
SUBSTITUTE HOUSE BILL 1451

State of Washington

67th Legislature

2021 Regular Session

By House Children, Youth & Families (originally sponsored by Representatives Sullivan, Lekanoff, and Thai; by request of Office of Financial Management)

READ FIRST TIME 02/15/21.

1 AN ACT Relating to the entitlement date and definition for the
2 early childhood education and assistance program; amending RCW
3 43.216.505, 43.216.525, and 43.216.556; reenacting and amending RCW
4 43.216.010; adding a new section to chapter 43.216 RCW; providing an
5 effective date; and providing an expiration date.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

7 **Sec. 1.** RCW 43.216.010 and 2020 c 270 s 11 are each reenacted
8 and amended to read as follows:

9 The definitions in this section apply throughout this chapter
10 unless the context clearly requires otherwise.

11 (1) "Agency" means any person, firm, partnership, association,
12 corporation, or facility that provides child care and early learning
13 services outside a child's own home and includes the following
14 irrespective of whether there is compensation to the agency:

15 (a) "Child day care center" means an agency that regularly
16 provides early childhood education and early learning services for a
17 group of children for periods of less than (~~twenty-four~~) 24 hours;

18 (b) "Early learning" includes but is not limited to programs and
19 services for child care; state, federal, private, and nonprofit
20 preschool; child care subsidies; child care resource and referral;

1 parental education and support; and training and professional
2 development for early learning professionals;

3 (c) "Family day care provider" means a child care provider who
4 regularly provides early childhood education and early learning
5 services for not more than (~~twelve~~) 12 children in the provider's
6 home in the family living quarters;

7 (d) "Nongovernmental private-public partnership" means an entity
8 registered as a nonprofit corporation in Washington state with a
9 primary focus on early learning, school readiness, and parental
10 support, and an ability to raise a minimum of (~~five million~~
11 ~~dollars~~) \$5,000,000 in contributions;

12 (e) "Service provider" means the entity that operates a community
13 facility.

14 (2) "Agency" does not include the following:

15 (a) Persons related to the child in the following ways:

16 (i) Any blood relative, including those of half-blood, and
17 including first cousins, nephews or nieces, and persons of preceding
18 generations as denoted by prefixes of grand, great, or great-great;

19 (ii) Stepfather, stepmother, stepbrother, and stepsister;

20 (iii) A person who legally adopts a child or the child's parent
21 as well as the natural and other legally adopted children of such
22 persons, and other relatives of the adoptive parents in accordance
23 with state law; or

24 (iv) Spouses of any persons named in (a)(i), (ii), or (iii) of
25 this subsection, even after the marriage is terminated;

26 (b) Persons who are legal guardians of the child;

27 (c) Persons who care for a neighbor's or friend's child or
28 children, with or without compensation, where the person providing
29 care for periods of less than (~~twenty-four~~) 24 hours does not
30 conduct such activity on an ongoing, regularly scheduled basis for
31 the purpose of engaging in business, which includes, but is not
32 limited to, advertising such care;

33 (d) Parents on a mutually cooperative basis exchange care of one
34 another's children;

35 (e) Nursery schools that are engaged primarily in early childhood
36 education with preschool children and in which no child is enrolled
37 on a regular basis for more than four hours per day;

38 (f) Schools, including boarding schools, that are engaged
39 primarily in education, operate on a definite school year schedule,

1 follow a stated academic curriculum, and accept only school age
2 children;

3 (g) Seasonal camps of three months' or less duration engaged
4 primarily in recreational or educational activities;

5 (h) Facilities providing child care for periods of less than
6 (~~twenty-four~~) 24 hours when a parent or legal guardian of the child
7 remains on the premises of the facility for the purpose of
8 participating in:

9 (i) Activities other than employment; or

10 (ii) Employment of up to two hours per day when the facility is
11 operated by a nonprofit entity that also operates a licensed child
12 care program at the same facility in another location or at another
13 facility;

14 (i) Any entity that provides recreational or educational
15 programming for school age children only and the entity meets all of
16 the following requirements:

17 (i) The entity utilizes a drop-in model for programming, where
18 children are able to attend during any or all program hours without a
19 formal reservation;

20 (ii) The entity does not assume responsibility in lieu of the
21 parent, unless for coordinated transportation;

22 (iii) The entity is a local affiliate of a national nonprofit;
23 and

24 (iv) The entity is in compliance with all safety and quality
25 standards set by the associated national agency;

26 (j) A program operated by any unit of local, state, or federal
27 government;

28 (k) A program located within the boundaries of a federally
29 recognized Indian reservation, licensed by the Indian tribe;

30 (l) A program located on a federal military reservation, except
31 where the military authorities request that such agency be subject to
32 the licensing requirements of this chapter;

33 (m) A program that offers early learning and support services,
34 such as parent education, and does not provide child care services on
35 a regular basis.

36 (3) "Applicant" means a person who requests or seeks employment
37 in an agency.

38 (4) "Certificate of parental improvement" means a certificate
39 issued under RCW 74.13.720 to an individual who has a founded finding
40 of physical abuse or negligent treatment or maltreatment, or a court

1 finding that the individual's child was dependent as a result of a
2 finding that the individual abused or neglected their child pursuant
3 to RCW 13.34.030(6)(b).

4 (5) "Conviction information" means criminal history record
5 information relating to an incident which has led to a conviction or
6 other disposition adverse to the applicant.

7 (6) "Department" means the department of children, youth, and
8 families.

9 (7) "Early achievers" means a program that improves the quality
10 of early learning programs and supports and rewards providers for
11 their participation.

12 (8) "Early childhood education and assistance program contractor"
13 means an organization that provides early childhood education and
14 assistance program services under a signed contract with the
15 department.

16 (9) "Early childhood education and assistance program provider"
17 means an organization that provides site level, direct, and high
18 quality early childhood education and assistance program services
19 under the direction of an early childhood education and assistance
20 program contractor.

21 (10) "Early start" means an integrated high quality continuum of
22 early learning programs for children birth-to-five years of age.
23 Components of early start include, but are not limited to, the
24 following:

25 (a) Home visiting and parent education and support programs;

26 (b) The early achievers program described in RCW 43.216.085;

27 (c) Integrated full-day and part-day high quality early learning
28 programs; and

29 (d) High quality preschool for children whose family income is at
30 or below (~~one hundred ten~~) 110 percent of the federal poverty
31 level.

32 (11) "Education data center" means the education data center
33 established in RCW 43.41.400, commonly referred to as the education
34 research and data center.

35 (12) "Employer" means a person or business that engages the
36 services of one or more people, especially for wages or salary to
37 work in an agency.

38 (13) "Enforcement action" means denial, suspension, revocation,
39 modification, or nonrenewal of a license pursuant to RCW

1 43.216.325(1) or assessment of civil monetary penalties pursuant to
2 RCW 43.216.325(3).

3 (14) "Extended day program" means an early childhood education
4 and assistance program that offers early learning education for at
5 least (~~ten~~) 10 hours per day, a minimum of (~~two thousand~~) 2,000
6 hours per year, at least four days per week, and operates year-round.

7 (15) "Full day program" means an early childhood education and
8 assistance program that offers early learning education for a minimum
9 of (~~one thousand~~) 1,000 instructional hours per year.

10 (16) "Low-income child care provider" means a person who
11 administers a child care program that consists of at least (~~eighty~~)
12 80 percent of children receiving working connections child care
13 subsidy.

14 (17) "Low-income neighborhood" means a district or community
15 where more than twenty percent of households are below the federal
16 poverty level.

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

23 (a) A decision issued by an administrative law judge;

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

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

30 (d) A revocation, denial, or restriction placed on any
31 professional license; or

32 (e) A final decision of a disciplinary board.

33 (19) "Nonconviction information" means arrest, founded
34 allegations of child abuse, or neglect pursuant to chapter 26.44 RCW,
35 or other negative action adverse to the applicant.

36 (20) "Nonschool age child" means a child who is age six years or
37 younger and who is not enrolled in a public or private school.

38 (21) "Part day program" means an early childhood education and
39 assistance program that offers early learning education for at least
40 two and one-half hours per class session, at least (~~three hundred~~

1 ~~twenty~~) 320 hours per year, for a minimum of (~~thirty~~) 30 weeks per
2 year.

3 (22) "Private school" means a private school approved by the
4 state under chapter 28A.195 RCW.

5 (23) "Probationary license" means a license issued as a
6 disciplinary measure to an agency that has previously been issued a
7 full license but is out of compliance with licensing standards.

8 (24) "Requirement" means any rule, regulation, or standard of
9 care to be maintained by an agency.

10 (25) "School age child" means a child who is five years of age
11 through (~~twelve~~) 12 years of age and is attending a public or
12 private school or is receiving home-based instruction under chapter
13 28A.200 RCW.

14 (26) "Secretary" means the secretary of the department.

15 (27) "Washington state preschool program" means an education
16 program for children three-to-five years of age who have not yet
17 entered kindergarten, such as the early childhood education and
18 assistance program.

19 **Sec. 2.** RCW 43.216.505 and 2019 c 408 s 2 are each amended to
20 read as follows:

21 Unless the context clearly requires otherwise, the definitions in
22 this section apply throughout RCW 43.216.500 through 43.216.559,
23 43.216.900, and 43.216.901.

24 (1) "Advisory committee" means the advisory committee under RCW
25 43.216.520.

26 (2) "Approved programs" means those state-supported education and
27 special assistance programs which are recognized by the department as
28 meeting the minimum program rules adopted by the department to
29 qualify under RCW 43.216.500 through 43.216.550, 43.216.900, and
30 43.216.901 and are designated as eligible for funding by the
31 department under RCW 43.216.530 and 43.216.540.

32 (3) "Comprehensive" means an assistance program that focuses on
33 the needs of the child and includes education, health, and family
34 support services.

35 (4) "Eligible child" means a three to five-year old child who is
36 not age-eligible for kindergarten, is not a participant in a federal
37 or state program providing comprehensive services, and who:

1 (a) Has a family income at or below (~~one hundred ten~~) 110
2 percent of the federal poverty level, as published annually by the
3 federal department of health and human services;

4 (b) Is experiencing homelessness;

5 (c) Is Indian as defined in rule by the department after
6 consultation and agreement with Washington state's federally
7 recognized tribes pursuant to section 5 of this act and is at or
8 below 110 percent of federal poverty level, as published annually by
9 the federal department of health and human services;

10 (d) Is eligible for special education due to disability under RCW
11 28A.155.020; or

12 (~~(e)~~) (e) Meets criteria under rules adopted by the department
13 if the number of such children equals not more than (~~ten~~) 10
14 percent of the total enrollment in the early childhood program.
15 Preference for enrollment in this group shall be given to children
16 from families with the lowest income, children in foster care, or to
17 eligible children from families with multiple needs.

18 (5) "Experiencing homelessness" means a child without a fixed,
19 regular, and adequate nighttime residence as described in the federal
20 McKinney-Vento homeless assistance act (42 U.S.C., chapter 119,
21 subchapter VI, part B) as it existed on January 1, 2021.

22 (6) "Family support services" means providing opportunities for
23 parents to:

24 (a) Actively participate in their child's early childhood
25 program;

26 (b) Increase their knowledge of child development and parenting
27 skills;

28 (c) Further their education and training;

29 (d) Increase their ability to use needed services in the
30 community;

31 (e) Increase their self-reliance.

32 (7) "Instructional hours" means those hours children are provided
33 the opportunity to engage in educational activities planned by and
34 under the direction of staff in approved programs, as defined in
35 subsection (2) of this section, inclusive of intermissions for class
36 changes, recess, and teacher/parent-guardian conferences that are
37 planned and scheduled by the approved program for the purpose of
38 discussing students' educational needs or progress, and time spent
39 for meals or rest.

1 **Sec. 3.** RCW 43.216.525 and 2015 3rd sp.s. c 7 s 8 are each
2 amended to read as follows:

3 (1) The department shall adopt rules under chapter 34.05 RCW for
4 the administration of the early childhood education and assistance
5 program. Approved early childhood education and assistance programs
6 shall conduct needs assessments of their service area and identify
7 any targeted groups of children, to include but not be limited to
8 children of seasonal and migrant farmworkers and native American
9 populations living either on or off reservation. Approved early
10 childhood education and assistance programs shall provide to the
11 department a service delivery plan, to the extent practicable, that
12 addresses these targeted populations.

13 (2) The department, in developing rules for the early childhood
14 education and assistance program, shall consult with the early
15 learning advisory council, and shall consider such factors as
16 coordination with existing head start and other early childhood
17 programs, the preparation necessary for instructors, qualifications
18 of instructors, adequate space and equipment, and special
19 transportation needs. The rules shall specifically require the early
20 childhood programs to provide for parental involvement in
21 participation with their child's program, in local program policy
22 decisions, in development and revision of service delivery systems,
23 and in parent education and training.

24 (3) By January 1, 2016, the department shall adopt rules
25 requiring early childhood education and assistance program employees
26 who have access to children to submit to a fingerprint background
27 check. Fingerprint background check procedures for the early
28 childhood education and assistance program shall be the same as the
29 background check procedures in RCW (~~43.215.215~~) 43.216.270.

30 (4) By January 1, 2023, the department shall adopt rules
31 outlining the requirements related to educational activities and
32 comprehensive services required to meet the entitlement defined in
33 RCW 43.216.556.

34 **Sec. 4.** RCW 43.216.556 and 2019 c 408 s 3 are each amended to
35 read as follows:

36 (1) Funding for the program of early learning established under
37 this chapter must be appropriated to the department. The department
38 shall distribute funding to approved early childhood education and

1 assistance program contractors on the basis of eligible children
2 enrolled.

3 (2) The program shall be implemented in phases, so that full
4 implementation is achieved in the ((2022-23)) 2026-27 school year.

5 (3) Funding shall continue to be phased in ((each-year)) until
6 full statewide implementation of the early learning program is
7 achieved in the ((2022-23)) 2026-27 school year, at which time any
8 eligible child is entitled to be enrolled in the program. Entitlement
9 under this section is voluntary enrollment in a full day program.

10 (4) School districts and approved community-based early learning
11 providers may contract with the department to provide services under
12 the program. The department shall collaborate with school districts,
13 community-based providers, and educational service districts to
14 promote an adequate supply of approved providers.

15 NEW SECTION. **Sec. 5.** A new section is added to chapter 43.216
16 RCW to read as follows:

17 (1) The department must consult, and obtain the advice and
18 consent of, the governing bodies of the state's federally recognized
19 tribes in developing an agreed-upon definition of the term "Indian"
20 for the purposes of RCW 43.216.505 and, by July 1, 2024, must adopt
21 the definition in rule.

22 (2) This section expires December 1, 2030.

23 NEW SECTION. **Sec. 6.** Section 1 of this act takes effect
24 September 1, 2026.

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