

WSR 21-12-007
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES
[Filed May 19, 2021, 4:16 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 20-14-004.

Title of Rule and Other Identifying Information: WAC 110-16-0005 Definitions, 110-16-0015 Provider responsibilities, 110-16-0025 Health and safety training, 110-16-0030 Health and safety activities, 110-16-0035 Health and safety practices, and 110-16-0040 Compliance.

Hearing Location(s): On July 6, 2021, telephonic. Oral comments may be made by calling 360-902-8084 and leaving a voicemail that includes the comment and an email or physical mailing address where the department of children, youth, and families (DCYF) will send its response. Comments received through and including July 6, 2021, will be considered.

Date of Intended Adoption: July 8, 2021.

Submit Written Comments to: DCYF Rules Coordinator, P.O. Box 40975, Olympia, WA 98504-0975, email dcyf.rulescoordinator@dcyf.wa.gov. Submit comments online at <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>, by July 6, 2021.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-902-7956, by July 2, 2021.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: **For family, friend, and neighbor (FFN) child care:** For individuals who care for children they are related to by marriage, blood, or court decree, but who are not grandparents, great grandparents, siblings who do not live with the children cared for, aunts, great aunts, uncles, or great uncles, proposed rules will condition eligibility to participate in the working connections child care and seasonal child care programs on completion of health and safety training and participation in an annual, health and safety monitoring visit conducted by department staff in the home where care is provided.

The required health and safety training topics are first aid and CPR, prevention and control of infectious diseases, administration of medication, prevention of, and response to, emergencies due to food and allergic reactions, building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic, the prevention of child abuse and neglect, prevention of shaken baby syndrome, head trauma, emergency preparedness and response planning for natural disasters and human-caused events, handling and storage of hazardous materials and bio contaminant disposal, transporting children, and, if caring for an infant, prevention of sudden infant death syndrome and safe sleep.

Reasons Supporting Proposal: Proposed amendments comply with child care and development fund requirements for receipt of grant monies embodied in the 2014 Child Care and Development Block Grant Act reauthorization and supporting federal rules.

Statutory Authority for Adoption: RCW 43.216.055, 43.216.065; chapter 43.216 RCW.

Statute Being Implemented: Chapter 43.216 RCW.

Rule is not necessitated by federal law, federal or state court decision.

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This rule making preserves federal funding appropriations to Washington state.

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Tyler Farmer, 360-628-2151; Implementation and Enforcement: DCYF, statewide.

A school district fiscal impact statement is not required under RCW 28A.305.135.

A cost-benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328 (5)[(a)](i). DCYF does not voluntarily make that section applicable to the adoption of the proposed rules.

This rule proposal, or portions of the proposal, is exempt from requirements of the Regulatory Fairness Act because the proposal:

Is exempt under RCW 19.85.030.

Explanation of exemptions: Rule proposals do not impact any businesses.

May 19, 2021
Brenda Villarreal
Rules Coordinator

OTS-2990.3

AMENDATORY SECTION (Amending WSR 18-20-081, filed 10/1/18, effective 11/1/18)

WAC 110-16-0005 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) **"Benefit"** means a regular payment made by a government agency on behalf of a person eligible to receive it.

(2) **"Child"** or **"children,"** except when otherwise specified, means a child or children eligible for WCCC benefits under chapter 110-15 WAC.

(3) **"Days"** means calendar days unless otherwise specified.

(4) **"Department"** or **"DCYF"** means the department of children, youth, and families.

(5) **"In-home/relative provider"** or **"family, friends, and neighbors (FFN) provider"** means an individual who is exempt from child care licensing requirements and is approved for WCCC payments under WAC 110-15-0125. Reference in this chapter to the term "provider" means an in-home/relative or FFN provider, except when otherwise specified.

(6) **"In loco parentis"** means the adult caring for a child eligible for WCCC in the absence of the biological adoptive, or step-parents, and who is not a relative, court-ordered guardian, or custodian, and who is responsible for exercising day-to-day care and control of the child.

(7) **"Infant"** is a child birth through eleven months of age.

(8) **"Lockdown"** or **"shelter-in-place"** means to remain inside the home when police or an official emergency response agency notifies a provider that it is unsafe to leave or be outdoors during an emergency situation.

(9) **"Parent"** means, for the purposes of this chapter, the "in loco parentis" or the biological, adoptive, or step-parent, court-ordered guardian, or custodian eligible for WCCC benefits under this chapter.

(10) **"Subsidy payment begin date"** means the first day ((the)) a provider is authorized to start billing for care provided to eligible children.

(11) **"Supervise"** or **"supervision"** means a provider must be able to see or hear the children they are responsible for at all times. Providers must use their knowledge of each child's development and behavior to anticipate what may occur to prevent unsafe or unhealthy events or conduct, or to intervene in such circumstances as soon as possible. Providers must also reposition themselves or the children to be aware of where children are and what they are doing during care. Providers must reassess and adjust their supervision each time child care activities change.

(12) **"Swimming pool"** means a pool that has a water depth greater than two feet.

(13) **"Technical assistance"** means the provision of customized supports to develop or strengthen processes, knowledge application, or implementation of services by providers.

(14) **"Toddler"** means a child twelve months through twenty-nine months of age.

(15) **"Wading pool"** means a pool that has a water depth of less than two feet. A portable wading pool is one that is formed of molded plastic or inflatable parts and can be removed after use.

(16) **"Water activities"** refers to the activities in which children in care swim or play in a body of water that poses a risk of drowning for children.

(17) **"WCCC"** means the working connections child care program, a child care subsidy program available to eligible families to help pay for child care.

[Statutory Authority: RCW 43.216.055, 43.216.065, chapter 43.216 RCW and 42 U.S.C. 9858 et seq. WSR 18-20-081, § 110-16-0005, filed 10/1/18, effective 11/1/18.]

AMENDATORY SECTION (Amending WSR 19-18-081, filed 9/3/19, effective 10/4/19)

WAC 110-16-0015 Provider responsibilities. (1) ((The)) A provider must:

(a) Agree to provide care, supervision, and daily activities based on the child's developmental needs, including health, safety, physical, nutritional, emotional, cognitive, and social needs;

(b) Report any legal name, address, or telephone number changes to DCYF within ten days;

(c) Comply with the requirements contained in this chapter and the applicable requirements in chapters 110-06 and 110-15 WAC;

(d) Allow parents access to their own children at all times while in care; and

(e) Have access to a telephone with 911 emergency calling services and capability for both incoming and outgoing calls during all times children are in care.

(2) ~~((The))~~ A provider must not submit an invoice for more than six children for the same hours of care.

(3) ~~((The))~~ A provider must not care for more than six children, including their own children, at any one time.

(4) Care must be provided in the following locations:

(a) A provider~~((s))~~ related to the child by marriage, blood relationship, or court decree and who are grandparents, great-grandparents, siblings ~~((if living in a))~~ who live in separate residences~~((t))~~, aunts, ~~((or))~~ uncles, great aunts, or great uncles must choose ~~((to be approved))~~ to provide care in either the provider's home or the child's home, with the exception that a provider~~((s))~~ residing with a person disqualified under chapter 110-06 WAC must provide care in the child's home.

(b) A provider~~((s))~~ related to the child by marriage, blood, or court decree, but not listed in (a) of this subsection, must choose to be approved to provide care in either the provider's home or the child's home, with the exception that a provider~~((s))~~ residing with a person disqualified under chapter 110-06 WAC must provide care in the child's home.

(c) A provider~~((s))~~ not related to the child, such as a friend~~((s))~~ or neighbor~~((s))~~ must provide care in the child's home.

(5) A provider~~((s must comply with health and safety activities as follows:~~

~~(a) Providers related to the child as described in subsection (4)(b) of this section, must participate in a technical assistance phone call with the department within ninety days of the subsidy payment begin date and annually thereafter;~~

~~(b) Providers not related to the child, as)) described in subsection (4)(b) or (c) of this section must:~~

~~((i) Must)) (a) Complete the ((department approved)) department approved training required ((in)) by WAC 110-16-0025; and~~

~~((ii) Must)) (b) Have an annual technical assistance visit in the ((child's)) home where FFN care is provided.~~

[Statutory Authority: RCW 43.216.055, 43.216.065, chapter 43.216 RCW, and 42 U.S.C. 9858 et seq. WSR 19-18-081, § 110-16-0015, filed 9/3/19, effective 10/4/19; WSR 18-20-081, § 110-16-0015, filed 10/1/18, effective 11/1/18.]

AMENDATORY SECTION (Amending WSR 18-20-081, filed 10/1/18, effective 11/1/18)

WAC 110-16-0025 Health and safety training. (1) A provider ~~((not related to the child, as))~~ described in WAC 110-16-0015 ~~((3)(e))~~ (4)(b) or (c) must complete the following training within ninety calendar days of the subsidy payment begin date:

(a) Infant, child, and adult first aid and cardiopulmonary resuscitation (CPR):

(i) This training must be taken in person and the provider must demonstrate learned skills to the instructor.

(ii) The instructor must be certified by the American Red Cross, American Heart Association, American Safety and Health Institute, or other nationally recognized certification program.

(b) Prevention of sudden infant death syndrome and safe sleep practices when caring for infants; and

(c) (~~(Department approved)~~) Department approved health and safety training which includes the following topic areas:

- (i) Prevention and control of infectious diseases;
- (ii) Administration of medication;
- (iii) Prevention of, and response to, emergencies due to food and allergic reactions;
- (iv) Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic;
- (v) Prevention of shaken baby syndrome, abuse head trauma, and child maltreatment;
- (vi) Emergency preparedness and response planning for natural disasters and human-caused events;
- (vii) Handling and storage of hazardous materials and the appropriate disposal of bio contaminants;
- (viii) Appropriate precautions in transporting children;
- (ix) Recognition and reporting of child abuse and neglect, including the prevention of child abuse and neglect as defined in RCW 26.44.020 and mandatory reporting requirements under RCW 26.44.030; and
- (x) Other topic areas as determined by the department.

(2) A provider (~~(not related to the child, as)~~) described in WAC 110-16-0015 (~~((3)(e))~~) (4)(b) or (c) can meet the health and safety training in subsection (1)(c) of this section if the department verifies that the provider has completed any of the following either prior to or within ninety calendar days of the subsidy payment begin date:

(a) Child care basics, a (~~(department approved)~~) department approved thirty-hour health and safety training.

(b) Washington state early childhood education initial certificate (twelve credits) that includes early childhood education and development 105 health, safety, and nutrition.

(3) A provider (~~(not related to the child, as described in WAC 110-16-0015 (3)(c), who, on October 1, 2018, has an existing WCCC subsidy authorization with an end date on or before December 30, 2018, does not need to complete the training required under subsections (1) or (2) of this section. If the provider is reauthorized for payment beginning January 1, 2019, or later, the provider must complete the training required under subsections (1) and (2) of this section unless exempt from training under subsection (2)(b) of this section.~~

(4) A provider not related to the child, as) described in WAC 110-16-0015 (~~((3)(e), must annually renew portions of the training required in subsection (1)(e) of this section, as determined by state or federal requirements))~~ (4)(b) or (c) must complete a minimum of two hours of health and safety training annually, using the subsidy payment begin date. The training must include, but is not limited to, one or more of the following:

- (a) Prevention and control of infectious diseases;
- (b) Emergency preparedness and response planning for natural disasters and human-caused events;
- (c) Recognizing and prevention of shaken baby syndrome, head trauma abuse, neglect, and child maltreatment; and
- (d) Prevention of sudden infant death syndrome and safe sleep practices, if caring for an infant or toddler.

[Statutory Authority: RCW 43.216.055, 43.216.065, chapter 43.216 RCW and 42 U.S.C. 9858 et seq. WSR 18-20-081, § 110-16-0025, filed 10/1/18, effective 11/1/18.]

AMENDATORY SECTION (Amending WSR 19-18-081, filed 9/3/19, effective 10/4/19)

WAC 110-16-0030 Health and safety activities. (1) A provider (~~(s not related to the child as)~~) described in WAC 110-16-0015 (4) (b) or (c), must ~~((comply with the following health and safety activity requirements:~~

~~(a) Complete the Parent and FFN Provider Health and Safety Agreement; and~~

~~(b)) participate in an annual, scheduled visit conducted by department staff in the ~~((child's home. If necessary, as determined by the department, follow-up visits may occur on a more frequent basis))~~ home where care is provided.~~

(2) ~~((The Parent and FFN Provider Health and Safety Agreement must:~~

~~(a) Be signed by the provider and parent(s) and verify that the parent(s) and provider discussed and reviewed all of the topics and subject matter items contained in the agreement. The subject matter items include, but are not limited to: Prevention of shaken baby syndrome, abusive head trauma, and child maltreatment; emergency contacts; fire and emergency prevention; knowledge and treatment of children's illnesses and allergies; developmental and special needs; medication administration; safe transportation; child immunizations; and safe evacuation; and~~

~~(b) Be received by the department within forty five days of completion of the training requirements in WAC 110-16-0025 (2) (a) or verification of the training exemption in WAC 110-16-0025 (2) (b).~~

~~(3)) The purpose of the ~~((annual, scheduled visit in the child's home))~~ visit is to:~~

(a) Provide technical assistance to the provider regarding the health and safety requirements described in this chapter;

(b) Observe the provider's interactions with the child, and discuss health and safety practices;

(c) Provide written information and local resources about child development to include the major domains of cognitive, social, emotional, physical development, and approaches to learning; and

(d) Provide regional contact information for FFN child care services and resources.

~~((4) If the department is not able to successfully complete a scheduled visit with the provider in the child's home after three attempts, the))~~ (3) A provider will be ~~((deemed not in))~~ considered out of compliance with the requirements of this chapter if, after three attempts, the department is not able to complete an annual, scheduled visit in the home where care is provided.

~~((5))~~ (4) At the annual, scheduled visit, the provider must show, unless previously provided to the department:

(a) Proof of identity;

(b) Proof of current certification for first aid and cardiopulmonary resuscitation (CPR) in the form of a card, certificate, or instructor letter;

(c) Proof of vaccination against or acquired immunity for vaccine-preventable diseases for all children in care, if the provider's children are on-site at any time with the eligible children. Proof can include:

(i) A current and complete department of health (DOH) certificate of immunization status (CIS) or certificate of exemption (COE) or other ~~((department of health approved))~~ DOH approved form; or

- (ii) A current immunization record from the Washington state immunization information system (WA IIS).
- (d) Written permission from the parent to:
 - (i) Allow children to use a swimming pool;
 - (ii) Administer medication for treatment of illnesses and allergies of the children in care;
 - (iii) Provide for and accommodate developmental and special needs; and
 - (iv) Provide transportation for care, activities, and school when applicable.
- (e) The written (~~(home evacuation)~~) emergency preparedness and response plan required in WAC 110-16-0035 (~~((4))~~) (8)(c).

[Statutory Authority: RCW 43.216.055, 43.216.065, chapter 43.216 RCW, and 42 U.S.C. 9858 et seq. WSR 19-18-081, § 110-16-0030, filed 9/3/19, effective 10/4/19; WSR 18-20-081, § 110-16-0030, filed 10/1/18, effective 11/1/18.]

AMENDATORY SECTION (Amending WSR 19-18-081, filed 9/3/19, effective 10/4/19)

WAC 110-16-0035 Health and safety practices. A provider (~~(s not related to the child, as)~~) described in WAC 110-16-0015 (4) (b) or (c), must (~~(comply with the following)~~) complete the health and safety ((activity practices)) training ((as)) described in WAC 110-16-0025 and ((required by the department including, but not limited to,)) comply with the following health and safety practices and criteria:

- (1) Promote the prevention and control of infectious diseases ((+)) by:
 - (a) Washing their hands thoroughly with soap and warm running water and ensuring the children in their care wash their hands thoroughly with soap and warm running water:
 - (i) After toileting or assisting a child with toileting;
 - (ii) After changing a diaper;
 - (iii) Before eating, preparing, or handling food; and
 - (iv) After handling bodily fluids such as blood, vomit, or mucus from sneezing, wiping, or blowing noses.
 - (b) Ensure all bedding used by children is washed weekly and more often as needed when soiled; and
 - (c) Change diapers on a surface that is easily cleaned and sanitized and located away from food preparation and meal service areas.
- (2) (~~(The prevention of sudden infant death syndrome and safe)~~) Create a safe sleeping environment using the following sleep practices, including sudden infant death syndrome ((+)) and sudden unexpected infant death syndrome risk reduction ((+)):
 - (a) Infants from birth to twelve months of age must be placed on their backs for resting and sleeping, alone in an approved crib, play yard, or porta-crib;
 - (b) A tightly fitted bottom sheet must cover the crib or mattress with no additional padding placed between the sheet and the mattress;
 - (c) Soft objects, bumper pads, stuffed toys, blankets, quilts or comforters, pillows, and other objects that could smother an infant must not be placed with, under, or within reach of a resting or sleeping infant;

(d) Blankets must not be draped over cribs or play yards while they are in use; and

(e) Infants' bottles must not be propped or placed in the crib with a resting or sleeping infant.

(3) ~~((The prevention of))~~ Prevent shaken baby syndrome, abusive head trauma, and child maltreatment by:

(a) Not shaking, throwing, hitting, or otherwise intentionally inflicting harm, pain, or humiliation upon an infant or child in care; and

(b) Taking steps to prevent the physical discipline of children in their care. Steps may include, but are not limited to, seeking support from another adult or a parenting helpline when feeling stressed, overwhelmed, or unreasonably frustrated due to a child's behavior, for example, during times of inconsolable crying or toileting accidents; and

(4) ~~((The))~~ Recognition and reporting of child abuse and neglect, including the prevention of child abuse and neglect as defined in RCW 26.44.020 and mandatory reporting requirements ~~((under))~~ of RCW 26.44.030.

(5) **Medication administration.**

(a) A provider must have parents inform them of any known food allergies of children in care, steps to take to avoid the allergens, specific symptoms that indicate the need for treatment, and how to respond to allergic reactions;

(b) A child's parent, or ~~((a))~~ their appointed designee, must provide training to the provider for special medical procedures that the provider may have to administer to the child. This training must be documented ~~((and))~~, signed by the provider and parent, and kept in the home where care is provided;

~~((b) The))~~ (c) A provider must not give medication to any child in care without written and signed consent from ~~((that))~~ the child's parents or health care providers. ~~((The))~~ Medication must be given according to the directions on the medication label using appropriately cleaned and sanitized medication measuring devices;

~~((e) The))~~ (d) A provider must not give or allow others to give any medication to a child in care for the purpose of sedating the child unless the medication has been prescribed for a specific child for that particular purpose by a health care professional; ~~((and~~

~~((d))~~ (e) Medication must be stored and maintained as directed on the packaging or prescription label, including applicable refrigeration requirements; and

(f) Within one hour of treating a child for signs or symptoms of an allergic reaction, a provider must notify the child's parent.

(6) **Indoor building and physical premises safety.**

(a) ~~((The))~~ A provider must visually scan indoor areas to identify potential child safety hazards, and, if care is provided in the child's home, discuss ~~((removal or reduction of))~~ removing or reducing identified hazards with ~~((the))~~ parent. If it is not possible for ~~((the))~~ a provider to immediately correct or make a hazard ~~((completely))~~ inaccessible to a child, the provider must supervise the child to avoid injury from ~~((such))~~ the identified hazard. Child safety hazards include, but are not limited to:

(i) Tobacco and cannabis products and containers holding tobacco and cannabis products or ashes;

(ii) Firearms, guns, weapons, and ammunition;

(iii) Any equipment, material, or objects that may pose a risk of choking, aspiration, or ingestion. For purposes of this section,

equipment, material, or objects with a diameter or overall dimension of one and three-quarter inch or less are considered items that may pose a risk of choking, aspiration, or ingestion;

(iv) Straps, strings, cords, wires, or similar items capable of forming a loop around a child's neck that are not being used for a supervised activity;

(v) Poisons, chemicals, toxins, dangerous substances or any product labeled "Keep out of reach of children," including, but not limited to, fuel, lighter fluid, solvents, fertilizer, ice melt product, pool chemicals, pesticides, or insecticides, cleansers and detergents, air freshener or aerosols, sanitizing products, and disinfectants;

(vi) Personal grooming, cosmetics, and hygiene products including, but not limited to, nail polish remover, lotions, creams, toothpaste, powder, shampoo, conditioners, hair gels or hair sprays, bubble bath, or bath additives;

(vii) Alcohol, including closed and open containers;

(viii) Plastic bags and other suffocation hazards;

(ix) Equipment, materials, or products that may be hot enough to injure a child;

(x) Freezers, refrigerators, washers, dryers, compost bins, and other entrapment dangers;

(xi) Uneven walkways, damaged flooring or carpeting, or other tripping hazards;

(xii) Large objects capable of tipping or falling over, such as televisions, dressers, bookshelves, wall cabinets, sideboards or hutches, and wall units;

(xiii) Indoor temperatures less than sixty-eight degrees Fahrenheit or greater than eighty-two degrees Fahrenheit;

(xiv) Water accessible to children that may be hotter than one hundred twenty degrees Fahrenheit (~~((the provider should always feel hot water before using on or for a child))~~);

(xv) Windows ((and stairs accessible to children)), stairways, steps, or porches from which children could fall; and

(xvi) Electrical outlets, power strips, exposed wires, and electrical/extension cords.

(b) During care hours, providers must (~~((not themselves, and must not allow others who may be))~~) ensure that no one in the presence of the children (~~((to))~~), including themselves:

(i) (~~((Possess))~~) Possesses or use illegal drugs;

(ii) Consumes or use alcohol or cannabis products in any form;

(iii) (~~((Be))~~) Is under the influence of alcohol, cannabis products in any form, illegal drugs, or misused prescription drugs; and

(iv) Smokes or vapes in the home, vehicle, or in close proximity to a child.

(7) **Outdoor building and physical premises safety.** (~~((The))~~) A provider must visually scan outdoor play areas to identify potential child safety hazards, and, if care is provided in the child's home, discuss removal or reduction of identified hazards with the parents. If it is not possible for (~~((the))~~) a provider to immediately correct or make a hazard completely inaccessible to a child, the provider must supervise the child to avoid injury. Outdoor hazards include, but are not limited to:

(a) Outdoor play area or equipment that is not clean, not in good condition, or not maintained or safe for a child of a certain age to use;

(b) Bouncing equipment including, but not limited to, trampolines, rebounders and inflatable equipment. This requirement does not apply to bounce balls designed to be used by individual children;

(c) Toxic plants or plants with poisonous leaves such as foxglove, morning glory, tomato, potato, rhubarb, or poison ivy;

(d) Extreme weather conditions such as:

(i) Heat in excess of one hundred degrees Fahrenheit;

(ii) Cold below twenty degrees Fahrenheit;

(iii) Lightning storm, tornado, hurricane or flooding; and

(iv) Air quality warnings by public health or other authorities.

(e) Bodies of water such as:

(i) Swimming pools when not being used, portable wading pools, hot tubs, spas, and jet tubs;

(ii) Ponds, lakes, storm retention ponds, ditches, fountains, fish ponds, landscape pools, or similar bodies of water; and

(iii) Uncovered wells, septic tanks, below grade storage tanks, farm manure ponds, or other similar hazards.

(f) Streets, alleyways, parking lots, or garages.

(8) **Emergency preparedness and response planning.**

(a) ~~((The))~~ A provider must visually scan indoor and outdoor areas to identify potential fire or burn hazards and, if care is provided in the child's home, discuss the removal or reduction of identified hazards with the parents. If it is not possible for ~~((the))~~ a provider to immediately correct or make identified hazards completely inaccessible to a child in care, the provider must supervise the ~~((child))~~ children to avoid injury from such identified hazards. Fire or burn hazards include, but are not limited to:

(i) Appliances and any heating device that has a hot surface when in use or still hot after use;

(ii) Open flame devices, candles, matches, and lighters. Open flame devices, candles, matches, and lighters must not be used during care hours; and

(iii) The lack of, or nonworking smoke detectors, fire extinguishers, or other fire prevention equipment.

(b) If there is a fire in the home during care hours, ~~((the))~~ a provider's first responsibility is to evacuate the children in care to a safe gathering spot outside the home and then call 911;

(c) ~~((The))~~ Exits from the home where care is provided must be readily accessible and easily opened in case of an emergency;

~~(d) A provider and parent must have an agreed upon written home emergency preparedness and response plan that includes procedures for evacuation ((plan in the event of fire or an emergency or other disaster. The plan must be updated as needed and include, at a minimum)) relocation, and locking down or sheltering-in-place. The plan must include at least a:~~

~~(i) ((A)) Floor plan ((that)) of the home where care is provided that shows emergency exit pathways, doors, and windows;~~

~~(ii) ((A)) Description ((for how the provider will evacuate all of the)) of how all children in care will be evacuated, especially those who cannot walk;~~

~~(iii) ((A)) Description ((for how the provider will account for all of the)) of how all children in care will be accounted for after they are evacuated from the home;~~

~~(iv) ((A)) Designated, safe gathering spot or alternative short-term location for the children and provider pending arrival of the fire department, emergency response, or ((the)) parents;~~

(v) ~~((A))~~ Description of what to take when evacuating, such as a first aid kit, medications, water, and food; and

(vi) ~~((A))~~ Description ~~((for))~~ of how parents will be contacted after the emergency is over ~~((and))~~ to arrange for pick-up of children, if needed.

~~((d))~~ (e) To be properly prepared ~~((for a home evacuation or lockdown, the))~~ to respond to emergencies both at and away from the home where care is provided, a provider must ~~((be able to easily access emergency items including, but not limited to))~~ have readily available and easily accessible supplies that include:

(i) A first aid kit;

(ii) A working flashlight available for use as an emergency light source and extra batteries if the flashlight is powered by batteries;

(iii) A working telephone; and

(iv) Food, water, ~~((and))~~ a three-day supply of medication required by individual children, and supplies for any infants in care such as formula, diapers, wipes, and bags for used diapers.

~~((e) The)~~ (f) A provider must practice emergency ~~((and home evacuation drills))~~ preparedness and response plans with the children as follows:

(i) ~~((Earthquake and home))~~ Evacuation and relocation drills once every six calendar months; and

(ii) A lockdown or shelter-in-place drill annually.

(9) **Child transportation.**

(a) A provider must comply with RCW 46.61.687 and other applicable laws that pertain to child restraints and car seats appropriate for the size and age of each child in care;

(b) When caring for children, a provider must:

(i) Drive only with a valid driver's license;

~~((e))~~ (ii) Have in effect a current motor vehicle insurance policy that provides coverage for the driver, the vehicle, and all other occupants;

~~((d))~~ (iii) Ensure that children are accounted for when entering and exiting a vehicle for transport to and from any destination; and

~~((e))~~ (iv) Never leave ~~((the))~~ children ~~((by themselves))~~ unattended in a vehicle.

(10) **Supervision of children.**

(a) ~~((The))~~ A provider must supervise children during care hours. Supervising children requires ~~((the))~~ a provider to engage in specific actions including, but not limited to:

(i) Scanning the environment, looking and listening for both verbal and nonverbal cues to anticipate problems and planning accordingly;

(ii) Positioning oneself to supervise areas accessible to children; and

(iii) Considering the following when deciding whether increased supervision is needed:

(A) Ages of children;

(B) Individual differences and abilities of children;

(C) Layout of the home where care is provided and play areas; and

(D) Risks associated with the children's activities ~~((children are engaged in))~~.

(b) ~~((The))~~ A provider must provide increased supervision when the children:

(i) Interact with pets or animals;

(ii) Engage in water or sand play;

- (iii) Play in an area in close proximity to a body of water;
 - (iv) Use a route to access an outdoor play area when the area is not next to the home where care is provided;
 - (v) Engage in activities in the kitchen;
 - (vi) Ride on public transportation;
 - (vii) Engage in outdoor play; and
 - (viii) Participate in field trips.
- (c) ~~((The))~~ A provider must ~~((ensure no infant or child is left))~~ not leave infants or children unattended during:
- (i) Diapering;
 - (ii) Bottle feeding; or
 - (iii) Tummy time.
- (d) ~~((The))~~ A provider must not allow any person other than a child's parent or authorized individual to have unsupervised access to a child during care hours. For the purpose of this section, individuals authorized to have unsupervised access include:
- (i) A government representative including emergency responders who have specific and verifiable authority for access; and
 - (ii) A person, such as a family member, family friend, or the child's therapist or health care provider, authorized in writing or over the telephone by a child's parent.

[Statutory Authority: RCW 43.216.055, 43.216.065, chapter 43.216 RCW, and 42 U.S.C. 9858 et seq. WSR 19-18-081, § 110-16-0035, filed 9/3/19, effective 10/4/19; WSR 18-20-081, § 110-16-0035, filed 10/1/18, effective 11/1/18.]

AMENDATORY SECTION (Amending WSR 18-20-081, filed 10/1/18, effective 11/1/18)

- WAC 110-16-0040 Compliance.** (1) If the department determines a provider has failed to comply with a requirement described in this chapter, the department may do one or more of the following:
- (a) Offer and provide technical assistance for the purpose of correcting noncompliance issues that arise from WAC 110-16-0015, 110-16-0025, 110-16-0030, or 110-16-0035;
 - (b) Require an ~~((in-home))~~ FFN compliance agreement ~~((ICA))~~ for the purpose of correcting noncompliance issues;
 - (c) Take steps to initiate termination of the provider's participation in the WCCC subsidy programs; and
 - (d) Take steps to initiate a determination of child care subsidy payment discrepancies pursuant to WAC 110-15-0266 that may have resulted from noncompliance issues.
- (2) An ~~((in-home))~~ FFN compliance agreement ~~((ICA))~~ must contain the following:
- (a) A description of the noncompliance issues and the regulations or statutes violated;
 - (b) A statement from the provider describing the provider's proposed plan to comply with the regulations or statutes;
 - (c) The date by which the noncompliance issues must be corrected;
 - (d) A statement of other corrective action that may be required if compliance does not occur by the specified date;
 - (e) The signatures of the provider and the department representative agreeing to the terms of the ~~((ICA))~~ agreement; and

(f) A statement from the department indicating whether the corrective action requirements were satisfactorily met.

(3) The length of time the department may allow for the provider to make the corrections necessary to be in compliance will be determined by the department with consideration given to:

(a) The seriousness of the noncompliance; and

(b) The threat to the health, safety, and well-being of the children in care.

[Statutory Authority: RCW 43.216.055, 43.216.065, chapter 43.216 RCW and 42 U.S.C. 9858 et seq. WSR 18-20-081, § 110-16-0040, filed 10/1/18, effective 11/1/18.]