

WSR 25-02-097

PERMANENT RULES

DEPARTMENT OF

CHILDREN, YOUTH, AND FAMILIES

[Filed December 30, 2024, 1:46 p.m., effective January 30, 2025]

Effective Date of Rule: Thirty-one days after filing.

Purpose: The licensing division is amending WAC 110-300-0331 Prohibited behavior, discipline, and physical removal of children, 110-301-0331 Prohibited behavior, discipline, and physical removal of children, and 110-302-0331 Prohibited behavior, discipline, and physical removal of children.

These WAC are being amended because the language of the WAC does not clearly forbid child care providers from harming children. This rule requires an immediate and permanent change to the WAC chapters to protect children from harm.

Citation of Rules Affected by this Order: Amending WAC 110-300-0331, 110-301-0331, and 110-302-0331.

Statutory Authority for Adoption: Chapter 42.56 RCW; RCW 43.215.070, 43.215.201, 43.216.055, 43.216.065, and 43.216.742.

Adopted under notice filed as WSR 24-22-108 on November 4, 2024, and 24-23-100 on November 20, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 0, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 3, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.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: December 30, 2024.

Brenda Villarreal
Rules Coordinator

OTS-6099.1

AMENDATORY SECTION (Amending WSR 18-15-001, filed 7/5/18, effective 7/5/18)

WAC 110-300-0331 Prohibited behavior(~~(7)~~) and discipline, and physical (~~(removal)~~) separation of children. (1) An early learning provider (~~((must take steps to prevent and, once aware of, must not tolerate))~~), staff member, or household member is prohibited from using the following behaviors and discipline of children:

- (a) Profanity, obscene language, "put downs," or cultural or racial slurs;
- (b) Angry or hostile interactions;

(c) Threats of physical harm or inappropriate discipline such as, but not limited to, spanking, biting, jerking, kicking, hitting, slapping, grabbing, shaking, pulling hair, pushing, shoving, throwing a child, or inflicting pain or humiliation as a punishment;

(d) Intimidation, gestures, or verbal abuse including sarcasm, name calling, shaming, humiliation, teasing, derogatory remarks about a child or the child's family;

(e) Emotional abuse including victimizing, bullying, rejecting, terrorizing, extensive ignoring, or corrupting a child;

(f) ~~((Prevent))~~ Sexual abuse, pursuant to RCW 26.44.020;

~~(g) Preventing~~ a child from or ~~((punish))~~ punishing a child for exercising religious rights; ~~((or~~

~~(g) Anyone to:~~

~~(i) Restrict))~~ (h) Restricting a child's breathing;

~~((ii) Bind or restrict))~~ (i) Binding or restricting a child's movement unless permitted under WAC 110-300-0335;

~~((iii) Tape))~~ (j) Taping a child's nose, mouth, or other body part;

~~((iv) Deprive))~~ (k) Depriving a child of sleep, food, clothing, shelter, physical activity, first aid, or regular or emergency medical or dental care;

~~((v) Force))~~ (l) Forcing a child to ingest something as punishment such as hot sauce or soap;

~~((vi) Interfere))~~ (m) Interfering with a child's ability to take care of ~~((his or her))~~ their own hygiene and toileting needs;

~~((vii) Use))~~ (n) Using toilet learning or training methods that punish, demean, or humiliate a child;

~~((viii) Withhold))~~ (o) Withholding hygiene care, toileting care, or diaper changing from any child unable to provide such care for ~~((himself or herself))~~ themselves;

~~((ix) Expose))~~ (p) Exposing a child to extreme temperatures as punishment;

~~((x) Demand))~~ (q) Demanding excessive physical exercise or strenuous postures. Excessive physical exercise includes, but is not limited to, running laps around the yard until overly tired, an extensive number of push-ups, having a child rest more than the child's development requires, standing on one foot for an uncomfortable amount of time, or holding out one's arms until tired or painful;

~~((xi) Place))~~ (r) Placing the separated child in a closet, bathroom, locked room, outside, or in an unlicensed space; and

~~((xii) Use))~~ (s) Using high chairs, car seats, or other confining space or equipment to punish a child or restrict movement.

(2) An early learning provider must supervise to protect children from the harmful acts of other children. A provider must immediately intervene when they become aware that a child or children are teasing, fighting, bullying, intimidating, or becoming physically or sexually aggressive.

(3) An early learning provider may separate a preschool age or school age child from other children when that child needs to regain control of ~~((him or herself))~~ themselves.

(a) During separation time, the child must remain under the appropriate level of supervision of a licensee, center director, assistant director, program supervisor, lead teacher or an assistant teacher.

(b) Separation time should be minimized and appropriate to the needs of the individual child.

(4) If a child is separated from other children, an early learning provider must:

(a) Consider the child's developmental level, language skills, individual and special needs, and ability to understand the consequences of ~~((his or her))~~ their actions; and

(b) Communicate to the child the reason for being separated from the other children.

(5) If an early learning provider follows all strategies in this section, and a child continues to behave in an unsafe manner, only a licensee, center director, assistant director, program supervisor, lead teacher, or an assistant teacher may physically ~~((remove))~~ separate the child to a less stimulating environment. Staff must remain calm and use a calm voice when directing or ~~((removing))~~ separating the child. Physical ~~((removal))~~ separation of a child is determined by that child's ability to walk:

(a) If the child is willing and able to walk, staff may hold the child's hand and walk ~~((him or her))~~ the child away from the situation.

(b) If the child is not willing or able to walk, staff may pick the child up and ~~((remove him or her))~~ separate the child to a quiet place where the child cannot hurt themselves or others.

OTS-5990.1

AMENDATORY SECTION (Amending WSR 21-10-035, filed 4/27/21, effective 6/1/21)

WAC 110-301-0331 Prohibited behavior~~((7))~~ and discipline, and physical ~~((removal))~~ separation of children. (1) A school-age provider ~~((must take steps to prevent and, once aware of, must not tolerate))~~ is prohibited from using the following behaviors and discipline of children:

(a) Profanity, obscene language, "put downs," or cultural or racial slurs;

(b) Angry or hostile interactions;

(c) Threats of physical harm or inappropriate discipline such as, but not limited to, spanking, biting, jerking, kicking, hitting, slapping, grabbing, shaking, pulling hair, pushing, shoving, throwing a child, or inflicting pain or humiliation as a punishment;

(d) Intimidation, gestures, or verbal abuse including sarcasm, name calling, shaming, humiliation, teasing, derogatory remarks about a child or the child's family;

(e) Emotional abuse including victimizing, bullying, rejecting, terrorizing, extensive ignoring, or corrupting a child;

(f) ~~((Prevent))~~ Sexual abuse, pursuant to RCW 26.44.020;

~~((g))~~ Preventing a child from or ~~((punish))~~ punishing a child for exercising religious rights; ~~((or~~

~~((g)) Anyone to:~~

~~((i)) Restrict))~~ (h) Restricting a child's breathing;

~~((ii)) Bind or restrict))~~ (i) Binding or restricting a child's movement unless permitted under WAC 110-301-0335;

~~((iii)) Tape))~~ (j) Taping a child's nose, mouth, or other body part;

~~((iv) Deprive)~~ (k) Depriving a child of sleep, food, clothing, shelter, physical activity, first aid, or regular or emergency medical or dental care;

~~((v) Force)~~ (l) Forcing a child to ingest something as punishment such as hot sauce or soap;

~~((vi) Interfere)~~ (m) Interfering with a child's ability to take care of their own hygiene and toileting needs;

~~((vii) Withhold)~~ (n) Withholding hygiene care, toileting care, or diaper changing from any child unable to provide such care for themselves;

~~((viii) Expose)~~ (o) Exposing a child to extreme temperatures as punishment;

~~((ix) Demand)~~ (p) Demanding excessive physical exercise or strenuous postures. Excessive physical exercise includes, but is not limited to, running laps around the yard until overly tired, an extensive number of push-ups, standing on one foot for an uncomfortable amount of time, or holding out one's arms until tired or painful;

~~((x) Place)~~ (q) Placing the separated child in a closet, bathroom, locked room, outside, or in an unlicensed space; and

~~((xi) Use)~~ (r) Using a confining space or equipment to punish a child or restrict movement.

(2) A school-age provider must supervise to protect children from the harmful acts of other children. A provider must immediately intervene when they become aware that a child or children are teasing, fighting, bullying, intimidating, or becoming physically or sexually aggressive.

(3) A school-age provider may separate a child from other children when that child needs to regain control of themselves.

(a) During separation time, the child must remain under the appropriate level of supervision of a licensee, program director, site director, lead teacher or an assistant teacher.

(b) Separation time should be minimized and appropriate to the needs of the individual child.

(4) If a child is separated from other children, a school-age provider must:

(a) Consider the child's developmental level, language skills, individual and special needs, and ability to understand the consequences of their actions; and

(b) Communicate to the child the reason for being separated from the other children.

(5) If a school-age provider follows all strategies in this section, and a child continues to behave in an unsafe manner, only a licensee, program director, site director, lead teacher, or an assistant teacher may ~~((physically remove))~~ separate the child to a less stimulating environment. Staff must remain calm and use a calm voice when directing or removing the child.

OTS-5958.2

AMENDATORY SECTION (Amending WSR 23-10-059, filed 5/1/23, effective 6/1/23)

WAC 110-302-0331 Prohibited behavior(~~(7)~~) and discipline, and physical (~~(removal)~~) separation of children. (1) ONB providers (~~(must take steps to prevent and, once aware of, must not tolerate)~~) are prohibited from using the following behaviors and discipline of children:

- (a) Profanity, obscene language, "put downs," or cultural or racial slurs;
 - (b) Angry or hostile interactions;
 - (c) Threats of physical harm or inappropriate discipline such as, but not limited to, spanking, biting, jerking, kicking, hitting, slapping, grabbing, shaking, pulling hair, pushing, shoving, throwing a child, or inflicting pain or humiliation as a punishment;
 - (d) Intimidation, gestures, or verbal abuse including sarcasm, name calling, shaming, humiliation, teasing, derogatory remarks about a child or the child's family;
 - (e) Emotional abuse including victimizing, bullying, rejecting, terrorizing, extensive ignoring, or corrupting a child;
 - (f) (~~(Prevent)~~) Sexual abuse, pursuant to RCW 26.44.020;
 - (g) Preventing a child from or (~~(punish)~~) punishing a child for exercising religious rights; (~~(or~~
 - ~~(g) Anyone to:~~
 - ~~(i) Restrict)~~) (h) Restricting a child's breathing;
 - ~~((ii) Bind or restrict)~~) (i) Binding or restricting a child's movement unless permitted under WAC 110-302-0335;
 - ~~((iii) Tape)~~) (j) Taping a child's nose, mouth, or other body part;
 - ~~((iv) Deprive)~~) (k) Depriving a child of sleep, food, clothing, shelter, physical activity, first aid, or regular or emergency medical or dental care;
 - ~~((v) Force)~~) (l) Forcing a child to ingest something as punishment such as hot sauce or soap;
 - ~~((vi) Interfere)~~) (m) Interfering with a child's ability to take care of their own hygiene and toileting needs;
 - ~~((vii) Use)~~) (n) Using toilet learning or training methods that punish, demean, or humiliate a child;
 - ~~((viii) Withhold)~~) (o) Withholding hygiene care, toileting care, or diaper changing from any child unable to provide such care for themselves;
 - ~~((ix) Expose)~~) (p) Exposing a child to extreme temperatures as punishment;
 - ~~((x) Demand)~~) (q) Demanding excessive physical exercise or strenuous postures. Excessive physical exercise includes, but is not limited to, running laps around the yard until overly tired, an extensive number of push-ups, having a child rest more than the child's development requires, standing on one foot for an uncomfortable amount of time, or holding out one's arms until tired or painful;
 - ~~((xi) Place)~~) (r) Placing the separated child in a closet, bathroom, locked room, out of visual range in an approved tent, cabin, yurt or other structure; or in an unlicensed space; and
 - ~~((xii) Use)~~) (s) Using confining space or equipment to punish a child or restrict movement.
- (2) ONB providers must supervise to protect children from the harmful acts of other children. ONB providers must immediately intervene when they become aware that a child or children are teasing,

fighting, bullying, intimidating, or becoming physically or sexually aggressive.

(3) ONB providers may separate a child from other children when that child needs to regain control of themselves.

(a) During separation time, the child must remain under the appropriate level of supervision of a licensee, director, program director, assistant director, site director, program supervisor, lead teacher or an assistant teacher.

(b) Separation time should be minimized and appropriate to the needs of the individual child.

(4) If a child is separated from other children, ONB providers must:

(a) Consider the child's developmental level, language skills, individual and special needs, and ability to understand the consequences of their actions; and

(b) Communicate to the child the reason for being separated from the other children.

(5) If ONB providers follow all strategies in this section, and a child continues to behave in an unsafe manner, only a licensee, director, program director, assistant director, site director, program supervisor, lead teacher, or an assistant teacher may physically remove the child to a less stimulating environment. Staff must remain calm and use a calm voice when directing or removing the child. Physical (~~removal~~) separation of a child is determined by that child's ability to walk:

(a) If the child is willing and able to walk, staff may hold the child's hand and walk them away from the situation.

(b) If the child is not willing or able to walk, staff may pick the child up and (~~remove~~) separate them to a quiet place where the child cannot hurt themselves or others.