

**WSR 21-07-096  
EMERGENCY RULES  
DEPARTMENT OF  
CHILDREN, YOUTH, AND FAMILIES**

[Filed March 21, 2021, 1:02 p.m., effective March 21, 2021, 1:02 p.m.]

Effective Date of Rule: Immediately upon filing.

Purpose: Chapter 110-310 WAC, Emergency child care and early learning licensing, establishes emergency child care license requirements.

Citation of Rules Affected by this Order: New WAC 110-310-0001, 110-310-0005, 110-310-0010, 110-310-0015, 110-310-0020, 110-310-0025, 110-310-0030, and 110-310-0035.

Statutory Authority for Adoption: RCW 43.216.065.

Under RCW 34.05.350 the agency for good cause finds that immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

Reasons for this Finding: Governor Jay Inslee issued Proclamation 20-05 declaring a State of Emergency in all counties in the state of Washington as a result of the outbreak of COVID-19. As of March 11, 2020, the World Health Organization has classified COVID-19 as a pandemic. Department of children, youth, and families' ability to issue emergency child care licenses will better ensure a safe and healthy supply of child care services during the pandemic. Chapter 110-310 WAC was adopted on an emergency basis on March 25, 2020, under WSR 20-08-044, on July 23, 2020, under WSR 20-16-018, and again on November 20, 2020, under WSR 20-24-032. Circumstances changed under Proclamations 20-25 through 20-25.12 Roadmap to Recovery, but conditions prompting the State of Emergency declaration still exist and justify the need for the chapter to remain in effect.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 8, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: March 21, 2021.

Brenda Villarreal  
Rules Coordinator

NEW SECTION

**WAC 110-310-0001 Emergency child care license—Intent and authority.** (1) The department of children, youth, and families (or "the

department") was established under chapter 6, Laws of 2017. Chapter 43.216 RCW establishes the department's responsibility and authority to set and enforce licensing requirements and ECEAP standards, including the authority to adopt rules to implement chapter 43.216 RCW.

(2) On February 29, 2020, the governor proclaimed a state of emergency in Washington state in response to the first case of the novel coronavirus disease 2019 (COVID-19). See proclamation by the governor no. 20-05. As of March 11, 2020, the world health organization has classified COVID-19 as a pandemic. See proclamation by the governor no. 20-08. The pandemic spreads easily and rapidly from person-to-person and may result in serious illness or death. See proclamation by the governor no. 20-16.

(3) In response to this pandemic Washington's citizens including, but not limited to, first responders, healthcare workers, retail workers, public works employees, and other professionals in Washington state are working each day to: curtail the spread of COVID-19, treat victims of this disease, supply citizens with goods to properly "social distance" themselves from others, and continue the regular operation of everyday services and utilities.

(4) As a result of this pandemic, and under the authority granted to the department under RCW 43.216.065 (2)(c) the department shall issue emergency child care licenses to ensure a safe and healthy supply of child care services during the pandemic.

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**Reviser's note:** The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

#### NEW SECTION

**WAC 110-310-0005 Definitions.** The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Agency" shall have the same meaning as described in RCW 43.216.010.

(2) "Department" means the Washington state department of children, youth, and families.

(3) "Early learning" shall have the same meaning as described in RCW 43.216.010.

(4) "Emergency Child Care license" means a license authorized under this chapter that allows a person, firm, partnership, association, or corporation to provide child care in an approved home or residence that is occupied by the licensee, or in an approved facility that is not used as a home or residence.

(5) "Emergency license agreement" means the agreement described in WAC 110-310-0020.

(6) "Enforcement action" shall have the same meaning as described in RCW 43.216.010.

(7) "Seasonal camp" for the purposes of emergency child care licensing and the exemption listed in RCW 43.216.010 (2)(g) means a program of three months' or less duration engaged primarily in recreational or educational activities conducted on a closely supervised basis, owned by any person or persons, organization, association, corporation, or agency of federal, state, county or municipal government,

and operated, maintained, or offered for use within the state of Washington either free of charge or by payment of a fee.

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NEW SECTION

**WAC 110-310-0010 Emergency child care license—License required.**

(1) Pursuant to RCW 43.216.250(6), any person, firm, partnership, association, corporation, or facility that provides child care and early learning services outside a child's home must be licensed. Individuals and entities that may be exempt from licensing are described in RCW 43.216.010(2).

(2) Pursuant to RCW 43.216.365, an agency operating without an appropriate license shall be guilty of a misdemeanor. Under RCW 43.216.360 the department may issue a penalty of one hundred fifty dollars per day for each day a family day care home provided care without being licensed and two hundred fifty dollars for each day a child day care center provided care without being licensed.

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NEW SECTION

**WAC 110-310-0015 Emergency child care license—Application.** (1)

To be eligible for an emergency child care license, an applicant must:

- (a) Be at least 18 years of age;
- (b) Submit a paper or electronic application to the department for an emergency child care license; and
- (c) Sign and submit to the department an affidavit stating that upon the issuance of an emergency child care license the applicant will comply with the requirements described in chapter 43.216 RCW, this chapter, and emergency license agreement that is prepared and authorized by the department.

(2) Pursuant to RCW 43.216.260, an application must include the following information:

- (a) The size and suitability of a facility and the plan of operation for carrying out the purpose for which an applicant seeks a license;
- (b) The character, suitability, and competence of an agency and other persons associated with an agency directly responsible for the care of children;
- (c) The number of qualified persons required to render the type of care for which an agency seeks a license;
- (d) The health, safety, cleanliness, and general adequacy of the premises to provide for the comfort, care, and well-being of children;
- (e) The provision of necessary care and early learning, including food, supervision, and discipline; physical, mental, and social well-being; and educational and recreational opportunities for those served;
- (f) The financial ability of an agency to comply with minimum requirements established under chapter 43.216 RCW and this chapter; and

(g) The maintenance of records pertaining to the care of children.

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NEW SECTION

**WAC 110-310-0020 Licensing rules.** (1) To protect the health and safety of children in care as authorized under this chapter the provider must agree, enter into, and comply with the terms and conditions of an emergency license agreement prepared and authorized by the department.

(2) The Emergency license agreement shall require compliance with the following minimum terms and conditions:

(a) Compliance with the requirements described in chapter 43.216 RCW;

(b) Compliance with the requirements described in this chapter;

(c) Compliance with the background check requirements described in chapter 43.43 RCW, chapter 43.216 RCW, and the regulations contained in chapter 110-06 WAC that are listed in section (3) of this section;

(d) Compliance with the regulations contained in chapter 110-300 WAC that are listed in section (3) of this section; and

(e) Compliance with all other requirements described in the emergency license agreement.

(3) The licensee must comply with the following regulations contained in chapter 110-06 WAC and chapter 110-300 WAC:

(a) WAC 110-06-0010, 110-06-0020, 110-06-0040, 110-06-0041, 110-06-0041, 110-06-0043, 110-06-0045, 110-06-0050, 110-06-0070, 110-06-0080, 110-06-0090, 110-06-0100, 110-06-0110, 110-06-0115, and 110-06-0120; and

(b) WAC 110-300-0005, 110-300-0147, 110-300-0165, 110-300-0166, 110-300-0175, 110-300-0185, 110-300-0200, 110-300-0205, 110-300-0210, 110-300-0215, 110-300-0221, 110-300-0230, 110-300-0236, 110-300-0240, 110-300-0241, 110-300-0245, 110-300-0260, 110-300-0270, 110-300-0280, 110-300-0281, 110-300-0290, 110-300-0291, 110-300-0295, 110-300-0296, 110-300-0330, 110-300-0331, 110-300-0350, 110-300-0354, 110-300-0420, 110-300-0435, 110-300-0436, 110-300-0440, 110-300-0443, 110-300-0455, 110-300-0475, and 110-300-0485.

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**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

**WAC 110-310-0025 Denial, modification, suspension, and revocation of an emergency child care license—Right of review.** (1) A license authorized to be issued under this chapter may be denied pursuant to chapter 43.216 RCW, this chapter, and chapter 110-06 WAC.

(2) A license issued under this chapter may be suspended, modified, or revoked if the licensee fails to comply with the requirements contained in chapter 43.216 RCW, this chapter, or chapter 110-06 WAC.

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**Reviser's note:** The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

**WAC 110-310-0030 Process for seeking review.** (1) Pursuant to RCW 43.216.250 and RCW 43.216.325, the department is authorized to take enforcement action against an applicant or licensee if the licensee fails to comply with this chapter, chapter 110-06 WAC or chapter 43.216 RCW.

(2) An applicant or licensee has the right to appeal an enforcement action by requesting an adjudicative proceeding (or "hearing") pursuant to the hearing rules codified in chapter 110-03 WAC.

(3) The department must issue a notice of violation to an early learning provider when taking enforcement actions. A notice of violation must be sent certified mail or personal service and must include the following information:

- (a) The reason why the department is taking the action;
- (b) The rules the provider failed to comply with;
- (c) The provider's right to appeal enforcement actions; and
- (d) How the provider may appeal and request a hearing.

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**Reviser's note:** The unnecessary underscoring in the above section occurred in the copy filed by the agency and appears in the Register pursuant to the requirements of RCW 34.08.040.

NEW SECTION

**WAC 110-310-0035 Emergency rules and emergency child care license termination date.** (1) If this chapter is not extended by emergency or permanent rule, this chapter shall expire pursuant to RCW 34.05.350.

(2) If this chapter is not extended by emergency or permanent rule, an emergency child care license issued under this chapter shall expire six months on the date calculated in subsection (1) of this section.

(3) At the department's discretion, an emergency child care license issued under this chapter on or after March 25, 2020 may be extended for a period of time consistent with the requirements described in section (1) of this section; or for one six-month period if this rule becomes permanent under chapter 34.05 RCW.

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**Reviser's note:** The typographical errors in the above section occurred in the copy filed by the agency and appear in the Register pursuant to the requirements of RCW 34.08.040.