statement that the parent has free access during hours of operation; and

(p) Written procedure for supervision of children during transitions.

[06-15-075, recodified as § 170-151-170, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-170, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-170, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-180 What staff patterns and qualifications does the department require?** (1) General qualifications. You, your staff, volunteers, and other persons associated with the operation of the center who have access to the child in care must:

(a) Be of good character;

(b) Demonstrate the understanding, ability, personality, emotional stability, and physical health suited to meet the cultural, emotional, mental, physical, and social needs of the children in care;

(c) Not have committed or been convicted of child abuse or any crime involving harm to another person; and

(d) Be authorized by DEL to care for or have unsupervised access to children in child care or to work or reside on the premises of a child care agency or certified facility as defined in chapter 170-06 WAC.

(2) The department may, at any time, require additional information from you, any staff person, any volunteer, members of the household of any of these individuals, and other persons having access to children in care. The additional information includes, but is not limited to:

(a) Sexual deviancy evaluations;

(b) Substance and alcohol abuse evaluations;

(c) Psychiatric evaluations;

(d) Psychological evaluations; and

(e) Medical evaluations.

(3) Any evaluation requested under subsection (2)(a) through (e) of this section will be at the expense of the person being evaluated.

(4) The person being evaluated must give the department permission to speak with the evaluator(s) in subsection (2)(a) through (e) of this section prior to and after the evaluation.

(5) Program director. You must serve as or employ a director responsible for the overall management of the center's facility and operation. The director must:

(a) Be twenty-one years of age or older;

(b) Serve as administrator of the center, ensuring compliance with licensing requirements;

(c) Have knowledge of development of school-age children as evidenced by professional references, education, experience, and on-the-job performance;

(d) Have the management and supervisory skills necessary for the proper administration of the center, including:

(i) Record maintenance;

(ii) Financial management; and

(iii) Maintenance of positive relationships with staff, children, parents, and the community.

(e) Employ, provide, or arrange for fulfillment of clerical, accounting, maintenance, transportation, and food service responsibilities so the child care staff is free to concentrate on program implementation and maintaining the required staff-to-child ratio;

(f) Have completed thirty or more college quarter credits or combination of one-third clock hours and two-thirds college credits, in early childhood education/child development, elementary education, social work, other child-related field, including, but not limited to, art, music, dance, recreation, physical education, education, home economics, psychology, social services, child development associate (CDA), or nutrition;

(g) Have two or more years of successful experience working with school-age children as evidenced by professional references and on-the-job performance;

(h) Have planning, coordination, and supervisory skills to implement a high quality, developmentally appropriate program; and

(i) Have completed one of the following prior to or within the first six months of licensure or employment except as provided in subsection (2)(i) of this section:

(i) Twenty clock hours or two college quarter credits of basic training. The Washington state training and registry system (STARS) must approve the training; or

(ii) Current CDA or equivalent credential or twelve or more college quarter credits in a child development associate sequence; or

(iii) Forty-five or more college quarter credits in early childhood education, child development, school-age care, elementary education, special education, or recreation; or

(iv) An associate of arts (AA) or associate of applied science (AAS) or higher college degree in early childhood education, child development, school-age care, elementary education, special education, or recreation.

(6) Site coordinator. You may employ a site coordinator responsible for being on site with children, program planning and program implementation. The program director must provide regular supervision of the site coordinator.

(7) The same person may serve as the site coordinator and program director when qualified for both positions. The site coordinator must:

(a) Be twenty-one years of age or older;

(b) Have completed thirty or more college quarter credits or combination of one-third clock hours and two-thirds college credits in early childhood education/child development, elementary education social work, other child-related field including, but not limited to, art, music, dance, relevant to school age children, recreation, physical education, education, music, art, psychology, social services, home economics, CDA, or nutrition;

(c) Serve as staff supervisor;

(d) Have demonstrated knowledge in:

(i) Behavior management skills specific to school-age children;

(ii) Program management skills; and

(iii) School-age child activity planning and coordinating skills.

(e) Have a minimum of two years experience working with school-age children, or possess equivalent experience.

(f) Have completed one of the following prior to or within the first six months of licensure or employment:

(i) Twenty clock hours or two college quarter credits of initial training. STARS must approve the training; or

(ii) Current CDA or twelve or more college quarter credits in child development, associate sequence;

(iii) Forty-five or more college quarter credits in early childhood education, child development, school-age care, elementary education, special education, or recreation; or

(iv) An associate of arts (AA) or associate of applied science (AAS) or higher college degree in early childhood education, child development, school-age care, elementary education, special education, or recreation.

(2009 Ed.)

(8) The program director or site coordinator must normally be on the premises while children are in care. If temporarily absent from the center, the director and site coordinator must leave a competent, designated staff person in charge.

(9) The director and site coordinator may also serve as child care staff when that role does not interfere with the director's or site coordinator's management and supervisory responsibilities.

(10) Center staffing. You may employ a lead school-age child care staff person to be in charge of a child or a group of children. Lead school-age child care staff must:

(a) Be eighteen years of age or older;

(b) Possess a high school education or equivalent;

(c) Have school-age child development knowledge and experience; and

(d) Have the ability to implement the activity program.

(11) You may use a child care assistant, volunteer, or trainee. The assistant, volunteer, or trainee must support staff. The school age child care assistant, volunteer, or trainee must:

(a) Be sixteen years of age or older; and

(b) Care for children only under direct supervision.

(12) You must ensure that you and your program director or site coordinator assigns no person under eighteen years of age sole responsibility for a group of children. You, your program director, or your site coordinator may assign the assistant, eighteen years of age or older, sole responsibility for a child or group of children for a brief period of time.

(13) You may count the assistant, volunteer, or trainee in the staff-to-child ratio when that person meets staff requirements.

(14) The licensee may utilize youth volunteers fourteen to fifteen years of age. The youth volunteers:

(a) Must not be counted as staff at any time.

(b) Must not count in the staff-child ratio;

(c) Must meet all requirements in WAC 170-151-470(4); and

(d) Must be under the direct supervision of a lead staff person.

(15) The lead staff person must not supervise more than one youth volunteer at one time.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387, 08-10-041, § 170-151-180, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-151-180, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020, 01-02-031, § 388-151-180, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030, 98-24-052, § 388-151-180, filed 11/25/98, effective 12/26/98. Statutory Authority: Chapter 74.15 RCW, 93-02-020 (Order 3493), § 388-151-180, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-190 What group size and staff-child ratios must I maintain?** (1) You must maintain, at minimum, a 1:15 staff-child ratio and a maximum group size of thirty or fewer children.

(2) You must conduct activities for each group in a specific classroom or other defined space within a larger area.

(3) You must ensure that a qualified staff person or team of staff supervises each group.

(4) The department may approve reasonable variations to group size limitations if you maintain required staff-to-child ratios, dependent on:

(a) Staff qualifications;

- (b) Program structure; and
  - (c) Usable space.
- (5) You must provide appropriate supervision and keep the child from harm. The children must be in continuous visual or auditory range, except during transitions, including:
- (a) Moving from indoors to outdoors;
  - (b) Moving from room to room; and
  - (c) When the child uses the restroom.
- (6) You must have a written plan to ensure the children's safety during transitions.
- (7) When only one staff person is present, you must ensure that a second staff person is readily available in case of an emergency.
- (8) You must ensure that each group of children is supervised by a staff person who has completed one of the following prior to or within the first six months of employment:
- (a) Twenty clock hours or two college quarter credits of initial training. Training must be approved by the Washington state training and registry system (STARS); or
  - (b) Current child development associate (CDA) or equivalent credential or twelve or more college quarter credits in early childhood education, child development, school-age care, elementary education, special education, or recreation; or
  - (c) An associate of arts (AA) or associate of applied science (AAS) or higher college degree in early childhood education, child development, school-age care, elementary education, special education, or recreation.
- [06-15-075, recodified as § 170-151-190, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-190, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 98-24-052, § 388-151-190, filed 11/25/98, effective 12/26/98. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-190, filed 12/30/92, effective 1/30/93.]
- WAC 170-151-200 What requirements must I meet for center staff development and training?** (1) You must have an orientation system making employees, volunteers, and trainees aware of program policies and practices. You must provide staff an orientation including, but not limited to:
- (a) Licensing rules required under this chapter;
  - (b) Goals and philosophy of the center;
  - (c) Planned daily activities and routines;
  - (d) Age-appropriate child guidance and behavior management methods;
  - (e) Child abuse and neglect prevention, detection, and reporting policies and procedures;
  - (f) Special health and developmental needs of the individual child;
  - (g) Fire prevention and safety procedures; and
  - (h) Personnel policies.
- (2) You must provide or arrange regular training opportunities for the child care staff to:
- (a) Promote ongoing employee education;
  - (b) Enhance practice skills;
  - (c) Increase cultural awareness; and
  - (d) Accommodate special health and developmental needs of the individual child.
- (3) You must conduct periodic staff meetings for planning and coordination purposes.
- (4) You must ensure that:

(a) A staff person with basic, standard, current first-aid and cardiopulmonary resuscitation (CPR) training, or department of health approved training is present at all times while the child is in care; and

(b) Staff's CPR training includes methods appropriate for school-age children in care.

(5) You must provide or arrange appropriate education and training for child care staff on the prevention and transmission of human immunodeficiency virus/acquired immunodeficiency syndrome (HIV/AIDS).

(6) You must ensure that the person preparing full meals for the center has a valid food handler permit.

(7) You must ensure that the director, site coordinator and, where the program serves more than one group of children, at least one staff person for every group of children, complete:

(a) Ten clock hours or one college quarter credit of training annually, approved by Washington state training and registry system (STARS), beginning one year after licensure or employment in your licensed child care facility; and

(b) For the director and the site coordinator, five of the ten hours of training must be in program management and administration.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-151-200, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-151-200, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-200, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 98-24-052, § 388-151-200, filed 11/25/98, effective 12/26/98. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-200, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-210 What must my required health care plan contain?** (1) You must maintain current written health policies and procedures for staff orientation and use by staff, and for the parent.

(2) Your health care plan must include, but is not limited to, information about your center's procedures concerning:

(a) Communicable disease prevention, reporting, and management;

(b) Action taken for medical emergencies;

(c) First aid;

(d) Care of minor illnesses;

(e) Medication management;

(f) General hygiene practices;

(g) Hand washing practices; and

(h) Food and food services.

(3) You must use the services of an advisory physician, physician's assistant, or registered nurse to assist in the development and approval of the center's health care plan.

[06-15-075, recodified as § 170-151-210, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-210, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-210, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-220 What steps must I take to address health supervision and infectious disease prevention?** (1) Before or on the child's first day of attendance, you must have on file a record of immunization status.

(2) Your staff must observe the child daily for signs of illness. You must care for or discharge to the child's home the ill child based on your policies concerning ill children.

- (3) If a child becomes ill while in care:
- (a) You must furnish a separate care area with an appropriate rest surface and bedding, as needed; and
  - (b) Your staff must sanitize equipment the child uses if staff suspects the child has a communicable disease.
- (4) You may use the separate care room or area for other purposes when not needed for separation of the child.
- (5) Your staff must ensure that the child washes hands:
- (a) Before the child eats;
  - (b) Before the child participates in food activities; and
  - (c) After the child's toileting.
- (6) Your staff must follow your center's policies for cleaning and disinfecting the environment.
- (7) You must have extra clothing available for circumstances arising during outdoor play.
- (8) Your staff must ensure that the children do not share personal hygiene or grooming items.
- (9) You must have on file, upon employment, for each center employee, volunteer, and other person having regular contact with the children in care results of a negative tuberculin (TB) skin test, by the Mantoux method, or results of a chest X ray. You need not require the TB test or chest X ray for an individual if, such a test is against medical advice. The department does not require periodic retesting.
- (10) You must not permit a person with a reportable communicable disease to be on duty in the center or have contact with the child in care unless a health care provider approves the contact in writing.
- (11) Staff must wash hands:
- (a) After personal toileting;
  - (b) After attending to an ill child;
  - (c) After nose blowing;
  - (d) After smoking; and
  - (e) Before serving or preparing food.

[06-15-075, recodified as § 170-151-220, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-220, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-220, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-230 What requirements must I meet for medication management?** You may have a policy of not giving medication to the child in care. If your center's health care plan includes giving medication to the child in care, you:

- (1) Must give medications, prescription and nonprescription, only on the written approval of a parent, person, or agency having authority by court order to approve medical care;
- (2) Must give prescription medications:
  - (a) Only as specified on the prescription label; or
  - (b) As authorized, in writing, by a physician or other person legally authorized to prescribe medication.
- (3) Must give the following classifications of nonprescription medications, with written parent authorization, only at the dose, duration, and method of administration specified on the manufacturer's label for the age or weight of the child needing the medication:
  - (a) Antihistamines;
  - (b) Nonaspirin fever reducers/pain relievers;
  - (c) Nonnarcotic cough suppressants;
  - (d) Decongestants;

- (e) Anti-itching ointments or lotions, intended specifically to relieve itching;
  - (f) Diaper ointments and powders, intended specifically for use in the diaper area of the child; and
  - (g) Sun screen.
- (4) Must give other nonprescription medication:
- (a) Not included in the categories listed in subsection (3) of this section; or
  - (b) Taken differently than indicated on the manufacturer's label; or
  - (c) Lacking labeled instructions, only when disbursement of the nonprescription medication is as required under subsection (4)(a), (b), and (c) of this section:
    - (i) Authorized, in writing, by a physician; or
    - (ii) Based on established medical policy approved, in writing, by a physician or other person legally authorized to prescribe medication.
  - (5) Must accept from the child's parent, guardian, or responsible relative only medicine in the original container, labeled with:
    - (a) The child's first and last names;
    - (b) The date the prescription was filled; or
    - (c) The medication's expiration date; and
    - (d) Legible instructions for administration, such as manufacturer's instructions or prescription label.
  - (6) Must keep medication, refrigerated or nonrefrigerated, in an orderly fashion and inaccessible to the child;
  - (7) Must store external medication in a compartment separate from internal medication;
  - (8) Must keep a record of medication disbursed;
  - (9) Must return to the parent or other responsible party, or must dispose of medications no longer being taken; and
  - (10) May, at your option, permit self-administration of medication by a child in care if:
    - (a) The child is physically and mentally capable of properly taking medication without assistance;
    - (b) You include in the child's file a parental or physician's written statement of the child's capacity to take medication without assistance; and
    - (c) You have stored the child's medications and other medical supplies so the medications and medical supplies are inaccessible to other children in care.

[06-15-075, recodified as § 170-151-230, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapter 74.15 RCW and RCW 34.05.395. 02-13-073, § 388-151-230, filed 6/14/02, effective 7/15/02. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-230, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-230, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-240 What nutrition requirements must I meet?** (1) You must provide food meeting the nutritional needs of the children in care, taking into consideration each child's:

- (a) Age and development level;
  - (b) Cultural background; and
  - (c) Child's special health care needs, if any.
- (2) You must provide only pasteurized milk or pasteurized milk products.
- (3) You may serve school-age children powdered Grade A milk, provided you complete the dry milk mixture, service, and storage in a safe and sanitary manner.

(4) You may furnish a child nutrient concentrates, nutrient supplements, a modified diet, or an allergy diet only with the written permission of the child's health care provider. The licensee must obtain from the parent or the child's health care provider a written list of foods the child must not consume.

(5) You must:

(a) Record food and portion sizes planned and served; and

(b) Post menus showing two weeks or more of food variety before repeating menus.

(6) You may make nutritional substitutions of comparable nutrient value to the menu.

(7) You must use the following meal pattern to furnish food in age-appropriate servings to provide the child:

(a) Access to a breakfast, if the child arrives on the premises before 7:00 a.m.;

(b) A snack if the child is in care for one to three hours before or after school; and

(c) Food at intervals not less than two hours and not more than three and one-half hours apart.

(8) You must furnish the child in care food that complies with the meal pattern of the United States Department of Agriculture Child and Adult Care Food Program or the National School Lunch Program.

(9) The children's snacks must include one or more dairy or protein source provided daily and must contain a minimum of two of the following four components at each snack:

(a) A dairy product;

(b) A protein food;

(c) Bread or bread alternate; or

(d) Fruit or vegetable or juice containing a minimum of fifty percent real juice.

(10) You must have available food supplies to supplement food brought from the child's home that is deficient in meeting nutrition requirements.

[06-15-075, recodified as § 170-151-240, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-240, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-240, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-250 What requirements must I meet for kitchen and food service?** (1) You must ensure the proper storage, preparation, and service of food to meet program needs.

(2) You must meet food service standards by ensuring that:

(a) The staff person preparing full meals has a valid food handler permit;

(b) The staff person preparing and serving meals washes hands before handling food;

(c) Handwashing facilities are located in or adjacent to food preparation areas;

(d) Your program stores food in a sanitary manner; especially milk, shell-fish, meat, poultry, eggs, and other protein food sources;

(e) Your program stores food requiring refrigeration at a temperature no warmer than forty-five degrees Fahrenheit;

(f) Your program stores frozen food at a maximum temperature of zero degrees Fahrenheit;

[Title 170 WAC—p. 32]

(g) You have equipped your refrigerators and freezers with thermometers and that your staff regularly cleans and defrosts your facility's refrigerators and freezers;

(h) Your staff cooks food to correct temperatures;

(i) Your staff washes raw food thoroughly with clean running water;

(j) Your staff rapidly cools and refrigerates cooked food to be stored after preparation;

(k) Your program keeps food in original containers or in clean, labeled containers and stores the food off the floor;

(l) Your staff discards packaged, canned, and bottled food with a past expiration date;

(m) Your staff discards food in dented cans or torn packages; and

(n) You notify parents when your program serves food containing sulfiting agents.

(3) Children in care may participate in food preparation as an education activity when:

(a) You make kitchen equipment inaccessible to the children, except during planned and supervised kitchen activities; and

(b) Your staff supervises food preparation activities.

(4) You must install and maintain kitchen equipment and clean reusable utensils in a safe and sanitary manner by:

(a) Sanitizing reusable utensils in a dishwasher or through use of a three-compartment dishwashing procedure; and

(b) Using only single-use clean cloths, solely, for wiping food service, preparation, and eating surfaces.

[06-15-075, recodified as § 170-151-250, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-250, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-250, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-260 What requirements must I meet for drinking and eating equipment?** You must:

(1) Provide children with single-use cups, individual drinking cups or glasses, or inclined jet-type drinking fountains;

(2) Prohibit your child care center from using bubbler-type drinking fountains and common drinking cups or glasses; and

(3) Provide the children with durable eating utensils appropriate in size and shape for the children in care.

[06-15-075, recodified as § 170-151-260, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-260, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-260, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-280 What general safety, maintenance, and site requirements must I meet?** You must:

(1) Operate the center:

(a) On an environmentally safe site;

(b) In a neighborhood free from conditions detrimental to the children's welfare; and

(c) In a location accessible to health and emergency service.

(2) Ensure that you maintain indoor and outdoor premises in a safe and sanitary condition, free of hazards, and in good repair;

(2009 Ed.)

(3) Ensure that furniture and equipment are safe, stable, durable, and age-appropriate;

(4) Maintain a flashlight or other emergency lighting device in working condition;

(5) Finish or cover rough or untreated wood surfaces;

(6) Maintain one or more telephones in working order, readily accessible to staff and children;

(7) Supply bathrooms and other rooms subject to moisture with washable, moisture-impervious flooring;

(8) Ensure staff can gain rapid access in an emergency to a bathroom or other room children may occupy;

(9) Shield light bulbs and tubes in child-accessible areas;

(10) Keep the premises free from rodents, fleas, cockroaches, and other insects and pests;

(11) Ensure no firearm or other weapon is on the premises;

(12) Maintain adequate storage space for play and teaching equipment, supplies, records, and children's possessions and clothing;

(13) Safely store or make inaccessible to the children cleaning supplies, toxic substances, paint, poisons, aerosol containers, and items bearing warning labels;

(14) Label a container filled from a stock supply to identify contents;

(15) Comply with fire safety regulations adopted by the state fire marshal's office.

[06-15-075, recodified as § 170-151-280, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-280, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-280, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-290 What must I do to ensure water safety in my facility?** (1) You must maintain the following water safety precautions when the children in your care use an on-premises swimming pool, wading pool, or natural body of water, or enter the water on a field trip by ensuring:

(a) The on-premises pool or natural body of water is inaccessible to the children when not in use;

(b) During the children's use of a wading pool, an adult with current CPR training supervises the child at all times; and

(c) During the children's use of a swimming pool or natural body of water, a certified lifeguard is present at all times, in addition to required staff.

(2) You must, on a daily basis, empty and clean portable wading pools, when in use.

(3) You may permit the children to use or access a hot tub, spa tank, or whirlpool only under direct supervision and with written parental permission.

[06-15-075, recodified as § 170-151-290, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-290, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-290, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-310 What first-aid supplies must I have available in my child care center?** (1) You must maintain on the premises adequate first-aid supplies conforming with your center's first-aid policies and procedures.

(2) Your first-aid supplies must include unexpired syrup of ipecac. Your staff may administer syrup of ipecac only on the advice of a physician or the poison control center.

(2009 Ed.)

[06-15-075, recodified as § 170-151-310, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-310, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-310, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-320 What requirements must I meet for an outdoor play area?** You must:

(1) Provide a safe and equipped outdoor play area of sufficient size to meet the needs of the children in care. The play area must:

(a) Be reachable by a safe route and method;

(b) Promote the children's active play, physical development, and coordination;

(c) Be free of any dangerous condition and provide safe child entry and exit; and

(d) Be adaptable to the child or children with special needs.

(2) You must ensure that the center's activity schedule affords the child sufficient daily time to participate actively in outdoor play.

(3) The licensor may accept the playground that is on public school property and has been inspected by the school district or state or local health departments.

[06-15-075, recodified as § 170-151-320, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-320, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-320, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-330 What requirements must I meet for indoor space?** (1) Your school-age child care center must have adequate, usable space indoors to ensure that children are not crowded. You must provide a minimum of thirty-five square feet per child of usable space.

(2) Your facility must have an identifiable space of its own during hours of operation, which may include moveable furnishings and equipment.

(3) You must arrange indoor space to encourage a variety of developmentally appropriate activities including:

(a) Interest areas for focused activities;

(b) Open areas for large motor activities;

(c) Areas where children can work individually, in small groups, and in large groups; and

(d) Private spaces where children can rest, play, and work alone or with a friend.

[06-15-075, recodified as § 170-151-330, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-330, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-330, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-340 What are the department's requirements for toilets and handwashing sinks?** (1) You must supply handwashing sinks and toilets for the children equal to, at minimum, the number the state or local building code requires. You must meet the following minimum ratios:

(a) For toilets: 1:100 for boys and 1:35 for girls,

(b) For urinals: 1:30.

(2) You must supply the children with warm, running water for handwashing at a temperature range no less than eighty-five degrees Fahrenheit and no more than one hundred twenty degrees Fahrenheit.

(3) You must locate the children's handwashing facilities in or adjacent to rooms used for toileting.

(4) You must provide toileting privacy for the children.

(5) You must ensure that rooms used for toileting are ventilated to the outdoors.

(6) You must provide the children with soap and individual towels or other appropriate devices for washing and drying the children's hands and faces.

[06-15-075, recodified as § 170-151-340, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-340, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-340, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-380 What kind of program atmosphere must I provide?** You must:

(1) Provide a cheerful environment for the children by placing visually stimulating decorations, pictures, or other attractive materials at appropriate heights for the children in care;

(2) Maintain a safe and developmentally appropriate noise level;

(3) Locate fixtures and provide lighting intensities promoting visibility and comfort for the children in care;

(4) Maintain the temperature within the center at sixty-eight degrees Fahrenheit or more; and

(5) Regulate the temperature and ventilate the center for the health and comfort of the children in care.

[06-15-075, recodified as § 170-151-380, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-380, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-380, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-390 What requirements must I meet regarding nondiscrimination?** (1) You must comply with federal and state regulatory and statutory requirements, defined under chapter 49.60 RCW, regarding nondiscrimination in employment practices and client services.

(2) Consistent with state and federal laws, you must respect and facilitate all rights of the children in care.

[06-15-075, recodified as § 170-151-390, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-390, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-390, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-410 What special requirements regarding American Indian children must I meet?** When five percent or more of your center's child enrollment consists of Indian children, you must, in consultation with the parent, establish a plan to provide social service resources and staff training programs designed to meet the social and cultural needs of such children. You may coordinate with tribal, Indian health service, and Bureau of Indian Affairs social service staff and appropriate urban Indian and Alaskan native consultants.

[06-15-075, recodified as § 170-151-410, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-410, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-410, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-420 What are my responsibilities regarding child abuse, neglect, and exploitation?** You and your staff must protect the children in care from child abuse, neglect, or exploitation, as required under chapter 26.44 RCW. If you or your staff have reasonable cause to believe

that a child has suffered abuse or neglect, you or your staff must report the alleged incident to law enforcement or the department of social and health services child protective services (CPS) section in accordance with RCW 26.44.030.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-151-420, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-151-420, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-420, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-420, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-430 What requirements does the department have regarding prohibited substances and tobacco products?** (1) During operating hours or when children are in care, you, your staff, and volunteers on your center premises or caring for the children off-site must not be under the influence of, consume, or possess an:

(a) Alcoholic beverage; or

(b) Illegal drug.

(2) You must prohibit smoking in the center and in motor vehicle when you, your staff, or volunteers transport children. You may permit on-premises smoking only outdoors, away from the building, when the children are not present.

[06-15-075, recodified as § 170-151-430, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-430, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-430, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-440 What are the department's limitations regarding persons on premises?** (1) During operating hours or while a child is in care, individuals allowed to have unsupervised access to children in care are:

(a) You;

(b) An employee or volunteer who has been authorized by DEL to care for or have unsupervised access to children in child care;

(c) A representative of a school district; and

(d) A representative of a governmental agency who has specific, verifiable authority supported by documentation for the access.

(2) A parent can have unsupervised access only to his or her own child. A parent may sign an authorization for an individual to have unsupervised access to the parent's own child (for example a therapist).

(3) You must not allow anyone else to have unsupervised access to a child in child care.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-151-440, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-151-440, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-440, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-440, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-450 What child records and information must I maintain?** You must maintain, on the premises, organized and confidential records and information concerning each child in care. You must ensure each child's record contains, at a minimum:

(1) Registration data:

(a) Name, birth date, dates of enrollment and termination, and other identifying information;

(b) Name, address, and home and business telephone numbers of the parent and other person for you to contact in case of emergency; and

(c) A completed enrollment application signed by the parent, guardian, or responsible relative.

(2) Authorizations:

(a) Name, address, and telephone number of any other person authorized to remove the child in care from the center;

(b) Written parental consent for transportation provided by the center, including field trips and swimming, when the child participates in these activities. A parent-signed blanket consent form may authorize the child's off-site travel; and

(c) Written parental consent, or court order, for providing medical care and emergency surgery, except for such care authorized by law.

(3) Medical and health data:

(a) Date and kind of illness or injury occurring on the premises including the treatment given by your staff;

(b) Medication given by your staff indicating dosage, date, time, and name of dispensing staff person; and

(c) A health history obtained when you or your staff enrolls the child for care. The history includes:

(i) The date of the child's last physical examination;

(ii) Allergies;

(iii) Special health or developmental problems and other pertinent health information;

(iv) Name, address, and telephone number of child's health care provider or facility; and

(v) A record of immunization status.

[06-15-075, recodified as § 170-151-450, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-450, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-450, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-460 What program records must I maintain?** You must maintain the following documentation on the premises:

(1) The daily attendance record:

(a) The parent, or other person authorized by the parent to take the child to or from the center, must sign in the child on arrival and must sign out the child at departure, using a full, legal signature;

(b) When the child leaves the center to attend school or other off-site activity as authorized by the parent, your staff person must sign out the child and sign in the child on return to the center; and

(c) Signed agreements between a program director and a parent where school-age child is allowed to leave the center on his own, must be verified by signature and dated by the director and parent. Staff may sign a child in/out whose parent has agreed in writing to let the child leave the center.

(2) A copy of the report sent to the department about any illness or injury to the child in care requiring medical treatment or hospitalization;

(3) The twelve-month record indicating the date and time you conducted the required monthly fire evacuation drills;

(4) A written plan for staff development specifying the content, frequency, and manner of planned training;

(5) Activity program plan records;

(6) A list of each child's allergies and dietary restrictions, if any;

(2009 Ed.)

(7) Any incident involving the use of physical restraint;

(8) A record of medication your staff gives to any child;

and

(9) A record of accidents and injuries.

(10) Personnel records as described in WAC 170-151-470(4).

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-151-460, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-151-460, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-460, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-460, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-470 What personnel policies and records must I develop and maintain?** (1) Each employee and volunteer having unsupervised or regular access to the child in care must complete and submit to you or your director by the date of hire:

(a) An application for employment on a department-prescribed form or its equivalent; and

(b) A background check form:

(i) You must submit this form to the department for each employee and volunteer, within seven calendar days of the employee's first day of employment so that the department may complete a background check; and

(ii) The department must discuss the inquiry information with you or your director, when applicable.

(c) A Federal Bureau of Investigation (FBI) check, for you or any employee, or volunteer, if you, the employee, or volunteer has resided in the state for less than three years.

(2) Each employee serving as a program director, site coordinator, or staff person required to complete training under WAC 170-151-190(8) must complete and submit a Washington state training and registry system (STARS) profile form to you or your director by the date of hire. You must submit this form to STARS within seven calendar days of the employee's first day of employment, so that the department may track the employee's compliance with training requirements.

(3) You must have written personnel policies describing staff benefits, if any, duties, qualifications, grievance procedures, pay dates, and nondiscrimination policies.

(4) You must maintain on the premises a personnel record keeping system, including a file for you and each staff person and volunteer containing:

(a) An employment application including work and education history;

(b) Documentation of background check form submission, or FBI fingerprint check, if applicable;

(c) A copy of the department notification of background clearance authorization;

(d) A record of Mantoux method tuberculin skin test results, X ray, or an exemption to the skin test or X ray;

(e) Documentation on HIV/AIDS education and training;

(f) A record of participation in staff development training;

(g) Documentation of orientation program completion;

(h) Documentation of a valid food handler permit, when applicable;

[Title 170 WAC—p. 35]

(i) Documentation of current first-aid and CPR training, when applicable; and

(j) Documentation of basic and annual training required under WAC 170-151-180 (2)(i) and (4)(f), 170-151-190(8) and 170-151-200(7).

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387, 08-10-041, § 170-151-470, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-151-470, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-470, filed 12/22/00, effective 1/22/01. Statutory Authority: RCW 74.15.030. 98-24-052, § 388-151-470, filed 11/25/98, effective 12/26/98. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-470, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-480 What requirements must I meet for reporting of death, injury, illness, epidemic, or child abuse?** You or your staff must report immediately:

(1) A death, serious injury requiring medical treatment, or illness requiring hospitalization of a child in care, by telephone and in writing, to the child's parent and the department;

(2) An instance when you or your staff has reason to suspect the occurrence of physical, sexual, or emotional child abuse, child neglect, or child exploitation as required under chapter 26.44 RCW, by telephone, to child protective services or local law enforcement; and

(3) An occurrence of food poisoning or communicable disease, as required by the state board of health, by telephone, to the local public health department.

[06-15-075, recodified as § 170-151-480, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-480, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-480, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-490 Under what circumstances must I report circumstantial changes to the department?** A school-age child care center license is valid only for the address, person, and organization named on the license. You must promptly report to the department a major change affecting your center's classification, delivery of safe, developmentally appropriate services, or continued eligibility for licensure. A major change includes the:

(1) Center's address, location, space, or phone number;

(2) Maximum number and ages of children served as compared to current license specifications;

(3) Change of ownership, chief executive officer, licensee, director, or site coordinator;

(4) Name of the licensed corporation or name by which the center is commonly known or changes in the center's articles of incorporation and bylaws;

(5) Occurrence of a fire, major structural change, or damage to the premises; and

(6) Plans for major remodeling of the center including planned use of space not previously department-approved.

[06-15-075, recodified as § 170-151-490, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-490, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-490, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-500 What informational items must I post in my center?** (1) You must post the following items, clearly visible to the parents of children in care and your staff:

(a) The center's child care license issued under this chapter;

(b) A list of all staff names;

(c) A typical activity schedule including operating hours;

(d) Food menus;

(e) Evacuation plans and procedures including a diagram of exiting routes; and

(f) Emergency telephone numbers, including 911 and local law enforcement, highlighted and posted by the telephone with the center's address.

(2) For your staff, you must post:

(a) Dietary restrictions for particular children; and

(b) Handwashing practices.

[06-15-075, recodified as § 170-151-500, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.020. 01-02-031, § 388-151-500, filed 12/22/00, effective 1/22/01. Statutory Authority: Chapter 74.15 RCW. 93-02-020 (Order 3493), § 388-151-500, filed 12/30/92, effective 1/30/93.]

**WAC 170-151-991 Waiver of fees.** Any person or agency subject to license fees under chapter 43.215 RCW and this chapter, and organizations in the person's or agency's behalf, may submit a sworn, notarized petition seeking waiver of fees for a licensee or distinguishable class of licensee.

The petition shall be mailed or delivered to the office of the DEL director. Following receipt of the petition, the director may require submission of additional information considered relevant.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-151-991, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-151-991, filed 7/13/06, effective 7/13/06. 00-23-088, recodified as § 388-151-991, filed 11/20/00, effective 11/20/00. Statutory Authority: 1982 c 201. 82-13-011 (Order 1825), § 440-44-002, filed 6/4/82.]

**WAC 170-151-992 Fee payment and refunds.** (1) Fees are due with applications for initial license or renewal. The department will not proceed on applications until required fees are paid.

Except as otherwise provided in these rules, fees shall be paid for a minimum of one year.

(2) Fees for licenses issued for other than yearly periods shall be prorated based on the stated annual fee.

(3) When the department issues a license for more than one year:

(a) Fees may be paid for the entire licensing period by paying at the rate established at the time the application was submitted, or

(b) If the licensee does not pay the fee for the entire license period, annual fees shall be due thirty days prior to each annual anniversary date of the license, at the annual fee rate established by these rules at the time such fee is paid.

(4) Except as otherwise provided in these rules, if an application is withdrawn prior to issuance or denial, one-half of the fee shall be refunded.

(5) If there is a change of or by the licensee requiring a new license, the fee paid for a period beyond the next license anniversary date shall be refunded. Changes requiring a new license shall require a new application and payment of fee as provided herein.

(6) If there is a change by the applicant or licensee that requires an amendment placing the licensee in a higher fee

category, the additional fee shall be prorated for the remainder of the license period.

(7) Fees becoming due on or after the effective date of this chapter shall be at the rates provided herein.

(8) To the extent fees are reduced through regular rule adoption of this chapter on or before December 31, 1982, fees shall be refunded.

(9) Fee payments shall be by mail. Payment shall be by check, draft, or money order.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-151-992, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-151-992, filed 7/13/06, effective 7/13/06. 00-23-088, recodified as § 388-151-992, filed 11/20/00, effective 11/20/00. Statutory Authority: 1982 c 201. 82-13-011 (Order 1825), § 440-44-010, filed 6/4/82.]

**WAC 170-151-993 Denial, revocation, suspension, and reinstatement.** (1) If a license is denied, revoked, or suspended, fees shall not be refunded.

(2) Application for license after denial or revocation must include fees as provided for in these rules.

(3) Failure to pay fees when due will result in suspension or denial of license.

[06-15-075, recodified as § 170-151-993, filed 7/13/06, effective 7/13/06. 00-23-089, recodified as § 388-151-993, filed 11/20/00, effective 11/20/00. Statutory Authority: 1982 c 201. 82-13-011 (Order 1825), § 440-44-015, filed 6/4/82.]

## Chapter 170-290 WAC

### WORKING CONNECTIONS CHILD CARE

#### WAC

170-290-0001	What is the purpose of the working connections child care program?	170-290-0095	If I receive temporary assistance for needy families (TANF) and I am determined eligible for WCCC, when do my benefits begin?
170-290-0005	Who is considered a consumer for the WCCC program?	170-290-0100	If I do not receive temporary assistance for needy families (TANF) and I am determined eligible for WCCC, when do my benefits begin?
170-290-0010	What makes me eligible for WCCC benefits?	170-290-0105	How do I reapply for WCCC when my eligibility period is ending?
170-290-0012	When do I need to verify information?	170-290-0107	When do I receive a denial letter?
170-290-0015	How does the WCCC program determine my family size for eligibility?	170-290-0108	What happens if I meet eligibility requirements after I receive a denial letter?
170-290-0020	Are there special circumstances that might affect my WCCC eligibility?	170-290-0110	What circumstances might affect my eligibility for WCCC benefits and when might I be eligible again?
170-290-0025	What rights do I have when I apply for or receive WCCC benefits?	170-290-0115	When does the WCCC program provide me with advance and adequate notice of payment changes?
170-290-0030	What must I do when I apply for or receive WCCC benefits?	170-290-0120	When doesn't advance and adequate notice of payment changes apply to me?
170-290-0031	What changes do I need to report when I apply for or receive WCCC?	170-290-0125	What child care providers can I choose under the WCCC program?
170-290-0032	What are the consequences if I do not report changes within the specified time frames?	170-290-0130	What in-home/relative providers can I choose under the WCCC program?
170-290-0035	What responsibilities does the WCCC program staff have?	170-290-0135	When I choose an in-home/relative provider, what information must I give the department?
170-290-0040	If I receive a temporary assistance for needy families (TANF) grant, what activities must I be involved in to be eligible for WCCC benefits?	170-290-0138	What responsibilities does my eligible in-home/relative provider have?
170-290-0045	If I don't get a temporary assistance for needy families (TANF) grant, what activities must I be involved in to be eligible for WCCC benefits?	170-290-0140	When is my in-home/relative provider not eligible for WCCC payment?
170-290-0050	If I am self-employed, can I get WCCC benefits?	170-290-0143	Who must have a background check for the WCCC program and how often is the check done?
170-290-0055	If I am not working or in an approved activity right now, can I get WCCC benefits?	170-290-0145	Why is a background check required and will I be notified of the results?
170-290-0060	What income does the WCCC program count when determining eligibility and copayments?	170-290-0150	What information does the background check contain and where does it come from?
170-290-0065	How does the WCCC program define and use my income?	170-290-0155	What happens after the WCCC program receives the background information?
170-290-0070	What income types and deductions does the WCCC program disregard when figuring my income eligibility and for WCCC benefits?	170-290-0160	What convictions would cause the WCCC program to permanently disqualify my in-home/relative provider?
170-290-0075	What steps does the WCCC program take to determine my family's WCCC eligibility and copayment amount?	170-290-0165	Is there other background information or convictions that will disqualify my in-home/relative provider?
170-290-0082	When I am approved, how long is my eligibility period?	170-290-0167	What happens if my in-home/relative provider, who provides care in their home, is disqualified based solely on the disqualifying background of an individual living with that provider?
170-290-0085	When might my WCCC copayment change?	170-290-0180	When are the WCCC program subsidy rates in this chapter effective?
170-290-0090	When do I pay the minimum copayment?	170-290-0185	How does the WCCC program set rates when my child is five years old?
		170-290-0190	What does the WCCC program pay for and when can the program pay more?
		170-290-0200	What daily rates does DSHS pay for child care in a licensed or certified child care center or DSHS contracted seasonal day camps?
		170-290-0205	What daily rates does DSHS pay for child care in a licensed or certified family home child care?
		170-290-0220	How does DSHS determine that my child qualifies for a special needs daily rate?
		170-290-0225	What is the additional subsidy daily rate for children with special needs in a licensed or certified child care center or DSHS contracted seasonal day camp?
		170-290-0230	What is the additional subsidy daily rate for children with special needs in a licensed or certified family home child care?
		170-290-0235	What is the DSHS in-home/relative child care daily rate for children with special needs?
		170-290-0240	What is the DSHS child care subsidy rate for in-home/relative child care and how is it paid?
		170-290-0245	When can the WCCC program authorize payment of fees for registration?
		170-290-0247	When can the WCCC program authorize payment for field trip fees?
		170-290-0260	Who has a right to ask for a hearing and how do they ask for one?
		170-290-0265	When can I get WCCC benefits pending the outcome of a hearing?
		170-290-0270	What is a WCCC overpayment and what can be included?
		170-290-0271	When might I get an overpayment?
		170-290-0273	When would my licensed or certified provider or DSHS contracted seasonal day camp get an overpayment?
		170-290-0274	When would my in-home/relative provider get an overpayment?

**WAC 170-290-0001 What is the purpose of the working connections child care program?** The purpose of working connections child care (WCCC) is to:

- (1) Help families with children pay child care costs for approvable activities to find jobs, keep their jobs, and get better jobs; and
- (2) Consider the health and safety of children while they are in care and receiving child care subsidies.

[08-08-047, recodified as § 170-290-0001, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0001, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0001, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0005 Who is considered a consumer for the WCCC program?** For the purposes of this chapter, "you" and "your" refer to the consumer. If you apply for or receive WCCC, we consider you to be the consumer.

- (1) In WCCC, an eligible consumer is one of the following individuals who has parental control of one or more children, lives in the state of Washington, and is the child's:
  - (a) Parent, either biological or adopted;
  - (b) Stepparent;
  - (c) Legal guardian verified by a legal or court document;
  - (d) Adult sibling or step-sibling;
  - (e) Nephew or niece;
  - (f) Aunt;
  - (g) Uncle;
  - (h) Grandparent; or
  - (i) Any of the relatives in (f) through (h) of this subsection with the prefix great, such as great-aunt.
- (2) You are not an eligible consumer when you:
  - (a) Are the only parent in the household; and
  - (b) Will be away from the home for more than thirty days in a row.

[08-08-047, recodified as § 170-290-0005, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0005, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0005, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0010 What makes me eligible for WCCC benefits?** For the purposes of this chapter "we" and "us" refer to the department of social and health services. You may be eligible for WCCC benefits if:

- (1) Your family is described under WAC 388-290-0015;
- (2) You are participating in an approved activity under WAC 388-290-0040, 388-290-0045, 388-290-0050, or have been approved per WAC 388-290-0055;
- (3) You and your children are eligible under WAC 388-290-0020;
- (4) Your countable income, is at or below two hundred percent of the federal poverty level (FPL) (under WAC 388-290-0065); and
- (5) Your share of the child care cost, called a copayment (under WAC 388-290-0075), is lower than the total DSHS maximum monthly payment for all children in the family who are eligible for subsidized care. We do not prorate your copayment when care is provided for part of a month.

[08-08-047, recodified as § 170-290-0010, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0010, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-14-067, § 388-290-0010, filed 6/27/02, effective 8/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0010, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0012 When do I need to verify information?** (1) When you apply for benefits, we require you to provide information that helps us decide your eligibility. We call this "verification."

- (2) After you apply, we ask you to give us new verification when:
  - (a) You report a change;
  - (b) We find out that your circumstances have changed;
 or
  - (c) The information we have is questionable, confusing or outdated.
- (3) Whenever we ask for verification, we give you a notice as described in WAC 388-458-0020.
- (4) We accept any verification that you can easily get when it reasonably supports your statement or circumstances. The verification you give to us must:
  - (a) Clearly relate to what you are trying to verify;
  - (b) Be from a reliable source; and
  - (c) Be accurate, complete, and consistent.
- (5) We cannot make you give us a specific type or form of verification.
- (6) If the only type of verification that you can get costs money, we pay for it.

- (7) If the verification that you give to us is questionable or confusing, we may:
  - (a) Ask you to give us more verification or provide a collateral contact (a "collateral contact" is a statement from someone outside of your residence that knows your situation); or
  - (b) Send an investigator from the division of fraud investigations (DFI) to make an unannounced visit to your home to verify your circumstances. See WAC 388-290-0025(10).
- (8) If you do not give us all of the verification that we have asked for, we determine if you are eligible based on the information that we already have. If we cannot determine that you are eligible based on this information, we deny or stop your benefits per WAC 388-290-0107 or 388-290-0115.

[08-08-047, recodified as § 170-290-0012, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0012, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0015 How does the WCCC program determine my family size for eligibility?** We determine your family size by reviewing those individuals who live together in the same household as follows:

(1) <b>If you are:</b>	<b>We count the following individuals as part of the family for WCCC eligibility:</b>
(a) A single parent, including a minor parent living independently;	You and your children.

(1) If you are:	<b>We count the following individuals as part of the family for WCCC eligibility:</b>
(b) Unmarried parents who have at least one mutual child;	Both parents and all their children living in the household.
(c) Unmarried parents with no mutual children;	Unmarried parents and their respective children living in the household as separate WCCC families.
(d) Married parents;	Both parents and all their children living in the household.
(e) Undocumented parents;	Parents and children, documented and undocumented, as long as the child needing care is a U.S. citizen or legally residing in the United States. All other family rules in this section apply.
(f) A consumer as defined in WAC 388-290-0005 (1)(c) through (i);	The children only. (The children and their income are counted.)
(g) A minor parent with children and live with a parent/guardian;	Only the minor parent and their children.
(h) A family member who is out of the household because of employer requirements, such as the military or training, and is expected to return to the household.	You, the absent individual, and the children. Subsection (1)(b) and (d) of this section apply.
(i) A family member who is voluntarily out of the household for reasons other than requirements of the employer, such as unapproved schooling and visiting family members, and is expected to return to the household.	You, the absent individual and the children. Subsection (1)(b) and (d) of this section apply as well as WAC 388-290-0020.
(j) An incarcerated family member.	The absent individual is removed from the household. We count all remaining household members. All other family rules in this section apply.
(2) If your household includes:	<b>We count the following individuals as part of the family for WCCC eligibility:</b>
(a) Eighteen year old siblings of the children who require care and are enrolled in high school or general equivalency diploma (GED) program.	The eighteen year olds (unless they are a parent themselves), until they turn nineteen or complete high school/GED, whichever comes first. All other family rules in this section apply.

(1) If you are:	<b>We count the following individuals as part of the family for WCCC eligibility:</b>
(b) Siblings of the children requiring care who are up to twenty-one years of age and who are participating in an approved program through the school district's special education department under RCW 28A.155.020.	The individual participating in an approved program through RCW 28A.155.020 up to twenty-one years of age (unless they are a parent themselves). All other family rules in this section apply.

[08-08-047, recodified as § 170-290-0015, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0015, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0015, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0015, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0020 Are there special circumstances that might affect my WCCC eligibility?** (1) You might be eligible for WCCC if you are:

- (a) An employee of the same child care center where your children receive care and you do not provide direct care to your own children during the time WCCC is requested;
  - (b) A sanctioned WorkFirst participant or an applicant who was terminated by a sanction review panel and in an activity needed to remove a sanction penalty or to reopen your case;
  - (c) A parent in a two-parent family and one parent is not able or available to provide care for your children while the other is working, looking for work, or preparing for work;
  - (i) "Able" means physically and mentally capable of caring for a child in a responsible manner. If you claim one parent is unable to care for the children, you must provide written documentation from a licensed professional (see WAC 388-448-0020) that states the:
    - (A) Reason the parent is unable to care for the children;
    - (B) Expected duration and severity of the condition that keeps them from caring for the children; and
    - (C) Treatment plan if the parent is expected to improve enough to be able to care for the children. The parent must provide evidence from a medical professional showing they are cooperating with treatment and are still unable to care for the children.
  - (ii) "Available" means free to provide care when not participating in an approved work activity under WAC 388-290-0040, 388-290-0045, 388-290-0050, or 388-290-0055 during the time child care is needed.
  - (d) A married consumer described under WAC 388-290-0005 (1)(d) through (i). Only you or your spouse must be participating in activities under WAC 388-290-0040, 388-290-0045, 388-290-0050, or 388-290-0055.
- (2) You might be eligible for WCCC if your children are legally residing in the country, are living in Washington state, and are:
- (a) Less than age thirteen; or
  - (b) Less than age nineteen, and:
    - (i) Have a verified special need, according to WAC 388-290-0220; or

(ii) Are under court supervision.

(3) Any of your children who receive care at the same place where you work (other than (1)(a) of this subsection) are not eligible for WCCC payments but can be included in your household if they meet WAC 388-290-0015. This includes if you work:

(a) In a family home child care in any capacity and your children are receiving care at the same home during your hours of employment; or

(b) In your home or another location and your children receive care at the same location during your hours of employment.

[08-08-047, recodified as § 170-290-0020, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.04.055, 74.04.057, 74.08.090, 74.08A.260, chapter 74.08A RCW. 06-10-035, § 388-290-0020, filed 4/27/06, effective 6/1/06. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0020, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0020, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0020, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0020, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0025 What rights do I have when I apply for or receive WCCC benefits?** When you apply for or receive WCCC benefits you have the right to:

(1) Be treated politely and fairly without regard to race, color, creed, religion, sex, presence of any sensory, mental or physical disability, sexual orientation, political affiliation, national origin, religion, age, gender, disability, or birthplace;

(2) Have WCCC eligibility determined within thirty days from your application date per WAC 388-290-0100(2);

(3) Be informed, in writing, of your legal rights and responsibilities related to WCCC benefits;

(4) Only have your information shared with other agencies when required by federal or state regulations;

(5) Get a written notice at least ten days before we make changes to lower or stop benefits except as stated in WAC 388-290-0120;

(6) Ask for a fair hearing if you do not agree with us about a decision per WAC 388-290-0260.

(7) Ask a supervisor or administrator to review a decision or action affecting your benefits without affecting the right to a fair hearing;

(8) Have interpreter or translator service within a reasonable amount of time and at no cost to you;

(9) Choose your provider as long as the provider meets the requirements in WAC 388-290-0125; and

(10) Ask the fraud early detection (FRED) investigator from the division of fraud investigations (DFI) to come back at another time. You do not have to let an investigator into your home. You may ask the investigator to come back at another time. This request will not affect your eligibility for benefits. If you refuse to cooperate (provide the information requested) with the investigator, it could affect your benefits.

[08-08-047, recodified as § 170-290-0025, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0025, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0025, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0030 What must I do when I apply for or receive WCCC benefits?** When you apply for or receive WCCC benefits you must:

(1) Give us correct and current information so we can determine your eligibility and authorize child care payments correctly;

(2) Choose a provider who meets requirements of WAC 388-290-0125;

(3) Pay, or make a plan to have someone pay, your WCCC copayment directly to your child care provider;

(4) Leave your children with your provider while you are in WCCC approved activities. If you are not in an approved activity and you want to use the provider, you must make a plan to pay the provider yourself if the provider wants payment.

(5) If you use an in-home/relative provider, make sure care is being provided in the right home per WAC 388-290-0130.

(6) Cooperate (provide the information requested) with the quality assurance review process to remain eligible for WCCC. You become ineligible for WCCC benefits upon a determination of noncooperation by quality assurance and remain ineligible until you meet quality assurance requirements or thirty days from the determination of noncooperation.

(7) Cooperate with the fraud early detection (FRED) investigator. If you refuse to cooperate (provide the information requested) with the investigator, it could affect your benefits.

[08-08-047, recodified as § 170-290-0030, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0030, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0030, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0030, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0031 What changes do I need to report when I apply for or receive WCCC?** (1) Notify WCCC staff, within five days, of any change in providers;

(2) Notify your provider within ten days when we change your child care authorization;

(3) Provide notice to WCCC staff within ten days of any change in:

(a) The number of child care hours you need (more or less hours);

(b) Your household income, including any TANF grant or child support increases or decreases;

(c) Your household size such as any family member moving in or out of your home;

(d) Employment, school or approved TANF activity (starting, stopping or changing);

(e) The address and telephone number of your in-home/relative provider;

(f) Your home address and telephone number; and

(g) Your legal obligation to pay child support.

(4) Report to your child care authorizing worker, within twenty-four hours, any pending charges or conviction information you learn about your in-home/relative provider.

(5) Report to the child care authorizing worker, within twenty-four hours, any pending charges or conviction infor-

mation you learn about anyone sixteen years of age and older who lives with the provider when care occurs outside of the child's home.

[08-08-047, recodified as § 170-290-0031, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0031, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0032 What are the consequences if I do not report changes within the specified time frames?** If you fail to report any changes as required in WAC 388-290-0031 within the stated time frames, we may establish an overpayment per WAC 388-290-0271 or you might have to pay more than your normal share of child care costs, such as:

- (1) Paying a higher copayment;
- (2) Paying for extra hours of care when your activity requires more than ten hours a day of care;
- (3) Receiving an overpayment for the number of days your child was absent including the absences the licensed/certified or DSHS seasonal contracted day care provider is allowed to bill (see publication *Child Care Subsidies, A Booklet for Licensed and Certified Child Care Providers*, DSHS 22-877). An overpayment for absent days can occur when care is used when you are not eligible for WCCC and can be up to five days a month;

[08-08-047, recodified as § 170-290-0032, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0032, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0032, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0035 What responsibilities does the WCCC program staff have?** The WCCC program staff are responsible to:

- (1) Determine your eligibility within thirty days from the date you applied (application date as described in WAC 388-290-0100(2)).
- (2) Allow you to choose your provider as long as they meet the requirements in WAC 388-290-0125;
- (3) Review your chosen in-home/relative provider's background information.
- (4) Authorize payments only to child care providers who allow you to see your children whenever they are in care;
- (5) Only authorize payment when no adult in your WCCC family is "able or available" to care for your children (under WAC 388-290-0020).
- (6) Inform you of:
  - (a) Your rights and responsibilities under the WCCC program at the time of application and reapplication;
  - (b) The types of child care providers we can pay;
  - (c) The community resources that can help you select child care when needed; and
  - (d) Any change in your copayment during the authorization period except under WAC 388-290-0120(5).
- (7) Respond to you within ten days if you report a change of circumstance that affects your:
  - (a) WCCC eligibility;
  - (b) Copayment; or
  - (c) Providers.
- (8) Provide prompt child care payments to your child care provider.

(2009 Ed.)

[08-08-047, recodified as § 170-290-0035, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0035, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0035, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0035, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0035, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0040 If I receive a temporary assistance for needy families (TANF) grant, what activities must I be involved in to be eligible for WCCC benefits?** If you receive a temporary assistance for needy families (TANF) grant, you may be eligible for WCCC benefits, for activities in your individual responsibility plan (IRP), for up to sixteen hours maximum per day for your hours of participation in the following:

- (1) An approved WorkFirst activity under WAC 388-310-0200;
- (2) Employment or self-employment. We consider "employment" or "work" to mean:
  - (a) Engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States; or
  - (b) Working in a federal or state paid work study program. You may receive WCCC for paid work study and transportation hours (not for the time you are in an unapproved activity).
- (3) Transportation time between the location of child care and your place of employment or approved activity;
- (4) Up to ten hours per week of study time before or after regularly scheduled classes or up to three hours of study time per day when needed to cover time between approved classes; and
- (5) Up to eight hours per day of sleep time when it is needed, such as if you work nights and sleep days.

[08-08-047, recodified as § 170-290-0040, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0040, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0040, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0040, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0045 If I don't get a temporary assistance for needy families (TANF) grant, what activities must I be involved in to be eligible for WCCC benefits?**

- (1) If you do not receive TANF, you may be eligible for WCCC benefits for up to sixteen hours maximum per day, including travel, study, and sleep time, for the hours of your participation in the following:
  - (a) Employment or self-employment under WAC 388-290-0050. We consider "employment" or "work" to mean:
    - (i) Legal, income generating activity taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States.
    - (ii) Federal or state paid work study.
  - (b) VISTA volunteers, AmeriCorps, JobCorps, and Washington Service Corps (WSC) if the income is taxed.

[Title 170 WAC—p. 41]

(c) High school (HS) or general equivalency diploma (GED) program until you reach your twenty-second birthday (you can be enrolled in a HS or GED program without a minimum number of employment hours).

(d) Approved WorkFirst activities according to WAC 388-310-0200 if you are a TANF applicant.

(e) Food stamp employment and training program under chapter 388-444 WAC.

(2) If you are participating in an activity listed in subsections (3) through (8) of this section, you may be eligible for WCCC benefits as described in subsection (1) of this section if you are actually working either:

(a) Twenty or more hours per week; or

(b) Sixteen or more hours per week in a paid federal or state work study program.

(3) Adult basic education (ABE).

(4) English as a second language (ESL).

(5) High school or GED completion if you are twenty-two years of age or older.

(6) Vocational education (Voc Ed). The voc ed program:

(a) Must lead to a degree or certificate in a specific occupation.

(b) Cannot include prerequisite classes or programs.

(c) Is offered by the following accredited entities only:

(i) Public and private technical college or school.

(ii) Community college.

(iii) Tribal college.

(7) Job skills training for no more than fourteen consecutive days. Job skills training is not tied to a specific occupation but is training in specific skills directly related to employment, such as CPR/First Aid, keyboarding, computer programs, project management, and oral and written communication skills. Training offered or required by a current employer, at or off your job site, may extend past the fourteen consecutive day limit.

(8) Post-employment services under WAC 388-310-1800.

(9) Child care for participation in voc ed is limited to thirty-six months regardless of the length of the educational program. The thirty-six months includes the months in which the following occurred at the same time:

(a) WCCC benefits were paid to support your participation in a voc ed program.

(b) You or someone in your household received TANF benefits.

(10) WCCC may be approved for activities listed in WAC 388-290-0040 (3) through (5), when needed.

[08-08-047, recodified as § 170-290-0045, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.12.340, 06-12-094, § 388-290-0045, filed 6/6/06, effective 7/7/06. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0045, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-12-069, § 388-290-0045, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0045, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0050 If I am self-employed, can I get WCCC benefits?** You may be eligible for WCCC benefits for up to sixteen hours maximum per day when you are self-employed.

(1) We consider "employment" or "work" to mean engaging in any legal, income generating activity that is taxable under the United States Tax Code or that would be taxable with or without a treaty between an Indian Nation and the United States;

(2) You are eligible for the calculation discussed in subsection (4)(a) of this section one time only, for one self-employment venture. If you change self-employment, any months left up to the first six months are covered by child care according to subsection (4)(a)(i) of this section.

(3) If you get TANF and are self-employed:

(a) You must have an approved self-employment plan under WAC 388-310-1700;

(b) The amount of WCCC you get for self-employment is equal to the number of hours in your approved plan; and

(c) Income from self-employment while you are receiving TANF is determined by WAC 388-450-0085.

(4) If you don't get TANF at the time of application for WCCC and it is a:

(a) New self-employment business (established less than six months):

(i) The hours of care you are eligible to receive for the first six months is based on your report of how many hours are needed, up to sixteen hours per day; and

(ii) Your self-employment income is based on WAC 388-290-0060.

(b) For a self-employment business (established for six months or more) the number of hours of care you are eligible to receive is based on whichever is more:

(i) Your work hours reported in your business records; or

(ii) The average number of monthly hours equal to dividing your monthly self-employment income by the federal or state minimum wage (whichever minimum wage is lower).

(c) After the first six months, the number of hours of WCCC you can get each month is based on the lesser of subsections (4)(b)(i) or (ii) of this section.

[08-08-047, recodified as § 170-290-0050, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0050, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-12-069, § 388-290-0050, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0050, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0055 If I am not working or in an approved activity right now, can I get WCCC benefits?**

When care is approved in the situations described in subsections (1) and (2) of this section, the child needs to attend for the provider to bill.

(1) We can authorize WCCC payments for a child's attendance in child care for up to fourteen consecutive days when you're waiting to enter an approved activity under WAC 388-290-0040 or 388-290-0045.

(2) We can authorize WCCC payments for a child's attendance in child care for up to twenty-eight consecutive days if you or the other parent in the household experience a gap in your approved activity.

(3) Your household may be eligible for payment described in subsection (2) of this section:

(a) Twice in a calendar year;

(b) For the same number of units open while you were in the approved activity, not to exceed two hundred thirty hours a month;

(c) If you report the loss of activity or employment timely following WAC 388-290-0031; and

(d) If you receive WCCC immediately before the loss of employment or approved activity, and:

(i) Your employment, or the approved activity, will resume within that period; or

(ii) You are looking for another job.

[08-08-047, recodified as § 170-290-0055, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0055, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0055, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0055, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0060 What income does the WCCC program count when determining eligibility and copayments?** The WCCC program counts income as money you get from:

(1) A TANF grant, except when exempt under WAC 388-290-0070 (1)(h);

(2) Child support payments;

(3) Supplemental Security Income (SSI);

(4) Other Social Security payments, such as SSA and SSDI;

(5) Refugee assistance payments;

(6) Payments from the Veterans' Administration, disability payments, or payments from labor and industries (L&I);

(7) Unemployment compensation;

(8) Other types of income not listed in WAC 388-290-0070;

(9) VISTA volunteers, Americorps, and Washington Service Corps (WSC) if the income is taxed;

(10) Gross wages from employment or self-employment. Gross wages includes any wages that are taxable. "Self-employment income" means your gross income from self-employment minus allowable business expenses in WAC 388-450-0085;

(11) Lump sums as money you get from a one-time payment such as back child support, an inheritance, or gambling winnings; and

(12) Income for the sale of property as follows:

(a) If you sold the property before application, we consider the proceeds an asset and do not count as income;

(b) If you sold the property in the month you apply or during your eligibility period, we count it as a lump sum payment as described in WAC 388-290-0065(3).

(c) Property does not include small personal items such as furniture, clothes, and jewelry.

[08-08-047, recodified as § 170-290-0060, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0060, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0060, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0065 How does the WCCC program define and use my income?** We use your countable income when determining your eligibility and copayment. Your

(2009 Ed.)

countable income is the sum of all income listed in WAC 388-290-0060 minus any child support paid out (through a court order, division of child support administrative order, or tribal government order).

(1) To determine your income we:

(a) Determine the number of months, weeks or pay periods it took your family to earn the income and divide the income by the number of months, weeks or pay periods to get an average monthly amount; or

(b) Use the best available estimate of your family's current income when you begin new employment or if you don't have an income history to make an accurate estimate of your future income, we may ask your employer to verify your income.

(2) If you receive a lump sum payment (such as money from the sale of property or back child support payment) in the month of application or during your WCCC eligibility we:

(a) Divide the lump sum payment by twelve to come up with a monthly amount; and

(b) Add the monthly amount to your expected average monthly income for the month it was received and the remaining months of the current authorization period;

(c) You must meet income guidelines for WCCC after the lump sum payment is applied to remain eligible for WCCC.

[08-08-047, recodified as § 170-290-0065, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0065, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0065, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0070 What income types and deductions does the WCCC program disregard when figuring my income eligibility and for WCCC benefits?** (1) The WCCC program does not count the following income types when figuring your income eligibility and copayment:

(a) Income types as defined in WAC 388-450-0035, 388-450-0040, and 388-450-0055;

(b) Compensatory awards, such as an insurance settlement or court-ordered payment for personal injury, damage, or loss of property;

(c) Adoption support assistance and foster care payments;

(d) Reimbursements, such as an income tax refund;

(e) Diversion cash assistance;

(f) Income in-kind that is untaxed, such as working for rent;

(g) Military housing and food allowance;

(h) The TANF grant for the first three consecutive calendar months after you start a new job. The first calendar month is the month in which you start working;

(i) Payments to you from your employer for benefits such as medical plans;

(j) Earned income of a WCCC family member defined under WAC 388-290-0015(2);

(k) Income of consumers described in WAC 388-290-0005 (1)(c) through (i);

(l) Earned income from a minor child who we count as part of your WCCC household; and

(m) Benefits received by children of Vietnam War veterans who are diagnosed with all forms or manifestations of spina bifida (except spina bifida occulta).

(2) WCCC deducts the amount you pay for child support under court order, division of child support administrative order, or tribal government order, from your other countable income when figuring your eligibility and copay for the WCCC program.

[08-08-047, recodified as § 170-290-0070, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0070, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0070, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0075 What steps does the WCCC program take to determine my family's WCCC eligibility and copayment amount?** (1) The WCCC program takes the following steps to determine your WCCC income eligibility and copayment:

(a) Determine your family size (under WAC 388-290-0015); and

(b) Determine your countable income (under WAC 388-290-0065).

(2) If your family's countable monthly income falls within the range below, then your copayment is:

YOUR INCOME	YOUR COPAYMENT is:
At or below 82% of the FPL	\$15
Above 82% of the FPL up to 137.5% of the FPL	\$50
Above 137.5% of the FPL -200% of the FPL	The dollar amount equal to subtracting 137.5% of FPL from countable income, multiplying by 44%, then adding \$50
Income above 200% of the FPL, you are not eligible for WCCC benefits.	

(3) We do not prorate the copayment when you use care for part of a month.

[08-08-047, recodified as § 170-290-0075, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0075, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-14-067, § 388-290-0075, filed 6/27/02, effective 8/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0075, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0082 When I am approved, how long is my eligibility period?** We can approve you for a period up to six months. Your eligibility can end prior to your end date as stated in WAC 388-290-0110.

[08-08-047, recodified as § 170-290-0082, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0082, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0085 When might my WCCC copayment change?** (1) Once we determine that you are eligible for WCCC benefits, your copayment could change when:

- (a) Your monthly income decreases;
- (b) Your family size increases;
- (c) We make an error in your copayment computation;

(d) You did not report all income, activity and household information;

(e) You are no longer eligible for the minimum copayment under WAC 388-290-0090;

(f) We make a mass change in benefits due to a change in law or program funding; or

(g) You are approved for a new eligibility period.

(2) If your copayment changes during your eligibility period, the change is effective the first of the month following our becoming aware of the change.

(3) We do not increase your copayment during your current eligibility period when your countable income remains at or below two hundred percent of the FPL, and:

(a) Your monthly countable income increases; or

(b) Your family size decreases.

[08-08-047, recodified as § 170-290-0085, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0085, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-14-067, § 388-290-0085, filed 6/27/02, effective 8/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0085, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0090 When do I pay the minimum copayment?** You pay the minimum copayment:

(1) If your countable monthly income is at or below eighty-two percent of the FPL;

(2) If you are a minor parent, and are:

(a) Receiving TANF; or

(b) Part of your parent's or relative's TANF assistance unit.

(3) For the first full month following the month you get a job or apply for WCCC and we pay benefits;

(4) If there is a break of at least thirty days in your WCCC benefits due to your activity ending; or

(5) If you received child care benefits within the last thirty days immediately prior to the eligibility period and you do not meet the qualifications in subsections (1) through (4) of this section, your copayment will be computed according to WAC 388-290-0075.

[08-08-047, recodified as § 170-290-0090, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0090, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0090, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0095 If I receive temporary assistance for needy families (TANF) and I am determined eligible for WCCC, when do my benefits begin?** When you receive TANF, and are eligible for WCCC, your benefits begin when your eligible provider (under WAC 388-290-0125) is caring for your children and you are participating in an approved activity under WAC 388-290-0040 or 388-290-0055.

[08-08-047, recodified as § 170-290-0095, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0095, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-12-069, § 388-290-0095, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0095, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0100 If I do not receive temporary assistance for needy families (TANF) and I am determined eligible for WCCC, when do my benefits begin?** (1) If you do not receive TANF and are eligible for WCCC your benefits begin as described in WAC 388-290-0055(1) or the date you apply for WCCC and the following requirements are met:

- (a) You have turned in all your information within thirty days of your application date;
  - (b) You meet all eligibility requirements; and
  - (c) Your eligible provider (under WAC 388-290-0125) is caring for your children.
- (2) Your application date is whichever is earlier:
- (a) The date your application is entered into our automated system; or
  - (b) The date your application is date stamped as received.
- (3) If you fail to turn in all your information within thirty days from your application date you must restart your application process. Your begin date for benefits is described in subsection (2) of this section.

[08-08-047, recodified as § 170-290-0100, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0100, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0100, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0105 How do I reapply for WCCC when my eligibility period is ending?** (1) If you want to receive child care benefits for another eligibility period you must reapply for WCCC benefits before your current eligibility period ends. We determine if you are eligible by:

- (a) Requesting application information prior to the end date of your current WCCC eligibility period; and
  - (b) Verifying the requested information for completeness and accuracy.
- (2) You may be eligible for WCCC benefits for a new eligibility period if:
- (a) Your application information is received no later than the last day of your current eligibility period;
  - (b) Your provider is eligible for payment under WAC 388-290-0125; and
  - (c) You meet all WCCC eligibility requirements.
- (3) If you are determined eligible for WCCC benefits based on your application information, we notify you of your new eligibility period and copayment.
- (4) If you provide the requested application information to us anytime after your eligibility period ends, you are determined eligible for WCCC and you:
- (a) Receive TANF, your benefit begins when:
    - (i) You are participating in your approved activity, and
    - (ii) Your eligible provider (under WAC 388-290-0125) is caring for your child.
  - (b) Do not receive TANF, your benefit begin date is the date you:
    - (i) Application is date stamped as received or entered into our automated system;
    - (ii) Eligible provider (under WAC 388-290-0125) is caring for your child; and
    - (iii) Participation in an approved activity has started.

(2009 Ed.)

[08-08-047, recodified as § 170-290-0105, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0105, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-12-069, § 388-290-0105, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0105, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0107 When do I receive a denial letter?** We send you a denial letter when you have applied for child care and you:

- (1) Withdraw your request;
- (2) Are not eligible due to you:
  - (a) Family composition;
  - (b) Income; or
  - (c) Activity.
- (3) Did not provide information necessary to determine your eligibility according to WAC 388-290-0012.

[08-08-047, recodified as § 170-290-0107, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0107, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0108 What happens if I meet eligibility requirements after I receive a denial letter?** If you turn in information or otherwise meet eligibility requirements after we send you a denial letter, we determine your benefit begin date by:

- (1) WAC 388-290-0095 if you are TANF; or
- (2) WAC 388-290-0100 if you are non-TANF.

[08-08-047, recodified as § 170-290-0108, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0108, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0110 What circumstances might affect my eligibility for WCCC benefits and when might I be eligible again?** (1) We stop your eligibility for WCCC benefits when you do not:

- (a) Pay copayment fees assessed by us and you do not make mutually acceptable arrangements with your child care provider to pay the copayment;
  - (b) Complete the requested reapplication before the deadline noted in WAC 388-290-0105 (2)(a);
  - (c) Meet other WCCC eligibility requirements related to family size, income and approved activities; or
  - (d) Cooperate with the quality assurance review process or with the division of fraud investigations.
- (2) You might be eligible for WCCC again when you meet all WCCC eligibility requirements, and:
- (a) Back copayment fees are paid;
  - (b) You make mutually acceptable payment arrangements with your child care provider; or
  - (c) You cooperate with the quality assurance review process or with the division of fraud investigations.

[08-08-047, recodified as § 170-290-0110, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0110, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0110, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0115 When does the WCCC program provide me with advance and adequate notice of payment changes?** (1) The WCCC program provides you with advance and adequate notice for changes in payment when the change results in a suspension, reduction, termination, or forces a change in child care arrangements, except as noted in WAC 388-290-0120.

(2) "Advance and adequate notice," means a written notice of a WCCC reduction, suspension, or termination that is mailed at least ten days before the date of the intended action which includes the Washington Administrative Code (WAC) supporting the action, and your right to request a fair hearing.

[08-08-047, recodified as § 170-290-0115, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0115, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0120 When doesn't advance and adequate notice of payment changes apply to me?** We do not give you advance and adequate notice in the following circumstances:

- (1) You tell us you no longer want WCCC;
- (2) Your whereabouts are unknown to us;
- (3) You are receiving duplicate child care benefits;
- (4) Your current eligibility period is scheduled to end;
- (5) Your new eligibility period results in a change in child care benefits;
- (6) The location where child care occurs does not meet requirements under WAC 388-290-0130(2); or
- (7) We determine your in-home/relative provider:
  - (a) Is not of suitable character and competence;
  - (b) May cause a risk of harm to your children based on the provider's physical or mental health; or
  - (c) Has been convicted of, or has charges pending for crimes posted on the DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at <http://www1.dshs.wa.gov/esa/dccel/>.

[08-08-047, recodified as § 170-290-0120, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0120, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-12-069, § 388-290-0120, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0120, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0125 What child care providers can I choose under the WCCC program?** To receive payment under the WCCC program, your child care provider must be:

- (1) Licensed as required by chapter 74.15 RCW and chapters 388-155, 388-295, or 388-151 WAC;
- (2) Meeting their states licensing regulations, for providers who care for children in states bordering Washington. We pay the lesser of the following to qualified child care facilities in bordering states:
  - (a) The provider's usual daily rate for that child; or
  - (b) The DSHS maximum child care subsidy daily rate for the DSHS region where the child resides.
- (3) Exempt from licensing but certified by us, such as:
  - (a) Tribal child care facilities that meet the requirements of tribal law;

- (b) Child care facilities on a military installation; and
- (c) Child care facilities operated on public school property by a school district.
- (4) Seasonal day camps that have a contract with us to provide subsidized child care and are:
  - (a) Of a duration of three months or less;
  - (b) Engaged primarily in recreational or educational activities; and
  - (c) Accredited by the American Camping Association (ACA).
- (5) An in-home/relative provider meeting the requirements in WAC 388-290-0130.

[08-08-047, recodified as § 170-290-0125, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0125, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-12-069, § 388-290-0125, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0125, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0130 What in-home/relative providers can I choose under the WCCC program?** (1) To be eligible as an in-home/relative provider the person must:

- (a) Be an adult who is a U.S. citizen or legally residing in the United States;
- (b) Meet the requirements in WAC 388-290-0135; and
- (c) Be one of the following adults providing care in the home of either the child or the adult:
  - (i) A sibling living outside the child's home;
  - (ii) An extended tribal family member according to chapter 74.15 RCW; or
  - (iii) A grandparent, aunt, uncle, or great-grandparent, great-aunt or great-uncle.
- (2) An adult not listed in (1)(c)(i), (ii), or (iii) of this section must:
  - (a) Meet the requirements in subsection (1)(a) and (b) of this section; and
  - (b) Provide care in the child's home.
- (3) If you use an in-home/relative provider you can:
  - (a) Have no more than two in-home/relative providers authorized for payment during your eligibility period at the same time (not including back-up providers);
  - (b) Have one back up provider (licensed or an in-home/relative provider).

[08-08-047, recodified as § 170-290-0130, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0130, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0130, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0130, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0130, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0135 When I choose an in-home/relative provider, what information must I give the department?** When you choose in-home/relative child care, you must complete certain forms and give us the following:

- (1) The in-home/relative child care provider's legal name, address and telephone number;
- (2) A copy of the provider's valid Social Security card;
- (3) A copy of the provider's photo identification;

- (4) A completed background check authorization; and
- (5) A form supplied by us, completed and signed by you and the provider in which both of you attest to the following:
  - (a) The provider is:
    - (i) Of suitable character and competence;
    - (ii) Of sufficient physical and mental health to meet the needs of the children in care. If we request it, you must provide written evidence that the in-home child care provider of your choice is of sufficient physical and mental health to be a safe child care provider;
    - (iii) Able to work with the children without using corporal punishment or psychological abuse;
    - (iv) Able to accept and follow instructions;
    - (v) Able to maintain personal cleanliness;
    - (vi) Prompt and regular in job attendance;
    - (vii) Informed about basic health practices, prevention and control of infectious disease, immunizations; and
    - (viii) Able to provide constant care, supervision and activities based on the child's developmental needs.
  - (b) The children are current on the immunization schedule as described in the National Immunization Guidelines, developed by the American Academy of Pediatrics and the Advisory Committee on Immunization Practices;
  - (c) The home where care is provided is safe for the care of the children.

[08-08-047, recodified as § 170-290-0135, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0135, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0135, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0135, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0135, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0138 What responsibilities does my eligible in-home/relative provider have?** Your in-home/relative provider must:

- (1) Report within ten days changes in their legal name, address or telephone number;
- (2) Report within twenty-four hours pending charges or convictions they have;
- (3) Report within twenty-four hours pending charges or convictions for anyone sixteen years of age and older who lives with the provider when care occurs outside of the child's home;
- (4) Bill WCCC only for care he/she provided;
- (5) Not bill WCCC for more than six children at one time for the same hours of care; and
- (6) Keep correct attendance records. Records must:
  - (a) Show both days and times the care was provided;
  - (b) Be kept for five years; and
  - (c) Be given to us, within fourteen consecutive calendar days, if we ask for them.

[08-08-047, recodified as § 170-290-0138, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0138, filed 10/31/05, effective 12/1/05.]

**WAC 170-290-0140 When is my in-home/relative provider not eligible for WCCC payment?** We do not pay for the cost of in-home/relative care if:

(2009 Ed.)

(1) Your provider does not meet the requirements in WAC 388-290-0130, 388-290-0135, and 388-290-0138;

(2) Your in-home/relative provider has been convicted of, or has charges pending for crimes posted on the DSHS secretary's crime and action list for background checks for ESA. You can find the complete list at <http://www1.dshs.wa.gov/esa/dccel/policy.shtml>;

(3) We do not have background check results according to WAC 388-290-0143;

(4) The provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's nonneedy or needy relative or relative's spouse or live-in partner;
- (c) The child's legal guardian or the guardian's spouse or live-in partner; or
- (d) Another adult acting in loco parentis or that adult's spouse or live-in partner.

(5) We do not have the results of all applicable criminal background checks under WAC 388-290-0143(1) and 388-290-0150. An in-home/relative provider is not an eligible provider (per WAC 388-290-0095 and 388-290-0100) prior to receiving these background results. Providers other than in-home/relative providers you can use are described in WAC 388-290-0125; or

(6) We determine your provider is not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care, or the household may be at risk of harm by this provider, as indicated by information other than conviction information. We will use criteria, such as the following, when reviewing information about incidents/issues/reports/findings:

- (a) Recency;
- (b) Seriousness;
- (c) Type;
- (d) Frequency; and
- (e) Relationship to the direct care of a child including health, mental health, learning, and safety.

[08-08-047, recodified as § 170-290-0140, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0140, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0140, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0140, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0143 Who must have a background check for the WCCC program and how often is the check done?** (1) A background check must be completed for:

- (a) All in-home/relative providers who apply to care for a WCCC consumer's child; and
- (b) Any individual sixteen years of age or older who is residing with a provider when care occurs outside of the child's home.

(2) A background check must be completed for individuals listed in subsection (1)(a) and (b) of this section at least every two years.

(3) Additional background checks must be completed for individuals listed in subsection (1)(a) and (b) of this section when:

(a) Any individual sixteen years of age or older is newly residing with a provider when care occurs outside of the child's home;

(b) We have a valid reason to do a check more frequently;

(c) An in-home/relative provider applies to provide care for a family, such as when:

(i) A break in service occurs to the current consumer;

(ii) There is a break in consumer eligibility; or

(iii) A provider is currently providing care and there are no prior background results for this provider.

(4) We do not need to request a new background check for an individual in subsection (1)(a) or (b) if:

(a) We have results that were received no more than ninety days prior to the current requested start date of care; and

(b) The results indicate that there is no record.

[08-08-047, recodified as § 388-290-0143, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0143, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-14-066, § 388-290-0143, filed 6/27/02, effective 7/1/02.]

**WAC 170-290-0145 Why is a background check required and will I be notified of the results?** (1) We require the background check to:

(a) Help safeguard the health, safety, and well-being of children;

(b) Reduce the possible risk of harm from persons who have been convicted or have charges pending of certain crimes having access to WCCC children; and

(c) Help you make informed decisions about individuals who have access to your children.

(2) We notify you, the WCCC consumer:

(a) Whether we can approve the provider for the WCCC program; and

(b) Of the following results from the background check:

(i) No background information is found given current sources of information;

(ii) Background information is found, but the information will not disqualify the individual being checked; or

(iii) Background information is found that disqualifies the individual being checked.

[08-08-047, recodified as § 170-290-0145, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0145, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-14-066, § 388-290-0145, filed 6/27/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0145, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0150 What information does the background check contain and where does it come from?**

(1) The background information includes, at a minimum, criminal convictions and pending charges.

(2) Additional sources may include:

(a) Child/adult protective service case information; and

(b) Civil judgments, determinations, or disciplinary board final decisions of abuse or neglect.

(3) We obtain background information, at a minimum, from the Washington state patrol under chapter 10.97 RCW via the background check central unit (BCCU).

(4) Additional sources of the background information may be obtained from:

(a) Child/adult protective service case files;

(b) Other states and federally recognized Indian tribes;

(c) The department of corrections and the courts;

(d) Law enforcement records of convictions and pending charges in other states or locations if:

(i) The individual being checked has lived in another state; and

(ii) Reports from credible community sources indicate a need to investigate another state's records.

(e) The individual being checked self-discloses information.

[08-08-047, recodified as § 170-290-0150, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0150, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-14-066, § 388-290-0150, filed 6/27/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0150, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0155 What happens after the WCCC program receives the background information?** After we receive the background information we:

(1) Compare the background information with convictions posted on the DSHS secretary's crime and action list for background checks for economic services administration (ESA). You can find the complete list at <http://www1.dshs.wa.gov/esa/dccel/policy.shtml>.

(2) Review the background information using the following rules:

(a) We give the same weight to a pending charge for a crime as a conviction;

(b) If the conviction has been renamed, we give the same weight as the previous named conviction. For example, larceny is now called theft;

(c) We give convictions whose titles are preceded with the word "attempted" the same weight as those titles without the word "attempted"; and

(d) We do not consider the crime a conviction for the purposes of WCCC when:

(i) It has been pardoned; or

(ii) A court of law acts to expunge, dismiss, or vacate the conviction record.

(3) Notify you whether or not we are able to approve the provider for WCCC.

(4) Allow you, the consumer, to decide character and suitability of the provider when an individual is not automatically disqualified due to the background information from the record of arrests and prosecutions (RAP) sheet.

(5) Deny or stop payment when the background information disqualifies the individual being checked.

(6) Assist you in finding other child care arrangements.

[08-08-047, recodified as § 170-290-0155, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0155, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0155, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-14-066, § 388-290-

0155, filed 6/27/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0155, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0160 What convictions would cause the WCCC program to permanently disqualify my in-home/relative provider?** (1) If your provider or an individual listed in WAC 388-290-0143(1) has a background containing a permanently disqualifying conviction posted on the DSHS secretary's list of disqualifying convictions for ESA, we permanently disqualify the person as an in-home/relative child care provider for WCCC. You can find the complete list at <http://www1.dshs.wa.gov/esa/dccel/>.

(2) If the conditions in WAC 388-290-0167 (1)(a) and (b) are met, the disqualifying background of an individual sixteen years of age or over living with the provider may not permanently disqualify the provider.

[08-08-047, recodified as § 170-290-0160, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0160, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-14-066, § 388-290-0160, filed 6/27/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0160, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0165 Is there other background information or convictions that will disqualify my in-home/relative provider?** (1) We can disqualify your in-home/relative provider if the individual being checked has a background containing information other than conviction information that we determine:

(a) Makes the individual not of suitable character and competence or of sufficient physical or mental health to meet the needs of the child in care; or

(b) Puts the household at risk for harm.

(2) If an individual being checked has a background containing a five-year disqualifying conviction posted on the DSHS secretary's list of disqualifying convictions for ESA, your provider is disqualified as an in-home/relative child care provider for WCCC for five years after the conviction date. You can find the complete list at <http://www1.dshs.wa.gov/esa/dccel/>.

(3) If an individual being checked has:

(a) A conviction listed in subsection (2) of this section, and it has been more than five years; or

(b) Any conviction other than those posted on the DSHS secretary's list of disqualifying convictions for ESA we will allow you to determine the provider's character, suitability, and competence by reviewing important information such as the:

(i) Amount of time that has passed since the conviction;

(ii) Seriousness of the crime that led to the conviction;

(iii) Individual's age at the time of conviction;

(iv) Individual's behavior since the conviction;

(v) Number and types of convictions in the individual's background; and

(vi) Individual's verification, if any, of successful completion of all court-ordered programs and restitution.

(4) If conditions in WAC 388-290-0167 (1)(a) and (b) are met, the disqualifying background of an individual six-

(2009 Ed.)

teen years of age or over living with the provider may not disqualify the provider.

[08-08-047, recodified as § 170-290-0165, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0165, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-14-066, § 388-290-0165, filed 6/27/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0165, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0167 What happens if my in-home/relative provider, who provides care in their home, is disqualified based solely on the disqualifying background of an individual living with that provider?** (1) If we disqualify your provider based solely on the disqualifying background of an individual living with that provider, we require that:

(a) Child care occurs in the child's home away from the disqualified individual, if you wish to continue using that provider; and

(b) The parent and provider sign an agreement with us indicating that:

(i) Care occurs in the child's home; and

(ii) There is no contact between the child and disqualified individual during child care hours.

(2) The parent may choose a licensed provider or submit an application for a different in-home/relative provider.

(3) If we become aware that the parent and provider are not meeting the conditions in subsection (1)(a) and (b) of this section:

(a) We terminate care without advance and adequate notice;

(b) You need to find a different provider; and

(c) You may be subject to an overpayment under WAC 388-290-0270.

[08-08-047, recodified as § 170-290-0167, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0167, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-14-066, § 388-290-0167, filed 6/27/02, effective 7/1/02.]

**WAC 170-290-0180 When are the WCCC program subsidy rates in this chapter effective?** DSHS child care subsidy rates in this chapter are effective on or after November 1, 2005.

[08-08-047, recodified as § 170-290-0180, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2005 c 518 § 207(3). 05-20-051, § 388-290-0180, filed 9/30/05, effective 11/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0180, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0180, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0185 How does the WCCC program set rates when my child is five years old?** The rate paid for a five year old child is:

(1) The preschool rate for a child who has not entered kindergarten; or

(2) The school-age rate for a child who has entered kindergarten.

[08-08-047, recodified as § 170-290-0185, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child

Care Development Fund Rules). 02-01-135, § 388-290-0185, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0190 What does the WCCC program pay for and when can the program pay more?** (1) We may pay for:

(a) Basic child care hours, either full-day, half-day or hourly. We authorize:

(i) Full-day child care to licensed or certified facilities and DSHS contracted seasonal day camps when your children need care for five or more hours per day;

(ii) Half-day child care to licensed or certified facilities and DSHS contracted seasonal day camps when your children need care for less than five hours per day; and

(iii) Hourly child care for in-home/relative child care.

(b) A registration fee (under WAC 388-290-0245);

(c) A field trip fee (under WAC 388-290-0245); and

(d) Special needs care when the child has a documented need for higher level of care (under WAC 388-290-0220, 388-290-0225, 388-290-0230, and 388-290-0235).

(2) We may authorize up to the provider's usual daily rate if:

(a) The parent is a mandatory WorkFirst participant; and

(b) Appropriate child care, at the DSHS rate, is not available within a reasonable distance from the home or work (activity) site. "Appropriate" means child care approvable under WAC 388-290-0125. "Reasonable distance" is determined by comparing what other local families must travel to access appropriate child care.

(3) We authorize an additional amount of care if:

(a) More than ten hours of care is provided per day; and

(b) The provider's policy is to charge all families for these extra hours.

[08-08-047, recodified as § 170-290-0190, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.12.340, 06-12-094, § 388-290-0190, filed 6/6/06, effective 7/7/06. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2005 c 518 § 207(3). 05-20-051, § 388-290-0190, filed 9/30/05, effective 11/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0190, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-12-069, § 388-290-0190, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0190, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0200 What daily rates does DSHS pay for child care in a licensed or certified child care center or DSHS contracted seasonal day camps?** (1) We pay the lesser of the following to a licensed or certified child care center or DSHS contracted seasonal day camp:

(a) The provider's usual daily rate for that child; or

(b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$25.89	\$21.77	\$20.57	\$19.36
	Half-Day	\$12.95	\$10.89	\$10.29	\$9.68
Spokane County	Full-Day	\$26.48	\$22.27	\$21.04	\$19.80
	Half-Day	\$13.25	\$11.14	\$10.53	\$9.90
Region 2	Full-Day	\$26.14	\$21.83	\$20.23	\$17.91
	Half-Day	\$13.07	\$10.92	\$10.12	\$8.96
Region 3	Full-Day	\$34.60	\$28.84	\$24.92	\$24.20
	Half-Day	\$17.30	\$14.42	\$12.46	\$12.10

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 4	Full-Day	\$40.27	\$33.63	\$28.21	\$25.40
	Half-Day	\$20.14	\$16.82	\$14.11	\$12.70
Region 5	Full-Day	\$29.52	\$25.40	\$22.36	\$19.85
	Half-Day	\$14.76	\$12.70	\$11.18	\$9.93
Region 6	Full-Day	\$29.03	\$24.92	\$21.77	\$21.29
	Half-Day	\$14.52	\$12.46	\$10.89	\$10.65

(2) The child care center WAC 388-295-0010 allows providers to care for children from one month up to and including the day before their thirteenth birthday. The provider must obtain a child-specific and time-limited waiver from their child care licensor to provide care for a child outside the age listed on their license.

(3) If the center provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

(4) Rates for Spokane County are subject to special funding allocated by the Legislature in the state operating budget. If the special funds are not allocated Region 1 rates apply to Spokane County.

[08-08-047, recodified as § 170-290-0200, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2005 c 518 § 207(3). 05-20-051, § 388-290-0200, filed 9/30/05, effective 11/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0200, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085, 02-12-069, § 388-290-0200, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0200, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0205 What daily rates does DSHS pay for child care in a licensed or certified family home child care?** (1) We pay the lesser of the following to a licensed or certified family home child care:

(a) The provider's usual daily rate for that child; or

(b) The DSHS maximum child care subsidy daily rate for that child as listed in the following table.

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 1	Full-Day	\$21.29	\$19.16	\$19.16	\$17.04
	Half-Day	\$10.65	\$9.58	\$9.58	\$8.52
Spokane County	Full-Day	\$21.78	\$19.60	\$19.60	\$17.43
	Half-Day	\$10.89	\$9.80	\$9.80	\$8.71
Region 2	Full-Day	\$21.29	\$20.23	\$18.10	\$18.10
	Half-Day	\$10.65	\$10.12	\$9.05	\$9.05
Region 3	Full-Day	\$30.88	\$26.62	\$23.42	\$21.29
	Half-Day	\$15.44	\$13.31	\$11.71	\$10.65
Region 4	Full-Day	\$31.94	\$31.59	\$26.62	\$25.55
	Half-Day	\$15.97	\$15.80	\$13.31	\$12.78
Region 5	Full-Day	\$23.42	\$21.29	\$20.23	\$18.10
	Half-Day	\$11.71	\$10.65	\$10.12	\$9.05
Region 6	Full-Day	\$23.42	\$21.29	\$21.29	\$20.23
	Half-Day	\$11.71	\$10.65	\$10.65	\$10.12

(2) The family home child care WAC 388-296-0020 and 388-296-1350 allows providers to care for children from birth up to and including the day before their twelfth birthday. The provider must obtain a child-specific and time-limited waiver from their child care licensor to provide care for a child outside the age listed on their license. If the provider has a waiver to care for a child who has reached their twelfth birthday, the payment rate is the same as subsection (1) and

the five to eleven year age range column is used for comparison.

(3) If the family home provider cares for a child who is thirteen or older, the provider must have a child-specific and time-limited waiver and the child must meet the special needs requirement according to WAC 388-290-0220.

(4) We pay family home child care providers at the licensed home rate regardless of their relation to the children (with the exception listed in subsection (5) of this section). Refer to subsection (1) and the five to eleven year age range column for comparisons.

(5) We cannot pay family home child care providers to provide care for children in their care if the provider is:

- (a) The child's biological, adoptive or step-parent;
- (b) The child's nonneedy or needy relative or that relative's spouse or live-in partner;
- (c) The child's legal guardian or the guardian's spouse or live-in partner; or
- (d) Another adult acting in loco parentis or that adult's spouse or live-in partner.

(6) Rates for Spokane County are subject to special funding allocated by the Legislature in the state operating budget. If the special funds are not allocated Region 1 rates apply to Spokane County.

[08-08-047, recodified as § 170-290-0205, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2005 c 518 § 207(3). 05-20-051, § 388-290-0205, filed 9/30/05, effective 11/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0205, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0205, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0205, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0220 How does DSHS determine that my child qualifies for a special needs daily rate?** To qualify for the DSHS child care programs special needs subsidy daily rate your child must either:

- (1) Be thirteen to nineteen years old and be under court supervision; or
- (2) Be under nineteen years old, and;
  - (a) Have a verified physical, mental, emotional, or behavioral condition that requires a higher level of care while in the care of the licensed or certified facility, a DSHS contracted seasonal day camp or in-home/relative provider; and
  - (b) Have their condition and need for higher level of care verified by an individual who is not employed by the child care facility and is either a:
    - (i) Health, mental health, education or social service professional with at least a master's degree; or
    - (ii) Registered nurse.

[08-08-047, recodified as § 170-290-0220, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0220, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0220, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0225 What is the additional subsidy daily rate for children with special needs in a licensed or certified child care center or DSHS contracted seasonal day camp?** (1) In addition to the rate listed in WAC 388-290-0200, we authorize special needs daily rates to licensed or

(2009 Ed.)

certified child care centers or DSHS contracted seasonal day camps according to whichever of the following is greater:

- (a) The provider's reasonable documented additional cost associated with the care of the child; or
- (b) The daily rate listed in the table below after you have verified that your child has a special need and requires a higher level of care according to WAC 388-290-0220:

		Infants (One month - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 12 yrs)
Region 1	Full-Day	\$7.30	\$6.14	\$5.80	\$5.45
	Half-Day	\$3.65	\$3.07	\$2.90	\$2.73
Region 2	Full-Day	\$7.36	\$6.15	\$5.70	\$5.05
	Half-Day	\$3.68	\$3.08	\$2.85	\$2.52
Region 3	Full-Day	\$9.75	\$8.13	\$7.02	\$6.82
	Half-Day	\$4.88	\$4.06	\$3.51	\$3.41
Region 4	Full-Day	\$11.35	\$9.48	\$7.95	\$7.16
	Half-Day	\$5.67	\$4.74	\$3.98	\$3.58
Region 5	Full-Day	\$8.32	\$7.16	\$6.30	\$5.59
	Half-Day	\$4.16	\$3.58	\$3.15	\$2.80
Region 6	Full-Day	\$8.18	\$7.02	\$6.14	\$6.00
	Half-Day	\$4.09	\$3.51	\$3.07	\$3.00

(2) The child care provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(b) of this section. The verification should include details about all of the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

(3) If a provider is requesting one-on-one supervision or direct care for the child with special needs the person providing the one-on-one care must be:

- (a) At least eighteen years of age; and
- (b) Meet the requirements for being an assistant under chapter 388-295 WAC.
- (4) If the provider has a waiver to care for a child who:
  - (a) Is thirteen years or older; and
  - (b) Has special needs according to WAC 388-290-0220, we authorize the special needs payment rate as described in subsection (1) of this section using the five to twelve year age range for comparison.

[08-08-047, recodified as § 170-290-0225, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0225, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0225, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0225, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0230 What is the additional subsidy daily rate for children with special needs in a licensed or certified family home child care?** (1) In addition to the rate listed in WAC 388-290-0205, we authorize special needs daily rates to licensed or certified family home child care providers according to whichever of the following is greater:

- (a) The provider's reasonable documented additional cost associated with the care of the child; or
- (b) The daily rate listed in the table below after you have verified that your child has a special need and requires a higher level or care according to WAC 388-290-0220:

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 1	Full-Day	\$6.00	\$5.40	\$5.40	\$4.80
	Half-Day	\$3.00	\$2.70	\$2.70	\$2.40

[Title 170 WAC—p. 51]

		Infants (Birth - 11 mos.)	Toddlers (12 - 29 mos.)	Preschool (30 mos. - 5 yrs)	School-age (5 - 11 yrs)
Region 2	Full-Day	\$6.00	\$5.70	\$5.10	\$5.10
	Half-Day	\$3.00	\$2.85	\$2.55	\$2.55
Region 3	Full-Day	\$8.70	\$7.50	\$6.60	\$6.00
	Half-Day	\$4.35	\$3.75	\$3.30	\$3.00
Region 4	Full-Day	\$9.00	\$8.90	\$7.50	\$7.20
	Half-Day	\$4.50	\$4.45	\$3.75	\$3.60
Region 5	Full-Day	\$6.60	\$6.00	\$5.70	\$5.10
	Half-Day	\$3.30	\$3.00	\$2.85	\$2.55
Region 6	Full-Day	\$6.60	\$6.00	\$6.00	\$5.70
	Half-Day	\$3.30	\$3.00	\$3.00	\$2.85

(2) A family home child care provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(b) of this section. The verification should include details about all of the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

(3) If the provider has a waiver to care for a child who:

(a) Is twelve years or older; and

(b) Has special needs according to WAC 388-290-0220, we authorize the special needs payment rate as described in subsection (1) of this section using the five to eleven year age range for comparison.

(4) If a provider is requesting one-on-one supervision/direct care for the child with special needs. The person providing the one-on-one care must be:

(a) At least eighteen years old; and

(b) Meet the requirements for being an assistant under chapter 388-155 WAC.

[08-08-047, recodified as § 170-290-0230, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0230, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0230, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0230, filed 12/19/01, effective 1/19/02.]

#### **WAC 170-290-0235 What is the DSHS in-home/relative child care daily rate for children with special needs?**

(1) We authorize a base rate of two dollars and six cents an hour for in-home/relative child care when a child has verified special needs and requires a higher level of care according to WAC 388-290-0220.

(2) In addition to the base rate, we authorize whichever of the following is greater:

(a) Sixty-two cents per hour; or

(b) The provider's reasonable documented additional cost associated with the care for that child.

(3) The in-home/relative provider must verify the child's additional care needs when they request a rate above that listed in subsection (1)(a) of this section. The verification must include details about all the child's additional needs in relevant areas such as environmental accommodations, ambulation, eating, personal hygiene, communication, and behavior.

(4) If other children in the home are also authorized for in-home/relative care with the same provider, we authorize:

(a) Two dollars and six cents an hour for the child needing the most care; and

(b) One dollar and three cents an hour for any additional children.

[08-08-047, recodified as § 170-290-0235, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0235, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0235, filed 12/19/01, effective 1/19/02.]

#### **WAC 170-290-0240 What is the DSHS child care subsidy rate for in-home/relative child care and how is it paid?**

(1) When you employ an in-home/relative provider, the maximum we pay for child care is the lesser of the following:

(a) Two dollars and six cents per hour for the child who needs the greatest number of hours of care and one dollar and three cents per hour for the care of each additional child in the family; or

(b) The provider's usual hourly rate for that care.

(2) We may pay above the maximum hourly rate for children who have special needs under WAC 388-290-0235.

(3) We make the WCCC payment directly to your eligible provider.

(4) When appropriate, we pay your (the employer's) share of the following:

(a) Social Security and medicare taxes (FICA) up to the wage limit;

(b) Federal Unemployment Taxes (FUTA); and

(c) State unemployment taxes (SUTA) when applicable.

(5) If an in-home/relative child care provider receives less than the wage base limit per family in a calendar year, we refund all withheld taxes to the provider.

[08-08-047, recodified as § 170-290-0240, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0240, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0240, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0240, filed 12/19/01, effective 1/19/02.]

#### **WAC 170-290-0245 When can the WCCC program authorize payment of fees for registration?**

(1) We pay licensed or certified child care providers and DSHS contracted seasonal day camps a registration fee once per calendar year of fifty dollars per child or the provider's usual fee, whichever is less only if the fees are:

(a) Required of all parents whose children are in care with that provider; and

(b) Needed to maintain the child care arrangement.

(2) The registration fee may be authorized more than once per calendar year when:

(a) There is a break in your child care services for more than sixty days and the provider's policy is to charge an additional registration fee when there is a break in care; or

(b) The children change child care providers and the new provider meets subsection (1)(a) and (b) of this section.

[08-08-047, recodified as § 170-290-0245, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0245, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0245, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0245, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0247 When can the WCCC program authorize payment for field trip fees?** (1) We pay licensed or certified child care providers and DSHS contracted seasonal day camps a monthly field trip fee up to twenty dollars per child or the provider's actual cost for the field trip, whichever is less, only if the fees meet the conditions in subsection (1)(a) and (b) of WAC 388-290-0245. The field trip fee is to cover the provider's actual expenses for:

- (a) Admission;
  - (b) Transportation (not to include the provider's gas and insurance); and
  - (c) The cost of hiring a nonemployee to provide an in-house field trip activity.
- (2) The field trip fee can only be reimbursed for children three years of age and older.

[08-08-047, recodified as § 170-290-0247, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0247, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0260 Who has a right to ask for a hearing and how do they ask for one?** (1) WCCC consumers have a right to request a hearing under chapter 388-02 WAC on any action affecting WCCC benefits except for mass changes resulting from a change in policy or law.

(2) Licensed or certified child care providers or in-home/relative providers can request hearings under chapter 388-02 WAC and RCW 43.20B.675 only for WCCC overpayments.

(3) To request a hearing you, the licensed/certified provider, or in-home/relative provider:

- (a) Contacts the office which sent them the notice; or
- (b) Writes to the Office of Administrative Hearings, P.O. Box 42489, Olympia WA 98504-2489; and
- (c) Makes the request for a hearing within:
  - (i) Ninety days of the date a decision is received for consumers; or
  - (ii) Twenty-eight days of the date a decision is received for providers (per RCW 43.20B.675).

[08-08-047, recodified as § 170-290-0260, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0260, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0260, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0260, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0265 When can I get WCCC benefits pending the outcome of a hearing?** (1) If you are a WCCC consumer, you can receive WCCC pending the outcome of a hearing if you request the hearing:

- (a) On or before the effective date of an action; or
- (b) No more than ten days after we send you a notice of adverse action.

"Adverse action" means an action to reduce or terminate your WCCC, or to set up a protective payee to receive your WCCC warrant for you.

(2) If you lose a hearing, any WCCC you use between the date of the adverse action and the date of the hearing or hearing decision is an overpayment to you, the consumer.

(3) If you are a WCCC consumer, you may not receive WCCC benefits pending the outcome of a hearing if you

(2009 Ed.)

request payment to a provider who is not eligible under WAC 388-290-0125.

(4) If you are eligible for WCCC, you may receive child care benefits for another eligible provider, pending the outcome of the hearing.

[08-08-047, recodified as § 170-290-0265, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0265, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0265, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0270 What is a WCCC overpayment and what can be included?** (1) A WCCC overpayment:

(a) Occurs when you or a provider receives benefits or payment from WCCC that you or they are not eligible to receive;

(b) Is expected to be paid back by you or the provider; and

(c) Is written for the month care is billed for, not the month it is paid or the month the overpayment is written.

(2) When setting up an overpayment, we reduce the WCCC overpayment by the amount of the WCCC underpayment when applicable.

(3) In areas not covered by this section, you are subject to chapter 388-410 WAC (Benefit errors).

(4) Payments made through departmental error fall under subsection (1) of this section.

(5) Absent days can be added to an overpayment, either yours or the provider's, when care is used or billed when you were not eligible for WCCC per WAC 388-290-0032 or care is billed incorrectly.

[08-08-047, recodified as § 170-290-0270, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0270, filed 3/29/04 and 4/7/04, effective 5/28/04. Statutory Authority: RCW 74.04.050, 74.13.085. 02-12-069, § 388-290-0270, filed 5/31/02, effective 7/1/02. Statutory Authority: RCW 74.04.050 and C.F.R. Parts 98 and 99 (Child Care Development Fund Rules). 02-01-135, § 388-290-0270, filed 12/19/01, effective 1/19/02.]

**WAC 170-290-0271 When might I get an overpayment?** You get WCCC overpayments whether you are a current or past WCCC consumer, when we make payment for WCCC benefits and:

(1) You are no longer eligible or you are eligible for a smaller amount of care, such as using care for an unapproved activity or for children not in your WCCC household;

(2) You fail to report information to us that results in an error in our determination of:

- (a) Your eligibility;
  - (b) The amount of care authorized; or
  - (c) The amount of your copayment.
- (3) Your provider is not an eligible provider per WAC 388-290-0140;
- (4) Your child is not eligible per WAC 388-290-0015 or 388-290-0020.

[08-08-047, recodified as § 170-290-0271, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0271, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0271, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0273 When would my licensed or certified provider or DSHS contracted seasonal day camp get an overpayment?** (1) We establish WCCC overpayments for your licensed or certified child care provider and DSHS contracted seasonal day camps, when your provider:

(a) Billed and received payment for WCCC services not provided;

(b) Does not have attendance records that comply with licensing requirements (refer to WAC 388-295-7030, 388-296-0520, and 388-151-460 for attendance record requirements). Only attendance records meeting WAC requirements will be accepted for attendance verification;

(c) Billed and received payment for more than they are eligible to bill;

(d) Billed and received payment and the provider is not eligible based on WAC 388-290-0125; or

(e) Is caring for a child outside their licensed allowable age range without a waiver.

(2) The WCCC program staff may request documentation from your provider when preparing to establish an overpayment. Your provider has fourteen consecutive calendar days to supply any requested documentation.

[08-08-047, recodified as § 170-290-0273, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0273, filed 10/31/05, effective 12/1/05. Statutory Authority: RCW 74.04.050, 74.12.340, 74.13.085, and 2003 1st sp.s. c 25. 04-08-021 and 04-08-134, § 388-290-0273, filed 3/29/04 and 4/7/04, effective 5/28/04.]

**WAC 170-290-0274 When would my in-home/relative provider get an overpayment?** (1) We establish WCCC overpayments for your in-home/relative provider when your provider:

(a) Billed and received payment for WCCC services not provided;

(b) Does not have attendance records that comply with attendance records based on WAC 388-290-0138. Only attendance records meeting WAC requirements will be accepted for attendance verification;

(c) Billed and received payment for more than they are eligible to bill;

(2) The WCCC program staff may request documentation from your provider when preparing to establish an overpayment. Your provider has fourteen consecutive calendar days to supply any requested documentation.

[08-08-047, recodified as § 170-290-0274, filed 3/27/08, effective 3/27/08. Statutory Authority: RCW 74.04.050, 74.12.340, and 74.13.085. 05-22-078, § 388-290-0274, filed 10/31/05, effective 12/1/05.]

**Chapter 170-292 WAC**  
**SEASONAL CHILD CARE PROGRAM**  
(Formerly chapter 170-15 WAC)

**WAC**

**INTRODUCTION**

170-292-0001 Introduction.

**PURPOSE**

170-292-0003 What is the purpose of the seasonal child care program?

**ELIGIBILITY GUIDELINES**

170-292-0005 Am I eligible for the SCC program?

- 170-292-0010 How is my family size defined for SCC program eligibility purposes?
- 170-292-0015 Are there special circumstances when I might be eligible for the SCC program?
- 170-292-0020 What activities must I be involved in to be eligible for the SCC program?
- 170-292-0025 What additional criteria does my family need to meet to be eligible for SCC program subsidies?
- 170-292-0030 When might my ongoing eligibility for SCC subsidies stop, and when might I be eligible again?

**INCOME AND COPAYMENT CALCULATIONS**

- 170-292-0035 What income is counted when determining eligibility and copayment for the SCC program?
- 170-292-0040 How is my family's average monthly income calculated for the SCC program?
- 170-292-0045 What is not counted, or is deducted, when figuring income eligibility for the SCC program?
- 170-292-0050 How is my family's income eligibility and copayment amount determined for the SCC program?
- 170-292-0055 When might my SCC program copayment change?

**RIGHTS AND RESPONSIBILITIES**

- 170-292-0060 What rights do I have when I apply for or receive SCC program subsidies?
- 170-292-0065 What responsibilities do I have when I apply for or receive SCC program subsidies?
- 170-292-0070 Who are the SCC program staff and what responsibilities do they have?
- 170-292-0075 Do I have the right to ask for a hearing regarding SCC program subsidy payments, and how do I request one?
- 170-292-0080 Can I use SCC programs subsidies while waiting for the outcome of a hearing, and when might it need to be repaid?

**PAYABLE SERVICES AND RATES**

- 170-292-0085 What child care providers can I choose under the SCC program?
- 170-292-0090 When are the DSHS child care subsidy rates, used by the SCC program in this chapter, effective?
- 170-292-0095 What DSHS child care subsidy rate does the SCC program use when my child is five years old?
- 170-292-0100 What services can be authorized for the SCC program, and at what rates?
- 170-292-0102 When can my child care provider charge me more than the amount authorized by the SCC program?
- 170-292-0105 When can additional SCC program subsidy payments be authorized?
- 170-292-0110 What additional SCC program subsidy payments can be authorized?

**START DATES**

- 170-292-0115 If I am determined eligible for the SCC program, when does my child care subsidy begin?
- 170-292-0120 Can I be authorized for the SCC program before I start a job?
- 170-292-0125 I am preauthorized for the SCC program, when do my SCC program child care subsidies begin?
- 170-292-0130 If I am reauthorized for the SCC program, when do my SCC program subsidies begin?

**REVIEW PROCESS**

- 170-292-0135 When are my eligibility and copayment information for the SCC program looked at?
- 170-292-0140 How are my SCC program subsidies reauthorized and when may they continue?

**ADVANCE AND ADEQUATE NOTICE**

- 170-292-0145 When might I receive advance and adequate notice of change in my SCC program subsidies?
- 170-292-0150 When won't I receive advance and adequate notice of changes in my SCC program subsidies?

**OVERPAYMENT NOTICES**

- 170-292-0155 What is an overpayment and when might I receive one?
- 170-292-0160 When might a child care provider receive an overpayment?

**INTRODUCTION**

**WAC 170-292-0001 Introduction.** The seasonal child care program helps eligible families who are seasonally employed in agriculturally related work to access licensed, culturally and developmentally appropriate child care. Families access this child care subsidy program through contracted community agencies. To be eligible, families must meet income and program guidelines and must not be currently receiving temporary assistance to needy families (TANF). The seasonal child care program prioritizes services for families who are not eligible for working connections child care.

[06-16-130, recodified as § 170-292-0001, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0001, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0001, filed 6/30/03, effective 8/1/03.]

**PURPOSE**

**WAC 170-292-0003 What is the purpose of the seasonal child care program?** The purpose of the seasonal child care (SCC) program is to protect children, whose eligible parents are involved in an approved activity, from potential harm due to:

- (1) Agricultural work hazards; or
- (2) Lack of appropriate supervision.

[06-16-130, recodified as § 170-292-0003, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0003, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0003, filed 6/30/03, effective 8/1/03.]

**ELIGIBILITY GUIDELINES**

**WAC 170-292-0005 Am I eligible for the SCC program?** You may be eligible for the SCC program, if you are not currently receiving temporary aid for needy families (TANF) and:

- (1) You have parental control of one or more children, and you are the child's:
  - (a) Parent;
  - (b) Stepparent;
  - (c) Guardian;
  - (d) Adult sibling or step sibling;
  - (e) Aunt;
  - (f) Uncle;
  - (g) Niece or nephew;
  - (h) Grandparent; or
  - (i) Any of the above relatives with the prefix "great," such as great aunt.
- (2) Your family is described under WAC 388-292-0010;
- (3) You are participating in an approved activity under WAC 388-292-0020;
- (4) You and your children are eligible under WAC 388-292-0015;
- (5) Your countable income as calculated in WAC 388-292-0050 is at or below the federal poverty level (FPL) described in WAC 388-290-0065; and
- (6) Your share of the child care cost, called a copayment (under WAC 388-290-0075(3)) is lower than the total DSHS

(2009 Ed.)

maximum monthly payment for all children in the family who are eligible for SCC subsidized care.

(7) You agree to participate in the cost of child care by making monthly copayments to the authorized child care provider, as calculated under WAC 388-290-0075(3).

[06-16-130, recodified as § 170-292-0005, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0005, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0005, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0010 How is my family size defined for SCC program eligibility purposes?** For SCC program eligibility purposes, your family size is defined by reviewing the individuals who live together in the same household as follows:

(1) If you are:	We count the following individuals as part of the family for SCC program eligibility:
(a) A single parent, including a minor parent, living independently or residing in her/his parent's home with her/his children;	You and your children.
(b) Unmarried parents living together who have at least one mutual child;	Both parents and all their children living in the household.
(c) Unmarried parents living together with no mutual children;	Each parent and their own children, as separate families.
(d) Married parents living together;	Both parents and all their children living in the household.
(e) A person with parental control as defined in WAC 388-292-0005 (1)(c) through (i);	Only the children and their income.
(f) A parental figure who is out of the household because of employment requirements.	The parents and the children. All other family rules in this section apply.
(2) If your household includes siblings of the children requiring care who are:	All family rules in this section apply. In addition, we count the sibling as part of the family for SCC program eligibility (unless they are a parent themselves), as follows:
(a) Eighteen year olds who are enrolled in secondary education or general equivalency diploma (GED) program.	The eighteen year olds until they turn nineteen or complete high school/GED, whichever comes first.
(b) Twenty year olds, or less, who are participating in a program through the school district's special education department under RCW 28A.155.0202.	The sibling participating in the approved program up to twenty-one years of age.

[06-16-130, recodified as § 170-292-0010, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0010, filed 7/13/06, effective 7/13/06. Statu-

tory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0010, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0015 Are there special circumstances when I might be eligible for the SCC program?** You might be eligible for the SCC program if you are part of a two-parent family and one parent is not able or available to provide care for your children while the other is working or traveling to and from work.

(1) **"Able"** means without a verifiable physical or mental disability that prevents you from caring for your child in a responsible manner.

(2) **"Available"** means not participating in an approved work activity under WAC 388-292-0020.

[06-16-130, recodified as § 170-292-0015, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0015, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0015, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0020 What activities must I be involved in to be eligible for the SCC program?** You may be eligible for SCC program subsidies for up to sixteen hours per day for the time you are involved in:

(1) Active employment in seasonally available agriculturally related work (in a two parent family, both parents must be so employed) in Washington state or in a bordering state within forty miles of the Washington state border;

(a) The agriculturally related work must be one of the following:

(i) Seasonally available labor directly related to the cultivation, production, or processing of crops;

(ii) Seasonally available labor directly related to the cultivation or harvesting of fruit trees.

(b) **"Seasonally available labor"** means labor that depends upon, and is available only during, a specific season that is identified with certain activities or crops, and occurs only during a portion of the calendar year.

(2) Travel time between the child care location and the work site only;

(3) Job search, of no more than five days, if your seasonally available agricultural job ends and you are still eligible and continue to need child care; or

(4) Sleep time, up to eight hours per day when needed, if you work nights and sleep days.

[06-16-130, recodified as § 170-292-0020, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0020, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0020, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0025 What additional criteria does my family need to meet to be eligible for SCC program subsidies?** Additional eligibility criteria for SCC program subsidies requires that your family:

(1) Live in Washington state;

(2) Not be receiving TANF;

(3) Have a child age twelve or younger, or a child with verified special needs age eighteen or younger;

(4) Have a primary wage earner who was employed in seasonally available agricultural related work for eleven months or less with any one employer in the previous twelve months; and

(5) Fifty percent or more of a family's earned income for the previous twelve months is derived from seasonally available agricultural work as defined in WAC 388-292-0020.

[06-16-130, recodified as § 170-292-0025, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0025, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0025, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0030 When might my ongoing eligibility for SCC subsidies stop, and when might I be eligible again?** (1) Your continued eligibility for SCC program subsidies stops when you:

(a) Are not participating in an approved activity as defined in WAC 388-292-0020;

(b) Are found at your review to no longer meet eligibility criteria;

(c) Do not complete the requested review information before the deadline noted in WAC 388-292-0140; or

(d) Do not pay the copayment fees to your child care provider or do not make mutually acceptable arrangements with your child care provider for their payment.

(e) Refuse to cooperate with investigations conducted by quality assurance staff or the division of fraud investigations.

(2) You might be eligible for SCC program subsidies again when:

(a) You meet all SCC program eligibility requirements; and

(b) Copayment fees are paid to your child care provider or mutually acceptable arrangements for their payment are made with your child care provider.

(c) Cooperate with investigations conducted by quality assurance or division of fraud.

[06-16-130, recodified as § 170-292-0030, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0030, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0030, filed 6/30/03, effective 8/1/03.]

## INCOME AND COPAYMENT CALCULATIONS

**WAC 170-292-0035 What income is counted when determining eligibility and copayment for the SCC program?** To determine income eligibility and copayment for the SCC program, the following income is counted:

(1) Wages and commissions earned from employment;

(2) Unemployment compensation;

(3) A TANF or other welfare grant;

(4) Child support payments received;

(5) Supplemental Security Income (SSI);

(6) Other Social Security payments, such as SSA and SSDI;

(7) Refugee assistance payments;

(8) Payments from the Veterans' Administration;

(9) Pensions or retirement income;

(10) Payments from labor and industries (L&I), or disability payments;

(11) Inheritance;

(12) Reportable gambling winnings; and

(13) Other types of income not listed in WAC 388-292-0045.

[06-16-130, recodified as § 170-292-0035, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0035, filed 7/13/06, effective 7/13/06. Statu-

tory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0035, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0040 How is my family's average monthly income calculated for the SCC program?** For the SCC program, your average monthly income is calculated by totaling all income earned in the past twelve months, as listed in WAC 388-292-0035, and dividing by twelve.

[06-16-130, recodified as § 170-292-0040, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0040, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0040, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0045 What is not counted, or is deducted, when figuring income eligibility for the SCC program?** (1) For the SCC program the following is not counted when figuring income eligibility and copayment:

- (a) Savings accounts;
- (b) Money received from sale of personal property such as a house or car;
- (c) Tax refunds;
- (d) Earned income credits;
- (e) One-time insurance settlement payments;
- (f) Capital gains;
- (g) Basic Food program;
- (h) Income earned by children as described in WAC 388-292-0010(2).

(2) For the SCC program the amount you pay for child support is deducted from your countable income.

[06-16-130, recodified as § 170-292-0045, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0045, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0045, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0050 How is my family's income eligibility and copayment amount determined for the SCC program?** For the SCC program, your family's income eligibility and copayment is determined by:

- (1) Your family size as defined under WAC 388-292-0010;
- (2) Your average monthly income as calculated under WAC 388-292-0040;
- (3) Your family's average monthly income as compared to the federal poverty level (FPL); and
- (4) Your family's average monthly income as compared to the copay chart defined in WAC 388-290-0075(3).
- (5) If your family's income is above the FPL as defined in WAC 388-290-0075(3), your family is not eligible for the SCC program.

[06-16-130, recodified as § 170-292-0050, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0050, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0050, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0055 When might my SCC program copayment change?** Your SCC program copayment could change when:

- (1) Your family size increases or decreases; or
- (2) You are reauthorized for the SCC program and your new average monthly income places you in a different copayment category.

(2009 Ed.)

(3) There is a mass change in subsidy benefits due to a change in law or program funding.

[06-16-130, recodified as § 170-292-0055, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0055, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0055, filed 6/30/03, effective 8/1/03.]

## RIGHTS AND RESPONSIBILITIES

**WAC 170-292-0060 What rights do I have when I apply for or receive SCC program subsidies?** When you apply for or receive SCC program subsidies, you have the right to:

- (1) Be treated politely and fairly - without regard to race, color, age, gender, sexual orientation, religion, creed, political affiliation, national origin, or disability (physical, mental or sensory);
- (2) Have an application accepted and acted upon within thirty days;
- (3) Be informed, in writing, of your legal rights and responsibilities related to SCC program subsidies, in your language;
- (4) Have your information held confidentially as required by chapter 42.17 RCW, chapter 388-01 WAC and other applicable state and federal laws;
- (5) Get a written notice, at least ten days before changes are made to lower or stop SCC program subsidy payments except in WAC 388-292-0150;
- (6) Ask for a fair hearing if you do not agree with your eligibility decision;
- (7) Ask a supervisor or administrator to review a decision or action affecting your SCC program subsidies without affecting the right to a fair hearing;
- (8) Have interpreter or translator service for SCC program matters within a reasonable amount of time and at no cost to you;
- (9) Be allowed to choose your provider as long as the provider meets the requirements in WAC 388-292-0085; and
- (10) Refuse to speak to a fraud early detection (FRED) investigator from the division of fraud investigations. You do not have to let an investigator into your home at that time. You may ask the investigator to come back. This request will not affect your eligibility for SCC program subsidies.

[06-16-130, recodified as § 170-292-0060, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0060, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0060, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0065 What responsibilities do I have when I apply for or receive SCC program subsidies?** When you apply for or receive SCC program subsidies you have a responsibility to:

- (1) Give the SCC program authorizing worker the information necessary to determine your eligibility and authorize child care subsidies correctly;
- (2) Choose a provider who meets requirements of WAC 388-292-0085 and make your own child care arrangements;
- (3) Pay, or make arrangements to have someone pay, your SCC program copayment directly to your child care provider;

[Title 170 WAC—p. 57]

(4) Sign your child in and out of care each day with your full legal signature if the care is provided by a child care center;

(5) Notify the SCC program authorizing worker before changing providers;

(6) Notify the SCC program authorizing worker within ten days if:

(a) Your work status, work hours, or employer changes;

(b) You need to change the hours of child care;

(c) You receive TANF assistance;

(d) Your children become eligible for a migrant headstart program;

(e) Your household size changes, such as any family member moves in or out of your home;

(f) Your home address or telephone number changes; or

(g) Your amount of child support paid out or received changes

(7) Cooperate with auditors from quality assurance and the division of fraud investigations.

[06-16-130, recodified as § 170-292-0065, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0065, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0065, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0070 Who are the SCC program staff and what responsibilities do they have?** The SCC program staff work for community agencies who contract with DSHS to perform SCC program authorizations. They are responsible to:

(1) Authorize SCC program subsidies for your children based on eligibility criteria established by DSHS, as defined in this chapter;

(2) Ask if you have received, or are currently receiving, child care services from another subsidy program; and if you have, receive a copy of your termination letter from that program;

(3) Ask if you have applied, and been denied, for working connections child care; and if you have, verify your denial from that program;

(4) Complete intake documents in your presence, based on information you provide;

(5) Authorize payments only to a child care provider of your choice who meets the requirements in WAC 388-292-0085 and who allows you to see your children whenever they are in care;

(6) Authorize payments only when no adult in your family is "able or available" to care for your children as defined in WAC 388-292-0015;

(7) Give you an SCC program approved child care plan in order to enroll your children in licensed or certified child care;

(8) Inform you of:

(a) Your copayment amount as determined in WAC 388-292-0050 and defined in WAC 388-290-0075(3);

(b) Your rights and responsibilities under the SCC program when you apply or reapply;

(c) The types of child care providers the SCC program can pay;

(d) The community resources that can help you select child care when needed;

(e) Other options for child care subsidies, if you do not qualify for SCC program subsidies; and

(f) Your rights to a fair hearing under the SCC program;

(9) Respond to you within ten days if you report a change of circumstance that affects your SCC program eligibility or subsidies; and

(10) Authorize child care payments promptly.

[06-16-130, recodified as § 170-292-0070, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0070, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0070, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0075 Do I have the right to ask for a hearing regarding SCC program subsidy payments, and how do I request one?** You have the right to request a hearing regarding your SCC program subsidy payments under chapter 388-02 WAC:

(1) On any action affecting your SCC program subsidy payments, except for mass changes that result from a change in policy or law.

(2) By writing to the Office of Administrative Hearings, at the address in WAC 388-02-0025(1) within ninety days of the date any decision of an action is received.

[06-16-130, recodified as § 170-292-0075, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0075, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0075, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0080 Can I use SCC programs subsidies while waiting for the outcome of a hearing, and when might it need to be repaid?** (1) You can use SCC program subsidies while waiting for the outcome of a hearing, if you are currently authorized for the SCC program and:

(a) You request a hearing:

(i) On or before the effective date of an action; or

(ii) No more than ten days after you are sent a notice of adverse action.

"Adverse action" means an action to reduce or terminate your SCC subsidies.

(b) You request payments for child care payable to an eligible provider (under WAC 388-292-0100 and 388-292-0085).

(2) If you lose a hearing, any SCC program subsidies you use between the date of the adverse action and the date of the hearing or hearing decision is an overpayment to you and will need to be repaid to DSHS.

[06-16-130, recodified as § 170-292-0080, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0080, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0080, filed 6/30/03, effective 8/1/03.]

## PAYABLE SERVICES AND RATES

**WAC 170-292-0085 What child care providers can I choose under the SCC program?** To receive payment under the SCC program, the child care provider you choose must be:

(1) Licensed as required by chapter 74.15 RCW including:

(a) Family child care homes; and

(b) Child day care centers.

(2) Exempt from licensing but certified by DSHS including:

- (a) Tribal child care facilities that meet the requirements of tribal law;
- (b) Child care facilities on a military installation; and
- (c) Child care facilities operated on public school property by a school district.

(3) Seasonal day camps that contract with DSHS to provide subsidized child care and are:

- (a) Of a duration of three months or less;
- (b) Engaged primarily in recreational or educational activities; and
- (c) Accredited by the American Camping Association (ACA).

[06-16-130, recodified as § 170-292-0085, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0085, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0085, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0090 When are the DSHS child care subsidy rates, used by the SCC program in this chapter, effective?** DSHS child care subsidy rates in this chapter are effective as of the date stated in WAC 388-290-0180, when your family:

- (1) Is newly authorized to receive child care subsidies;
- (2) Has a household change that requires your authorization to be updated; or
- (3) Is reauthorized to continue receiving child care subsidies.

[06-16-130, recodified as § 170-292-0090, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0090, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0090, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0095 What DSHS child care subsidy rate does the SCC program use when my child is five years old?** The DSHS child care subsidy rate paid by the SCC program for child care for a five year old child is:

- (1) The preschool rate for a child who has not entered kindergarten; or
- (2) The school-age rate for a child who has entered kindergarten.

[06-16-130, recodified as § 170-292-0095, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0095, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0095, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0100 What services can be authorized for the SCC program, and at what rates?** The SCC program authorizes payments to licensed/certified child care providers for:

- (1) Basic child care either full day or half day, at rates listed in WAC 388-290-0200 and 388-290-0205:
  - (a) A full day of child care is authorized when care is needed for five to ten hours per day;
  - (b) A half day of child care is authorized when care is needed for less than five hours per day;
- (2) A registration fee, according to WAC 388-290-0245 (1) and (2);
- (3) An infant bonus, according to WAC 388-290-0250, providing an infant bonus for that infant has not previously

(2009 Ed.)

been paid to the provider by another DSHS subsidy program; and

- (4) Special needs care when the child has a documented special need and a documented need for a higher level of care, according to WAC 388-290-0220, 388-290-0225, and 388-290-0230.

[06-16-130, recodified as § 170-292-0100, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0100, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0100, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0102 When can my child care provider charge me more than the amount authorized by the SCC program?** Your child care provider may charge you more than the amount authorized by the SCC program for child care services when:

(1) You are late picking up your child at the customary time due to personal reasons (i.e., shopping, appointments, etc.);

(2) You pick up your child after the provider's operating hours and the provider has a policy to charge all families an after hour charge;

(3) You request an optional enrichment program for your child and all parents who want it have to pay extra (i.e., gymnastics, swimming, dancing, etc.); or

(4) You pay the copayment later than agreed upon and the provider has a late fee policy for all families.

[06-16-130, recodified as § 170-292-0102, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0102, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0102, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0105 When can additional SCC program subsidy payments be authorized?** Additional SCC program subsidy payments can be authorized for more than the basic DSHS child care subsidy daily rate when:

- (1) Needed to accommodate a family's work schedule;
- (2) Employer verification of work schedule is presented; and

(3) The child care provider has a written policy to charge all clients additional money for child care provided more than ten hours per day; or

(4) Child care is not available at the DSHS daily rate within a reasonable distance, in which case the provider's usual daily rate is authorized.

[06-16-130, recodified as § 170-292-0105, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0105, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0105, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0110 What additional SCC program subsidy payments can be authorized?** The following additional SCC program subsidy payments may be authorized for your approved activities, if justified by your employer verification:

(1) "Extended hour child care" may be authorized, for families whose fluctuating overtime work schedules require more than ten hours per day, up to a maximum of one hundred twenty hours per month. Care is authorized at the provider's usual and customary rate for the time needed - or at the DSHS maximum hourly subsidy rate represented in the chart below, whichever is less.

CHILD CARE CENTER Centers in Benton, Walla Walla and Whitman Counties paid at Region 6 rates				
	Infants (under 12 months)	Toddler (12 to 29 months)	Preschool (30 to 5 years)	School- age (5 to 12 years)
Region 1	\$4.00	\$3.90	\$3.22	\$3.22
Region 2	\$4.25	\$3.60	\$3.48	\$2.75
Region 3	\$4.30	\$4.39	\$3.75	\$4.50
Region 6	\$4.64	\$3.75	\$3.27	\$3.25
FAMILY HOMES				
Region 1	\$2.67	\$2.50	\$2.38	\$2.50
Region 2	\$3.00	\$2.78	\$2.50	\$2.88
Region 3	\$3.50	\$3.00	\$2.89	\$3.33

(2) "Additional hour child care" may be authorized, for families whose nonfluctuating work schedules require more than ten hours of care per day, at the provider's usual and customary rate for the time needed - or at the DSHS maximum half-day subsidy rate, whichever is less (under WAC 388-290-0200 and 388-290-0205).

(3) "Weekend child care" may be authorized at rates under WAC 388-290-0200 and 388-290-0205 if child care is needed more than five days a week.

[06-16-130, recodified as § 170-292-0110, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0110, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0110, filed 6/30/03, effective 8/1/03.]

### START DATES

**WAC 170-292-0115 If I am determined eligible for the SCC program, when does my child care subsidy begin?** Your SCC program subsidy will begin according to the following situations:

(1) If you are determined eligible before your employment starts, your subsidy begins on the first day of your job that your children are in approved child care;

(2) If you are determined eligible after your job begins because:

(a) You requested an appointment before your job started but were denied one, your subsidy begins on the first day of your job that your children were in approvable child care;

(b) You did not provide all necessary documents when requested, your subsidy begins on the first day after you are determined eligible for the program, that you work and your children are in authorized child care.

(c) You did not request an appointment until after your job began, your subsidy begins on the first day after you are determined eligible for the program, that you work and your children are in authorized child care.

[06-16-130, recodified as § 170-292-0115, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0115, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0115, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0120 Can I be authorized for the SCC program before I start a job?** You may be preauthorized for the SCC program, before your job starts, if:

(1) You are meet all eligibility criteria for the SCC program; and

[Title 170 WAC—p. 60]

(2) You have employment verification that shows a future start date.

[06-16-130, recodified as § 170-292-0120, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0120, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0120, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0125 I am preauthorized for the SCC program, when do my SCC program child care subsidies begin?** If you are preauthorized for the SCC program, your SCC program child care subsidies begin according to the following conditions:

(1) If you are preauthorized, AND you present verification of the date your employment starts to the SCC program authorizing worker within thirty days of your intake interview, your subsidy payments can begin:

(a) The day you present your documentation; or

(b) A maximum of fourteen days prior to the day you present the documentation, if you were working and your children were in approvable child care.

(2) If you are preauthorized but no verification of an employment start date is provided to the SCC program authorizing worker within thirty days of the preauthorization, no subsidy payments can be made. Your preauthorization is closed and you must reapply to the SCC program.

[06-16-130, recodified as § 170-292-0125, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0125, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0125, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0130 If I am reauthorized for the SCC program, when do my SCC program subsidies begin?** If you are reauthorized for the SCC program:

(1) Your SCC program child care subsidies will:

(a) Continue without a break if your review eligibility information is received no later than ten days after your previous eligibility period ends; or

(b) Begin the date your review eligibility information is stamped as received, if received more than ten days after your previous eligibility period ends.

(2) You will be informed of your eligibility for continued SCC program subsidies based on your review information.

[06-16-130, recodified as § 170-292-0130, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0130, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0130, filed 6/30/03, effective 8/1/03.]

### REVIEW PROCESS

**WAC 170-292-0135 When are my eligibility and copayment information for the SCC program looked at?** Your eligibility and copayment information for the SCC program are looked at:

(1) When you apply for the SCC program; and

(2) At least every six months.

[06-16-130, recodified as § 170-292-0135, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0135, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0135, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0140 How are my SCC program subsidies reauthorized and when may they continue?** (1)

(2009 Ed.)

Your SCC program subsidies are reauthorized by the SCC program authorizing worker who reviews your SCC program eligibility and will:

(a) Request information related to your continued eligibility, prior to the end date of your current SCC program eligibility period;

(b) Review the requested information; and

(c) Determine if you are still eligible, according to DSHS established criteria.

(2) Your SCC program subsidies may continue if:

(a) You meet all program, income and work criteria for the SCC program as described in chapter 388-292 WAC;

(b) Your provider is eligible for payment under WAC 388-292-0085.

[06-16-130, recodified as § 170-292-0140, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0140, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0140, filed 6/30/03, effective 8/1/03.]

**ADVANCE AND ADEQUATE NOTICE**

**WAC 170-292-0145 When might I receive advance and adequate notice of change in my SCC program subsidies?** (1) You are given advance and adequate notice of changes in your SCC program subsidies when the change:

(a) Results in a suspension, reduction, or termination of child care subsidies; or

(b) Is not exempt from advance and adequate notice of payment changes as noted in WAC 388-292-0150.

(2) "Advance and adequate notice," means a written notice from the SCC program authorizing agency mailed at least ten days before the date of the intended action begins. It includes the Washington Administrative Code (WAC) supporting the action, and your right to request a fair hearing.

[06-16-130, recodified as § 170-292-0145, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0145, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0145, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0150 When won't I receive advance and adequate notice of changes in my SCC program subsidies?** You will not receive advance and adequate notice of changes in your SCC program subsidies when:

(1) You tell the SCC program authorizing worker you no longer want SCC program subsidies;

(2) Your eligibility review results in a change to your child care subsidies;

(3) You are authorized for duplicate child care subsidies;

(4) Your whereabouts are unknown to the SCC program authorizing worker; or

(5) There is a mass change in subsidy benefits due to a change in law or program funding.

[06-16-130, recodified as § 170-292-0150, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0150, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0150, filed 6/30/03, effective 8/1/03.]

**OVERPAYMENT NOTICES**

**WAC 170-292-0155 What is an overpayment and when might I receive one?** (1) An overpayment is payment for ineligible child care services;

(2) You may receive a client overpayment notice, regardless if you are a current or past recipient, if:

(a) You misrepresent your eligibility for the SCC program, or fail to report information that affects your eligibility; or

(b) You use child care when you are not involved in approved activities (under WAC 388-292-0020).

(3) Your overpayment is written by DSHS and you are expected to pay it back.

(a) Overpayments are written starting the date that child care subsidies were paid but were not eligible at that payment amount;

(b) DSHS reduces the overpayment by the amount of an underpayment when applicable.

[06-16-130, recodified as § 170-292-0155, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0155, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0155, filed 6/30/03, effective 8/1/03.]

**WAC 170-292-0160 When might a child care provider receive an overpayment?** (1) A child care provider may receive a vendor overpayment notice when they receive ineligible payments. This includes payments for:

(a) Child care that was not provided;

(b) Services that are not allowed; or

(c) Child care that is not supported by the provider's attendance records.

(2) The provider's overpayment is written by DSHS and the child care provider is expected to pay it back.

(a) Overpayments are written starting the date that child care subsidies were over paid.

(b) DSHS reduces the overpayment by the amount of an underpayment when applicable.

[06-16-130, recodified as § 170-292-0160, filed 8/1/06, effective 8/1/06. 06-15-075, recodified as § 170-15-0160, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.12.340 and chapter 74.15 RCW. 03-14-109, § 388-292-0160, filed 6/30/03, effective 8/1/03.]

**Chapter 170-295 WAC**

**MINIMUM LICENSING REQUIREMENTS FOR CHILD CARE CENTERS**

(Formerly chapter 388-295 WAC)

**WAC**

**LICENSING**

170-295-0001	What gives the authority to the department to license child care and charge licensing fees?
170-295-0010	What definitions under this chapter apply to licensed child care providers?
170-295-0020	Who needs to become licensed?
170-295-0030	What must I do to be eligible to receive state child care subsidies?
170-295-0040	Do I have to follow any other regulations or have any other inspections?
170-295-0050	Can I get a waiver (exception) to the minimum licensing requirements or to licensing fees?
170-295-0055	Can I get a dual license?
170-295-0060	What are the requirements for applying for a license to operate a child care center?
170-295-0070	What personal characteristics do my volunteers, all staff and I need to provide care to children?
170-295-0080	How is my licensed capacity determined?
170-295-0090	When does the department issue initial and full licenses, and when are licensing fees due?
170-295-0100	When can my license application be denied and when can my license be suspended or revoked?

170-295-0110	When can I be fined for not following the minimum licensing requirements?	170-295-3210	How do I safely thaw foods?
170-295-0120	How much can I be fined?	170-295-3220	What type of kitchen material and equipment is required?
170-295-0130	When can I be fined for operating an unlicensed program?	170-295-3230	What type of eating and drinking equipment must I provide?
170-295-0140	When can the department issue a probationary license to a child care center operator?		
170-295-0150	Where can I locate my child care center or facility?	170-295-4010	CARE OF YOUNG CHILDREN
	STAFFING	170-295-4020	At what age can I accept infants into care?
170-295-1010	Who can be the director of a child care center?	170-295-4030	How do I meet the nutritional needs of the infants in my care?
170-295-1020	What if the director does not meet the minimum qualifications?	170-295-4040	What is a safe way to prepare bottles?
170-295-1030	Who can be a lead teacher in a child care center?	170-295-4050	What is a safe way to store infant formula and food?
170-295-1040	Who can be an assistant or aide in a child care center?	170-295-4060	What is a safe way to store breast milk?
170-295-1050	Who can be a volunteer in a child care center?	170-295-4070	What is a correct way to clean bottles and nipples?
170-295-1060	What initial and ongoing state training and registry system (STARS) training is required for child care center staff?	170-295-4080	Are there specific rules for feeding infants and toddlers?
170-295-1070	What continuing state training and registry system (STARS) training is required for child care center staff?	170-295-4090	When should I begin toilet training a child?
170-295-1080	What topics must my new staff orientation include?	170-295-4100	Can I use potty-chairs for toilet training?
170-295-1090	What kind of meetings or ongoing training must I provide my staff?	170-295-4110	What sleep equipment do I need for infants?
170-295-1100	What are the requirements regarding first aid and cardiopulmonary resuscitation (CPR) training?	170-295-4120	What additional sleeping arrangements must I make to reduce the risk of sudden infant death syndrome (SIDS)?
170-295-1110	Who must have Human Immunodeficiency Virus (HIV), Acquired Immunodeficiency Syndrome (AIDS) and bloodborne pathogen training?	170-295-4130	What must I do to be sure that diaper changing is safe and does not spread infections?
170-295-1120	What are the Tuberculosis (TB) testing requirements for the staff?	170-295-4140	Do I need a nurse consultant?
	PROGRAM	170-295-4140	When are children required to have a change of clothing on-site?
170-295-2010	What types of play materials, equipment and activities must I provide for the children?	170-295-5010	SAFETY AND ENVIRONMENT
170-295-2020	How long can a child be at the center?	170-295-5020	What first-aid supplies are required in my center?
170-295-2030	How should staff interact with children?	170-295-5030	How do I maintain a safe environment?
170-295-2040	What behavior management and guidance practices must I have in place?	170-295-5040	What do I need to include in my disaster plan?
170-295-2050	Must we provide rest periods?	170-295-5050	How do I maintain a clean and sanitized environment?
170-295-2060	What are the requirements for evening and nighttime care?	170-295-5060	How can I make sure water activities are as safe and sanitary as possible?
170-295-2070	What do I need to transport the children on off-site trips?	170-295-5070	How must I store maintenance and janitorial supplies?
170-295-2080	What must I communicate to parents?	170-295-5080	How do I make sure my water is safe?
170-295-2090	What are the required staff to child ratios and maximum group sizes for my center?	170-295-5090	How do I safely get rid of sewage and liquid wastes?
170-295-2100	What are the exceptions to group sizes and staff to child ratios?	170-295-5100	What are the fence requirements?
170-295-2110	Are children allowed in the kitchen when they are doing supervised activities?	170-295-5110	What are the requirements for toilets, handwashing sinks and bathing facilities?
170-295-2120	Are there special program requirements for infants and toddlers?	170-295-5120	What are the requirements if I do laundry on the premises or off-site?
170-295-2130	Do I need an outdoor play area?	170-295-5140	What kind of sleep and nap equipment do I need for children not in cribs, bassinets, infant beds or playpens?
	HEALTH AND NUTRITION	170-295-5150	Are there any requirements for storage space provided for children?
170-295-3010	What kind of health policies and procedures must I have?	170-295-5160	Are there temperature requirements for my facility?
170-295-3020	How often must staff wash their hands?	170-295-5170	What do I need to know about pesticides?
170-295-3030	When is a child or staff member too ill to be at child care?	170-295-6010	Can we have animals at the center?
170-295-3040	How often must children wash their hands?	170-295-6020	AGENCY PRACTICES
170-295-3050	Am I required to give medications to the children in my care?	170-295-6030	What are the regulations regarding discrimination?
170-295-3060	Who can provide consent for me to give medication to the children in my care?	170-295-6040	What are the regulations regarding religious activities?
170-295-3070	How must I store medications?	170-295-6050	What are the special requirements regarding American Indian children?
170-295-3080	Can I use bulk medications (use one container for all the children such as with diaper ointments)?	170-295-6060	What are the requirements regarding child abuse and neglect?
170-295-3090	How do I handle left over medication?	170-295-6060	What substances are prohibited in the child care center or on the premises?
170-295-3100	When can children take their own medication?		Who is allowed to have unsupervised access to children in care?
170-295-3110	Do I need special equipment to give medication?		RECORDS, REPORTING, AND POSTING
170-295-3120	What documentation is required when giving children medication?	170-295-7010	What information must be kept in the child's individual file?
170-295-3130	Can anyone else give medication to children in my care?	170-295-7020	Am I required to track immunizations?
170-295-3140	What kind of milk can I serve?	170-295-7030	What type of attendance records do I have to keep?
170-295-3150	How many meals and snacks must I serve?	170-295-7040	Am I required to keep licensing information available on-site for parents to review?
170-295-3160	What kind of food and menus must I have?	170-295-7050	What personnel records and policies must I have?
170-295-3170	What are the food service standards I am required to meet?	170-295-7060	What injuries and illnesses or child abuse and neglect must I report?
170-295-3180	What are approved food sources?	170-295-7070	What circumstantial changes must I report to my licensor?
170-295-3190	How can I be sure that the food I serve is safe?	170-295-7080	What am I required to post in the center?
170-295-3200	How do I safely store food?		LICENSING

**fees?** (1) The rules for child care centers are governed under chapter 43.215 RCW.

(2) The rules establishing licensing fees are adopted under authority of RCW 43.215.255.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-0001, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-0001, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-0001, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0010 What definitions under this chapter apply to licensed child care providers? "American Indian child"** means any unmarried person under the age of eighteen who is:

(1) A member or eligible for membership in a federally recognized Indian tribe, or who is Eskimo, Aleut, or other Alaska Native and a member of an Alaskan native regional corporation or Alaska Native Village;

(2) Determined or eligible to be found Indian by the Secretary of the Interior, including through issuance of a certificate of degree of Indian blood, or by the Indian health service;

(3) Considered to be Indian by a federally recognized or nonfederally recognized Indian tribe; or

(4) A member or entitled to be a member of a Canadian tribe or band, Metis community, or nonstatus Indian community from Canada.

**"Anti-bias"** is an approach that works against biases and recognizes when others are treated unfairly or oppressively based on race, color, national origin, marital status, gender, sexual orientation, class, religion, creed, disability, or age.

**"Capacity that you are licensed for"** means the maximum number of children that you are authorized to have on the premises of the child care at any one time.

**"Center"** means the same as **"child care center."**

**"Certification"** means department approval of a person, home, or facility that does not legally need to be licensed, but wants evidence that they meet the minimum licensing requirements (also see **"Tribal certification"**).

**"Child abuse or neglect"** means the physical abuse, sexual abuse, sexual exploitation, abandonment or negligent treatment or maltreatment of a child by any person indicating the child's health, welfare, and safety is harmed.

**"Child-accessible"** means areas where children regularly have access such as: Entrances and exits to and from the center, classrooms or child care areas, playground area including equipment and fencing, parking areas, walkways, decks, platforms, stairs and any items available for children to use in these areas.

**"Child care center"** means the same as a **"child day care center"** or a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods less than twenty-four hours.

**"Clean"** means to remove dirt and debris from a surface by scrubbing and washing with a detergent solution and rinsing with water. This process must be accomplished before sanitizing a surface.

**"CACFP"** means child and adult care food program established by congress and funded by the United States Department of Agriculture (USDA).

**"Commercial kitchen equipment"** means equipment designed for business purposes such as restaurants.

**"Communicable disease"** means a disease caused by a microorganism (bacterium, virus, fungus, or parasite) that can be transmitted from person to person via an infected body fluid or respiratory spray, with or without an intermediary agent (such as a louse, or mosquito) or environmental object (such as a table surface).

**"Cultural relevancy"** creates an environment that reflects home cultures, communities and lives of children enrolled in the program.

**"Department," "we," "us," or "our"** refers to and means the state department of early learning (DEL) and its predecessor agency the department of social and health services (DSHS).

**"Developmentally appropriate practice":**

(1) Means that the provider should interact with each child in a way that recognizes and respects the child's chronological and developmental age;

(2) Is based on knowledge about how children grow and learn; and

(3) Reflects the developmental level of the individual child, and interactions and activities must be planned with the needs of the individual child in mind.

**"Director"** means the person responsible for the overall management of the center's facility and operation, except that "DEL director" means the director of the department of early learning.

**"Disinfect"** means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents.

**"Domestic kitchen"** means a kitchen equipped with residential appliances.

**"External medication"** means a medication that is not intended to be swallowed or injected but is to be applied to the external parts of the body, such as medicated ointments, lotions, or liquids applied to the skin or hair.

**"I," "you," and "your"** refer to and mean the licensee or applicant for a child care license.

**"Inaccessible to children"** means stored or maintained in a manner preventing children from reaching, entering, or using potentially hazardous items or areas. Examples include but are not limited to: Quantities of water, sharp objects, medications, chemicals, electricity, fire, mechanical equipment, entrapment or fall areas.

**"Individual plan of care"** means that the center's health policies and procedures do not cover the needs of the individual child so an individual plan is needed. Examples may include children with allergies, asthma, Down syndrome, tube feeding, diabetes care such as blood glucose monitoring, or nebulizer treatments.

**"Infant"** means a child one-month through eleven months of age.

**"Lead teacher"** means the person who is the lead child care staff person in charge of a child or group of children and implementing the activity program.

**"License"** means a permit issued by the department authorizing you by law to operate a child care center and certifying that you meet the minimum requirements under licensure.

**"Licensee"** or **"you"** means the person, organization, or legal entity responsible for operating the center.

**"Maximum potential capacity based on square footage"** is the maximum number of children you can be licensed for based on the amount of useable space (square footage) in your center. You may be licensed for less than the maximum potential capacity. You may not be licensed for more than the maximum potential capacity.

**"Moisture impervious"** or **"moisture resistant"** means a surface incapable of being penetrated by water or liquids.

**"Parent"** means birth parent, custodial parent, foster parent, legal guardian, those authorized by the parent or other entity legally responsible for the welfare of the child.

**"Pesticides"** means chemicals that are used to kill weeds, pests, particularly insects.

**"Potentially hazardous food"** means any food or ingredient that requires temperature control because it supports rapid growth of infectious or toxin forming microorganisms.

**"Potable water"** means water suitable for drinking by the public as determined by the state department of health or local health jurisdiction.

**"Premises"** means the building where the center is located and the adjoining grounds over which you have control.

**"Preschool age child"** means a child thirty months through five years of age not attending kindergarten or elementary school.

**"Program supervisor"** means the person responsible for planning and supervising the center's learning and activity program.

**"Sanitize"** means a surface must be clean and the number of germs reduced to a level that disease transmissions by that surface are unlikely. This procedure is less vigorous than disinfection.

**"Satellite kitchen"** means a food service establishment approved by a local health jurisdiction where food is stored, prepared, portioned or packaged for service elsewhere.

**"School-age child"** means a child not less than five years through twelve years of age who has begun attending kindergarten or elementary school.

**"Staff"** means a child care giver or group of child care givers employed by the licensee to supervise children served at the center who are authorized by DEL to care for or have unsupervised access to children under chapter 170-06 WAC.

**"Supervised access"** refers to those individuals at a child care center who have no responsibility for the operation of the center and do not have unsupervised access to children. These individuals are not required to submit a background check form. This includes those persons on the premises for "time limited" activities whose presence is supervised by a center employee and does not affect provider/child ratios or the normal activities or routine of the center. Examples include:

- (1) A person hired to present an activity to the children in care such as a puppet show, cooking activity, and story telling;
- (2) Parent participation as part of a special theme; or
- (3) A relative visiting a child on the premises.

**"The Washington state training and registry system (STARS)"** means the entity approved by the department to

determine the classes, courses, and workshops licensees and staff may take to satisfy training requirement.

**"Toddler"** means a child twelve months through twenty-nine months of age.

**"Terminal room cleaning"** means thorough cleaning of walls, ceiling, floor and all equipment, and disinfecting as necessary, in a room which has been used by a person having a communicable disease before it is occupied by another person.

**"Tribal certification"** means that the department has certified the tribe to receive state payment for children eligible to receive child care subsidies.

**"Unsupervised access"** refers to those individuals at a child care center who can be left alone with children in the child care center. These individuals must have received a full background authorization clearance under chapter 170-06 WAC.

**"Useable space"** means the areas that are available at all times for use by the children that do not cause a health or safety hazard.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387, 08-10-041, § 170-295-0010, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-295-0010, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW, 03-14-110, § 388-295-0010, filed 6/30/03, effective 8/1/03.]

#### **WAC 170-295-0020 Who needs to become licensed?**

(1) Individuals, entities and agencies that provide care for children must be licensed unless specifically exempt under RCW 43.215.010(2).

(2) The person or organization claiming an exemption must provide us with proof of right to the exemption if we request it.

(3) We do not license a center that is legally exempt from licensing per RCW 43.215.010(2). However, if the applicant requests it, we follow all licensing regulations to investigate and may certify the center as meeting licensing and other pertinent requirements. In such a case, all our licensing requirements and procedures apply equally to certification.

(4) We may certify a child care center for payment without further investigation if the center is:

- (a) Licensed by an Indian tribe;
- (b) Certified by the Federal Department of Defense; or
- (c) Approved by the superintendent of public instruction's office.

(5) The center listed in subsection (4)(a), (b), or (c) of this section must be licensed, certified, or approved in accordance with national or state standards, or standards approved by us. It must be operated on the premises where the entity operating the center has jurisdiction.

(6) We must not license a department employee or a member of their household when the employee is involved directly, or in an administrative or supervisory capacity, in the:

- (a) Licensing or certification process;
- (b) Placement of a child in a licensed or certified center;

or

- (c) Authorization of payment for the child in care.

(7) We may license a center located in a private family residence when the portion of the residence accessible to the child is:

(a) Used exclusively for the child during the center's operating hours or while the child is in care; or

(b) Separate from the family living quarters.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-0020, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-0020, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-0020, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-0020, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0030 What must I do to be eligible to receive state child care subsidies?** To be eligible to receive state child care subsidies for children in your care you must:

(1) Be licensed or certified;

(2) Be a seasonal camp that has a contract with us and is certified by the American Camping Association;

(3) Follow billing policies and procedure in *Child Care Subsidies: A Booklet for Licensed and Certified Child Care Providers, DEL 22-877*;

(4) Bill us at your customary rate or the state rate, whichever is less; and

(5) Keep the attendance records as described in WAC 170-295-7030 and the invoices for state-paid children on-site for at least five years.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-0030, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-0030, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-0030, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0040 Do I have to follow any other regulations or have any other inspections?** (1) Prior to becoming licensed by us to operate a child care center, you must:

(a) Have a certificate of occupancy issued by your local building department; and

(b) Be inspected by the state fire marshal.

(2) In addition to the requirements of this chapter, you are also responsible for complying with any local building ordinances. Local officials are responsible for enforcing city ordinances and county codes, such as zoning and building regulations. You must contact your local building jurisdiction to determine if local ordinances are different than our standards. If you encounter conflicts or differing interpretations, contact us immediately.

(3) We must notify the local planning office of your intention to operate a child care center within the local jurisdiction.

(4) Other state agencies such as labor and industries, the Fire Marshal and the department of health have regulations that apply to child care centers. You are responsible to contact those agencies to obtain their regulations. The other agencies are responsible to monitor and enforce their regulations.

[06-15-075, recodified as § 170-295-0040, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-0040, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0050 Can I get a waiver (exception) to the minimum licensing requirements or to licensing fees?**

(1) In an individual case we can, if we decide you have a good reason, waive a specific requirement and can approve an

(2009 Ed.)

alternate method for you to achieve the specific requirement if you:

(a) Submit the request in writing to us;

(b) Explain in detail the reason you need the waiver; and

(c) Can demonstrate that you have an alternative method of meeting the intent of the requirement.

(2) If the waiver is approved, you must retain a copy of the written waiver approval on the child care premises.

(3) We approve a waiver request if:

(a) You have a good reason;

(b) We determine that approval of the waiver request will not endanger the safety or welfare of the child or take away from the quality of your service;

(c) The request and approval is for a specific purpose or child; and

(d) The waiver request is for a specific period of time, which must not go beyond the date the license expires.

(4) We can limit or restrict a license issued to you in combination with a waiver.

(5) Any person or agency can submit a request for a waiver of licensing fees. We may waive fees when collection of the fee would:

(a) Not be in the best interest of public health and safety;

(b) Be to the financial disadvantage of the state.

(6) To request a waiver to the requirements to pay a licensing fees, you must:

(a) Submit a sworn, notarized petition requesting a waiver of fees;

(b) Mail or deliver the petition to your local child care licensing office; and

(c) Submit any additional documentation that we may consider relevant to your request for a waiver.

(7) You have no appeal rights to the denial of a waiver request under chapters 34.05 RCW and 170-03 WAC.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-0050, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-0050, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-0050, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0055 Can I get a dual license?** We may either:

(1) Issue a child care center license to you having a license involving full-time care; or

(2) Permit simultaneous care for the child and adolescent or adult on the same premises if you:

(a) Demonstrate evidence that care of one client category will not interfere with the quality of services provided to another category of clients;

(b) Maintain the most stringent maximum capacity limitation for the clients categories concerned;

(c) Request and obtain a waiver permitting dual licensing; and

(d) Request and obtain a waiver to subsection (2)(b) of this section, if applicable.

[06-15-075, recodified as § 170-295-0055, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-0055, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0060 What are the requirements for applying for a license to operate a child care center?** (1)

[Title 170 WAC—p. 65]

To apply or reapply for a license to operate a child care center you must:

- (a) Be twenty-one years of age or older;
- (b) The applicant, director and program supervisor must attend the orientation programs that we provide, arrange or approve;
- (c) Submit to us a completed and signed application for a child care center license or certification using our forms (with required attachments).
- (2) The application package must include the following attachments:
  - (a) The annual licensing fee. The fee is based on your licensed capacity, and is forty-eight dollars for the first twelve children plus four dollars for each additional child;
  - (b) If the center is solely owned by you, a copy of your:
    - (i) Photo identification issued by a government entity; and
    - (ii) Social Security card that is valid for employment or verification of your employer identification number.
  - (c) If the center is owned by a corporation, verification of the corporation's employer identification number;
  - (d) An employment and education resume for:
    - (i) The person responsible for the active management of the center; and
    - (ii) The program supervisor.
  - (e) Diploma or education transcript copies of the program supervisor;
  - (f) Three professional references each, for yourself, the director, and the program supervisor;
  - (g) Articles of incorporation if you choose to be incorporated;
  - (h) List of staff (form is provided in the application);
  - (i) Written parent communication (child care handbook);
  - (j) Copy of transportation insurance policy (liability and medical);
  - (k) In-service training program (for facilities employing more than five persons);
  - (l) A floor plan of the facility drawn to scale;
  - (m) A copy of your health care plan reviewed and signed by an advisory physician, physician's assistant, or registered nurse;
  - (n) A copy of your policies and procedures that you give to parents; and
  - (o) A copy of your occupancy permit.
- (3) You must submit to the department a completed background check form for all persons required to be authorized by DEL to care for or have unsupervised access to the children in care under chapter 170-06 WAC; and
- (4) You must submit your application and reapplication ninety or more calendar days before the date:
  - (a) You expect to open your new center;
  - (b) Your current license is scheduled to expire;
  - (c) You expect to relocate your center;
  - (d) You expect to change licensee; or
  - (e) You expect a change in your license category.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-295-0060, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-295-0060, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-0060, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-0060, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0070 What personal characteristics do my volunteers, all staff and I need to provide care to children?** (1) You, your staff and volunteers must have the following personal characteristics in order to operate or work in a child care facility:

- (a) The understanding, ability, physical health, emotional stability, good judgment and personality suited to meet the physical, intellectual, mental, emotional, and social needs of the children in care;
- (b) Be authorized by DEL to care for or have unsupervised access to children in child care under chapter 170-06 WAC; and
- (c) Be able to furnish the child in care with a healthy, safe, nurturing, respectful, supportive, and responsive environment.
- (2) If we decide it is necessary, you must provide to us any additional reports or information regarding you, any assistants, volunteers, members of your household, or any other person having access to children in care if any of those individuals may be unable to meet the requirements of chapter 170-295 WAC. This could include:
  - (a) Sexual deviancy evaluations;
  - (b) Substance abuse evaluations;
  - (c) Psychiatric evaluations;
  - (d) Psychological evaluations; and
  - (e) Medical evaluations.
- (3) Any evaluation requested under subsection (2)(a) through (e) of this section will be at the expense of the person being evaluated.
- (4) The person being evaluated must give us permission to speak with the evaluator(s) in subsection (2)(a) through (e) of this section prior to and after the evaluation.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-295-0070, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-295-0070, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-0070, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-0070, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0080 How is my licensed capacity determined?** (1) Maximum allowable capacity of your center is determined based on useable square footage and available toilets and sinks. The licensed capacity (the number of children you are allowed to have in your center at any one time) may be less than the maximum capacity, but not exceed it. The licensed capacity is based on our evaluation of the program, the ages and characteristics of the children, the experience of the staff, and usable floor space. You must have:

- (a) Fifty square feet of useable floor space per infant (includes crib, playpen, infant bed and bassinets);
- (b) Thirty-five square feet of useable floor space for each toddler or older child that is dedicated to the children during child care hours; and
- (c) Fifteen additional square feet must be provided for each toddler using a crib or playpen when cribs are located in the sleeping and play area.

(2) The areas included in your square footage must be available at all times for the children. The following areas will not be included in determining the useable square footage for each child:

- (a) Food preparation areas of the kitchen;
- (b) Laundry areas;

(c) All bath, toilet rooms and hand washing areas;

(d) Hallways, diaper changing areas (includes the changing table, sink and twenty-four inches of floor space around the changing table and sink), stairways, closets, offices, staff rooms, lockers and custodial areas;

(e) Furnace rooms, hot water heater rooms, storage rooms, or mop sink rooms; and

(f) Cabinets, storage, and fixed shelving spaces unless accessible to and used by children (for example, cubbies, shelves for storing toys and puzzles, bookshelves, etc.). If the children do not have access to their cubbies or toy storage areas, it is not included in the square footage.

(3) You can use a multipurpose room and gymnasium for multiple purposes such as playing, dining, napping, and learning activities, and before and after school programs when the room:

(a) Meets the square footage requirements for the purpose and number of children to be served; and

(b) Is being used for one purpose and does not interfere with usage of the room for another purpose.

(4) You may use and consider the napping area as child care space if staff remove mats and cots when they are not in use and the children then have free access to the area.

(5) We will not issue you a license to care for more children than the rules in this chapter permit.

(6) We may issue you a license to care for fewer children than the center's maximum capacity.

[06-15-075, recodified as § 170-295-0080, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-0080, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0090 When does the department issue initial and full licenses, and when are licensing fees due?**

We may issue an initial license to centers that have not yet begun providing care, but are accepting application for potential clients.

(1) We may issue an initial license when you can show that you are following the rules regarding the child's health and safety.

(2) We may issue an initial license if you have not yet opened for business, and so are not yet able to show that you are complying with the rules pertaining to:

(a) Staff to child interactions;

(b) Group size and staff to child ratios;

(c) Behavior management and discipline;

(d) Activity programs;

(e) Child records and information; and

(f) Other rules that require us to observe your facility's ability to comply with rules.

(3) You must provide us with a plan to comply with the rules listed in subsection (2)(a) through (f) of this section. We must approve of that plan.

(4) We may issue an initial license to an applicant for a period not to exceed six months, renewable for a period not to exceed two years.

(5) When you have an initial license we:

(a) Evaluate your ability to comply with all rules contained in this chapter prior to issuing a full license;

(b) May issue a full license to you when you have demonstrated compliance with chapter 170-295 WAC; and

(2009 Ed.)

(c) Do not issue a full license to you if you do not demonstrate the ability to comply with all rules contained in chapter 170-295 WAC.

(6) You must pay licensing fees at the time you apply for an initial license and when your license is being renewed.

(7) We do not process your application until you have paid the required fee.

(8) You can pay licensing fees for:

(a) A minimum of one year; or

(b) The entire length of your license.

(9) You pay your fee by mailing a check or money order for the required amount to the department, according to instructions on the licensing application.

(10) If you pay your fee one time per year, you pay the annual rate each time. The annual fee is due thirty days before each annual anniversary date of the license.

(11) If you pay for more than one year, the total fee you pay is based on the annual fee rate. For example, if you are licensed for three years and want to pay the licensing fee for the entire period at once, you multiply the annual fee by three years, and pay that amount at the time of your license application or renewal.

(12) If there is a change in your facility that places your facility in a higher fee category, we prorate the additional fee amount over the remainder of the license period.

(13) If you withdraw your application before we deny or issue a license, we refund one-half of the fee.

(14) If there is a change that requires a new license, we refund any fee that remains after your next licensing date. A new license requires a new application and fee.

(15) If we deny, revoke, or suspend your license, we do not refund your licensing fee.

(16) If you reapply for a license after we revoke or suspend your license, you must pay a new license fee.

(17) If you do not pay licensing fees when they are due, we suspend or deny your license.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-0090, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-0090, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-0090, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-0090, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0100 When can my license application be denied and when can my license be suspended or revoked?**

(1) If you do not meet the requirements in chapter 170-295 WAC we deny your license application or suspend or revoke your license.

(2) If more than one person applies for a license or is licensed under this chapter to provide child care at the same facility:

(a) We consider qualifications separately and together.

(b) We deny the license application, or suspend or revoke the license if one person fails to meet the minimum licensing requirements.

(3) We must deny, suspend, or revoke your license if you:

(a) Have been found to have abused, neglected, sexually exploited, abandoned a child or allowed such persons on the premises as defined in chapter 26.44 RCW;

(b) Have been convicted of, or have charges pending for, crimes on the DEL director's list under WAC 170-06-0120;

(c) Have had a license denied, suspended, or revoked for the care of adults or children in this state or any other state. However, if you demonstrate by clear and convincing evidence that you have taken enough corrective action and rehabilitation to justify the public trust to operate the center according to the rules of this chapter, we consider issuing you a license;

(d) Commit or allow an illegal act to be committed on the licensed premises;

(e) Allow children in your care to be abused, neglected, exploited, or treated with cruelty or indifference;

(f) Use illegal drugs;

(g) Use alcohol to the extent that it interferes with your ability to provide care for the children as required by this chapter;

(h) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office with official identification to:

(i) Inspect the premises;

(ii) Access your records related to the centers operation;

or

(iii) Interview staff or children in care.

(i) Refuse to provide us a copy of your:

(i) Photo identification issued by a government entity; and

(ii) Social Security card that is valid for employment or verification of your employer identification number.

(4) We may deny, suspend, or revoke your license if you:

(a) Try to get or keep a license by making false statements or leaving out important information on your application;

(b) Do not provide enough staff in relation to the numbers, ages, or characteristics of children in care;

(c) Allow a person who is not qualified by training, experience or temperament to care for or be in contact with children in care;

(d) Fail to provide adequate supervision to children in care;

(e) Do not exercise fiscal responsibility and accountability while operating the center;

(f) Knowingly allow an employee or volunteer on the premises that has made false statements on an application for employment or volunteer service;

(g) Refuse to supply additional information requested by us;

(h) Fail to pay fees when due;

(i) Fail to comply with the minimum licensing requirements set forth in this chapter or any provision of chapter 43.215 RCW; or

(j) Provide care on the premises for children of an age different from the ages for which the center is licensed.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-295-0100, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-295-0100, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-0100, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-0100, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0110 When can I be fined for not following the minimum licensing requirements?** (1) We notify you in writing of our intention to impose a civil fine.

[Title 170 WAC—p. 68]

We may use personal service, including by our licenser, or certified mail. The letter will include:

(a) A description of the violation and a quote of the law or rule that you have failed to meet;

(b) A statement of what you must do to come into compliance;

(c) The date by which we require compliance;

(d) Information about the maximum allowable penalty we can impose if you do not come into compliance by the given date;

(e) How you can get technical assistance services provided by us or by others; and

(f) Information about how you can request an extension to the date you must be in compliance, if we decide you have a good reason.

(2) The length of time we establish for you to come into compliance depends on:

(a) The seriousness of the violation;

(b) The potential threat to the health, safety and welfare of children in your care; or

(c) If you have had previous opportunities to correct the deficiency and have not done so.

(3) We use the following criteria to determine if we impose a civil fine based on, but not limited to, these reasons:

(a) The child care center has previously been subject to an enforcement action for the same or similar type of violation for the same statute or rule; or

(b) The child care center has previously been given notice of the same or similar type of violation of the same law or rule; or

(c) The violation represents a potential threat to the health, safety, and/or welfare of children in care.

(4) We can impose a civil fine in addition to or at the same time as other disciplinary actions against a child care center. These include probation, suspension, or other action.

(5) You must pay any civil fines no more than twenty-eight days after you receive the notice that you have a fine. We may specify a later date.

(6) We can waive the fine if your center comes into compliance during the notification period.

(7) You must post the final notice of a civil fine in a noticeable place in your center. The notice must remain posted until we notify you that we have received your payment.

(8) Each violation of a law or rule is a separate violation. We can penalize each violation. We can impose a penalty for each day the violation continues or as a flat amount of the maximum allowable penalty.

(9) If you fail to pay your fine within ten days after the assessment becomes final, we can suspend, revoke, or not renew your license.

(10) You have the right to a hearing when we assess a civil fine under RCW 43.215.307 and chapter 170-03 WAC.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-0110, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-0110, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-0110, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-0110, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0120 How much can I be fined?** We can impose a civil fine for the following:

(2009 Ed.)

(1) If we determine that an agency or child care center is operating without a license we may assess a fine of two hundred fifty dollars per day for each day you provide unlicensed child care. A fine is effective and payable within thirty days of receipt of the notification.

(2) We may impose a civil monetary fine of two hundred fifty dollars per violation per day for violation of any rules in chapter 170-295 WAC. We can assess and collect the fine with interest for each day that you fail to come into compliance.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-0120, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-0120, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-0120, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0130 When can I be fined for operating an unlicensed program?** (1) If we receive information that you are operating a child care center without a license, we investigate the allegation.

(2) We contact you, send you a letter, or make an on-site visit to your center to determine whether you are operating without a license.

(3) If we determine that you personally or on behalf of another person are operating a child care center without a license, we send written notification by certified mail or other method showing proof of service to the owner of the unlicensed center. This notification must contain the following:

(a) Notice to the center owner of our basis for determination that the owner is providing child care without a license and the need for us to license the center;

(b) Citation of the applicable law;

(c) The fine is effective and payable within thirty days of the agency's receipt of the notification;

(d) Information about how to contact the department;

(e) The requirement that the unlicensed center owner submit an application for a license to the department within thirty days of receipt of our notification;

(f) That we can forgive the fine if the center submits an application within thirty days of the notification; and

(g) The unlicensed center owner's right to an adjudicative proceeding (fair hearing) as a result of the assessment of a monetary fine and how to request an adjudicative proceeding.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-0130, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-0130, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-0130, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0140 When can the department issue a probationary license to a child care center operator?** (1) We can issue a probationary license to you based on the following factors:

(a) Your willful or negligent failure to comply with the regulations;

(b) Your history of noncompliance with the regulations;

(c) How far you deviate from the regulations;

(d) Evidence of your good faith effort to comply with the regulations; and

(e) Any other factors relevant to your unique situation.

(2009 Ed.)

(2) We can issue a probationary license to you when the willful or negligent violation of the licensing requirements does not present an immediate threat to the health and well being of the children, but would be likely to do so if allowed to continue. We can also issue civil fines or other sanctions in this case. Such situations can include:

(a) Substantiation that a child was abused or neglected while in the care of the center;

(b) A fire safety inspection or health/sanitation inspection report that has been disapproved;

(c) Use of unauthorized space for child care;

(d) Inadequate supervision of children;

(e) Under staffing for the number of children in care; and

(f) Noncompliance with requirements addressing children's health, proper nutrition, discipline, emergency medical plan, sanitation and personal hygiene practices.

(3) You are required to notify parents when a probationary license is issued. You must:

(a) Notify in writing the parents or guardians of all children in care that the center is in probationary status. This notification must be within five working days of your receiving notification of being placed on probationary status or being issued a probationary license. We must approve the notification before you send it; and

(b) Provide documentation to us that parents or guardians of all children in care have been notified. You must provide this documentation within ten working days of being notified that you have been issued a probationary license.

(4) A probationary license can be issued for up to six months and can be extended at our discretion for an additional six months.

[06-15-075, recodified as § 170-295-0140, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-0140, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-0150 Where can I locate my child care center or facility?** (1) You must locate your child care center:

(a) On an environmentally safe site;

(b) In a neighborhood free of a condition detrimental to the child's welfare; and

(c) In a location accessible to other services to carry out the program.

(2) Your child care must be located in an area that is serviced by emergency fire, medical and police during the hours the children are in care.

(3) The location of your site must be approved by the local planning department, your state fire marshal, and us.

[06-15-075, recodified as § 170-295-0150, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-0150, filed 6/30/03, effective 8/1/03.]

## STAFFING

**WAC 170-295-1010 Who can be the director of a child care center?** If you apply for a license to operate a child care center, you may be the director yourself, or you can hire a director. The director is responsible for the overall management of the center's facility and operation and ensures that the center follows the minimum licensing requirements. The director must:

- (1) Be at least twenty-one years of age or older;
- (2) Have knowledge of child development as evidenced by professional reference, education, experience, and on-the-job performance;
- (3) Have written proof of education including:
  - (a) A current child development associate certificate (CDA); or
  - (b) The following minimum number of college quarter\* credits or combination of college quarter credits and department-approved clock hours (ten clock hours equals one college credit) in early childhood education or child development:

If your center is licensed for this number of children:	Then the director must have completed at least this number of college quarter credits in early childhood education:	Of the total credits required, the minimum number that must be college quarter credits is:	And of the total credits required, the maximum number that can be department-approved clock hours is:
(i) Twelve or less	10	7	30 (replacing 3 college quarter hours)
(ii) Thirteen through 24	25	17	80 (replacing 8 college quarter hours)
(iii) Twenty-five or more	45	30	150 (replacing 15 college quarter hours)

\*Note: One college semester credit equals one and one half (1.5) college quarter hours

- (4) Have at least two years experience working with children the same age level as the center serves;
- (5) Not let the provision of child care interfere with management or supervisory responsibilities;
- (6) Be on the premises for the majority of the hours that care is provided and designate a person to be in charge that meets the qualifications of a lead teacher when not present; and
- (7) Meet the STARS requirement and be listed in the state training and registry system (STARS).

[06-15-075, recodified as § 170-295-1010, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-1010, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-1020 What if the director does not meet the minimum qualifications?** (1) If the director does not meet the requirements in WAC 170-295-1010, you must have a program supervisor who:

- (a) Meets all the qualifications of WAC 170-295-1010;
- (b) Oversees the planning and supervising of the center's learning and activity program to ensure that practices meet the WAC, are varied and developmentally appropriate; and
- (c) Performs on-site program supervisory duties twenty hours or more a week and is not included in the staff to child ratio. If we request it, you must provide documentation of the twenty hours or more a week on site supervisory duties for the program supervisor.

(2) If the director does not meet the minimum requirements in WAC 170-295-1010 the director must have had at least one three credit college class in early childhood education or development.

(3) One person may be both the director and the program supervisor when qualified for both positions. The director or

program supervisor must be on the premises for the majority of the hours that care is provided. If temporarily absent from the center, the director or program supervisor must leave a competent, designated staff person in charge who meets the qualifications of a lead staff person.

(4) The director or program supervisor may also serve as child care staff when that role does not interfere with management and supervisory responsibilities.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-1020, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-1020, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-1020, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-1030 Who can be a lead teacher in a child care center?** The lead teacher is a child care staff person who is in charge of a child or group of children and implements the activity program. The lead teacher must:

- (1) Be at least eighteen years of age or older;
- (2) Have completed a high school education or the equivalent; and
- (3) Have documented child development education or work experience; or
- (4) Complete STARS training within six months of becoming a lead teacher.

[06-15-075, recodified as § 170-295-1030, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-1030, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-1040 Who can be an assistant or aide in a child care center?** You may assign a child care assistant or aide to support the lead child care staff.

- (1) The assistant or aide must be:
  - (a) At least sixteen years of age; and
  - (b) Under the direct supervision of a lead child care staff person.
- (2) You may assign an assistant who is age eighteen or older to care for a child or a group of children under direct supervision of a lead staff person. This person may have sole responsibility for a group of children without direct supervision by a superior for a brief period of time.
- (3) You must not assign a person under the age of eighteen years sole responsibility for a group of children.

[06-15-075, recodified as § 170-295-1040, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-1040, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-1050 Who can be a volunteer in a child care center?** (1) You may arrange for a volunteer to support lead child care staff. The volunteer must:

- (a) Be at least sixteen years of age or older; and
- (b) Care for children under the direct supervision of a lead child care staff person at all times.
- (2) You may count the volunteer in the staff-child ratio when the volunteer meets staff qualification requirements and is sixteen years of age or older.

[06-15-075, recodified as § 170-295-1050, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-1050, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-1060 What initial and ongoing state training and registry system (STARS) training is**

**required for child care center staff?** The director, program supervisor and lead teachers must register with the STARS registry and complete one of the following trainings within the first six months of employment or of being granted an initial license:

(1) Twenty clock hours or two college quarter credits of basic training approved by the Washington state training registry system (STARS);

(2) Current child development associate certificate (CDA) or equivalent credential, or twelve or more college credits in early childhood education or child development; or

(3) Associate of Arts (AA), Associate of Arts and Sciences or higher college degree in early childhood education or child development.

[06-15-075, recodified as § 170-295-1060, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-1060, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-1070 What continuing state training and registry system (STARS) training is required for child care center staff?** (1) The director, program supervisor and lead teachers must complete ten clock hours or one college credit of continuing education yearly after completing the initial training required in WAC 170-295-1010.

(2) The director and program supervisor must have five of the ten hours in program management and administration for the first two years in their respective positions. Each additional year, three of the ten hours required must be in program management and administration.

(3) Agencies or organizations that have been approved by the Washington state training and registry system (STARS) may offer up to six clock hours of continuing education each year to their employees. The remaining four hours must be obtained from other training offered in the community.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-1070, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-1070, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-1070, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-1070, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-1080 What topics must my new staff orientation include?** You must have an orientation system in place to train each new employee and volunteer about program policies, practices, philosophies and goals. This training must include, but is not limited to, the program policies and practices listed in this chapter such as:

- (1) Minimum licensing requirements;
- (2) Planned daily activities and routines;
- (3) Child guidance and behavior management methods;
- (4) Child abuse and neglect prevention, detection, and reporting policies and procedures;
- (5) Health policies and procedures;
- (6) Communicable disease recognition and prevention;
- (7) Bloodborne pathogens;
- (8) Fire prevention, disaster plan and safety procedures;
- (9) Special health and developmental needs of the individual child;
- (10) Personnel policies, when applicable;
- (11) Limited restraint techniques;
- (12) Cultural relevancy; and

(2009 Ed.)

(13) Age and developmentally appropriate practices and expectations for the age group the staff will work with.

[06-15-075, recodified as § 170-295-1080, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-1080, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-1090 What kind of meetings or ongoing training must I provide my staff?** (1) You must provide or arrange for staff meetings and training opportunities for the child care staff at least quarterly; and

(2) At a minimum, your staff and volunteers must have ongoing training when there are changes:

- (a) In your policies and procedures;
- (b) In the equipment that you use;
- (c) In the types of services you provide; or
- (d) To health care plans for specific children.

[06-15-075, recodified as § 170-295-1090, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-1090, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-1100 What are the requirements regarding first aid and cardiopulmonary resuscitation (CPR) training?** (1) You must ensure that at least one person of your staff with a current basic standard first aid and age appropriate CPR certificate is present with each group of children in your center at all times. For example, if you have six different classrooms with different groups of children, you must have a staff person in each room trained in first aid and CPR.

(2) The person providing the first aid and CPR training must be knowledgeable about current national first aid and CPR standards. The trainer must:

- (a) Be in the medical field;
- (b) Be in the emergency field such as an emergency medical technician or fire fighter;
- (c) Complete a "train the trainer" course from a reputable program such as the American Red Cross, American Heart Association, National Safety Council or labor and industries; or

(d) Work for a company that specializes in first aid and CPR training.

(3) First aid and CPR training must be updated as required on the card or certificate received by you or your staff person. The first aid and CPR cards or certificates must have a date of expiration.

[06-15-075, recodified as § 170-295-1100, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-1100, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-1110 Who must have Human Immunodeficiency Virus (HIV), Acquired Immunodeficiency Syndrome (AIDS) and bloodborne pathogen training?** (1) Every employee who is included in the staff to child ratio must have written proof of HIV/AIDS and bloodborne pathogen training that includes prevention, transmission, treatment and confidentiality issues.

(2) You must comply with applicable Washington Industrial Safety and Health Act (WISHA)/labor and industries safety and health regulations under chapter 296-823 WAC that apply to you.

[Title 170 WAC—p. 71]

[06-15-075, recodified as § 170-295-1110, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-1110, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-1110, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-1120 What are the Tuberculosis (TB) testing requirements for the staff?** (1) Each employee and volunteer must have the results of a one step Mantoux TB skin test prior to starting work.

(2) New employees and volunteers do not need a TB skin test if they have written proof of:

(a) A negative Mantoux TB test in the twelve months prior to you hiring them;

(b) A previously positive Mantoux TB test with documented proof of treatment or a negative chest X ray; or

(c) Medication therapy to treat TB.

(3) Your staff and volunteers must be retested for TB when you are notified that any of the staff or volunteers have been exposed to TB. They must comply with the direction of the local health jurisdictions.

[06-15-075, recodified as § 170-295-1120, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-1120, filed 6/30/03, effective 8/1/03.]

## PROGRAM

**WAC 170-295-2010 What types of play materials, equipment and activities must I provide for the children?**

You must:

(1) Provide a variety of easily accessible learning and play materials of sufficient quantity to implement the centers program and meet the developmental needs of children in care.

(2) Have a current daily schedule of activities and lesson plans that are designed to meet the children's developmental, cultural, and individual needs. The toys, equipment and schedule must be:

(a) Specific for each age group of children; and

(b) Include at least one activity daily for each of the following (you can combine several of the following for one activity):

(i) Child initiated activity (free play);

(ii) Staff initiated activity (organized play);

(iii) Individual choices for play;

(iv) Creative expression;

(v) Group activity;

(vi) Quiet activity;

(vii) Active activity;

(viii) Large and small muscle activities; and

(ix) Indoor and outdoor play.

(3) You must ensure the lesson plan, daily schedule of events, available toys and equipment contains a range of learning experiences to allow each child the opportunity to:

(a) Gain self-esteem, self-awareness, self-control, and decision-making abilities;

(b) Develop socially, emotionally, intellectually, and physically;

(c) Learn about nutrition, health, and personal safety; and

(d) Experiment, create, and explore.

(4) Post the daily schedule and lesson plan in each room for easy reference by parents and by caregivers;

(5) Keep the daily schedule of events and lesson plans for the past six months on site for inspection;

(6) Maintain staff-to-child ratios and group size during transitions from one activity to another during the day;

(7) Plan for smooth transitions by:

(a) Establishing familiar routines; and

(b) Using transitions as a learning experience.

(8) Ensure the center's program affords the child daily opportunities for small and large muscle activities, outdoor play, and exposure to language development and books; and

(9) Afford staff classroom planning time.

[06-15-075, recodified as § 170-295-2010, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-2010, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-2010, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-2020 How long can a child be at the center?** The child may remain in care a maximum of ten hours or less each day. If needed, you may extend the time based upon the parent's typical work schedule and travel from and to the center.

[06-15-075, recodified as § 170-295-2020, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-2020, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-2030 How should staff interact with children?** To facilitate interactions between the staff and children that are nurturing, respectful, supportive and responsive, you must:

(1) Ensure staff interact with children using positive communication (for example, giving children options of what to do rather than being told what not to do);

(2) Support the child's development in understanding themselves and others by assisting the child to share ideas, experiences, and feelings;

(3) Provide age-appropriate opportunities for the child to grow and develop intellectually. Examples include:

(a) Reading readiness skills;

(b) Language skills development;

(c) Encouraging the child to ask questions;

(d) Counting;

(e) Matching objects;

(f) Differentiating between large and small; and

(g) Sorting.

(4) Help each child solve problems with intervention as necessary;

(5) Encourage children to be creative in their projects;

(6) Allow independence in selecting routine activities and projects;

(7) Show tolerance for mistakes;

(8) Encourage children to try new activities; and

(9) Honor all children's race, religion, culture, gender, physical ability and family structure.

[06-15-075, recodified as § 170-295-2030, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-2030, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-2040 What behavior management and guidance practices must I have in place?** You must:

(1) Develop and implement written behavior management and guidance practices for the center;

(2) Guide the child's behavior based on an understanding of the individual child's needs and stage of development;

(3) Promote the child's developmentally appropriate social behavior, self-control, and respect for the rights of others;

(4) Ensure behavior management and guidance practices that are fair, reasonable, consistent, and related to the child's behavior;

(5) Prevent and prohibit any person on the premises from using cruel, unusual, hazardous, frightening, or humiliating discipline, including but not limited to:

(a) Corporal punishment including biting, jerking, shaking, spanking, slapping, hitting, striking, kicking, pinching, flicking or any other means of inflicting physical pain or causing bodily harm to the child;

(b) Verbal abuse such as yelling, shouting, name calling, shaming, making derogatory remarks about a child or the child's family, or using language that threatens, humiliates or frightens a child;

(c) The use of a physical restraint method injurious to the child, locked time-out room, or closet for disciplinary purposes; and

(d) The using or withholding of food or liquids as punishment.

(6) In emergency situations, a staff person may use limited physical restraint when:

(a) Protecting a person on the premises from serious injury;

(b) Obtaining possession of a weapon or other dangerous object; or

(c) Protecting property from serious damage.

(7) Staff who use limited restraint must complete an incident report. A copy of the incident report must be:

(a) Placed in the child's individual record; and

(b) Given to the parent.

[06-15-075, recodified as § 170-295-2040, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-2040, filed 6/30/03, effective 8/1/03.]

#### **WAC 170-295-2050 Must we provide rest periods?**

You must:

(1) Offer a supervised rest period to the child who is:

(a) Five years of age or younger and in care for more than six hours; or

(b) Showing a need for rest.

(2) Allow a child twenty-nine months of age or younger to follow an individual sleep schedule, and plan alternative quiet activities for the child who does not need rest.

[06-15-075, recodified as § 170-295-2050, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-2050, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-2060 What are the requirements for evening and nighttime care?** In addition to meeting the other requirements of chapter 170-295 WAC, if you offer child care during evening and nighttime hours, you must:

(1) Adapt the program, equipment, and staffing pattern to meet the physical and emotional needs of the child away from home at night such as:

(a) In centers operating past midnight, you must provide for each child a crib, mat or cot, or mattress pad, that is easily sanitized;

(b) Make arrangements for bathing as needed;

(c) Make arrangements for personal hygiene including tooth brushing;

(d) Have individual bedding appropriate for overnight sleeping; and

(e) Have separate dressing and sleeping areas for boys and girls ages six years and older or younger children demonstrating a need for privacy.

(2) Maintain the same staff-to-child ratio that is in effect during daytime care;

(3) Keep the child within continuous visual and auditory range at all times;

(4) Ensure that the staff in charge during evening and nighttime hours meets the requirements of a lead teacher; and

(5) Ensure all staff attending to children in care are awake.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-2060, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-2060, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-2060, filed 6/30/03, effective 8/1/03.]

#### **WAC 170-295-2070 What do I need to transport the children on off-site trips?**

(1) You may transport a child or permit the child to travel off-site only with written parental consent. The purpose may be to attend school, participate in supervised field trips, or engage in other supervised off-site activities.

(2) The parent's consent may be:

(a) For a specific date or trip; or

(b) A blanket authorization describing the full range of trips the child may take. If you use a blanket authorization, you must notify the parent in writing at least twenty-four hours in advance about any specific trip.

(3) When transportation is provided by the center for children in care:

(a) The driver must have a valid Washington state driver's license to operate the type of vehicle being driven;

(b) The number of passengers cannot exceed the seating capacity of the vehicle;

(c) Either the center owner or the driver must have liability and medical insurance; and

(d) The driver, parent volunteer, or staff supervising the children being transported in each vehicle must have written documentation on file of current CPR and first-aid training.

(4) When you transport children, the vehicle used must:

(a) Have a current license and registration according to Washington state transportation laws;

(b) Be maintained in good repair and safe operating condition; and

(c) Be equipped with:

(i) At least one first-aid kit that meets the requirements of WAC 170-295-5010;

(ii) Vehicle emergency reflective triangles or other devices to alert other drivers of an emergency;

(iii) The health history and emergency information for each child in the vehicle; and

(iv) A method to call for emergency help.

(5) You must meet the child passenger restraint system requirements in RCW 46.61.687 when transporting children. Contact your local state patrol office for more information.

(6) When you transport children, you must maintain the staff-to-child ratio established for the youngest child in the group; and

(7) Staff or driver must not leave the children unattended in the motor vehicle.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-2070, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-2070, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-2070, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-2080 What must I communicate to parents?** (1) You must have written documentation signed by the parent in each child's file that you have:

(a) Explained to the parent the centers policies and procedures;

(b) Discussed the centers philosophy, program and facilities;

(c) Advised the parent of the child's progress and issues relating to the child's care and individual practices concerning the child's special needs; and

(d) Encouraged parent participation in center activities.

(2) You must also give the parent the following written policy and procedure information:

(a) Enrollment and admission requirements;

(b) The fee and payment plan;

(c) A typical activity schedule, including hours of operation;

(d) Meals and snacks served, including guidelines on food brought from the child's home;

(e) Permission for free access by the child's parent to all center areas used by the child;

(f) Signing in and signing out requirements;

(g) Child abuse reporting law requirements;

(h) Behavior management and discipline;

(i) Nondiscrimination statement;

(j) Religious and cultural activities, if any;

(k) Transportation and field trip arrangements;

(l) Practices concerning an ill child;

(m) Medication management;

(n) Medical emergencies;

(o) Disaster preparedness plans; and

(p) If licensed for the care of an infant or toddler:

(i) Diapering;

(ii) Toilet training; and

(iii) Feeding.

[06-15-075, recodified as § 170-295-2080, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-2080, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-2090 What are the required staff to child ratios and maximum group sizes for my center?** (1)

You must ensure the required staff to child ratios are met at all times when children are in your care. In centers licensed for thirteen or more children, the licensee must conduct group activities within the group size and staff to child ratio requirements, according to the age of the children:

If the age of the children is:	Then the staff to child ratio is:	And the maximum group size is:
(a) One month, through 11 months (infant)	1:4	8
(b) Twelve months through 29 months (toddler)	1:7	14
(c) Thirty months through 5 years (preschooler)	1:10	20
(d) Five years through 12 years (school-age child)	1:15	30

(2) In centers licensed for twelve or fewer children, you may combine children of different age groups, provided you:

(a) Maintain the staff-to-child ratio designated for the youngest child in the mixed group; and

(b) Provide a separate care area when four or more infants are in care. In such case the maximum group size is eight infants.

(3) You must conduct activities for each group in a specific room or other defined space within a larger area.

(4) You must ensure each group is under the direct supervision of a qualified staff person or team of staff involved in directing the child's activities.

(5) We may approve reasonable variations to group size limitations if you maintain required staff-to-child ratios, dependent on:

(a) Staff qualifications;

(b) Program structure; and

(c) Useable square footage.

(6) After consulting with the child's parent, you may place the individual child in a different age group and serve the child within the different age group's required staff-to-child ratio based on the child's:

(a) Developmental level; and

(b) Individual needs.

(7) You may combine children of different age groups for no more than one hour, provided you maintain the staff-to-child ratio and group size designated for the youngest child in the mixed group.

(8) In centers licensed for thirteen or more children, you may group ambulatory children between one year and two years of age with older children, provided:

(a) The total number of children in the group does not exceed twelve; and

(b) Two staff are assigned to the group.

(9) You must ensure the staff person providing direct care and supervision of the child is free of other duties at the time of care.

(10) You must maintain required staff-to-child ratios indoors, outdoors, on field trips, and during rest periods. During rest periods, staff may be involved in other activities if:

(a) Staff remain on the premises; and

(b) Each child is within continuous visual and auditory range of a staff person.

(11) You must ensure staff:

(a) Attend to the group of children at all times; and

(b) Keep each child (including school age children) within continuous visual and auditory range of center staff. Toilet trained children using the toilet must be within auditory range of a center staff member.

(12) When only one staff person is present, you must ensure a second staff person is readily available in case of emergency.

(13) When only one caregiver is required to meet the staff to child ratio, you must be sure there is coverage for emergencies to meet both ratios and worker qualifications by either:

(a) Posting the name, address, and telephone number of a person who meets the qualifications of at least a lead teacher, who has agreed in writing to be available to provide emergency relief and who can respond immediately; or

(b) Having a second person that meets the qualifications of at least a lead teacher on the premises who is not needed for the staff to child ratio, but is available to provide emergency relief.

(14) Service staff, such as cooks, janitors, or bus drivers, may be counted in the required staff to child ratio if they meet all child care worker qualifications.

[06-15-075, recodified as § 170-295-2090, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-2090, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-2090, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-2100 What are the exceptions to group sizes and staff to child ratios?** (1) If the center is licensed for twelve or fewer children, you may combine children (excluding infants) of different age groups if you:

(a) Maintain the staff to child ratio for the youngest child in the mixed group; and

(b) Provide a separate area when infants are in care.

(2) You must conduct activities for each group in a specific room or other specifically defined space within a larger area;

(3) Excluding infants, you may place an individual child in a different age group and serve the child within the different age group's required staff to child ratio, based on the child's individual needs and developmental level. You must consult with the child's parent prior to making the change;

(4) You may combine children of different age groups for periods of no more than one hour at the beginning and end of the day provided you maintain the staff to child ratio and group size designated for the youngest child in the mixed group;

(5) You may have nine infants in a classroom with appropriate square footage if you maintain a ratio of one staff to three infants; and

(6) You can request a waiver to group size limitations. If we approve variations to group size limitations, you must maintain the required staff-to-child ratios. Our approval will depend on but is not limited to:

(a) Staff qualifications;

(b) Program structure;

(c) Square footage; and

(d) Lower staff to child ratios.

[06-15-075, recodified as § 170-295-2100, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-2100, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-2100, filed 6/30/03, effective 8/1/03.]

(2009 Ed.)

**WAC 170-295-2110 Are children allowed in the kitchen when they are doing supervised activities?** (1) You must be sure that children are not in the kitchen except during supervised activities.

(2) When children are in the kitchen, you must:

(a) Supervise food preparation activities involving children; and

(b) Make the kitchen environmentally safe for children to participate in planned kitchen activities.

[06-15-075, recodified as § 170-295-2110, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-2110, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-2120 Are there special program requirements for infants and toddlers?** (1) When you care for infants and toddlers you must:

(a) Encourage them to handle and manipulate a variety of objects;

(b) Provide a safe environment for climbing, moving and exploring;

(c) Provide materials and opportunities for large and small muscle development;

(d) Read and talk to them daily;

(e) Provide daily indoor opportunities for freedom of movement outside their cribs, in an open, uncluttered space;

(f) Place them in a prone (lying on the tummy) position part of the time when they are awake and staff are observing them;

(g) Not leave them in car seats once they arrive at the center even if they are asleep; and

(h) Not be left in playpens for extended periods of time excluding sleep time.

(i) Talk to and interact with each infant and toddler often and encourage them to respond. Naming objects and describing care encourages language development;

(j) Hold and cuddle infants and toddlers to encourage strong relationships; and

(k) Respond to and investigate cries or other signs of distress immediately.

(2) You must provide toys, objects and other play materials that:

(a) Are cleanable;

(b) Are nontoxic; and

(c) Cannot cause a choking hazard for infants or toddlers.

(3) You must not use baby walkers.

[06-15-075, recodified as § 170-295-2120, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-2120, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-2130 Do I need an outdoor play area?**

(1) You must provide an outdoor program that promotes the child's coordination, active play, and physical, mental, emotional, and social development based on their age. The play area must:

(a) Adjoin the indoor premises directly or be reachable by a safe route or method;

(b) Have adequate drainage and be free from health and safety hazards;

(c) Contain a minimum of seventy-five usable square feet per child using the play area at any one time. If the center uses a rotational schedule of outdoor play periods so only a

portion of the child population uses the play area at one time, you may reduce correspondingly the child's play area size.

(2) If you provide full-time care, the activity schedule must provide the child daily morning and afternoon outdoor play;

(3) If you provide drop-in care only, at our discretion we may approve equivalent, separate, indoor space for the child's large muscle play;

(4) You must ensure appropriate child grouping by developmental or age levels, staff-to-child ratio adherence, and maintain group size;

(5) Staff must be outdoors with the children in continuous visual and auditory range;

(6) You must provide a variety of age-appropriate play equipment for climbing, pulling, pushing, riding and balancing activities; and

(7) You must arrange, design, construct, and maintain equipment and ground cover to prevent child injury.

[06-15-075, recodified as § 170-295-2130, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-2130, filed 6/30/03, effective 8/1/03.]

## HEALTH AND NUTRITION

**WAC 170-295-3010 What kind of health policies and procedures must I have?** (1) You must have written health policies and procedures that are:

(a) Written in a clear and easily understood manner;

(b) Shared with all new staff during orientation;

(c) Posted for staff and families to review; and

(d) Reviewed, signed and dated by a physician, a physician's assistant or registered nurse when you change your policies and procedures or type of care that you provide, or at least every three years when you are due for relicensing. (For example, if you go from caring for children from twelve months and older to caring for infants, you must update your health policies and procedures and have them reviewed and signed.)

(2) Your health policies and procedures must have information on how you plan to:

(a) Provide general cleaning of areas including but not limited to bathrooms, floors, walls, and doorknobs;

(b) Clean and sanitize areas including but not limited to food contact surfaces, kitchen equipment, diapering areas, toys, toileting equipment and areas, equipment that might be shared with several children such as sleep mats, cribs or high chairs;

(c) Prevent, manage and report communicable diseases;

(d) Handle minor injuries such as nosebleeds, scrapes and bruises;

(e) Provide first aid;

(f) Screen children daily for illnesses;

(g) Notify parents that children have been exposed to infectious diseases and parasites;

(h) Handle minor illnesses;

(i) Handle major injuries and medical emergencies that require emergency medical treatment or hospitalization;

(j) Manage medication;

(k) Assist with handwashing and general hygiene including diapering and toileting;

(l) Handle food;

(m) Provide nutritious meals and snacks;

(n) Respond during any disasters;

(o) Care for children that may have special needs;

(p) Care for infants and obtain infant nurse consultation (if licensed for four or more infants); and

(q) Place infants to sleep on their backs to reduce the risk of sudden infant death syndrome (SIDS).

(3) Your health policies and procedures must have information on when you plan to:

(a) Require ill children to stay home and for how long;

(b) Allow the ill child to return; and

(c) Call a parent to pick up their child and how you will care for the child until the parent arrives.

[06-15-075, recodified as § 170-295-3010, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-3010, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-3010, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3020 How often must staff wash their hands?** Staff and volunteers must wash their hands with soap and warm water:

(1) When arriving at work;

(2) After toileting a child;

(3) Before, during (may use wet wipe) and after diapering a child;

(4) After personal toileting;

(5) After attending to an ill child;

(6) Before and after preparing, serving, or eating food;

(7) Before and after giving medication;

(8) After handling, feeding or cleaning up after animals;

(9) After handling bodily fluids;

(10) After smoking;

(11) After being outdoors or involved in outdoor play; and

(12) As needed.

[06-15-075, recodified as § 170-295-3020, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3020, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3030 When is a child or staff member too ill to be at child care?** (1) Your staff must check all children for signs of illness when they arrive at the center and throughout the day.

(2) You must exclude children and staff with the following symptoms from care:

(a) Diarrhea (three or more watery stools or one bloody stool within twenty-four hours);

(b) Vomiting (two or more times within twenty-four hours);

(c) Open or oozing sores, unless properly covered with cloths or with bandages;

(d) For suspected communicable skin infection such as impetigo, pinkeye, and scabies: The child may return twenty-four hours after starting antibiotic treatment;

(e) Lice or nits; and

(f) Fever of 100 degrees Fahrenheit or higher and who also have one or more of the following:

(i) Earache;

(ii) Headache;

(iii) Sore throat;

(iv) Rash; or

(v) Fatigue that prevents participation in regular activities.

(3) Children and staff who have a reportable disease may not be in attendance at the child care center unless approved by the local health authority.

(4) You must not take ear or rectal temperatures. Oral temperatures can be taken for preschool through school age if single use disposable covers are used over the thermometer.

(5) When a child becomes ill or injured while in your care, you must:

(a) Keep a confidential, individualized, written record in the child's file that includes the:

- (i) Date of an illness or injury;
- (ii) Treatment provided while in care; and
- (iii) Names of the staff providing the treatment.

(b) Provide a copy of the illness or injury report to the parent; and

(c) Keep a current, written incident log listing date of illness or injury, the child's name, names of staff involved, and a brief description of the incident for tracking and analysis.

(6) You must notify parents in writing when their children have been exposed to infectious diseases or parasites. The notification may consist of either a letter to parents or posting a notification for parents in a visible location.

(7) You are a mandated disease reporter to the health department per WAC 246-101-415. You can obtain a list of reportable diseases, time frames for reporting and reporting phone numbers from your local health department.

[06-15-075, recodified as § 170-295-3030, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3030, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3040 How often must children wash their hands?** Children must wash their hands with soap and warm water:

- (1) On arrival at the center;
- (2) After using the toilet;
- (3) After the child is diapered;
- (4) After outdoor play;
- (5) After playing with animals;
- (6) After touching body fluids (such as blood or after nose blowing or sneezing); and
- (7) Before and after the child eats or participates in food activities.

[06-15-075, recodified as § 170-295-3040, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3040, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3050 Am I required to give medications to the children in my care?** If a child has a condition where the Americans with Disabilities Act (ADA) would apply you must make reasonable accommodation and give the medication.

[06-15-075, recodified as § 170-295-3050, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3050, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3060 Who can provide consent for me to give medication to the children in my care?** (1) Parents must give written consent before you give any child any medication. The parent's written consent must include:

- (a) Child's first and last name;
- (b) Name of medication;
- (c) Reason for giving medication;
- (d) Amount of medication to give;
- (e) How to give the medication (route);
- (f) How often to give the medication;
- (g) Start and stop dates;
- (h) Expected side effects; and
- (i) How to store the medication consistent with directions on the medication label.

(2) The parent consent form is good for the number of days stated on the medication bottle for prescriptions. You may not give medication past the days prescribed on the medication bottle even if there is medication left.

(3) You may give the following medications with written parent consent if the medication bottle label tells you how much medication to give based on the child's age and weight:

- (a) Antihistamines;
- (b) Nonaspirin fever reducers/pain relievers;
- (c) Nonnarcotic cough suppressants;
- (d) Decongestants;
- (e) Ointments or lotions intended to reduce or stop itching or dry skin;
- (f) Diaper ointments and nontalc powders, intended only for use in the diaper area; and
- (g) Sun screen for children over six months of age.

(4) All other over the counter medications must have written directions from a health care provider with prescriptive authority before giving the medication.

(5) You may not mix medications in formula or food unless you have written directions to do so from a health care provider with prescriptive authority.

(6) You may not give the medication differently than the age and weight appropriate directions or the prescription directions on the medication label unless you have written directions from a health care provider with prescriptive authority before you give the medication.

(7) If the medication label does not give the dosage directions for the child's age or weight, you must have written instructions from a health care provider with prescriptive authority in addition to the parent consent prior to giving the medication.

(8) You must have written consent from a health care provider with prescriptive authority prior to providing:

- (a) Vitamins;
- (b) Herbal supplements; and
- (c) Fluoride.

[06-15-075, recodified as § 170-295-3060, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3060, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3070 How must I store medications?**

(1) You must store medications in the original container labeled with:

- (a) The child's first and last names;
- (b) If a prescription, the date the prescription was filled;
- (c) The expiration date; and
- (d) Easy to read instructions on how to give the medication (i.e., the bottle is in the original package or container with a clean and readable label).

(2) You must store medications:

- (a) In a container inaccessible to children (including staff medications);
  - (b) Away from sources of moisture;
  - (c) Away from heat or light;
  - (d) Protected from sources of contamination;
  - (e) According to specific manufacturers or pharmacists directions;
  - (f) Separate from food (medications that must be refrigerated must be in a container to keep them separate from food); and
  - (g) In a manner to keep external medications that go on the skin separate from internal medications that go in the mouth or are injected into the body.
- (3) All controlled substances must be in a locked container.

[06-15-075, recodified as § 170-295-3070, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3070, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3080 Can I use bulk medications (use one container for all the children such as with diaper ointments)?** You can keep bulk containers of diaper ointments and nontalc type powders intended for use in the diaper area and sun screen if you:

- (1) Obtain written parental consent prior to use;
- (2) Use for no longer than six months; and
- (3) Notify the parents of the:
  - (a) Name of the product used;
  - (b) Active ingredients in the product; and
  - (c) Sun protective factor (SPF) in sun screen.
- (4) Apply the ointments in a manner to prevent contaminating the bulk container.

[06-15-075, recodified as § 170-295-3080, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3080, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3090 How do I handle left over medication?** You must not keep old medications on site. When a child is finished with a medication, you must either:

- (1) Give it back to the parent; or
- (2) Dispose of it by flushing medication(s) down the toilet.

[06-15-075, recodified as § 170-295-3090, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3090, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3100 When can children take their own medication?** (1) Children can take their own medication if they:

- (a) Have a written statement from the parent requesting the child take their own medication;
- (b) Have a written statement from a health care provider with prescriptive authority stating that the child is physically and mentally capable of taking their own medication; and
- (c) Meet all other criteria in chapter 170-295 WAC including storage of medications.

(2) A staff member must observe and document that the child took the medication.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-3100, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-3100, filed 7/13/06, effective 7/13/06. Statutory Authority: Chap-

ters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3100, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3110 Do I need special equipment to give medication?** To give liquid medication you must use a measuring device designed specifically for oral or liquid medications. Parents should provide the measuring devices for individual use.

[06-15-075, recodified as § 170-295-3110, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3110, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3120 What documentation is required when giving children medication?** You must keep a confidential, written record in the child's file of:

- (1) Child's full name, date, time, name of medication and amount given (indicate if self-administered);
- (2) Initial of staff person giving medication or observing the child taking the medication with a corresponding signature on the medication record to validate the initials; and
- (3) Provide a written explanation why a medication that should have been given was not given.

[06-15-075, recodified as § 170-295-3120, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3120, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3130 Can anyone else give medication to children in my care?** (1) Only staff persons who have been oriented to your center's medication policies and procedures can give medications.

(2) You must have documentation that the staff person has been oriented.

(3) Before a staff may administer medications they must ask parents to provide instruction on specialized medication administration procedures or observations, i.e., how to use the nebulizer, epi-pens or individual child's preference for swallowing pills.

[06-15-075, recodified as § 170-295-3130, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3130, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3140 What kind of milk can I serve?**

(1) Only pasteurized milk or pasteurized milk products can be served to children in your care.

(2) Nondairy milk substitutes may be served only with written permission of the child's parent for children over the age of twelve months.

(3) The amount of required milk fat in the milk product is determined by the child's age:

If the age of the child is:	Then the fat content of the milk must be:
(a) Under 12 months	Full strength formula or full strength breast milk unless there is specific written instructions from a licensed health care provider.
(b) Between 12 months and 24 months	Full strength whole milk or breast milk unless there is specific written instruction from a licensed health care provider.
(c) Over 24 months	With or without fat content of providers or parents choice.

[06-15-075, recodified as § 170-295-3140, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3140, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3150 How many meals and snacks must I serve?** (1) The number of meals or snacks you must serve is based on the number of hours you are open.

If you are open:	You must serve at least:
(a) Nine hours or less	(i) Two snacks and one meal; or (ii) One snack and two meals.
(b) Over nine hours	(i) Two snacks and two meals; or (ii) Three snacks and one meal.

(2) You must also offer:

- (a) Food at intervals not less than two hours and not more than three and one-half hours apart;
- (b) Breakfast or snack to children in morning care whether or not the child ate before arriving at the center;
- (c) Breakfast to the child in nighttime care if the child remains at the center after the child's usual breakfast time;
- (d) A snack or meal for children arriving after school;
- (e) Dinner to children in nighttime care if the children are at the center after their usual dinnertime or have not had dinner; and
- (f) An evening snack to children in nighttime care.

[06-15-075, recodified as § 170-295-3150, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3150, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3160 What kind of food and menus must I have?** (1) You must:

- (a) Prepare, date, and conspicuously post menus one week or more in advance, containing the meals and snacks to be served;
- (b) Provide two weeks or more of meal and snack menu variety before repeating the menu;
- (c) Keep six months of past menus on-site for inspection by the department;
- (d) Make substitutions of comparable nutrient value and record changes on the menu, when needed;
- (e) Provide daily a minimum of one serving of Vitamin C fruit, vegetable, or juice;
- (f) Provide three or more times weekly foods high in Vitamin A; and
- (g) Maintain at least a three day supply of food and water for emergency purposes based on the number of children in child care.

(2) Meals eaten at the center must contain the following:

- (a) Each breakfast meal the child eats at the center must contain:
  - (i) A fruit or vegetable or one hundred percent fruit or vegetable juice.
  - (ii) A dairy product (such as milk, cheese, yogurt, or cottage cheese).
  - (iii) A grain product (such as bread, cereal, rice cake or bagel).
- (b) Each lunch and dinner meal the child eats at the center must contain:
  - (i) A dairy product (such as milk, cottage cheese, yogurt, cheese);
  - (ii) Meat or meat alternative (such as beef, fish, poultry, legumes, tofu, or beans);
  - (iii) A grain product (such as bread, cereal, bagel, or rice cake);
  - (iv) Fruits or vegetables (two fruits or two vegetables or one fruit and one vegetable to equal the total portion size

(2009 Ed.)

required). When juice is served in place of a fruit or vegetable it must be one hundred percent fruit or vegetable juice.

(3) When meals are not provided by the center you must:

- (a) Notify parents in writing that meals they provide for their children must meet the daily nutritional requirements;
- (b) Provide adequate refrigeration for keeping potentially hazardous foods (such as meats of any type, cooked potato, cooked legumes, cooked rice, sprouts, cut melons or cantaloupes, milk, cheese);
- (c) Refrigerate foods requiring refrigeration at 45 degrees Fahrenheit or less and keep frozen foods at 10 degrees Fahrenheit or less until they are cooked or consumed.
- (4) Each snack the child eats at the center must include at least two of the following four components:
  - (a) A milk product (such as milk, cottage cheese, yogurt, cheese);
  - (b) A meat or meat alternative (such as meat, legumes, beans, egg);
  - (c) A grain product (such as cereal, bagel, rice cake or bread); and
  - (d) Fruit or vegetable.
- (5) Each snack or meal must include a liquid to drink. The drink could be water or one of the required components such as milk, fruit or vegetable juice.

(6) You may allow parents to bring in snacks for all the children that may not meet the nutritional requirements on special occasions such as birthdays. The snacks provided by parents must be limited to store purchased:

- (a) Uncut fruits and vegetables; and
- (b) Foods prepackaged in original manufacturer's containers.
- (7) If a child has a food allergy or special menu requirements due to a health condition, you must:

- (a) Receive written directions from the child's health care provider and parent to provide nutritional supplements (such as iron), a medically modified diet (such as a diabetic or an allergy diet). For allergy diets, the parent and child's health care provider must identify the foods the child is allergic to;
- (b) Post each child's food allergies in locations where food is prepared and served;
- (c) Include the allergies on the individual health care plan;
- (d) Specify an alternative food with comparable nutritive value; and
- (e) Notify staff of the allergies and reactions. NOTE: You can require parents to supply food for supplements and special diets.

[06-15-075, recodified as § 170-295-3160, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3160, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3170 What are the food service standards I am required to meet?** You must maintain on site at least one person with a Washington state department of health food handler's permit to:

- (1) Monitor and oversee food handling and service at the center; and
- (2) Provide orientation and ongoing training as needed for all staff involved in food handling. Anyone cooking full meals must have a food handlers permit.

[06-15-075, recodified as § 170-295-3170, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3170, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3180 What are approved food sources?** You must:

(1) Prepare or serve food that is not tampered with or spoiled and is obtained from an approved source including, but not limited to, a licensed caterer, a food service company or a grocery store. Food sources that are not approved include:

- (a) Left over food that was previously served from outside your center;
- (b) Home canned, frozen or prepared food unless it is for the person's own children;
- (c) Donated food from restaurants or caterers that was previously served;
- (d) Game meat that has not been inspected by the USDA; and
- (e) Donated meat, fish, poultry or milk that is not from a source inspected for sale.

(2) Prepare all food on site unless it is provided by a:

- (a) Licensed satellite kitchen, catering kitchen or other source licensed by the local health jurisdiction; or
- (b) Parent for individual children.

(3) Have a signed contract or agreement with any satellite kitchen or the catering service that you use. Your contract must include written proof that the caterer and the method of transporting the food are approved by the local health jurisdiction as meeting the requirements of the department of health, chapter 246-215 WAC.

(4) Have a written policy if you use a satellite kitchen that describes:

- (a) A description of how food will be handled once it is on-site; and
- (b) What back up system you will use if the food does not arrive, not enough food arrives, or the food cannot be served.

[06-15-075, recodified as § 170-295-3180, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3180, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3190 How can I be sure that the food I serve is safe?** (1) You need to develop and implement a system to monitor the temperature of potentially hazardous foods during cooking, reheating, cooling, storing, and hot and cold holding temperatures to be sure that:

(a) Food will be cooked to at least the minimum correct internal temperature:

- (i) Ground beef and pork sausage 155 degrees Fahrenheit;
- (ii) Pork 150 degrees Fahrenheit;
- (iii) Fish and seafood 140 degrees Fahrenheit;
- (iv) Poultry and stuffing 165 degrees Fahrenheit;
- (v) Eggs 140 degrees Fahrenheit;
- (vi) Beef (not ground) and lamb 140 degrees Fahrenheit.

(b) Previously prepared food is reheated one time only to an internal temperature of 165 degrees Fahrenheit within sixty minutes;

(c) Hot food is kept at a temperature of 140 degrees Fahrenheit or above until served;

(d) Cold food is kept at a temperature of 45 degrees Fahrenheit or less;

(e) Refrigerators have a thermometer in or near the door and are kept at 45 degrees Fahrenheit or less; and

(f) Freezers have a thermometer in or near the door and are kept at 10 degrees Fahrenheit or less.

(2) You must develop a system to record the temperature of each perishable food once it arrives from a satellite kitchen or a catering service. The system must include keeping records on site for six months with the following information:

- (a) The name and the temperature of the food;
- (b) The date and time the temperature was checked; and
- (c) The name and signature or recognized initials of the person who is checking and recording the food temperatures.

(3) You may serve previously prepared food that has not been previously served if it was stored at the proper temperature for less than forty-eight hours after preparation. Leftover foods or open foods in the refrigerator must be labeled with the date that they were opened or cooked.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-3190, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-3190, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3190, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3200 How do I safely store food?** You must store food:

(1) In the original containers or in clean, labeled containers that are airtight and off the floor;

(2) In a manner that prevents contamination from other sources;

(3) In an area separate from toxic materials such as cleaning supplies, paint, or pesticides;

(4) That is not past the manufacturer's expiration or freshness date;

(5) In a refrigerator or freezer if cooling is required;

(6) Raw meat, poultry or fish in the refrigerator, below cooked or ready to eat foods;

(7) Foods not requiring refrigeration at least six inches above the floor in a clean, dry, ventilated storeroom or other areas; and

(8) Dry bulk foods not in their original containers, in containers with tight fitting covers. Containers must be labeled and dated.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-3200, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-3200, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3200, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3210 How do I safely thaw foods?** You must thaw food by one of the following methods:

(1) In a refrigerator;

(2) Under cool running water, in a pan placed in a sink with the stopper removed;

(3) In a microwave, if the food is to be cooked immediately; or

(4) As part of the continuous cooking process.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-3210, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-3210, filed 7/13/06, effective 7/13/06. Statutory Authority: Chap-

ters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3210, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3220 What type of kitchen material and equipment is required?** You need the following equipment to cook and serve meals without restrictions on the type of menus or foods that you can cook, serve or store:

(1) Kitchen walls, counter tops, floors, cabinets and shelves that are:

(a) Maintained in good repair to include being properly sealed without chips or cracks;

(b) Moisture resistant; and

(c) Maintained in a clean and sanitary condition.

(2) A range with a properly vented hood or exhaust fan, except when serving only snacks;

(3) A refrigerator, freezer or a combination refrigerator with sufficient space for proper storage and cooling of food;

(4) Handwashing facilities located in or adjacent to the food preparation area with handwashing procedures posted at each sink used for handwashing and followed by all persons who participate in food preparation.

(5) A method to clean and sanitize equipment using:

(a) A two compartment sink and an automatic dishwasher capable of reaching a temperature of 140 degrees Fahrenheit; or

(b) The means to appropriately clean and sanitize dishes and utensils through the use of a three compartment sink method where sink one is used to wash, sink two is used to rinse, and sink three contains a sanitizing ingredient;

(6) You may use a microwave oven to reheat foods if the food is:

(a) Rotated or stirred during heating;

(b) Covered to retain moisture; and

(c) Held for two minutes prior to serving to allow the temperature to spread evenly throughout the food.

[06-15-075, recodified as § 170-295-3220, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3220, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-3230 What type of eating and drinking equipment must I provide?** (1) You must provide eating and drinking equipment that is:

(a) Cleaned and sanitized between use by different children;

(b) Free from cracks or chips;

(c) Individual; and

(d) Developmentally appropriate.

(2) You must not directly serve food on the table without a plate or paper napkin;

(3) You must use gloves, tongs, or spoons to serve food;

(4) You may have inclined jet-type drinking fountains. Bubble-type drinking fountains and drinking fountains attached to or part of sinks used for any purpose other than the drinking fountain cannot be used; and

(5) You must not have drinking fountains in restrooms.

[06-15-075, recodified as § 170-295-3230, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-3230, filed 6/30/03, effective 8/1/03.]

(2009 Ed.)

CARE OF YOUNG CHILDREN

**WAC 170-295-4010 At what age can I accept infants into care?** You must not accept into care an infant who is less than one month of age.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-4010, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-4010, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-4010, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-4010, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-4020 How do I meet the nutritional needs of the infants in my care?** You must:

(1) Have written policies on providing, preparing, storing and sanitizing infant formula, food and utensils; and

(2) Work with the infant's parent to develop a plan for the infant's feedings that is acceptable to the parent and incorporates the following guidelines:

Developmental Stage/Age of Infant	Type of Feeding
(a) Under 4 months of age	Serve only formula or breast milk unless you have a written order from the child's health care provider.
(b) When baby can: (At about 4-6 months of age) Sit with support Hold head steady Close lips over the spoon Keep food in mouth and swallow it.	Serve only formula or breast milk unless you have a written order from the child's health care provider. Begin iron fortified baby cereal and plain pureed fruits and vegetables upon consultation with parents.
(c) When baby can: (At about 6-8 months) Sit without support Begin to chew Sip from a cup with help Grasp and hold onto things	Serve only formula or breast milk unless you have a written order from the child's health care provider. Start small amounts of juice, or water in a cup. Let baby begin to feed self. Start semisolid foods such as cottage cheese, mashed tofu, mashed soft vegetables or fruits.
(d) When baby can: (At about 8-10 months) Take a bite of food Pick up finger foods and get them into the mouth Begin to hold a cup while sipping from it	Serve only formula or breast milk unless you have a written order from the child's health care provider. Small pieces of cheese, tofu, chicken, turkey, fish or ground meat. Small pieces of soft cooked vegetables, peeled soft fruits. Toasted bread squares, unsalted crackers or pieces of soft tortilla. Cooked plain rice or noodles. Only formula, breast milk, juice or water in the cup.
(e) When a baby can: (10-12 months) Finger Feed Chew and swallow soft, mashed and chopped foods Start to hold and use a spoon Drink from a cup	Serve only formula or breast milk unless you have a written order from the child's health care provider. Begin offering small sized, cooked foods. Variety of whole grain cereals, bread and crackers, tortillas. Cooked soft meats, mashed legumes (lentils, pinto beans, kidney beans, etc.), cooked egg yolks, soft casseroles.
(f) When a baby can eat a variety of foods from all food groups without signs of an allergic reaction	Fruit pieces and cooked vegetables. Yogurt, cheese slices. Offer small amounts of formula, breast milk or water in the cup during meals.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-4020, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-4020, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4020, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-4030 What is a safe way to prepare bottles?** (1) Parents may bring from home filled bottles labeled with the infant's name for daily use (see WAC 170-295-4040).

(2) To prepare bottles you must:

(a) Prepare and fill bottles by washing hands prior to bottle preparation;

(b) Use a sink that is only for bottle preparation, other food preparation or other approved source of water. Water from a handwashing sink may not be used for bottle preparation;

(c) Do not heat a bottle in a microwave or allow bottles to warm at room temperature for more than an hour, to limit bacterial growth; and

(d) Bottles must be warmed under running warm water or placed in a container of water that is not warmer than 120 degrees Fahrenheit.

(3) The bottle preparation area including the sink must:

(a) Be located at least eight feet from the outermost edge of diaper changing tables or counters and sinks used for diaper changing; or

(b) Have a barrier to prevent cross-contamination that is placed between the sink used for food or bottle preparation and the diaper changing table, counter or sink. If a barrier is used, it must be:

(i) Solid (without cracks or breaks);

(ii) Sealed;

(iii) Moisture-resistant; and

(iv) At least twenty-four inches in height from the counter surface.

(4) If the infant room does not have a sink that is dedicated to bottle and food preparation, you must provide a clean source of water for preparing bottles such as getting water from the kitchen and keeping it in a container with an airtight cover that:

(a) Is located at least eight feet from the outermost edge of diaper changing tables or counters and sinks used for diaper changing; or

(b) Has a barrier that meets the requirements in WAC 170-295-4030 (3)(b) to prevent cross-contamination that is placed between the sink used for food or bottle preparation and the diaper changing table, counter or sink.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-4030, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-4030, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4030, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-4040 What is a safe way to store infant formula and food?** To store bottles, formula or infant food, you must:

(1) Label all bottles with the infant's full name and the date the bottle was filled to be sure the correct formula or breast milk is given to each infant;

(2) Have a refrigerator accessible to staff to store bottles and unserved, leftover infant food;

(3) Throw away the contents of any bottle not fully consumed within one hour. Do not put bottles that have been used back into the refrigerator;

[Title 170 WAC—p. 82]

(4) Throw away or return to the family any unused bottle contents within twelve hours of preparing or arriving at the center;

(5) Not serve infant formula past the expiration date on the manufacturers container; and

(6) Keep bottle nipples covered when not in use to reduce risk of cross contamination and exposure.

[06-15-075, recodified as § 170-295-4040, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4040, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-4050 What is a safe way to store breast milk?** You can keep frozen breast milk if you:

(1) Label the contents with the child's name and date it was brought into the center;

(2) Store the frozen breast milk at 10 degrees Fahrenheit or less;

(3) Thaw the breast milk in the refrigerator, under warm running water or in a pan of warm water; and

(4) Keep frozen breast milk in the center for no more than two weeks.

[06-15-075, recodified as § 170-295-4050, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4050, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-4060 What is a correct way to clean bottles and nipples?** Bottles, bottle caps, nipples and other equipment used for bottle feeding must not be reused without first being cleaned and sanitized by:

(1) Washing in a dishwasher; or

(2) Washing, rinsing and boiling for one minute.

[06-15-075, recodified as § 170-295-4060, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4060, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-4070 Are there specific rules for feeding infants and toddlers?** (1) Infants must be fed according to their need rather than according to an adult prescribed time schedule.

(2) While feeding infants:

(a) Hold infants for bottle feedings to prevent choking;

(b) Place infants who can sit in high chairs or at an appropriate child-sized table and chairs for feeding and sit facing the child during the feeding;

(c) Do not prop a bottle;

(d) To prevent tooth decay:

(i) Do not give a bottle to a reclining child unless the bottle contains only water; and

(ii) Offer juice only from a cup.

(e) Take the bottle from the child when the child finishes feeding.

[06-15-075, recodified as § 170-295-4070, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4070, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-4080 When should I begin toilet training a child?** Toilet training is initiated with consultation with parents:

(1) Using positive reinforcement;

(2) Cultural sensitivity;

(3) Not using foods as a reinforcement; and

(2009 Ed.)

(4) Following a routine established between the parent and you.

[06-15-075, recodified as § 170-295-4080, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4080, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-4090 Can I use potty-chairs for toilet training?** You may use potty-chairs that are:

(1) Located in the toilet room or similar area that meets the requirements of WAC 170-295-5100 designed for toiletting;

(2) On a floor that is moisture resistant and washable;

(3) Immediately emptied into a toilet; and

(4) Cleaned in a designated sink or utility sink separate from classrooms and sanitized after each use. The sink must also be cleaned and sanitized after cleaning potty-chairs.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-4090, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-4090, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4090, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-4100 What sleep equipment do I need for infants?** (1) You must not put infants to sleep in infant or car seats.

(2) You must provide each infant with a single-level crib (stacking cribs must not be used), infant bed, bassinet or playpen for napping until you and the parent agree that the child can safely use a mat, cot or other approved sleeping equipment.

(3) Cribs, if used, must:

(a) Be sturdy and made of wood, metal or plastic with a secure latching device;

(b) Be constructed with vertical slats that are no more than two and three-eighths inches apart or be solid plexiglas;

(c) Have corner posts that extend less than one-sixteenth of an inch above the sides and railing;

(d) Not have cutout designs on the end panels;

(e) Have a rail height and end panel as measured from the top of the rail or panel in its lowest position to the top of the mattress support in its highest position of at least nine inches;

(f) Have a rail height and end panel as measured from the top of the rail or panel in its highest position to the top of the mattress support in its lowest position of at least twenty-six inches; and

(g) Not use crib bumper pads, stuffed toys, quilts, lambkins, and pillows in cribs, infant beds, bassinets or playpens.

(4) You must provide a crib, infant bed, playpen or bassinet mattress that is:

(a) Snug fitting and touches each side of the crib to prevent the infant from becoming entrapped between the mattress and crib side rails;

(b) Waterproof; and

(c) Easily cleaned and sanitized, without tears or tape.

(5) To allow walking room between cribs and reduce the spread of germs you must:

(a) Space cribs a minimum of thirty inches apart. You may place cribs end to end if you provide a barrier. If you use barriers, staff must be able to observe and have immediate access to each child.

(2009 Ed.)

(b) Provide a moisture resistant and easily cleanable solid barrier on the side or end adjacent to another crib.

(6) You must provide:

(a) An appropriate fitting sheet or cover for the sleeping surface; and

(b) A clean light weight blanket or suitable cover for the child.

(7) You must launder bedding at least weekly and more often if it becomes soiled.

[06-15-075, recodified as § 170-295-4100, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-4100, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-4100, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-4110 What additional sleeping arrangements must I make to reduce the risk of sudden infant death syndrome (SIDS)?** (1) You must put infants to sleep on their backs to reduce the risk of SIDS unless you have a written note in the infant's file from both the parent and the infant's health care provider requesting another sleeping position.

(2) Once infants are able to turn over, continue to place them on their back to sleep. You do not need to wake the infants to return them to their back while sleeping.

[06-15-075, recodified as § 170-295-4110, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4110, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-4120 What must I do to be sure that diaper changing is safe and does not spread infections?**

(1) Your diaper changing table and area must:

(a) Have a washable, moisture resistant diaper-changing surface that is cleaned and sanitized between children;

(b) Be a table or counter with a protective barrier on all sides that is at least three and one-half inches higher than the surface that the child lays on;

(c) Have a garbage can with a lid, plastic liner, and method for disposing of hand drying supplies so that a garbage can lid does not have to be opened with hands;

(d) Be on moisture impervious and washable flooring that extends at least two feet surrounding the diaper changing and handwashing area; and

(e) Be directly adjacent to a sink used for handwashing supplied with:

(i) Warm running water (between 85 degrees Fahrenheit and 120 degrees Fahrenheit);

(ii) Soap; and

(iii) A sanitary method for drying hands (single-use towels).

(2) You must have the diaper changing procedure posted and must follow the steps included.

(3) You must not leave the child unattended during the diaper change.

(4) You must not use the safety belts on diaper changing tables because they are neither cleanable nor safe.

(5) You must not place anything on the diaper-changing table, counter or sink except the child, changing pad and diaper changing supplies.

(6) Disposable diapers must be:

(a) Placed into a covered, plastic-lined, hands free covered container;

(b) Removed from the facility and the liner changed at least daily and more often if odor is present; and

(c) Disposed of according to local disposal requirements.

(7) Reuseable diapers must be:

(a) Individually bagged and placed without rinsing into a separate, cleanable, covered container equipped with a waterproof liner before transporting to the laundry, given to the commercial service or returned to parents for laundry; and

(b) Removed from the facility daily or more often if odor is present.

[06-15-075, recodified as § 170-295-4120, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4120, filed 6/30/03, effective 8/1/03.]

#### **WAC 170-295-4130 Do I need a nurse consultant? (1)**

If you are licensed to care for four or more infants you must have an infant nurse consultant. The nurse consultant's duties will depend upon the needs of the center. We, center management, teachers, and observations/assessments of the nurse consultant can identify the needs.

(2) If you are required to have an infant nurse consultant, you must:

(a) Have a written agreement with a nurse consultant who is a currently licensed registered nurse (RN) who has either worked in pediatrics (care of children) or public health in the past year or has taken or taught classes in pediatric nursing at the college level in the past five years;

(b) Have at least one monthly on-site visit from your nurse consultant when you have infants enrolled (you may skip the monthly visit if no infants are enrolled);

(c) Have the nurse or a designee that meets the requirements of a nurse consultant available by phone as needed; and

(d) Have written notes of the nurse consultant visit on-site that includes topics discussed, areas of concern, date and signature.

[06-15-075, recodified as § 170-295-4130, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4130, filed 6/30/03, effective 8/1/03.]

#### **WAC 170-295-4140 When are children required to have a change of clothing on-site? (1)**

You are required to have extra clothing available for the children who wet or soil their clothes.

(2) You may require the parent to provide the clothing, but you must have clothing available for use in case the parent forgets the change of clothing.

[06-15-075, recodified as § 170-295-4140, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-4140, filed 6/30/03, effective 8/1/03.]

### **SAFETY AND ENVIRONMENT**

#### **WAC 170-295-5010 What first-aid supplies are required in my center? (1)**

You must maintain on the premises adequate first-aid supplies conforming to the center's first-aid policies and procedures. The center's first-aid supplies must include:

(a) A supply for each vehicle used to transport children; and

(b) A portable supply, which can be taken on walks and field trips.

(2) You must store first aid supplies:

(a) Inaccessible to children;

(b) In an area easily accessible to staff;

(c) Separate from food; and

(d) In a clean and safe manner to prevent contamination such as in a tackle box or other container, away from chemicals and moisture.

(3) Your first-aid kit must include at least:

(a) A current first-aid manual;

(b) Sterile gauze pads;

(c) Small scissors;

(d) Band-Aids of various sizes;

(e) Roller bandages;

(f) Large triangular bandage (sling);

(g) Nonsterile protective gloves;

(h) Adhesive tape;

(i) Tweezers;

(j) One-way CPR barrier or mask; and

(k) At least one unexpired bottle of Syrup of Ipecac that must be given only at the direction of a poison control center.

[06-15-075, recodified as § 170-295-5010, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5010, filed 6/30/03, effective 8/1/03.]

#### **WAC 170-295-5020 How do I maintain a safe environment? (1)**

You must maintain the building, equipment and premises in a safe manner that protects the children from injury hazards including but not limited to:

(a) Burns (for example: Chemicals or other potentially flammable substances);

(b) Drowning;

(c) Choking (for example: Ropes, wires, blind cords, fences not meeting requirements);

(d) Cuts (for example: Broken glass, sharp objects, abrasive surfaces);

(e) Entrapments (for example: The following items must not have openings between three and one-half inches and nine inches wide: Deck and fence rails, stair rails or other equipment);

(f) Falls from excessive heights;

(g) Gunshots by ensuring no firearm or another weapon is on the premises;

(h) Hearing loss by keeping noise at a level where a normal conversation can be heard;

(i) Objects falling on the children (for example: Heavy items on open shelving that could fall in an earthquake or similar emergency);

(j) Pinches from equipment (for example: Broken or cracked areas);

(k) Poison (such as cleaning supplies or lead-based paint);

(l) Puncture (for example: Equipment, building edges or playground equipment with sharp points or jagged edges);

(m) Shear or crush (for example: Lawn and garden equipment used for yard maintenance);

(n) Shock by electricity;

(o) Trap (for example: Compost bins, old freezers, dryers or refrigerators); and

(p) Trip (for example: Cable wires, ropes, jagged or cracked walkways).

(2) To further prevent injuries, you must

(a) Provide child height handrails on at least one side of the steps, stairways, and ramps;

(b) Provide guardrails for elevated play areas and stairs;

(c) Use listed tamper resistant receptacles or use tamper resistant, nonmoveable, nonremovable cover plates in areas accessible to children preschool age and younger;

(d) Shield light bulbs and tubes by using a protective barrier to prevent shattering into child-accessible areas, food, and storage areas;

(e) Provide screens for windows or limit the opening capability of any windows within reach of children to less than three and one-half inches. Windows with limited opening capabilities cannot be the designated fire escape window. Windows protected with guards must not block outdoor light or air in areas used by children;

(f) Provide a barrier for glass areas such as windows or sliding glass doors that extend down to the child's eye level by placing a barrier between the child and glass or something placed on the glass at the child's eye level such as stickers or art work so that the child does not try to go through the solid glass;

(g) Not place cribs, play pens, bassinets, infant beds, indoor climbing structures next to windows unless of safety glass; and

(h) When using heaters capable of reaching 110 degrees Fahrenheit on the surface, you must protect children from burn hazards by making them inaccessible to children or locating them where children cannot reach them.

(3) You may not use portable heaters.

(4) You must implement a method to monitor entrance and exit doors to prevent children from exiting the buildings unsupervised. You may use:

(a) A door alarm;

(b) A bell that can be heard throughout the building;

(c) Adult supervision at the exits; or

(d) Other method to alert the staff (you may not lock the door to prevent an exit. It is against the fire code).

(5) You must maintain one or more telephones on the premises in working order that is accessible to staff at all times.

(6) You must maintain a flashlight or other emergency lighting device in working condition.

[06-15-075, recodified as § 170-295-5020, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5020, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5030 What do I need to include in my disaster plan?** (1) You must develop and implement a disaster plan designed for response to fire, natural disasters and other emergencies. The plan must address what you are going to do if there is a disaster and parents are not able to get to their children for two or three days.

(2) The fire plan must follow the requirements in chapter 212-12 WAC or the state fire marshal requirements.

(3) In areas where local emergency plans are in place, such as school district emergency plan, centers may follow those procedures and actions in developing their own plan.

(4) The disaster plan must be:

(a) Specific to the child care center;

(b) Relevant to the types of disasters that might occur in the location of your child care center;

(c) Able to be implemented during hours of operation; and

(d) Posted in every classroom for easy access by parents and staff.

(5) Your disaster plan must identify:

(a) The designated position of the person (example: director, lead teacher, program supervisor, etc.) who is responsible for each part of the plan;

(b) Procedures for accounting for all children and staff during and after the emergency;

(c) How you evacuate the premises, if necessary, and the meeting location after evacuation;

(d) How you care for children with special needs during and after the disaster;

(e) How you provide for children until parents are able to pick them up;

(f) How you contact parents or how parents can contact the child care center; and

(g) Transportation arrangements, if necessary.

(6) Your written records must include a disaster plan, with signatures and dates of persons completing the disaster plan review on-site. The disaster plan must be read, reviewed and signed by:

(a) The director and staff annually; and

(b) Parents when children are enrolled.

(7) In addition to the requirements for fire drills and training set forth by the state fire marshal in chapter 212-12 WAC, you must:

(a) Document staff education and training of the disaster plan;

(b) Conduct and document quarterly disaster drills for children and staff (you do not have to conduct a drill quarterly for each potential disaster - just one drill per quarter);

(c) Keep written documentation of the drills on-site; and

(d) Brief and evaluate the plan in writing after each disaster incident or drill.

(8) You must keep the twelve month record indicating the date and time you conducted the required monthly fire evacuation drills on-site for the current year plus the previous calendar year.

[06-15-075, recodified as § 170-295-5030, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-5030, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-5030, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5040 How do I maintain a clean and sanitized environment?** (1) Surfaces must be easily cleanable. A cleanable surface is one that is:

(a) Designed to be cleaned frequently;

(b) Moisture-resistant; and

(c) Free from cracks, chips or tears.

(2) Examples of cleanable surfaces include linoleum, tile, sealed wood, and plastic.

(3) You must maintain the building, equipment and premises in a clean and sanitary manner that protects the children from illness including but not limited to:

(a) Ensure that floors around sinks, toilets, diaper change areas and potty chairs are moisture resistant and easily clean-

able for at least twenty-four inches surrounding the surfaces; and

(b) Take measures to control rodents, fleas, cockroaches, and other pests in and around the center premises such as:

- (i) Keep all trash and garbage cans tightly sealed;
- (ii) Screen open windows and doors;
- (iii) Seal and store food properly; and
- (iv) Keep floors and other areas free from crumbs and food debris.

(4) Surfaces can be cleaned:

(a) With any cleaning solution such as soap and water, cleanser or cleaning spray;

(b) With a concentration according to label directions; and

(c) Rinsed as needed per label directions.

(5) You may use a bleach solution to sanitize in the following areas:

- (a) Diapering areas;
- (b) Surfaces exposed to body fluids;
- (c) Bathrooms and bathroom equipment;
- (d) Table tops;
- (e) High chairs;
- (f) Toys;
- (g) Dishes;
- (h) Floors; and
- (i) Sleeping mats.

(6) You may use any solution that is intended for sanitizing if the solution is approved by the department. When you use a product other than bleach to sanitize, you must:

(a) Follow the label directions for use including concentration, contact time and rinsing; and

(b) Be sure that if you use the product on food contact surfaces and items that children might put into their mouths, the label states the product is safe for food contact surfaces.

(7) The following are surfaces that need to be cleaned and sanitized and a minimum schedule for that cleaning:

(a) Tables and counters used for food serving and high chairs before and after each meal or snack;

(b) Sinks, counters and floors daily, or more often if necessary;

(c) Refrigerators monthly or more often as needed;

(d) Bathrooms (including sinks, toilets, counters and floors) daily and more often if necessary;

(e) Floors will be swept, cleaned and sanitized daily;

(f) Carpet vacuumed at least daily and shampooed as needed but at least every six months;

(g) Toys that children place in their mouth between use by different children;

(h) Infant and toddler toys daily; and

(i) Sleeping mats, cribs and other forms of bedding between use by different children and at least weekly.

(8) Your health policies and procedures must describe your frequency for general cleaning, dusting, cleaning toys, toy shelves, and equipment.

[06-15-075, recodified as § 170-295-5040, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5040, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5050 How can I make sure water activities are as safe and sanitary as possible?** (1) To ensure that the children are safe with a swimming pool on the premises, you must:

(a) Ensure that pools are inaccessible to children when not in use;

(b) Provide a certified lifeguard at all times in addition to required staff, when children use a swimming pool; and

(c) Follow any guidelines established by your local health jurisdiction or the state department of health.

(2) You must prohibit children from using or having access to a hot tub spa, small portable wading pools, whirlpool, or other similar equipment.

(3) If you have a water table you must empty and sanitize water tables or similar water play containers after each use and more often if necessary.

[06-15-075, recodified as § 170-295-5050, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5050, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5060 How must I store maintenance and janitorial supplies?** (1) You must provide safe storage for flammable and combustible liquids and chemicals used for maintenance purposes and operation of equipment. They must be in a location designed to prevent child access at all times. The liquids and chemicals must be:

(a) Stored in original containers or in department approved safety containers that identify contents;

(b) Stored to comply with fire safety regulations adopted by the state fire marshal's office; and

(c) Ventilated either by mechanical ventilation to the outdoors or through a window that opens on the exterior wall.

(2) Your janitorial or housekeeping storage must have:

(a) Floor surfaces that are moisture impervious and easily cleanable;

(b) A designated utility or service sink for disposing of wastewater; and

(c) A place for mop storage that is ventilated to the outside.

[06-15-075, recodified as § 170-295-5060, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5060, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5070 How do I make sure my water is safe?** (1) You must have hot and cold running water.

(2) Hot water that is accessible to children must be between 85 degrees Fahrenheit and 120 degrees Fahrenheit.

(3) To be sure your water is safe for drinking, cleaning, cooking and handwashing, you must:

(a) Receive drinking water from a public water system approved by and maintained in compliance with either the department of health or a local health jurisdiction under chapter 246-290 WAC (Group A systems) or chapter 246-291 WAC (Group B systems); or

(b) Have a source of potable water approved for child care center use by the state department of health or the local health jurisdiction; and

(c) Take any other actions required or requested by the state department of health, the local health jurisdiction or the department of social and health services to ensure the safety and reliability of the water supply.

(4) If your water connection is interrupted or your water source becomes contaminated:

(a) A correction must be made within twenty-four hours or the facility must close until corrections can be made; or

(b) The facility must obtain an alternative source of potable water approved by the state department of health or local health jurisdiction in an amount adequate to ensure the requirements in this chapter for safe drinking water, hand-washing, sanitizing, dishwashing, and cooking are met.

[06-15-075, recodified as § 170-295-5070, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5070, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5080 How do I safely get rid of sewage and liquid wastes?** (1) You must dispose of sewage and liquid waste into a public sewer system or approved on-site sewage disposal system (septic system) designed, constructed and maintained as required in chapters 246-272A and 173-240 WAC and local ordinances.

(2) If you have an on-site sewage system, you must:

(a) Have written verification that the system has been approved by the department of health or local health jurisdiction; and

(b) Locate your drain field and venting to be sure that:

(i) Playgrounds are not on and do not interfere with the access to or operation of the on-site sewage system including the drain field; and

(ii) That drain field venting does not vent onto the playground.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-5080, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-5080, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5080, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5090 What are the fence requirements?** (1) You must fence the outdoor play area to:

(a) Prevent unauthorized people from entering; and

(b) Prevent children from escaping and having access to hazardous areas.

(2) At a minimum fences and gates must:

(a) Be safe, and maintained in good repair; and

(b) Be designed to discourage climbing and prevent entrapment.

[06-15-075, recodified as § 170-295-5090, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5090, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5100 What are the requirements for toilets, handwashing sinks and bathing facilities?** (1) You must provide:

(a) A toilet room that is vented to the outdoors;

(b) A room with flooring that is moisture resistant and washable;

(c) One flush-type toilet and one adjacent sink for handwashing within auditory (hearing) range of the child care classrooms for every fifteen children and staff;

(d) Toileting privacy for children of opposite genders who are six years of age and older, or when a younger child demonstrates a need for privacy; and

(2009 Ed.)

(e) A mounted toilet paper dispenser within arms reach of the user with a constant supply of toilet paper for each toilet.

(2) Children eighteen months of age or younger are not included when determining the number of required flush-type toilets.

(3) If urinals are provided, the number of urinals must not replace more than one-third of the total required toilets.

(4) Toilet fixture heights must be as follows:

If the age group is:	The toilet fixture height must be:
(a) Toddler: Eighteen months through 29 months	(i) Ten - 12 inches (child size); or (ii) Fourteen - 16 inches (adult size) with a safe, easily cleanable platform that is moisture impervious and slip resistant.
(b) Preschool or older: Thirty months of age through five years of age not enrolled in kindergarten or elementary school	(i) Ten - 12 inches (child size); or (ii) Fourteen - 16 inches (adult size) with a safe, easily cleanable platform that is moisture impervious and slip resistant.

(5) Handwashing sink heights must be as follows:

If the age group is:	The sink height must be:
(a) Toddler: Twelve months through 29 months	(i) Eighteen - 22 inches; or (ii) Provide a moisture and slip resistant platform for children to safely reach and use the sink.
(b) Preschool or older: Thirty months of age through five years of age not enrolled in kindergarten or elementary school	(i) Twenty-two - 26 inches; or (ii) Provide a moisture and slip resistant platform for children to safely reach and use the sink.
(c) School age: Over five years of age or enrolled in kindergarten or elementary school	(i) Twenty-six - 30 inches; or (ii) Provide a moisture and slip resistant platform for children to safely reach and use the sink.

(6) Infants are not included when determining the number of sinks required for handwashing.

(7) The sink for handwashing must:

(a) Be located in or immediately outside of each toilet room;

(b) Have water controls that are accessible by the intended user; and

(c) Not be used for food preparation, as a drinking water source or a storage area.

(8) You must have:

(a) Single-use paper towels and dispensers; or

(b) Heated air-drying devices.

(9) You must use soap from some type of dispenser to prevent the spread of bacteria from the soap.

(10) If the center is equipped with a bathing facility, you must:

(a) Have parent permission to bathe children;

(b) Equip the bathing facility with a conveniently located grab bar and a nonskid pad or surface; and

(c) Provide constant supervision for the child five years of age and younger and older children who require supervision.

(11) You must make the bathing facility inaccessible to children when not in use.

[06-15-075, recodified as § 170-295-5100, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5100, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5110 What are the requirements if I do laundry on the premises or off-site?** (1) If you choose to do laundry on the premises or off site you must be sure the laundry is:

- (a) Cleaned and rinsed;
  - (b) Sanitized with hot water that reaches at least 140 degrees Fahrenheit or use an alternative method such as chlorine bleach that has been approved by the department;
  - (c) Stored to keep soiled linen and laundry separate from clean linen;
  - (d) Separate from kitchen and food preparation areas; and
  - (e) Inaccessible to children.
- (2) You also must ensure the dryer is ventilated to outside the building.

[06-15-075, recodified as § 170-295-5110, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5110, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5120 What kind of sleep and nap equipment do I need for children not in cribs, bassinets, infant beds or playpens?** Sleeping and nap equipment must be available for each toddler and preschool age child not using a crib and remaining in care for at least six hours and any other child requiring a nap or rest period.

- (1) You must:
  - (a) Provide a separate, firm and waterproof mat or mattress, cot or bed for each child or have a system for cleaning the equipment between children;
  - (b) Place mats or cots at least thirty inches apart at the sides and arrange children head to toe or toe to toe;
  - (c) Be sure that the bedding consists of a clean sheet or cover for the sleeping surface and a clean blanket or suitable cover for the child;
  - (d) Launder the bedding weekly or more often if necessary and between uses by different children;
  - (e) Store each child's bedding separately from bedding used by other children. Once the bedding has been used, it is considered dirty. One child's bedding cannot touch another child's bedding during storage;
  - (f) Keep mats clean and in good repair. Once a mat is torn it is not cleanable. You may not use duct tape or fabric to repair sleeping mats or mattresses; and
  - (g) Use only cots with a surface that can be cleaned with a detergent solution, disinfected and allowed to air dry.
- (2) You may not use the upper bunk of a bunk bed for children under six years of age.

[06-15-075, recodified as § 170-295-5120, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5120, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5140 Are there any requirements for storage space provided for children?** You must provide accessible individual storage space for each child's belongings that prevents the spread of diseases or parasites such as scabies and lice.

[06-15-075, recodified as § 170-295-5140, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5140, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5150 Are there temperature requirements for my facility?** (1) You must maintain all rooms used by children at temperature of:

- (a) Sixty-eight degrees Fahrenheit to 75 degrees Fahrenheit during winter months; and
- (b) Sixty-eight degrees Fahrenheit to 82 degrees Fahrenheit during the summer months.

(2) In addition, you must:

- (a) Equip the room or building with a mechanical air cooling system or equivalent when the inside temperature of child-occupied areas exceeds 82 degrees Fahrenheit. This includes but is not limited to, swamp coolers, fans, air conditioners, or drip systems;
- (b) Not take children outdoors during extremes temperatures that put children at risk for physical harm.

[06-15-075, recodified as § 170-295-5150, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-5150, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-5150, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5160 What do I need to know about pesticides?** (1) To use pesticides, you must comply with licensing requirements of chapter 17.21 RCW (The Pesticide Application Act) which requires you to:

- (a) Establish a policy on the use of pesticides that includes your posting and notification requirements;
- (b) Provide to parents a written copy of your pesticide policies that includes your posting and notification requirements annually or on enrollment;
- (c) Notify parents, guardians, and any other interested parties forty-eight hours in advance of the application of pesticides; and
- (d) Require the pesticide applicator to provide a copy of the records required within twenty-four hours of when the pesticide is applied.

(2) Your notification must include a heading stating "Notice: Pesticide Application and..." at a minimum must state the:

- (a) Product name of the pesticide being used;
- (b) Intended date and time of application;
- (c) Location where the pesticide will be applied;
- (d) Pest to be controlled; and
- (e) Name and number of a contact person at the facility.

(3) To notify people that a pesticide has been used, you must place a marker at each primary point of entry to the center grounds. The marker must be:

- (a) A minimum of four inches by five inches;
- (b) Printed in colors contrasting to the background; and
- (c) Left in place for at least twenty-four hours following the pesticide application or longer if a longer restricted period is stated on the label.

(4) The marker must include:

- (a) A headline that states "This landscape has recently been sprayed or treated with pesticides";
- (b) Who has treated the landscape; and
- (c) Who to call for more information.

[06-15-075, recodified as § 170-295-5160, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5160, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-5170 Can we have animals at the center?** (1) When animals are on the center premises you must:

(a) Notify the parents in writing that animals are on the premises and the potential health risks associated with the animals to include how to address the needs of children having allergies to animals;

(b) Have a signed document from each parent stating they understand the potential health risks;

(c) Not hang pet containers or cages in corridors, entryways or over where children eat, sleep, and play;

(d) Post handwashing signs in areas where pets are housed;

(e) Have containers or cages to prevent debris from spilling out of the container or cage. The container or cage must not be located in corridors, entrance ways, or where children eat, or play;

(f) Assign responsible staff to ensure pet containers, cages, and litter boxes are cleaned and disinfected at least weekly and more often if needed;

(g) Not allow animals in food preparation areas. If the sink is used for cleaning food or utensils it cannot be used to clean pet supplies;

(h) Not allow animals in rooms that typically are used by infants or toddlers;

(i) Keep on file proof of current rabies vaccinations for all dogs and cats;

(j) Meet local requirements in counties with immunization, vaccination and licensing requirements for animals; and

(k) Organize children into small groups for supervised activity for handling of pets.

(2) You must develop policies and procedures for management of pets to include:

(a) How the needs of children who have allergies to pets will be accommodated;

(b) How pet containers, cages, litter boxes will be cleaned and sanitized and who will do it;

(c) How pets will receive food and water, and be kept clean and who will do it;

(d) Curricula for teaching children and staff about safety and hygiene when handling pets; and

(e) Pets (excluding aquatic animals) showing signs of illness must be removed from the facility until they have been seen, treated and given approval to return to the center by a veterinarian. Written proof of veterinary visits must be maintained on file.

(3) Reptiles and amphibians must be in an aquarium or other totally self-contained area except during educational activities involving the reptile. Children five years of age or less must not physically handle reptiles and amphibians.

(4) Animals with a history of biting or other aggressive behaviors must not be on the premises of the child care center.

(5) You must ensure children wash their hands after handling animals.

[06-15-075, recodified as § 170-295-5170, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-5170, filed 6/30/03, effective 8/1/03.]

(2009 Ed.)

**AGENCY PRACTICES****WAC 170-295-6010 What are the regulations regarding discrimination?** (1) Child care centers are defined by state and federal law as places of public accommodation and must not discriminate in employment practices and client services on the basis of race, creed, color, national origin, marital status, gender, sexual orientation, class, age, religion, or disability.

(2) You must:

(a) Post a nondiscrimination poster where families and staff can easily read it;

(b) Have a written nondiscrimination policy; and

(c) Comply with the requirements of the Americans with Disabilities Act.

[06-15-075, recodified as § 170-295-6010, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-6010, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-6020 What are the regulations regarding religious activities?** You must:

(1) Respect and facilitate the rights of the child in care to observe the tenets of the child's faith, consistent with state and federal laws;

(2) Not punish or discourage the child for exercising these rights; and

(3) Maintain a written description of the center's religious polices and practices that affect the child in care.

[06-15-075, recodified as § 170-295-6020, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-6020, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-6030 What are the special requirements regarding American Indian children?** When five percent or more of the center's child enrollment consists of American Indian children, you must develop social services resource and staff training programs designed to meet the special needs of such children through coordination with tribal, Indian health service, and Bureau of Indian Affairs social service staff, and appropriate urban Indian and Alaska native consultants.

[06-15-075, recodified as § 170-295-6030, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-6030, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-6040 What are the requirements regarding child abuse and neglect?** (1) You and your staff must protect the child in care from child abuse, neglect, or exploitation, as required under chapter 26.44 RCW.

(2) You must immediately report an instance when you or the staff have reason to suspect that child physical, sexual, or emotional abuse, child neglect, or child exploitation as defined in chapter 26.44 RCW has occurred. This report must be made to children's administration central intake.

(3) If there is immediate danger to a child you must also make a report to local law enforcement.

[06-15-075, recodified as § 170-295-6040, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-6040, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-6050 What substances are prohibited in the child care center or on the premises?** (1) You, your staff, parents, and volunteers must not be under the influence of, consume, or possess an alcoholic beverage or illegal drug while on the child care premises or during work hours while you are responsible for children in care.

(2) You, your staff, parents, and volunteers must not smoke:

- (a) Inside the center building;
- (b) While supervising children outdoors; or
- (c) In a motor vehicle while transporting children.

(3) You, your staff, parents, and volunteers may smoke outdoors, off the premises and out of view of the children.

[06-15-075, recodified as § 170-295-6050, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-6050, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-6060 Who is allowed to have unsupervised access to children in care?** (1) During operating hours or while a child is in care, individuals allowed to have unsupervised access to the child in care are:

- (a) You;
- (b) An employee or volunteer who has been authorized by DEL to care for or have unsupervised access to children in child care; and

(c) A representative of a governmental agency who has specific, verifiable authority supported by documentation for the access.

(2) A parent can have unsupervised access only to his or her own child. A parent may sign an authorization for an individual to have unsupervised access to his or her own child (for example a therapist).

(3) You must not allow anyone else to have unsupervised access to a child in child care.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-295-6060, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-295-6060, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-6060, filed 6/30/03, effective 8/1/03.]

## RECORDS, REPORTING, AND POSTING

**WAC 170-295-7010 What information must be kept in the child's individual file?** (1) You must keep current organized confidential records and information about each child in care on the premises. You must make sure that each child's record contains, at a minimum:

- (a) Completed enrollment application signed by the parent;
- (b) Name, birth date, dates of enrollment and termination, and other identifying information;
- (c) Name, address, and home and business telephone number of the parent and other person to be contacted in case of an emergency;
- (d) Health history;
- (e) Individual plan of care when needed for chronic health conditions and life threatening medical conditions;
- (f) Written consent from the parent for you to seek and approve medical care in an emergency situation, a court order waiving the right of informed consent, or parent's alternate plans for emergency medical and surgical care if the parent can not be reached;

[Title 170 WAC—p. 90]

(g) Information on how to contact the parents, especially in emergencies;

(h) Instructions from parent or health care providers related to medications, specific food or feeding requirements, allergies, treatments, and special equipment or health care needs if necessary;

(i) Written records of any illness or injury that occurs during child care hours and the treatment provided; and

(j) Written records of any medications given while the child is at child care.

(2) You must include the following authorizations in each child's record:

(a) Name, address, and telephone number of the person authorized to remove the child from the center;

(b) Written parental consent for transportation to and from school; and

(c) Written parental consent for transportation provided by the center to and from field trips, including field trip location, date of trip, departure and arrival times and any other additional information the parent may need to be advised of.

(3) You can use any health history form you choose as long as it includes:

(a) The date of the child's last physical exam or the date the child was last seen by a health care provider for reasons other than immunizations;

(b) Allergies, expected symptoms, and method of treatment if necessary;

(c) Health and developmental concerns or issues;

(d) Any life threatening medical condition that requires an individual health plan;

(e) A list of current medications used by the child;

(f) Name, address and phone number of the child's health care provider; and

(g) Name, address and phone number of the child's dentist, if the child has a dentist.

(4) The individual records, including the certificate of immunization status, must be kept on the premises:

(a) For each child currently in care; and

(b) For one year after the child leaves your care.

[06-15-075, recodified as § 170-295-7010, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-7010, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-7010, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-7020 Am I required to track immunizations?** (1) You are required to track each child's immunization status. To be sure that the children have the required immunizations for their age, you or your staff must:

(a) See that each child has a completed certificate of immunization status form submitted or on file before the first day of child care;

(b) Develop a system to audit and update as scheduled the information on the certificate of immunization status forms;

(c) Meet any requirement of state board of health WAC 246-100-166; and

(d) Have available on the premises the certificate of immunization status forms for review by the health specialist, licenser, the department of health, and nurse consultant.

(2) You may accept a child whose immunizations are started but not up to date on a "conditional" basis if:

(2009 Ed.)

(a) For children whose records are difficult to obtain (such as foster children), there is written proof that the case worker or health care provider is in the process of obtaining the child's immunization status prior to the child starting child care; or

(b) The required immunizations are started prior to children starting child care; and

(c) The immunizations are completed as rapidly as medically possible. You must work with the parent, health care provider, or local health department to obtain an immunization plan.

(3) If a parent or health care provider chooses not to immunize a child, they must sign the exempt portion of the certificate of immunization status form.

(4) You may have a policy that states you do not accept children who have been exempted from immunizations by their parent or guardian, unless that exemption is due to an illness protected by the American With Disabilities Act (ADA).

(5) The certificate of immunization status forms for children who are currently enrolled must be accessible and maintained on the premises in a confidential manner.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-7020, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-7020, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-7020, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-7030 What type of attendance records do I have to keep?** You must keep daily attendance records.

(1) The parent or other person authorized by the parent to take the child to or from the center must sign in the child on arrival and sign out the child at departure, using their full legal signature and writing the time of arrival and departure;

(2) When the child leaves the center to attend school or participate in off-site activities as authorized by the parent, you or your staff must sign out the child, and sign in the child on return to the center; and

(3) Attendance records and invoices for state paid children must be kept on the premises for at least five years after the child leaves your care.

[06-15-075, recodified as § 170-295-7030, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-7030, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-7040 Am I required to keep licensing information available on-site for parents to review?** You must keep a file on-site containing the following licensing information:

(1) Copies of the most recent child care center checklists for licensing renewal and facility licensing compliance agreement for any deficiencies noted; and

(2) Copies of the most recent child care centers monitoring checklist and facility licensing compliance agreement for any deficiencies noted.

[06-15-075, recodified as § 170-295-7040, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-7040, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-7040, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-7050 What personnel records and policies must I have?** (1) Each employee and volunteer who

(2009 Ed.)

has unsupervised access to a child in care must complete the following forms on or before their date of hire:

(a) An application for employment on a form prescribed by us, or on a comparable form approved by the department; and

(b) A background check form.

(2) You must submit the background check form to us within seven calendar days of the employee's first day of work. The form authorizes a criminal history background inquiry for that person.

(3) Until the background check results are returned and show the employee to not be disqualified, you must not leave the employee unsupervised with the children.

(4) We discuss the information on the background check form with you, the director, or other person responsible for the operation of the center, such as a human resources professional, if applicable.

(5) If you employ five or more people you must have written personnel policies. These policies must describe staff benefits, if any, and duties and qualifications of staff.

(6) You must maintain a system of record keeping for personnel. In addition to the other requirements in this chapter, you must keep the following information on file on the premises for yourself, each staff person and volunteer:

(a) An employment application, including work and education history;

(b) Documentation that a background check form was submitted;

(c) A copy of the department notification of background clearance authorization.

(d) Written documentation of trainings and meetings such as but not limited to:

(i) Orientation;

(ii) On-going trainings;

(iii) Bloodborne pathogen training (including HIV/AIDS);

(iv) CPR/first aid;

(v) Food handler's cards (if applicable);

(vi) STARS;

(vii) Staff meetings; and

(viii) Child abuse and neglect.

(e) Documentation of the results of Tuberculosis (TB) testing by the Mantoux skin test prior to starting work.

(7) You must keep the following information on file for the owner of the facility:

(a) If the center is solely owned by you:

(i) A photocopy of your Social Security card that is valid for employment or verification of your employer identification number (EIN); and

(ii) A photocopy of your photo identification issued by a government entity.

(b) If the center is owned by a corporation, verification of the corporation's EIN.

(8) Training documentation must include a certificate, card, or form with a copy placed in each individual employees file that contains the:

(a) Topic presented;

(b) Number of clock hours;

(c) Date and names of persons attending; and

(d) Signature and organization of the person conducting the training.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-295-7050, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-295-7050, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 04-09-093, § 388-295-7050, filed 4/20/04, effective 5/21/04; 03-14-110, § 388-295-7050, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-7060 What injuries and illnesses or child abuse and neglect must I report?** You or your staff must report immediately:

- (1) A death or a serious injury or illness that requires medical treatment or hospitalization of a child in care must be reported by telephone and in writing to the parent, licensor, and child's social worker, if the child has a social worker;
- (2) Any instance when you or your staff have reason to suspect the occurrence of any physical, sexual, or emotional child abuse or child neglect, child endangerment, or child exploitation as required under described in chapter 26.44 RCW. You may make a report by calling the statewide number at 1-800-562-5624 or 1-866-ENDHARM; and
- (3) An occurrence of food poisoning or reportable communicable disease, as required by the state board of health to the local public health department and to the licensor, by telephone.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-295-7060, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-295-7060, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-7060, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-7070 What circumstantial changes must I report to my licensor?** A child care center license is valid only for the address, person, and organization named on the license. You must promptly report to the licensor any major changes in administrative staff, program, or premises affecting the center's classification, delivery of safe, developmentally appropriate services, or continued eligibility for licensor. A major change includes the following:

- (1) Center's address, location, space or phone number;
- (2) Maximum number and age ranges of children you wish to serve compared to the current license specifications;
- (3) Number and qualifications of the center's staffing pattern that may affect staff capability to carry out the specified program, including:
  - (a) Change of ownership, chief executive, director, or program supervisor; and
  - (b) Death, retirement, or incapacity of the person licensed;
- (4) Name of the licensed corporation, or name by which the center is commonly known, or changes in the center's articles of incorporation and bylaws;
- (5) A fire, major structural change, or damage to the premises; and
- (6) Plans for major remodeling of the center, including planned use of space not previously approved by the fire marshal's office or us.

[06-15-075, recodified as § 170-295-7070, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-7070, filed 6/30/03, effective 8/1/03.]

**WAC 170-295-7080 What am I required to post in the center?** You must post the following items so that they are clearly visible to the parent and staff:

- (1) The center's child care license issued under this chapter;
- (2) A schedule of regular duty hours with the names of staff;
- (3) A typical activity schedule, including operating hours and scheduled mealtimes;
- (4) Meal and snack menus for the month;
- (5) Fire safety record and evacuation plans and procedures, including a diagram of exiting routes;
- (6) Emergency telephone numbers near the telephone;
- (7) Nondiscrimination poster;
- (8) For the staff, you must post:
  - (a) Dietary restrictions and nutrition requirements for particular children;
  - (b) Handwashing practices;
  - (c) Diaper changing procedures, if applicable;
  - (d) Disaster preparedness plan; and
  - (e) Center policies and procedures.
- (9) You must post a notification advising parents that you are required to keep the following licensing information available on site for their review:
  - (a) Copies of the most recent child care center checklist for licensing renewal and facility licensing compliance agreement for any deficiencies noted; and
  - (b) Copies of the most recent child care centers monitoring checklist and facility licensing compliance agreement for any deficiencies noted.

[06-15-075, recodified as § 170-295-7080, filed 7/13/06, effective 7/13/06. Statutory Authority: Chapters 74.12 and 74.15 RCW. 03-14-110, § 388-295-7080, filed 6/30/03, effective 8/1/03.]

**Chapter 170-296 WAC  
CHILD CARE BUSINESS REGULATIONS FOR  
FAMILY HOME CHILD CARE**

**WAC**

**PURPOSE AND DEFINITIONS**

- 170-296-0010 What is the purpose of this chapter?
- 170-296-0020 What definitions do I need to know to understand this chapter?

**GENERAL QUALIFICATIONS AND LICENSING PROCESS**

- 170-296-0110 Who needs to become licensed?
- 170-296-0120 When does the department establish an overpayment for payment I receive through the child care subsidy program?
- 170-296-0125 Must I comply with local ordinances and codes?
- 170-296-0130 How old do I have to be to apply for a license?
- 170-296-0140 What personal characteristics does an individual need to provide care to children?
- 170-296-0160 How do I apply for a license?
- 170-296-0170 Am I required to pay a fee when applying for a family home child care license?
- 170-296-0180 Am I required to have a criminal history background check?
- 170-296-0200 Will my license be denied or revoked if I have been disqualified from providing licensed child care?
- 170-296-0210 What are my responsibilities if I am notified that a family member, staff person, volunteer, or anyone else residing at the same address as me has been disqualified?
- 170-296-0215 Will my license be denied, suspended, or revoked if a family member, or someone else residing at the same address as me has been disqualified from having unsupervised access to children?

170-296-0220	Must I keep a record of submitted background check forms and the results of the background checks on family members, staff and volunteers?	170-296-0710	How often must children wash their hands?
170-296-0230	What CPR (cardiopulmonary resuscitation) and first-aid training is required?	170-296-0720	What are the physical structure and equipment safety requirements for a family home child care?
170-296-0240	What HIV/AIDS training and bloodborne pathogen information is needed?	170-296-0730	What are the requirements for the location of a family home child care?
170-296-0250	How long do I have to complete the licensing application process?	170-296-0740	What are the requirements for emergency aid vehicle access to my home?
170-296-0260	Do I need to renew my license?	170-296-0750	What steps must I take to ensure children's safety around outdoor bodies of water?
170-296-0270	Am I required to submit an application if I move to a new address while my license is current?	170-296-0760	What measures must I take for pest control?
170-296-0280	May a family home child care have more than one type of license to provide care to children?	170-296-0770	What are the requirements regarding pets and animals at a family home child care?
170-296-0290	What hours may a family home child care be open?	170-296-0780	Are alcoholic beverages allowed during operating hours?
170-296-0300	What does the department look for when inspecting my home for licensed child care?	170-296-0790	Is smoking permitted around children?
170-296-0315	Issuance of license.	170-296-0800	May I have weapons at my home?
170-296-0320	How many children may I care for?	170-296-0810	Are there requirements for the storage of medications?
170-296-0330	Is there more than one category of license?	170-296-0820	Are there requirements for storing dangerous chemicals or other substances?
170-296-0340	When will the department issue an initial license to me?	170-296-0830	Are first-aid supplies required?
170-296-0350	When will the department issue a full license to me?	170-296-0840	What are the requirements for health care policies and procedures for a family home child care?
<b>FINES, REGULATORY VIOLATIONS AND CORRECTIVE ACTION</b>			
170-296-0360	What happens if I fail to follow the rules?	170-296-0850	Must all children in my care have current immunizations?
170-296-0370	How does the department notify me if I am in violation of the licensing rules and what am I required to do?	170-296-0860	What must I do to prevent the spread of infections and communicable diseases?
170-296-0380	How does the department determine the amount of time I have to make corrections?	170-296-0870	How do I manage medications for children?
170-296-0390	What does the department base a fine on?	170-296-0880	What are the requirements for labeling and dispensing of medications to children?
170-296-0400	Am I required to inform the public if the department has assessed a civil penalty to me?	170-296-0890	When may children take their own medicine?
170-296-0410	What happens if I fail to pay the fine?	<b>FOOD/NUTRITION/DIET</b>	
170-296-0420	Does the department assess a civil penalty if I provide unlicensed child care?	170-296-0900	Are there general nutrition requirements?
170-296-0430	What will happen if the department believes I am providing unlicensed child care?	170-296-0910	How often must I feed children in my care?
170-296-0440	When would the department issue a probationary license?	170-296-0920	What are the requirements for meals and snacks served to children in my care?
170-296-0450	When will my license be denied, suspended or revoked?	170-296-0930	How do I handle a child's special diet?
170-296-0460	Are there any other reasons that could potentially cause me to lose my license?	170-296-0940	Are there special requirements for serving milk?
170-296-0470	How will the department notify me if my license is denied, suspended, or revoked?	170-296-0950	What home canned foods may I use?
170-296-0480	What may I do if I disagree with the department's decision to deny, suspend, revoke, or modify my license?	170-296-0960	What requirements must I meet for feeding infants?
<b>BUSINESS PRACTICES</b>			
170-296-0490	What written procedures am I required to establish for my child care business?	<b>SPACE REQUIREMENTS AND EQUIPMENT</b>	
170-296-0500	What written information am I required to give to parents?	170-296-0970	Are there requirements for the rooms that I use to provide child care?
170-296-0510	What forms am I required to have before a child can attend my child care program?	170-296-0980	What does the room temperature need to be?
170-296-0520	How long must I keep child records and what am I required to document while operating my business?	170-296-0990	What are the kitchen requirements?
170-296-0530	Am I required to keep child and family records confidential?	170-296-1000	How do I wash, rinse and sanitize dishes and eating utensils?
170-296-0540	What items am I required to post and where do I post them?	170-296-1010	May I use the kitchen for activities for children?
170-296-0550	What change of circumstance must I report to my licensor?	170-296-1020	May I use a room for more than one purpose?
<b>FIRE SAFETY</b>			
170-296-0560	What are the occupancy restrictions for a family home child care?	170-296-1030	What are the general requirements for bedrooms?
170-296-0570	What are the requirements for hazardous areas of my home?	170-296-1040	What are the requirements for mats and cots used for napping?
170-296-0580	What are the requirements for smoke detectors in my home?	170-296-1050	What are the requirements for the use of cribs?
170-296-0590	Am I required to have other ways to sound a fire alarm?	170-296-1060	What sleeping arrangements must I make to reduce the risk of sudden infant death syndrome (SIDS)?
170-296-0600	Are there requirements for fire extinguishers?	170-296-1070	What are the requirements for beds?
170-296-0610	What must I do to prevent fire in my home?	170-296-1080	What is the requirement for napping and resting?
170-296-0620	What are the requirements for maintaining my sprinkler system?	<b>DIAPER CHANGING AND BATHING FACILITIES</b>	
170-296-0630	Must I have a fire evacuation plan?	170-296-1090	What are the requirements for diapers and diaper changing areas?
170-296-0640	Must I have fire evacuation drills?	170-296-1100	What are the requirements for bathing children in care?
170-296-0650	Are there any requirements for staff training related to fire safety?	<b>UTILITIES AND WASTE DISPOSAL</b>	
<b>HEALTH, ENVIRONMENT AND MEDICATION MANAGEMENT</b>			
170-296-0700	How often must staff wash their hands?	170-296-1110	Do I need a telephone?
<b>INDOOR AND OUTDOOR PLAY AREAS AND TRANSPORTATION</b>			
		170-296-1120	What are the lighting requirements?
		170-296-1130	What are the requirements for ventilation?
		170-296-1140	What are the requirements for drinking water?
		170-296-1150	What are the requirements for sewage and liquid wastes?
		<b>LAUNDRY, SINKS, AND TOILETS</b>	
		170-296-1160	What are the requirements for laundry facilities?
		170-296-1170	What are the requirements for washing laundry used in child care?
		170-296-1180	What are the requirements for handwashing sinks?
		170-296-1190	What are the requirements for toilets and toileting?
		170-296-1200	Must a family home child care have toilet training equipment for children?
		170-296-1210	What are the requirements for indoor play areas?

- 170-296-1220 What are the requirements for an outdoor play area?  
 170-296-1230 What are the size requirements for an outdoor play area?  
 170-296-1240 What are the requirements for outdoor play equipment?  
 170-296-1250 What are the requirements I must follow when I transport children?

## CHILD PROTECTION

- 170-296-1260 What are the requirements for protecting a child under my care from abuse or neglect?

## CHILD GUIDANCE AND DISCIPLINE

- 170-296-1280 What requirements must I follow when guiding and disciplining children?  
 170-296-1290 What types of disciplinary practices must not be used?  
 170-296-1300 Is the use of physical restraint allowed?  
 170-296-1320 What types of restraint are not acceptable for children?  
 170-296-1330 What must I do following an incident that involved using physical restraint?  
 170-296-1340 What incidents involving children must I report?

## CAPACITY AND STAFFING RATIOS, AND SUPERVISION OF CHILDREN

- 170-296-1350 What are the capacity and the ratio of child care staff to children based on?  
 170-296-1360 What am I required to do to supervise children?

## THE LEARNING ENVIRONMENT

- 170-296-1370 What types of play materials, equipment and activities must I provide for the children in my care?  
 170-296-1380 Are there additional requirements regarding American Indian children?  
 170-296-1390 How am I required to interact with the children in my care?

## STAFF POSITIONS, QUALIFICATIONS AND ONGOING STAFF TRAINING

- 170-296-1400 What are the responsibilities of the family home provider?  
 170-296-1410 What are the required staffing qualifications for child care?  
 170-296-1420 Must I be present while children are at my family home child care?  
 170-296-1430 Are child care assistants and volunteers allowed to provide care to a group of children without supervision?

## ONGOING STAFF TRAINING

- 170-296-1440 Am I required to offer training to my staff?  
 170-296-1450 What personnel records must I have?

## DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

- 170-296-0150 What personal information may I be required to provide to be licensed? [06-15-075, recodified as § 170-296-0150, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0150, filed 8/31/04, effective 10/1/04.] Repealed by 08-10-041, filed 4/30/08, effective 5/31/08. Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387.  
 170-296-0190 What happens after we receive the background information? [06-15-075, recodified as § 170-296-0190, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0190, filed 8/31/04, effective 10/1/04.] Repealed by 08-10-041, filed 4/30/08, effective 5/31/08. Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387.  
 170-296-0195 When will I be disqualified from providing licensed child care? [06-15-075, recodified as § 170-296-0195, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0195, filed 8/31/04, effective 10/1/04.] Repealed by 08-10-041, filed 4/30/08, effective 5/31/08. Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387.  
 170-296-0205 When will my family members, staff, volunteer, and other people who live at the same address [as] me be disqualified from having access to children in a family home child care? [06-15-075, recodified as § 170-296-

0205, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0205, filed 8/31/04, effective 10/1/04.] Repealed by 08-10-041, filed 4/30/08, effective 5/31/08. Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387.

## PURPOSE AND DEFINITIONS

**WAC 170-296-0010 What is the purpose of this chapter?** This chapter defines general and specific licensing requirements for family home child care. Unless noted otherwise, these requirements apply to people who want to be licensed or relicensed to provide family home-based child care under chapter 43.215 RCW. We issue or deny a license based on your ability to meet and follow the licensing requirements.

We are committed to ensuring that children who receive family home child care experience health, safety, and well-being. We want these children's experiences to benefit them not only in the short term, but also in the long term. Our licensing requirements reflect our commitment to children.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0010, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0010, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0010, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0020 What definitions do I need to know to understand this chapter?** For the purpose of this chapter:

"**Accessible to children**" means areas of the facility and materials that children can easily get to on their own.

"**Age appropriate**" means the developing stages of growth typical of children within a given age group.

"**American Indian child**" means any unmarried person under the age of eighteen who is:

(1) A member of or eligible for membership in a federally recognized Indian tribe, or who is Eskimo, Aleut or other Alaska Native and a member of an Alaskan native regional Corporation or Alaska Native Village;

(2) Determined or eligible to be found to be Indian by the Secretary of the Interior, including through issuance of a certificate of degree of Indian blood;

(3) Considered to be Indian by a federally recognized Indian tribe; or

(4) A member or entitled to be a member of a Canadian tribe or band, Metis community, or nonstatus Indian community from Canada.

"**Antibias**" is an approach that recognizes when others are treated unfairly or oppressively based on race, color, national origin, marital status, sexual orientation, gender, class, religion, creed, disability, or age.

"**Assistant**" means a person fourteen years or older (whether a volunteer or an employee) who assists a licensed home provider in the operation of the family home child care and is not solely responsible for the supervision of children.

"**Capacity**" means the highest number of children you can care for at any time, as written on your license.

"**Child**" means a person who has not yet reached the age of twelve years.

**"Child care"** means the developmentally appropriate care, protection and supervision of children that is designed to promote positive growth and educational experiences for children outside of their home for periods of less than twenty-four hours a day.

**"Child abuse and neglect"** means the injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child by any person indicating that the child's health, welfare, and safety is harmed.

**"Communicable disease"** means an illness that can be spread from one person to another, in the child care setting, by either direct or indirect contact.

**"Conditions of the license"** means what you must do to keep a license.

**"Confidentiality"** means the protection of personal information, such as the child's records, from persons who are not authorized to see or hear it.

**"Corporal punishment"** means the infliction of pain by any means for the purpose of punishment, correction, discipline, instruction or any other reason.

**"Cultural relevancy"** means an environment in which the learning experiences, play materials and activities are meaningful, inclusive and respectful for the participating children, their families and the community at large.

**"Department," "we," "us," or "our"** refers to and means the state department of early learning (DEL), and its predecessor agency the department of social and health services (DSHS).

**"Department of health"** means the state department of health.

**"Developmentally appropriate"** means activities and interactions that recognize and address how children learn and what they can do at each stage of development - socially, emotionally, cognitively, and physically.

**"Discipline"** means a process of guiding children to develop internal, positive social behaviors through methods that include consistent use of the following: Modeling appropriate behavior, positive reinforcement, active listening, limit setting, redirecting and modifying the environment.

**"Facility licensing compliance agreement"** means a written notice of rule violations and the intention to initiate enforcement, including a corrective action plan.

**"Family home"** means a single dwelling unit and accessory buildings occupied for living purposes by a family which provides permanent provisions for living, sleeping, eating, cooking, and sanitation.

**"Family home child care"** means a facility licensed to provide direct care, supervision and early learning opportunities for twelve or fewer children, in the home of the licensee where the licensee resides and is the primary provider.

**"Family home child care provider"** means a person who provides direct care, supervision, behavior management, and early learning opportunities for twelve or fewer children in their family home living quarters for periods of less than twenty-four hours.

**"I," "you," and "your"** refer to and mean the licensee or applicant for a child care license.

**"Inaccessible to children"** means areas kept or items stored in a manner that makes it impossible for children to reach, enter, or use potentially hazardous items or areas. Examples of how this can be accomplished are through the

use of locks, gates, or other means that are effective to prevent access by the children in your care.

**"Infant"** means a child birth through eleven months of age.

**"License"** means an official document that certifies you have been granted permission by the department to operate a family home child care in compliance with the rules.

**"Licensed space,"** means the indoor and outdoor space approved by the department as useable space where children in care may be present, or space that is otherwise accessible to children.

**"Licensee"** means the person or persons named on the license as having been issued the license and who are responsible for maintaining compliance with the regulations.

**"Licensor"** means the person with authority to grant licenses.

**"Parent"** means a child's parent or legal guardian.

**"Premises"** means the buildings where the home is located and the adjoining grounds (at the same address) over which the licensee has control.

**"Preschool age child"** means a child thirty months through five years of age not attending kindergarten or elementary school.

**"Primary staff person"** means a person who has been authorized by DEL to care for or have unsupervised access to children in child care under chapter 170-06 WAC, age eighteen years or older, who has responsibilities for the operation of the program and the direct supervision, behavior management and care of children.

**"Provider"** means the same as licensee.

**"Repeatedly"** means a violation of a licensing regulation that is written on a facility licensing compliance agreement that occurs more than once during a twelve-month time frame.

**"Reportable communicable disease"** means an illness that can be spread from one person to another by either direct or indirect contact, and is of the type that is required by law to be reported to the department of health. Examples include Hepatitis, measles, smallpox, and tuberculosis.

**"Revocation"** means the formal act of closing your child care business and taking your license from you due to your failure to follow the rules.

**"Sanitize"** means a surface must be clean and the number of germs reduced to a level where disease transmissions by that surface are unlikely.

**"Staff"** means a child care giver or group of child care givers employed by the licensee to assist with or supervise children served at the family home child care who have been authorized by DEL to care for or have unsupervised access to children in child care under chapter 170-06 WAC.

**"STARS"** (Washington state training and registry system) means the entity approved by the department to determine the classes, courses, and workshops that licensees and staff may take to satisfy training requirements.

**"Summary suspension"** means the formal act of immediately stopping your license for a certain time because the health, safety or well being of a child is at risk.

**"Supervision of children,"** means the knowledge of and responsibility for the activity and whereabouts of each child in care and assuring immediate intervention of staff to safeguard a child from harm.

**"Terms of the license"** means the address, number and ages of children, and the beginning and ending dates listed on the license issued by the department.

**"Toddler"** means a child twelve months through twenty-nine months of age.

**"Useable space"** means the space actually available for children to engage in developmentally appropriate activities, that has been inspected and approved by the department for providing child care.

**"Weapons"** means an instrument or device of any kind that is designed to be used to inflict harm on another person. For example, BB guns, pellet guns, air rifles, stun guns, antique guns, bows and arrows, handguns, rifles, shotguns, knives.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-296-0020, filed 4/30/08, effective 5/31/08. Statutory Authority: Chapter 43.215 RCW and oral ruling in *DeLaO v. Arnold-Williams* and *Fernandez v. DSHS*. 07-24-028, § 170-296-0020, filed 11/28/07, effective 12/29/07. 06-15-075, recodified as § 170-296-0020, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0020, filed 8/31/04, effective 10/1/04.]

## GENERAL QUALIFICATIONS AND LICENSING PROCESS

### WAC 170-296-0110 Who needs to become licensed?

(1) Individuals and agencies that provide care for children under this chapter must be licensed, unless specifically exempt under RCW 43.215.010(2).

(2) The person claiming an exemption must provide the department proof of the right to the exemption if we request it.

(3) We must not license a home that is legally exempt from licensing. However, at the applicant's request, we must investigate and may certify the home as meeting licensing and other requirements. We must apply the same requirements and procedures for certification that we apply for licensure.

(4) We may certify a family home child care for payment without further investigation if the home is:

(a) Licensed by an Indian tribe; or

(b) Certified by the federal Department of Defense. The home must be licensed or certified in accordance with national or state standards or standards approved by us and be operated on the premises over which the entity licensing or certifying the home has jurisdiction.

(5) The individuals and agencies wanting to care for children whose child care is paid for by the state child care subsidy program must:

(a) Be licensed or certified;

(b) Follow billing policies and procedures in *Child Care Subsidies, A Booklet for Licensed and Certified Providers, DEL 22-877*; and

(c) Bill the department at the person's or organization's customary rate or the state rate, whichever is less. (See WAC 388-290-0190 (2) and (3) for exceptions.)

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0110, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0110, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0110, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0120 When does the department establish an overpayment for payment I receive through the child care subsidy program?** We establish child care subsidy overpayments for payments you received when:

(1) You receive payment for services you did not provide;

(2) You do not have attendance records that support the billing. Only attendance records meeting WAC requirements will be accepted for attendance verification;

(3) We pay you more than you are eligible to bill;

(4) You receive payment from us and you are not eligible based on WAC 388-290-0125; or

(5) You receive payment for caring for children outside your licensed allowable age range and you do not have a waiver for that purpose.

[06-15-075, recodified as § 170-296-0120, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0120, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0125 Must I comply with local ordinances and codes?** Family home child care businesses must comply with any city and county ordinances and codes for their locality and meet the minimum construction, fire and safety requirements for one and two family dwellings. Local officials are responsible for enforcing city ordinances and county codes, such as zoning and building regulations.

[06-15-075, recodified as § 170-296-0125, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0125, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0130 How old do I have to be to apply for a license?** You must be at least eighteen years old to apply for a license to provide child care.

[06-15-075, recodified as § 170-296-0130, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0130, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0140 What personal characteristics does an individual need to provide care to children?** (1) An individual must have specific personal characteristics to have a:

(a) License;

(b) Certification;

(c) Primary staff position; or

(d) Assistant and volunteer position.

(2) These characteristics are:

(a) An understanding of how children develop socially, emotionally, physically, and intellectually;

(b) The ability to plan and provide care for children that is based on an understanding of each child's interests, life experiences, strengths, and needs;

(c) The physical ability to respond immediately to the health, safety and emotional well-being of a child;

(d) Reliability and dependability;

(e) Truthfulness;

(f) A disposition that is respectful of a child's need for caring attention from a care giver; and

(g) Ethical business practices with clients, staff, the department and the community.

[06-15-075, recodified as § 170-296-0140, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0140, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0160 How do I apply for a license? (1)**

To apply for a license, you must:

- (a) Attend an orientation provided by the department;
- (b) Complete and submit a signed application form to the department, including the following attachments:
  - (i) A copy of your picture identification issued by a government entity (could include but is not limited to: Driver's license, passport, state identification);
  - (ii) A photocopy of your Social Security card that is valid for employment or verification of your employer identification number (EIN);
  - (iii) An employment and education resume for you, primary staff, assistants and volunteers; and
  - (iv) Three references for you from people unrelated to you.

(2) You must submit these additional documents to the department either with your application or within sixty days of submitting your application:

- (a) Documentation of current infant, child and adult CPR and standard first aid training for you, any staff, or volunteer who will be counted in staff/child ratios;
- (b) Documentation of a negative Mantoux tuberculin (TB) test in the twelve months prior to starting work for you, staff, volunteers and members of the household sixteen years or older;
- (c) Documentation of HIV/AIDS training and the availability of bloodborne pathogens information for you, staff and volunteers who have child care responsibility;
- (d) Documentation of the local health authority or state department of health approval of your private water supply and independent sewage system, if applicable;
- (e) A copy of your policies and procedures you give to parents; and
- (f) Any additional reports or information pertaining to your ability to follow the WACs regarding you, staff, volunteers, members of your household or any other person having access to the child in care if your licensor requests it.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0160, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0160, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0160, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0170 Am I required to pay a fee when applying for a family home child care license?** You must pay a nonrefundable license fee of twenty-four dollars. This must be in the form of a check or money order. You must pay the license fee each year before or on your anniversary date.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0170, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0170, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0170, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0180 Am I required to have a criminal history background check?** At the time you apply for a license you must submit a completed background check form and finger print card if required to the department for each

(2009 Ed.)

person required to have a background check under chapter 170-06 WAC.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-296-0180, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-296-0180, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0180, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0200 Will my license be denied or revoked if I have been disqualified from providing licensed child care?** Your license will be denied or revoked if you are disqualified from providing care for or having unsupervised access to children in child care under chapter 170-06 WAC.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-296-0200, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-296-0200, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0200, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0210 What are my responsibilities if I am notified that a family member, staff person, volunteer, or anyone else residing at the same address as me has been disqualified?** If we inform you that a family member, staff person, volunteer, or anyone else residing at the same address as you has been disqualified, you must ensure that the disqualified person does not have access to children in the licensed facility.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-296-0210, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-296-0210, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0210, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0215 Will my license be denied, suspended, or revoked if a family member, or someone else residing at the same address as me has been disqualified from having unsupervised access to children?** Your license will be denied or revoked if your family member or any other person who is residing at the same address as you has been disqualified from having unsupervised access to children.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-296-0215, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-296-0215, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0215, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0220 Must I keep a record of submitted background check forms and the results of the background checks on family members, staff and volunteers?** You must keep documentation of background check forms submitted and a copy of the department notification of background clearance authorization, for a period of three years, for all persons required to have a background authorization under chapter 170-06 WAC.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-296-0220, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-296-0220, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0220, filed 8/31/04, effective 10/1/04.]

[Title 170 WAC—p. 97]

**WAC 170-296-0230 What CPR (cardiopulmonary resuscitation) and first-aid training is required?** (1) You and any staff or volunteer who is counted in staff/child ratios must have the following current CPR and first-aid training. CPR and first-aid training must be in accordance with a nationally recognized standard for:

- (a) Infant, child and adult CPR; and
- (b) Basic standard first aid.

(2) You must keep records on the premises and available to the department on request, showing who has completed current CPR and first-aid training. This includes copies of the certificate of completion for the training for each person responsible for the care of children.

[06-15-075, recodified as § 170-296-0230, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0230, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0240 What HIV/AIDS training and bloodborne pathogen information is needed?** (1) You, your staff and volunteers who are responsible for the care of children must complete training on the prevention and transmission of HIV/AIDS (human immunodeficiency virus/acquired immunodeficiency syndrome).

(2) You must have a bloodborne pathogen plan that includes;

- (a) A list of caregivers who may be exposed to bloodborne pathogens;
- (b) A plan which addresses how to clean up body fluid spills, including blood, feces, nasal and eye discharge, saliva, urine and vomit.
- (c) Document a plan addressing handwashing, use of gloves, proper disinfection of contaminated items and disposal of waste materials.

[06-15-075, recodified as § 170-296-0240, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0240, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0250 How long do I have to complete the licensing application process?** (1) You must complete the licensing application process including the home inspection and supporting documents, such as training certificates, within ninety days of first applying for your license.

(2) If you don't meet this deadline and have not contacted your licensor, we consider your application withdrawn.

[06-15-075, recodified as § 170-296-0250, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0250, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0260 Do I need to renew my license?**

- (1) You are required to renew your license every three years.
- (2) We send a relicensing packet one hundred twenty days before the expiration of your license.
- (3) You must send the completed application form to your licensor at least ninety days before your current license expires.
- (4) We close your license if it expires and we have not received a renewal application.

[06-15-075, recodified as § 170-296-0260, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0260, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0270 Am I required to submit an application if I move to a new address while my license is current?** (1) If you move, have an acceptable history of child care, and plan to continue to operate your family home child care business you must submit an application with all supporting documentation for the new address, before you move.

(2) If you have submitted an application for the new address prior to moving, we allow you to operate at your new address for up to two weeks. If you are unable to meet the health and safety requirements at your new address within the two week period, you must stop operating the child care business until you become licensed at the new address (per RCW 43.215.260).

(3) If you move and do not tell us, your license becomes invalid on the date of your move.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0270, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0270, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0270, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0280 May a family home child care have more than one type of license to provide care to children?** (1) A family home child care may have only one type of license with these exceptions:

- (a) Care of the other client category does not interfere with the quality of child care provided; and
  - (b) The most stringent capacity limitations are maintained.
- (2) Dual licenses are subject to our approval.

[06-15-075, recodified as § 170-296-0280, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0280, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0290 What hours may a family home child care be open?** (1) You may operate your family home child care business twenty-four hours a day.

(2) If you provide nighttime care you or a qualified primary staff person must be awake when children are dropped off and picked up at your home.

(3) A child may remain in care a maximum of ten hours each day. If needed, you may extend the time based on the parent's typical work schedule and travel from and to the child care.

(4) If you provide nighttime care you must adapt the activities, routines and equipment to meet the physical and emotional needs of the child away from home at night. These must include:

- (a) Arrangements made for bathing as needed;
- (b) Standard night wear and individual toiletry items for each child;
- (c) The required beds and bedding (WAC 170-296-1070);
- (d) Separate dressing and sleeping areas for boys and girls ages four years and older and for other children demonstrating a need for privacy;
- (e) Maintain staff to child ratios during sleeping hours;
- (f) A plan approved by the licensor describing how you will ensure the physical safety and emotional well-being of children during sleeping hours.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0290, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as §

170-296-0290, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0290, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0300 What does the department look for when inspecting my home for licensed child care?** We inspect your home to determine if it meets the minimum standards for:

- (1) The health and safety of young children; and
- (2) The social, emotional, physical and cognitive needs of young children.

[06-15-075, recodified as § 170-296-0300, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0300, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0315 Issuance of license.** (1) The department issues the applicant or licensee a license for a specific number of children dependent on the:

- (a) Department's evaluation of the home's premises and physical accommodations;
  - (b) Number and skills of the licensee, assistant, and volunteers; and
  - (c) Ages and characteristics of the children served.
- (2) The department:
- (a) May issue the applicant or licensee a license to care for fewer children than the home's maximum capacity; and
  - (b) Must not issue the applicant or licensee a license for the care of more children than permitted under this chapter.

[06-15-075, recodified as § 170-296-0315, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.15.030, 01-17-084, § 388-155-080, filed 8/16/01, effective 9/16/01; 91-04-048 (Order 3136), § 388-155-080, filed 2/1/91, effective 3/4/91.]

**WAC 170-296-0320 How many children may I care for?** (1) We may license you to care for a maximum of twelve children for family home child care. We determine the number of children that you may serve after looking at these factors:

- (a) Physical environment in the home;
- (b) The number of approved staff available for providing care;
- (c) Your education and licensed child care experience and the skills of your staff and volunteers;
- (d) Ages, characteristics and needs of the children served;
- (e) The number and ages of your own children and other children residing in the home eleven years of age and under; and
- (f) The supply of developmentally appropriate toys and equipment for the ages and stages of children you care for.

(2) Based on these factors, we may license you for the care of fewer children than your family home child care could house.

[06-15-075, recodified as § 170-296-0320, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0320, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0330 Is there more than one category of license?** We issue three types of licenses:

- (1) Initial (see WAC 170-296-0340);
- (2) Full (see WAC 170-296-0350); and
- (3) Probationary (see WAC 170-296-0440).

(2009 Ed.)

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0330, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0330, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0330, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0340 When will the department issue an initial license to me?** (1) If you are not currently licensed we may issue an initial license to you to provide child care when all the health and safety rules have been met, but you:

- (a) Cannot demonstrate compliance with the rules pertaining to:
  - (i) Supervision;
  - (ii) Capacity;
  - (iii) Behavior management;
  - (iv) Activity and routines; and
  - (v) Child records and information.
- (b) Can provide a plan that is acceptable to us, to comply with rules found in subsection (1)(a) of this section.

(2) We may issue an initial license to you for a period not to exceed six months, renewable for a period not to exceed two years.

(3) We must evaluate your ability to follow all the rules contained in this chapter during the initial licensing period prior to issuing a full license.

[06-15-075, recodified as § 170-296-0340, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0340, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0350 When will the department issue a full license to me?** (1) We may issue a full license to you when you can demonstrate compliance with all rules contained in this chapter at any time that you have an initial license.

(2) We must not issue a full license to you if you do not demonstrate the ability to comply with all rules contained in this chapter during the period you have an initial license.

[06-15-075, recodified as § 170-296-0350, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0350, filed 8/31/04, effective 10/1/04.]

## FINES, REGULATORY VIOLATIONS AND CORRECTIVE ACTION

**WAC 170-296-0360 What happens if I fail to follow the rules?** (1) If you fail to follow the rules, we notify you of the violation in writing and unless the health, safety or welfare of children in care is threatened, we provide you with an opportunity to come into compliance before we take adverse licensing action. The notice provides:

- (a) A description of the violation and rule that was broken;
- (b) A statement of what is required to comply with the rules;
- (c) The date by which we require compliance; and
- (d) The maximum financial penalty (civil fine) that you must pay if you do not comply with the rules by the required date.

(2) We may fine you seventy-five dollars a day for each violation of the licensing rules.

(3) We may assess and collect the penalty with interest for each day you fail to follow the rules.

[Title 170 WAC—p. 99]

(4) We may impose a civil penalty in addition to other adverse actions against your license including probation, suspension and revocation.

(5) We may, but are not required to, withdraw the fine if you come into compliance during the notification period.

(6) If we assess a civil penalty you have the right to an adjudicative proceeding as governed by RCW 43.215.305 and chapter 170-03 WAC.

(7) If you do not request an adjudicative proceeding you must pay the civil fine within twenty-eight days after you receive the notice.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0360, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0360, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0360, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0370 How does the department notify me if I am in violation of the licensing rules and what am I required to do?** If you are in violation of the licensing rules we issue a notice to you called a facility licensing compliance agreement.

(1) You are required, with technical assistance from your licensor if you request it, to write a corrective action plan stating:

- (a) How you plan to correct the violations; and
  - (b) When the violations will be corrected.
- (2) You must:
- (a) Sign the agreement;
  - (b) Return a copy of the completed agreement to us; and
  - (c) Comply with the agreement.

[06-15-075, recodified as § 170-296-0370, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0370, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0380 How does the department determine the amount of time I have to make corrections?** The length of time that you have to make corrections depends on:

- (1) The seriousness of the violation;
- (2) The potential threat to the health, safety and well-being of children in care; and
- (3) The number of times you have failed to follow the rules.

[06-15-075, recodified as § 170-296-0380, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0380, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0390 What does the department base a fine on?** Fines are determined based on any violation of a licensing rule and according to the following conditions:

- (1) You have allowed the existence of any condition that creates a serious safety or health risk;
- (2) You or any person uses corporal punishment, or humiliating methods of control or discipline;
- (3) You or any primary staff person fail to provide the required supervision;
- (4) You fail to provide required light, ventilation, sanitation, food, water or heating;
- (5) You provide care for more than the highest number of children permitted by the license; or

[Title 170 WAC—p. 100]

(6) You repeatedly fail to follow the rules. (Any repeat violation that has been the subject of a corrective action notification under WAC 170-296-0360.)

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0390, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0390, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0390, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0400 Am I required to inform the public if the department has assessed a civil penalty to me?** (1) You must post the final notice of a civil penalty in the licensed space of your child care where the public can easily view it; and

(2) You must keep the notice posted until we receive payment.

[06-15-075, recodified as § 170-296-0400, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0400, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0410 What happens if I fail to pay the fine?** If you fail to pay a fine within ten days after the fine assessment becomes final, we may suspend, revoke or not renew your license.

[06-15-075, recodified as § 170-296-0410, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0410, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0420 Does the department assess a civil penalty if I provide unlicensed child care?** We may fine you seventy-five dollars per day for each day you provide unlicensed child care.

[06-15-075, recodified as § 170-296-0420, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0420, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0430 What will happen if the department believes I am providing unlicensed child care?** We send written notice to you if we think you are providing unlicensed child care. The notice explains:

- (1) Why we think you are providing unlicensed child care;
- (2) The law that prohibits unlicensed child care;
- (3) That you must stop providing child care until you get a license;
- (4) How to contact the department;
- (5) How to apply for a license;
- (6) That the fine may be lifted if you apply for a license;
- (7) Your right to an adjudicated proceeding if we assess a monetary penalty; and
- (8) How you can ask for an adjudicative proceeding.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0430, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0430, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0430, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0440 When would the department issue a probationary license?** (1) We may, but are not required to, issue a probationary license as part of a corrective action plan with a licensed provider. In addition to issu-

(2009 Ed.)

ing you a probationary license, we may also assess civil penalties or other sanctions.

(2) We must base our decision about whether to issue a probationary license on the following:

(a) Intentional or negligent noncompliance with the licensing rules;

(b) A history of noncompliance with the rules;

(c) Current noncompliance with the rules; and

(d) Any other factors relevant to the specific situation.

(3) When we issue you a probationary license you must give notification of your probationary license status to:

(a) The parents or guardians of all children in your care, within five working days of receiving notification from us; and

(b) New applicants for child care, before enrolling new children.

(4) The notification must be in writing and must be approved by us prior to being sent.

(5) Within ten working days of receiving notification of the probationary license, you must provide documentation to us that parents or guardians of all children in your care have been notified.

(6) We may issue a probationary license for up to six months. We may extend the probationary license for an additional six months.

(7) You must return your full license to us.

[06-15-075, recodified as § 170-296-0440, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0440, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0450 When will my license be denied, suspended or revoked?** (1) When you demonstrate that you cannot provide the required care for children in a way that promotes their safety, health and well-being we must deny, suspend or revoke your license.

(2) We must deny, suspend or revoke your license if you:

(a) Have been disqualified by your background check under chapter 170-06 WAC;

(b) Have been found to have committed or allowed others to commit child abuse, child neglect or exploitation, or you or others you supervise treat, permit or assist in treating children in your care with cruelty, or indifference;

(c) Fail to report instances of alleged child abuse, child neglect and exploitation to the DSHS children's administration intake or law enforcement when an allegation of abuse, neglect or exploitation is reported to you;

(c) Or anyone residing at the same address as you had a license denied or revoked by an agency that provided care to children or vulnerable adults;

(d) Try to get or keep a license by deceitful means, such as making false statements or leaving out important information on the application;

(e) Commit, permit or assist in an illegal act at the address of your child care business;

(f) Use illegal drugs, or excessively use alcohol or abuse prescription drugs;

(g) Knowingly allow employees or volunteers with false statements on their applications to work at your facility;

(h) Repeatedly lack the required number of qualified staff to care for the number and types of children under your care;

(2009 Ed.)

(i) Repeatedly fail to provide the required level of supervision for a child in care;

(j) Repeatedly care for more children than your license allows;

(k) Refuse to allow our authorized staff and inspectors requested information or access to your licensed space, child and program files, or staff and children in care during times when licensed activities are conducted; or

(l) Are unable to manage the property, fiscal responsibilities, or staff in your facility.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-296-0450, filed 4/30/08, effective 5/31/08. Statutory Authority: Chapter 43.215 RCW and oral ruling in *DeLaO v. Arnold-Williams* and *Fernandez v. DSHS*. 07-24-028, § 170-296-0450, filed 11/28/07, effective 12/29/07. 06-15-075, recodified as § 170-296-0450, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0450, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0460 Are there any other reasons that could potentially cause me to lose my license?** (1) We may suspend or revoke your license if you go beyond the conditions of your license by caring for children with ages different than your license allows.

(2) Repeatedly fail to comply with the licensing requirements set forth in this chapter or any provision of chapter 43.215 RCW.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0460, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0460, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0460, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0470 How will the department notify me if my license is denied, suspended, or revoked?** (1) We send you a certified letter and/or personally deliver a letter informing you of any decision to deny, suspend or revoke your license.

(2) In the letter we also inform you what you may do if you disagree with the decision to deny, suspend or revoke your license.

[06-15-075, recodified as § 170-296-0470, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0470, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0480 What may I do if I disagree with the department's decision to deny, suspend, revoke, or modify my license?** (1) You have the right to appeal any decision we make to deny, suspend, revoke or modify your license.

(2) Your right to appeal and the procedures for that process are outlined in RCW 43.215.305, chapters 34.05 RCW, and 170-03 WAC.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0480, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0480, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0480, filed 8/31/04, effective 10/1/04.]

**BUSINESS PRACTICES**

**WAC 170-296-0490 What written procedures am I required to establish for my child care business?** (1) You must develop written procedures for:

- (a) Keeping child records current;
- (b) Routine communication with parents about their child's activities;
- (c) Expectations of primary staff, assistants and volunteers;
- (d) Emergency procedures including staffing emergencies, evacuation plans, sick or injured children and medical emergencies;
- (e) Off-site activities;
- (f) Confidentiality; and
- (g) All other policies and procedures that you will follow in your child care business.

(2) You must train your staff and volunteers and have available to them the program's philosophy and all written procedures listed in subsection (1) of this section.

(3) You must review all written policies and procedures and revise them when they no longer describe your current practice.

[06-15-075, recodified as § 170-296-0490, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0490, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0500 What written information am I required to give to parents?** You are required to give to parents a copy of the policies and procedures that you will follow in your family home child care. This written information must include:

- (1) Enrollment and admission requirements;
- (2) The fee and payment plan;
- (3) A typical daily schedule, including hours of operation;
- (4) Typical meals and snacks served, including guidelines on food brought from the child's home;
- (5) Permission for free access by the child's parent or guardian to all home areas used by the child, the child's records, and the staff during your operating hours;
- (6) Child abuse, neglect and exploitation reporting requirements;
- (7) Child guidance and discipline;
- (8) Requirements for maintaining accurate and up to date certificate of immunization status (CIS) records;
- (9) No smoking policy;
- (10) Policy regarding pets;
- (11) Sign-in and sign-out procedures;
- (12) Infant sleeping safety requirements to reduce the risk of sudden infant death syndrome (SIDS);
- (13) Nondiscrimination statement;
- (14) Religious activities, if any;
- (15) Transportation and field trip arrangements;
- (16) Typical staffing plan when you are absent;
- (17) Health care practices, including but not limited to information about the home's general health practices concerning:
  - (a) Injury prevention;
  - (b) Medication management;
  - (c) First aid, including medical emergencies;

(d) Plan for excluding persons whose presence on the premises is prohibited by regulations;

(e) Practices concerning an ill child;

(f) Communicable disease prevention, management and reporting;

(18) Disaster plan; and

(19) Supplies and clothing to be provided by the parents.

[06-15-075, recodified as § 170-296-0500, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0500, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0510 What forms am I required to have before a child can attend my child care program?** Prior to admission, you must have a file for each child that contains:

- (1) A completed child's enrollment form that is signed and dated by the parent;
- (2) Child's complete name, birth date and date admitted;
- (3) Full name of parents, home and daytime telephone numbers and address;
- (4) Name, address and home and daytime telephone numbers of two persons to contact in an emergency if the parent cannot be reached;
- (5) Name, address, home and daytime telephone numbers of persons, if any, authorized to sign-in and sign-out the child;
- (6) Name and telephone numbers of child's health care provider and dentist;
- (7) Description of child's health history, date of the child's last physical exam, current medications, allergies, special dietary requirements and other identified special needs;
- (8) Signed permission by parent to authorize emergency medical and dental care and associated transportation; and
- (9) Completed immunization form listing types and dates of immunizations.

[06-15-075, recodified as § 170-296-0510, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0510, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0520 How long must I keep child records and what am I required to document while operating my business?** (1) A child's presence in the child care must be documented, on a daily basis, by the child's parent or guardian or an authorized person by using the sign-in and sign-out procedure for each child in attendance. The parent, guardian or authorized person must use their full signature when signing the child in and out of the child care.

(2) When the school age child arrives at or leaves the child care home due to school or off-site activities as authorized by the parent, you or your staff must sign out the child, and sign in the child on return to the home.

(3) Daily attendance records, listing the dates and hours of attendance of each child must be kept up-to-date and maintained in the licensed space of the family home child care for five years.

(4) When a child is no longer enrolled, the date of the child's withdrawal must be recorded in the child's file. You must maintain the child's file for at least five years from the child's last date of attendance. After five years the file may be destroyed or returned to the parent. The child's file must be

made available for review by the child's parents and us during this period.

(5) You must call and report, within twenty-four hours to your department licensor:

(a) And the department of social and health services children's administration intake any incident or injury that required the services of a medical professional, including a dentist, that occurred while the child was in attendance.

(b) And to animal control any incident where a child is bitten by an animal while in attendance.

(c) Any fire on your premises that required the use of a fire extinguisher or the services of a fire department.

(6) You must submit a written incident report to the child's parent and to your licensor within two working days of the same incident or injury as described in subsection (3) of this section.

(7) You must acquire written parental permission for field trips. You must notify parents in advance when you plan to use vehicles to transport children. Parents may grant general authorization for walking field trips.

(8) You must maintain all records and reports required by these regulations in an up-to-date manner in the licensed space of the facility. The records and reports are subject to inspection and you must allow us access to them during all hours in which licensed activities are conducted.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0520, filed 3/19/08, effective 4/19/08. Statutory Authority: Chapter 43.215 RCW and oral ruling in *DeLaO v. Arnold-Williams and Fernandez v. DSHS*. 07-24-028, § 170-296-0520, filed 11/28/07, effective 12/29/07. 06-15-075, recodified as § 170-296-0520, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0520, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0530 Am I required to keep child and family records confidential?** You and your staff must observe confidentiality with regard to child and family records and family information. Confidential conversations regarding children and families must be held in private.

[06-15-075, recodified as § 170-296-0530, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0530, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0540 What items am I required to post and where do I post them?** You are required to post these items in the licensed space of your family home child care where the public can easily view them:

(1) The home's child care license issued under this chapter;

(2) Evacuation plans and procedures, that include a written record of the required monthly fire drills and smoke detector checks;

(3) Emergency telephone numbers;

(4) Any civil penalty imposed; and

(5) You must post a notification advising parents that you are required to keep the following licensing information available on site for their review:

(a) Copies of the most recent family home child care checklist for licensing renewal and facility licensing compliance agreement for any deficiencies noted; and

(b) Copies of the most recent family home child care monitoring checklist and facility licensing compliance agreement for any deficiencies noted.

(2009 Ed.)

[06-15-075, recodified as § 170-296-0540, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0540, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0550 What change of circumstance must I report to my licensor?** (1) Before making any change to your licensed space you must report to your licensor any changes you plan to make. Examples of changes include but are not limited to:

(a) Planned use of space not previously approved by us; and

(b) Plans for remodeling the home.

(2) You must also report any of the following changes to your licensor within twenty-four hours:

(a) The number and qualifications of you, your staff and volunteers that may affect the ability to carry out the specified activities and routines of the family home child care or meet the requirements of this chapter, such as a change in a person's criminal history;

(b) A marriage, separation or divorce;

(c) Persons moving in or out of the household;

(d) Your phone number;

(e) Occurrence of a fire, structural change, or damage to the premises from any cause; and

(f) The serious illness or incapacity of you and any other member of your household.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-296-0550, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-296-0550, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0550, filed 8/31/04, effective 10/1/04.]

## FIRE SAFETY

**WAC 170-296-0560 What are the occupancy restrictions for a family home child care?** (1) Any home used for child care purposes for fewer than thirteen children is considered to be a Group R, Division 3 occupancy by the state building code.

(2) If a portion of the home is used for purposes that could pose a hazard such as an automotive repair shop, cabinet or furniture making or refinishing or similar use, a fire-wall is required between the dwelling and the other use.

(3) One exit door from a family home child care must be of the pivoted or side hinged swinging type. You may use approved sliding doors for other exits.

(4) Each floor level used for family home child care purposes must have two exits, usually located at opposite ends of the building or floor.

(5) You must not use basements located more than four feet below grade level for family home child care purposes unless one of the following conditions exists:

(a) Two exit stairways from the basement open directly to the exterior of the building without entering the first floor;

(b) One of the two required exits opens directly to the exterior from the basement level and the other exit is an interior stairway with a self-closing door installed at the top or bottom leading to the floor above;

(c) One of the two required exits is a working window or door, approved for emergency escape or rescue, that opens directly to a public street, public alley, yard or exit court, and the other may be an approved interior or exterior stairway; or

[Title 170 WAC—p. 103]

(d) A residential sprinkler system is provided throughout the entire home in accordance with standards of the National Fire Protection Association.

(6) Except as permitted in subsection (7) below, you must ensure that any floor located more than four feet above grade level is not occupied by children for family home child care purposes except for the use of toilet facilities while under supervision of a staff person.

(7) Family home child care is allowed on the second story if one of the following conditions exists:

(a) Two exit stairways from the second story open directly to the exterior of the building without entering the first floor;

(b) One exit opens directly to the exterior from the second story level, and a second interior stairway with a self-closing door installed at the top or bottom of the interior stair leading to the floor below; or

(c) A residential sprinkler system is provided throughout the entire building in accordance with standards of the National Fire Protection Association.

(8) The maximum distance from any point in the home to an exterior exit door must not exceed one hundred fifty feet.

(9) Every room used for child care (except bathrooms) must have:

(a) At least one working window or door approved for emergency escape or rescue that opens directly into a public street, public alley, yard or exit court. The units must work from the inside to provide a full clear opening without the use of separate tools.

(b) The net clear open area of an escape or rescue window must be a minimum of 5.7 square feet. The net clear open height dimension must be a minimum of twenty-four inches. The net clear open width dimension must be a minimum of twenty inches.

(10) An escape or rescue window must have:

(a) A finished sill height of not more than forty-four inches above the floor;

(b) Doors leading to two separate exit ways; or

(c) A door leading directly to the exterior of the building.

(11) You may use a stationary platform under a window to attain the required forty-four inches above the floor.

(12) Exit doors must be easy to open to the full open position.

(13) Exit doors and windows must be of the type that can be opened from the inside without having to use a key. You must not use during child care hours:

(a) Night latches;

(b) Deadbolts;

(c) Security chains; or

(d) Manually operated edge or surface mounted flush bolts and surface bolts.

(14) The locking arrangement on outside exit doors must automatically unlock when the doorknob is turned from the inside.

(15) You must ensure that obstructions are not placed in corridors, aisles, doorways, doors, stairways or ramps.

(16) You must not use for child care purposes any space that is accessible only by ladder, folding stairs or trap doors.

(17) Every bathroom door lock must be designed to permit the opening of the locked door from the outside in an

emergency. The opening device must be readily accessible to the staff.

(18) Every closet door latch must be the type that children can open the door from inside the closet.

[06-15-075, recodified as § 170-296-0560, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0560, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0570 What are the requirements for hazardous areas of my home?** If you have rooms or spaces containing any of the following commercial-type items or utilities, they must be separated from the family home child care or any exits by a fire wall:

(1) Kitchen;

(2) Boiler;

(3) Maintenance shop;

(4) Janitor closet;

(5) Laundry;

(6) Woodworking shop;

(7) Flammable or combustible storage;

(8) Painting operation; or

(9) Parking garage.

[06-15-075, recodified as § 170-296-0570, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0570, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0580 What are the requirements for smoke detectors in my home?** (1) You must have smoke detectors in all sleeping and napping rooms.

(2) If your home has more than one story or a basement, you must install a smoke detector on each story and in the basement.

(3) If a story or basement is split into two or more levels, you must install the smoke detector in the upper level, except that when the lower level contains a sleeping or napping area, you must locate a smoke detector on each level.

(4) When sleeping or napping rooms are on an upper level, you must place the smoke detector on the ceiling of the upper level in close proximity to the stairway and in each sleeping or napping room.

(5) If the ceiling height of a room open to the hallway serving sleeping or napping rooms exceeds that of the hallway by twenty-four inches or more, you must install smoke detectors in both the hallway and the sleeping or napping room.

(6) Smoke detectors must sound an alarm audible in all areas of the building.

(7) In new construction, required smoke detectors must receive their primary power from the building wiring when the wiring is served from a commercial source. Wiring must be permanent and without a disconnecting switch other than those required for over current protection.

(8) Smoke detectors may be battery operated when installed in existing buildings or buildings without commercial power.

(9) Where battery operated smoke detectors are installed, you must keep on the premises at least one extra battery of the type and size specified for the battery operated smoke detector.

(10) You must test single station smoke detectors at monthly intervals or in a manner specified by the manufacturer. You must keep a record of the testing on the premises.

[06-15-075, recodified as § 170-296-0580, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0580, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0590 Am I required to have other ways to sound a fire alarm?** In addition to single station smoke detectors, you must provide an alternate method for sounding a fire alarm in your family home child care. A police type whistle or similar device is adequate for meeting this requirement, as long as you use that method only for emergency evacuations.

[06-15-075, recodified as § 170-296-0590, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0590, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0600 Are there requirements for fire extinguishers?** (1) You must have at least one approved 2A, 10B: C rated fire extinguisher on each floor level occupied for child care use. You must locate the extinguisher along the path of the main fire exits. The maximum travel distance to an extinguisher must not exceed seventy-five feet.

(2) Fire extinguishers must be operationally ready for use at all times.

(3) You must keep fire extinguishers on a shelf or mounted in the bracket provided for this purpose so that the top of the extinguisher is not more than five feet above the floor.

(4) You must ensure and have written documentation that fire extinguishers receive annual maintenance certification by a firm specializing in and licensed to do that type of work. Maintenance means a thorough check of the extinguisher to include examination of:

- (a) Mechanical parts;
- (b) Extinguishing agent; and
- (c) Expelling means.

[06-15-075, recodified as § 170-296-0600, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0600, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0610 What must I do to prevent fire in my home?** (1) You must request the local fire department to visit your home to become familiar with the facility and to assist in planning evacuation or emergency procedures. If your local fire department does not provide this service, you must document that you made the request.

(2) You must keep furnace rooms free of lint, grease and rubbish accumulations and other combustibles and suitably isolated, enclosed or protected.

(3) You must store flammable or combustible materials away from exits and in areas that are not accessible to children. You must not allow combustible rubbish to accumulate, so you must remove it from the building or store it in closed, metal containers.

(4) You must keep all areas used for child care clean and neat, making sure that all waste generated daily is removed from the building and disposed of in a safe manner outside the building. All containers used for the disposal of waste

material must be of noncombustible materials with tops. You must keep electrical motors dust-free.

(5) You must not leave on open-flame devices capable of igniting clothing, or leave them unattended or allowed to be used in a way that could result in an accidental ignition of children's clothing. You must not use, or allow the use of candles during operating hours.

(6) You must keep a working flashlight available for use as an emergency power source.

(7) You must properly maintain all electrical circuits, devices and appliances. Circuits must not be overloaded. You must not use extension cords and multiplug adapters in place of permanent wiring and proper receptacles.

(8) You must not use portable space heaters of any kind in any area of the child care home or building during child care hours.

(9) Approved numbers or addresses must be placed on all new and existing homes and in the driveway to the house when the house is not visible from the road. You must place the numbers or address in a position where it is plainly visible and legible from the street or road fronting the property. To be more visible, the numbers must contrast with their background.

(10) If you have fireplaces, woodstoves or similar devices, the local building official must approve them and any connections. Where open flames or hot surfaces are accessible, you must erect approved barriers to prevent children from coming in contact with the open flames or hot surfaces.

[06-15-075, recodified as § 170-296-0610, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0610, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0620 What are the requirements for maintaining my sprinkler system?** If you have a sprinkler system in your home, you must have it tested on an annual basis by a person or agency licensed to test sprinkler systems. The results of the system test must be documented on forms provided by the licensor and maintained at the home for inspection by the licensor.

[06-15-075, recodified as § 170-296-0620, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0620, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0630 Must I have a fire evacuation plan?** You must develop a written fire evacuation plan. The evacuation plan must include an evacuation floor plan, identifying exit doors and windows, and must be posted at a point clearly visible to the assistant and parents. Plans must include the:

(1) Action to be taken:

- (a) By the person discovering a fire;
- (b) For evacuation of the building and assuring accountability of the children; and
- (c) Pending arrival of the fire department.

(2) Method to be used for sounding an alarm on the premises.

[06-15-075, recodified as § 170-296-0630, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0630, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0640 Must I have fire evacuation drills?** You must:

- (1) Conduct a fire evacuation drill for each shift of operation at least once each month;
- (2) Maintain and post in the licensed area of your home:
  - (a) The fire safety record including date and time of fire drills; and
  - (b) Your evacuation plan.

[06-15-075, recodified as § 170-296-0640, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0640, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0650 Are there any requirements for staff training related to fire safety?** You and each staff person and volunteer must be familiar with all elements of the fire evacuation plan and capable of:

- (1) Operating the fire extinguisher installed on the premises;
- (2) Testing smoke detectors (single station types); and
- (3) Conducting frequent inspections of the home to identify fire hazards and take action to correct any hazards discovered during the inspection.

[06-15-075, recodified as § 170-296-0650, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0650, filed 8/31/04, effective 10/1/04.]

## HEALTH, ENVIRONMENT AND MEDICATION MANAGEMENT

**WAC 170-296-0700 How often must staff wash their hands?** Staff and volunteers must wash their hands with soap and warm running water after:

- (1) Toileting or assisting children with toileting;
- (2) Diapering a child;
- (3) Using the bathroom;
- (4) Attending to an ill child;
- (5) Before and after preparing, serving, or eating food;
- (6) Before and after giving medications;
- (7) Handling, feeding or cleaning up after animals;
- (8) Handling bodily fluids;
- (9) Being outdoors or involved in outdoor play; and
- (10) As needed.

[06-15-075, recodified as § 170-296-0700, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0700, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0710 How often must children wash their hands?** You and your staff must ensure that children thoroughly wash their hands or assist children with thoroughly washing their hands with soap and warm running water after:

- (1) Using the toilet;
- (2) The child is diapered;
- (3) Outdoor play;
- (4) Playing with animals;
- (5) Touching body fluids (such as blood or after nose blowing or sneezing);
- (6) Before and after the child eats or participates in food activities; and
- (7) As needed.

[06-15-075, recodified as § 170-296-0710, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0710, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0720 What are the physical structure and equipment safety requirements for a family home child care?** You must keep the equipment and the physical structures, inside and outside of your home, safe and clean for the children you serve. You must not use your licensed space, both indoor and outdoor areas of the home where the children are being cared for, for any other business purpose during your operating hours. You must:

- (1) Maintain your home or building that includes the child care space and all child care equipment in a clean and sanitary condition, free of hazards, and in good repair;
- (2) Have stairways, steps and walkways that are well lit. Stairways must be equipped with securely mounted handrails within the reach of young children;
- (3) Have gates or other physical barriers, that prevent infants and toddlers from accessing stairways;
- (4) Have emergency lighting devices, such as a flashlight, available and in good working condition;
- (5) Provide furnishings in the licensed space of your child care that are safe, comfortable and match the developmental levels of all of the children in the home to include the size of the child, their abilities and activities;
- (6) Have furniture, equipment and climbing structures that are clean, sturdy, without sharp edges and do not present hazards. Bookcases and other shelving units must not present a tipping or falling hazard;
- (7) Have washable, water-resistant floors in your bathrooms, kitchens, and any other rooms exposed to moisture (this applies to anyone newly licensed on or after the date this rule takes effect);
- (8) Provide nonremoveable electrical outlet covers to all outlets accessible to children if you care for children five years and younger or other persons with limited mental capacity or who might be endangered by access to electrical outlets;
- (9) Have an unlocking device readily accessible to you and your staff for closet and bathroom doors that can be locked. You must not use a locking or fastening device on the outside of the door, that would prevent free escape;
- (10) Ensure that toys for infants and toddlers (or children at those developmental levels) are large enough to prevent swallowing or choking. Examples of some of the types of small objects that should be kept off the floor are:
  - (a) Pins of any type;
  - (b) Coins;
  - (c) Balloons; and
  - (d) Any small toys that are smaller than one and three-fourth inches in diameter.
- (11) Ensure that all art and play materials, for children under the age of three, are nontoxic;
- (12) Not have plastic bags, styrofoam objects and vinyl or latex gloves accessible to children under three years of age;
- (13) Prevent entrapment by ensuring there are no openings on indoor and outdoor climbers and platforms between three and one-half inches and nine inches;

(14) Securely anchor to the ground climbing equipment and swings that have provisions for anchors. The play area must be arranged so children playing on one piece of equipment do not interfere with children playing on another piece of equipment;

(15) Ensure that chains on swings have protective coverings and that swing seats are made of soft material with no sharp edges;

(16) Ensure that tricycles and bicycles with chains have chain guards, and that children on bicycles, roller blades, skateboards, or scooters wear helmets;

(17) Not use wheeled baby walkers; and

(18) Not allow trampolines and rebounders in your licensed space.

[06-15-075, recodified as § 170-296-0720, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0720, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0730 What are the requirements for the location of a family home child care?** (1) Your home must be located in an area that is well drained, and is free from hazardous conditions. Some examples of hazards are natural or manmade water hazards such as lakes or streams, ponds, steep banks, ravines, and drainage ditches. Abandoned wells and holes must be filled in or sealed.

(2) The safety of the children in care is essential. You must discuss with your licensor any potential hazardous conditions, considering the children's ages, behaviors, and abilities.

(3) If we decide that hazardous conditions are present at the home location you must write a supervision plan for the children in care.

[06-15-075, recodified as § 170-296-0730, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0730, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0740 What are the requirements for emergency aid vehicle access to my home?** (1) Your home must be accessible to emergency vehicles.

(2) Your address must be clearly visible on your house or mailbox.

[06-15-075, recodified as § 170-296-0740, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0740, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0750 What steps must I take to ensure children's safety around outdoor bodies of water?** (1) You must ensure children in your care are safe around bodies of water.

(2) You must empty and sanitize portable wading pools daily, and as needed when in use.

(3) You or a qualified primary staff person must directly supervise all children in your care when they have access to wading pools, swimming pools and other bodies of water that are in your licensed space.

(4) You must lock hot tubs and spas, and not use these during your operating hours.

(5) You must place a five-foot fence, designed to discourage climbing, and have a locked gate around a pool of water. This includes swimming pools that are above or below ground level and ornamental pools. Bodies of water hazard-

(2009 Ed.)

ous to young children must be inaccessible to children when you or a primary staff person are not providing direct supervision during your operating hours.

(6) A certified lifeguard must be on duty when children are using a public or private (other than your own) swimming pool, lake, river, pond, ocean or any other body of water used for swimming.

[06-15-075, recodified as § 170-296-0750, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0750, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0760 What measures must I take for pest control?** (1) You must keep your premises free from pests, using the least toxic method possible. This includes rodents, flies, cockroaches, fleas, and other insects.

(2) You must notify parents, guardians and any other interested party forty-eight hours in advance of the application of pesticides.

[06-15-075, recodified as § 170-296-0760, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0760, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0770 What are the requirements regarding pets and animals at a family home child care?**

(1) All pets that have access to children, whether kept indoors or outside, must be in good health, show no evidence of disease and be nonaggressive.

(2) Dogs and cats must have the required immunizations.

(3) You must dispose of all pet waste daily and keep litter boxes inaccessible to children at all times.

(4) You must have an area separate from the outdoor play space for pets to relieve themselves.

(5) Staff must always be present when children play with pets.

(6) If you have a pet, tell parents before enrolling the child. Some children have allergies that require the parent to make other child care arrangements.

(7) Children and staff must wash their hands after handling pets or pet items.

(8) Reptiles can carry salmonella. If reptiles are present, you must have safeguards in place to limit potential risk of transmission.

(9) You must have a written plan, approved by your licensor, describing how you will protect children from health hazards, such as snake bites, if you have "exotic" pets such as iguanas, venomous or aggressive snakes, spiders, and some turtles.

[06-15-075, recodified as § 170-296-0770, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0770, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0780 Are alcoholic beverages allowed during operating hours?** You, and any other person associated with the operation of your business and care of children must not drink alcohol or allow others to consume alcohol on your premises during your operating hours.

[06-15-075, recodified as § 170-296-0780, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0780, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0790 Is smoking permitted around children?** (1) You must prohibit smoking in your family home child care during all hours of operation (licensed or unlicensed space), and in motor vehicles while transporting children.

(2) You may permit adults to smoke outdoors in unlicensed space and out of view of children.

[06-15-075, recodified as § 170-296-0790, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0790, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0800 May I have weapons at my home?** (1) You must keep weapons and ammunition in secure, locked storage, at all times during your operating hours. "Secure, locked storage" means a locked storage container, gun cabinet, gun safe, or other storage area made of strong, unbreakable material.

(2) If the cabinet has a glass or other breakable front, the guns need to be secured with a cable or chain placed through the trigger guards securing the guns in the storage unit.

(3) You must store all firearms unloaded.

[06-15-075, recodified as § 170-296-0800, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0800, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0810 Are there requirements for the storage of medications?** You are required to:

(1) Keep all medications, including pet medications, vitamins and herbal remedies, in locked storage. For example, a pad lock, lock with key or a magnetic lock;

(2) Store external medications separately from internal medications for the child in care;

(3) Store medications according to the manufacturer or pharmacy instructions; and

(4) Store pet and human medications in separate places.

[06-15-075, recodified as § 170-296-0810, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0810, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0820 Are there requirements for storing dangerous chemicals or other substances?** (1) You are required to store the following items in a place that is inaccessible to children, persons with limited mental capacity, or anyone who might be endangered by access to the following products:

(a) Cleaning supplies;

(b) Toxic or poisonous substances;

(c) Aerosols;

(d) Items with warning labels;

(e) Cosmetics; and

(f) Personal hygiene products.

(2) When containers are filled with toxic substances from a stock supply, you must label the containers.

(3) Toxic substances must be stored separately from food items.

[06-15-075, recodified as § 170-296-0820, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0820, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0830 Are first-aid supplies required?** You must keep a first-aid kit on hand for immediate use, in

the licensed space of your child care, on a field trip and in your vehicle if you transport children. The first-aid kit must include:

(1) Nonsterile protective gloves;

(2) Band-Aids of various sizes;

(3) Small scissors and tweezers;

(4) Ace bandages;

(5) Sterile gauze pads;

(6) An ice pack;

(7) A mercury free thermometer for taking a child's temperature;

(8) A large triangular bandage (sling);

(9) Adhesive tape;

(10) A one-way CPR barrier or mask;

(11) A current first-aid manual; and

(12) At least one unexpired bottle of Syrup of Ipecac that must be given only at the direction of a poison control center.

[06-15-075, recodified as § 170-296-0830, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0830, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0840 What are the requirements for health care policies and procedures for a family home child care?** You must maintain current written health care policies and procedures that include, but are not limited to, the following areas:

(1) When a child should not attend due to illness;

(2) Cleaning and disinfecting procedures;

(3) Reporting communicable diseases;

(4) Infection control methods to include personal hygiene, hand washing, toileting, diapering, and laundering;

(5) Food handling procedures;

(6) Prevention of the transmission of communicable diseases including:

(a) Use of sanitizing chemicals; and

(b) Cleaning and sanitizing toys and play materials.

(7) Medication management, including steps to be taken if medication is incorrectly administered;

(8) Providing first aid;

(9) Care of minor illnesses;

(10) Actions to be taken for medical emergencies;

(11) Infant care procedures when infants are under care;

(12) Children with special needs; and

(13) General health practices.

[06-15-075, recodified as § 170-296-0840, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0840, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0850 Must all children in my care have current immunizations?** (1) You are required to track each child's immunization status. To be sure children have the required immunizations for their age, you must:

(a) Ensure the child has a completed, current, certificate of immunization status form (CIS) submitted on or before the first day of child care;

(b) Develop a system to audit and update, as scheduled, the information on the CIS form;

(c) Meet any requirement of the state board of health WAC 246-100-166; and

(d) Have available in your licensed space the CIS forms for review by the licensor.

(2) You may accept a child who is not current with immunizations on a conditional basis if immunizations are:

- (a) Initiated before or on enrollment; and
- (b) Completed as rapidly as medically possible.

(3) You may exempt the immunization requirement for the child if the parent or guardian:

- (a) Signs a statement expressing a religious, philosophical or personal objection; or
- (b) Furnishes a physician's statement of a valid medical reason for the exemption.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-0850, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-0850, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0850, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0860 What must I do to prevent the spread of infections and communicable diseases?** (1) You must take precautions to guard against infections and communicable diseases.

(2) You, your staff and volunteers with a reportable communicable disease in an infectious stage, as defined by the department of health, must not be on duty until you, your staff and volunteers have approval from the local health department for returning to work.

(3) Applicants for a license, staff, volunteers and persons sixteen years and older authorized to have access to children in a family home child care must have a tuberculin (TB) skin test by the Mantoux method of testing. They must have this skin test upon being employed or licensed unless the person has evidence:

(a) Of negative testing within the previous twelve months;

(b) That they have a negative chest X ray since previously having a positive skin test; or

(c) Of having completed adequate preventive therapy or adequate therapy for active tuberculosis.

(4) The department does not require a tuberculin skin test if a physician indicates that the test is medically inadvisable.

(5) Persons whose tuberculosis skin test is positive must have a chest X ray within thirty days following the skin test.

(6) The department does not require retesting at the time of license renewal, unless the licensee or staff person believes they have been exposed to someone with tuberculosis or if their health care provider recommends testing.

[06-15-075, recodified as § 170-296-0860, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0860, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0870 How do I manage medications for children?** You must meet specific requirements for managing prescription and nonprescription medication for children under your care. Only you or another, primary staff person may perform the functions described in this section.

(1) You must have written approval of the child's parent or legal guardian to give the child any medication. This approval must not exceed thirty days.

(2) You must:

(a) Keep a written record of all medications you give a child;

(b) Return any unused medication to the parent or legal guardian of the child;

(c) Give certain classifications of nonprescription medications, only with the dose and directions on the manufacturer's label for the age or weight of the child needing the medication. These nonprescribed medications include but are not limited to:

(i) Nonaspirin, fever reducers or pain relievers;

(ii) Nonnarcotic cough suppressants;

(iii) Decongestants;

(iv) Anti-itching ointments or lotions intended specifically to relieve itching;

(v) Diaper ointments and talc free powders intended specifically for use in the diaper area of children; and

(vi) Sun screen.

(3) You must not administer any nonprescribed medication for the purpose of sedating a child;

(4) You must not administer any prescribed medication in an amount or frequency other than that prescribed by a physician, psychiatrist or dentist;

(5) You must not give one child's medications to another child; and

(6) You must not use any prescribed medication to control a child's behavior unless a physician prescribes the medication for management of the child's behavior.

[06-15-075, recodified as § 170-296-0870, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0870, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0880 What are the requirements for labeling and dispensing of medications to children?** The only medicine you may accept from the child's parent or legal guardian is medicine in the original container labeled with:

(1) The child's first and last names;

(2) The date the prescription was filled;

(3) The medication's expiration date; and

(4) Legible instructions for the administration of the drug (manufacturer's instructions or prescription label) that include:

(a) How to give the medication;

(b) How often to give the medication; and

(c) How to store the medications (proper temperature).

[06-15-075, recodified as § 170-296-0880, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0880, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0890 When may children take their own medicine?** (1) You may permit children under your care to take their own medicine if:

(a) They are physically and mentally capable of properly taking the medicine; and

(b) The child's parent or legal guardian approves in writing.

(2) You must keep the written approval by the child's parent or legal guardian in your records.

(3) When children take their own medication, you must keep the medication and medical supplies locked and inaccessible to other children and unauthorized persons.

(4) You or a primary worker must observe and document that the medication was taken.

[06-15-075, recodified as § 170-296-0890, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0890, filed 8/31/04, effective 10/1/04.]

### FOOD/NUTRITION/DIET

**WAC 170-296-0900 Are there general nutrition requirements?** The meals and snacks you prepare and serve must meet the requirements of the U.S. Department of Agriculture Child and Adult Food Program, with the addition of:

- (1) A minimum of one serving of vitamin C fruit, vegetable or juice daily; and
- (2) Servings of food high in vitamin A, provided three or more times weekly.

[06-15-075, recodified as § 170-296-0900, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0900, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0910 How often must I feed children in my care?** (1) You must provide the child in care for ten or less hours a minimum of:

- (a) Two or more snacks and one meal; or
- (b) Two meals and one snack.
- (2) You must provide the child in care for ten or more hours a minimum of, two or more meals and two snacks.
- (3) You must provide a snack for the child arriving after school.
- (4) The time interval between providing the child with food, during the day, can be no more than three and one-half hours.
- (5) The time interval between the evening meal or snack and breakfast must not be more than twelve hours.
- (6) The child in evening care must be fed dinner when the child did not receive dinner at home before arriving.
- (7) The child in overnight care must be offered breakfast in the morning if the child remains in the home after the child's usual breakfast time.

[06-15-075, recodified as § 170-296-0910, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0910, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0920 What are the requirements for meals and snacks served to children in my care?** (1) Food must be prepared and stored in a safe and sanitary manner and served at required intervals.

- (2) If you do not furnish meals, you must have the required supplemental food available in the event that no meal is provided by the parent or if the meal provided by the parent does not meet the required nutritional value.
- (3) If you provide meals:
  - (a) You must accommodate any food preferences for religious or medical reasons. If the meal patterns or serving sizes do not meet the child's nutritional needs, you must obtain a medical statement from the parent documenting the appropriateness of the variation.
  - (b) The servings must be in portions suitable for the size and age of the child in care. You must have a sufficient amount of food available to children to permit second helpings.
- (4) You must refrigerate perishable food, milk and formula.

[Title 170 WAC—p. 110]

(5) You must make safe drinking water available to children at all times and must offer at intervals that are responsive to the needs of the individual children.

(6) You may use:

- (a) Disposable cups and plates if discarded after use; and
- (b) Disposable plastic eating utensils if they are not easily broken by young children and are discarded after use.

(7) You may not use styrofoam cups for infants or toddlers.

[06-15-075, recodified as § 170-296-0920, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0920, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0930 How do I handle a child's special diet?** If a child has a food allergy/intolerance or special menu requirements due to a health condition you must receive written directions from the child's health care provider and parent to provide nutritional supplements or a medically modified diet. For allergy diets the parent and health care provider must identify the foods the child is allergic to.

[06-15-075, recodified as § 170-296-0930, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0930, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0940 Are there special requirements for serving milk?** The type of milk served to children is determined by the child's age.

- (1) Serve only breast milk or formula to the child zero to twelve months of age;
- (2) Serve whole pasteurized milk or breast milk to children twelve to twenty-four months of age;
- (3) Serve only pasteurized milk or pasteurized milk product to children over twenty-four months of age.

[06-15-075, recodified as § 170-296-0940, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0940, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0950 What home canned foods may I use?** You may not use any home canned food for the children in your care due to the risk of bacteria that may grow in food improperly canned, causing serious illness.

[06-15-075, recodified as § 170-296-0950, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0950, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0960 What requirements must I meet for feeding infants?** You must meet the following requirements for feeding infants:

- (1) All formulas and breast milk must be in clean and sanitized bottles with nipples and labeled with the child's name and date prepared.
- (2) If the bottle has been sitting at room temperature for an hour or more, you must throw away the contents.
- (3) You must keep bottle nipples covered when not in use.
- (4) If you reuse bottles and nipples, you must wash and sanitize them.
- (5) You must hold infants while feeding.
- (6) Infants who are nine months of age or over, who want to hold their own bottles may be placed in a highchair if you or a primary staff person remain in the room, within eyesight.

(2009 Ed.)

(7) You must take bottles from the child when the child finishes feeding, or when the bottle is empty.

(8) You must not prop a bottle when feeding an infant.

(9) You must not give a bottle or tippy cup to a child who is lying down.

(10) You must not use a microwave oven to warm formula or breast milk in a bottle used for feeding.

[06-15-075, recodified as § 170-296-0960, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0960, filed 8/31/04, effective 10/1/04.]

## SPACE REQUIREMENTS AND EQUIPMENT

**WAC 170-296-0970 Are there requirements for the rooms that I use to provide child care?** (1) You must use rooms that are the required size, and furnishings that are developmentally appropriate to the ages and number of children being served to actively engage in recreational and informal educational activities;

(2) You must provide accessible storage space for each child in care to store their clothes and personal possessions; and

(3) You must have the required amount of space to store your equipment, supplies, records, files, cots, mats and bedding.

[06-15-075, recodified as § 170-296-0970, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0970, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0980 What does the room temperature need to be?** You must:

(1) Maintain the temperature within your licensed space at:

(a) A minimum of sixty degrees Fahrenheit when children are sleeping or napping; and

(b) Sixty-eight degrees Fahrenheit or more when the children are awake.

(2) Utilize electrical fans or an air conditioner to cool the house when the inside temperature reaches or exceeds eighty degrees Fahrenheit. Consider the age and needs of the children under your care in determining which temperature is appropriate.

[06-15-075, recodified as § 170-296-0980, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0980, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-0990 What are the kitchen requirements?** You must provide, use and maintain equipment to properly store, prepare, and serve food to meet the needs of the children under your care.

(1) Appliances must be installed so that you can easily clean them and the areas around them.

(2) Food contact surfaces must be free of cracks and crevices.

(3) Range tops, ovens and refrigerators must be clean.

(4) Wash tables with soap and water before and after each meal.

(5) Wash counters with soap and water prior to food preparation.

(6) If you cannot clean and sanitize dishes and utensils as required, use only disposable items.

(2009 Ed.)

(7) Keep pets and their food out of the food preparation area. If this is not always possible keep pets out of the kitchen while you are preparing food.

[06-15-075, recodified as § 170-296-0990, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-0990, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1000 How do I wash, rinse and sanitize dishes and eating utensils?** You must use a dishwasher or the "three compartment method" which is a combination of sink compartments or dishpans made of plastic or other non-porous material:

(1) Fill one sink compartment or dishpan with hot tap water and dishwashing detergent, and wash the items in this compartment.

(2) Fill the second compartment or dishpan with hot tap water, and rinse the items in this compartment.

(3) Fill the third compartment or dishpan with cool water and one teaspoon liquid chlorine bleach for each gallon of water, and dip the items in this compartment to sanitize.

(4) Place the items in a rack to air-dry.

[06-15-075, recodified as § 170-296-1000, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1000, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1010 May I use the kitchen for activities for children?** You may use the kitchen for activities for children. When children are in the kitchen, you must:

(1) Make the kitchen environmentally safe for children to participate in planned kitchen activities; and

(2) Supervise food preparation activities involving children.

[06-15-075, recodified as § 170-296-1010, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1010, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1020 May I use a room for more than one purpose?** You may use a room for multiple purposes such as playing, dining, napping, and learning activities, provided that:

(1) The space you provide meets the required thirty-five square feet of useable space for the number of children in care; and

(2) The room's usage for one purpose does not interfere with use of the room for another purpose.

[06-15-075, recodified as § 170-296-1020, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1020, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1030 What are the general requirements for bedrooms?** If you use bedrooms for play or napping at your family home child care:

(1) You or a primary staff person must be on the same floor where children are playing, napping or sleeping in bedrooms; and

(2) Bedrooms must have at least one exit window that meets the fire safety requirements for an escape window.

[06-15-075, recodified as § 170-296-1030, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1030, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1040 What are the requirements for mats and cots used for napping?** (1) You must ensure the mat or cot is long enough and wide enough for the size of the child. A mat must be at least one inch thick to provide comfort for the child to nap.

(2) The surface of mats and cots must be of a material that can be cleaned and sanitized (one-fourth teaspoon chlorine bleach per quart of cool water) and allowed to air dry.

(3) You must clean the child's nap equipment once a week or as needed and between use by different children.

(4) You must allow enough space between children to give staff access to children when napping.

(5) You must ensure the child's bedding:

(a) Consists of a clean sheet or blanket to cover the sleeping surface and a clean, suitable cover for the child (children must not nap directly on the waterproof covering or the floor);

(b) Is laundered as needed (such as when soiled, used by different children); and

(c) Is stored separately from bedding used by another child.

[06-15-075, recodified as § 170-296-1040, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1040, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1050 What are the requirements for the use of cribs?** (1) You must provide a child under two years with a single-level crib, toddler bed, or playpen for napping until you and the parent agree that the child can safely use a mat, cot or other approved sleeping equipment.

(2) Cribs must have no more than two and three-eighths inches space between vertical slats when used for infants less than six months of age.

(3) Cribs, toddler beds, and playpens must:

(a) Have clean, firm, snug fitting mattresses covered with waterproof material that is easily cleaned and sanitized, without tears or tape; and

(b) Be made of wood, metal, or approved plastic with secure latching devices.

(4) Each crib or bed must be arranged to allow staff access to children.

(5) Children must not sleep in car seats, swings or other similar equipment.

[06-15-075, recodified as § 170-296-1050, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1050, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1060 What sleeping arrangements must I make to reduce the risk of sudden infant death syndrome (SIDS)?** You must follow the recommendations of the American Academy of Pediatrics (AAP) for putting infants down to sleep.

(1) You must put infants to sleep on their backs to reduce the risk of SIDS unless you have a written note in the infant's file from both the parent and the infant's health care provider requesting another sleeping position;

(2) Once infants are able to turn over, continue to place them on their back to sleep. If the infant has turned over while sleeping you do not need to return the infant to his or her back;

(3) Place the infant inside the crib, infant bed or playpen on a firm mattress with a tight fitting sheet;

(4) You must not use soft fluffy bedding, stuffed toys, pillows, crib bumpers and similar items in the crib;

(5) You must make sure that the infant's head and face remain uncovered during sleep;

(6) You must not allow smoking around the infant; and

(7) You must not let the infant get too warm during sleep.

[06-15-075, recodified as § 170-296-1060, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1060, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1070 What are the requirements for beds?** (1) Each child in overnight care must have their own bed. The bed must be at least twenty-seven inches wide with a clean and comfortable mattress in good condition.

(2) For each child in care who is two years and older, you must provide a pillow and pillowcase, blankets, and sheets. A slumber bag, designed for indoor use can substitute for a blanket and sheet.

(3) Pillows must be covered with waterproof material or be washable.

(4) Bedding must be clean.

(5) If the child using the mattress is not toilet trained, you must provide waterproof mattress covers or moisture resistant mattresses.

(6) You may use toddler beds with a standard crib mattress that is sufficient in length and width for the child's size.

(7) You must not allow children under the age of six years to use loft style beds or upper bunks of double-deck beds.

(8) You may use a mat for napping but not as a substitute for a bed.

[06-15-075, recodified as § 170-296-1070, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1070, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1080 What is the requirement for napping and resting?** (1) You must offer and supervise a rest period of at least thirty minutes for the child;

(a) Five years of age and under who remain in care more than six hours; or

(b) Showing a need for rest.

(2) You must not require or force children to sleep.

(3) You must provide a space, away from the napping children, for quiet play for the children who don't require sleep.

[06-15-075, recodified as § 170-296-1080, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1080, filed 8/31/04, effective 10/1/04.]

## DIAPER CHANGING AND BATHING FACILITIES

**WAC 170-296-1090 What are the requirements for diapers and diaper changing areas?** (1) You must separate diaper changing areas from areas where food is stored, prepared or served.

(2) There must be a sink for handwashing close to the diaper changing area with running hot and cold water. This sink must not be used for food preparation and clean up.

(3) You must have a sturdy, easily cleanable structure, or mat with a nonabsorbent surface for diaper changing. If you use a mat it must be large enough to prevent the surface underneath from becoming contaminated with bodily fluids.

(4) You and your staff must wash hands before and after diapering each child.

(5) You and your staff must maintain contact with the child being diapered at all times while changing diapers.

(6) For cleaning children, you must:

(a) Use either disposable towels or clean cloth towels that have been washed and sanitized between each use; and

(b) Assist a child in handwashing, after changing the diaper.

(7) You and your staff must place the diaper, without rinsing, directly into a waste container (used only for soiled diapers) that has a tight cover, is lined with a disposable plastic trash bag, and is within arm's reach of the diaper changing area.

(8) You and your staff must use:

(a) Disposable diapers;

(b) A commercial diaper service;

(c) Reuseable diapers supplied by the child's family; or

(d) Washable training pants.

(9) You and your staff must clean and sanitize (one tablespoon chlorine bleach per quart of cool water) diaper changing areas between each use or you must use a nonabsorbent, disposable covering that you discard after each use.

[06-15-075, recodified as § 170-296-1090, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1090, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1100 What are the requirements for bathing children in care?** When bathing children, you or a primary staff person must:

(1) Directly supervise preschool age and younger children at all times; and

(2) Use a nonskid pad in the bathtub if the bathtub does not have a nonskid surface.

[06-15-075, recodified as § 170-296-1100, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1100, filed 8/31/04, effective 10/1/04.]

## UTILITIES AND WASTE DISPOSAL

**WAC 170-296-1110 Do I need a telephone?** (1) You must have at least one working land line telephone in the licensed space of your facility for incoming and outgoing calls during the time children are present. This allows the 911 emergency operator to track the address or location where the emergency call is made from.

(2) You must provide a working phone for each level of the home in which the child care operates.

(3) The use of answering machines or voice mail is permitted only when they are fully operational and located where staff can hear them.

(4) The telephone must be accessible for incoming and outgoing emergency use at all times.

(5) You must post the following emergency numbers near the telephone:

(a) Fire;

(b) Police;

(c) Ambulance;

(d) Poison center;

(e) 911, address and directions to your home;

(f) Child protection services.

(6) You must provide your current phone number, at all times, to the parents or guardians of the children in your care and your licenser.

[06-15-075, recodified as § 170-296-1110, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1110, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1120 What are the lighting requirements?** You must:

(1) Locate light fixtures and provide lighting that promotes good visibility for the safety and comfort of children in your care; and

(2) Use nonhazardous light fixture covers or shatter resistant (or otherwise made safe) light bulbs or tubes for ceiling lights in the play space.

[06-15-075, recodified as § 170-296-1120, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1120, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1130 What are the requirements for ventilation?** (1) You must ensure that your licensed space is ventilated for the health and comfort of the children under your care.

(2) An operational mechanical exhaust fan to the outside must ventilate toilet rooms and bathrooms that do not have windows opening to the outside.

[06-15-075, recodified as § 170-296-1130, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1130, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1140 What are the requirements for drinking water?** You must provide:

(1) Drinking water supplied from:

(a) A public water supply regulated by Washington state department of health drinking water operations or the local health authority as appropriate; or

(b) An individual water supply operated and maintained in a manner acceptable to the local health authority; or

(c) Commercially bottled water.

(2) Disposable paper cups or individual drinking cups.

[06-15-075, recodified as § 170-296-1140, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1140, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1150 What are the requirements for sewage and liquid wastes?** Your home must discharge sewage and liquid wastes into a public sewer system or into an independent septic system maintained so as not to create a public health nuisance as determined by the local health authority.

[06-15-075, recodified as § 170-296-1150, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1150, filed 8/31/04, effective 10/1/04.]

**LAUNDRY, SINKS, AND TOILETS**

**WAC 170-296-1160 What are the requirements for laundry facilities?** We have specific requirements for laundry facilities. You must:

- (1) Have separate and adequate facilities for storing soiled and clean linen;
- (2) Provide a washer and dryer, or make other arrangements for getting laundry done on a regular basis;
- (3) Directly supervise when laundry equipment is accessible to children and is in use; and
- (4) Ensure that the clothes dryer is vented to the outdoors.

[06-15-075, recodified as § 170-296-1160, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1160, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1170 What are the requirements for washing laundry used in child care?** You must use an effective way to clean laundry contaminated with urine, feces, lice, scabies, or other potentially infectious materials. You must clean laundry through temperature control or the use of chemicals.

[06-15-075, recodified as § 170-296-1170, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1170, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1180 What are the requirements for handwashing sinks?** (1) You must supply children with warm running water for handwashing. The water must be kept at a temperature range of not less than eighty-five degrees Fahrenheit and not more than one hundred twenty degrees Fahrenheit.

- (2) Locate children's handwashing facilities in or next to rooms used for toileting.
- (3) You must provide the child with soap and paper towels for washing and drying their hands and face.
- (4) Handwashing sinks must be of appropriate height and size for children in care or you must furnish safe, easily cleanable platforms impervious to moisture.

[06-15-075, recodified as § 170-296-1180, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1180, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1190 What are the requirements for toilets and toileting?** You must provide:

- (1) A minimum of one indoor flush-type toilet;
- (2) Privacy for toileting for children of the opposite sex who are four years of age and older and for other children demonstrating a need for privacy;
- (3) A mounted toilet paper dispenser and toilet paper for each toilet; and
- (4) Toilets that are of appropriate height and size for children in care or safe, easily cleanable platforms, impervious to moisture.

[06-15-075, recodified as § 170-296-1190, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1190, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1200 Must a family home child care have toilet training equipment for children?** (1) A family

home child care must have developmentally appropriate toilet-training equipment, when the home serves children who are not toilet trained.

(2) You must sanitize (one tablespoon chlorine bleach per quart of cool water) the equipment after each child's use.

[06-15-075, recodified as § 170-296-1200, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1200, filed 8/31/04, effective 10/1/04.]

**INDOOR AND OUTDOOR PLAY AREAS AND TRANSPORTATION**

**WAC 170-296-1210 What are the requirements for indoor play areas?** (1) Your indoor play area must contain a minimum of thirty-five square feet of useable floor space per child. This space is considered in determining child capacity of the home, and must be available for use by children at all times. We must not count the following as part of the thirty-five square feet per child requirement:

- (a) Storage areas;
- (b) Bathrooms;
- (c) Hallways;
- (d) Closets;
- (e) Furnace rooms;
- (f) Stationary equipment; and
- (g) Any other furniture not used by children.

(2) You must designate an area that is developmentally appropriate and safe for children less than twenty-four months of age to allow opportunities for:

- (a) Large and small muscle development;
- (b) Crawling and exploring;
- (c) Sensory stimulation;
- (d) Development of communication; and
- (e) Learning self-help skills.

(3) You must provide appropriate lighting and ventilation for all activity areas.

[06-15-075, recodified as § 170-296-1210, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1210, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1220 What are the requirements for an outdoor play area?** (1) You are required to provide a safe and securely fenced play area, or an enclosed outdoor play area that we have approved.

(2) The fenced or approved enclosed outdoor play area must prevent child access to roadways and other dangers.

(3) The fence or enclosure must protect the play area from unauthorized exit or entry. Any fence or enclosure must be at least four feet high and designed to discourage climbing (chain link fencing is acceptable).

(4) Spacing between vertical slats must be no greater than three inches.

(5) The outdoor play area must directly adjoin the indoor premises or be reachable by a safe route and method approved by your licensor.

(6) The outdoor play area must promote the child's active play, physical development, and coordination.

(7) You must provide daily opportunities for children to participate actively in outdoor play.

(8) You must not place climbing equipment on concrete, asphalt, wood or similar surfaces.

(9) You must provide a fall zone of a minimum of six feet in all directions from stationary climbing equipment. The fall zone must be free of objects that could harm a falling child on impact.

(10) The ground cover under climbing equipment must be soft enough to absorb falls and prevent injury. Examples of ground cover that will absorb a fall include cedar chips, pea gravel and rubber-like materials.

[06-15-075, recodified as § 170-296-1220, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1220, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1230 What are the size requirements for an outdoor play area?** You must ensure the outdoor play area at your family home child care facility contains a minimum of seventy-five square feet of useable play space for each child you are licensed for.

[06-15-075, recodified as § 170-296-1230, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1230, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1240 What are the requirements for outdoor play equipment?** You must provide a variety of age appropriate play equipment of sufficient quantity for the children in your care. For example:

- (1) Climbing equipment;
  - (2) Tires for swings;
  - (3) Age appropriate woodworking tools;
  - (4) Play tools for water, mud and sand;
  - (5) Ride-on toys, wheelbarrows, scooters, tricycles and bikes;
  - (6) Bats, balls and sports equipment;
  - (7) Gardening equipment;
  - (8) Jump ropes; and
  - (9) Dramatic play props.
- (10) All outdoor play equipment that needs installation must be installed as required by the manufacturers instructions and maintained in good condition.

[06-15-075, recodified as § 170-296-1240, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1240, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1250 What are the requirements I must follow when I transport children?** When you transport children under your care, you must follow these requirements.

- (1) You must keep the vehicle in a safe operating condition;
- (2) The driver must have a valid driver's license;
- (3) There must be at least one staff person other than the driver in a vehicle when:
  - (a) Staff-to-child ratio guidelines require a second staff person (see WAC 170-296-1350(3)); or
  - (b) The child's specific needs require a second staff person.
- (4) The driver or owner of the vehicle must be covered under an automobile liability insurance policy;
- (5) The number of passengers must not exceed the vehicle's seat belts;

(2009 Ed.)

(6) All persons in the vehicle must use seat belts or approved child passenger restraint systems, as required by law, whenever the vehicle is in motion;

(7) You must have a first-aid kit and a copy of the child's completed enrollment form in the vehicle; and

(8) You must perform an attendance count of children when getting in and out of the vehicle to prevent accidentally leaving a child in the vehicle.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-1250, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-1250, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1250, filed 8/31/04, effective 10/1/04.]

## CHILD PROTECTION

**WAC 170-296-1260 What are the requirements for protecting a child under my care from abuse or neglect?**

As part of ensuring a child's health, safety and welfare, you must protect children under your care from all forms of child abuse, child neglect and exploitation as required by RCW 26.44.030.

[06-15-075, recodified as § 170-296-1260, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1260, filed 8/31/04, effective 10/1/04.]

## CHILD GUIDANCE AND DISCIPLINE

**WAC 170-296-1280 What requirements must I follow when guiding and disciplining children?** (1) You and your staff must use positive methods of guidance and discipline that promote self-control, self-direction, self-esteem and cooperation. For example, redirection, planning ahead to prevent problems, reinforcing appropriate behavior and encouraging children to express their feelings and ideas instead of solving problems with force.

(2) You are responsible for disciplining children in your care. This responsibility may only be delegated to a primary staff person.

(3) Your expectations of children's social behavior must be appropriate to each child's level of development.

(4) Discipline must be fair, reasonable, consistent, and related to the child's behavior.

(5) You and your staff must not make derogatory, shaming or humiliating remarks in the presence of children or families.

(6) You must protect children from the harmful acts of other children.

[06-15-075, recodified as § 170-296-1280, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1280, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1290 What types of disciplinary practices must not be used?** (1) You, your staff, volunteer, anyone residing in your home or on the premises, or parents must not use any form of inappropriate discipline or corporal punishment such as, but not limited to:

- (a) Spanking children with a hand or object;
- (b) Biting, jerking, kicking, hitting, or shaking the child;
- (c) Pulling the child's hair;
- (d) Pushing, shoving or throwing the child;
- (e) Inflicting pain as a punishment;

(f) Name calling, shaming or using derogatory comments;

(g) Threatening the child with physical harm; and

(h) Threatening or intimidating the child.

(2) You, your staff, volunteer, anyone residing in your home or on the premises must not use methods that interfere with a child's basic needs. These include, but are not limited to:

(a) Depriving the child of sleep;

(b) Not providing required food, clothing or shelter;

(c) Restricting a child's breathing;

(d) Interfering with a child's ability to take care of their own hygiene and toilet needs; and

(e) Not providing required medical or emergency dental care.

[06-15-075, recodified as § 170-296-1290, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1290, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1300 Is the use of physical restraint allowed?** (1) You must first use efforts other than physical restraint to redirect or de-escalate a situation.

(2) If a child's behavior poses an immediate risk to physical safety, you may use a soft hold as a temporary method to prevent the child from hurting themselves or others.

[06-15-075, recodified as § 170-296-1300, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1300, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1320 What types of restraint are not acceptable for children?** You, your staff, volunteer, anyone residing in your home or on the premises must not use:

(1) Physical restraint as a form of punishment or discipline;

(2) Mechanical restraints, including but not limited to handcuffs and belt restraints;

(3) Locked time-out rooms; or

(4) Physical restraint techniques that restrict breathing, or inflict pain as a strategy for behavior control, or that might injure a child. These include, but are not limited to:

(a) Restriction of body movement by placing pressure on joints, chest, heart, or vital organs;

(b) Sleeper holds, which are holds used by law enforcement officers to subdue a person;

(c) Arm twisting;

(d) Hair holds;

(e) Choking or putting arms around the throat; and

(f) Chemical restraints.

[06-15-075, recodified as § 170-296-1320, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1320, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1330 What must I do following an incident that involved using physical restraint?** You must:

(1) Review any incident of physical restraint to ensure that the decision to use physical restraint and its application were appropriate;

(2) Report the incident to the child's parent;

(3) Document the incident in the child's record; and

(4) Obtain consultation from the licensor and public health nurse so that further use of restraint may be eliminated.

[06-15-075, recodified as § 170-296-1330, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1330, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1340 What incidents involving children must I report?** (1) You or your staff must report any of the following incidents immediately to your local children's administration intake staff, and your licensor:

(a) Suspected child abuse, neglect or exploitation;

(b) Death of a child;

(c) Child's suicide attempt;

(d) Use of physical restraint that is alleged to be improper, excessive, or results in injury;

(e) Sexual contact between two or more children;

(f) Disclosures of sexual or physical abuse by a child in care;

(g) Injury requiring professional medical treatment;

(h) Unexpected or emergent health problems that require off-site professional medical treatment;

(i) Medication that is given incorrectly.

(2) You or your staff must report immediately, any of the following incidents to the child's parent or legal guardian:

(a) Suicidal or homicidal ideation, gestures, or attempts;

(b) Unexpected health problems;

(c) Any incident of medication administered incorrectly;

(d) Physical assaults that resulted in injury;

(e) Runaways;

(f) Missing children; and

(g) Use of physical restraints for routine behavior management.

[06-15-075, recodified as § 170-296-1340, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1340, filed 8/31/04, effective 10/1/04.]

**CAPACITY AND STAFFING RATIOS, AND SUPERVISION OF CHILDREN**

**WAC 170-296-1350 What are the capacity and the ratio of child care staff to children based on?** The number and ages of the children must determine the number of staff and group size in attendance.

(1) All children in the home, including the provider's or other staff's own children, must be counted in determining the staff to child ratio and group size.

(2) All children under the age of twelve visiting the home count in capacity. Children attending with a parent or responsible adult do not count in capacity as long as the parent or adult remains with and is responsible for the children;

(3) The required staff to child ratios in the following chart must be met at all times.

STAFF AND EXPERIENCE	HIGHEST NUMBER OF CHILDREN UNDER TWO YEARS OF AGE ALLOWED	HIGHEST NUMBER OF CHILDREN ALLOWED ON THE PREMISES
(a) Licensee	2	6
(b) Licensee with one year experience	None	8
(c) Licensee with one year experience	None	10

STAFF AND EXPERIENCE	AGE RANGE OF CHILDREN (IN YEARS)	HIGHEST NUMBER OF CHILDREN UNDER TWO YEARS OF AGE ALLOWED	HIGHEST NUMBER OF CHILDREN ALLOWED ON THE PREMISES
(d) Licensee with one year of licensed child care experience plus one staff person or volunteer	Birth - 11	4	9
(e) Licensee with two years' of licensed child care experience and one three credit early childhood education (ECE) course or 30 clock hours of ECE training	3 - 11	None	10
(f) Licensee with two years' of licensed child care experience and one three credit ECE course of 30 clock hours of ECE training, one staff person or volunteer	Birth - 11	4	12

(4) You must ensure a staff person or volunteer is present in the licensed space of the child care facility when:

- (a) Three or more children under two years of age are in care;
  - (b) Seven or more children are in care and at least one child in care is under two years of age; or
  - (c) More than ten children are in care.
- (5) Our determination of capacity must include all children eleven years of age or younger on the premises. (Except as provided for in the subsection (2) above.)
- (6) You must ensure that only you and/or a primary staff person, eighteen years of age or older, has sole responsibility for the child in care.

[06-15-075, recodified as § 170-296-1350, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1350, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1360 What am I required to do to supervise children?** (1) You must ensure that the required number of staff supervise children.

- (2) You, or a primary staff person, must be within sight or hearing of the children in your care, both inside and outside, so that you or a primary staff person are capable of intervening to protect the health and safety of the children.
- (3) Preschool age children and younger must be within sight and hearing of you or a primary staff person when outside.
- (4) The supervision you provide must ensure that you are aware of what the children are doing at all times and can promptly assist or redirect activities when necessary.
- (5) If you are unable to view children in your licensed space you must continually go to that area to check on them.
- (6) Children must not be on a floor level of the home unless you or a primary staff person is on the same floor level. When deciding how close to supervise, you must consider the following:

- (a) Ages of the children (sleeping or napping infants must be in the main child care space and subject to continual checks);

(2009 Ed.)

- (b) Individual differences and abilities;
  - (c) Layout of the house and play area;
  - (d) The risk associated with the activities children are engaged in; and
  - (e) Your outdoor play area and nearby hazards.
- (7) A baby monitor or video monitor must not take the place of the required supervision for children in your care.

[06-15-075, recodified as § 170-296-1360, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1360, filed 8/31/04, effective 10/1/04.]

**THE LEARNING ENVIRONMENT**

**WAC 170-296-1370 What types of play materials, equipment and activities must I provide for the children in my care?** (1) You must provide developmentally appropriate and culturally relevant activities and materials in the required quantity and variety to meet the needs and interests of children being served. The daily schedule must promote:

- (a) Social skills (for example: Opportunities for sharing, caring and helping);
- (b) Positive self-concepts (for example: Encouraging children to draw pictures and tell stories about themselves and their families);
- (c) Language and literacy (for example: Reading books, songs, conversation, story telling, scribbling and drawing);
- (d) Physical development in both indoor and outdoor settings, strengthening large and small muscles and encouraging eye-hand coordination, body awareness, rhythm and movement (for example: Finger plays, obstacle courses and puzzles); and
- (e) Creative expression and appreciation for the arts (for example: Creating art work as process rather than product, dance, movement, dramatic play, music and materials that represent a variety of cultures).

- (2) The daily schedule must provide:
- (a) Individual, small group and large group activities;
  - (b) Many opportunities for success through open-ended activities (for example: Blocks, play dough and sand/water and praising effort, not just results);
  - (c) An environment of respect for individual and cultural diversity (for example: Acknowledging and respecting each child's unique qualities and integrating positive culturally relevant experiences into daily activities);
  - (d) Opportunities for children to solve problems, initiate activities, experiment and gain mastery through learning by doing;
  - (e) Opportunities to explore science, dramatic play, music, language arts and mathematical concepts;
  - (f) A balance between staff-directed and child-initiated activities. Staff voices must not dominate the overall sound of the group; and
  - (g) Infants and toddlers with ample opportunities to move about freely in a safe area.

- (3) If television/video viewing occurs it must not be in place of planned activities and must be:
- (a) Educational;
  - (b) Designed for children; and
  - (c) Age-appropriate alternatives to television must be available for children during TV or video watching and appropriate for the number and ages of the children in care.

(4) You must have the required outdoor play equipment for the number and ages of the children that you serve (see WAC 170-296-1240).

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265, 08-08-012, § 170-296-1370, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-1370, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1370, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1380 Are there additional requirements regarding American Indian children?** When one or more American Indian child receives care at the home, the licensee must in consultation with the parent, establish a plan to provide resources and training designed to meet the social and cultural needs of such children.

[06-15-075, recodified as § 170-296-1380, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1380, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1390 How am I required to interact with the children in my care?** You, your staff and volunteers must:

(1) Treat each child with consideration and respect, and with equal opportunities to take part in all developmentally appropriate activities;

(2) Appropriately hold, touch and smile at children;

(3) Speak clearly to children at their eye level;

(4) Be available and responsive to children, encouraging them to share experiences, ideas and feelings;

(5) Sit with children during meals when possible;

(6) Listen to children with attention and respect;

(7) Attend to children when they cry;

(8) Perform nurturing activities including diapering, toileting, feeding, dressing and resting taking into consideration of the parent's own nurturing practices, when the practices are developmentally appropriate and when the practices would not constitute a violation of these regulations. These activities must be performed in a relaxed, reassuring and individualized manner, which is developmentally appropriate and promotes the child's learning self-help and social skills; and

(9) You, your staff, volunteers and family members having access to the children in your care must not use profanity or obscene language.

[06-15-075, recodified as § 170-296-1390, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1390, filed 8/31/04, effective 10/1/04.]

#### STAFF POSITIONS, QUALIFICATIONS AND ONGOING STAFF TRAINING

**WAC 170-296-1400 What are the responsibilities of the family home provider?** (1) You are responsible for the overall management of your family home child care business.

(2) You must ensure your family home child care business complies with the minimum licensing requirements contained in this chapter.

[06-15-075, recodified as § 170-296-1400, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1400, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1410 What are the required staffing qualifications for child care?** (1) You, a primary staff per-

son, assistant, volunteer, and other person associated with the operation of the business who has access to the child in care must:

(a) Meet the qualifications in WAC 170-296-0140;

(b) Be authorized by DEL to care for or have unsupervised access to children in child care under chapter 170-06 WAC; and

(c) Not have been disqualified from working in a licensed child care setting or have had a license revoked.

(2) If we have reason to believe that you, any staff, volunteers, assistants, or members of your household may be unable to meet the requirements in chapter 170-296 WAC, we may require any of the following evaluations:

(a) Substance and alcohol abuse evaluations and documentation of treatment;

(b) Psychiatric and psychological evaluations;

(c) Psycho-sexual evaluations; and

(d) Medical evaluations.

(3) Any evaluation requested under subsection (2)(a) through (d) of this section will be at the expense of the person being evaluated.

(4) The person being evaluated must give us permission to speak with the evaluator(s) in subsection (2)(a) through (d) of this section prior to and after the evaluation.

(5) The licensee must:

(a) Be eighteen years of age or older;

(b) Be the primary child care provider;

(c) Ensure compliance with minimum licensing requirements under this chapter; and

(d) Have completed one of the following prior to or within the first six months of obtaining an initial license:

(i) Twenty clock hours or two college quarter credits of basic training approved by the Washington state training and registry system (STARS);

(ii) Current child development associate (CDA) or equivalent credential or twelve or more college quarter credits in early childhood education or child development; or

(iii) Associate of arts or AAS or higher college degree in early childhood education, child development, school age care, elementary education or special education.

(6) Child care staff must be:

(a) Fourteen years of age or older if an assistant; or

(b) Eighteen years of age or older if a primary worker and assigned sole responsibility for the child in care.

(7) You and your staff must meet the following qualifications:

HIV/AIDS and  
bloodborne  
pathogens  
training

Position	Qualifications	Background Authorization	TB Test	STARS Training	First Aid and CPR	HIV/AIDS and bloodborne pathogens training
Licensee	Eighteen years of age	X	X	X	X	X
Primary child care staff	Eighteen years of age	X	X	X Basic 20 hour training to be completed within the first six months of employment	X	X
Child care assistant/volunteer	Fourteen years of age; (directly supervised by the licensee or a primary staff)	X	X	Recommended	If counted in staff to child ratio	X

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-296-1410, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-296-1410, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1410, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1420 Must I be present while children are at my family home child care?** (1) You must be present and in the licensed space of your family home child care during the majority of your operating hours.

(2) You must notify your licensor and obtain advanced approval if you plan to be away from the child care business for more than the majority of the time the child care is in operation.

(3) When you are absent from the child care business you must leave a qualified primary staff person in charge. This person must meet the same qualifications that we require of you.

(4) You may leave a qualified assistant eighteen years or older in charge of the child care business to allow for medical, dental and other necessary appointments for periods not to exceed two hours.

[06-15-075, recodified as § 170-296-1420, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1420, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1430 Are child care assistants and volunteers allowed to provide care to a group of children without supervision?** (1) You may have a child care assistant and volunteer support you at your family home child care facility while under the direct supervision of you or a primary staff person; and

(2) You must not assign to a person under eighteen years of age sole responsibility for a group of children.

[06-15-075, recodified as § 170-296-1430, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1430, filed 8/31/04, effective 10/1/04.]

**ONGOING STAFF TRAINING**

**WAC 170-296-1440 Am I required to offer training to my staff?** You must:

(1) Discuss with the staff your policies and procedures as well as the rules contained in this chapter;

(2009 Ed.)

(2) Provide or arrange for your staff to have training for the services that you provide to children under your care;

(3) Include in your training monthly practice of fire drills and disaster training for each staff;

(4) Update bloodborne pathogen information on an annual basis;

(5) Ensure that staff and volunteers keep CPR and first aid training current if they are required to have it;

(6) Record the amount of time and type of training provided to staff; and

(7) Keep this information in staff files or in a separate training file and make this information available to the department upon request.

[Statutory Authority: Chapter 43.215 RCW and 2006 c 265. 08-08-012, § 170-296-1440, filed 3/19/08, effective 4/19/08. 06-15-075, recodified as § 170-296-1440, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1440, filed 8/31/04, effective 10/1/04.]

**WAC 170-296-1450 What personnel records must I have?** You, the primary staff, assistant, and volunteer must have on file at the home:

(1) An application, including work and education history (resume);

(2) Documentation of background check form submission;

(3) A copy of the department notification of background clearance authorization;

(4) A record of the tuberculin skin test results, X ray, or an exemption to the skin test or X ray;

(5) Documentation of HIV/AIDS training and bloodborne pathogen information;

(6) Documentation of current CPR and first-aid training, when applicable; and

(7) Documentation of basic and annual STARS training when applicable.

[Statutory Authority: Chapter 43.215 RCW, RCW 43.43.832, 2006 c 265 and 2007 c 387. 08-10-041, § 170-296-1450, filed 4/30/08, effective 5/31/08. 06-15-075, recodified as § 170-296-1450, filed 7/13/06, effective 7/13/06. Statutory Authority: RCW 74.08.090, 74.15.030, chapters 74.12 and 74.15 RCW. 04-18-082, § 388-296-1450, filed 8/31/04, effective 10/1/04.]