WSR 25-20-052
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Home and Community Living Administration)
(Developmental Disabilities Community Services)
[Filed September 25, 2025, 1:19 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-05-034.

Title of Rule and Other Identifying Information: Chapter 388-845 WAC; amending WAC 388-845-0113, 388-845-0210, 388-845-0215, 388-845-0220, 388-845-0225, 388-845-0230, 388-845-0820, 388-845-1150, 388-845-1870, 388-845-1880, 388-845-1890, 388-845-2005, 388-845-2205, and 388-845-2210.

Hearing Location(s): On November 25, 2025, at 10:00 a.m., virtually via Teams or call in. See the department of social and health services (DSHS) website at https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings for the most current information.

Date of Intended Adoption: Not before November 26, 2025.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning noon on October 22, 2025, by 5:00 p.m. on November 25, 2025.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on November 11, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The developmental disabilities community services (DDCS) is enacting these changes to implement changes to DDCS's home and community-based services waivers as approved by the Centers for Medicare and Medicaid Services (CMS). These amendments clarify waiver service definitions and service limit language across waivers.

Reasons Supporting Proposal: Under 42 C.F.R. 441.301, DDCS is required to provide assurances to CMS that it will provide waiver-funded services as approved by CMS. Aligning rules with the approved waiver amendments provides those assurances. These proposed changes are currently in effect by emergency rule filed under WSR 25-12-116.

Statutory Authority for Adoption: RCW 71A.12.030 and 42 C.F.R. 441.301.

Statute Being Implemented: RCW 71A.12.120.

Rule is necessary because of federal law, 42 C.F.R. 441.301.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Leila Graves, P.O. Box 45310, Olympia, WA 98504-5310, 360-890-2127.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Leila Graves, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-890-2127, TTY 711 relay service, email Leila.graves@dshs.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

September 24, 2025
Katherine I. Vasquez
Rules Coordinator

SHS-5073.2

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0113 When may I receive waiver services through teleservice? (1) Teleservice is a remote service delivery method that uses a HIPAA-compliant technology system approved by DDA.

(2) The following services may be delivered through teleservice:

(a) Assistive technology;

(b) Community engagement;

(c) Individual supported employment;

((~~(c)~~)) (d) Individualized technical assistance;

(e) Life skills;

((~~(d)~~)) (f) Music therapy;

((~~(e)~~)) (g) Occupational therapy;

((~~(f)~~)) (h) Peer mentoring;

((~~(g)~~)) (i) Person-centered plan facilitation;

((~~(h)~~)) (j) Physical therapy;

((~~(i) Positive behavior support and consultation until August 31, 2023;~~))

(k) Residential habilitation;

((~~(j)~~)) (l) Specialized evaluation and consultation;

((~~(k) Specialized habilitation;~~))

((~~(l)~~)) (m) Speech, hearing, and language services;

((~~(m) Supported employment;~~

~~(n) Supported parenting; and~~))

(n) Stabilization - crisis diversion bed;

(o) Stabilization - life skills;

(p) Stabilization - staff and family consultation;

((~~(o)~~)) (q) Staff and family consultation((~~.~~)); and

(r) Supported parenting.

(3) A waiver service may be delivered through teleservice if:

(a) The waiver participant chooses that service delivery method and acknowledges the teleservice agreement through signature on the person-centered service plan;

(b) DDA determines through the person-centered planning process that the waiver service can be adequately provided remotely based on the reason for the service request;

(c) There is no risk to the waiver participant's health or safety as a result of the waiver service being provided remotely; and

(d) The waiver participant's person-centered service plan indicates each waiver service that will be provided through teleservice.

(4) For each waiver service that occurs regularly over the course of the plan year and is being delivered remotely, the service must be delivered in-person at least one time per plan year.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0210 What services are available under the basic plus waiver? The following services are available under the basic plus waiver:

SERVICE	YEARLY LIMIT
AGGREGATE SERVICES:	Total costs must not exceed $6,192 per year per participant
Assistive technology	
((~~Assistive technology~~)) Extermination of cimex lectularius (bedbugs)	
Community engagement	
Environmental adaptations	
Life skills	
Occupational therapy	
Physical therapy	
Remote support	
Skilled nursing	
Specialized equipment and supplies	
((~~Specialized habilitation~~))	
Speech, hearing, and language services	
Staff and family consultation	
Transportation	
Wellness education	
Therapeutic adaptations	Limited to a single one-time authorization every five years and limited to funds available in the client's aggregate and emergency funding
EMPLOYMENT SERVICES:	
Individual technical assistance	Limits determined by DDA assessment and employment status
Supported employment	
Community inclusion	Limits determined by the person-centered service plan
STABILIZATION SERVICES:	Limits determined by the person-centered service plan
Crisis diversion bed	
((~~Specialized habilitation~~)) Life skills	
Staff and family consultation	
Respite care	Limits determined by DDA assessment
Risk assessment	Limits determined by DDA

SERVICE	YEARLY LIMIT
Community engagement	$6,000 per year for emergency assistance funding
Environmental adaptions	
Occupational therapy	
Physical therapy	
Remote support	
Specialized equipment and supplies	
Speech, hearing, and language services	
Skilled nursing	
Staff and family consultation	
Therapeutic adaptations	
Transportation	

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0215 What services are available under the core waiver? (1) The following services are available under the core waiver:

SERVICE	YEARLY LIMIT
Assistive technology	Determined by the person-centered service plan
Extermination of cimex lectularius (bedbugs)	
Community engagement	
Community transition	
Environmental adaptations	
Life skills	
Occupational therapy	
Physical therapy	
Remote support	
Residential habilitation	
Risk assessment	
Skilled nursing	
Specialized equipment and supplies	
((~~Specialized habilitation~~))	
Speech, hearing, and language services	
Staff and family consultation	
Supported parenting	
Transportation	
Wellness education	

SERVICE	YEARLY LIMIT
EMPLOYMENT SERVICES: Individualized technical assistance Supported employment	Limits determined by DDA assessment and employment status
Community inclusion	Limits determined by the person-centered service plan
STABILIZATION SERVICES: Crisis diversion bed ((~~Specialized habilitation~~)) Life skills Staff and family consultation	Limits determined by the person-centered service plan
Respite care	Limits determined by DDA assessment

(2) A participant's core waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's core waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0220 What services are available under the community protection waiver? (1) The following services are available under the community protection waiver:

SERVICE	YEARLY LIMIT
Assistive technology Extermination of cimex lectularius (bedbugs) Community transition Environmental adaptations Occupational therapy Physical therapy ((~~Positive behavior support and consultation~~)) Residential habilitation Risk assessment Skilled nursing Specialized equipment and supplies Specialized evaluation and consultation Speech, hearing, and language services Staff and family consultation	Determined by the person-centered service plan

SERVICE	YEARLY LIMIT
Transportation	
EMPLOYMENT SERVICES: Individual technical assistance Supported employment	Limits determined by DDA assessment and employment status
STABILIZATION SERVICES: Crisis diversion bed ((~~Specialized habilitation~~)) Life skills Staff and family consultation	Limits determined by the person-centered service plan

(2) A participant's community protection waiver services are subject to additional limits under this chapter.

(3) The total cost of a participant's community protection waiver services must not exceed the average cost of care at an intermediate care facility for individuals with intellectual disabilities (ICF/IID).

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0225 What services are available under the children's intensive in-home behavioral support (CIIBS) waiver? (1) The following services are available under the children's intensive in-home behavioral support (CIIBS) waiver:

SERVICE	YEARLY LIMIT
Assistive technology Environmental adaptations Life skills Nurse delegation Specialized clothing Specialized equipment and supplies ((~~Specialized habilitation~~)) Staff and family consultation Transportation Vehicle modifications	$15,000 per year for any combination of services
Respite care	Limits determined by the DDA assessment.
STABILIZATION SERVICES: Crisis diversion bed ((~~Specialized habilitation~~)) Life skills Staff and family consultation	Limits determined by the person-centered service plan
Risk assessment	Limits determined by DDA

SERVICE	YEARLY LIMIT
Environmental adaptations (Accessibility and repairs) ((~~Specialized habilitation~~)) Life skills Staff and family consultation Vehicle modifications	$6,000 per year for emergency assistance funding
Equine therapy Music therapy Peer mentoring Person-centered plan facilitation	$5,000 per year for any combination of services
Therapeutic adaptations	Limited to a single, one-time authorization not to exceed $15,000 every five waiver years

(2) A participant's CIIBS waiver services are subject to additional limits under this chapter.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0230 What services are available under the individual and family services (IFS) waiver? (1) The following services are available under the individual and family services (IFS) waiver:

SERVICE	YEARLY LIMIT
Assistive technology Community engagement Environmental adaptations Life skills Nurse delegation Occupational therapy Peer mentoring Person-centered plan facilitation Physical therapy Remote support Respite care Skilled nursing Specialized clothing Specialized equipment and supplies	Total cost of waiver services must not exceed annual allocation determined by the person-centered service plan

SERVICE	YEARLY LIMIT
((~~Specialized habilitation~~)) Speech, hearing, and language services Staff and family consultation Supported parenting services Transportation Vehicle modifications Wellness education	
Therapeutic adaptations	Limited to a one-time authorization every five years and limited to funds available in the client's annual allocation
Risk assessment	Limits determined by the person-centered service plan. Costs are excluded from the annual allocation.
STABILIZATION SERVICES: Crisis diversion bed ((~~Specialized habilitation~~)) Life skills Staff and family consultation	Limits determined by the person-centered service plan. Costs are excluded from the annual allocation.

(2) Your IFS waiver services annual allocation is based upon the DDA assessment under chapter 388-828 WAC. The DDA assessment determines your service level and annual allocation based on your assessed need. Annual allocations are as follows:

(a) Level 1 = $1,560;
(b) Level 2 = $2,340;
(c) Level 3 = $3,120; or
(d) Level 4 = $4,680.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0820 Are there limits to your use of emergency assistance funding? All of the following limits apply to the emergency assistance funding you may receive.

(1) Prior approval by the DDA regional administrator or designee is required based on a reassessment of your person-centered service plan to determine the need for emergency assistance.

(2) Payment authorizations are reviewed every 30 days and must not exceed $6,000 per 12 months based on the effective date of your current person-centered service plan.

(3) Emergency assistance funding is limited to the following aggregate services when on the basic plus waiver:

(a) Community engagement;
(b) Environmental adaptations;
(c) Occupational therapy;

(d) Physical therapy;
(e) Remote support;
(f) Skilled nursing;
(g) Specialized equipment and supplies;
(h) Speech, hearing, and language services;
(i) Staff and family consultation, which excludes individual and family counseling;
(j) Transportation; and
(k) Therapeutic adaptations.
(4) Emergency assistance funding is limited to the following services when on the CIIBS waiver:
(a) Environmental adaptations;
(b) ((~~Specialized habilitation~~)) Life skills;
(c) Staff and family consultation; and
(d) Vehicle modifications.
(5) Emergency assistance funding may be used for interim services until:
(a) The emergency situation has been resolved;
(b) You are transferred to alternative supports that meet your assessed needs; or
(c) You are transferred to an alternate waiver that provides the service you need.

AMENDATORY SECTION (Amending WSR 21-19-108, filed 9/20/21, effective 10/21/21)

WAC 388-845-1150 What are stabilization services? (1) Stabilization services assist persons who are experiencing a crisis.
(2) Stabilization services are available in the basic plus, core, children's intensive in-home behavior support (CIIBS), individual and family services (IFS), and community protection waivers.
(3) A participant may be eligible for stabilization services if:
(a) A behavioral health professional and DDA has determined the participant is at risk of institutionalization or hospitalization; and
(b) The participant needs short-term:
(i) ((~~Specialized habilitation~~)) Life skills;
(ii) Staff and family consultation; or
(iii) Crisis diversion beds.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-1870 What are ((~~specialized habilitation~~)) life skills services? (1) ((~~Specialized habilitation~~)) Life skills services provide community-based and individualized support with the intent of reaching an identified habilitative goal in the person-centered service plan.
(2) Service must assist a client to learn or maintain skills in categories of:
(a) Self-empowerment;
(b) Safety awareness and self-advocacy;
(c) Interpersonal effectiveness and effective social communication;

(d) Coping strategies for everyday life changes; and

(e) Managing daily tasks and acquiring adaptive skills.

(3) ((~~Specialized habilitation~~)) Life skills services must promote inclusion in the community.

(4) ((~~Specialized habilitation~~)) Life skills services are available on the basic plus, IFS, core, and CIIBS waivers.

(5) ((~~Specialized habilitation~~)) Life skills services, when authorized as a stabilization service, is available on all five HCBS waivers.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-1880 Who are qualified providers of ((~~specialized habilitation~~)) life skills services? To provide ((~~specialized habilitation~~)) life skills services, a provider must be contracted with DDA for this service, have one year of experience working with people with a developmental or intellectual disability, and be one of the following:

(1) A certified life skills coach;

(2) An individual with a bachelor's, master's, or doctoral degree in social work, sociology, psychology, education, child development, gerontology, nursing, or other related field; or

(3) An individual enrolled and supervised in a university internship program for social work, sociology, psychology, education, child development, gerontology, sociology, or nursing.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-1890 Are there limits to the ((~~specialized habilitation~~)) life skills I may receive? The following limits apply to your receipt of ((~~specialized habilitation~~)) life skills:

(1) ((~~Specialized habilitation~~)) Life skills is limited to address a maximum of three goals at a time.

(2) ((~~Specialized habilitation~~)) Life skills support needs must be identified in your DDA assessment and ((~~specialized habilitation~~)) life skills must be documented in your person-centered service plan.

(3) ((~~Specialized habilitation~~)) Life skills must not exceed:

(a) $6,192 within your total basic plus aggregate budget;

(b) Your IFS annual allocation in combination with other waiver services; or

(c) $15,000 within your total CIIBS aggregate budget and $6,000 emergency assistance funding when eligible per WAC 388-845-0800 and 388-845-0820.

(4) ((~~Specialized habilitation~~)) Life skills does not cover education, vocational, skills acquisition training through community first choice, behavioral health, ABA, skilled nursing, occupational therapy, physical therapy, or speech, language, and hearing services that are covered benefits through the medicaid state plan, including early and periodic screening, diagnosis, and treatment, and part B special education services.

(5) Life skills may be provided in a small group up to four if the clients have the same person-centered goal, and the group work addresses each client's current goal.

(6) ((~~Specialized habilitation~~)) Life skills must not be authorized for a client receiving residential habilitation, unless the client is receiving the service from a companion home provider.

((~~(6)~~)) (7) Habilitation plans must be documented as formal plans as outlined in the provider's contract.

((~~(7) Specialized habilitation~~)) (8) Life skills, not provided as a stabilization service, requires prior approval by the DDA regional administrator or designee.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-2005 Who is a qualified provider of staff and family consultation? To provide staff and family consultation, a provider must be contracted with DDA and be one of the following licensed, registered, or certified professionals:

(1) Audiologist;
(2) Licensed practical nurse;
(3) Marriage and family therapist;
(4) Mental health counselor;
(5) Occupational therapist;
(6) Physical therapist;
(7) Registered nurse;
(8) Sex offender treatment provider;
(9) Speech-language pathologist;
(10) Social worker;
(11) Psychologist;
(12) Certified American Sign Language instructor;
(13) Nutritionist;
(14) Counselors registered or certified in accordance with chapter 18.19 RCW;
(15) Certified dietician;
(16) Recreation therapist registered in Washington and certified by the national council for therapeutic recreation;
(17) Certified music therapist (for CIIBS only);
(18) Psychiatrist;
(19) Professional advocacy organization;
(20) DDA-contracted ((~~specialized habilitation~~)) life skills provider; or
(21) Teacher certified under chapter 181-79A WAC.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-2205 Who is qualified to provide transportation services? The provider of transportation ((~~services can be an individual or agency~~)) must be an entity contracted with DDA ((~~whose contract includes~~)) to provide transportation ((~~in the statement of work~~)).

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-2210 Are there ((~~limitations~~)) limits to the transportation services you can receive? The following ((~~limitations~~)) limits apply to transportation services:

(1) Support needs for transportation services are limited to those identified in your DDA assessment and documented in your person-centered service plan.

(2) ((~~Transportation is limited to travel to and from a waiver service. When the waiver service is supported employment, transportation is limited to days when you receive employment support services.~~

~~(3) Transportation does not include the purchase of a bus pass.~~

~~(4)~~)) Reimbursement for provider mileage requires prior authorization by DDA and is paid according to contract.

((~~(5)~~)) (3) This service does not cover the purchase or lease of vehicles.

((~~(6)~~)) (4) Reimbursement for provider travel time is ((~~not~~)) included ((~~in this service~~)) for nonmedical transportation from a transportation company only.

((~~(7)~~)) (5) Reimbursement to the provider is limited to transportation that occurs when you are with the provider.

((~~(8)~~)) (6) You are not eligible for transportation services if the cost and responsibility for transportation is already included in your provider's contract and payment.

((~~(9)~~)) (7) The dollar limitations for aggregate services in your basic plus waiver or the dollar amount of your annual allocation in the IFS waiver limit the amount of service you may receive.

WSR 25-21-017
PROPOSED RULES
HEALTH CARE AUTHORITY
[Filed October 3, 2025, 9:47 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-17-012.

Title of Rule and Other Identifying Information: WAC 182-535-1094 Dental-related services—Covered—Oral and maxillofacial surgery services.

Hearing Location(s): On November 25, 2025, at 10:00 a.m. The health care authority (HCA) holds public hearings virtually without a physical meeting place. To attend the virtual public hearing, you must register in advance at https://us02web.zoom.us/webinar/register/WN_WMYVCpvnRxav53MDSaRk-g#/registration. If the link above opens with an error message, please try using a different browser. After registering, you will receive a confirmation email containing information about joining the public hearing.

Date of Intended Adoption: Not sooner than November 26, 2025.

Submit Written Comments to: HCA Rules Coordinator, P.O. Box 42716, Olympia, WA 98504-2716, email arc@hca.wa.gov, fax 360-586-9727, beginning October 4, [2025,] 8:00 a.m., by November 25, 2025, 11:59 p.m.

Assistance for Persons with Disabilities: Contact Jessica Nguyen, phone 360-725-1174, fax 360-586-9727, telecommunication relay service 711, email arc@hca.wa.gov, by November 7, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: HCA is revising this rule to clarify language in subsection (3)(c) and remove subsection (3)(d) to make it less prescriptive based on a review of evidence provided by the health technology clinical committee (HTCC) decision findings. Additionally, HCA is updating the developmental disabilities administration (DDA) name to align with the name change initiated by the department of social and health services. DDA is now developmental disabilities community services division.

Reasons Supporting Proposal: See purpose.

Statutory Authority for Adoption: RCW 41.05.021 and 41.05.160.

Statute Being Implemented: RCW 41.05.021 and 41.05.160.

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

Name of Proponent: HCA, governmental.

Name of Agency Personnel Responsible for Drafting: Valerie Freudenstein, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-1344; Implementation and Enforcement: Jayson Diaz, P.O. Box 42716, Olympia, WA 98504-2716, 360-725-9967.

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. RCW 34.05.328 does not apply to HCA rules unless requested by the joint administrative rules review committee or applied voluntarily.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. This rule is being revised to be less prescriptive based on a review of evidence provided by HTCC decision findings.

HCA does not anticipate these rules to add any new costs to providers. Therefore, these rules do not impose more-than-minor costs on small businesses. Other revisions to the rules are only housekeeping changes.

October 3, 2025
Wendy Barcus
Rules Coordinator

RDS-6608.2

AMENDATORY SECTION (Amending WSR 21-14-055, filed 7/1/21, effective 8/1/21)

WAC 182-535-1094 Dental-related services—Covered—Oral and maxillofacial surgery services. Clients described in WAC 182-535-1060 are eligible to receive the oral and maxillofacial surgery services listed in this section, subject to the coverage limitations, restrictions, and client-age requirements identified for a specific service.

(1) **Oral and maxillofacial surgery services.** The medicaid agency:

(a) Requires enrolled providers who do not meet the conditions in WAC 182-535-1070(3) to bill claims for services that are listed in this subsection using only the current dental terminology (CDT) codes.

(b) Requires enrolled providers (oral and maxillofacial surgeons) who meet the conditions in WAC 182-535-1070(3) to bill claims using current procedural terminology (CPT) codes unless the procedure is specifically listed in the agency's current published billing guide as a CDT covered code (e.g., extractions).

(c) Covers nonemergency oral surgery performed in a hospital or ambulatory surgery center only for:

(i) Clients age eight and younger;

(ii) Clients age nine through ((~~twenty~~)) 20. Prior authorization is required for the site of service; and

(iii) Clients any age of the developmental disabilities ((~~administration~~)) community services division of the department of social and health services (DSHS).

(d) For site-of-service and oral surgery CPT codes that require prior authorization, the agency requires the dental provider to submit current records (within the past ((~~twelve~~)) 12 months), including:

(i) Documentation used to determine medical appropriateness;

(ii) Cephalometric films;

(iii) Radiographs (X-rays);

(iv) Photographs; and

(v) Written narrative/letter of medical necessity, including proposed billing codes.

(e) Requires the client's dental record to include supporting documentation for each type of extraction or any other surgical procedure billed to the agency. The documentation must include:

(i) Appropriate consent form signed by the client or the client's legal representative;

(ii) Appropriate radiographs;

(iii) Medical justification with diagnosis;

(iv) Client's blood pressure, when appropriate;

(v) A surgical narrative and complete description of each service performed beyond surgical extraction or beyond code definition;

(vi) A copy of the post-operative instructions; and

(vii) A copy of all pre- and post-operative prescriptions.

(f) Covers simple and surgical extractions.

(g) Covers unusual, complicated surgical extractions with prior authorization.

(h) Covers tooth reimplantation/stabilization of accidentally evulsed or displaced teeth.

(i) Covers surgical extraction of unerupted teeth.

(j) Covers debridement of a granuloma or cyst that is five millimeters or greater in diameter. The agency includes debridement of a granuloma or cyst that is less than five millimeters as part of the global fee for the extraction.

(k) Covers biopsy of soft oral tissue, brush biopsy, and surgical excision of soft tissue lesions. Providers must keep all biopsy reports or findings in the client's dental record.

(l) Covers only the following excisions of bone tissue in conjunction with placement of complete or partial dentures:

(i) Removal of lateral exostosis;

(ii) Removal of torus palatinus or torus mandibularis;

(iii) Surgical reduction of osseous tuberosity.

(2) **Alveoloplasty.** The agency covers alveoloplasty only in conjunction with the preparation of dentures or partials. Documentation supporting the medical necessity for the procedure must be maintained in the client's record. Supporting documentation must include current radiographs and medical justification narrative.

(3) **Surgical incisions.** The agency covers the following surgical incision-related services:

(a) Uncomplicated intraoral and extraoral soft tissue incision and drainage of abscess. The agency does not cover this service when combined with an extraction or root canal treatment. Documentation supporting the medical necessity must be in the client's record.

(b) Removal of foreign body from mucosa, skin, or subcutaneous alveolar tissue. Documentation supporting the medical necessity for the service must be in the client's record.

(c) Frenuloplasty/frenulectomy for clients age ((~~six~~)) 12 and younger((~~, without~~)). Prior authorization is required.

(d) ((~~Frenuloplasty/frenulectomy for clients age seven through twelve. Prior authorization is required. Photos must be submitted to the agency with the prior authorization request. Documentation supporting the medical necessity for the service must be in the client's record.~~

~~(e)~~)) Surgical access of unerupted teeth for clients age ((~~twenty~~)) 20 and younger. Prior authorization is required.

(4) **Occlusal orthotic devices.** (Refer to WAC 182-535-1098 (4)(c) for occlusal guard coverage and limitations on coverage.) The agency covers:

(a) Occlusal orthotic devices for clients age ((~~twelve through twenty~~)) 12 through 20. Prior authorization is required.

(b) An occlusal orthotic device only as a laboratory processed full arch appliance.

WSR 25-21-027
PROPOSED RULES
DEPARTMENT OF HEALTH
(Pharmacy Quality Assurance Commission)
[Filed October 7, 2025, 2:25 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-15-162.

Title of Rule and Other Identifying Information: Disciplinary action reporting time frame. The pharmacy quality assurance commission (commission) is proposing to amend WAC 246-945-231 to clarify the time frame for pharmaceutical firms to report disciplinary action to the commission.

Hearing Location(s): On December 4, 2025, at 10:30 a.m., at the Department of Labor and Industries, 7273 Linderson Way S.W., Tumwater, WA 98501; or via Zoom at https://us02web.zoom.us/j/86309299195 or https://zoom.us/join, Webinar ID 863 0929 9195; or One-tap mobile +12532158782,,86309299195# US (Tacoma), +12532050468,,86309299195# US; or phone 1-253-215-8782 US (Tacoma), 1-253-205-0468 US.

Date of Intended Adoption: December 4, 2025.

Submit Written Comments to: Julia Katz, P.O. Box 47852, Olympia, WA 98504-7852, email PharmacyRules@doh.wa.gov, fax 360-236-2260, https://fortress.wa.gov/doh/policyreview, beginning the date and time of this filing, by November 20, 2025, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Julia Katz, phone 360-236-4946, fax 360-236-2260, TTY 711, email PharmacyRules@doh.wa.gov, by November 20, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The commission is proposing to amend WAC 246-945-231 to clarify the time frame for pharmaceutical firms to report disciplinary action, including denial, revocation, suspension, or restriction to practice by another state, federal, or foreign authority, to the commission. The proposed rule amends WAC 246-945-231 by incorporating the reporting time frame of 30 calendar days that is already required by WAC 246-16-220 to clarify the pharmacy rule without changing its effect.

Commission staff received feedback from interested parties about challenges concerning a time frame for pharmaceutical firms credentialed by the commission to report disciplinary action by another state, federal, or foreign authority to the commission per WAC 246-945-231.

Reasons Supporting Proposal: There is currently no specified time frame for pharmaceutical firms to report disciplinary action by another state, federal, or foreign authority to the commission. Incorporating the 30-day time frame will clarify the reporting requirement is consistent with the mandatory reporting time frame already established in WAC 246-16-220. The commission is addressing feedback from interested parties that the current lack of time frame clarification poses a challenge.

Statutory Authority for Adoption: RCW 18.64.005.

Statute Being Implemented: RCW 18.64.005.

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

Name of Proponent: Pharmacy quality assurance commission, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Julia Katz, 111 Israel Road S.E., Tumwater, WA 98501,

360-236-4946; Enforcement: Marlee B. O'Neill, 111 Israel Road S.E., Tumwater, WA 98501, 360-480-9108.

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. A cost-benefit analysis is exempt under RCW 34.05.328 (5)(b)(iv) as the proposed rule clarifies language of a rule without changing its effect.

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Explanation of exemptions: The amendment to WAC 246-945-231 is exempt under RCW 34.05.310 (4)(c) because it clarifies the 30-day time frame that is already required under another rule, WAC 246-16-220.

Scope of exemption for rule proposal:

Is fully exempt.

October 7, 2025
Hawkins DeFrance, PharmD, Chair
Pharmacy Quality Assurance Commission

RDS-6637.1

AMENDATORY SECTION (Amending WSR 25-07-097, filed 3/18/25, effective 4/18/25)

WAC 246-945-231 Reporting disciplinary action. Any pharmaceutical firm credentialed by the commission must report to the commission any disciplinary action, including denial, revocation, suspension, or restriction to practice by another state, federal, or foreign authority within 30 calendar days of the determination or finding as defined in WAC 246-16-210.

WSR 25-21-030
PROPOSED RULES
PROFESSIONAL EDUCATOR
STANDARDS BOARD
[Filed October 7, 2025, 3:18 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-05-039.

Title of Rule and Other Identifying Information: WAC 179-09-060 Fundamental course of study in-person exemptions and equivalency.

Hearing Location(s): On November 12, 2025, at 8:00 a.m., in Tacoma, Washington. Exact meeting location and a link to listen to the meeting virtually will be available several weeks prior to the meeting. More information regarding this can be found on our website at https://www.pesb.wa.gov/about-us/board-meetings/.

Date of Intended Adoption: November 12, 2025.

Submit Written Comments to: Professional Educator Standards Board (PESB), P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, email pesb@k12.wa.us, by 8:00 a.m., Monday, November 10, 2025.

Assistance for Persons with Disabilities: Contact PESB, phone 360-725-6275, email pesb.k12.wa.us [pesb@k12.wa.us], by Friday, October 31, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Adds language allowing individuals who are alumni of a PESB-designated teacher academy to be granted equivalency of 14 hours of the paraeducator fundamental course of study training.

Reasons Supporting Proposal: Brings WAC into alignment with recently legislated RCW.

Statutory Authority for Adoption: Chapter 28A.410 RCW.

Statute Being Implemented: Chapter 28A.410 RCW.

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

Name of Proponent: PESB, governmental.

Name of Agency Personnel Responsible for Drafting: Matt Dressen, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 564-999-3364; Implementation: Jeffrey Youde, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-870-0143; and Enforcement: Erica Hernandez-Scott, P.O. Box 47236, 600 Washington Street S.E., Olympia, WA 98504-7236, 360-890-2443.

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.

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

Is exempt under RCW 19.85.025(3) as the rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Scope of exemption for rule proposal:

Is fully exempt.

October 7, 2025
Matt Dressen
Rules Coordinator

RDS-6199.3

NEW SECTION

WAC 179-09-060 FCS in-person exemptions and equivalency. (1) School districts with an enrollment of less than 2,000 students who hire paraeducators after the first day of a school year are eligible to request an exemption from meeting the in-person training requirements from the paraeducator board under WAC 179-11-040(4).

(2) Individuals who have successfully completed a paraeducator board-approved teacher academy are granted equivalency of 14 hours of the paraeducator fundamental course of study training, but not the in-person requirement.

WSR 25-21-047
PROPOSED RULES
EASTERN WASHINGTON UNIVERSITY
[Filed October 9, 2025, 2:32 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-13-069.

Title of Rule and Other Identifying Information: WAC 172-191-100 Directory information.

Hearing Location(s): On December 1, 2025, at 12:00 p.m., at Eastern Washington University (EWU), 201 Showalter Hall, Cheney, WA 99004.

Date of Intended Adoption: December 12, 2025.

Submit Written Comments to: Annika Scharosch, 214 Showalter Hall, Cheney, WA 99004, email ascharosch@ewu.edu, website https://inside.ewu.edu/policies, beginning October 13, 2025, at 8:00 a.m., by 5:00 p.m., on December 1, 2025.

Assistance for Persons with Disabilities: Contact Annika Scharosch, phone 509-359-6724, email ascharosch@ewu.edu, by November 25, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updates the definition of directory information. Information contained in the definition of directory information may be disclosed from a student education record consistent with the Family Education Rights and Privacy Act unless a student opts out of disclosure.

Reasons Supporting Proposal: These changes are being made to update the definition of directory information based on concerns about student privacy, particularly around home addresses.

Statutory Authority for Adoption: RCW 28B.35.120(12).

Rule is necessary because of federal law, 34 C.F.R. Part 99.

Name of Proponent: EWU, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Annika Scharosch, 214 Showalter Hall, Cheney, WA 99004, 509-359-6724; Enforcement: Dr. Shari McMahan, 214 Showalter Hall, Cheney, WA 99004, 509-359-6200.

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. Not subject to RCW 34.05.328(5).

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: These changes impact internal EWU procedures for access to student education records. They do not affect small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

October 9, 2025
Annika Scharosch
Chief of Staff and Compliance

RDS-6750.1

AMENDATORY SECTION (Amending WSR 20-12-061, filed 5/29/20, effective 6/29/20)

WAC 172-191-100 Directory information. Directory information is defined to include: Student's name, ((~~address,~~)) university email address, telephone number((~~,~~)); participation in officially recognized activities and sports((~~,~~)); weight, height and ((~~birth dates of~~)) the month and day of birth for athletic team members; dates of attendance at the university, enrollment status, and class standing; major field of study, degrees and awards received((~~,~~)); and the most recent previous educational agency or institution attended by the student.

The university may release "directory information" unless the student ((~~files a written~~)) submits a formal request restricting the disclosure of the information to the registrar's office. A student's election to opt out of directory information disclosures does not prevent the university from disclosing or requiring a student to disclose ((~~his/her~~)) their name, identifier, or university email address in a class in which the student is enrolled.

WSR 25-21-048
PROPOSED RULES
EASTERN WASHINGTON UNIVERSITY
[Filed October 9, 2025, 2:39 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-16-008.

Title of Rule and Other Identifying Information: WAC 172-325-010 State Environmental Policy Act.

Hearing Location(s): On December 1, 2025, at 12:00 p.m., at Eastern Washington University (EWU), 201 Showalter Hall, Cheney, WA 99004.

Date of Intended Adoption: December 12, 2025.

Submit Written Comments to: Annika Scharosch, 214 Showalter Hall, Cheney, WA 99004, email ascharosch@ewu.edu, website https://inside.ewu.edu/policies, beginning October 13, 2025, at 8:00 a.m., by 5:00 p.m., on December 1, 2025.

Assistance for Persons with Disabilities: Contact Annika Scharosch, phone 509-359-6724, email ascharosch@ewu.edu, by November 25, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Updates the title of the administrator responsible for compliance efforts.

Reasons Supporting Proposal: The title contained in WAC is no longer used by EWU.

Statutory Authority for Adoption: RCW 28B.35.120(12).

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

Name of Proponent: EWU, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Annika Scharosch, 214 Showalter Hall, Cheney, WA 99004, 509-359-6724; Enforcement: Dr. Shari McMahan, 214 Showalter Hall, Cheney, WA 99004, 509-359-6200.

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. Not subject to RCW 34.05.328(5).

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rule content is explicitly and specifically dictated by statute.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The change in title has no impact on small businesses.

Scope of exemption for rule proposal:

Is fully exempt.

October 9, 2025
Annika Scharosch
Chief of Staff and Compliance

RDS-6751.1

AMENDATORY SECTION (Amending WSR 92-21-047, filed 10/16/92, effective 11/16/92)

WAC 172-325-010 State Environmental Policy Act (SEPA). It is the policy of Eastern Washington University that any project shall be accomplished in compliance with chapter 43.21C RCW, the State Environmental Policy Act (SEPA) and in accordance with chapter 197-11 WAC, guidelines for the State Environmental Policy Act implementation. Further, it is the policy of the university to provide leadership in resource conservation and environmental protection. Environmental issues will be considered in the decision-making and planning process. To this end, Eastern Washington University adopts by reference chapter 197-11 WAC SEPA guidelines and all subsequent amendments thereto.

In compliance with chapter 197-11 WAC, the ((~~executive~~)) vice president of business and strategy is the responsible official for carrying out this policy.

WSR 25-21-069
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed October 14, 2025, 10:11 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-14-099.

Title of Rule and Other Identifying Information: Labor standards for isolated employees, new chapter 296-137 WAC.

Hearing Location(s): On November 25, 2025, at 1:00 p.m., via Zoom at https://lni-wa-gov.zoom.us/j/81929930958?pwd=8bS2qPa1TuPkBZyCashtDTrEbxOG6D.1, Meeting ID 819 2993 0958, Passcode lni.2025; or join by phone (audio only) 253-215-8782 or 253-205-0468, Passcode *91306502#. The hearing will start at 1:00 p.m. and will continue until all oral comments are received.

Date of Intended Adoption: December 16, 2025.

Submit Written Comments to: Bridget Osborne, Administrative Regulations Analyst, Department of Labor and Industries (L&I), Division of Labor Standards/Employment Standards, P.O. Box 44510, Olympia, WA 98504-4510, email ESRules@Lni.wa.gov, fax 360-902-5300, beginning October 15, 2025, 8:00 a.m., by November 26, 2025, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Bridget Osborne, administrative regulations analyst, phone 360-902-5552, fax 360-902-5300, email ESRules@Lni.wa.gov, by November 13, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to implement 2SHB 1524, related to isolated employee protections. Currently, chapter 49.60 RCW requires employers in the janitorial, hospitality, retail, and security industries take certain precautions to prevent sexual harassment and sexual assault of isolated employees. Isolated employees are those working as a janitor, security guard, hotel or motel housekeeper, or room service attendant and spends a majority of their working hours alone, without another coworker present.

2SHB 1524 (chapter 47, Laws of 2025) amends chapter 49.60 RCW to add additional protections for isolated employees and provides for L&I enforcement of the requirements, effective January 1, 2026.

Reasons Supporting Proposal: Rules are required to implement, clarify, and enforce the labor standards for isolated employees established under 2SHB 1524, codified in chapter 49.60 RCW.

Statutory Authority for Adoption: Chapter 49.60 RCW.

Statute Being Implemented: Chapter 49.60 RCW.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Bridget Osborne, Tumwater, Washington, 360-902-5552; Implementation and Enforcement: Bryan Templeton, Tumwater, Washington, 360-902-5310.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Bridget Osborne, L&I, Division of Labor Standards, Employment Standards, P.O. Box 44510, Olympia, WA 98504-4510, phone 360-902-5552, fax 360-902-5300, email ESRules@Lni.wa.gov.

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

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Scope of exemption for rule proposal:

Is partially exempt:

Explanation of partial exemptions:

Proposed WAC Sections and Title	This proposed rule section is *not exempt*. Analysis is required.	This proposed rule section *is exempt*. Provide RCW to support this exemption.
WAC 296-137-010 **Definitions**	□	RCW 34.05.310 (4)(c) and 34.05.328 (5)(b)(iii) - Adopts without materially changing RCW 49.60.515, which regulates the same subject matter and conduct as the adopting rule.
WAC 296-137-020 **Sexual harassment policies**	□	RCW 34.05.310 (4)(c) and 34.05.328 (5)(b)(iii) - Adopts without materially changing RCW 49.46.300 (12) and (14), which regulates the same subject matter and conduct as the adopting rule. RCW 34.05.328 (5)(a) and (c)(ii) - (iii) - The second sentence is explanatory and does not independently impose a penalty or sanction on a person or entity.
WAC 296-137-030 **Mandatory training**	X	
WAC 296-137-040(1) **Mandatory resource lists**	X	
WAC 296-137-040(2) **Mandatory resource lists**	□	RCW 34.05.328 (5)(a) and (c)(ii)-(iii) - This subsection is an interpretive rule that sets forth the agency interpretation of statutory provision regarding methods that can be understood to satisfy a requirement for mandatory resource lists and does not independently subject a person to a penalty or sanction. Therefore, it is not a significant legislative rule under RCW 34.05.328 (5)(c)(iii), making RCW 34.05.328 not applicable pursuant to subsection (5)(a).
WAC 296-137-040(3) **Mandatory resource lists**	□	RCW 34.05.328 (5)(a) and (c)(ii)-(iii) - This subsection is an interpretation or further explanation of the requirement in subsection (1) of this rule by making a recommendation for situations when an isolated employee prefers a language other than English, while not independently imposing any penalty or sanction. Therefore, it is not a significant legislative rule under RCW 34.05.328 (5)(c)(iii), making RCW 34.05.328 not applicable pursuant to subsection (5)(a).
WAC 296-137-050 **Panic buttons**	□	RCW 34.05.328 (5)(a) and (c)(ii)-(iii) - This rule both adopts or incorporates by reference RCW 49.60.515 (1)(d) and (4)(d) without material change. Subsections of this rule not adopting RCW 49.60.515 are interpretive rules that do not independently subject a penalty or sanction on a person and therefore are not significant legislative rules subject applicable under RCW 34.05.328.
WAC 296-137-060 **Additional property service contractor requirements**	□	RCW 34.05.310 (4)(c) and 34.05.328 (5)(b)(iii), (5)(a), and (c)(ii)-(iii) - This rule both adopts or incorporates by reference RCW 49.60.515 (1)(d) and (4)(d) without material change. Subsections of this rule not adopting RCW 49.60.515 are interpretive rules that do not independently subject a penalty or sanction on a person and therefore are not significant legislative rules applicable under RCW 34.05.328.

Proposed WAC Sections and Title	This proposed rule section is *not exempt*. Analysis is required.	This proposed rule section *is exempt*. Provide RCW to support this exemption.
WAC 296-137-070(1)-(3) **Investigations and enforcement**	□	RCW 34.05.310 (4)(c) and 34.05.328 (5)(b)(iii), (5)(a), and (c)(ii)-(iii) - This rule both adopts or incorporates by reference RCW 49.60.515 (1)(d) and (4)(d) without material change. Subsections of this rule not adopting RCW 49.60.515 are interpretive rules of the adopted language and do not independently subject a penalty or sanction on a person. They therefore are not significant legislative rules subject applicable under RCW 34.05.328.
WAC 296-137-070(4)-(5) **Investigations and enforcement**	X	
WAC 296-137-080 **Penalties**	□	RCW 34.05.310 (4)(c) and 34.05.328 (5)(b)(iii) - Adopts without materially changing RCW 49.60.515 (3)(c) and 49.60.515(4) which regulates the same subject matter and conduct as the adopting rule. The definitions adopt the same ones found in the WPA without material change.
WAC 296-137-090 **Retaliation**	X	
WAC 296-137-100 **Appeals**	□	RCW 34.05.328 (5)(a), (c)(i), and (c)(iii) - This is a rule that adopts procedures, practices, or requirements for aggrieved parties seeking to challenge the agency action and have it reviewed through agency hearings. As such it does not meet the definition of "significant legislative rule" for the purposes of RCW 34.05.328.
WAC 296-137-110 **Collection procedures**	□	RCW 34.05.328 (5)(a), (c)(i), and (c)(iii) - This is a rule that adopts procedures and practices for the collection of unpaid citation penalties and incorporates through reference corresponding statute for L&I's procedure. As such it does not meet the definition of "significant legislative rule" for the purposes of RCW 34.05.328.
WAC 296-137-120 **Severability clause**	□	RCW 34.05.328 (5)(a) and (c)(ii)-(iii) - This section clarifies the extent of this rule in certain contexts or sets forth the agency's interpretation of RCW 49.60.515 as it may relate to certain situations.
WAC 296-137-130 **More favorable standards**	□	RCW 34.05.328 (5)(a) and (c)(ii)-(iii) - This section clarifies the extent of this rule in certain contexts or sets forth the agency's interpretation of RCW 49.60.515 as it may relate to certain situations.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. L&I determined that the proposed rules do not impose additional cost on businesses. The proposed rules do not create additional requirements that employers must meet.

October 14, 2025
Joel Sacks
Director

RDS-6677.2

Chapter 296-137 WAC
LABOR STANDARDS FOR ISOLATED EMPLOYEES

NEW SECTION

WAC 296-137-010 Definitions. For the purposes of RCW 49.60.515 and this chapter:

(1) "Department" means the department of labor and industries.

(2) "Employer" means any person, association, partnership, property services contractor, or public or private corporation, whether for-profit or not, who employs one or more persons.

(3) "Isolated employee" means an employee who:

(a)(i) Performs work in an area where two or more coworkers, supervisors, or a combination thereof are unable to immediately respond to an emergency without being summoned by the employee; or

(ii) Spends at least 50 percent of their working hours without a supervisor or another coworker present; and

(b) Is employed by an employer as a janitor, security guard, hotel or motel housekeeper, or room service attendant.

(4) "Panic button" means an emergency contact device carried by an isolated employee by which the isolated employee may summon immediate on-scene assistance from another worker, a security guard, or a representative of the employer. A panic button must:

(a) Be designed to be carried by the isolated employee;

(b) Be simple to activate without delays caused by entering passwords or waiting for the system to turn on;

(c) Provide an effective signal for the circumstances when activated; and

(d) Be able to summon immediate assistance and allow responders to accurately identify the isolated employee's location.

(5) "Property services contractor" means any person or entity that employs workers:

(a) To perform labor for another person to provide commercial janitorial services; or

(b) On behalf of an employer to provide commercial janitorial services. "Property services contractor" does not mean the employment security department or individuals who perform labor under an agreement for exchanging their own labor or services with each other, provided the work is performed on land owned or leased by the individuals.

(6) "Repeat willful violator" means any employer that has been the subject of a final and binding citation for a willful violation of one or more requirements under this section and all applicable rules, within three years of the date of issuance of the most recent citation for a willful violation of one or more requirements.

(7) "Security guard" means an individual who is principally employed as, or typically referred to as, a security officer or guard, regardless of whether the individual is employed by a private security company or a single employer or whether the individual is required to be licensed under chapter 18.170 RCW.

(8) "Willful" means a knowing and intentional action that is neither accidental nor the result of a bona fide dispute.

NEW SECTION

WAC 296-137-020 Sexual harassment policies. Every hotel, motel, retail, security guard entity, or property services contractor, who employs an isolated employee, must adopt a sexual harassment policy.

Such an employer may comply with this requirement by adopting model sexual harassment policies issued by the Washington state human rights commission.

NEW SECTION

WAC 296-137-030 Mandatory training. Every hotel, motel, retail, security guard entity, or property services contractor, who employs an isolated employee, must:

(1) Provide training upon hire and at least annually to the employer's managers, supervisors, and isolated employees with a primary focus on:

(a) Prevention of sexual assault and sexual harassment in the workplace;

(b) Prevention of sexual discrimination in the workplace;

(c) Educating the employer's workforce regarding protections for isolated employees who report violations of a state or federal law, rule, or regulation; and

(d) Informing isolated employees on how to use panic buttons, and inform managers and supervisors on the responsibility to respond to the use of panic buttons.

(2) Document each manager's, supervisor's, and isolated employee's completion of the mandatory training required by this section and provide the documentation to the department upon request.

(3) Provide a copy of the mandatory training required by this section to the department upon request.

NEW SECTION

WAC 296-137-040 Mandatory resource lists. (1) Every hotel, motel, retail, security guard entity, or property services contractor, who employs an isolated employee, must provide a list of resources for the employer's isolated employees to utilize, at least annually and upon request. At a minimum, the resources must include contact information of the equal employment opportunity commission, the Washington state human rights commission, and local advocacy groups focused on preventing sexual harassment and sexual assault.

(2) The department will consider the inclusion of mandatory resource lists provided in employee handbooks or on signage displayed in a conspicuous place for the isolated employee to be in compliance with this section.

(3) Mandatory resource lists should be provided in the isolated employee's preferred language when the preferred language is available to the hotel, motel, retail, security guard entity, or property services contractor.

NEW SECTION

WAC 296-137-050 Panic buttons. (1) Every hotel, motel, retail, security guard entity, or property services contractor, who employs an

isolated employee, must provide a panic button to each isolated employee.

(2) Panic buttons must accurately identify the isolated employee's location. The location must be as specific as the work location necessitates to allow immediate assistance to be provided when an alarm is triggered. Employers may use different methods in order to pinpoint an employee's location including, but not limited to:

(a) A schedule of where the isolated employee would be at a certain time;

(b) An auditory alarm that also produces a signal to a responder;

(c) An isolated employee providing status updates of their location as it changes; or

(d) An isolated employee working in the presence of another worker.

(3) Responders may include representatives of the employer, properly trained managers or supervisors, security guards, and in some cases, other workers with proper training, experience, and education that qualifies them to respond to emergency incidents.

(4) Effective signals may allow responders to accurately detect the isolated employee's location and distinguish it from other audible or visual alarms or noise without physical or electronic barriers such as poor cellular service or WiFi signals.

(5) Immediate assistance may include on-scene assistance provided within a reasonable amount of time to:

(a) Confirm an emergency is taking place or an isolated employee reasonably believes they are at risk of harm;

(b) Confirm an equipment failure did not occur; and

(c) Summon applicable emergency services.

(6) An employer must maintain a record of the purchase and utilization of panic buttons provided to its isolated employees under this section. Records must be provided to the department upon request.

(7) The department must publish advice and guidance for employers with 50 or fewer employees relating to RCW 49.60.515 (1)(d).

(8) This section does not apply to contracted security guard companies licensed under chapter 18.170 RCW.

NEW SECTION

WAC 296-137-060 Additional property service contractor requirements. (1) A property services contractor shall submit annually, on a department issued physical or electronic form, the following:

(a) The date of adoption of the sexual harassment policy required in RCW 49.60.515 (1)(a);

(b) The number of managers, supervisors, and isolated employees trained as required by RCW 49.60.515 (1)(b); and

(c) The physical address of the work location or locations at which janitorial services are provided by workers of the property services contractor, and for each location:

(i) The total number of workers or contractors of the property services contractor who perform janitorial services; and

(ii) The total hours worked.

(2) The department must make aggregate data submitted as required in RCW 49.60.515 available upon request.

NEW SECTION

WAC 296-137-070 Investigations and enforcement. (1) The department must investigate if a complaint is filed with the department alleging a violation of RCW 49.60.515 or associated rules, or if the department has reason to believe that an employer has committed a violation of RCW 49.60.515 or associated rules.

(a) Except when a violation is otherwise resolved, the department must issue:

(i) A citation assessing a civil penalty under this chapter if it finds a violation has occurred; or

(ii) A closure letter detailing any findings if it finds that a violation cannot be substantiated.

(b) The notice of a citation or closure letter must be sent to the employer by service of process or using a method by which the mailing can be tracked or the delivery can be confirmed to the last known address.

(2) During an investigation, if the department discovers information suggesting additional violations of any other protections enforced by the department under Title 49 RCW or any associated rules, the department may investigate and take appropriate enforcement action without any additional complaint. The department may also initiate an investigation on behalf of one or more isolated employees for a violation of RCW 49.60.515 or any associated rules, when the director otherwise has reason to believe that a violation has occurred or will occur.

(3) The department may conduct a consolidated investigation for any alleged violations identified under RCW 49.60.515 or associated rules, when there are common questions of law or fact involving isolated employees. If the department consolidates such matters into a single investigation, it will provide notice to the employer.

(4) The department may, for the purposes of enforcing RCW 49.60.515 or any associated rules, issue subpoenas to compel the attendance of witnesses or parties and the production of documents, administer oaths and examine witnesses under oath, take depositions, and seek affidavits or other verifications. The department may request an employer perform a self-audit of any records, which must be provided within a reasonable time. Reasonable timelines will be specified in the self-audit request. The records examined by the employer in order to perform the self-audit must be made available to the department upon request.

(5) Upon the department's request, an employer must notify employees that the department is conducting an investigation. The department may require the employer to include a general description of each investigation as part of the notification, including the allegations and whether the employee may be affected. The department may consult with the employer to provide the information for the description.

NEW SECTION

WAC 296-137-080 Penalties. (1) If the department finds a violation of RCW 49.60.515 or this chapter, the department may order the employer to pay the department a civil penalty of $1,000 for each willful violation.

(2) For a repeat willful violator, the citation assessing a civil penalty must be at least $2,000 for each repeat willful violation, but no greater than $10,000 for each repeat willful violation.

(3) The department may, at any time, waive or reduce a civil penalty assessed under this section if the department determines that the employer has taken corrective action to resolve the violation.

(4) Penalties collected under this section must be deposited into the supplemental pension fund established under RCW 51.44.033.

NEW SECTION

WAC 296-137-090 Retaliation. (1) It is unlawful for an employer to interfere with, restrain, deny, or take any adverse action against an isolated employee for the exercise of their rights under RCW 49.60.515 or this chapter.

(2) The department may enforce allegations of retaliation by an isolated employee, who files a complaint with the department, under the provisions provided in WAC 296-128-770 through 296-128-800.

NEW SECTION

WAC 296-137-100 Appeals. (1) A person, firm, or corporation aggrieved by a citation assessing a civil penalty issued by the department under this chapter may appeal the citation assessing a civil penalty to the director by filing a notice of appeal with the director within 30 days of the department's issuance of the citation assessing a civil penalty. A citation assessing a civil penalty not appealed within 30 days is final and binding, and not subject to further appeal.

(2) A notice of appeal filed with the director under this section will stay the effectiveness of the citation assessing a civil penalty pending final review of the appeal by the director as provided for in chapter 34.05 RCW.

(3) Upon receipt of a notice of appeal, the director will assign the hearing to an administrative law judge of the office of administrative hearings to conduct the hearing and issue an initial order. The hearing and review procedures will be conducted in accordance with chapter 34.05 RCW, and the standard of review by the administrative law judge of an appealed citation assessing a civil penalty will be de novo. Any party who seeks to challenge an initial order shall file a petition for administrative review with the director within 30 days after service of the initial order. The director will conduct administrative review in accordance with chapter 34.05 RCW.

(4) The director will issue all final orders after appeal of the initial order. The final order of the director is subject to judicial review in accordance with chapter 34.05 RCW.

(5) Orders that are not appealed within the period specified in this section and chapter 34.05 RCW are final and binding, and not subject to further appeal.

(6) An employer who fails to allow adequate inspection of records in an investigation by the department under this chapter within a reasonable time period may not use such records in any appeal under such

rules to challenge the correctness of any determination by the department.

NEW SECTION

WAC 296-137-110 Collection procedures. Collections of unpaid citations will be handled pursuant to the procedures outlined in RCW 49.48.086.

NEW SECTION

WAC 296-137-120 Severability clause. If any provision of the rules in this chapter, or their application to any person or circumstance is held invalid, the remainder of these rules or their application of the provision to other persons or circumstances is not affected.

NEW SECTION

WAC 296-137-130 More favorable standards. If any applicable federal, state, or local law or ordinance provides requirements that are more favorable to an isolated employee than the requirements provided under this chapter, that law shall apply.

WSR 25-21-081
PROPOSED RULES
DEPARTMENT OF
FISH AND WILDLIFE
[Order 24-12—Filed October 15, 2025, 3:28 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-19-093 on September 17, 2024.

Title of Rule and Other Identifying Information: WAC 220-610-010 Wildlife classified as endangered.

Hearing Location(s): On December 12, 2025, at 8:00 a.m., via web conference at https://wdfw.wa.gov/about/commission/meetings. Information on how to register to testify at the public hearing is available at http://wdfw.wa.gov/about/commission#public-testimony; or contact the fish and wildlife commission (FWC) office at 360-902-2267. The department of fish and wildlife (WDFW) will provide a briefing on the proposed rule at FWC's November 13-15, 2025, meeting. FWC will conduct a public hearing and decision at the December 12, 2025, meeting.

Date of Intended Adoption: December 12, 2025.

Submit Written Comments to: Scott Bird, P.O. Box 43200, Olympia, WA 98504, email islandmarblebutterflycr102@publicinput.com, fax 360-902-2162, https://engage.wdfw.wa.gov/islandmarblebutterflycr102 or call 855-925-2801, project code 10592, beginning October 22, 2025, by noon, by December 5, 2025, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Title VI/ADA compliance coordinator, phone 360-902-2349, TTY 1-800-833-6388 or 711, email title6@dfw.wa.gov, http://wdfw.wa.gov/accessibility/requests-accommodation, by December 5, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule project is to consider classifying the island marble butterfly as endangered. The proposed change would amend WAC 220-610-010 to include island marble butterfly among the other listed endangered wildlife.

Reasons Supporting Proposal: United States Fish and Wildlife Service recently classified the island marble butterfly as endangered under the Endangered Species Act (ESA). The island marble butterfly exists in a few locations on San Juan Island, a fraction of its former range. WDFW staff issued a report summarizing the current status, distribution, threats, and conservation challenges for the species, and also recommended an endangered species classification. WAC 220-610-110 provides guidance to the agency on recommending an endangered or threatened classification when species are listed as endangered or threatened under ESA.

Statutory Authority for Adoption: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, and 77.12.020.

Statute Being Implemented: RCW 77.04.012, 77.04.013, 77.04.020, 77.04.055, 77.12.047, and 77.12.020.

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

Name of Proponent: WDFW, governmental.

Name of Agency Personnel Responsible for Drafting and Implementation: Mick Cope, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2515; Enforcement: Steve Bear, 1111 Washington Street S.E., Olympia, WA 98501, 360-902-2373.

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.

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: Does not affect small business.

Scope of exemption for rule proposal:

Is fully exempt.

October 15, 2025
Scott Bird
Rules Coordinator

OTS-5922.1

AMENDATORY SECTION (Amending WSR 23-24-005, filed 11/27/23, effective 12/28/23)

WAC 220-610-010 Wildlife classified as endangered species. Endangered species include:

Common Name	Scientific Name
Oregon vesper sparrow	*Pooecetes gramineus affinis*
pygmy rabbit	*Brachylagus idahoensis*
fisher	*Pekania pennanti*
gray wolf	*Canis lupus*
grizzly bear	*Ursus arctos*
killer whale	*Orcinus orca*
sei whale	*Balaenoptera borealis*
fin whale	*Balaenoptera physalus*
blue whale	*Balaenoptera musculus*
humpback whale	*Megaptera novaeangliae*
North Pacific right whale	*Eubalaena japonica*
sperm whale	*Physeter macrocephalus*
woodland caribou	*Rangifer tarandus caribou*
Columbian sharp-tailed grouse	*Tympanuchus phasianellus columbianus*
sandhill crane	*Grus canadensis*
snowy plover	*Charadrius nivosus*
upland sandpiper	*Bartramia longicauda*
spotted owl	*Strix occidentalis*
western pond turtle	*Clemmys marmorata*
leatherback sea turtle	*Dermochelys coriacea*
mardon skipper	*Polites mardon*
Oregon silverspot butterfly	*Speyeria zerene hippolyta*
Oregon spotted frog	*Rana pretiosa*
northern leopard frog	*Rana pipiens*
Taylor's checkerspot	*Euphydryas editha taylori*

Common Name	Scientific Name
Streaked horned lark	*Eremophila alpestris strigata*
Tufted puffin	*Fratercula cirrhata*
North American lynx	*Lynx canadensis*
marbled murrelet	*Brachyramphus marmoratus*
Loggerhead sea turtle	*Caretta caretta*
Yellow-billed cuckoo	*Coccyzus americanus*
Pinto abalone	*Haliotis kamtschatkana*
Greater sage grouse	*Centrocercus urophasianus*
Ferruginous hawk	*Buteo regalis*
Cascade red fox	*Vulpes vulpes cascadensis*
western gray squirrel	*Sciurus griseus*
Island marble butterfly	*Euchloe ausonides insulanis*

WSR 25-21-100
WITHDRAWAL OF PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
[Filed October 17, 2025, 1:56 p.m.]

The economic services administration requests the withdrawal of the CR-102 proposal filed as WSR 25-19-037 on September 9, 2025, for WAC 388-487-0010 What is the sun bucks program?, 388-487-0020 Is my child eligible for sun bucks?, and 388-487-0030 General information about sun bucks benefits.

The withdrawal should be effective immediately upon filing.

Katherine I. Vasquez
Rules Coordinator

WSR 25-21-101
PROPOSED RULES
HORSE RACING COMMISSION
[Filed October 17, 2025, 3:01 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-18-108.

Title of Rule and Other Identifying Information: WAC 260-84-060 Penalty matrixes.

Hearing Location(s): On January 9, 2026, at 9:30 a.m., at 2300 Ron Crockett Drive N.W., Fifth Floor, Council Room, Auburn, WA 98001; and via Zoom teleconference. Link will be available at www.whrc.wa.gov prior to the meeting.

Date of Intended Adoption: January 9, 2026.

Submit Written Comments to: Amanda Benton, 6326 Martin Way, Suite 209, email Amanda.benton@whrc.wa.gov, fax 360-459-6461, beginning October 20, 2025, at 8:00 a.m., by December 15, 2025, at 4:00 p.m.

Assistance for Persons with Disabilities: Contact Melanie Bowdish, phone 360-459-6462, fax 360-459-6461, email melanie.bowdish@whrc.wa.gov, by December 15, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The Washington horse racing commission (WHRC) is considering amending penalties assessed for violations of Title 260 WAC.

Reasons Supporting Proposal: Horseracing industry stakeholders have requested that WHRC review the penalty matrixes and make amendments to penalties assessed to jockeys.

Statutory Authority for Adoption: RCW 67.16.020.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Amanda Benton, 6326 Martin Way, Suite 209, Olympia, WA 98516, 360-459-6462.

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.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. Not business related.

October 17, 2025
Amanda Benton
Executive Secretary

RDS-6773.1

AMENDATORY SECTION (Amending WSR 20-05-069, filed 2/18/20, effective 3/20/20)

WAC 260-84-060 Penalty matrixes. (1) Unless provided for elsewhere, the imposition of reprimands, fines and suspensions will be based on the following penalty matrixes:

Class A and B Licensed Facilities			
	1st Offense	2nd Offense	3rd Offense or subsequent offense
Disturbing the peace or improper conduct WAC 260-36-120 or 260-80-140	Warning to $250 and/or suspension	Warning to $500 and/or suspension	Suspension
Person performing duties for which they are not licensed WAC 260-36-010 or 260-36-260	$100	$200	$300
Unlicensed or improperly licensed personnel WAC 260-36-150 and 260-36-260	$100	$200	$300
Violation of any claiming rule in chapter 260-60 WAC	$250 to $500 plus possible suspension		
Failure of jockey agent to honor riding engagements (call) WAC 260-32-400	$100	$150	$200
Failure of jockey to report correct weight WAC 260-32-150 and 260-44-080	$100	$200	$300
Failure of jockey to appear for films WAC 260-24-510	$100	$150	$200
Failure of jockey to fulfill riding engagement WAC 260-32-080	$100	$150	$200
Jockey easing mount without cause WAC 260-52-040	$250 and/or suspension	$500 and/or suspension	$1000 and/or suspension
Jockey failing to maintain straight course or careless riding with no disqualification (jockey at fault) WAC 260-52-040	((~~Warning to $750 and/or~~)) Suspension (riding days)		
Jockey failing to maintain straight course or careless riding resulting in a disqualification (jockey at fault) WAC 260-52-040	((~~$500 and/or suspension (riding days)~~)) Suspension (riding days)		
Rider's misuse of crop WAC 260-52-045	Warning to $2500		
Entering ineligible horse or unauthorized late scratch chapter 260-40 WAC and WAC 260-80-030	Warning to $250	$250 For unauthorized late scratch, horse placed on stewards list for seven days.	$500 For unauthorized late scratch, horse placed on stewards list for seven days.
Arriving late to the paddock (jockey) WAC 260-52-010	Warning to $100	$100 to $200	$200 to $500
Arriving late to the paddock or receiving barn (trainer) WAC 260-28-200	Warning to $100	$100 to $200	$200 to $500
Failure to deliver furosemide treatment form to official veterinarian by appointed time WAC 260-70-650	Warning to $100	$100 to $200	$200 to $300
Failure to obtain permission for equipment changes WAC 260-44-010	$50	$100	$200
Failure to report performance records WAC 260-40-100	Warning to $100	$150	$200
Trainer failure to report proper identity of horses in their care WAC 260-28-295	$100	$150	$250
Failure to submit gelding report WAC 260-28-295	$100	$200	$300

Class C Licensed Facilities			
	1st Offense	2nd Offense	3rd Offense or subsequent offense
Disturbing the peace or improper conduct WAC 260-80-140 and 260-80-140	Warning to $100 and/or suspension	$250 and/or suspension	Suspension

Class C Licensed Facilities			
	1st Offense	2nd Offense	3rd Offense or subsequent offense
Person performing duties for which they are not licensed WAC 260-36-010 or 260-36-260	$50	$100	$150
Unlicensed or improperly licensed personnel WAC 260-36-150 and 260-36-260	$50	$100	$200
Violation of any claiming rule in chapter 260-60 WAC	$100 to $250 plus possible suspension		
Failure of jockey agent to honor riding engagements (call) WAC 260-32-400	$25	$50	$100
Failure of jockey to report correct weight WAC 260-32-150 and 260-44-080	$25	$50	$100
Failure of jockey to appear for films WAC 260-24-510	$25	$50	$100
Failure of jockey to fulfill riding engagement WAC 260-32-080	$50	$100	$200
Jockey easing mount without cause WAC 260-52-040	$100	$200 and/or suspension	$400 and/or suspension
Jockey failing to maintain straight course or careless riding with no disqualification (jockey at fault) WAC 260-52-040	Warning to $500 and/or suspension (riding days)		
Jockey failing to maintain straight course or careless riding resulting in a disqualification (jockey at fault) WAC 260-52-040	$100 to $500 and/or suspension (riding days)		
Rider's misuse of crop WAC 260-52-045	Warning to $2500		
Entering ineligible horse or unauthorized late scratch chapter 260-40 WAC and WAC 260-80-030	Warning to $50	$100 to $200	$200 to $300
Arriving late to the paddock (jockey) WAC 260-52-010	Warning to $25	$50	$100
Arriving late to the paddock (trainer) WAC 260-28-200	Warning to $25	$50	$100
Failure to deliver furosemide treatment form to official veterinarian by appointed time WAC 260-70-650	Warning to $25	$50	$100
Failure to obtain permission for equipment change WAC 260-44-010	$25	$50	$100
Failure to report performance records WAC 260-40-100	Warning to $25	$50	$100
Failure to submit gelding report WAC 260-28-295	$50	$100	$200

Class A, B and C Licensed Facilities			
	1st Offense	2nd Offense	3rd Offense or subsequent offense
Smoking in restricted areas WAC 260-20-030	$100	$200	$250 and/or suspension
Tampering with a fire protection, prevention or suppression system or device WAC 260-20-030	$200	$500	$1000 and/or suspension
Failure to post problem gambling signs WAC 260-12-250	Warning to $50	$100	$200
Issuing a check to the commission with not sufficient funds WAC 260-28-030	$100	$150	$200

Class A, B and C Licensed Facilities			
	1st Offense	2nd Offense	3rd Offense or subsequent offense
Failure to ride in a safe or prudent manner WAC 260-80-145	Warning to $50	$50 to $100	$200 plus possible suspensions
Use of improper, profane, or indecent language WAC 260-80-130	Warning to $250	$250	$500
Use of profane language and uncooperative with association security WAC 260-20-090	Warning to $250	$250	$500
Failure to complete temporary license application within fourteen days WAC 260-36-200	$100 and suspension of license	$250 and suspension of license	$500 and suspension of license
Failure to register employees with the commission (trainers responsibility) WAC 260-36-250	Warning to $100	$100	$200
Failure to furnish fingerprints WAC 260-36-100	$100 and suspension of license	$250 and suspension of license	$500 and suspension of license
Nonparticipation - Licensing WAC 260-36-080	License canceled		
Failure to divulge a pending felony charge or a felony conviction WAC 260-36-050 and 260-36-120	$100 to $250		
False information or failure to provide accurate and complete information on application WAC 260-36-050 or 260-36-120	Warning to $250		
Failure to provide full disclosure, refusal to respond to questions, or responding falsely to stewards or commission investigators WAC 260-24-510	$500 fine and/or denial, suspension or revocation of license		
Financial responsibility WAC 260-28-030	Suspension of license until debt is satisfied (suspension may be stayed with a mutual payment agreement and licensee remains compliant with agreement)		
Failure to appear for a ruling conference WAC 260-24-510	Suspension (conference may be held in individual's absence)		
Failure to pay fine when due (no extension granted or no request for hearing filed) WAC 260-24-510	Suspension until fine paid		
Possession or use of a stimulating device (may include batteries) WAC 260-52-040 and 260-80-100	Immediate ejection from the grounds and permanent revocation		
Offering or accepting a bribe in an attempt to influence the outcome of a race WAC 260-80-010	Immediate ejection from the grounds and permanent revocation		
Failure to wear proper safety equipment WAC 260-12-180 and 260-32-105	$50	$100	$200
Horses shod with improper toe grabs WAC 260-44-150	Horse scratched and $250 fine to trainer and plater	Horse scratched and $500 fine to trainer and plater	Horse scratched and $1000 fine to trainer and plater
Failure to possess license badge when in restricted area WAC 260-36-110	$25	$50	$100

(2) In determining whether an offense is a first, second, third or subsequent offense, the commission, or designee will include violations which occurred in Washington as well as any other recognized racing jurisdiction within the calendar year, absent mitigating circumstances. The stewards may impose more stringent penalties if aggravating circumstances exist. If a penalty is not listed under second or

third/subsequent offense columns, the penalty listed in the "first offense" column will apply to each violation.

(3) Except as otherwise provided in this chapter, for any other violation not specifically listed above, the stewards have discretion to impose the penalties as provided in WAC 260-24-510 (3)(a).

(4) Circumstances which may be considered for the purpose of mitigation or aggravation of any penalty will include, but are not limited to, the following:

(a) The past record of the licensee or applicant;

(b) The impact of the offense on the integrity of the parimutuel industry;

(c) The danger to human and/or equine safety;

(d) The number of prior violations of these rules of racing or violations of racing rules in other jurisdictions; and/or

(e) The deterrent effect of the penalty imposed.

(5) For violations covered by chapter 260-70 WAC, Medication, the stewards will follow the penalty guidelines as set forth in WAC 260-84-090, 260-84-110, 260-84-120, and 260-84-130.

(6) The executive secretary or stewards may refer any matter to the commission and may include recommendations for disposition. The absence of a referral will not preclude commission action in any matter. An executive secretary's or stewards' ruling will not prevent the commission from imposing a more severe penalty.

WSR 25-21-113
PROPOSED RULES
BIG BEND
COMMUNITY COLLEGE
[Filed October 20, 2025, 12:33 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-18-083.

Title of Rule and Other Identifying Information: Student code of conduct, chapter 132R-04 WAC.

Hearing Location(s): On December 1, 2025, at 1:30 p.m., at Big Bend Community College, 7662 Chanute Street N.E., ATEC Building, Hardin Community Room, Moses Lake, WA.

Date of Intended Adoption: December 11, 2025.

Submit Written Comments to: Chandra Rodriguez, 7662 Chanute Street N.E., Moses Lake, WA 98837, email chandrar@bigbend.edu, by December 1, 2025, 1:30 p.m.

Assistance for Persons with Disabilities: Contact Aaron Glenn, phone 509-793-2027, TTY 509-793-2325, email aarong@bigbend.edu, by December 1, 2025, 9:00 a.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Big Bend Community College (college) has revised chapter 132R-04 WAC, Student code of conduct, in order to continue to ensure compliance with the Title IX regulatory requirements. The college previously amended this code in consideration of the federal regulations made effective in August 2024. In *Tennessee v. Cardona*, No. 2:24-00072 (Jan. 9, 2025); however, the court vacated the 2024 Title IX federal regulations. The United States Department of Education subsequently also indicated its intent to enforce the 2020 Title IX regulations. Consequently, the college seeks to amend its student code of conduct to ensure compliance.

Reasons Supporting Proposal: In *Tennessee v. Cardona*, No. 2:24-00072 (Jan. 9, 2025), the court vacated the 2024 Title IX federal regulations. The United States Department of Education subsequently also indicated its intent to enforce the 2020 Title IX regulations. Consequently, the college seeks to amend its student code of conduct to ensure compliance.

Statutory Authority for Adoption: RCW 28B.50.140(13).

Statute Being Implemented: Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), as implemented through 34 C.F.R. § 106, excluding the 2024 amendments vacated by the federal courts.

Rule is necessary because of federal law and federal court decision, 20 U.S.C. § 1681; *State of Tennessee v. Cardona*, No. 2:24-00072 (E.D. Ky. Jan. 9, 2025).

Name of Proponent: Big Bend Community College, governmental.

Name of Agency Personnel Responsible for Drafting: Chandra Rodriguez, 7662 Chanute Street N.E., Admin Building (1400), Moses Lake, WA, 509-793-2001; Implementation and Enforcement: André Guzman, 7662 Chanute Street N.E., Admin Building (1400), Moses Lake, WA, 509-793-2077.

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. The college is not required to complete a cost-benefit analysis by the terms of RCW 34.05.328.

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or regulation and description of the consequences to the state if the rule is not adopted: Portions of this rule making are being adopted to comply with federal statute and regulations, Title IX of the Education Amendments of 1972 (20 U.S.C. § 1681), as implemented through 34 C.F.R. § 106, excluding the 2024 amendments vacated by the federal courts. Failure to adopt rule making to keep the college in compliance with Title IX could result in the loss of federal funding.

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Explanation of exemptions: The proposed rules are necessary to remain compliant with federal statute and regulation as indicated above, and address the student code of conduct, including hearings for alleged violations of the student conduct code.

Scope of exemption for rule proposal:

Is fully exempt.

October 20, 2025
Chandra Rodriguez
Executive Assistant to the President

RDS-6524.1

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-015 Definitions. For the purposes of this chapter, terms are defined as follows:

(1) "Student conduct officer" is a college administrator designated by the president to be responsible for implementing and enforcing the student conduct code. The vice president of learning and student success will serve as the student conduct officer or may appoint a designee.

(2) "Conduct review officer" is a college administrator designated by the president to be responsible for reviewing or referring appeals of student disciplinary actions as specified in this code. The director of student programs will serve as the conduct review officer, unless otherwise designated by the president.

(3) "The president" is the president of the college. The president is authorized to delegate any and all of his or her responsibilities as set forth in this chapter as may be reasonably necessary and to reassign any and all duties and responsibilities as set forth in this chapter as may be reasonably necessary.

(4) "Disciplinary action" is the process by which discipline is imposed by the student conduct officer against a student for a viola-

tion of the student conduct code. A written or verbal warning is not disciplinary action.

(5) "Disciplinary appeal" is the process by which an aggrieved student can appeal the discipline imposed or recommended by the student conduct officer. Disciplinary appeals from a suspension in excess of 10 instructional days or dismissal from the college are heard by the student conduct committee. Appeals of all other disciplinary action may be reviewed through brief adjudicative proceedings.

(6) ((~~"Pregnancy or related conditions" means:~~

~~(a) Pregnancy, childbirth, termination of pregnancy, or lactation;~~

~~(b) Medical conditions related to pregnancy, childbirth, termination of pregnancy, or lactation; or~~

~~(c) Recovery from pregnancy, childbirth, termination of pregnancy, lactation, or related medical conditions.~~

~~(7) "Program" or "programs and activities" means all operations of the college.~~

~~(8) "Relevant" means related to the allegations of sex discrimination under investigation. Questions are relevant when they seek evidence that may aid in showing whether the alleged sex discrimination occurred, and evidence is relevant when it may aid a decision maker in determining whether the alleged sex discrimination occurred.~~

~~(9) "Remedies" means measures provided to a complainant or other person whose equal access to the college's educational programs and activities has been limited or denied by sex discrimination. These measures are intended to restore or preserve that person's access to educational programs and activities after a determination that sex discrimination has occurred.~~

~~(10)~~)) "Respondent" is the student who is alleged to have violated the student conduct code.

((~~(11)~~)) (7) "Service" is the process by which a document is officially delivered to a party. Unless expressly specified otherwise, service upon a party shall be accomplished by:

(a) Hand delivery of the document to the party; or

(b) By sending the document by email, once one has been generated, and by certified or first class mail to the party's last known address.

Service is deemed complete upon hand delivery of the document or upon the date the document is emailed, if possible, and deposited into the mail, whichever is first.

((~~(12)~~)) (8) "Filing" is the process by which a document is officially delivered to a school official responsible for facilitating a disciplinary review by a presiding officer. Unless expressly specified otherwise, filing shall be accomplished by:

(a) Hand delivery of the document to the school official or school official's assistant; or

(b) By sending the document by email and first class mail to the recipient's college-assigned email and office address.

Papers required to be filed shall be deemed filed upon actual receipt during office hours at the office of the specified official or presiding officer.

((~~(13)~~)) (9) "College premises" shall include all campuses of the college, wherever located, and includes all land, buildings, facilities, vehicles, equipment, and other property owned, used, or controlled by the college.

((~~(14)~~)) (10) "Student" is defined as all persons taking courses at or through the college, including those concurrently attending sec-

ondary or postsecondary institutions and college, whether on a full-time or part-time basis, and whether such courses are credit courses, noncredit courses (excluding those trainings occurring through the Center for Business and Industry Service and the Japanese Agriculture Training Program), irrespective of modality. Persons who withdraw after allegedly violating the student code of conduct, who are not officially enrolled for a particular term but who have a continuing relationship with the college, or who have been notified of their acceptance for admission are considered "students" for the purposes of this chapter. "Continuing relationship" is established when a student is registered for an upcoming term or has indicated an intent to do so via a transaction, such as submitting a financial aid application for an upcoming term.

((~~(15) "Student employee" means an individual who is both a student and an employee of the college. When a complainant or respondent is a student employee, the college must make a fact-specific inquiry to determine whether the individual's primary relationship with the college is to receive an education and whether any alleged student conduct code violation including, but not limited to, sex-based harassment, occurred while the individual was performing employment-related work.~~

~~(16) "Supportive measures" means reasonably available, individualized and appropriate, nonpunitive and nondisciplinary measures offered by the college to the complainant or respondent without unreasonably burdening either party, and without fee or charge for purposes of:~~

~~(a) Restoring or preserving a party's access to the college's educational program or activity, including measures that are designed to protect the safety of the parties or the college's educational environment; or providing support during the college's investigation and disciplinary procedures, or during any informal resolution process; or~~

~~(b) Supportive measures may include, but are not limited to: Counseling; extensions of deadlines and other course-related adjustments; campus escort services; increased security and monitoring of certain areas of campus; restriction on contact applied to one or more parties; a leave of absence; change in class, work, housing, or extracurricular or any other activity regardless of whether there is or is not a comparable alternative; and training and education programs related to sex-based harassment.~~

~~(17)~~)) (11) "Student group" for purposes of this code, is a student organization, athletic team, or living group including, but not limited to, student clubs and organizations, members of a class or student cohort, student performance groups, and student living groups within student housing.

((~~(18) "Title IX coordinator" is the administrator responsible for processing complaints of sex discrimination, including sex-based harassment, overseeing investigations, and informal resolution processes, and coordinating supportive measures, in accordance with college policy.~~

~~(19)~~)) (12) "Business day" means a weekday, excluding weekends and college holidays. If a time period is not specifically stated in business days, then calendar days apply.

((~~(20) "Complainant" means the following individuals who are alleged to have been subjected to conduct that would constitute sex discrimination:~~

~~(a) A student or employee; or~~

~~(b) A person other than a person or employee who was participating or attempting to participate in the college's education program or activity at the time of the alleged discrimination.~~

~~(21)~~)) (13) "Complainant" means any person who files a complaint alleging that a student or student organization violated the standards of conduct for students. Complainant also refers to the college when the college files the complaint.

(14) "Sexual misconduct" has the meaning ascribed to this term in WAC 132R-04-057.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-017 Statement of jurisdiction. (1) The student conduct code shall apply to conduct by students and student groups that occurs:

(a) On college premises; or

(b) At or in connection with ((~~college programs or~~)) college-sponsored activities; or

(c) To off-campus conduct that in the judgment of the college adversely affects the college community or the pursuit of its objectives ((~~or the ability of a student or staff to participate in the college's programs and activities~~)).

(2) Jurisdiction extends to, but is not limited to, locations in which students or student groups are engaged in official college programs or activities including, but not limited to, foreign or domestic travel, activities funded by the associated students, student government, student clubs or organizations, athletic events, training internships, cooperative and distance education, online education, practicums, supervised work experiences or any other college-sanctioned social or club activities and college-sanctioned housing.

(3) Students are responsible for their conduct from notification of admission to the college through the actual receipt of a certificate or degree, even though conduct may occur before classes begin or after classes end, as well as during the academic year and during periods between terms of actual enrollment.

(4) These standards shall apply to a student's conduct even if the student withdraws from college while a disciplinary matter is pending.

(5) The student conduct officer has sole discretion, on a case-by-case basis, to determine whether the student conduct code will be applied to conduct by students or student groups that occurs off campus.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-053 Authority. The Big Bend Community College (BBCC) board of trustees, acting according to RCW 28B.50.140(14), delegates to the president of the college the authority to administer student disciplinary action. Administration of the student disciplinary procedures is the responsibility of the vice president of learning and student success. The vice president of learning and student suc-

cess will serve as the student conduct officer, or appoint a designee((~~, except in the cases involving allegations of sex discrimination including sex-based harassment when the Title IX coordinator or designee will serve as the student conduct officer~~)). Unless otherwise specified, the student conduct officer or designee shall serve as the principal investigator and administrator for alleged violations of this code.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-057 Prohibited student conduct. The college may impose sanctions against a student or student group who commits, attempts to commit, aids, abets, incites, encourages, or assists another person to commit an act(s) of misconduct, which includes, but is not limited to, any of the following:

(1) **Academic dishonesty.** Any act of academic dishonesty including, but not limited to, cheating, plagiarism, ((~~or~~)) fabrication, or deliberate damage.

(a) Cheating includes, but is not limited to, any attempt to give or obtain unauthorized assistance relating to the completion of an academic assignment.

(b) Plagiarism includes, but is not limited to, taking and using as one's own, without proper attribution, the ideas, writings, or work of another person, or artificial intelligence, in completing an academic assignment. Prohibited conduct may also include the unauthorized submission for credit of academic work that has been submitted for credit in another course.

(c) Fabrication includes falsifying data, information, or citations in completing an academic assignment, and also includes providing false or deceptive information in an instructional course concerning the completion of an assignment.

(d) Deliberate damage includes taking deliberate action to destroy or damage another's academic work or college property in order to gain an advantage for oneself or another.

(e) This section shall not be construed as preventing an instructor from taking immediate disciplinary action as provided herein where the instructor is required to act upon such breach of academic dishonesty in order to preserve order and prevent disruptive conduct in the classroom.

((~~(e)~~)) (f) This section shall also not be construed as preventing an instructor from adjusting the student's grade on a particular project, paper, test, or class grade for academic dishonesty.

(2) **Other dishonesty.** Acts of dishonesty include, but are not limited to:

(a) Forgery, alteration, submission of falsified documents or misuse of any college document, record, or instrument of identification;

(b) Tampering with an election conducted by or for college students;

(c) Furnishing false information, or failing to furnish correct information, in response to the request or requirement of a college officer or employee; or

(d) Knowingly making a false statement or submitting false information in relation, or in response, to a college academic or disciplinary investigation or process.

(3) **Obstructive or disruptive conduct.** Conduct not otherwise protected by law that interferes with, impedes, or otherwise unreasonably hinders:

(a) Any instruction, research, administration, disciplinary proceeding, or other college activities, including the obstruction of the free flow of pedestrian or vehicular movement on college property or at a college activity; or

(b) Any activity that is authorized to occur on college property, whether or not actually conducted or sponsored by the college.

(4) **Assault, intimidation, harassment.** Unwanted touching, physical abuse, verbal abuse, threat(s), intimidation, harassment, bullying, or other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person or another person's property unless otherwise protected by law.

(a) Assault is intentionally touching or striking another person in a harmful or offensive way.

(b) A threat is any conduct and/or speech that, when viewed objectively, threatens bodily harm to another person or that endangers the health or safety of another person. If the threat primarily involves speech, the speaker must also have consciously disregarded a substantial, unjustifiable risk that the communications could be viewed as threatening violence.

(c) Harassing conduct is unwelcome and sufficiently severe, persistent, or pervasive such that it could reasonably be expected to create an intimidating, hostile, or offensive environment, or has the purpose or effect of unreasonably interfering with a person's academic or work performance, or a person's ability to participate in or benefit from the college's programs, services, opportunities, or activities. Harassing conduct may include, but is not limited to, physical, verbal, or nonverbal conduct, including written, social media, and electronic communications not otherwise protected by law.

(d) For purposes of this code, "bullying" is repeated or aggressive unwanted behavior, not otherwise protected by law, ((~~that humiliates, harms, or intimidates the victim~~)) when a reasonable person would feel humiliated, harmed, or intimidated.

(e) For purposes of this code, "intimidation" is an implied threat. Intimidation exists when a reasonable person would feel threatened or coerced even though an explicit threat or display of physical force has not been made. Intimidation is evaluated based on the intensity, frequency, context, and duration of the comments or actions.

(5) **Cyber misconduct.** Cyber misconduct including, but not limited to: Cyberstalking, cyberbullying, or online harassment.

(a) Use of electronic communications including, but not limited to, electronic mail, instant messaging, electronic bulletin boards, applications (apps), and social media sites, to harass, abuse, bully or engage in other conduct which harms, threatens, or is reasonably perceived as threatening the health or safety of another person.

(b) Prohibited activities include, but are not limited to, unauthorized monitoring of another's email communications directly or through spyware, sending threatening emails, disrupting electronic communications with spam or by sending a computer virus, sending false messages to third-parties using another's email identity, nonconsensu-

al recording of sexual activity, and nonconsensual distribution of a recording of sexual activity.

(6) **Property violation.** Damage to, misappropriation of, unauthorized use or possession of, vandalism, or other nonaccidental damaging or destruction of college property or the property of another person.

Property for the purposes of this subsection includes computer passwords, access codes, identification cards, personal financial account numbers, other confidential personal information, intellectual property, and college trademarks.

(7) **Failure to comply with directive.** Failure to comply with the directive(s) of a college officer or employee who is acting in the legitimate performance of his or her duties, including failure to properly identify oneself to such a person when requested to do so.

(8) **Weapons.** Possession of any firearm, dagger, sword, knife or other cutting or stabbing instrument, club, explosive device or any other weapon apparently capable of producing bodily harm, unless previously authorized by the vice president of learning and student success. This policy does not apply to the possession of a personal protection spray device, as authorized by RCW 9.91.160. This policy is subject to the following exceptions:

(a) Commissioned law enforcement personnel in the state of Washington, legally authorized military personnel while in performance of their duties, and other persons or entities authorized by contract to carry firearms in the course of their employment;

(b) A student with a valid concealed weapons permit may store a pistol in his or her vehicle parked on campus in accordance with RCW 9.41.050 (2) or (3), provided the vehicle is locked and the weapon is concealed from view; or

(c) The president or designee may grant permission to bring a weapon on campus upon a determination that the weapon is reasonably related to a legitimate pedagogical purpose. Such permission shall be in writing and shall be subject to such terms or conditions incorporated in the written permission.

(9) **Hazing.**

Hazing is any act committed as part of a person's recruitment, initiation, pledging, admission into, or affiliation with a college sponsored student organization, athletic team, or living group, or any pastime or amusement engaged in with respect to such an organization, athletic team, or living group that causes, or is likely to cause, bodily danger or physical harm, or serious psychological or emotional harm, to any student, including causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm, regardless of the person's willingness to participate. "Hazing" does not include customary athletic events or other similar contests or competitions. Consent is not a valid defense against hazing. Examples of hazing include, but are not limited to:

(a) Causing, directing, coercing, or forcing a person to consume any food, liquid, alcohol, drug, or other substance which subjects the person to risk of such harm;

(b) Humiliation by ritual act;

(c) Striking another person with an object or body part;

(d) Causing someone to experience excessive fatigue, or physical and/or psychological shock; or

(e) Causing someone to engage in degrading or humiliating games or activities that create a risk of serious psychological, emotional, and/or physical harm.

(10) **Alcohol, cannabis, drug, and tobacco violations.**

(a) Alcohol. The use, possession, delivery, sale, or being visibly under the influence of any alcoholic beverage, except as permitted by law and applicable college policies.

(b) Cannabis. The use, possession, delivery, or sale of cannabis or the psychoactive compounds found in cannabis intended for human consumption, regardless of form, or being observably under the influence of cannabis or the psychoactive compounds found in cannabis and intended for human consumption, regardless of form. While state law permits the recreational use of cannabis, federal law prohibits such use on college premises or in connection with college activities.

(c) Drugs. The use, possession, production, delivery, sale, or being observably under the influence of any legend drug (including anabolic steroids, androgens, or human grown hormones), narcotic drug or controlled substance as defined in chapters 69.41 and 69.50 RCW, except in accordance with a lawful prescription for that student by a licensed health care professional.

(d) Tobacco, electronic cigarettes, and related products. The use of tobacco, electronic cigarettes, and related products in any building owned, leased, or operated by the college, or in any location where such use is prohibited, or in any location other than the parking lots, including 25 feet from entrances, exits, windows that open, and ventilation intakes of any building owned, leased or operated by the college. The use of tobacco, electronic cigarettes, and related products on the college campus is restricted to designated smoking areas.

"Related products" include, but are not limited to, cigarettes, pipes, bidi, clove cigarettes, waterpipes, hookahs, chewing tobacco, vaporizers, and snuff.

(11) **Disorderly conduct.** Conduct which is disorderly, lewd, indecent, or obscene, that is not otherwise protected under the law.

(12) **Discriminatory conduct.** Conduct which harms or adversely affects any member of the college community because of race; color; national origin; sensory, mental or physical disability; use of a service animal; gender, including pregnancy; marital status; age (40+); religion; creed; sexual orientation; gender identity; veteran's status; or any other legally protected classification.

(13) **Sexual misconduct.** The term "sexual misconduct" includes sexual harassment, sexual intimidation, and sexual violence. Sexual harassment prohibited by Title IX is defined in the supplemental procedures to this code. See WAC 132R-04-103.

(a) **Sexual harassment.** The term "sexual harassment" means unwelcome sexual or gender-based conduct, including unwelcomed sexual advances, requests for sexual favors, quid pro quo harassment, and other verbal, nonverbal, or physical conduct of a sexual or a gendered nature that is sufficiently severe, persistent, or pervasive as to:

(i) Deny or limit the ability of a student to participate in or benefit from the college's educational programs or activities;

(ii) Alter the terms or conditions of employment for a college employee(s); and/or

(iii) Create an intimidating, hostile, or offensive environment for other campus community members.

(b) **Sexual intimidation.** The term "sexual intimidation" incorporates the definition of sexual harassment and means threatening or emotionally distressing conduct based on sex. This includes, but is not limited to, nonconsensual recording of sexual activity or the distribution of such recording.

(c) **Sexual violence.** "Sexual violence" is a type of sexual discrimination and harassment. Nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, dating violence, and stalking are all types of sexual violence.

(i) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(ii) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any object or body part, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(iii) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren, and adopted children under the age of 18.

(iv) Statutory rape. ((~~Consensual~~)) Nonforcible intercourse between a person who is 18 years of age or older, and a person who is under the age of 16.

(v) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, ((~~or~~)) stalking, or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW 26.50.010.

(vi) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(A) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(B) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(I) The length of the relationship;

(II) The type of relationship; and

(III) The frequency of interaction between the persons involved in the relationship.

(vii) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to:

(A) Fear for their safety or the safety of others; or

(B) Suffer substantial emotional distress.

(viii) Consent. Clear, knowing, and voluntary permission by word or action to engage in mutually agreed upon sexual activity. Each party has the responsibility to make certain that the other has consented before engaging in the activity. For consent to be valid, there must be actual words or conduct indicating freely given agreement to the act at the time of the act. Consent cannot be inferred from silence, passivity, or lack of active resistance. Consent can be withdrawn by either party at any point. Consent to engage in one activity, or past

agreement to engage in a particular activity, cannot be presumed to constitute consent to engage in a different activity or to engage in the same activity again. There is no consent where there is a threat of force or violence or any other form of coercion or intimidation, physical or psychological. A person cannot consent if they are unable to understand what is happening or are disoriented, or if they are asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapable of consent has engaged in nonconsensual conduct. Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.

(14) **Discriminatory harassment.** Unwelcome and offensive conduct, including verbal, nonverbal, or physical conduct, not otherwise protected by law, that is directed at a person because of such person's protected status and that is sufficiently severe, persistent, or pervasive, so as to deny or limit, and that does deny or limit, the ability of a student to participate in or benefit from the college's educational program and/or social programs and/or student housing; alter the terms of an employee's employment; or that creates an intimidating, hostile, or offensive environment for other campus community members. Protected status includes a person's race; color; national origin; presence of any sensory, mental or physical disability; use of a trained service animal; sex, including pregnancy; marital status; age (40+); religion; creed; sexual orientation; gender identity or expression; veteran's or military status; HIV/AIDS and hepatitis C status; or membership in any other group protected by federal, state, or local law. See supplemental definitions: "Sexual misconduct" for the definition of "sexual harassment." Harassing conduct may include, but is not limited to, physical conduct, verbal, written, social media and electronic communications not otherwise protected by law.

(15) **Retaliation.** Harming, threatening, intimidating, coercing, or taking adverse action of any kind against a person because such person reported an alleged violation of this code or college policy, provided information about an alleged violation of federal, state, or local law, or participated as a witness or in any other capacity in a college investigation or disciplinary proceeding.

(16) **Misuse of electronic resources.** Theft or other misuse of computer time or other electronic information resources of the college. Such misuse includes, but is not limited to:

(a) Unauthorized use of such resources or opening of a file, message, or other item;

(b) Unauthorized duplication, transfer, or distribution of a computer program, file, message, or other item;

(c) Unauthorized use or distribution of someone else's password or other identification;

(d) Use of such time or resources to interfere with someone else's work;

(e) Use of such time or resources to send, display, or print an obscene or abusive message, text, or image;

(f) Use of such time or resources to interfere with normal operation of the college's computing system or other electronic information resources;

(g) Use of such time or resources in violation of applicable copyright or other law;

(h) Adding to or otherwise altering the infrastructure of the college's electronic information resources without authorization; or

(i) Failure to comply with the college's electronic use policy.

(17) **Unauthorized access.** Unauthorized possession, duplication, or other use of a key, keycard, or other restricted means of access to college property, or unauthorized entry onto or into college property.

(18) **Safety violations.** Safety violation includes any nonaccidental, reckless, or unsafe conduct that interferes with or otherwise compromises any college policy, equipment, or procedure relating to the safety and security of the campus community, including tampering with fire safety equipment and triggering false alarms or other emergency response systems.

(19) **Abuse of process.** Abuse or misuse of any of the procedures relating to student complaints or misconduct including, but not limited to:

(a) Failure to obey a subpoena or order to appear at a hearing;

(b) Falsification or misrepresentation of information;

(c) Disruption, or interference with the orderly conduct, of a proceeding;

(d) Interfering with someone else's proper participation in a proceeding;

(e) Destroying or altering potential evidence, or attempting to intimidate or otherwise improperly pressure a witness or potential witness;

(f) Attempting to influence the impartiality of, or harassing or intimidating, a student disciplinary committee member; or

(g) Failure to comply with any disciplinary sanction(s) imposed under this student conduct code.

(20) **Unsafe vehicle operation.** Operation of any motor vehicle on college property in an unsafe manner or in a manner which is reasonably perceived as threatening the health or safety of another person.

(21) **Violation of other laws or policies.** Violation of any federal, state, or local law, rule, or regulation or other college rules or policies, including college housing, traffic and parking rules.

(22) **Ethical violation.** The breach of any generally recognized and published code of ethics or standards of professional practice that governs the conduct of a particular profession for which the student is taking a course or is pursuing as an educational goal or major.

(23) **Aiding or abetting.** Aiding, abetting, inciting, encouraging, or assisting another person to commit any of the foregoing acts of misconduct.

In addition to initiating discipline proceedings for violation of the student conduct code, the college may refer any violations of federal, state or local laws to civil and criminal authorities for disposition. The college shall proceed with student disciplinary proceedings regardless of whether the underlying conduct is subject to civil or criminal prosecution.

((~~(24) **Sex discrimination.** The term "sex discrimination" includes sex-based harassment, and may occur when a respondent causes more than de minimis harm to an individual by treating them different from a similarly situated individual on the basis of: Sex stereotypes, sex characteristics, pregnancy or related conditions, sexual orientation, and gender identity. Conduct that prevents an individual from participating in an education program or activity consistent with the person's gender identity subjects a person to more than de minimis (insignificant) harm on the basis of sex.~~

(a) **Sex-based harassment.** "Sex-based harassment" is a form of sex discrimination and means sexual harassment or other harassment on the basis of sex, including the following conduct:

(i) **Quid pro quo harassment.** A student, employee, agent, or other person authorized by the college to provide an aid, benefit, or service under the college's education program or activity explicitly or impliedly conditioning the provision of such an aid, benefit, or service on a person's participation in unwelcome sexual conduct.

(ii) **Hostile environment.** Unwelcome sex-based conduct that, based on the totality of the circumstances, is subjectively and objectively offensive and is so severe or pervasive that it limits or denies a person's ability to participate in or benefit from the recipient's education program or activity (i.e., creates a hostile environment). Whether a hostile environment has been created is a fact-specific inquiry that includes consideration of the following:

(A) The degree to which the conduct affected the complainant's ability to access the college's education program or activity;

(B) The type, frequency, and duration of the conduct;

(C) The parties' ages, roles within the college's education program or activity, previous interactions, and other factors about each party that may be relevant to evaluating the effects of the conduct;

(D) The location of the conduct and the context in which the conduct occurred; and

(E) Other sex-based harassment in the college's education program or activity.

(iii) **Sexual violence.** "Sexual violence" includes nonconsensual sexual intercourse, nonconsensual sexual contact, domestic violence, incest, statutory rape, domestic violence, dating violence, and stalking.

(A) **Nonconsensual sexual intercourse** is any sexual intercourse (anal, oral, or vaginal), however slight, with any object, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(B) **Nonconsensual sexual contact (fondling)** is any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(C) **Incest** is sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of 18.

(D) **Statutory rape (rape of a child)** is nonforcible sexual intercourse with a person who is under the statutory age of consent.

(E) **Domestic violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, coercive control, damage or destruction of personal property, stalking or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protec-

~~ted from that person's acts under the domestic or family violence laws of the state of Washington.~~

~~(F) **Dating violence** is physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim; and where the existence of such a relationship shall be determined based on a consideration of the following factors:~~

~~(I) The length of the relationship;~~

~~(II) The type of relationship; and~~

~~(III) The frequency of interaction between the persons involved in the relationship.~~

~~(G) **Stalking** means engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for the person's safety or the safety of others or to suffer substantial emotional distress.~~

~~(b) **Consent.** For purposes of this code "consent" means knowing, voluntary and clear permission by word or action, to engage in mutually agreed upon sexual activity.~~

~~(i) Each party has the responsibility to make certain that the other has consented before engaging in the activity.~~

~~(ii) For consent to be valid, there must be at the time of the act of sexual intercourse or sexual contact actual words or conduct indicating freely given agreement to have sexual intercourse or sexual contact.~~

~~(iii) A person cannot consent if they are unable to understand what is happening or are disoriented, helpless, asleep or unconscious for any reason, including due to alcohol or other drugs. An individual who engages in sexual activity when the individual knows, or should know, that the other person is physically or mentally incapacitated has engaged in nonconsensual conduct.~~

~~(iv) Intoxication is not a defense against allegations that an individual has engaged in nonconsensual sexual conduct.~~

~~(c) **Title IX retaliation** means intimidation, threats, coercion, or discrimination against any person by a student, for the purpose of interfering with any right or privilege secured by Title IX, or because the person has reported information, made a complaint, testified, assisted, or participated or refused to participate in any manner in a sex discrimination investigation, proceeding, or hearing, including during an informal resolution process, during a Title IX investigation, or during any disciplinary proceeding involving allegations of sex discrimination.~~))

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-064 Summary suspension. (1) Summary suspension is a temporary exclusion from specified college premises or denial of access to all activities or privileges for which a respondent might otherwise be eligible, while an investigation and/or formal disciplinary procedures are pending.

(2) The student conduct officer (or designee) may impose a summary suspension if there is probable cause to believe that the respondent:

(a) Has violated any provision of the code of conduct; and

(b) Presents an immediate danger to the health, safety, or welfare of members of the college community; or

(c) Poses an ongoing threat of disruption of, or interference with, the operations of the college.

(3) Notice. Any respondent who has been summarily suspended shall be served with written notice or oral notice of the summary suspension at the time of the summary suspension. If oral notice is given, a written notification shall be served on the respondent within two calendar days of the oral notice.

(4) The written notification shall be entitled "Notice of Summary Suspension Proceedings" and shall include:

(a) The reasons for imposing the summary suspension, including reference to the provisions of the student conduct code or the law allegedly violated;

(b) The date, time, and location when the respondent must appear before the chair of the student disciplinary committee for a hearing on the summary suspension; and

(c) The conditions, if any, under which the respondent may physically access the campus or communicate with members of the campus community. If the respondent has been trespassed from the campus, a notice against trespass shall be included that warns the student that his or her privilege to enter into or remain on college premises has been withdrawn, that the respondent shall be considered trespassing and subject to arrest for criminal trespass if the respondent enters the college campus other than to meet with the student conduct officer or designee, or to attend a disciplinary hearing.

(5)(a) The conduct review officer or designee shall conduct a hearing on the summary suspension as soon as practicable after imposition of the summary suspension. The hearing will be conducted as a brief adjudicative proceeding.

(b) During the summary suspension hearing, the issue before the conduct review officer is whether there is probable cause to believe that the summary suspension should be continued pending the conclusion of disciplinary proceedings and/or whether the summary suspension should be less restrictive in scope.

(c) The respondent shall be afforded an opportunity to explain why summary suspension should not be continued while disciplinary proceedings are pending or why the summary suspension should be less restrictive in scope.

(d) If the notice of summary suspension proceedings has been served upon the respondent in accordance with these rules and the student fails to appear at the designated hearing time, the conduct review officer may order that the summary suspension remain in place pending the conclusion of the disciplinary proceedings.

(e) As soon as practicable following the hearing, the conduct review officer shall issue a written decision, which shall include a brief statement of findings of fact and conclusions of law, the policy reasons justifying imposition of the summary suspension. If summary suspension is upheld and/or other discipline imposed, the order shall inform the respondent of the duration of the summary suspension or the nature of the disciplinary action(s), conditions under which the summary suspension may be terminated or modified, and procedures by which the order may be appealed.

(f) The interim suspension shall not replace the regular discipline process, which shall proceed as quickly as feasible in light of the interim suspension.

(g) To the extent permissible under applicable law, the conduct review officer shall provide a copy of the decision to all persons or offices whom may be bound or protected by it.

(6) In cases involving allegations of sexual ((~~discrimination~~)) misconduct, the complainant will be notified that a summary suspension has been imposed on the same day that the summary suspension notice is served on the respondent. The college will also provide the complainant with timely notice of any subsequent changes to the summary suspension order.

AMENDATORY SECTION (Amending WSR 17-22-054, filed 10/25/17, effective 11/25/17)

WAC 132R-04-103 Supplemental sexual misconduct procedures. (1) Both the respondent and the complainant in cases involving allegations of sexual misconduct shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the initial discipline action and to appeal the student conduct officer's disciplinary order. Application of the following procedures is limited to student conduct code proceedings involving allegations of sexual misconduct not otherwise subject to Title IX. In such cases, these procedures shall supplement the student disciplinary procedures. In the event of conflict between the sexual misconduct procedures and the student disciplinary procedures, the sexual misconduct procedures shall prevail.

(2) **Supplemental complaint process.** The following supplemental procedures shall apply with respect to complaints or other reports of alleged sexual misconduct by a student.

(a) The college's Title IX compliance officer or designee shall investigate complaints or other reports of alleged sexual misconduct by a student. Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(b) Informal dispute resolution shall not be used to resolve sexual misconduct complaints without written permission from both the complainant and the respondent. If the parties elect to mediate a dispute, either party shall be free to discontinue mediation at any time. In no event shall mediation be used to resolve complaints involving allegations of sexual violence.

(c) College personnel will honor requests to keep sexual misconduct complaints confidential to the extent this can be done without unreasonably risking the health, safety, and welfare of the complainant or other members of the college community or compromising the college's duty to investigate and process sexual harassment and sexual violence complaints.

(d) The student conduct officer, prior to initiating disciplinary action, will make a reasonable effort to contact the complainant to discuss the results of the investigation and possible disciplinary sanctions and/or conditions (if any) that may be imposed upon the respondent if the allegations of sexual misconduct are found to have merit.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-112 Initiation of disciplinary action. (1) Any member of the college community may file a complaint against a student or student group for possible violations of the student conduct code.

(2) The student conduct officer, or designee, may review and investigate any complaint to determine whether it appears to state a violation of the student conduct code.

(a) **((~~Sex discrimination, including sex-based harassment~~)) Sexual misconduct**. The college's Title IX coordinator or designee shall review, process, and, if applicable, investigate complaints or other reports of ((~~sex discrimination, including sex-based harassment. Allegations of sex discrimination, including sex-based harassment, by a student shall be addressed through the student conduct code. Allegations involving employees or third parties associated with the college will be handled in accordance with college policies~~)) sexual misconduct.

(b) **Hazing by student groups.** A student conduct officer, or designee, may review and investigate any complaint or allegation of hazing by a student group. A student group will be notified through its named officer(s) and address on file with the college. A student group may designate one representative who may speak on behalf of a student group during any investigation and/or disciplinary proceeding. A student group will have the rights of a respondent as set forth below.

(3) Investigations will be completed in a timely manner and the results of the investigation shall be referred to the student conduct officer for disciplinary action.

(4) If a student conduct officer determines that a complaint appears to state a violation of the student conduct code, the student conduct officer will consider whether the matter might be resolved through agreement with the respondent or through alternative dispute resolution proceedings involving the complainant and the reporting party.

(a) Informal dispute resolution shall not be used to resolve ((~~sex-based harassment~~)) sexual misconduct complaints without written permission from both the complainant and the respondent.

(b) If the parties elect to mediate a dispute through informal dispute resolution, either party shall be free to discontinue mediation at any time.

(5) If the student conduct officer has determined that a complaint has merit and if the matter is not resolved through agreement or informal dispute resolution, the student conduct officer may initiate disciplinary action against the respondent.

(6) ((~~Both the respondent and the complainant in cases involving allegations of sex discrimination shall be provided the same procedural rights to participate in student discipline matters, including the right to participate in the disciplinary process and to appeal any disciplinary decision.~~

~~(7)~~)) All disciplinary actions will be initiated by the student conduct officer. If that officer is the subject of a complaint, the president shall, upon request and when feasible, designate another person to fulfill any such disciplinary responsibilities relative to the complaint.

((~~(8)~~)) (7) The student conduct officer shall initiate disciplinary action by serving the respondent with written notice directing them to attend a disciplinary meeting. The notice shall briefly describe the factual allegations, the provision(s) of the conduct code

the respondent is alleged to have violated, the range of possible sanctions for the alleged violation(s), and specify the time and location of the meeting.

((~~(9)~~)) (8) At the meeting, the student conduct officer will present the allegations to the respondent and the respondent shall be afforded an opportunity to explain what took place. If the respondent fails to attend the meeting after proper service of notice, the student conduct officer may take disciplinary action based upon the available information.

((~~(10)~~)) (9) Within 10 calendar days of the initial disciplinary meeting, and after considering the evidence in the case, including any facts or argument presented by the respondent, the student conduct officer shall serve the respondent with a written decision setting forth the facts and conclusions supporting their decision, the specific student conduct code provisions found to have been violated, the discipline imposed (if any), and a notice of any appeal rights with an explanation of the consequences of failing to file a timely appeal. This period may be extended at the sole discretion of the student conduct officer, if additional information is necessary to reach a determination. The student conduct officer will notify the parties of any extension period and the reason therefore.

((~~(11)~~)) (10) The student conduct officer may take any of the following disciplinary actions:

(a) Exonerate the respondent and terminate the proceedings;

(b) Impose a disciplinary sanction(s), with or without conditions, as described in WAC 132R-04-063; or

(c) Refer the matter directly to the student conduct committee for such disciplinary action as the committee deems appropriate. Such referral shall be in writing, to the attention of the chair of the student conduct committee, with a copy served on the respondent.

((~~(12)~~)) (11) In cases involving allegations of ((~~sex discrimination, the student conduct officer shall review the investigation report provided by the Title IX coordinator, and determine whether, by a preponderance of the evidence, there was a violation of the student conduct code; and if so, what disciplinary sanction(s) and/or remedies will be recommended. The student conduct officer shall, within five business days of receiving the investigation report, serve respondent, complainant, and the Title IX coordinator with a written recommendation, setting forth the facts and conclusions supporting their recommendation. The time for serving a written recommendation may be extended by the student conduct officer for good cause.~~

~~(a) The complainant and respondent may either accept the student conduct officer's recommended disciplinary sanction(s) or request a hearing before a student conduct committee.~~

~~(b) The complainant and respondent shall have 21 calendar days from the date of the written recommendation to request a hearing before a student conduct committee.~~

~~(c) The request for a hearing may be verbal or written, but must be clearly communicated to the student conduct officer.~~

~~(d) The student conduct officer shall promptly notify the other party of the request.~~

~~(e) In cases involving sex discrimination, the student conduct officer may recommend dismissal of the complaint if:~~

~~(i) The college is unable to identify respondent after taking reasonable steps to do so;~~

~~(ii) Respondent is not participating in the college's educational programs or activities;~~

~~(iii) The complainant has voluntarily withdrawn any or all of the allegations in the complaint, and the Title IX coordinator has declined to initiate their own complaint;~~

~~(iv) The college determines that, even if proven, the conduct alleged by the complainant would not constitute sex discrimination; or~~

~~(v) The conduct alleged by the complainant falls outside the college's disciplinary jurisdiction.~~

~~(f) In cases involving allegations of sex-based harassment, the college must obtain the complainant's voluntary withdrawal in writing before the matter can be dismissed.~~

~~(g) If no request for a full hearing is provided to the student conduct officer, the student conduct officer's written recommendation shall be final and implemented immediately following the expiration of 21 calendar days from the date of the written recommendation.~~

~~(h) Upon receipt of the student conduct officer's written recommendation, the Title IX coordinator or their designee shall review all supportive measures and, within five business days, provide written direction to the complainant and respondent as to any supportive measures that will be implemented, continued, modified, or terminated. If either party is dissatisfied with the supportive measures, the party may seek review in accordance with the college's Title IX investigation procedure.~~

~~(i) If the respondent is found responsible for engaging in sex discrimination, the Title IX coordinator shall also take prompt steps to coordinate and implement any necessary remedies to ensure that sex discrimination does not recur and that complainant has equal access to the college's programs and activities~~)) sexual misconduct that is not subject to Title IX, the student conduct officer, on the same date that a disciplinary decision is served on the respondent, will serve a written notice informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including disciplinary suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights. If protective sanctions and/or conditions are imposed, the student conduct officer shall make a reasonable effort to contact the complainant to ensure prompt notice of the protective disciplinary sanctions and/or conditions.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-113 Appeal from disciplinary action. (1) ((~~Except as specified for cases involving allegations of sex discrimination, as set forth in WAC 132R-04-057,~~)) The respondent may appeal a disciplinary action by filing a written notice of appeal with the conduct review officer within 21 calendar days of service of the student conduct officer's decision. Failure to timely file a notice of appeal constitutes a waiver of the right to appeal and the student conduct officer's order shall be deemed final.

(2) The notice of appeal must include a brief statement explaining why the respondent is seeking review.

(3) The parties to an appeal shall be the respondent((~~, complainant if any,~~)) and the conduct review officer.

(4) A respondent, who timely appeals a disciplinary action or whose case is referred to the student disciplinary committee, has a right to a prompt, fair, and impartial hearing as provided for in these procedures.

(5) On appeal, the college bears the burden of establishing the evidentiary facts underlying the imposition of a disciplinary sanction by a preponderance of the evidence.

(6) In the event of a conflict between this student conduct code and the Administrative Procedure Act, chapter 34.05 RCW, this student conduct code will govern.

(7) The college hereby adopts the Model rules of procedure, chapter 10-08 WAC, by reference. To the extent there is a conflict between these rules and chapter 10-08 WAC, these rules shall control.

(8) Imposition of discipline for violation of the student conduct code shall be stayed pending appeal, unless respondent has been summarily suspended.

(9) The student disciplinary committee shall hear the following cases as fully adjudicated proceedings:

(a) Appeals from suspensions in excess of ten instructional days;

(b) Appeals from dismissals; and

(c) Discipline cases referred to the committee by the student conduct officer, the conduct review officer, or the president((~~; and~~

~~(d) Cases in which students request to have their discipline case heard by the committee~~)).

(10) Student conduct appeals involving the following disciplinary actions shall be reviewed as brief adjudicative proceedings:

(a) Suspensions of ten instructional days or less;

(b) Disciplinary probation;

(c) Reprimands; and

(d) Any conditions or terms imposed in conjunction with one of the foregoing disciplinary actions.

(11) Except as provided elsewhere in these rules, disciplinary warnings and dismissals of disciplinary actions are final action and are not subject to appeal.

(12) In cases involving allegations of sexual misconduct that are not subject to Title IX, the complainant has the right to appeal the following actions by the student conduct officer following the same procedures as set forth above for the respondent:

(a) The dismissal of a sexual misconduct complaint; or

(b) Any disciplinary sanction(s) and conditions imposed against a respondent for a sexual misconduct violation, including a disciplinary warning.

(13) If the respondent timely appeals a decision imposing discipline for a sexual misconduct violation, the college shall notify the complainant of the appeal and provide the complainant an opportunity to intervene as a party to the appeal.

(14) Except as otherwise specified in this chapter, a complainant who timely appeals a disciplinary decision or who intervenes as a party to respondent's appeal of a disciplinary decision shall be afforded the same procedural rights as are afforded the respondent.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-116 Brief adjudicative proceedings—Initial hearing. (1) Brief adjudicative proceedings shall be conducted by the student conduct officer. The presiding officer shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(2) The parties to a brief adjudicative proceeding are the respondent and the student conduct officer. Before taking action, the conduct review officer shall conduct an informal hearing and provide each party (a) an opportunity to be informed of the college's view of the matter and (b) an opportunity to explain the party's view of the matter.

(3) The conduct review officer shall serve an initial decision upon all the parties within 10 calendar days of consideration of the initial hearing. The initial decision shall contain a brief written statement of the reasons for the decision and information about how to seek administrative review of the initial decision. If no request for review is filed within 21 calendar days of service of the initial decision, the initial decision shall be deemed the final order.

(4) In cases involving allegations of sexual misconduct that are not subject to Title IX, the conduct review officer, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection. The notice will also inform the complainant of their appeal rights.

(5) If the conduct review officer upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension in excess of 10 instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The conduct review officer may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-1170 Brief adjudicative proceedings—Review of an initial decision. (1) An initial decision is subject to review by the president or his or her designee, provided the respondent files a written request for review with the conduct review officer within 21 calendar days of service of the initial decision.

(2) The president or designee shall not participate in any case in which he or she is a complainant or witness, or in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity.

(3) During the review, the president or designee shall give each party an opportunity to file written responses explaining their view of the matter and shall make any inquiries necessary to ascertain whether the proceedings must be referred to the student disciplinary committee for a formal adjudicative hearing.

(4) The decision on review must be in writing and must include a brief statement of the reasons for the decision and must be served on the parties within 20 calendar days of the initial decision or of the request for review, whichever is later. The order on review will contain a notice that judicial review may be available. A request for review may be deemed to have been denied if the reviewing officer does not make a disposition of the matter within 20 calendar days after the request is submitted.

(5) If the president or designee upon review determines that the respondent's conduct may warrant imposition of a disciplinary suspension of more than 10 instructional days or expulsion, the matter shall be referred to the student disciplinary committee for a disciplinary hearing. The president or designee may enter an interim order suspending the student until a hearing can be held by the student disciplinary committee. The interim order shall provide a brief explanation as to facts supporting the interim order of suspension and give the necessary notices that the case has been referred to the student disciplinary committee.

(6) In cases involving allegations of sexual misconduct that are not subject to Title IX, the president, on the same date as the final decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. The notice will also inform the complainant of their appeal rights.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-125 Student conduct committee—General. (1) The student conduct committee shall consist of five members:

(a) Two full-time students appointed by the student government;

(b) Two faculty members recommended by the faculty association and appointed by the president;

(c) The conduct review officer or other member of the administration appointed by the president at the beginning of the academic year.

(2) The conduct review officer shall serve as the committee chair and may take action on preliminary hearing matters prior to the appointment of the committee. The committee chair shall receive annual training on protecting victims and promoting accountability in cases involving allegations of sexual misconduct.

(3) Hearings may be heard by a quorum of three members of the committee so long as the chair, one faculty member, and one student are included on the hearing panel. Committee action may be taken upon a majority vote of all committee members attending the hearing.

(4) Members of the student disciplinary committee shall not participate in any case in which they are a party, complainant, or wit-

ness, in which they have direct or personal interest, prejudice, or bias, or in which they have acted previously in an advisory capacity. Any party may petition the committee for disqualification of a committee member.

(5) ((~~For cases involving allegations of sex discrimination, including sex-based harassment, members of the student conduct committee must receive training on serving impartially, avoiding prejudgment of facts at issue, conflicts of interest, and bias. The chair must also receive training on the student conduct process for sex discrimination cases, as well as the meaning and application of the term "relevant" in relation to questions and evidence, and the types of evidence that are impermissible, regardless of relevance in accordance with 34 C.F.R. §§ 106.45 and 106.46.~~

~~(6)~~)) The college may, in its sole discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.

((~~In sex discrimination cases, the college may, in its sole and exclusive discretion, contract with an administrative law judge or other qualified person to act as the presiding officer, authorized to exercise any or all duties of the student conduct committee and/or committee chair.~~))

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-131 Student disciplinary committee hearing—Presentation of evidence. (1) Upon the failure of any party to attend or participate in a hearing, the student conduct committee may either:

(a) Proceed with the hearing and issuance of its decision; or

(b) Serve a decision of default in accordance with RCW 34.05.440.

(2) The hearing will ordinarily be closed to the public. However, if all parties agree on the record that some or all of the proceedings be open, the chair shall determine any extent to which the hearing will be open. If any person disrupts the proceedings, the chair may exclude that person from the hearing room.

(3) The chair shall cause the hearing to be recorded by a method that they select, in accordance with RCW 34.05.449. That recording, or a copy, shall be made available to any party upon request. The chair shall ensure maintenance of the record of the proceeding that is required by RCW 34.05.476, which shall also be available upon request for inspection and copying by any party. Other recording shall also be permitted, in accordance with WAC 10-08-190.

(4) The chair shall preside at the hearing and decide procedural questions that arise during the hearing, except as overridden by majority vote of the committee.

(5) The student conduct officer (unless represented by an assistant attorney general) shall present the college's case.

(6) All testimony shall be given under oath or affirmation. Except as otherwise provided in this section, evidence shall be admitted or excluded in accordance with RCW 34.05.452.

(7) ((~~In cases involving allegations of sex-based harassment, the complainant and respondent may not directly question one another or other witnesses. In such circumstances, the chair will determine~~

~~whether questions will be submitted to the chair, who will then ask questions of the parties and witnesses, or allow questions to be asked directly of any party or witnesses by a party's attorney or advisor. The committee chair may revise this process if, in the chair's determination, the questioning by any party, attorney, or advisor, becomes contentious or harassing.~~

~~(a) Prior to any question being posed to a party or witness, the chair must determine whether the question is relevant and not otherwise impermissible; and must explain any decision to exclude a question that is deemed not relevant, or is otherwise impermissible. The chair will retain for the record copies of any written questions provided by any party.~~

~~(b) The chair must not permit questions that are unclear or harassing; but shall give the party an opportunity to clarify or revise such a question.~~

~~(c) The chair shall exclude and the committee shall not consider legally privileged information unless the individual holding the privilege has waived the privilege. Privileged information includes, but is not limited to, information protected by the following:~~

~~(i) Spousal/domestic partner privilege;~~

~~(ii) Attorney-client communications and attorney work product privilege;~~

~~(iii) Clergy privileges;~~

~~(iv) Medical or mental health providers and counselor privileges;~~

~~(v) Sexual assault and domestic violence advocate privileges; and~~

~~(vi) Other legal privileges set forth in RCW 5.60.060 or federal law.~~

~~(d) The chair shall exclude and the committee shall not consider questions or evidence that relate to the complainant's sexual interests or prior sexual conduct, unless such question or evidence is offered to prove someone other than the respondent committed the alleged conduct, or is evidence of specific instances of prior sexual conduct with the respondent that is offered to prove consent to the alleged sex-based harassment. The fact of prior consensual sexual conduct between the complainant and respondent does not by itself demonstrate or imply the complainant's consent to the alleged sex-based harassment or preclude determination that sex-based harassment occurred.~~

~~(e) The committee may choose to place less or no weight upon statements by a party or witness who refuses to respond to questions deemed relevant and not impermissible. The committee must not draw an inference about whether sex-based harassment occurred based solely on a party's or witness's refusal to respond to such questions.~~

~~(8) Except in cases involving allegations of sex-based harassment, the chair has the discretion to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.~~)) The president of the college or designee, the chair of the student disciplinary committee, the administrators assigned to the student disciplinary committee, deans, and/or the student conduct officer have the authority to issue subpoenas.

(8) The accused student and the student conduct officer may arrange for witnesses to present pertinent information to the student disciplinary committee. Each party is responsible for informing their witnesses of the time and place of the hearing.

(9) The committee chair may accommodate concerns for the personal safety, well-being, or fears of confrontation during the hearing by

providing separate facilities, or by permitting participation by videoconferencing, telephone, audio tape, written statement, or other means. In making such accommodations, the rights of the other parties must not be prejudiced, and the parties must have the opportunity to participate effectively in, to hear, and, if technically economically feasible, to see the entire proceeding while it is taking place.

(10) The chair has the discretion to determine whether a respondent may directly question any witnesses; and if not, to determine whether questions must be submitted to the chair to be asked of witnesses, or to allow questions to be asked by an attorney or advisor for the respondent.

(11) In cases involving allegations of sexual misconduct that are not subject to Title IX, no party shall directly question or cross examine one another. Attorneys for the parties are also prohibited from questioning the opposing party absent express permission from the committee chair. Subject to this exception, all cross-examination questions shall be directed to the committee chair, who in their discretion shall pose the questions on the party's behalf.

(12) At the conclusion of the hearing, the committee shall permit the parties to make closing arguments in whatever form it wishes to receive them. The committee may also permit each party to propose findings, conclusions, and/or an order for its consideration.

AMENDATORY SECTION (Amending WSR 17-22-054, filed 10/25/17, effective 11/25/17)

WAC 132R-04-140 Student disciplinary committee—Initial decision. (1) Within ((~~twenty~~)) 20 calendar days following the conclusion of the hearing or the committee's receipt of closing arguments (whichever is later), the committee shall issue an initial decision in accordance with RCW 34.05.461 and WAC 10-08-210. The initial decision shall include findings on all material issues of fact and conclusions on all material issues of law, including which, if any, provisions of the student conduct code were violated. Any findings based substantially on the credibility of evidence or the demeanor of witnesses shall be so identified.

(2) The committee's initial decision shall also include a determination on appropriate discipline, if any. If the matter was referred to the committee by the student conduct officer, the committee shall determine any disciplinary sanction or conditions authorized herein. If the matter is an appeal by the respondent, the committee may affirm, reverse, or modify the discipline imposed by the student conduct officer and/or impose any other disciplinary sanction or conditions authorized herein.

(3) The committee chair shall provide copies of the initial decision to the parties and any legal counsel who have appeared. The committee chair shall also promptly transmit a copy of the order and the record of the committee's proceedings to the college president and the vice president of learning and student success.

(4) In cases involving allegations of sexual misconduct that are not subject to Title IX, the committee chair, on the same date as the initial decision is served on the respondent, will serve a written notice upon the complainant informing the complainant whether the allegations of sexual misconduct were found to have merit and describing

any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent. Complainant may appeal the student conduct committee's initial decision to the president subject to the same procedures and deadlines applicable to other parties. The notice will also inform the complainant of his or her appeal rights.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-150 Appeal from student conduct committee initial decision. (1) Any party((~~, including a complainant in sex-based harassment cases,~~)) who is aggrieved by the findings of conclusions issued by the student disciplinary committee may appeal the committee's decision to the president by filing a written appeal with the president's office within 21 calendar days of service of the committee's decision. Failure to file a timely appeal constitutes a waiver of the right and the decision shall be deemed final.

(2) The written appeal must identify the specific findings of fact and/or conclusions of law in the decision that are challenged and must contain argument why the appeal should be granted. Appeals may be based upon, but are not limited to:

(a) Procedural irregularity that would change the outcome;

(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and

(c) The investigator, decision maker, or Title IX coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.

(3) Upon receiving a timely appeal, the president or a designee will promptly serve a copy of the appeal on all nonappealing parties, who will have 10 business days from the date of service to submit a written response addressing the issues raised in the appeal to the president or a designee, and serve it on all parties. Failure to file a timely response constitutes a waiver of the right to participate in the appeal.

(4) If necessary to aid review, the president may ask for additional briefing from the parties on issues raised on appeal. The president's review shall be restricted to the hearing record made before the student conduct committee and will normally be limited to a review of those issues and arguments raised in the appeal.

(5) The president shall serve a written decision on all parties and their attorneys, if any, within 20 calendar days after receipt of the appeal. The president's decision shall be final and subject to judicial review pursuant to chapter 34.05 RCW, Part V.

(6) In cases involving allegations of ((~~sex-based harassment, the president's decision must be served simultaneously on the complainant, respondent, and Title IX coordinator~~)) sexual misconduct that are not subject to Title IX, the president, on the same date that the final decision is served upon the respondent, shall serve a written notice informing the complainant of the final decision. This notice shall inform the complainant whether the sexual misconduct allegation was found to have merit and describe any disciplinary sanctions and/or conditions imposed upon the respondent for the complainant's protection, including suspension or dismissal of the respondent.

(7) The president shall not engage in an ex parte communication with any of the parties regarding an appeal.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-300 Order of precedence. This supplemental procedure applies to allegations of sexual harassment subject to Title IX jurisdiction pursuant to regulations promulgated by the United States Department of Education. See 34 C.F.R. Part 106. To the extent these supplemental hearing procedures conflict with the college's standard disciplinary procedures, WAC 132R-04-010 through 132R-04-200, these supplemental procedures shall take precedence. The college may, at its discretion, contract with an administrative law judge or other person to act as presiding officer and assign such presiding officer to exercise any or all of the duties in lieu of the student conduct committee and committee chair.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-305 Prohibited conduct under Title IX. Pursuant to RCW 28B.50.140(13) and Title IX of the Education Amendments Act of 1972, 20 U.S.C. Sec. 1681, the college may impose disciplinary sanctions against a student who commits, attempts to commit, or aids, abets, incites, encourages, or assists another person to commit, an act(s) of "sexual harassment."

For purposes of this supplemental procedure, "sexual harassment" ((~~encompasses the following conduct~~)) means conduct on the basis of sex that satisfies one or more of the following:

(1) Quid pro quo harassment. A college employee conditioning the provision of an aid, benefit, or service of the college on an individual's participation in unwelcome sexual conduct.

(2) Hostile environment. Unwelcome conduct ((~~that~~)) determined by a reasonable person ((~~would find~~)) to be so severe, pervasive, and objectively offensive that it effectively denies a person equal access to the college's educational programs or activities((~~, or employment~~)).

(3) Sexual assault. Sexual assault includes the following conduct:

(a) Nonconsensual sexual intercourse. Any actual or attempted sexual intercourse (anal, oral, or vaginal), however slight, with any object or body part, by a person upon another person, that is without consent and/or by force. Sexual intercourse includes anal or vaginal penetration by a penis, tongue, finger, or object, or oral copulation by mouth to genital contact or genital to mouth contact.

(b) Nonconsensual sexual contact. Any actual or attempted sexual touching, however slight, with any body part or object, by a person upon another person that is without consent and/or by force. Sexual touching includes any bodily contact with the breasts, groin, mouth, or other bodily orifice of another individual, or any other bodily contact in a sexual manner.

(c) Incest. Sexual intercourse or sexual contact with a person known to be related to them, either legitimately or illegitimately, as an ancestor, descendant, brother, or sister of either wholly or half related. Descendant includes stepchildren and adopted children under the age of eighteen.

(d) Statutory rape. ((~~Consensual~~)) Nonforcible sexual intercourse between someone who is ((~~eighteen~~)) 18 years of age or older and someone who is under the age of ((~~sixteen~~)) 16.

(4) Domestic violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, ((~~or stalking~~)) coercive control, damage or destruction of personal property, stalking, or any other conduct prohibited under RCW 10.99.020, committed by a person with whom the victim shares a child in common, by a person who is cohabitating with or has cohabitated with the victim as a spouse, by a person similarly situated to a spouse of the victim under the domestic or family violence laws of the state of Washington, or by any other person against an adult or youth victim who is protected from that person's acts under the domestic or family violence laws of the state of Washington, RCW ((~~26.50.010~~)) 26.55.010.

(5) Dating violence. Physical violence, bodily injury, assault, the infliction of fear of imminent physical harm, sexual assault, or stalking committed by a person:

(a) Who is or has been in a social relationship of a romantic or intimate nature with the victim; and

(b) Where the existence of such a relationship shall be determined based on a consideration of the following factors:

(i) The length of the relationship;

(ii) The type of relationship; and

(iii) The frequency of interaction between the persons involved in the relationship.

(6) Stalking. Engaging in a course of conduct directed at a specific person that would cause a reasonable person to fear for their safety or the safety of others, or suffer substantial emotional distress.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-315 Initiation of discipline. (1) Upon receiving ((~~the~~)) a Title IX investigation report from the Title IX coordinator, the student conduct officer will independently review the report to determine whether there are sufficient grounds to pursue a disciplinary action against the respondent for engaging in prohibited conduct under Title IX.

(2) If the student conduct officer determines that there are sufficient grounds to proceed under these supplemental procedures, the student conduct officer will initiate a Title IX disciplinary proceeding by filing a written disciplinary notice with the chair of the student conduct committee and serving the notice on the respondent and the complainant, and their respective advisors. The notice must:

(a) Set forth the basis for Title IX jurisdiction;

(b) Identify the alleged Title IX violation(s);

(c) Set forth the facts underlying the allegation(s);

(d) Identify the range of possible sanctions that may be imposed if the respondent is found responsible for the alleged violation(s); and

(e) Explain that the parties are entitled to be accompanied by their chosen advisors during the hearing and that:

(i) The advisors will be responsible for questioning all witnesses on the party's behalf;

(ii) An advisor may be an attorney; and

(iii) The college will appoint the party an advisor of the college's choosing at no cost to the party, if the party fails to do so.

((~~(3)~~)) (f) Explain that if a party fails to appear at the hearing, a decision of responsibility may be made in their absence.

AMENDATORY SECTION (Amending WSR 25-02-065, filed 12/23/24, effective 1/23/25)

WAC 132R-04-320 Prehearing procedure. (1) ((~~Proceedings of the student conduct committee shall be governed by the Administrative Procedure Act, chapter 34.05 RCW.~~

~~(2) The student conduct committee chair shall serve all parties with written notice of the hearing not less than seven calendar days in advance of the hearing date. The chair may shorten this notice period if both parties agree, and also may continue the hearing to a later time for good cause shown. The notice must include:~~

~~(a) A copy of the student conduct code;~~

~~(b) The basis for jurisdiction;~~

~~(c) The alleged violation(s);~~

~~(d) A summary of facts underlying the allegations;~~

~~(e) The range of possible sanctions that may be imposed; and~~

~~(f) A statement that retaliation is prohibited.~~

~~(3) The chair is authorized to conduct prehearing conferences and/or to make prehearing decisions concerning the extent and form of any discovery, issuance of protective decisions, and similar procedural matters.~~

~~(4) Upon request filed at least five calendar days before the hearing by any party or at the direction of the chair, the parties shall exchange, no later than the third day prior to the hearing, lists of potential witnesses and copies of potential exhibits that they reasonably expect to present to the committee. Failure to participate in good faith in such a requested exchange may be cause for exclusion from the hearing of any witness or exhibit not disclosed, absent a showing of good cause for such failure.~~

~~(5) The chair may provide to the committee members in advance of the hearing copies of:~~

~~(a) The student conduct officer's notification of imposition of discipline (or referral to the committee); and~~

~~(b) The notice of appeal (or any response to referral) by the respondent. If doing so, however, the chair should remind the members that these "pleadings" are not evidence of any facts they may allege.~~

~~(6) The parties may agree before the hearing to designate specific exhibits as admissible without objection and, if they do so, whether the committee chair may provide copies of these admissible exhibits to the committee members before the hearing.~~

~~(7) (Optional: The student conduct officer shall provide reasonable assistance to the respondent and complainant in procuring the~~

~~presence of college students, employees, staff, and volunteers to appear at a hearing, provided the respondent and complainant provide a witness list to the student conduct officer no less than three business days in advance of the hearing. The student conduct officer shall notify the respondent and complainant no later than 24 hours in advance of the hearing if they have been unable to contact any prospective witnesses to procure their appearance at the hearing. The committee chair will determine how to handle the absence of a witness and shall describe on the record their rationale for any decision.)~~

~~(8) Communications between committee members and other hearing participants regarding any issue in the proceeding, other than procedural communications that are necessary to maintain an orderly process, are generally prohibited without notice and opportunity for all parties to participate, and any improper "ex parte" communication shall be placed on the record, as further provided in RCW 34.05.455.~~

~~(9) (Optional: In cases heard by the committee, each party may be accompanied at the hearing by an advisor of their choice, which may be an attorney retained at the party's expense.)~~

~~(10) (Optional: For any matters involving a disciplinary sanction of suspension of more than one quarter, dismissal, or sex-based harassment, the college shall provide an advisor to the respondent and any complainant, if they have not otherwise identified an advisor to assist them during the hearing.) The committee will ordinarily be advised by an assistant attorney general or their designee. If the respondent and/or the complainant is represented by an attorney, the student conduct officer may be represented by an assistant attorney general.~~

~~(11) Attorneys for students must file a notice of appearance with the committee chair at least four business days before the hearing. Failure to do so may, at the discretion of the committee chair, result in a waiver of the attorney's ability to represent the student at the hearing, although an attorney may still serve as an advisor to the student.~~

~~(12) In cases involving allegations of sex discrimination, the complainant has a right to participate equally in any part of the disciplinary process, including appeals. Respondent and complainant both have the following rights:~~

~~(a) **Notice.** The college must provide a notice that includes all information required in subsection (2) of this section, and a statement that the parties are entitled to an equal opportunity to access relevant and permissible evidence, or a description of the evidence upon request.~~

~~(b) **Advisors.** The complainant and respondent are both entitled to have an advisor present, who may be an attorney retained at the party's expense.~~

~~(c) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date, in accordance with the procedures set forth in subsection (13)(b) of this section.~~

~~(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.~~

~~(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party~~

~~solely through the disciplinary process which may include, but are not limited to, directives by the student conduct officer or chair pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.~~

~~(13) In cases involving allegations of sex-based harassment, the following additional procedures apply:~~

~~(a) **Notice.** In addition to all information required in subsection (2) of this section, the notice must also inform the parties that:~~

~~(i) The respondent is presumed not responsible for the alleged sex-based harassment;~~

~~(ii) The parties will have an opportunity to present relevant and not otherwise impermissible evidence to a trained, impartial decision maker;~~

~~(iii) They may have an advisor of their choice, who may be an attorney, to assist them during the hearing;~~

~~(iv) They are entitled to an equal opportunity to access relevant and not otherwise impermissible evidence in advance of the hearing; and~~

~~(v) The student conduct code prohibits knowingly making false statements or knowingly submitting false information during a student conduct proceeding.~~

~~(b) **Extensions of time.** The chair may, upon written request of any party and a showing of good cause, extend the time for disclosure of witness and exhibit lists, accessing and reviewing evidence, or the hearing date. The party requesting an extension must do so no later than 48 hours before any date specified in the notice of hearing or by the chair in any prehearing conference. The written request must be served simultaneously by email to all parties and the chair. Any party may respond and object to the request for an extension of time no later than 24 hours after service of the request for an extension. The chair will serve a written decision upon all parties, to include the reasons for granting or denying any request. The chair's decision shall be final. In exceptional circumstances, for good cause shown, the chair may, in their sole discretion, grant extensions of time that are made less than 48 hours before any deadline.~~

~~(c) **Advisors.** The college shall provide an advisor to the respondent and any complainant, if the respondent or complainant have not otherwise identified an advisor to assist during the hearing.~~

~~(d) **Evidence.** In advance of the hearing, the student conduct officer shall provide reasonable assistance to the respondent and complainant in accessing and reviewing the investigative report and relevant and not otherwise impermissible evidence that is within the college's control.~~

~~(e) **Confidentiality.** The college shall take reasonable steps to prevent the unauthorized disclosure of information obtained by a party solely through the disciplinary process which may include, but are not limited to, directives by the student conduct officer or chair issuing directives pertaining to the dissemination, disclosure, or access to evidence outside the context of the disciplinary hearing.~~

~~(f) **Separate locations.** The chair may, or upon the request of any party, must conduct the hearing with the parties physically present in separate locations, with technology enabling the committee and parties to simultaneously see and hear the party or the witness while that person is speaking.~~

~~(g) **Withdrawal of complaint.** If a complainant wants to voluntarily withdraw a complaint, they must provide notice to the college in writing before a case can be dismissed.~~)) Upon receiving the discipli-

nary notice, the chair of the student conduct committee will send a hearing notice to all parties, in compliance with WAC 132R-04-130. In no event will the hearing date be set less than 10 days after the Title IX coordinator provided the final investigation report to the parties.

(2) A party may choose to have an attorney serve as their advisor at the party's own expense. This right will be waived unless, at least five days before the hearing, the attorney files a notice of appearance with the committee chair with copies to all parties and the student conduct officer.

(3) In preparation for the hearing, the parties will have equal access to all evidence gathered by the investigator during the investigation, regardless of whether the college intends to offer the evidence at the hearing.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-330 Evidence. The introduction and consideration of evidence during the hearing is subject to the following procedures and restrictions:

(1) Relevance: The committee chair shall review all questions for relevance and shall explain on the record their reasons for excluding any question based on lack of relevance.

(2) Relevance means that information elicited by the question makes facts in dispute more or less likely to be true.

(3) Questions or evidence about a complainant's sexual predisposition or prior sexual behavior are not relevant and must be excluded, unless such question or evidence:

(a) Is asked or offered to prove someone other than the respondent committed the alleged misconduct; or

(b) Concerns specific incidents of prior sexual behavior between the complainant and the respondent, which are asked or offered on the issue of consent.

(4) ((~~Cross-examination required: If a party or witness does not submit to cross-examination during the live hearing, the committee must not rely on any statement by that party or witness in reaching a determination of responsibility~~)) Complainant and respondent may not ask questions directly of one another. Questions may be asked through a party's advisor or by the chair, after the chair determines the question is relevant and not privileged or otherwise impermissible. The chair has discretion to follow this procedure for other witnesses as well.

(5) No negative inference: The committee may not make an inference regarding responsibility solely on a witness's or party's absence from the hearing or refusal to answer questions.

(6) Privileged evidence: The committee shall not consider legally privileged information unless the holder has effectively waived the privilege. Privileged information includes, but is not limited to, information protected by the following:

(a) Spousal/domestic partner privilege;

(b) Attorney-client and attorney work product privileges;

(c) Privileges applicable to members of the clergy and priests;

(d) Privileges applicable to medical providers, mental health therapists, and counselors;

(e) Privileges applicable to sexual assault and domestic violence advocates; and

(f) Other legal privileges identified in RCW 5.60.060.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-335 Initial order. (1) In addition to complying with WAC 132R-04-140, the student conduct committee will be responsible for conferring and drafting an initial order that:

(a) Identifies the allegations of sexual harassment;

(b) Describes the ((~~grievance and disciplinary procedures, starting with filing of the formal complaint through the determination of responsibility~~)) procedural steps taken from receipt of the formal complaint through the determination, including ((~~notices~~)) any notifications to parties, interviews with witnesses and parties, site visits, methods used to gather evidence, and hearings held;

(c) Makes findings of fact supporting the determination ((~~of responsibility~~));

(d) Reaches conclusions ((~~as to whether the facts establish whether the respondent is responsible for engaging in sexual harassment in violation of Title IX~~)) by applying the conduct code to the facts;

(e) Contains a statement of, and rationale for, the ((~~committee's determination of responsibility for each allegation~~)) result as to each allegation, including a determination regarding responsibility;

(f) Describes any disciplinary sanctions or conditions imposed against the respondent, if ((~~any~~)) the committee determines the respondent violated the conduct code;

(g) ((~~Describes to what extent, if any, complainant is entitled to~~)) Determines whether remedies designed to restore or preserve complainant's equal access to the college's education programs or activities will be provided by the college; and

(h) Describes the process for appealing the initial order to the college president.

(2) The committee chair will serve the initial order on the parties simultaneously.

AMENDATORY SECTION (Amending WSR 21-08-012, filed 3/26/21, effective 4/26/21)

WAC 132R-04-340 Appeals. (1) ((~~The parties shall have the right to appeal from the initial order's determination of responsibility and/or dismissal of an allegation(s) of sexual harassment in a formal complaint. The right to appeal will be subject to the same procedures and time frames set forth in WAC 132R-04-150.~~

~~(2) The president or their delegate~~)) All parties, including the student conduct officer in their capacity as a representative of the college, have the right to appeal from the determination of responsibility and/or from a dismissal, in whole or in part, of a formal complaint during the investigative or hearing process. Appeals must be in writing and filed with the president's office within 21 days of service of the initial order or notice of dismissal. Appeals must identify

the specific findings of fact and/or conclusions in the initial order or notice of dismissal that the appealing party is challenging and must contain argument as to why the appeal should be granted. Appeals may be based upon, but are not limited to:

(a) Procedural irregularity that would change the outcome;

(b) New evidence that would change the outcome and that was not reasonably available when the initial decision was made; and

(c) The investigator, decision maker, or Title IX coordinator had a conflict of interest or bias for or against a respondent or complainant individually or respondents or complainants generally.

Failure to file a timely appeal constitutes a waiver of the right to appeal and the initial order or notice of dismissal shall be deemed final.

(2) Upon receiving a timely appeal, the president's office will serve a copy of the appeal on all parties, who will have 10 days from the date of service to submit written responses to the president's office addressing issues raised in the appeal. Failure to file a timely response constitutes a waiver of the right to participate in the appeal. Upon receipt of written responses, the president's office shall serve copies of the responses to the other parties.

(3) Parties receiving a copy of the responses shall have five days in which to submit a written reply addressing issues raised in the responses to the president's office.

(4) The president or their delegate, based on their reviews of the parties' submissions and the hearing or investigative record, will determine whether the grounds for appeal have merit, provide the rationale for this conclusion, and state whether a dismissal is affirmed or denied, or if the disciplinary sanctions and ((~~condition(s)~~)) conditions imposed in the initial order are affirmed, vacated, or amended, and, if amended, set forth any new disciplinary sanctions and/or condition(s).

((~~(3)~~)) (5) President's office shall serve the final decision on the parties simultaneously.

(6) All administrative decisions reached through this process may be judicially appealed pursuant to applicable provisions of chapter 34.05 RCW including, but not limited to, the timelines set forth in RCW 34.05.542.

WSR 25-21-118
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES
[Filed October 20, 2025, 3:30 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-14-104.

Title of Rule and Other Identifying Information: WAC 110-30-0020 Definitions, 110-30-0030 What is child abuse or neglect?, 110-148-1305 Definitions, 110-300-0005 Definitions, 110-300-0110 Program based staff policies and training, 110-300-0425 Initial and nonexpiring licenses—Reporting—License modification, 110-300-0450 Parent or guardian handbook and related policies, 110-300-0475 Duty to protect children and report incidents, 110-301-0005 Foundational quality standards for school-age programs, 110-301-0110 Program based staff policies and training, 110-301-0425 Initial, nonexpiring, dual licenses, and license modification, 110-301-0450 Parent or guardian handbook and related policies, 110-301-0475 Duty to protect children and report incidents, 110-302-0005 Definitions, 110-302-0110 Program based staff policies and training, 110-302-0425 Initial, nonexpiring, dual licenses, and license modification, 110-302-0450 Parent or guardian handbook and related policies, and 110-302-0475 Duty to protect children and report incidents.

Hearing Location(s): On November 25, 2025, telephonic. Comments can be made by calling 360-972-5385 and leaving a voicemail that includes the comment, emailing the rules coordinator, or submitting comments to the online comment application linked below. All comments must be received by the date and time listed below.

Date of Intended Adoption: November 26, 2025.

Submit Written Comments to: Department of children, youth, and families (DCYF), rules coordinator, email DCYF.rulescoordinator@dcyf.wa.gov, https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online, beginning 8:00 a.m. on October 25, 2025, by 11:59 p.m. on November 25, 2025.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, phone 360-522-3691, email dcyf.rulescoordinator@dcyf.wa.gov, relay users dial 711, by November 15, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The child welfare division and licensing division are making changes to child protective services in chapter 110-30 WAC, and other related rules to align with the revised definition in RCW 26.44.020 for "abuse or neglect" to include "sex trafficking" and "severe forms of trafficking in persons" that went into effect on July 1, 2025, per SB [2SSB] 6006, and "female genital mutilation," per SB 5453, which went into effect on April 20, 2023.

Reasons Supporting Proposal: The WAC revisions will align with the recent statute changes regarding the definition of abuse or neglect of children and youth which also informs how DCYF issues findings in abuse and neglect investigations.

Statutory Authority for Adoption: 2SSB 6006, SB [SSB] 5453, 22 U.S.C. § 7101 et seq., RCW 74.13.031, 74.04.050, 74.15.030, 43.215.070, 43.215.201, 43.216.055, 43.216.065, and 43.216.742.

Statute Being Implemented: RCW 26.44.020.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: Cameron Norton, 509-991-0748.

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).

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

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: There is no effect to small businesses for this revision, and it is dictated by statute.

Scope of exemption for rule proposal:

Is fully exempt.

October 20, 2025
Brenda Villarreal
Rules Coordinator

RDS-6485.3

AMENDATORY SECTION (Amending WSR 23-24-043, filed 11/30/23, effective 12/31/23)

WAC 110-30-0020 ((~~What definitions apply to these rules?~~)) Definitions. The following definitions apply to this chapter.

"Abuse or neglect" means the ((~~injury, sexual abuse, sexual exploitation, negligent treatment, or maltreatment of a child as defined in RCW 26.44.020 and this chapter~~)) same as defined in RCW 26.44.020.

"Administrative hearing" means a hearing held before an administrative law judge and conducted according to chapter 34.05 RCW and chapter 110-03 WAC.

"Administrative law judge (ALJ)" ((~~is~~)) means an impartial decision-maker who is an attorney and presides ((~~at~~)) over an ((~~administrative hearing. The office of administrative hearings, which is a state agency but not part of DCYF, employs the ALJs~~)) adjudicative proceeding resulting in an initial order, or resulting in a final order if no appeal of the initial order is properly made or if no further agency appeal is available.

"Alleged perpetrators" means ((~~the person~~)) individuals identified in ((~~a~~)) CPS referrals as being responsible for the alleged ((~~child~~)) abuse or neglect of children or youth.

"Alternative response system" means a contracted provider in a local community that responds to accepted CPS referrals that are rated low or moderately low risk at the time of intake.

"Appellants" means ((~~a person~~)) individuals who request((~~s an~~)) administrative hearings to appeal ((~~a~~)) CPS findings.

"Behavioral health services" ((~~has the same meaning as in~~)) means the same as defined in RCW 71.24.025.

"Child protection team (CPT)" means a multidisciplinary group of ((~~persons~~)) individuals with at least four ((~~persons~~)) from professions that provide services to abused or neglected children ((~~and/or~~

~~parents of such children. The CPT provides confidential case staffing and consultation to child welfare cases~~)) or youth and their parents or guardians.

"Child protective services (CPS)" means the ((~~section of the department of children, youth, and families for responding to allegations of child abuse or neglect~~)) same as defined in RCW 26.44.020.

((~~"Child welfare programs (CWP)" means the division in DCYF that provides child protective, child welfare, and support services to children and their families.~~))

"Department" or "DCYF" means the Washington state department of children, youth, and families.

"Findings" means the final decisions made by ((~~a CPS caseworker~~)) the department after ((~~an~~)) investigations regarding alleged ((~~child~~)) abuse or neglect of children or youth.

"Founded" means the ((~~determination following an investigation by CPS that based on available information it is more likely than not that child abuse or neglect did occur~~)) same as defined in RCW 26.44.020.

"Host homes" ((~~has~~)) means the same ((~~meaning~~)) as defined in RCW 74.15.020.

"Inconclusive" means the determination following an investigation by CPS, prior to October 1, 2008, that based on available information a decision cannot be made that more likely than not, ((~~child~~)) abuse or neglect of children or youth did or did not occur. Beginning October 1, 2008, the department no longer makes inconclusive findings, but retains such findings made prior to that date as provided in these rules.

"Licensing division (LD)" means the division ((~~in DCYF responsible for licensing group care and foster care facilities, and responding to allegations of abuse or neglect in such facilities~~)) within the department that supports child safety and well being through licensing, monitoring compliance, investigations, and provides technical assistance to caregivers that provide direct care for children and youth.

"Mandated reporters" means ((~~a person~~)) individuals required to report alleged ((~~child~~)) abuse or neglect of children or youth as ((~~defined~~)) outlined in RCW 26.44.030.

"Preponderance of evidence" means the evidence presented in ((~~a~~)) hearings indicate((~~s~~)) more likely than not ((~~child~~)) that abuse or neglect of children or youth did occur.

"Residential private schools" ((~~has the same meaning as in~~)) means the same as defined in RCW 26.44.210.

"Screened-out report" means ((~~a report of alleged child abuse or neglect that the department had determined does not rise to the level of credible report of abuse or neglect and is not referred for investigation~~)) the same as defined in RCW 26.44.020.

"Substance use disorder" ((~~has the same meaning as in~~)) means the same as defined in RCW 71.24.025.

"Unfounded" means the ((~~determination following an investigation by CPS that based on available information it is more likely than not that child abuse or neglect did not occur or there is insufficient evidence for the department to determine whether the alleged child abuse did or did not occur~~)) same as defined in RCW 26.44.020.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-30-0030 ((~~What is child abuse or neglect?~~)) Abuse or neglect of children and youth. ((~~Child abuse or neglect means the injury, sexual abuse, or sexual exploitation of a child by any person under circumstances which indicate that the child's health, welfare, or safety is harmed, or the negligent treatment or maltreatment of a child by a person responsible for or providing care to the child. An abused child is one who has been subjected to child abuse or neglect as defined in this section.~~)) The department determines whether children or youth have been abused or neglected based on RCW 26.44.020 and the following:

(1) Physical abuse means the nonaccidental infliction of physical injury or physical mistreatment on a child or youth that harms ((~~the child's~~)) their health, welfare, or safety. It ((~~may~~)) includes, but is not limited to((~~, such actions as~~)):

(a) Throwing, kicking, burning, or cutting a child or youth;

(b) Striking a child or youth with a closed fist;

(c) Shaking a child under age three;

(d) Interfering with a child's or youth's breathing;

(e) Threatening a child or youth with a deadly weapon; ((~~or~~))

(f) Performing female genital mutilation, as defined in RCW 18.130.460; or

(g) Doing any other act that is likely to cause and that does cause bodily harm greater than transient pain or minor temporary marks or that is injurious to the child's or youth's health, welfare, or safety.

(2) Physical discipline of a child or youth, including the reasonable use of corporal punishment, is not considered abuse when it is reasonable and moderate and is inflicted by a parent or guardian for the purposes of restraining or correcting the child or youth. Factors considered when determining whether bodily harm was not reasonable or moderate include, but are not limited to:

(a) The age, size, and condition of the child((~~, and~~)) or youth;

(b) The location of any inflicted injury ((~~shall be considered in determining whether the bodily harm is reasonable or moderate. Other factors may include~~));

(c) The developmental level of the child ((~~and~~)) or youth;

(d) The nature of the child's or youth's misconduct((~~. A parent's belief~~)); and

(e) Whether a parent or guardian believes that it is necessary to punish a child ((~~does not justify or permit~~)) or youth with the use of excessive((~~, immoderate~~)) or unreasonable force ((~~against the child~~)).

(3) Sexual abuse means:

(a) Committing or allowing ((~~to be committed~~)) any sexual offense to be committed against a child or youth as defined in the criminal code((~~. The intentional~~));

(b) Intentionally touching, either directly or ((~~through~~)) over the clothing, of the sexual or other intimate parts of a child ((~~or allowing, permitting, compelling, encouraging, aiding, or otherwise causing a child to engage in touching the sexual or other intimate parts of another for the purpose of gratifying the sexual desire of the person touching the child, the child, or a third party. A parent~~)) or youth. Exceptions include the following who may touch a child or youth in the sexual or other intimate parts for the purposes of providing hygienic care or medical treatment and diagnosis:

(i) Parents or guardians of a child((~~, a person~~)) or youth;

(ii) Individuals authorized by the parents or guardians to provide ((~~childcare~~)) care for the child((~~,~~)) or youth; or ((~~a person~~))

(iii) Individuals providing medically recognized services for the child((~~, may touch a child in the sexual or other intimate parts for the purposes of providing hygiene, child care, and medical treatment or diagnosis.~~

~~(4)~~)) or youth; or

(c) Allowing, permitting, compelling, encouraging, aiding, or otherwise causing a child or youth to engage in touching the sexual or other intimate parts of another for the purpose of gratifying the sexual desire of the individual touching the child or youth, or a third party.

(4) Trafficking means the same as defined in RCW 9A.40.100 and includes the following, as defined in the Trafficking Victims Protection Act of 2000, 22 U.S.C. Sec. 7101 et. seq.:

(a) Sex trafficking includes harboring, transporting, provision, obtaining, patronizing, or soliciting an individual for the purpose of a commercial sex act; and

(b) Severe forms of trafficking in persons includes:

(i) Recruiting, harboring, transporting, provision, or obtaining individuals for labor or services using force, fraud, or coercion for the purpose of involuntary servitude, peonage, debt bondage, or slavery, commonly known as labor trafficking; or

(ii) Sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or the individual persuaded to perform the act is under 18 years old.

(5) Sexual exploitation means the same as defined in RCW 26.44.020, which includes((~~, but is not limited to, sex trafficking and commercial sexual exploitation as those terms are defined by law and includes such actions as~~)) commercial sexual exploitation. Actions include, but are not limited to, allowing, compelling, encouraging, aiding, or otherwise causing a child or youth to participate in one or more of the following:

(a) Any sex act ((~~when anything of value is given to or received by any person~~)) that includes giving or receiving anything of value to any individual for the sex act;

(b) Sexually explicit, obscene, or pornographic activity to be photographed, filmed, or electronically reproduced or transmitted; or

(c) Sexually explicit, obscene, or pornographic activity as part of a live performance or for the benefit or sexual gratification of another ((~~person~~)) individual.

((~~(5)~~)) (6) Negligent treatment or maltreatment means ((~~an act or a failure to act, or the cumulative effects of a pattern of conduct, behavior, or inaction, on the part of a child's parent, legal custodian, guardian, or caregiver that shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety.~~

~~(a) When considering whether a clear and present danger exists, evidence of a parent's substance abuse as a contributing factor must be given great weight.~~

~~(b) The fact that the siblings share a bedroom is not, in and of itself, negligent treatment or maltreatment.~~

~~(c) Poverty, homelessness, or exposure to domestic violence perpetuated against someone other than the child does not, in and of itself, constitute negligent treatment or maltreatment.~~

~~(d)~~)) the same as defined in RCW 26.44.020 and considers the following:

(a) A child or youth does not have to suffer actual damage or physical or emotional harm to be in circumstances that create a clear and present danger to ((~~the child's~~)) their health, welfare, or safety((~~.~~))~~;~~

((~~(c)~~)) (b) Poverty, homelessness, suspected or diagnosed disabilities, or exposure to domestic violence perpetrated against an individual other than a child or youth does not, in and of itself, constitute negligent treatment or maltreatment; or

(c) Negligent treatment or maltreatment shows a serious disregard of the consequences to the child or youth and creates a clear and present danger to their health, welfare, or safety, may include, but is not limited to ((~~one or more of the following~~)):

(i) Failure to provide adequate food, shelter, clothing, supervision, or health care ((~~necessary for a child's health, welfare, or safety, such that the failure shows a serious disregard of the consequence to the child and creates a clear and present danger to the child's health, welfare, or safety~~));

(ii) Actions, failures to act, or omissions that result in injury or risk of injury to the physical, emotional, ((~~and/~~))or cognitive development of a child((~~, such that it shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety~~)) or youth including, but is not limited to, allowing, permitting, compelling, encouraging, aiding in female genital mutilation, as defined in RCW 18.130.460;

(iii) The cumulative effects of a pattern of conduct, behavior, or inaction by a parent or guardian in providing for the physical, emotional or developmental needs of the child((~~, such that it shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety;~~)) or youth; or

(iv) The effects of chronic failure on the part of a parent or guardian to perform basic parental functions, obligations, or duties that causes injury or substantial risk of injury to the physical, emotional, or cognitive development of the child((~~, such that it shows a serious disregard of the consequences to the child and creates a clear and present danger to the child's health, welfare, or safety~~)) or youth.

RDS-6486.1

AMENDATORY SECTION (Amending WSR 24-18-052, filed 8/28/24, effective 9/28/24)

WAC 110-148-1305 ((~~What definitions do I need to know to understand this chapter?~~)) Definitions. The following definitions are for the purpose of this chapter and are important to understanding these requirements:

"Abuse or neglect" means the ((~~injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child~~)) same as defined in RCW 26.44.020.

"Adult" means a person 18 years of age and older, not in the care of the department.

"Agency" is defined in RCW 74.15.020(1).

"Asexual" means the lack of a sexual attraction or desire for other individuals.

"Bisexual" means individuals who have an emotional or physical attraction to individuals of the same and different genders.

"Capacity" means the age range and maximum number of children on your current license.

"Care provider" means any person who is licensed or authorized to provide care for children, and cleared to have unsupervised access to children under the authority of a license.

"Case manager" means the private agency employee who coordinates the planning efforts of all the persons working on behalf of a child.

"Case plan" means a written document adhered to and followed by a foster child's parent or parents, foster parent or parents, the department, and all other caregivers. A case plan may include, but is not limited to:

(a) A description of the type of home or facility in which a child is to be placed, including a discussion of the safety and appropriateness of the placement and how the department plans to carry out the voluntary placement agreement entered into or judicial determination made with respect to the child;

(b) A plan for assuring that the child receives safe and proper care and that services are provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to their own safe home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan;

(c) The health and education records of the child, including the most recent information available regarding:

(i) The names and addresses of the child's health and educational providers;

(ii) The child's grade level performance;

(iii) The child's school record;

(iv) A record of the child's immunizations;

(v) The child's known medical conditions;

(vi) The child's medications; and

(vii) Any other relevant health and education information concerning the child determined to be appropriate by the department;

(d) Relevant professional assessments of the child;

(e) Court orders concerning the child; and

(f) Any other relevant plan, assessment, knowledge, material, or information concerning the child determined to be appropriate by the department.

"Caseworker" means the primary agency worker assigned to the child through DCYF or another government agency.

"Certification" means either:

(a) Our review of whether you meet the licensing requirements, even though you do not need to be licensed; or

(b) A licensed child placing agency (CPA) representing that a foster home being supervised by that CPA meets licensing requirements. The final decision for licensing is the responsibility of DCYF.

"Chapter" means chapter 110-148 WAC.

"Child," "children," or "youth" for this chapter, means a person who is one of the following:

(a) Under 18 years of age;

(b) Up to 21 years of age and enrolled in services through department of social and health services, developmental disabilities administration (DDA) the day prior to his or her 18th birthday and pursuing either a high school or equivalency course of study (GED/HSEC), or vocational program;

(c) Up to 21 years of age and participates in the extended foster care program;

(d) Up to 21 years of age with intellectual and developmental disabilities;

(e) Up to 25 years of age and under the custody of juvenile rehabilitation.

"Child placing agency (CPA)" means an agency or tribe licensed to place children for foster care or adoption and may be contracted by the department to provide professional therapeutic foster care (PTFC) services.

"Child welfare" or "CW" means the division of child welfare within DCYF. CW provides case management to children and families involved in the child welfare system.

"Compliance agreement" means a written improvement plan to address the changes needed to meet licensing requirements.

"DDA" means the department of social and health services, developmental disabilities administration.

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

"Developmental disability" is a disability as defined in RCW 71A.10.020.

"FBI" means the Federal Bureau of Investigation.

"Foster home or foster family home" means a person(s) licensed to regularly provide 24-hour care in their home to children.

"Gay" means a sexual orientation to describe individuals who are emotionally or physically attracted to someone of the same gender. Gay is sometimes an umbrella term for the LGBTQIA+ community.

"Gender" or "gender identity" means an individual's inner sense of being a female, male, a blend of both or neither, or another gender. This may or may not correspond with an individual's sex assigned at birth.

"Gender expression" means individuals' outward communication of their gender through behavior or appearance. This may or may not conform to their sex assigned at birth or socially defined behaviors and characteristics typically associated with being either masculine or feminine.

"Gender fluid" means individuals whose gender identities are flexible, not permanent.

"Guardian" has the same meaning in this chapter as defined in RCW 26.33.020(11).

"Guns or weapons" means any device intended to shoot projectiles under pressure or that can be used to attack. These include but are not limited to BB guns, pellet guns, air rifles, stun guns, antique guns, handguns, rifles, shotguns and archery equipment.

"Hearing" means the administrative review process conducted by an administrative law judge.

"I, my, you, and your" refers to an applicant for a license issued under this chapter, and to any party holding a license under this chapter.

"Infant" means a child less than 12 months of age.

"Intellectual and developmental disability" means children with deficits in general mental abilities and impairment in everyday adaptive functioning.

"Intersex" is an umbrella term used to describe a wide range of natural bodily variations when the body is born with a combination of chromosomes, internal organs, or external genitalia that do not develop as expected.

"Lesbian" means females or women who have an emotional or physical attraction for other females or women.

"LGBTQIA+" means lesbian, gay, bisexual, transgender, queer or questioning, intersex, and asexual. The "+" represents identities not specifically named in the LGBTQIA acronym, e.g., pansexual, gender nonbinary, and Two-Spirit.

"License" means a permit issued by us confirming that you and your home meet the licensing standards established in this chapter.

"Licensed health care provider" means a medical doctor (MD), doctor of osteopathy (DO), doctor of naturopathy (ND), physician's assistant (PA), or an advanced registered nurse practitioner (ARNP).

"Licensing division (LD)" means the division within DCYF that licenses and monitors foster homes, child placing agencies, and licensed group care facilities.

"Licensor" means either:

(a) A LD employee who recommends approvals for, or monitors licenses or certifications for facilities and agencies established under this chapter; or

(b) An employee of a CPA who certifies or monitors foster homes supervised by the CPA.

"Maternity services" as defined in RCW 74.15.020. These are also referred to as pregnant and parenting youth programs.

"Medically fragile" means the condition of a child who requires the availability of 24-hour skilled care from a health care professional or specially trained family or foster family member. These conditions may be present all the time or frequently occurring. If the technology, support, and services being received by the medically fragile children are interrupted or denied, the child may, without immediate health care intervention, experience death.

"Missing child" means any child less than 18 years of age in licensed care or under the care, custody, and authority of DCYF and the child's whereabouts are unknown or the child has left care without the permission of the child's caregiver or DCYF. This does not include children in dependency guardianship.

"Nonambulatory" means not able to walk or exit to safety without the physical assistance of another individual.

"Nonbinary" is a term of self-identification for individuals who do not identify within the limited and binary terms that have described gender identity, e.g., female and male. Nonbinary is also an umbrella term for many identities such as gender expansive, gender fluid, and genderqueer.

"Out-of-home placement" means a child's placement in a home or facility other than the home of a child's parent, guardian, or legal custodian.

"Parent" has the same meaning in this chapter as defined in RCW 26.26A.010(15).

"Probationary license" means a license issued as part of a corrective action to an individual or agency that has previously been issued a full license but is out of compliance with minimum licensing

requirements and has entered into an agreement aimed at correcting deficiencies.

"Professional therapeutic foster care (PTFC)" means a foster home that is certified by a CPA to provide PTFC services.

"Property or premises" means your buildings and grounds adjacent to your residential property that are owned or managed by you.

"Psychotropic medication" means a type of medicine prescribed to affect or alter thought processes, mood, sleep, or behavior. These include anti-psychotic, anti-depressant, and anti-anxiety medications.

"Queer" is a term used to express LGBTQIA+ identities and orientations. The term is sometimes used as an umbrella term for all LGBTQIA+ individuals.

"Questioning" means individuals who are exploring their sexual orientation, gender identity, or gender expression at any age.

"Relative" means a person who is related to a child as defined in RCW 74.15.020.

"Respite" means brief, temporary relief care provided by an in-home or out-of-home provider paid by the department. The respite provider fulfills some or all of the care provider responsibilities for a short time.

"Sexual orientation" means an individual's emotional or physical attraction to other individuals.

"SOGIE" is an acronym for sexual orientation, gender identity, and expression which are distinct identifiers everyone has. LGBTQIA+ is a subdistinction within SOGIE self-identifiers. SOGIE includes LGBTQIA+ as well as heterosexual, cisgender, and nonquestioning individuals.

"Transgender" is an umbrella term for individuals whose gender identity or expression is different from cultural expectations based on the sex they were assigned at birth. Gender-affirming medical care is not a prerequisite to identify as transgender. Being transgender does not imply any specific sexual orientation.

"Treatment plan" means individual plans that identify the service needs of the child, including the child's parent or guardian, and identifies the treatment goals and strategies for achieving those goals.

"Two-Spirit" means a modern, pan-indigenous umbrella term used by some indigenous North Americans to describe Native people in their communities who fulfill a traditional third-gender or other gender-variant, ceremonial, and social role in their cultures. Being Two-Spirit does not imply any specific sexual orientation.

"Washington state patrol fire protection bureau or WSP/FPB" means the state fire marshal.

"We, our, and us" refers to the department of children, youth, and families, including LD and CW staff.

"Young child" refers to a child age 12 months through eight years old.

RDS-6487.1

AMENDATORY SECTION (Amending WSR 24-19-056, filed 9/13/24, effective 10/14/24)

WAC 110-300-0005 Definitions. Unless the context requires otherwise, the following definitions apply to this chapter:

"Abuse or neglect" means the same as defined in RCW 26.44.020.

"Accessible to children" means items, areas or materials of an early learning program that a child can reasonably reach, enter, use, or get to on their own.

"Accommodations" means program curriculum and instruction, activities, spaces, and materials that have been adapted to help children and adults with special need function within their surroundings.

"Active supervision" or "actively supervise" means a heightened standard of care beyond supervision. This standard requires early learning providers to see and hear the children they are responsible for during higher risk activities. Providers must be able to prevent or instantly respond to unsafe or harmful events.

"ADA" refers to the Americans with Disabilities Act, 42 U.S.C. Sec. 12101, et seq.

"Aide" is a person who offers support to early learning program staff.

"Allergy" or "allergies" refers to an overreaction of the immune system to a substance that is harmless to most people. During an allergic reaction, the body's immune system treats the substance or "allergen" as an invader. The body overreacts by releasing chemicals that may cause symptoms ranging from mildly annoying to life threatening. Common allergens include certain foods (milk, eggs, fish, shellfish, common tree nuts, peanuts, wheat, and soybeans) pollen, mold, or medication.

"Annual" or "annually" means an event that occurs each calendar year, not to exceed 365 days between occurrences.

"Applicant" means an individual who has made a formal request for a child care license, certification, exemption, or portable background check.

"Appropriate" when used to refer to child care or educational materials means that the materials will interest and challenge children in terms of their ages and abilities.

"Appropriately" means correct or properly suited for a particular situation.

"Asexual" means the lack of a sexual attraction or desire for other individuals.

"Assistant director" is a person responsible for the overall management of the center early learning program including the facility and operations.

"Assistant teacher" is a person whose work is to assist a lead teacher or licensee in providing instructional supports to children and implementing a developmentally appropriate program. The assistant must carry out assigned tasks under the supervision of a lead teacher, program supervisor, director, assistant director, or licensee.

"ASTM" refers to the American Society for Testing and Materials.

"Bathroom" means a room containing a built-in, flush-type toilet.

"Bias" means a tendency to believe that some people or ideas are better than others that usually results in treating some people unfairly.

"Bisexual" means individuals who have an emotional or physical attraction to individuals of the same and different genders.

"Body of water" or "bodies of water" is a natural area or human-made area or device that contains or holds a depth of more than two inches of water. Examples include swimming pools, ditches, canals, fish ponds, water retention areas, excavations, and quarries.

"CACFP" means the Child and Adult Care Food Program established by Congress and funded by the United States Department of Agriculture (USDA).

"Cannabis" (also known as "marijuana") refers to all parts of the cannabis plant, whether growing or not, the seeds thereof, the resin or concentrate extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

"Capacity" means the maximum number of children early learning providers are authorized by the department to have in care at any given time. This includes any children on-site at the early learning program and any children in transit to or from the program or other activities such as field trips while the children are signed in to the care of the program.

"Center early learning program" is a facility providing regularly scheduled care for a group of children birth through 12 years of age for periods of less than 24 hours a day, pursuant to RCW 43.216.010 (1)(a) (child day care center).

"Center early learning program licensee" or "center licensee" means an entity licensed and authorized by the department to operate a center early learning program.

"Certificate of exemption (COE)" has the same meaning in this chapter as in WAC 246-105-020.

"Certificate of immunization status" has the same meaning in this chapter as in WAC 246-105-020.

"Certificate of occupancy" means a document issued by a local government agency or building department that certifies a building complies with applicable building codes and other laws and indicates that the building is in a condition suitable for occupancy.

"Certification" means department approval of a person, home, or facility that is exempt from licensing but requests evidence that the program meets these foundational licensing standards.

"Child" means an individual who is younger than age 13, including any infant, toddler, preschool-age child, or school-age child as defined in this chapter.

((~~"Child abuse" or "neglect" means the physical abuse, sexual abuse, sexual exploitation, abandonment, negligent treatment or maltreatment of a child by any person as defined in RCW 26.44.020.~~))

"Child care" refers to supervision of children outside the child's home for periods of less than 24 hours a day.

"Child care basics (CCB)" means curriculum designed to meet the initial basic training requirement for early learning program staff working in licensed or certified programs in Washington state. It serves as a broad introduction for professionals who are pursuing a career in the early care and education field.

"Chromated copper arsenate (CCA)" is a wood preservative and insecticide that contains roughly 22 percent arsenic, a known carcinogen. The United States restricted the use of CCA on residential lumber in 2003, but it can still be found on older decks and playground equipment. Information about the health hazards of arsenic can be found on the department of health's website.

"Clean" or "cleaning" 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 or disinfecting a surface.

"Confidential" means the protection of personal information, such as the child's records, from individuals who are not authorized to see or hear the information.

"Consistent care" means providing steady opportunities for children to build emotionally secure relationships by primarily interacting with a limited number of early learning program staff.

"Contagious disease" means an illness caused by an infectious agent of public health concern which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission through an intermediate host or vector, food, water, or air. Contagious diseases pertinent to this chapter are described in WAC 246-110-010.

"Continuous" means without interruptions, gaps, or stopping.

"Core competencies" are standards required by the department that detail what early learning providers need to know and are able to do to provide quality care and education for children and their families.

"CPSC" means the United States Consumer Product Safety Commission.

"Cultural" or "culturally" means in a way that relates to the ideas, customs, and social behavior of different societies.

"Curriculum philosophy" means a written statement of principles developed by an early learning provider to form the basis of the learning program of activities, including age appropriate developmental learning objectives for children.

"DCYF" or "the department" refers to the Washington state department of children, youth, and families.

"Developmental screening" is the use of standardized tools to identify a child at risk of a developmental delay or disorder. (Source: American Academy of Pediatrics, *Healthy Child Care America, 2009).*

"Developmentally appropriate" means:

(a) Early learning providers interact with children in a way that recognizes and respects each child's chronological and developmental age;

(b) Knowledge about how children grow and learn;

(c) Reflects the developmental level of the individual child; and

(d) Interactions and activities are planned with the developmental needs of the individual child in mind.

"Director" means the person responsible for the overall management of a center early learning program including the facility and operation.

"Disability" or "disabilities" has the same meaning in this chapter as in RCW 49.60.040(7), the Washington law against discrimination.

"Discipline" means a method used to redirect a child in order to achieve a desired behavior.

"Disinfect" means to eliminate virtually all germs from an inanimate surface by the process of cleaning and rinsing, followed by:

(a) The application of a fragrance-free chlorine bleach and water solution following the department of health's current guidelines for mixing bleach solutions for child care and similar environments; or

(b) The application of other disinfectant products registered with the EPA, if used strictly according to the manufacturer's label instructions including, but not limited to, quantity, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to

be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled "safe for food contact surfaces."

"Disinfectant" means a chemical or physical process that kills bacteria and viruses.

"Drinking water" or "potable water" is water suitable for drinking by the public as determined by the Washington state department of health or a local health jurisdiction.

"Dual language learners" refers to children who are learning two or more languages at the same time. This term includes children who learn two or more languages from birth, and children who are still mastering their home language when they are introduced to and start learning a second language. (Source: The *Washington State Early Learning and Development Guidelines.*)

"Early achievers" is a statewide system of high-quality early learning that connects families to early learning programs with the help of an easy to understand rating system and offers coaching, professional development, and resources for early learning providers to support each child's learning and development.

"Early childhood education and assistance program (ECEAP)" is a comprehensive preschool program that provides free services and support to eligible children and their families.

"Early childhood education (ECE) initial certificate" (12 quarter credits) is Washington's initial certificate in early childhood education and serves as the point of entry for a career in early learning and covers foundational content for early learning professionals.

"Early childhood education (ECE) short certificate," an initial certificate plus eight quarter credits, is Washington state's short certificate in early childhood education and offers areas of specialization, building on the state's initial certificate.

"Early childhood education (ECE) state certificate," a short certificate plus 27 quarter credits, is Washington state's certificate in early childhood education and is the benchmark for Level 2 core competencies for early care and education professionals and prepares for the next step, an associate's degree in early childhood education.

"Early learning program" refers to regularly scheduled care for a group of children birth through 12 years of age for periods of less than 24 hours, licensed by the department.

"Early learning program space" means the licensed indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

"Early learning program staff" refers to all persons who work, substitute, or volunteer in an early learning program during hours when children are or may be present, excluding licensees.

"Early learning provider" or "provider" refers to an early learning licensee or designee who works in an early learning program during hours when children are or may be present. Designees include center directors, assistant directors, program supervisors, lead teachers, assistants, aides, and volunteers.

"Electronic record" means a record generated, communicated, received or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

"Electronic workforce registry" refers to DCYF's current database of professional records of individual early learning providers.

"Emergency preparedness" means a continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action in an effort to ensure effective coordination in case of emergencies or during incident response.

"Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(3). An early learning provider may contest enforcement actions and seek an adjudicative proceeding pursuant to chapter 110-03 WAC.

"EPA" means the United States Environmental Protection Agency.

"Equivalency" when referring to staff qualifications means an individual is allowed to meet the requirements of this chapter through a department recognized alternative credential, or demonstration of competency, that indicates similar knowledge as the named credential.

"Exempt" or "exemption" means, as applied to immunizations, a type of immunization status where a child has not been fully immunized against one or more vaccine preventable diseases required by chapter 246-105 WAC for full immunization due to medical, religious, philosophical or personal reasons. Under chapter 362, Laws of 2019, if a child plans on attending or is attending a center early learning program, a philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.

"Expel" or "expulsion" means to end a child's enrollment in an early learning program. An early learning provider will end a child's enrollment if the provider is unable to meet a child's needs due to the child's challenging behavior.

"Family home early learning program" means an early learning program licensed by the department where a family home licensee provides child care or education services for 12 or fewer children in the family living quarters where the licensee resides as provided in RCW 43.216.010 (1)(c) (family day care provider).

"Family home early learning program licensee" or "family home licensee" means an individual licensee authorized by the department to operate a family home early learning program within the licensee's family living quarters.

"Family living quarters" means a family home licensee or applicant's residence and other spaces or building on the premises.

"Food worker card" means a food and beverage service worker's permit as required under chapter 69.06 RCW.

"Foundational quality standards" refers to the administrative and regulatory requirements contained within this chapter. These standards are designed to promote the development, health, and safety of children enrolled in center and family home early learning programs. The department uses these standards to equitably serve children, families, and early learning providers throughout Washington state.

"Gay" means physically attracted to someone of the same gender. Gay is sometimes an umbrella term for the LGBTQIA+ community.

"Gender" or "gender identity" means an individual's inner sense of being a female, male, a blend of both or neither, or another gender. This may or may not correspond with an individual's sex assigned at birth.

"Gender expression" means individuals' outward communication of their gender through behavior or appearance. This may or may not conform to their sex assigned at birth or socially defined behaviors and characteristics typically associated with being either masculine or feminine.

"Gender fluid" means individuals whose gender identities are flexible, not permanent.

"Good repair" means about 80 percent of materials and components are unbroken, have all their pieces, and can be used by children as intended by the manufacturer or builder.

"Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of Washington state to provide health care in the ordinary course of business or practice of a profession.

"Household member" means one or more individuals who live in the same dwelling or share living arrangements, and may consist of family relatives or other groups of people.

"Immunization" is the process of administering a vaccine to make a person immune or resistant to an infectious disease.

"Inaccessible to children" means a method to prevent a child from reaching, entering, using, or getting to items, areas, or materials of an early learning program.

"Inactive" when used by the department to indicate a licensing status, means early learning providers who have requested and have been approved to temporarily cease caring for children and close their early learning program.

"Individual care plan" means a specific plan to meet the individual needs of a child with a food allergy, special dietary requirement due to a health condition, other special needs, or circumstances.

"Infant" is a child birth through 11 months of age.

"In-service training" means professional development requirements for continuing education delivered or approved by the department to maintain staff standards and qualifications while employed as an early learning provider.

"Inspection report" means a written or digital record developed by the department that identifies violations of licensing standards. An inspection report is separate from and does not include a facility licensing compliance agreement (FLCA).

"Internal review process" has the same meaning in this chapter as in RCW 43.216.395, as now or hereafter amended.

"Intersex" is an umbrella term used to describe a wide range of natural bodily variations when the body is born with a combination of chromosomes, internal organs, or external genitalia that do not develop as expected.

"Lead teacher" means an early learning provider who works as the lead staff person in charge of a child or group of children and implements activity programs.

"Lesbian" means females or women who have an emotional or physical attraction for other females or women.

"LGBTQIA+" means lesbian, gay, bisexual, transgender, queer or questioning, intersex, and asexual. The "+" represents identities not specifically named in the LGBTQIA acronym (e.g., pansexual, gender nonbinary, and Two-spirit).

"License" means a permit issued by the department legally authorizing an applicant to operate an early learning program.

"Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

"Licensee" means an individual or legal entity listed on a license issued by the department, authorized to provide child care or early learning services in a center or family home setting.

"Lockdown" means restricted to an interior room with few or no windows while the facility or building is secured from a threat.

"Locking mechanism" means a lock that requires a key, tumbler, dial, passcode, touchpad, or similar device or method to lock and unlock.

"Modification" when used in reference to an early learning provider's licensing status, means an enforcement action by the department to change the conditions identified on a licensee's current license.

"Nonbinary" is a term of self-identification for individuals who do not identify within the limited and binary terms that have described gender identity, e.g., female and male. Nonbinary is also an umbrella term for many identities such as gender expansive, gender fluid, and genderqueer.

"Nonexpiring license" means a license that is issued to an early learning provider following the initial licensing period, pursuant to chapter 43.216 RCW.

"Operating hours" means the hours listed in an early learning program parent handbook when the program is open and providing care and services to children.

"Parent" or "guardian" means birth parent, custodial parent, foster parent, legal guardian or those authorized by the parent or entity legally responsible for the welfare of the child.

"Peer interaction" refers to relationships children have with one another, which includes how infants and toddlers play near one another and how preschoolers play together, communicate, and whether they fight or get along.

"Personal needs" means an early learning provider's toileting or medication needs. Personal needs do not include smoking or use of tobacco products, illegal drug use or misuse or prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unattended.

"Pest" means an animal, plant, or insect that has a harmful effect on humans, food, or living conditions.

"Pesticide" refers to chemicals used to kill pests.

"Pet" means a domestic or tamed animal or bird kept for companionship or pleasure.

"Physical barrier" means a nonclimbable fence or wall that is at least five feet tall and has no openings greater than two inches or a gate or door that allows entry to and exit from a body of water and has the following requirements in addition to those already listed: A locking mechanism, a self-closing or self-latching device, and a device used to open the locks which is inaccessible to children but readily available to staff.

"Physical restraint" means holding a child as gently as possible for the minimum amount of time necessary to control a situation where that child's safety or the safety of others is threatened.

"Poison" includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such as water or salt), or similar items that even in small quantities, are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes.

"Premises" means the licensed and unlicensed space at the licensed address including, but not limited to, buildings, land, and residences.

"Preschool-age children" means children 30 months through six years of age not attending kindergarten or elementary school.

"Preservice training" means professional development standards or requirements for early learning program staff prior to hiring or within a department specified time frame and delivered or approved by the department.

"Private septic system" means a septic system as defined in chapter 246-272A WAC that is not connected to a public sewer system or a large on-site sewage system as defined in chapter 246-272B WAC. A private septic system includes, but is not limited to, the septic system's drain field and tanks.

"Probationary license" has the same meaning as in RCW 43.216.010(23).

"Professional development support plan" is a formal means by which an individual who is supervising staff sets out the goals, strategies, and outcomes of learning and training.

"Program supervisor" means the center early learning provider responsible for planning and supervising the learning and activity program.

"Queer" is a term used to express LGBTQIA+ identities and orientations. The term is sometimes used as an umbrella term for all LGBTQIA+ individuals.

"Questioning" means individuals who are exploring their sexual orientation, gender identity, or gender expression at any age.

"RCW" means the Revised Code of Washington.

"Readily available" means able to be used or obtained quickly and easily.

"Revocation" or "revoke" when used in reference to an early learning provider's licensing status, means an enforcement action by the department to close an early learning program and permanently remove the license.

"Routine care" means typical or usual care provided to a child during the time the child is enrolled in the early learning program, for example, feeding, diapering, toileting, napping, resting, playing, and learning.

"Safe route" means a way or course taken to get from a starting point to a destination that is protected from danger or risk.

"Safety plan" means a written plan to implement program changes to bring an early learning program into compliance with this chapter and chapter 43.216 RCW. Safety plans are developed at meetings involving at least an early learning provider and a department licensor and supervisor. Safety plans detail changes the provider needs to make to mitigate the risk of direct and indirect harm to children enrolled in the early learning program. Program changes must be agreed to in writing and signed by all participants at the meeting. Safety plans expire 30 calendar days after being signed by all parties. Safety plans may only be extended for an additional 30 calendar days and extensions may only be authorized by a department supervisor.

"Sanitize" means to reduce the number of microorganisms on a surface by the process of:

(a) Cleaning and rinsing with water at a high temperature pursuant to this chapter; or

(b) Cleaning and rinsing, followed by using:

(i) A fragrance-free chlorine bleach and water solution following the department of health's current guidelines for mixing bleach solutions for child care and similar environments; or

(ii) Other sanitizer product if it is registered with the EPA and used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left

in place, adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as "safe for food contact surfaces."

"School-age children" means a child who is five years of age through 12 years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

"Screen time" means watching, using, or playing television, computer, video games, video or DVD players, mobile communication devices, or similar devices.

"Serious injury" means an injury resulting in an overnight hospital stay; a severe neck or head injury; choking or serious unexpected breathing problems; severe bleeding; shock or an acute confused state; sudden unconsciousness; dangerous chemicals in eyes, on skin, or ingested; near drowning; one or more broken bones; a severe burn requiring professional medical care; poisoning; or an overdose of a chemical substance.

"Sexual orientation" means an individual's emotional or physical attraction to other individuals.

"Shelter in place" means staff and children staying at the facility due to an external threat such as a storm, chemical or gas leak or explosion, or other event that prohibits the occupants from safely leaving the facility.

"Sign" means an individual formally placing their name or legal mark on a document by physical signature or electronic signature.

"Sleep equipment" or "sleeping equipment" includes a bed, cot, mattress, mat, crib, bassinet, play pen, play yard or "pack and play" but does not include a car seat or infant swing.

"SOGIE" is an acronym for sexual orientation, gender identity, and expression which are distinct identifiers everyone has. LGBTQIA+ is a subdistinction within SOGIE self-identifiers. SOGIE includes LGBTQIA+ as well as heterosexual, cisgender, and nonquestioning individuals.

"Special needs" is a term used for children who require assistance due to learning difficulties, physical disability, or emotional and behavioral difficulties and who have documentation in the form of an individual educational plan (IEP), individual health plan (IHP), 504 plan, or an individualized family service plan (IFSP).

"Staff" means any early learning provider providing care in the early learning program.

"Strengthening families program self-assessment" refers to a research informed approach to increase family strengths, enhanced child development, and reduce the likelihood of child abuse and neglect. It is based on engaging families, programs, and communities in building five protective factors:

(a) Parental resilience;
(b) Social connections;
(c) Knowledge of parenting and child development;
(d) Concrete support in times of need; and
(e) Social and emotional competence of children.

"Supervise" or "supervision" means an early learning provider must be able to see or hear the children they are responsible for at all times. Early learning 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. Early learning providers must also reposition themselves or the children to be aware of where children

are and what they are doing during care. An early learning provider must reassess and adjust their supervision each time child care activities change. See "active supervision" for a heightened standard of care.

"Suspend" when used in reference to an early learning provider's licensing status, means an enforcement action by the department to temporarily stop a license in order to protect the health, safety, or welfare of enrolled children or the public.

"Swimming pool" means a pool that has a water depth greater than two feet (24 inches).

"Technical assistance" means a service provided to early learning providers by department staff or a contracted third party. The goal of technical assistance is to offer guidance, information, and resources to help a provider fully comply with the licensing requirements of this chapter and chapter 43.216 RCW.

"Toddler" means a child 12 months through 29 months of age.

"Transgender" is an umbrella term for individuals whose gender identity or expression is different from cultural expectations based on the sex they were assigned at birth. Gender-affirming medical care is not a prerequisite to identify as transgender. Being transgender does not imply any specific sexual orientation.

"Transition" is the process or period of time to change from one activity, place, grade level, or sleeping arrangement to another.

"Tummy time" means placing an infant in a nonrestrictive prone position, lying on their stomach when not in sleeping equipment.

"Two-spirit" means a modern, pan-indigenous umbrella term used by some indigenous North Americans to describe Native people in their communities who fulfill a traditional third-gender or other gender-variant, ceremonial, and social role in their cultures. Being Two-spirit does not imply any specific sexual orientation.

"Unlicensed space" means the indoor and outdoor areas of the premises not approved by the department as licensed space that the early learning provider must make inaccessible to the children during child care hours.

"Unsupervised access" as used throughout this chapter has the same meaning as in WAC 110-06-0020.

"Usable space" means the areas that are available at all times for use by children in an early learning program and meets licensing requirements.

"USDA" means the U.S. Department of Agriculture.

"Vapor product" means any:

(a) Device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(b) Cartridge or container of a solution or substance intended to be used with or in such a device or to refill such a device; or

(c) Solution or substance intended for use in such a device including, but not limited to, concentrated nicotine, nonnicotine substances, or supplemental flavorings. This includes any electronic cigarettes, electronic nicotine delivery systems, electronic cigars, electronic cigarillos, electronic pipes, hookahs, steam stones, vape pens, or similar products or devices, as well as any parts that can be used to build such products or services. "Vapor product" does not include any drug, device, or combination product approved for sale by the United States Food and Drug Administration that is marketed and sold for such approved purpose.

"Variance" is an official approval by the department to allow an early learning program to achieve the outcome of a rule or rules in this chapter in an alternative way than described due to the needs of a unique or specific program approach or methodology. The department may grant a request for variance if the proposed alternative provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. An early learning provider does not have the right to appeal the department's disapproval of request for variance under chapter 110-03 WAC. The provider may challenge a variance disapproval on a department form.

"Volunteer" includes any person who provides labor or services to an early learning provider but is not compensated with employment pay or benefits. A volunteer must never have unsupervised access to a child unless the volunteer is the parent or guardian of that child or is an authorized person pursuant to WAC 110-300-0345 (1)(c). "Unsupervised access" has the same meaning here as in WAC 110-06-0020.

"WAC" means the Washington Administrative Code.

"Wading pool" means a pool that has a water depth of less than two feet (24 inches).

"Waiver" is an official approval by the department allowing an early learning provider not to meet or satisfy a rule in this chapter due to specific needs of the program or an enrolled child. The department may grant a request for waiver if the proposed waiver provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. An early learning provider does not have the right to appeal the department's disapproval of a waiver request under chapter 110-03 WAC. The provider may challenge a waiver disapproval on a department form.

"Walking independently" means an individual is able to stand and move easily without the aid or assistance of holding on to an object, wall, equipment, or another individual.

"Washington state early learning and development guidelines" refers to guidelines published by the department, the Washington state office of superintendent of public instruction (OSPI), and thrive Washington for children birth through third grade that outlines what children know and are able to do at different stages of their development.

"Water activities" means early learning program activities in which enrolled children swim or play in a body of water that poses a risk of drowning for children. Water activities do not include using sensory tables.

"Weapon" means an instrument or device of any kind that is used or designed to be used to inflect harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.

"WLAD" means the law against discrimination, chapter 49.60 RCW.

"Written food plan" is a document designed to give alternative food to a child in care because of a child's medical needs or special diet, or to accommodate a religious, cultural, or family preference. A parent or guardian and the early learning provider must sign a written food plan.

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

WAC 110-300-0110 Program based staff policies and training. (1) An early learning provider must have and follow written policies for early learning program staff. Staff policies must include those listed in subsections (2) and (3) of this section and must be reviewed and approved by the department prior to issuing a provider's initial license. Providers must notify the department when substantial changes are made.

(2) Early learning program staff policies must include, but are not limited to:

(a) All of the information in the parent or guardian handbook except fees;

(b) Job descriptions, pay dates, and benefits;

(c) Professional development expectations and plans;

(d) Expectations for attendance and conduct;

(e) Early learning program staff responsibilities for:

(i) Child supervision requirements, including preventing children's access to unlicensed space;

(ii) Child growth and development;

(iii) Developmentally appropriate curriculum;

(iv) Teacher-child interaction;

(v) Child protection, guidance, and discipline techniques;

(vi) Safe sleep practices, if applicable;

(vii) Food service practices;

(viii) Off-site field trips, if applicable;

(ix) Transporting children, if applicable;

(x) Health, safety, and sanitization procedures;

(xi) Medication management procedures;

(xii) Medical emergencies, fire, disaster evacuation and emergency preparedness plans;

(xiii) Mandatory reporting of suspected ((~~child abuse, neglect, and exploitation~~)) abuse or neglect, per RCW 26.44.020 and 26.44.030 and all other reporting requirements;

(xiv) Implementation of child's individual health care or special needs plan;

(xv) Following nonsmoking, vaping, alcohol and drug regulations;

(xvi) Overnight care, if applicable;

(xvii) Religious, equity and cultural responsiveness;

(xviii) Nondiscrimination;

(xviv) Planned daily activities and routines.

(f) Staff responsibilities if the family home licensee, center director, assistant director, or program supervisor is absent from the early learning program;

(g) A plan that includes how both administrative and child caretaking duties are met when a job requires such dual responsibilities; and

(h) Observation, evaluation, and feedback policies.

(3) An early learning provider must have and follow written policies requiring staff working, transitioning, or covering breaks with the same classroom or group of children to share applicable information with each other on a daily basis regarding:

(a) A child's health needs, allergies and medication;

(b) Any change in a child's daily schedule;

(c) Significant educational or developmental information;

(d) Any communications from the family; and

(e) Information to be shared with the family.

(4) An early learning provider must develop, deliver, and document the delivery of early learning staff training specific to the early learning program and premises.

(a) Training topics must include:

(i) Staff policies listed in subsections (2) and (3) of this section;

(ii) Chapter 43.216 RCW; and

(iii) Chapters 110-300 and 110-06 WAC.

(b) Training must be updated with changes in program policies and state or federal regulations.

AMENDATORY SECTION (Amending WSR 24-17-063, filed 8/15/24, effective 9/15/24)

WAC 110-300-0425 Initial and nonexpiring licenses—Reporting—License modification. (1) The department may issue an initial license authorized under RCW 43.216.315 to an early learning program applicant when they demonstrate their early learning program will be able to comply with the health and safety requirements described in this chapter. They do not have to demonstrate full compliance with all requirements that are not related to health and safety for initial license eligibility.

(a) An initial license is valid for six months from the date issued;

(b) At the department's discretion, an initial license may be extended for up to three additional six-month periods, not to exceed a total of two years; and

(c) The department must evaluate the early learning provider's ability to follow requirements contained in this chapter during the initial license period.

(2) The department may issue a nonexpiring license to a licensee operating under an initial license who demonstrates compliance with the requirements of this chapter during the period of initial licensure, pursuant to RCW 43.216.305.

(3) Licensees must submit the following annual compliance documents at least 30 calendar days before their anniversary date, which is the date their first initial license was issued. The required annual compliance documents are:

(a) The annual nonrefundable license fee;

(b) A declaration on the department's form indicating:

(i) The intent to continue operating a licensed early learning program;

(ii) The intent to cease operation as a licensed early learning program;

(iii) A change in the early learning program's operational hours or dates; and

(iv) The intent to comply with all licensing rules.

(c) Documentation of completed background checks for required individuals as determined by the department's established schedule, pursuant to RCW 43.216.270(2). For individuals required to have a background check clearance, the early learning provider must either:

(i) Verify current background checks; or

(ii) Require individuals to submit a background check application at least 30 calendar days prior to the anniversary date.

(4) If licensees fail to meet the requirements for continuing a nonexpiring license by their anniversary date, their current license will expire and the licensee will be required to submit a new application for licensure.

(5) The nonexpiring license process in this section may not interfere with the department's established monitoring practices, as described in RCW 43.216.305.

(6) The department may let a license expire, not be renewed, or not be continued when early learning providers fail to comply with the requirements of this section. Providers cannot appeal the department's decision and have no rights to a hearing.

(7) Early learning providers must report the following information within 24 hours of becoming aware to the:

(a) Department and local authorities if there has been, or is, a fire or other structural damage to the early learning program space or other parts of the premises, including any structural damage caused by a natural disaster.

(b) Department:

(i) Allegations, a reasonable basis to believe, or findings of abuse or neglect that both:

(A) Are made against the early learning provider, an early learning provider employee or volunteer, or a household member; and

(B) Involve the abuse((~~, neglect, maltreatment, or exploitation~~)) or neglect of a child, youth, or vulnerable adult;

(ii) A retirement, termination, death, incapacity, or change of the program director, or program supervisor;

(iii) A change of ownership or incorporation of the early learning provider's business entity that is responsible for providing the early learning program;

(iv) Criminal charges or convictions against:

(A) Themselves;

(B) An early learning program employee or volunteer; or

(C) An early learning provider's household member;

(v) A change in the number of household members living within a family home early learning program space. This includes individuals:

(A) Age 14 years old or older that move in or out of the home;

(B) Who resign or are terminated, pursuant to RCW 43.216.390; and

(C) Who are born or who have died; and

(vi) Any changes in the early learning program hours of operation, including planned closure dates.

(8) Prior to increasing capacity of an early learning program, early learning providers must make a request to the department for a capacity increase. The department or tribal authority may approve or deny the early learning provider's capacity increase.

(9) The state fire marshal or department must approve any change or modification described under WAC 110-300-0402 (1)(a) through (c). All changes or modifications to the premises must comply with all building codes and ordinances.

(10) If the liability insurance described in RCW 43.216.700 is terminated, the licensee, center director, assistant director, or program supervisor must notify the department within 30 calendar days of the date the liability insurance has been terminated.

AMENDATORY SECTION (Amending WSR 24-19-056, filed 9/13/24, effective 10/14/24)

WAC 110-300-0450 Parent or guardian handbook and related policies. (1) An early learning provider must supply to each parent or guardian written policies regarding the early learning program. Each enrolled child's record must have signed documentation stating the parent or guardian reviewed the handbook and early learning program policies.

(2) An early learning provider must have and follow formal written policies in either paper or electronic format, including:

(a) A nondiscrimination statement;

(b) A family engagement and partnership communication plan;

(c) A parent or guardian's permission for photography, videotaping, or surveillance of their child;

(d) Alcohol, tobacco, cannabis use and prohibition of illegal drugs;

(e) Curriculum philosophy on how children learn and develop, and how this philosophy is implemented;

(f) Child guidance plan, which includes restraint policies and forbidding corporal punishment;

(g) Expulsion policy;

(h) Early learning program staff-to-child ratios and classroom types offered, if applicable;

(i) If the early learning program offers any of the following, they must include a policy for each that applies to their program:

(i) Care for children with specific or special needs;

(ii) Infant and toddler care, covering:

(A) Diapering;

(B) Feeding;

(C) Toilet training;

(D) Child sleep pattern; and

(E) Safe sleep requirements.

(iii) Dual language learning;

(iv) Religious and cultural activities, including how holidays will be celebrated;

(v) Transportation and off-site field trips;

(vi) Water activities;

(vii) Overnight care; and

(viii) How weapons on the premises are secured.

(j) Program days and hours of operation, including closure dates and observed holidays;

(k) Enrollment and disenrollment requirements;

(l) Fees and payment plans;

(m) Sign-in and sign-out requirements;

(n) Information required for the child's record, including:

(i) The importance and plan for keeping the information current;

(ii) A plan to keep the child's information confidential; and

(iii) Who may legally access the child's information.

(o) A kindergarten transition plan, if applicable;

(p) What parents or guardians must supply for their child (for example: Extra clothing or diapers);

(q) Permission for a parent or guardian's access to areas of the early learning program during business hours;

(r) Termination of services policy;

(s) Emergency preparedness plan;

(t) The early learning provider and program staff's duty to report incidents including reporting suspected ((~~child abuse, neglect, sexual abuse, or maltreatment~~)) abuse or neglect of a child or youth;

(u) Policies regarding mixed age groups, if applicable (including when children may be in a mixed age group);

(v) Description of where the parent or guardian may find and review the early learning program's:

(i) Health policy;

(ii) Staff policies, if applicable;

(iii) Consistent care policy;

(iv) Menus;

(v) Liability insurance;

(vi) Inspection reports and notices of enforcement actions, if applicable; and

(vii) Other relevant program policies.

AMENDATORY SECTION (Amending WSR 19-22-103, filed 11/6/19, effective 12/7/19)

WAC 110-300-0475 Duty to protect children and report incidents. (1) Pursuant to RCW 26.44.030, when an early learning provider has reasonable cause to believe that a child has suffered abuse or neglect, that provider must report such incident, or cause a report to be made, to the proper law enforcement agency or the department. "Abuse or neglect" has the same meaning here as in RCW 26.44.020.

(2) An early learning provider must report by telephone to the listed individuals, department, and other government agencies when the provider knows or has reason to know of an act, event, or occurrence described in (a) through (f) of this subsection.

(a) Law enforcement or the department at the first opportunity, but in no case longer than ((~~forty-eight~~)) 48 hours:

(i) The death of a child while in the early learning program's care or the death from injury or illness that may have occurred while the child was in care;

(ii) A child's attempted suicide or talk about attempting suicide;

(iii) Any suspected ((~~physical, sexual or emotional child~~)) abuse or neglect of a child or youth; or

(iv) ((~~Any suspected child neglect, child endangerment, or child exploitation;~~

~~(v) A child's disclosure of sexual or physical abuse; or~~

~~(vi)~~)) Inappropriate sexual contact between two or more children.

(b) Emergency services (911) immediately, and to the department within ((~~twenty-four~~)) 24 hours:

(i) A child missing from care, triggered as soon as staff realizes the child is missing;

(ii) A medical emergency that requires immediate professional medical care;

(iii) A child who is given too much of any oral, inhaled, or injected medication;

(iv) A child who took or received another child's medication;

(v) A fire or other emergency;

(vi) Poisoning or suspected poisoning; or

(vii) Other dangers or incidents requiring emergency response.

(c) Washington poison center immediately after calling 911, and to the department within ((~~twenty-four~~)) 24 hours:

(i) A poisoning or suspected poisoning;

(ii) A child who is given too much of any oral, inhaled, or injected medication; or

(iii) A child who took or received another child's medication;

(iv) The provider must follow any directions provided by Washington poison center.

(d) The local health jurisdiction or the department of health immediately, and to the department within ((~~twenty-four~~)) 24 hours about an occurrence of food poisoning or reportable contagious disease as defined in chapter 246-110 WAC, as now or hereafter amended;

(e) The department at the first opportunity, but in no case longer than ((~~twenty-four~~)) 24 hours, upon knowledge of any person required by chapter 110-06 WAC to have a change in their background check history due to:

(i) A pending charge or conviction for a crime listed in chapter 110-06 WAC;

(ii) An allegation or finding of ((~~child abuse, neglect, maltreatment or exploitation under~~)) abuse or neglect of a child or youth as outlined in chapter 26.44 RCW or chapter 388-15 WAC;

(iii) An allegation or finding of abuse or neglect of a vulnerable adult under chapter 74.34 RCW; or

(iv) A pending charge or conviction of a crime listed in the director's list in chapter 110-06 WAC from outside Washington state, or a "negative action" as defined in RCW 43.216.010.

(f) A child's parent or guardian as soon as possible, but no later than the release of the child at the end of the day, and to the department within ((~~twenty-four~~)) 24 hours, about using physical restraint on a child as described in WAC 110-300-0335.

(3) In addition to reporting to the department by phone or email, an early learning provider must submit a written incident report of the following on a department form within ((~~twenty-four~~)) 24 hours:

(a) Situations that required an emergency response from emergency services (911), Washington poison center, or department of health;

(b) Situations that occur while children are in care that may put children at risk including, but not limited to, inappropriate sexual touching, neglect, physical abuse, maltreatment, or exploitation; and

(c) A serious injury to a child in care.

(4) An early learning provider must immediately report to the parent or guardian:

(a) Their child's death, serious injury, need for emergency or poison services; or

(b) An incident involving their child that was reported to the local health jurisdiction or the department of health.

RDS-6488.1

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

WAC 110-301-0005 Definitions. The following definitions apply to this chapter:

"Abuse or neglect" means the same as defined in RCW 26.44.020.

"Accessible to children" means items, areas, or materials of a school-age program that a child can reasonably reach, enter, use, or get to on their own.

"Accommodations" means program activities, spaces, and materials that have been adapted to help children and adults with special needs function within their surroundings.

"Active supervision" or "actively supervise" means a heightened standard of care beyond supervision. This standard requires a school-age provider to see and hear the children they are responsible for during higher risk activities. The provider must be able to prevent or instantly respond to unsafe or harmful events.

"ADA" refers to the Americans with Disabilities Act.

"Aide" is a person who offers support to the school-age program staff.

"Allergy" or "allergies" refers to an overreaction of the immune system to a substance that is harmless to most people. During an allergic reaction, the body's immune system treats the substance or "allergen" as an invader. The body overreacts by releasing chemicals that may cause symptoms ranging from mildly annoying to life threatening. Common allergens include certain foods (milk, eggs, fish, shellfish, common tree nuts, peanuts, wheat, and soybeans), pollen, mold, or medication.

"Annual" or "annually" means an event that occurs each calendar year, not to exceed ((~~three hundred sixty-five~~)) 365 days between occurrences.

"Applicant" means an individual who has made a formal request for a child care license, certification, exemption, or portable background check.

"Appropriate" when used to refer to program or educational materials means that the materials will interest and challenge children in terms of their ages and abilities.

"Appropriately" means correct or properly suited for a particular situation.

"Assistant teacher" is a person whose work is to assist a lead teacher, site director, or program director in providing instructional supports to children and implementing a developmentally appropriate program. The assistant teacher must carry out assigned tasks under the supervision of a lead teacher, site director, or program director.

"ASTM" refers to the American Society for Testing and Materials.

"Bathroom" means a room containing a built-in, flush-type toilet.

"Bias" means a tendency to believe that some people or ideas are better than others that usually results in treating some people unfairly.

"Body of water" or "bodies of water" is a natural area or human-made area or device that contains or holds a depth of more than two inches of water. Examples include swimming pools, ditches, canals, fish ponds, water retention areas, excavations, and quarries.

"CACFP" means the Child and Adult Care Food Program established by Congress and funded by the United States Department of Agriculture (USDA).

"Cannabis" (also known as "marijuana") refers to all parts of the cannabis plant, whether growing or not, the seeds thereof, the resin or concentrate extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

"Capacity" means the maximum number of children a school-age program is authorized by the department to have in care at any given time. This includes any children on-site at the school-age program and any children in transit to or from the program or other activities such as field trips while the children are signed in to the care of the program.

"Certificate of exemption (COE)" means a form that is approved by the DOH and consistent with the requirements of WAC 246-105-050, or an immunization form produced by the state immunization information system.

"Certificate of immunization status (child)" means a form that is approved by the DOH and consistent with the requirements of WAC 246-105-050, or an immunization form produced by the state immunization information system.

"Certification" means, as applied to the licensing process, department approval of a person, home, or facility that is exempt from licensing but requests evidence that the program meets these foundational licensing standards.

"Child" means an individual who is five years of age through ((~~twelve~~)) 12 years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

((~~"Child abuse" or "neglect" means the physical abuse, sexual abuse, sexual exploitation, abandonment, negligent treatment or maltreatment of a child by any person as defined in RCW 26.44.020.~~))

"Child care" refers to supervision of children outside the child's home for periods of less than ((~~twenty-four~~)) 24 hours a day.

"Chromated copper arsenate" or "CCA" is a wood preservative and insecticide that contains roughly ((~~twenty-two~~)) 22 percent arsenic, a known carcinogen. The United States restricted the use of CCA on residential lumber in 2003, but it can still be found on older decks and playground equipment. Information about the health hazards of arsenic can be found on the DOH's website.

"Clean" or "cleaning" 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 or disinfecting a surface.

"Confidential" means the protection of personal information, such as the child's records, from individuals who are not authorized to see or hear the information.

"Consistent care" means providing steady opportunities for children to build emotionally secure relationships by primarily interacting with a limited number of school-age program staff.

"Contagious disease" means an illness caused by an infectious agent of public health concern which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission through an intermediate host or vector, food, water, or air. Contagious diseases pertinent to this chapter are described in WAC 246-110-010.

"Continuous" means without interruptions, gaps, or stopping.

"Core competencies" are standards required by the department that detail what a school-age provider needs to know and is able to do to provide quality care and education for children and their families.

"CPSC" means the United States Consumer Product Safety Commission.

"Cultural" or "culturally" means in a way that relates to the ideas, customs, and social behavior of different societies.

"Department of children, youth, and families," "DCYF," or "the department" refers to the Washington state department of children, youth, and families.

"Developmentally appropriate" means:

(a) A school-age provider interacts with each child in a way that recognizes and respects the child's chronological and developmental age;

(b) Knowledge about how children grow and learn;

(c) Reflects the developmental level of the individual child; and

(d) Interactions and activities are planned with the developmental needs of the individual child in mind.

"Disability" or "disabilities" has the same meaning in this chapter as in RCW 49.60.040(7), the Washington law against discrimination.

"Disaster" means a sudden event, such as an accident or natural catastrophe, that causes great damage or loss of life.

"Discipline" means a method used to redirect a child in order to achieve a desired behavior.

"Disinfect" means to eliminate virtually all germs from an inanimate surface by the process of cleaning and rinsing, followed by:

(a) The application of a fragrance-free chlorine bleach and water solution following the DOH's current guidelines for mixing bleach solutions for child care and similar environments; or

(b) The application of other disinfectant products registered with the EPA, if used strictly according to the manufacturer's label instructions including, but not limited to, quantity, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled "safe for food contact surfaces."

"Disinfectant" means a chemical or physical process that kills bacteria and viruses.

"DOD" means the United States Department of Defense.

"DOH" refers to the Washington state department of health.

"Drinking water" or "potable water" is water suitable for drinking by the public as determined by the DOH or a local health jurisdiction.

"Dual language learners" refers to children who are learning two or more languages at the same time. This term includes children who learn two or more languages from birth, and children who are still mastering their home language when they are introduced to and start learning a second language. (Source: The *Washington State Early Learning and Development Guidelines.)*

"Electronic record" means a record generated, communicated, received or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

"Electronic workforce registry" refers to the Washington state department of children, youth, and families' current database of professional records of individual school-age providers.

"Emergency preparedness" means a continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking

corrective action in an effort to ensure effective coordination in case of emergencies or during incident response.

"Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325. A school-age provider may contest enforcement actions and seek an adjudicative proceeding pursuant to chapter 110-03 WAC.

"EPA" means the United States Environmental Protection Agency.

"Equivalent" when referring to staff qualifications means an individual is allowed to meet the requirements of this chapter through a department recognized alternative credential, or demonstration of competency, that indicates similar knowledge as the named credential.

"Exempt" or "exemption" means, as applied to immunizations, a type of immunization status where a child has not been fully immunized against one or more vaccine preventable diseases required by chapter 246-105 WAC for full immunization due to medical, religious, philosophical or personal reasons. Under chapter 362, Laws of 2019, if a child plans on attending or is attending a school-age program, a philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.

"Expel" or "expulsion" means to end a child's enrollment in a school-age program. A school-age provider will end a child's enrollment if the provider is unable to meet a child's needs due to the child's challenging behavior.

"Facility Licensing Compliance Agreement (FLCA)" means an agreement issued by the department in lieu of the department taking enforcement action against a school-age provider.

"FDA" means the United States Food and Drug Administration.

"Food worker card" means a food and beverage service worker's permit as required under chapter 69.06 RCW.

"Foundational quality standards" refers to the administrative and regulatory requirements contained within this chapter. These standards are designed to promote the development, health, and safety of children enrolled in a school-age program. The department uses these standards to equitably serve children, families, and school-age providers throughout Washington state.

"Good repair" means about ((~~eighty~~)) 80 percent of materials and components are unbroken, have all their pieces, and can be used by children as intended by the manufacturer or builder.

"Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of Washington state to provide health care in the ordinary course of business or practice of a profession.

"Immunization" is the process of administering a vaccine to make a person immune or resistant to an infectious disease.

"Inaccessible to children" means a method to prevent a child from reaching, entering, using, or getting to items, areas, or materials of a school-age program.

"Inactive" when used by the department to indicate a licensing status, means a school-age provider who has requested and has been approved to temporarily cease caring for children and close their school-age program.

"Individual care plan" means a specific plan to meet the individual needs of a child with a food allergy, special dietary requirement due to a health condition, other special needs, or circumstances.

"In-service training" means professional development requirements for continuing education delivered or approved by the department to

maintain staff standards and qualifications while employed as a school-age provider.

"Inspection report" refers to a written or digital record developed by the department that identifies violations of licensing standards.

"Internal review process" has the same meaning in this chapter as in RCW 43.216.395.

"Lead teacher" means a school-age provider who works as the lead staff person in charge of a child or group of children and implements activity programs.

"License" means a permit issued by the department legally authorizing an applicant to operate a school-age program.

"Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care in a school-age program.

"Licensee" means an individual or legal entity listed on a license issued by the department, authorized to provide child care in a school-age program.

"Lockdown" means restricted to an interior room with few or no windows while the facility or building is secured from a threat.

"Locking mechanism" means a lock that requires a key, tumbler, dial, passcode, touchpad, or similar device or method to lock and unlock.

"Modification" when used in reference to a school-age provider's licensing status, means an enforcement action by the department to change the conditions identified on a licensee's current license.

"Nonexpiring license" means a license that is issued to a school-age provider following the initial licensing period, pursuant to chapter 43.216 RCW.

"Operating hours" means the hours listed in a school-age program parent handbook when the program is open and providing care and services to children.

"OSPI" means the Washington state office of superintendent of public instruction.

"Parent" or "guardian" means birth parent, custodial parent, foster parent, legal guardian or those authorized by the parent or entity legally responsible for the welfare of the child.

"Peer interaction" refers to relationships children have with one another, which includes how children play together, communicate, and whether they fight or get along.

"Personal needs" means a school-age provider's toileting or medication needs. Personal needs do not include smoking or use of tobacco products, illegal drug use or misuse or prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unattended.

"Pest" means an animal, plant, or insect that has a harmful effect on humans, food, or living conditions.

"Pesticide" refers to chemicals used to kill pests.

"Pet" means a domestic or tamed animal or bird kept for companionship or pleasure.

"Physical barrier" means a nonclimbable fence or a wall that is at least five feet tall and has no openings greater than two inches or a gate or door that allows entry to and exit from a body of water and has the following requirements in addition to those already listed: A locking mechanism, a self-closing or self-latching device, and a device used to open the locks which is inaccessible to children but readily available to staff.

"Physical restraint" means holding a child as gently as possible for the minimum amount of time necessary to control a situation where that child's safety or the safety of others is threatened.

"Poison" includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such as water or salt), or similar items that, even in small quantities, are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes.

"Premises" means the licensed and unlicensed space at the licensed address including, but not limited to, buildings, land, and residences.

"Preservice training" means professional development standards or requirements for school-age program staff prior to hiring or within a department specified time frame and delivered or approved by the department.

"Private septic system" means a septic system as defined in chapter 246-272A WAC that is not connected to a public sewer system or a large on-site sewage system as defined in chapter 246-272B WAC. A private septic system includes, but is not limited to, the septic system's drain field and tanks.

"Probationary license" has the same meaning as in RCW 43.216.010(23).

"Professional development support plan" is a formal means by which an individual who is supervising staff sets out the goals, strategies, and outcomes of learning and training.

"Program director" means the person responsible for the overall management of a school-age program including the facility and operation. The program director is not responsible for being on-site at the program, unless the program director is filling in for an on-site role.

"Program philosophy" means a written statement of principles developed by a school-age provider to form the basis of the program's activities in relation to a child's development.

"RCW" means the Revised Code of Washington.

"Readily available" means able to be used or obtained quickly and easily.

"Revocation" or "revoke" when used in reference to a school-age provider's licensing status, means an enforcement action by the department to close a school-age program and permanently remove the license.

"Routine care" means typical or usual care provided to a child during the time the child is enrolled in the school-age program (for example: Feeding, toileting, playing, and learning).

"Safe route" means a way or course taken to get from a starting point to a destination that is protected from danger or risk.

"Safety plan" means a written plan to implement program changes to bring a school-age program into compliance with this chapter and chapter 43.216 RCW.

Safety plans are developed at meetings involving at least a school-age provider and a department licensor and supervisor. Safety plans detail changes the provider needs to make to mitigate the risk of direct and indirect harm to children enrolled in the school-age program. Program changes must be agreed to in writing and signed by all participants at the meeting.

Safety plans expire ((~~thirty~~)) 30 calendar days after being signed by all parties. Safety plans may only be extended for an additional

((~~thirty~~)) 30 days and extensions may only be authorized by a department supervisor.

"Sanitize" means to reduce the number of microorganisms on a surface by the process of:

(a) Cleaning and rinsing with water at a high temperature pursuant to this chapter; or

(b) Cleaning and rinsing, followed by using:

(i) A fragrance-free chlorine bleach and water solution following the DOH's current guidelines for mixing bleach solutions for child care and similar environments; or

(ii) Other sanitizer product if it is registered with the EPA and used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as "safe for food contact surfaces."

"School-age basics" means curriculum designed to meet the initial basic training requirement for school-age program staff working in a licensed or certified school-age child care program in Washington state.

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

"School-age program" refers to regularly scheduled care for a group of children, five years of age through ((~~twelve~~)) 12 years of age, who are attending public or private school or receiving home-based instruction under chapter 28A.200 RCW, for periods of less than ((~~twenty-four~~)) 24 hours, licensed by the department.

"School-age program licensee" or "school-age licensee" means an entity licensed and authorized by the department to operate a school-age child care program.

"School-age program space" means the licensed indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care in a school-age program.

"School-age program staff" refers to all persons who work, substitute, or volunteer in a school-age program during hours when children are or may be present, excluding licensees.

"School-age provider" or "provider" refers to a licensee or designee who works in a school-age program during hours when children are or may be present. Designees include program directors, site directors, lead teachers, assistant teachers, aides, and volunteers.

"Screen time" means watching, using, or playing television, computer, video games, video or DVD players, mobile communication devices, or similar devices.

"Serious injury" means:

(a) An injury resulting in an overnight hospital stay;

(b) A severe neck or head injury;

(c) Choking or serious unexpected breathing problems;

(d) Severe bleeding;

(e) Shock or an acute confused state;

(f) Sudden unconsciousness;

(g) Dangerous chemicals in eyes, on skin, or ingested;

(h) Near drowning;

(i) One or more broken bones;

(j) A severe burn requiring professional medical care;

(k) Poisoning; or

(l) An overdose of a chemical substance.

"Shelter in place" means staff and children staying at the facility due to an external threat such as a storm, chemical or gas leak or explosion, or other event that prohibits the occupants from safely leaving the facility.

"Sign" means an individual formally placing their name or legal mark on a document by physical signature or electronic signature.

"Site director" means the school-age provider responsible for planning and implementing the school-age program services under the oversight of the program director. The site director is responsible for being on-site during the program's operating hours and providing regular supervision of staff and volunteers.

"Special needs" is a term used for children who require assistance due to learning difficulties, physical disability, or emotional and behavioral difficulties and who have documentation in the form of an individual educational plan (IEP), individual health plan (IHP), 504 plan, or an individualized family service plan (IFSP).

"Staff" means any school-age provider providing care in the school-age program.

"Supervise" or "supervision" means a school-age provider must be able to see or hear the children they are responsible for at all times. A school-age provider 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. A school-age provider must also reposition themselves or the children to be aware of where children are and what they are doing during care. A school-age provider must reassess and adjust their supervision each time program activities change. See "active supervision" for a heightened standard of care.

"Suspend" when used in reference to a school-age provider's licensing status, means an enforcement action by the department to temporarily stop a license in order to protect the health, safety, or welfare of enrolled children or the public.

"Swimming pool" means a pool that has a water depth greater than two feet (((~~twenty-four~~)) 24 inches).

"Technical assistance" means a service provided to a school-age provider by department staff or a contracted third party. The goal of technical assistance is to offer guidance, information, and resources to help a provider fully comply with the licensing requirements of this chapter and chapter 43.216 RCW.

"Transition" is the process or period of time to change from one activity or place to another.

"Unlicensed space" means the indoor and outdoor areas of the premises not approved by the department as licensed space that the school-age provider must make inaccessible to the children during program hours.

"Unsupervised access" as used throughout this chapter has the same meaning as in WAC 110-06-0020.

"Usable space" means the areas that are available at all times for use by children in a school-age program and meets licensing requirements.

"USDA" means the United States Department of Agriculture.

"Vapor product" means any:

(a) Device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(b) Cartridge or container of a solution or substance intended to be used with or in such a device or to refill such a device; or

(c) Solution or substance intended for use in such a device including, but not limited to, concentrated nicotine, nonnicotine substances, or supplemental flavorings. This includes any electronic cigarettes, electronic nicotine delivery systems, electronic cigars, electronic cigarillos, electronic pipes, hookahs, steam stones, vape pens, or similar products or devices, as well as any parts that can be used to build such products or services. "Vapor product" does not include any drug, device, or combination product approved for sale by the FDA that is marketed and sold for such approved purpose.

"Variance" is an official approval by the department to allow a school-age program to achieve the outcome of a rule or rules in this chapter in an alternative way than described due to the needs of a unique or specific program approach or methodology. The department may grant a request for variance if the proposed alternative provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. A school-age provider does not have the right to appeal the department's disapproval of request for variance under chapter 110-03 WAC. The provider may challenge a variance disapproval on a department form.

"Volunteer" includes any person who provides labor or services to a school-age provider but is not compensated with employment pay or benefits. A volunteer must never have unsupervised access to a child unless the volunteer is the parent or guardian of that child or is an authorized person pursuant to WAC 110-301-0345. "Unsupervised access" has the same meaning here as in WAC 110-06-0020.

"WAC" means the Washington Administrative Code.

"Wading pool" means a pool that has a water depth of less than two feet (((~~twenty-four~~)) 24 inches).

"Waiver" is an official approval by the department allowing a school-age provider not to meet or satisfy a rule in this chapter due to specific needs of the program or an enrolled child. The department may grant a request for waiver if the proposed waiver provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. A school-age provider does not have the right to appeal the department's disapproval of a waiver request under chapter 110-03 WAC. The provider may challenge a waiver disapproval on a department form.

"Washington state early learning and development guidelines" refers to guidelines published by the department, OSPI, and thrive Washington for children birth through third grade that outlines what children know and are able to do at different stages of their development.

"Water activities" means school-age program activities in which enrolled children swim or play in a body of water that poses a risk of drowning for children. Water activities do not include using sensory tables.

"Weapon" means an instrument or device of any kind that is used or designed to be used to inflict harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.

"Written food plan" is a document designed to give alternative food to a child in care because of a child's medical needs or special diet, or to accommodate a religious, cultural, or family preference. A parent or guardian and the school-age provider must sign a written food plan.

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

WAC 110-301-0110 Program based staff policies and training. (1) A school-age provider must have and follow written policies for school-age program staff. Staff policies must include those listed in subsections (2) and (3) of this section and must be reviewed and approved by the department prior to issuing a provider's initial license. The provider must notify the department when substantial changes are made.

(2) School-age program staff policies must include, but are not limited to:

(a) All of the information in the parent or guardian handbook except fees;

(b) Job descriptions, pay dates, and benefits;

(c) Professional development expectations and plans;

(d) Expectations for attendance and conduct;

(e) School-age program staff responsibilities for:

(i) Child supervision requirements, including preventing children's access to unlicensed space;

(ii) Child growth and development;

(iii) Developmentally appropriate curriculum and activities;

(iv) Teacher-child interaction;

(v) Child protection, guidance, and discipline techniques;

(vi) Food service practices;

(vii) Off-site field trips, if applicable;

(viii) Transporting children, if applicable;

(ix) Health, safety, and sanitization procedures;

(x) Medication management procedures;

(xi) Medical emergencies, fire, disaster evacuation and emergency preparedness plans;

(xii) Mandatory reporting of suspected ((~~child abuse, neglect, and exploitation, pursuant to~~)) abuse or neglect, per RCW 26.44.020 and 26.44.030 and all other reporting requirements;

(xiii) Implementation of child's individual health care or special needs plan;

(xiv) Following nonsmoking, vaping, alcohol and drug regulations;

(xv) Religious, equity, and cultural responsiveness;

(xvi) Nondiscrimination;

(xvii) Planned daily activities and routines; and

(xviii) Evening and overnight care, if applicable.

(f) Staff responsibilities if the program director or site director is absent from the school-age program;

(g) A plan that includes how both administrative and child caretaking duties are met when a job requires such dual responsibilities; and

(h) Observation, evaluation, and feedback policies.

(3) A school-age provider must have and follow written policies requiring staff working, transitioning, or covering breaks with the same classroom or group of children to share applicable information with each other on a daily basis regarding:

(a) A child's health needs, allergies, and medication;

(b) Any change in a child's daily schedule;

(c) Significant educational or developmental information;

(d) Any communications from the family; and

(e) Information to be shared with the family.

(4) A school-age provider must develop, deliver, and document the delivery of school-age staff training specific to the school-age program and premises.

(a) Training topics must include:

(i) Staff policies listed in subsections (2) and (3) of this section;

(ii) Chapter 43.216 RCW; and

(iii) Chapters 110-301 and 110-06 WAC.

(b) Training must be updated with changes in program policies and state or federal regulations.

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

WAC 110-301-0425 Initial, nonexpiring, dual licenses, and license modification. (1) The department may issue an initial license when a school-age program applicant demonstrates compliance with health and safety requirements of this chapter but may not be in full compliance with all requirements, pursuant to RCW 43.216.315.

(a) An initial license is valid for six months from the date issued.

(b) At the department's discretion, an initial license may be extended for up to three additional six-month periods, not to exceed a total of two years.

(c) The department must evaluate the school-age provider's ability to follow requirements contained in this chapter during the initial license period.

(2) The department may issue a nonexpiring license to a licensee operating under an initial license who demonstrates compliance with the requirements of this chapter during the period of initial licensure, pursuant to RCW 43.216.305.

(3) A licensee must submit annual compliance documents, and must do so at least ((~~thirty~~)) 30 calendar days prior to that provider's licensing anniversary date. A provider's anniversary date is the date the first initial license was issued. The required annual compliance documents are:

(a) The annual nonrefundable license fee; and

(b) A declaration on the department's form indicating:

(i) The intent to continue operating a licensed school-age program;

(ii) The intent to cease operation as a licensed school-age program;

(iii) A change in the school-age program's operational hours or dates; and

(iv) The intent to comply with all licensing rules.

(c) Documentation of completed background check applications as determined by the department's established schedule, pursuant to RCW 43.216.270; and

(d) For each individual required to have a background check clearance, the school-age provider must verify current background checks or require the individual to submit a background check application at least ((~~thirty~~)) 30 calendar days prior to the anniversary date.

(4) If a licensee fails to meet the requirements for continuing a nonexpiring license by their anniversary date, the licensee's current

license expires. The school-age provider must submit a new application for licensure, pursuant to RCW 43.216.305(3).

(5) Nothing about the nonexpiring license process in this section may interfere with the department's established monitoring practices, pursuant to RCW 43.216.305 (4)(a).

(6) A licensee has no right to an adjudicative proceeding (hearing) to appeal the expiration, nonrenewal, or noncontinuation of a nonexpiring license resulting from a failure to comply with the requirements of this section.

(7) A licensee must have department approval to hold dual licenses (for example: A school-age program license and another care giving license, certification, or similar authorization).

(8) If the department determines that a licensee is not meeting all applicable requirements and regulations the:

(a) Department and licensee may agree to modify the school-age program license;

(b) Licensee may give up one of the licenses, certifications, or authorizations; or

(c) Department may suspend, deny, or revoke the school-age license, pursuant to RCW 43.216.325.

(9) A school-age provider must report within ((~~twenty-four~~)) 24 hours:

(a) To the department and local authorities: A fire or other structural damage to the school-age program space or other parts of the premises;

(b) To the department:

(i) A retirement, termination, death, incapacity, or change of the program director or site director, or change of ownership or incorporation of a provider;

(ii) When a provider becomes aware of a charge or conviction against themselves, a staff person, or applicable household member, pursuant to WAC 110-06-0043;

(iii) When a provider becomes aware of an allegation or finding of abuse((~~,~~)) or neglect((~~, maltreatment, or exploitation~~)) of a child, youth, or vulnerable adult made against themselves or a staff person; and

(iv) Any changes in the school-age program hours of operation to include closure dates.

(10) Prior to increasing capacity of a school-age program, the licensee, program director, or site director must request and be approved to increase capacity by the department.

(11) The licensee, program director, or site director must have state fire marshal or department approval and comply with local building ordinances following a significant change under WAC 110-301-0402 (1)(a) through (d), if applicable.

(12) The licensee, program director, or site director must notify the department within ((~~thirty~~)) 30 calendar days when liability insurance coverage under RCW 43.216.700 has lapsed or been terminated.

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

WAC 110-301-0450 Parent or guardian handbook and related policies. (1) A school-age provider must supply to each parent or guardian an written policies regarding the school-age program. Each enrolled

child's record must have signed documentation stating the parent or guardian reviewed the handbook and school-age program policies.

(2) A school-age provider must have and follow formal written policies in either paper or electronic format, including:

(a) A nondiscrimination statement;

(b) A family engagement and partnership communication plan;

(c) A parent or guardian's permission for photography, videotaping, or surveillance of their child;

(d) Alcohol, tobacco, cannabis use and prohibition of illegal drugs;

(e) Program philosophy pursuant to WAC 110-301-0305, and how this philosophy is implemented;

(f) Child guidance plan, which includes restraint policies and forbidding corporal punishment;

(g) Expulsion policy;

(h) School-age program staff-to-child ratios and classroom or age grouping types offered, if applicable;

(i) If the school-age program offers any of the following, they must include a policy for each that applies to their program:

(i) Care for children with specific or special needs;

(ii) Dual language learning;

(iii) Religious and cultural activities, including how holidays will be celebrated;

(iv) Transportation and off-site field trips;

(v) Water activities; and

(vi) Evening and overnight care, if applicable.

(j) Program days and hours of operation, including closure dates and observed holidays;

(k) Enrollment and disenrollment requirements;

(l) Fees and payment plans;

(m) Sign-in and sign-out requirements;

(n) Information required for the child's record, including:

(i) The importance and plan for keeping the information current;

(ii) A plan to keep the child's information confidential; and

(iii) Who may legally access the child's information.

(o) What parents or guardians must supply for their child, if applicable (for example: Extra clothing);

(p) Permission for a parent or guardian's access to areas of the school-age program during business hours;

(q) Termination of services policy;

(r) Emergency preparedness plan;

(s) The school-age provider's and program staff's duty to report incidents including reporting suspected ((~~child~~)) abuse((~~,~~)) or neglect((~~, sexual abuse, or maltreatment~~)) of a child or youth;

(t) Description of where the parent or guardian may find and review the school-age program's:

(i) Health policy;

(ii) Staff policies;

(iii) Consistent care policy;

(iv) Menus;

(v) Liability insurance;

(vi) Inspection reports and notices of enforcement actions, if applicable; and

(vii) Other relevant program policies.

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

WAC 110-301-0475 Duty to protect children and report incidents. (1) Pursuant to RCW 26.44.030, when a school-age provider has reasonable cause to believe that a child has suffered abuse or neglect, that provider must report such incident, or cause a report to be made, to the proper law enforcement agency or the department. "Abuse or neglect" has the same meaning here as in RCW 26.44.020.

(2) A school-age provider must report by telephone to the listed individuals, department, and other government agencies when the provider knows or has reason to know of an act, event, or occurrence described in (a) through (f) of this subsection.

(a) Law enforcement or the department at the first opportunity, but in no case longer than ((~~forty-eight~~)) 48 hours:

(i) The death of a child while in the school-age program's care or the death from injury or illness that may have occurred while the child was in care;

(ii) A child's attempted suicide or talk about attempting suicide;

(iii) Any suspected ((~~physical, sexual or emotional child~~)) abuse or neglect of a child or youth; or

(iv) ((~~Any suspected child neglect, child endangerment, or child exploitation;~~

~~(v) A child's disclosure of sexual or physical abuse; or~~

~~(vi)~~)) Inappropriate sexual contact between two or more children.

(b) Emergency services (911) immediately, and to the department within ((~~twenty-four~~)) 24 hours:

(i) A child missing from care, triggered as soon as staff realizes the child is missing;

(ii) A medical emergency that requires immediate professional medical care;

(iii) A child who is given too much of any oral, inhaled, or injected medication;

(iv) A child who took or received another child's medication;

(v) A fire or other emergency;

(vi) Poisoning or suspected poisoning; or

(vii) Other dangers or incidents requiring emergency response.

(c) Washington poison center immediately after calling 911, and to the department within ((~~twenty-four~~)) 24 hours:

(i) A poisoning or suspected poisoning;

(ii) A child who is given too much of any oral, inhaled, or injected medication;

(iii) A child who took or received another child's medication; or

(iv) The provider must follow any directions provided by Washington poison center.

(d) The local health jurisdiction or the DOH immediately, and to the department within ((~~twenty-four~~)) 24 hours about an occurrence of food poisoning or reportable contagious disease as defined in WAC 246-110-010(3);

(e) The department at the first opportunity, but in no case longer than ((~~twenty-four~~)) 24 hours, upon knowledge of any person required by chapter 110-06 WAC to have a change in their background check history due to:

(i) A pending charge or conviction for a crime listed in chapter 110-06 WAC;

(ii) An allegation or finding of ((~~child~~)) abuse((~~,~~)) or neglect((~~, maltreatment, or exploitation under~~)) of a child or youth outlined in chapter 26.44 RCW or chapter 110-30 WAC;

(iii) An allegation or finding of abuse or neglect of a vulnerable adult under chapter 74.34 RCW; or

(iv) A pending charge or conviction of a crime listed in the secretary's list in chapter 110-06 WAC from outside Washington state, or a "negative action" as defined in RCW 43.216.010.

(f) A child's parent or guardian as soon as possible, but no later than the release of the child at the end of the day, and to the department within ((~~twenty-four~~)) 24 hours, about using physical restraint on a child as described in WAC 110-301-0335.

(3) In addition to reporting to the department by phone or email, a school-age provider must submit a written incident report of the following on a department form within ((~~twenty-four~~)) 24 hours:

(a) Situations that required an emergency response from emergency services (911), Washington poison center, or the DOH;

(b) Situations that occur while children are in care that may put children at risk including, but not limited to, inappropriate sexual touching, neglect, physical abuse, maltreatment, or exploitation; and

(c) A serious injury to a child in care.

(4) A school-age provider must immediately report to the parent or guardian:

(a) Their child's death, serious injury, need for emergency or poison services; or

(b) An incident involving their child that was reported to the local health jurisdiction or the DOH.

RDS-6489.1

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

WAC 110-302-0005 Definitions. The following definitions apply to this chapter unless the context clearly requires otherwise.

"Abuse or neglect" means the same as defined in RCW 26.44.020.

"Accessible to children" means items, areas, or materials of an outdoor nature-based program (ONB) that a child can reasonably reach, enter, use, or get to on their own.

"Accommodations" means ONB program curriculum and instruction, activities, spaces, and materials that have been adapted to help children and adults with special needs function within their surroundings.

"Active supervision" or "actively supervise" means a heightened standard of care beyond supervision. This standard requires an ONB provider to see and hear the children they are responsible for during higher risk activities. The ONB provider must be able to prevent or instantly respond to unsafe or harmful events.

"Agency" has the same meaning as described in RCW 43.216.010.

"Aide" is a person who offers support to the ONB program staff.

"Allergy" or "allergies" means an overreaction of the immune system to a substance that is harmless to most people. During an allergic reaction, the body's immune system treats the substance or "allergen" as an invader. The body overreacts by releasing chemicals that may

cause symptoms ranging from mildly annoying to life threatening. Common allergens include certain foods such as milk, eggs, fish, shellfish, common tree nuts, peanuts, wheat, and soybeans, as well as pollen, mold, or medication.

"American Society for Testing and Materials (ASTM)" means the international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials, products, systems, and services.

"Americans with Disabilities Act (ADA)" means the federal "equal opportunity" law protecting people with disabilities.

"Annual" or "annually" means an event that occurs each calendar year, not to exceed 365 days between occurrences.

"Applicant" means an individual who has made a formal request for a child care license, certification, exemption, or portable background check.

"Appropriate" when used to refer to child care or educational materials, means that the materials will interest and challenge children in terms of their ages and abilities.

"Appropriately" means correct or properly suited for a particular situation.

"Assistant director" is the person responsible for the overall management, including the facility and operation, of an ONB program that enrolls preschool-age and school-age children, or only preschool-age children.

"Assistant teacher" is a person whose work is to assist a lead teacher in providing instructional supports to children and implementing a developmentally appropriate ONB program. The assistant teacher must carry out assigned tasks under the supervision of a lead teacher, program supervisor, director, program director, assistant director, site director, or licensee.

"Bathroom" means a room containing a built-in, flush-type toilet.

"Benefit-risk assessment" means, for purposes of outdoor nature-based programs, a process used to identify and document hazards and risky play elements associated with childhood outdoor play and making plans to mitigate the risk of injury to children while maintaining developmental benefits for children. This process includes identifying the types of risk present in a location or activity, the likelihood and severity of potential injury, the potential benefits to children, methods of mitigating hazards, e.g., elimination, substitution, isolation, safeguards, and managing risk, e.g., heightened supervision, scaffolding, intervention, and identifying who is responsible for implementing the appropriate methods and when.

"Bias" means a tendency to believe that some people or ideas are better than others that usually results in treating some people unfairly.

"Biological needs" means, for purposes of outdoor nature-based programming, department approved toileting, handwashing, and transitional activities for children and providers.

"Body of water" or "bodies of water" is a natural area or human-made area or device that contains or holds a depth of more than four inches of water. Examples include swimming pools, ditches, canals, fish ponds, water retentions, excavations, quarries, streams, rivers, lakes, and ocean waters.

"Campfire" means an outdoor fire that is used for cooking, personal warmth, lighting, or ceremonial or esthetic purposes. For the purposes of this chapter, "campfire" does not include a fire within any building, mobile home, motor vehicle, or recreational vehicle.

"Campfire activities" means ONB program activities in which enrolled children have access to a campfire that may pose a risk of burns to children.

"Cannabis" also known as "marijuana" refers to all parts of the cannabis plant, whether growing or not, the seeds thereof, the resin or concentrate extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant.

"Capacity" means the maximum number of children an ONB provider is authorized by the department to have in care at any given time. This includes any children on-site at the ONB program and any children in transit to or from the ONB program or other activities such as field trips while the children are signed in to the care of the ONB program.

"Certificate of exemption (COE)" means a form that is approved by the DOH and consistent with the requirements of WAC 246-105-050, or an immunization form produced by the state immunization information system.

"Certificate of immunization status (child)" means a form that is approved by the DOH and consistent with the requirements of WAC 246-105-050, or an immunization form produced by the state immunization information system.

"Certification" means, as applied to the licensing process, department approval of a person, home, or facility that is exempt from licensing but requests evidence that the ONB program meets these foundational licensing standards.

"Child" means an individual who is younger than age 13, including any preschool-age child or school-age child as defined in this chapter.

"Child and adult care food program (CACFP)" means the food program established by Congress and funded by the United States Department of Agriculture (USDA).

((~~"Child abuse" or "neglect" means the physical abuse, sexual abuse, sexual exploitation, abandonment, negligent treatment or maltreatment of a child by any person as defined in RCW 26.44.020.~~))

"Child care" refers to supervision of children outside the child's home for periods of less than 24 hours a day.

"Child care basics (CCB)" means curriculum designed to meet the initial basic training requirement for early learning program staff working in licensed or certified programs in Washington state. It serves as a broad introduction for professionals who are pursuing a career in the early care and education field.

"Chromated copper arsenate (CCA)" is a wood preservative and insecticide that contains roughly 22 percent arsenic, a known carcinogen. The United States restricted the use of CCA on residential lumber in 2003, but it can still be found on older decks and playground equipment. Information about the health hazards of arsenic can be found on the DOH's website.

"Clean" or "cleaning" 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 or disinfecting a surface.

"Confidential" means the protection of personal information, such as the child's records, from individuals who are not authorized to see or hear the information.

"Consistent care" means providing steady opportunities for children to build emotionally secure relationships by primarily interacting with a limited number of ONB program staff.

"Consumer product safety commission (CPSC)" means the United States Consumer Product Safety Commission.

"Contagious disease" means an illness caused by an infectious agent of public health concern which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission through an intermediate host or vector, food, water, or air. Contagious diseases pertinent to this chapter are described in WAC 246-110-010.

"Continuous" means without interruptions, gaps, or stopping.

"Core competencies" are standards required by the department that detail what an early learning or school-age provider needs to know and is able to do to provide quality care and education for children and their families.

"Cultural" or "culturally" means in a way that relates to the ideas, customs, and social behavior of different societies.

"Curriculum philosophy" means a written statement of principles developed by an ONB provider to form the basis of the learning ONB program activities, including age appropriate developmental learning objectives for children.

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

"Department of defense (DOD)" means the United States Department of Defense.

"Department of health (DOH)" means the Washington state department of health.

"Developmental screening" is the use of standardized tools to identify a child at risk of a developmental delay or disorder. (Source: American Academy of Pediatrics, *Healthy Child Care America*, 2009)

"Developmentally appropriate" means:

(a) An ONB provider interacts with each child in a way that recognizes and respects the child's chronological and developmental age;

(b) Knowledge about how children grow and learn;

(c) Reflects the developmental level of the individual child; and

(d) Interactions and activities are planned with the developmental needs of the individual child in mind.

"Director" means the person responsible for the overall management, including the facility and operation, of an ONB program that enrolls preschool-age and school-age children, or only preschool-age children.

"Disability" or "disabilities" has the same meaning in this chapter as the meaning in RCW 49.60.040(7).

"Disaster" means a sudden event, accident, or natural catastrophe that causes great damage to property, serious bodily injury, or loss of life.

"Discipline" means a method used to redirect a child in order to achieve a desired behavior.

"Disinfect" means to eliminate virtually all germs from an inanimate surface by the process of cleaning and rinsing, followed by:

(a) The application of a fragrance-free chlorine bleach and water solution following the DOH's current guidelines for mixing bleach solutions for child care and similar environments; or

(b) The application of other disinfectant products registered with the EPA, if used strictly according to the manufacturer's label

instructions including, but not limited to, quantity, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled "safe for food contact surfaces."

"Disinfectant" means a chemical or physical process that kills bacteria and viruses.

"Drinking water" or "potable water" means water that is suitable for drinking by the general public as determined by the DOH or a local health jurisdiction.

"Dual language learners" means children who are learning two or more languages at the same time. This term includes children who learn two or more languages from birth, and children who are still mastering their home language when they are introduced to and start learning a second language. (Source: The *Washington State Early Learning and Development Guidelines*, a resource published by the department, OSPI, and Thrive Washington for children birth through third grade that outlines what children know and are able to do at different stages of their development.)

"Early achievers" is a statewide system of high-quality early learning that connects families to early learning programs with the help of an easy to understand rating system and offers coaching, professional development, and resources for early learning providers to support each child's learning and development.

"Early childhood education (ECE) initial certificate" (12 quarter credits) is Washington's initial certificate in early childhood education and serves as the point of entry for a career in early learning and covers foundational content for early learning professionals.

"Early childhood education and assistance program (ECEAP)" is a comprehensive preschool program that provides free services and support to eligible children and their families.

"Early childhood education (ECE) short certificate" is an ECE initial certificate plus eight quarter credits and is Washington's short certificate in early childhood education that offers areas of specialization, building on the state's initial certificate. Outdoor nature-based short certificate is an initial certificate plus eight quarter credits and is Washington's short certificate in outdoor nature-based education that offers areas of specialization, building on the state's initial certificate.

"Early childhood education (ECE) state certificate" is a short certificate plus 27 quarter credits and is Washington's state certificate in early childhood education that is the benchmark for Level 2 core competencies for early care and education professionals and prepares for the next step, an associate's degree in early childhood education.

"Early learning" has the same meaning as described in RCW 43.216.010.

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

"Electronic workforce registry" refers to the Washington state department of children, youth, and families' current database of professional records of individual ONB providers.

"Emergency preparedness" means a continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action in an effort to ensure effective coordination in case of emergencies or during incident response.

"Emergent curriculum" means a teaching philosophy and a curriculum planning method designed to create meaningful learning experiences that focus on being responsive to child interests. This philosophy prioritizes active participation, relationship building, flexible and adaptable methods, inquiry, and play-based learning. The curriculum is child-initiated, collaborative and responsive to the child's needs, and teachers come prepared with information, offer resources to support child explorations, or both.

"Enforcement action" means the denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(1) or assessment of civil penalties or fines pursuant to RCW 43.216.325(3). An ONB provider may contest an enforcement action and seek an adjudicative proceeding pursuant to chapter 110-03 WAC.

"EPA" means the United States Environmental Protection Agency.

"Equivalent" or "equivalency" means, when referring to staff qualifications, an individual is allowed to meet the chapter 110-302 WAC requirements that are based on a department recognized alternative credential, or demonstration of competency, that indicates similar knowledge as the identified credential.

"Exempt" or "exemption" means, as applied to immunizations, a type of immunization status where a child has not been fully immunized against one or more vaccine preventable diseases required by chapter 246-105 WAC for full immunization due to medical, religious, philosophical or personal reasons. Under chapter 362, Laws of 2019, if a child plans on attending or is attending an outdoor nature-based program, a philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.

"Expel" or "expulsion" means to end a child's enrollment in an ONB program. An ONB provider will end a child's enrollment if the ONB provider is unable to meet a child's needs due to the child's challenging behavior.

"Facility licensing compliance agreement (FLCA)" has the same meaning as in RCW 43.216.395 (2)(a).

"Food and Drug Administration (FDA)" means the United States Food and Drug Administration.

"Food worker card" means a food and beverage service worker's permit as required under chapter 69.06 RCW.

"Good repair" means about 80 percent of materials and components are unbroken, have all their pieces, and can be used by the children as intended by the manufacturer or builder.

"Hazard" means a source of harm that may or may not be obvious to the child. The source of harm is not obvious if the potential for injury is hidden or is greater than a child can manage to avoid given the individual circumstances and characteristics of the child.

"Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the laws of the state of Washington to provide health care in the ordinary course of business or practice of a profession.

"Immunization" means the process of administering a vaccine to make that person immune or resistant to an infectious disease.

"Inaccessible to children" means a method to prevent a child from reaching, entering, using, or getting to items, areas, or materials of an ONB program.

"Inactive" means, when used by the department to indicate a licensing status, an ONB provider who has informed the department of their intent to temporarily cease caring for children and close their ONB program in a manner that departs from the ONB program's regular schedule.

"Individual care plan" means a specific plan to meet the individual needs of a child with a food allergy, special dietary requirement due to a health condition, or other special needs or circumstances.

"In-service training" means professional development requirements for continuing education delivered or approved by the department to maintain staff standards and qualifications while employed as an ONB provider.

"Inspection report" has the same meaning as in RCW 43.216.010(17).

"Internal review process" has the same meaning as described in RCW 43.216.395.

"Lead teacher" means an ONB provider who works as the lead staff person in charge of a child or group of children and oversees or implements ONB activities or ONB programs.

"License" means a permit issued by the department legally authorizing an applicant to operate an outdoor nature-based program.

"Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing an ONB licensed program.

"Licensee" means an individual or legal entity listed on a license issued by the department, authorized to provide child care or early learning services in an ONB program.

"Lockdown" means restricted to an interior room with few or no windows while the facility or building is secured from a threat, or other department approved lockdown plan.

"Locking mechanism" means a lock that requires a key, tumbler, dial, passcode, touchpad, or similar device or method to lock and unlock.

"Modification" means, when used in reference to an ONB provider's licensing status, an enforcement action by the department to change the conditions identified on a licensee's current license.

"Moisture-wicking" means a fabric that draws moisture away from the body, such as polyester or wool. Cotton is not a moisture-wicking fabric.

"Natural space" means land that is natural, semi-natural, or planted and includes plants, animals, and other features and products of the earth.

"Nonexpiring license" means a license that is issued pursuant to chapter 43.216 RCW to an ONB provider following the initial licensing period.

"Office of superintendent of public instruction (OSPI)" means the Washington state office of superintendent of public instruction.

"Operating hours" means the hours listed in an ONB program parent handbook when the ONB program is open and providing care and services to children.

"Outdoor nature-based (ONB) child care" or "outdoor nature-based (ONB) program" has the same meaning as described in RCW 43.216.010(1)(e).

"Outdoor nature-based child care basics" means a curriculum designed to meet the initial basic training requirement for outdoor nature-based program staff working in licensed or certified ONB programs in Washington state. It serves as a broad introduction for professionals who are pursuing a career in the outdoor nature-based child care and education field.

"Outdoor nature-based program (ONB)" means an ONB program that is authorized under RCW 43.216.742.

"Outdoor nature-based (ONB) program staff" or "staff" means all persons who work, substitute, or volunteer in an ONB program during hours when children are or may be present, excluding licensees. "Staff" include ONB child care directors, program directors, assistant directors, site directors, program supervisors, lead teachers, assistant teachers, aides, and volunteers.

"Outdoor nature-based child care (ONB) provider" or "provider" means an outdoor nature-based child care licensee or a designee who works in an ONB program during hours when children are or may be present. Designees include ONB child care directors, program directors, assistant directors, site directors, program supervisors, lead teachers, assistant teachers, aides, and volunteers.

"Outdoor nature-based tools" include, but are not limited to, peelers, whittling knives, small hammers, hand drills, pliers, child-sized saws, wrenches, and screwdrivers. Folding whittling knives must be equipped with a locking feature to keep knives open when in use. Motorized tools must be inaccessible to children.

"Parent" or "guardian" means birth parent, custodial parent, foster parent, legal guardian or those authorized by the parent or entity legally responsible for the welfare of the child.

"Permanently located outdoor classroom" means an outdoor area that is allocated to an ONB program for daily use, and the ONB provider or public park installs permanent or semi-permanent equipment for the ONB program's use, such as storage containers, portable chemical toilets, or child-sized furniture.

"Personal needs" means an ONB provider's toileting or medication needs that removes the ONB provider from the children. Personal needs do not include smoking or use of tobacco products, illegal drug use or misuse of prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in unattended care.

"Pest" means an animal, plant, or insect that has a harmful effect on humans, food, or living conditions.

"Pesticide" refers to chemicals used to kill pests.

"Pet" means a domestic or tamed animal or bird kept for companionship or pleasure.

"Physical barrier" or "barrier" means a nonclimbable fence or wall that is at least five feet tall and has no openings greater than two inches, nor a gate or door that allows entry to and exit from a body of water. Any gate or opening, in addition to the requirements already listed, must have a locking mechanism, a self-closing or self-latching device, and a device used to open the locks which is inaccessible to children but readily available to staff.

"Physical boundary" or "boundary" means a way of marking the limits of an area consisting of, but not limited to, fences, barriers, ropes, large boulders or logs, or visual aids such as cones, tape, or ribbons.

"Physical restraint" means holding a child as gently as possible for the minimum amount of time necessary to control a situation where that child's safety or the safety of others is threatened.

"Poison" includes, but is not limited to, substances, chemicals, chemical compounds other than naturally occurring compounds such as water or salt, or similar items that, even in small quantities, are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes.

"Premises" means the licensed and unlicensed space at the licensed address including, but not limited to, buildings, land, residences, and other real property.

"Preschool-age child" means a child 30 months through six years of age not attending kindergarten or elementary school.

"Preservice training" means professional development standards or requirements for ONB program staff prior to hiring or within a department specified time frame and delivered or approved by the department.

"Private septic system" means a septic system as defined in chapter 246-272A WAC that is not connected to a public sewer system or a large on-site sewage system as defined in chapter 246-272B WAC. A private septic system includes, but is not limited to, the septic system's drain field and tanks.

"Probationary license" has the same meaning as described in RCW 43.216.010(25).

"Professional development support plan" is a formal means by which an individual who is supervising staff sets out the goals, strategies, and outcomes of learning and training.

"Program director" means the person responsible for the overall management, including the facility and operations, of an ONB program that enrolls only school-age children. The program director is not responsible for being on-site at the ONB program, unless the program director is filling in for an on-site role.

"Program supervisor" means the person responsible for planning and supervising the learning and activity programming of the ONB program that enrolls preschool-age and school-age children, or only preschool-age children.

"RCW" means the Revised Code of Washington.

"Readily available" means able to be used or obtained quickly and easily.

"Revocation" or "revoke" when used in reference to an ONB provider's licensing status, means an enforcement action by the department to close an ONB program and permanently remove the license.

"Risk" means, with regard to "risky play," a situation that a child can recognize and evaluate challenges to decide on a course of action, although there may be a potential for injury.

"Risk management policy" means a written policy or plan to mitigate children's risk of injury associated with risky play or learning activities.

"Risky play" means physical activity and play that is challenging and involves a risk of physical injury. Risky play for ONB programs includes, but is not limited to, play involving heights, speed, dangerous tools, close proximity to dangerous elements, such as falling into something potentially hazardous, and risk of getting lost. Risky play is also known as "adventure play."

"Routine care" means typical or usual care provided to a child during the time the child is enrolled in the ONB program, such as feeding, diapering, toileting, napping, resting, playing, and learning.

"Safe route" means a way or course taken to get from a starting point to a destination that is protected from danger or risk.

"Safety plan" means a written plan to implement ONB program changes to bring an ONB program into compliance with this chapter and chapter 43.216 RCW. Safety plans are developed at meetings involving at least an ONB provider and a department licensor and supervisor. Safety plans detail changes the ONB provider needs to make to mitigate the risk of direct and indirect harm to children enrolled in the ONB program. ONB program changes must be agreed to in writing, and signed by all participants at the meeting. Safety plans expire 30 calendar days after being signed by all parties. Safety plans may only be extended for an additional 30 days and extensions may only be authorized by a department supervisor.

"Sanitize" means to reduce the number of microorganisms on a surface by the process of:

(a) Cleaning and rinsing with water at a high temperature pursuant to the requirements described in this chapter; or

(b) Cleaning and rinsing, followed by using:

(i) A fragrance-free chlorine bleach and water solution following the DOH's current guidelines for mixing bleach solutions for child care and similar environments; or

(ii) Other sanitizer product if it is registered with the EPA and used strictly according to the manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as "safe for food contact surfaces."

"School age child" has the same meaning as in RCW 43.216.010(27).

"Screen time" means watching, using, or playing television, computers, video games, video or DVD players, mobile communication devices, or other similar devices.

"Serious injury" means:

(a) An injury resulting in an overnight hospital stay;

(b) A severe neck or head injury;

(c) Choking or serious unexpected breathing problems;

(d) Severe bleeding;

(e) Shock or an acute confused state;

(f) Sudden unconsciousness;

(g) Dangerous chemicals in eyes, on skin, or ingested;

(h) Near drowning;

(i) One or more broken bones;

(j) A severe burn requiring professional medical care;

(k) Poisoning; or

(l) An overdose from a chemical substance.

"Shelter in place" means staff and children staying at the licensed premises due to an external threat such as a storm, chemical or gas leak or explosion, or other event that prohibits the occupants from safely leaving the premises.

"Sign" means an individual formally placing their name or legal mark on a document by physical signature or electronic signature.

"Site director" means the person responsible for planning and implementing the services, under the oversight of the program director, of an ONB program that enrolls only school-age children. The site director is responsible for being on-site during the ONB program's operating hours and providing regular supervision of staff and volunteers.

"Sleeping equipment" means a bed, cot, mattress, or mat.

"Special needs" is a term used for children who require a higher level of care due to learning difficulties, physical or mental disability, or emotional and behavioral difficulties and who have one or more of the following documents that describes a child's condition: A health care provider's diagnosis, an individual educational plan (IEP), individual health plan (IHP), 504 plan, or an individualized family service plan (IFSP).

"Strengthening families program self-assessment" means a research informed approach to increase family strengths, enhance child development, and reduce the likelihood of child abuse and neglect. It is based on engaging families, ONB programs, and communities in building five protective factors:

(a) Parental resilience;

(b) Social connections;

(c) Knowledge of parenting and child development;

(d) Concrete support in times of need; and

(e) Social and emotional competence of children.

"Supervise" or "supervision" means an ONB provider must:

(a) Be able to see or hear the children they are responsible for at all times;

(b) 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;

(c) Reposition themselves or the children to be aware of where children are and what they are doing during care; and

(d) Reassess and adjust their supervision each time ONB program activities change.

See "active supervision" for a heightened standard of care.

"Suspend" means, for purposes of an ONB provider's licensing status, an enforcement action by the department to temporarily stop a license in order to protect the health, safety, or welfare of enrolled children or the public.

"Swimming pool" means a body of water that has a depth greater than two feet (24 inches).

"Technical assistance" means a service provided to an ONB provider by department staff or a contracted third party. The goal of technical assistance is to offer guidance, information, and resources to help an ONB provider fully comply with the licensing requirements described in this chapter and chapter 43.216 RCW.

"Transition" means the process or period of time to change from one activity, place, grade level, or sleeping arrangement to another.

"Unlicensed space" means the indoor and outdoor areas of the premises not approved by the department as licensed space that the ONB provider must make inaccessible to the children during ONB program hours.

"Unsupervised access" has the same meaning as WAC 110-06-0020.

"Usable space" means the areas that are available at all times for use by children in an ONB program and meets licensing requirements.

"USDA" means the United States Department of Agriculture.

"Vapor product" means any:

(a) Device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(b) Cartridge or container of a solution or substance intended to be used with or in such device or to refill such device; or

(c) Solution or substance intended for use in such a device including, but not limited to, concentrated nicotine, nonnicotine substances, or supplemental flavorings. This includes any electronic cigarettes, electronic nicotine delivery systems, electronic cigars, electronic cigarillos, electronic pipes, hookahs, steam stones, vape pens, or similar products or devices, as well as any parts that can be used to build such products or devices.

"Vapor product" does not include any drug, device, or combination product approved for sale by the FDA that is marketed and sold for such approved purpose.

"Variance" is an official approval by the department to allow an ONB program to achieve an outcome of a rule or rules in these standards in an alternative way than described due to the needs of a unique or specific ONB program approach or methodology. The department may grant a request for variance if the proposed alternative provides clear and convincing evidence that the health, welfare, and safety of all enrolled children will not be jeopardized. An ONB provider does not have the right to appeal the department's disapproval of request for variance under chapter 110-03 WAC. The ONB provider may challenge a variance disapproval on a department form.

"Volunteer" includes any person who provides labor or services to an ONB provider but is not compensated with employment pay or benefits. A volunteer must never have unsupervised access to a child unless the volunteer is the parent or guardian of that child or is an authorized person pursuant to WAC 110-302-0345.

"WAC" means the Washington Administrative Code.

"Wading pool" means a pool that has a water depth of less than two feet, or 24 inches.

"Waiver" is an official approval by the department allowing an ONB provider not to meet or satisfy a rule in this chapter due to specific needs of the ONB program or an enrolled child. The department may grant a request for waiver if the proposed waiver provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. An ONB provider does not have the right to appeal the department's disapproval of a waiver request under chapter 110-03 WAC. The ONB provider may challenge a waiver disapproval on a department form.

"Walk independently" means an individual is able to stand and move easily without the aid or assistance of holding onto an object, wall, equipment, or another individual.

"Water activities" means ONB program activities in which enrolled children swim or play in a body of water that poses a risk of drowning for children. Water activities do not include using sensory tables, or playing in temporary puddles at an ONB program, standing near, but not entering water, or belly exploration where hands are the only body part accessing water.

"Weapon" means an instrument or device of any kind that is used or designed to be used to inflict harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.

"Written food plan" is a document designed to give alternative food to a child in care because of a child's medical needs or special diet, or to accommodate a religious, cultural, or family preference. A parent or guardian and the ONB provider must sign a written food plan.

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

WAC 110-302-0110 ONB program-based staff policies and training. (1) An ONB provider must have and follow written policies for ONB program staff. Staff policies must include those listed in subsections (2) and (3) of this section and must be reviewed and approved by the department prior to issuing an ONB provider's initial license. ONB providers must notify the department when substantial changes are made.

(2) Staff policies must include, but are not limited to:

(a) All of the information in the parent or guardian handbook except fees;

(b) Job descriptions, pay dates, and benefits;

(c) Professional development expectations and plans;

(d) Expectations for attendance and conduct;

(e) ONB program staff responsibilities for:

(i) Child supervision requirements, including preventing children's access to unlicensed space;

(ii) Child growth and development;

(iii) Developmentally appropriate curriculum and activities;

(iv) Teacher-child interaction;

(v) Child protection, guidance, and discipline techniques;

(vi) Food service practices;

(vii) Off-site field trips, if applicable;

(viii) Transporting children, if applicable;

(ix) Health, safety, and sanitization procedures;

(x) Medication management procedures;

(xi) Medical emergencies, fire, disaster evacuation, and emergency preparedness plans;

(xii) Mandatory reporting of suspected ((~~child abuse, neglect, and exploitation~~)) abuse or neglect, per RCW 26.44.020 and 26.44.030 and all other reporting requirements;

(xiii) Implementation of child's individual health care or special needs plan;

(xiv) Following nonsmoking, vaping, alcohol, and drug regulations;

(xv) Religious, equity, and cultural responsiveness;

(xvi) Partnering with the local Native American tribe(s);

(xvii) Nondiscrimination;

(xviii) Planned daily activities and routines;

(xix) ONB benefit-risk assessment, policies, and procedures, if applicable; and

(xx) ONB program toileting options, as applicable;

(f) Staff responsibilities if the director, assistant director, program director, site director, or program supervisor is absent from the ONB program;

(g) A plan that includes how both administrative and child caretaking duties are met when a job requires such dual responsibilities; and

(h) Observation, evaluation, and feedback policies.

(3) An ONB provider must have and follow written policies requiring staff working, transitioning, or covering breaks with the same classroom or group of children to share applicable information with each other on a daily basis regarding:

(a) A child's health needs, allergies, and medication;

(b) Any change in a child's daily schedule;

(c) Significant educational or developmental information;
(d) Any communications from the family; and
(e) Information to be shared with the family.
(4) An ONB provider must develop, deliver, and document the delivery of staff training specific to the ONB program and premises.
(a) Training topics must include:
(i) Staff policies listed in subsections (2) and (3) of this section;
(ii) Chapter 43.216 RCW;
(iii) Chapter 110-302 WAC; and
(iv) Chapter 110-06 WAC.
(b) Training must be updated with changes in ONB program policies and state or federal regulations.

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

WAC 110-302-0425 Initial, nonexpiring, dual licenses, and license modifications. (1) The department may issue an initial license when ONB program applicants demonstrate compliance with health and safety requirements described in this chapter, but may not be in full compliance with all other requirements, pursuant to RCW 43.216.315.
(a) An initial license is valid for six months from the date issued.
(b) At the department's discretion, an initial license may be extended for up to three additional six-month periods, not to exceed a total of two years.
(c) The department must evaluate the ONB provider's ability to follow requirements contained in this chapter during the initial license period.
(2) The department may issue a nonexpiring license to a licensee operating under an initial license who demonstrates compliance with the requirements described in this chapter during the period of initial license, pursuant to RCW 43.216.305.
(3) Licensees must submit annual compliance documents at least 30 calendar days prior to their anniversary dates. The anniversary date is the date the first initial license was issued. The required annual compliance documents are:
(a) The annual nonrefundable license fee; and
(b) A declaration on the department's form indicating:
(i) The intent to continue operating a licensed ONB program;
(ii) The intent to cease operation as a licensed ONB program;
(iii) A change in the ONB program's operational hours or dates; and
(iv) The intent to comply with all licensing rules.
(c) Documentation of completed background check applications as determined by the department's established schedule, pursuant to RCW 43.216.270; and
(d) For each individual required to have a background check clearance, ONB providers must verify current background checks or require the individual to submit a background check application at least 30 calendar days prior to the anniversary date.
(4) If a licensee fails to comply with the requirements for continuing a nonexpiring license by their anniversary date, the licensee's current license expires. ONB providers whose licenses have ex-

pired must submit new applications for licensure, pursuant to RCW 43.216.305(3).

(5) Nothing about the nonexpiring license process in this section may interfere with the department's established monitoring practices, pursuant to RCW 43.216.305 (4)(a).

(6) A licensee does not have a right to an adjudicative proceeding to appeal the expiration, nonrenewal, or noncontinuation of a nonexpiring license if the expiration, nonrenewal, or noncontinuation was caused by the licensee's failure to comply with the requirements of this section.

(7) Licensees must have department approval to hold dual licenses, such as an ONB license and another care giving license, certification, or similar authorization.

(8) If the department determines that a licensee is not in compliance with all the requirements described in this chapter and chapter 43.216 RCW, the licensee may relinquish any license, certification, or authorization they hold. Despite the licensee's agreement to relinquish one of the licensee's certifications, authorizations, or licenses:

(a) The department and licensee may agree to modify the ONB program license; or

(b) The department may suspend, deny, or revoke the ONB program license.

(9) ONB providers must report the information described in this subsection within 24 hours of when they are aware or should be aware of such information.

(a) To the department and local authorities: A fire or other structural damage to the ONB program space or other parts of the premises, including a natural disaster affecting an ONB program space;

(b) To the department:

(i) A retirement, termination, death, incapacity, or change of the director, program director, assistant director, site director, or program supervisor, or change of ownership or incorporation of an ONB provider;

(ii) When ONB providers become aware of a charge or conviction against themselves or a staff person, pursuant to WAC 110-06-0043;

(iii) When ONB providers become aware of an allegation or finding of abuse((~~,~~)) or neglect((~~, maltreatment, or exploitation~~)) of a child, youth, or vulnerable adult made against themselves or a staff person; and

(iv) Any changes in the ONB program hours of operation to include closure dates.

(10) Prior to increasing the capacity of an ONB program, the licensee, director, program director, assistant director, site director, or program supervisor must request and be approved to increase capacity by the department.

(11) The licensee, director, program director, assistant director, site director, or program supervisor must have state fire marshal or department approval, and comply with local building ordinances following a significant change under WAC 110-302-0402 (1)(a) through (c), if applicable.

(12) The licensee, director, program director, assistant director, site director, or program supervisor must notify the department within 30 calendar days when liability insurance coverage under RCW 43.216.700 has lapsed or been terminated.

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

WAC 110-302-0450 Parent or guardian handbook and related policies. (1) ONB providers must supply to each parent or guardian written policies regarding the ONB program. Each enrolled child's record must have signed documentation stating the parent or guardian reviewed the handbook and ONB program policies.

(2) ONB providers must have and follow formal written policies in either paper or electronic format, including:

(a) A nondiscrimination statement;

(b) A family engagement and partnership communication plan;

(c) A parent or guardian's permission for photography, videotaping, or surveillance of their child;

(d) Alcohol, tobacco, cannabis use and prohibition of illegal drugs;

(e) Curriculum philosophy pursuant to WAC 110-302-0305, and how this philosophy is implemented;

(f) Child guidance plan, which includes restraint policies and forbidding corporal punishment;

(g) Expulsion policy;

(h) ONB program staff-to-child ratios and classroom or age grouping types offered, if applicable;

(i) For ONB programs that offer any of the following, they must include a policy for each that applies to their ONB program:

(i) Care for children with specific or special needs;

(ii) Dual language learning;

(iii) Religious and cultural activities, including how holidays will be celebrated;

(iv) Transportation and off-site field trips;

(v) Water activities;

(vi) Campfire activities; and

(vii) How weapons on the premises are secured, if applicable;

(j) ONB program risk management policies and waiver(s) for activities that are covered under WAC 110-302-0471;

(k) ONB program days and hours of operation, including closure dates and observed holidays;

(l) Enrollment and disenrollment requirements;

(m) Fees and payment plans;

(n) Sign-in and sign-out requirements;

(o) Information required for the child's record, including:

(i) The importance and plan for keeping the information current;

(ii) A plan to keep the child's information confidential; and

(iii) Who may legally access the child's information;

(p) A kindergarten transition plan, if applicable;

(q) What parents or guardians must supply for their child, if applicable (for example, extra clothing or diapers);

(r) Permission for a parent or guardian's access to areas of the ONB program during business hours;

(s) Termination of services policy;

(t) Emergency preparedness plan;

(u) ONB provider's and staff's duty to report incidents including reporting suspected ((~~child~~)) abuse((~~,~~)) or neglect((~~, sexual abuse, or maltreatment~~)) of a child or youth;

(v) Policies regarding mixed age groups, if applicable, including when children may be in a mixed age group;

(w) Description of where the parent or guardian may find and review the ONB program's:

(i) Health policy;

(ii) Staff policies;

(iii) Consistent care policy;

(iv) Menus;

(v) Liability insurance;

(vi) Inspection reports and notices of enforcement actions, if applicable; and

(vii) Other relevant ONB program policies;

(x) Any food preparation practices done by staff at their private residence, pursuant to WAC 110-302-0198;

(y) Any laundering practices done by staff or families at their private residence, pursuant to WAC 110-302-0245;

(z) Policies for postings for an ONB program without an appropriate facility for posting.

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

WAC 110-302-0475 Duty to protect children and report incidents. (1) Pursuant to RCW 26.44.030, when ONB providers have reasonable cause to believe a child has suffered abuse or neglect, that ONB provider must report such incident, or cause a report to be made, to the proper law enforcement agency or the department. "Abuse and neglect" has the same meaning here as in RCW 26.44.020.

(2) ONB providers must report by telephone to the listed individuals, department, and other government agencies when the ONB provider knows or has reason to know of an act, event, or occurrence described in (a) through (f) of this subsection.

(a) Law enforcement or the department at the first opportunity, but in no case longer than 48 hours:

(i) The death of a child while in the ONB program's care or the death from injury or illness that may have occurred while the child was in care;

(ii) A child's attempted suicide or talk about attempting suicide;

(iii) Any suspected ((~~physical, sexual, or emotional child~~)) abuse or neglect of a child or youth; or

(iv) ((~~Any suspected child neglect, child endangerment, or child exploitation;~~

~~(v) A child's disclosure of sexual or physical abuse; or~~

~~(vi)~~)) Inappropriate sexual contact between two or more children.

(b) Emergency services (911) immediately, and to the department within 24 hours:

(i) A child missing from care, triggered as soon as staff realizes the child is missing;

(ii) A medical emergency that requires immediate professional medical care;

(iii) A child who is given too much of any oral, inhaled, or injected medication;

(iv) A child who took or received another child's medication;

(v) A fire or other emergency;

(vi) Poisoning or suspected poisoning; or

(vii) Other dangers or incidents requiring emergency response.

(c) Washington poison center immediately after calling 911, and to the department within 24 hours:

(i) A poisoning or suspected poisoning;

(ii) A child who is given too much of any oral, inhaled, or injected medication; or

(iii) A child who took or received another child's medication. The ONB provider must follow any directions provided by Washington poison center;

(d) The local health jurisdiction or the DOH immediately, and to the department within 24 hours about an occurrence of food poisoning or reportable contagious disease as defined in WAC 246-110-010(3);

(e) To the department at the first opportunity, but in no case no longer than 24 hours, upon knowledge of any person required by chapter 110-06 WAC to have a change in their background check history due to:

(i) A pending charge or conviction for a crime listed in chapter 110-06 WAC;

(ii) An allegation or finding of ((~~child abuse, neglect, maltreatment or exploitation under~~)) abuse or neglect of a child or youth outlined in chapter 26.44 RCW or chapter 110-30 WAC;

(iii) An allegation or finding of abuse or neglect of a vulnerable adult under chapter 74.34 RCW; or

(iv) A pending charge or conviction of a crime listed in the secretary's list in chapter 110-06 WAC from outside Washington state, or a "negative action" as defined in RCW 43.216.010;

(f) A child's parent or guardian as soon as possible, but no later than the release of the child at the end of the day, and to the department within 24 hours, about using physical restraint on a child as described in WAC 110-302-0335.

(3) In addition to reporting to the department by phone or email, ONB providers must submit a written incident report of the following on a department form within 24 hours of:

(a) Situations that required an emergency response from emergency services (911), Washington poison center, or DOH;

(b) Situations that occur while children are in care that may put children at risk including, but not limited to, inappropriate sexual touching, neglect, physical abuse, maltreatment, or exploitation; and

(c) A serious injury to a child in care.

(4) ONB providers must immediately report to the parent or guardian:

(a) Their child's death, serious injury, need for emergency or poison services; or

(b) An incident involving their child that was reported to the local health jurisdiction or the DOH.

WSR 25-21-119
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Economic Services Administration)
[Filed October 20, 2025, 4:02 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-18-085.

Title of Rule and Other Identifying Information: The department of social and health services (DSHS) is proposing amendments to WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits?

Hearing Location(s): On November 25, 2025, at 10:00 a.m., virtually via Teams or call in. See the DSHS website at https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings for the most current information.

Date of Intended Adoption: Not earlier than November 26, 2025.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning noon on October 22, 2025, by November 25, 2025, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Shelley Tencza, DSHS rules consultant, phone 360-664-6036, TTY 711 relay service, email Tenczsa@dshs.wa.gov, by November 12, 2025, 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: These amendments are necessary to comply with the approved federal waiver for the elderly simplified application project (ESAP), requiring periodic reviews every six months for the remaining months of the 36-month certification period when ESAP eligibility is lost due to a change of circumstance. Related emergency amendments are currently in effect under WSR 25-18-084.

Reasons Supporting Proposal: See above.

Statutory Authority for Adoption: RCW 74.04.050, 74.04.055, 74.04.057, 74.04.500, 74.04.510, 74.08.090, and 74.08A.902.

Rule is necessary because of federal law, 7 C.F.R. 273.12 (a)(5)(iii)(B).

Agency Comments or Recommendations, if any, as to Statutory Language, Implementation, Enforcement, and Fiscal Matters: This rule is necessary to comply with provisions of the federal ESAP waiver, to coincide with automation updates supporting this change.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Joyce Hensen, P.O. Box 45470, Olympia, WA 98504-5470, 425-999-5162.

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. These rules are exempt as allowed under RCW 34.05.328 (5)(b)(vii), which states in part, "this section does not apply to rules of the department of social and health services relating only to client medical or financial eligibility and rules concerning liability for care of dependents.["]

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

Is exempt under RCW 19.85.061 because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Citation of the specific federal statute or

regulation and description of the consequences to the state if the rule is not adopted: 7 C.F.R. 273.12 (a)(5)(iii)(B).

Is exempt under RCW 19.85.025(3) as the rules are adopting or incorporating by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: RCW 34.05.328 (5)(b)(vii).

Scope of exemption for rule proposal: These amendments do not impact small businesses. They only impact DSHS customers.

Is fully exempt.

October 16, 2025
Katherine I. Vasquez
Rules Coordinator

SHS-5104.2

AMENDATORY SECTION (Amending WSR 24-13-020, filed 6/6/24, effective 7/7/24)

WAC 388-418-0011 What is a mid-certification review, and do I have to complete one in order to keep receiving benefits? (1) A **mid-certification review** (MCR) is a form we send you to ask about your current circumstances during your certification period. We use the answers you give us to decide if you are still eligible for benefits and to calculate your monthly benefits.

(2) If you receive cash assistance or basic food benefits, you must complete a mid-certification review unless you meet one of the exceptions below:

(a) You **do not** have to complete a mid-certification review for cash assistance if you:

(i) Receive refugee cash assistance as described under WAC 388-400-0030;

(ii) Receive aged, blind, or disabled (ABD) program assistance as described under WAC 388-400-0060;

(iii) Receive a referral to the housing and essential needs (HEN) program as described under WAC 388-400-0070; or

(iv) Have a review period of six months or less.

(b) You **do not** have to complete a mid-certification review for basic food if:

(i) Your assistance unit has a certification period of six months or less; or

(ii) Your assistance unit consists only of elderly or disabled adults, or qualifies for the elderly simplified application project (ESAP), and does not have earned income.

(3) **When we send the review form:**

If you must complete a MCR ...	We send your review form ...
(a) For one program such as basic food.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(b) If you are no longer eligible for ESAP but remain eligible for basic food for the remainder of a 36-month certification period converted from an ESAP certification.	Every six months for the remainder of your 36-month certification period. This could include reviews sent in ((~~In~~)) the fifth, 11th, 17th, 23rd, and ((~~23rd~~)) 29th months of your certification period when ((~~your certification period has~~)) there are more than ((~~13~~)) six months remaining ((~~of~~)) in the 36-month certification period. You must complete your review by the 10th day of the ((~~12th~~)) following month, and every six months, ((~~or~~)) for the ((~~24th month or both~~)) remainder of the certification period.
(c) For two or more programs, and all programs have a 12-month certification or review period.	In the fifth month of your certification or review period. You must complete your review by the 10th day of month six.
(d) For basic food and another program when either program has a certification or review period between six and 12 months.	In the fifth month of your basic food certification period when you receive basic food and another program. You must complete your review by the 10th day of month six of your basic food certification.

(4) If you must complete a mid-certification review, we send you the review form with questions about your current circumstances. You can choose to complete the review form online, or in one of the following ways:

(a) **Complete the form and return it to us.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Complete the review form, telling us about changes in your circumstances we ask about;

(ii) Sign and date the form;

(iii) Give us proof of any changes you report. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iv) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(v) Mail or turn in the completed form and any required proof to us by the due date on the review.

(b) **Complete the mid-certification review over the phone.** For us to count your mid-certification review as complete, you must take all of the steps below:

(i) Contact us at the phone number on the review form, telling us about changes in your circumstances we ask about;

(ii) Give us proof of any changes you report. We may be able to verify some information over the phone. If you report a change that will increase your benefits without giving proof of this change, we will not increase your benefits;

(iii) If you receive temporary assistance for needy families and you are working or self-employed, you must give us proof of your income even if it has not changed; and

(iv) Mail or turn in any required proof to us by the due date on the review.

(c) **Complete the application process for another program.** If we approve an application for another program in the month you must complete your mid-certification review, we use the application to complete your review when the same person is head of household for the application and the mid-certification review.

(5) If your benefits change because of what we learned in your mid-certification review, the change takes effect the next month even if this does not give you 10 days' notice before we change your benefits.

(6) If you do not complete your required mid-certification review, we stop your benefits at the end of the month the review was due.

(7) **Late reviews.** If you complete the mid-certification review after the last day of the month the review was due, we process the review as described below based on when we receive the review:

(a) **Mid-certification reviews you complete by the last day of the month after the month the review was due:** We determine your eligibility for ongoing benefits. If you are eligible, we reinstate your benefits based on the information in the review.

(b) **Mid-certification reviews you complete after the last day of the month after the month the review was due:** We treat this review as a request to send you an application. For us to determine if you are eligible for benefits, you must complete the application process as described in chapter 388-406 WAC.

WSR 25-21-123
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Home and Community Living Administration)
(Developmental Disabilities Community Services)
[Filed October 20, 2025, 4:21 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-14-032.

Title of Rule and Other Identifying Information: Chapter 388-845 WAC; amending WAC 388-845-0900, 388-845-0910, 388-845-2370, and 388-845-4005.

Hearing Location(s): On November 25, 2025, at 10:00 a.m., virtually via Teams or call in. See the department of social and health services (DSHS) website at https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings for the most current information.

Date of Intended Adoption: Not earlier than November 26, 2025.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning noon on October 22, 2025, by 5:00 p.m. on November 25, 2025.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on November 12, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: Developmental disabilities community services (DDCS) is enacting these changes to clarify waiver service definitions and service limit language across waivers.

Reasons Supporting Proposal: Under 42 C.F.R. 441.301, DDCS is required to provide assurances to the Centers for Medicare and Medicaid Services (CMS) that it will provide waiver-funded services as approved by CMS. Aligning rules with the approved waiver amendments provides those assurances.

Statutory Authority for Adoption: RCW 71A.12.030 and 42 C.F.R. 441.301.

Statute Being Implemented: RCW 71A.12.120.

Rule is necessary because of federal law, 42 C.F.R. 441.301.

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Leila Graves, P.O. Box 45310, Olympia, WA 98504-5310, 360-890-2127.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Leila Graves, P.O. Box 45310, Olympia, WA 98504-5310, phone 360-890-2127, TTY 711 relay service, email Leila.graves@dshs.wa.gov.

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

Is exempt under RCW 19.85.025(4).

Scope of exemption for rule proposal:

Is fully exempt.

October 14, 2025
Katherine I. Vasquez
Rules Coordinator

SHS-5112.2

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0900 What are environmental adaptations? (1) Environmental adaptations provide minimum necessary physical adaptations to the client's existing home and existing rooms within the home required by the individual's person-centered service plan needed to:

(a) Ensure the health, welfare, and safety of the individual;

(b) Enable the individual who would otherwise require institutionalization to function with greater independence in the home; and

(c) Increase the individual's independence inside or outside the home to allow the individual to physically enter and move within the home.

(2) Examples of environmental adaptations include installing stair lifts, installing ramps and grab bars, widening doorways, modifying the individual's primary bathroom for physical access needs, or installing specialized electrical or plumbing systems necessary to accommodate the medical equipment and supplies that are necessary for the welfare of the individual.

(3) Environmental adaptations are available in all of the DDA HCBS waivers.

(4) Environmental adaptations to the home are not available in provider-owned or provider-leased residential settings.

(5) Adaptations to the home necessary to prevent or repair damage to the structure of the home caused by the participant's behavior, as addressed in the participant's behavior support plan, are available on the children's intensive in-home behavioral support, individual and family services, core, and community protection waivers.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-0910 What limits apply to environmental adaptations? The following service limits apply to environmental adaptations:

(1) Clinical and support needs for an environmental adaptation must be identified in the waiver participant's DDA assessment and documented in the person-centered service plan.

(2) Environmental adaptations require prior approval by the DDA regional administrator or designee ((~~,~~)).

(3) Environmental adaptations must be supported by itemized and written bids from licensed contractors. For an adaptation that costs:

(a) $1,500 or less, one bid is required;

(b) More than $1,500 and equal to or less than $5,000, two bids are required; or

(c) More than $5,000, three bids are required.

(4) All bids must include:

(a) The cost of all required permits and sales tax; and

(b) An itemized and clearly outlined scope of work.

(5) DDA may require an occupational therapist, physical therapist, or other professional to review and recommend an appropriate environmental adaptation statement of work prior to the waiver participant soliciting bids or purchasing adaptive equipment.

(6) Environmental adaptations to the home are excluded if they are of general utility without direct benefit to the individual as related to the individual's developmental disability, such as cosmetic improvements to the home, or general home improvements, such as carpeting, roof repair, or central air conditioning.

(7) Environmental adaptations must meet all local and state building codes. Evidence of any required completed inspections must be submitted to DDA prior to final payment for work.

(8) Environmental adaptations must not be performed while other adaptations or remodeling projects are in process.

(9) Environmental adaptations must not be approved if the existing residence condition is impacted by hazardous mold, asbestos, or home dilapidation.

(10) Location of the home in a flood plain, landslide zone, or other hazardous area may limit or prevent any environmental adaptations at the discretion of DDA.

(11) Written consent from the home's landlord is required prior to starting any environmental adaptations for a rental property. The landlord must not require removal of the environmental adaptations at the end of the waiver participant's tenancy as a condition of the landlord approving the environmental adaptation to the waiver participant's home.

(12) Environmental adaptations must not add to the total square footage of the home, convert nonliving space to living space, or create a new room.

(13) The amount of service you may receive is limited to the dollar amounts for aggregate services in your basic plus waiver, CIIBS waiver, or the dollar amount of your annual IFS waiver allocation.

(14) For core and community protection waivers, annual environmental adaptation costs must not exceed $12,192.

(15) Damage prevention and repairs under the CIIBS, IFS, core, and CP waivers are subject to the following restrictions:

(a) Limited to the cost of restoration to the original function;

(b) Behaviors of waiver participants that resulted in damage to the home must be identified and addressed in a behavior support plan prior to the repair of damages;

(c) Repairs to personal property such as furniture and appliances are excluded; and

(d) Repairs due to normal wear and tear are excluded.

(16) Noncovered environmental adaptations include:

(a) Building fences and fence repairs;

(b) Carpet or carpet replacement;

(c) Air conditioning, heat pumps, generators, or ceiling fans;

(d) Roof repair or siding;

(e) Deck construction or repair; ((~~and~~))

(f) Jetted tubs or saunas ((~~.~~)); and

(g) Luxury construction materials such as: tile, natural stone, waterfall shower heads, glass shower surrounds, or other similar materials.

(17) Environmental adaptations are limited to additional services not otherwise covered under the medicaid state plan, including EPSDT, but consistent with waiver objectives of avoiding institutionalization.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-2143 What are the limits to specialized evaluation and consultation services? The following limits apply to your receipt of specialized evaluation and consultation:

(1) You must be enrolled on the community protection waiver.

(2) Specialized evaluation and consultation support needs must be identified in your DDA assessment and must be documented in your person-centered service plan.

(3) Specialized evaluation and consultation is limited to services that are:

(a) Consistent with waiver objectives of avoiding institutionalization; and

(b) Not a covered benefit under the medicaid state plan, including mental health treatment.

(4) This service must not replace one-on-one, group, or other treatments to address a mental health condition which are covered by the medicaid state plan.

(5) One-on-one and group skill building that is a component of behavioral health treatment is not covered under specialized evaluation and consultation.

AMENDATORY SECTION (Amending WSR 23-18-035, filed 8/29/23, effective 9/29/23)

WAC 388-845-4005 Can I appeal a denial of my request to be enrolled in a waiver? (1) If you are not enrolled in a waiver and your request to be enrolled in a waiver is denied, your appeal rights are limited to the decision that you are not eligible to have your request documented in a statewide database due to the following:

(a) You do not need ICF/IID level of care per WAC 388-845-0070, 388-828-8040, and 388-828-8060; ((~~or~~))

(b) You requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520((~~.~~)); or

(c) You requested enrollment in the IFS waiver and do not meet IFS eligibility per WAC 388-845-0001, 388-845-0030, and 388-845-0100.

(2) If you are enrolled in a waiver and your request to be enrolled in a different waiver is denied, your appeal rights are limited to the following:

(a) DDA's decision that the services contained in a different waiver are not necessary to meet your health and welfare needs and that the services available on your current waiver can meet your health and welfare needs; ((~~or~~))

(b) DDA's decision that you are not eligible to have your request documented in a statewide database because you requested enrollment in the CIIBS waiver and do not meet CIIBS eligibility per WAC 388-828-8500 through 388-828-8520((~~.~~)); or

(c) DDA's decision that you are not eligible to have your request documented in a statewide database because you requested enrollment in the IFS waiver and do not meet IFS eligibility per WAC 388-845-0001, 388-845-0030, and 388-845-0100.

(3) If DDA determines that the services offered in a different waiver are necessary to meet your health and welfare needs, but there is not capacity on the different waiver, you do not have the right to

appeal any denial of enrollment on a different waiver when DDA determines there is not capacity to enroll you on a different waiver.

WSR 25-21-124
PROPOSED RULES
DEPARTMENT OF REVENUE
[Filed October 21, 2025, 7:42 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-19-070.

Title of Rule and Other Identifying Information: WAC 458-40-540 Forest land values—2025, and 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments.

Hearing Location(s): On Tuesday, November 25, 2025, at 1:00 - 2:00 p.m., internet/phone via Zoom. Please contact Cathy Holder at CathyH@dor.wa.gov or Barbara Imperio at BarbaraI@dor.wa.gov for login/dial-in information.

Date of Intended Adoption: December 8, 2025.

Submit Written Comments to: Tiffany Do, P.O. Box 47453, Olympia, WA 98504-7453, email TiffanyD@dor.wa.gov, fax 360-534-1606, beginning October 23, 2025, 12:00 a.m., by December 1, 2025, 11:59 p.m.

Assistance for Persons with Disabilities: Contact Julie King, phone 360-704-5733, TTY 800-833-6384.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 84.33.091 requires the department of revenue (department) to revise the stumpage value tables every six months. The department establishes the stumpage value tables to apprise timber harvesters of the timber values used to calculate the timber excise tax, WAC 458-40-660. The values in the proposed rule will apply January 1, 2026, through June 30, 2026.

RCW 84.33.140 requires that forest land values be adjusted annually according to the statutory formula contained in RCW 84.33.140(3). The department proposes amending the forest land values rule, WAC 458-40-540, to adjust the table of forest land values in Washington as required by statute. County assessors will use these published land values for property tax purposes in 2026.

Reasons Supporting Proposal: This proposal provides the revised stumpage value tables for January 1, 2026, through June 30, 2026, and the forest land values for 2026.

Statutory Authority for Adoption: RCW 82.01.060(2) and 84.33.096.

Statute Being Implemented: RCW 84.33.091 and 84.33.140.

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

Name of Proponent: Department of revenue, governmental.

Name of Agency Personnel Responsible for Drafting: Tiffany Do, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1558; Implementation and Enforcement: Jeannette Gute, 6400 Linderson Way S.W., Tumwater, WA, 360-534-1599.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Tiffany Do, Interpretations and Technical Advice Division, P.O. Box 47453, Olympia, WA 98501-7453, phone 360-534-1558, fax 360-534-1606.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. The proposed rule does not impose more-than-mi-

nor costs on businesses, as it does not propose any new requirements not already provided in statute. The proposed rule does not impose fees, filing requirements, or recordkeeping guidelines that are not already established in statute.

October 20, 2025
Perry Stern
Rules Coordinator

RDS-6748.1

AMENDATORY SECTION (Amending WSR 25-01-052, filed 12/11/24, effective 1/1/25)

WAC 458-40-540 Forest land values—((~~2025~~)) 2026. The forest land values, per acre, for each grade of forest land for the ((~~2025~~)) 2026 assessment year are determined to be as follows:

LAND GRADE	OPERABILITY CLASS	((~~2025~~)) 2026 VALUES PER ACRE
1	1	(($~~226~~)) $228
	2	(($~~224~~)) 226
	3	(($~~210~~)) 212
	4	(($~~153~~)) 155
2	1	(($~~193~~)) 195
	2	(($~~186~~)) 188
	3	(($~~179~~)) 181
	4	(($~~127~~)) 128
3	1	(($~~149~~)) 151
	2	(($~~145~~)) 147
	3	(($~~143~~)) 145
	4	(($~~111~~)) 112
4	1	(($~~117~~)) 118
	2	(($~~112~~)) 113
	3	(($~~111~~)) 112
	4	(($~~84~~)) 85
5	1	(($~~84~~)) 85
	2	74
	3	73
	4	52
6	1	43
	2	41
	3	41
	4	39
7	1	19
	2	19
	3	17
	4	17
8	1	1

AMENDATORY SECTION (Amending WSR 25-14-008, filed 6/23/25, effective 7/1/25)

WAC 458-40-660 Timber excise tax—Stumpage value tables—Stumpage value adjustments. (1) **Introduction.** This rule provides stumpage value tables and stumpage value adjustments used to calculate the amount of a harvester's timber excise tax.

(2) **Stumpage value tables.** The following stumpage value tables are used to calculate the taxable value of stumpage harvested from ((~~July 1 through December 31, 2025~~)) January 1 through June 30, 2026:

Washington State Department of Revenue

WESTERN WASHINGTON STUMPAGE VALUE TABLE

((~~July 1 through December 31, 2025~~))
January 1 through June 30, 2026

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)
Starting January 1, 2019, there are no Haul Zone adjustments.

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Douglas-fir(2)	DF	1	((~~$514~~)) $522
		2	((~~565~~)) 584
		3	((~~606~~)) 624
		4	((~~624~~)) 633
		5	((~~547~~)) 635
		9	((~~500~~)) 508
Western Hemlock and Other Conifer(3)	WH	1	((~~269~~)) 262
		2	((~~308~~)) 334
		3	((~~297~~)) 329
		4	((~~323~~)) 307
		5	((~~343~~)) 352
		9	((~~255~~)) 248
Western Redcedar(4)	RC	1-5	((~~1,047~~)) 1,050
		9	((~~1,033~~)) 1,036
Ponderosa Pine(5)	PP	1-5	((~~158~~)) 147
		9	((~~144~~)) 133
Red Alder	RA	1-5	((~~356~~)) 317
		9	((~~342~~)) 303

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Black Cottonwood	BC	1-5	1
		9	1
Other Hardwood	OH	1-5	133
		9	119
Douglas-fir Poles & Piles	DFL	1-5	((~~944~~)) 910
		9	((~~930~~)) 896
Western Redcedar Poles	RCL	1-5	((~~1,938~~)) 1,833
		9	((~~1,924~~)) 1,819
Chipwood(6)	CHW	1-5	1
		9	1
RC Shake & Shingle Blocks(7)	RCS	1-9	((~~327~~)) 352
Posts(8)	LPP	1-9	0.35
DF Christmas Trees(9)	DFX	1-9	0.25
Other Christmas Trees(9)	TFX	1-9	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes all Hemlock, Spruce and true Fir species, or any other conifer not listed on this page.

(4) Includes Alaska-Cedar.

(5) Includes all Pines in SVA 1-5 & 9.

(6) Stumpage value per ton.

(7) Stumpage value per cord.

(8) Includes Lodgepole posts and other posts, Stumpage value per 8 lineal feet or portion thereof.

(9) Stumpage value per lineal foot.

Washington State Department of Revenue

EASTERN WASHINGTON STUMPAGE VALUE TABLE

((~~July 1 through December 31, 2025~~))
January 1 through June 30, 2026

Stumpage Values per Thousand Board Feet Net Scribner Log Scale(1)
Starting January 1, 2019, there are no Haul Zone adjustments.

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Douglas-fir(2)	DF	6	((~~$272~~)) $273
		7	((~~286~~)) 287
Western Hemlock and Other Conifer(3)	WH	6	((~~206~~)) 180
		7	((~~220~~)) 194

Species Name	Species Code	SVA (Stumpage Value Area)	Stumpage Values
Western Redcedar[4]	RC	6	((~~1,011~~)) 1,037
		7	((~~1,025~~)) 1,051
Ponderosa Pine[5]	PP	6	((~~144~~)) 133
		7	((~~158~~)) 147
Other Hardwood	OH	6	1
		7	9
Western Redcedar Poles	RCL	6	((~~1,483~~)) 1,443
		7	((~~1,497~~)) 1,457
Chipwood[6]	CHW	6	1
		7	1
Small Logs[6]	SML	6	((~~12~~)) 11
		7	((~~14~~)) 13
RC Shake & Shingle Blocks[7]	RCS	6-7	((~~327~~)) 352
Posts[8]	LPP	6-7	0.35
DF Christmas Trees[9]	DFX	6-7	0.25
Other Christmas Trees[9]	TFX	6-7	0.50

(1) Log scale conversions Western and Eastern Washington. See conversion methods WAC 458-40-680.

(2) Includes Western Larch.

(3) Includes all Hemlock, Spruce and true Fir species, and Lodgepole Pine in SVA 6-7, or any other conifer not listed on this table.

(4) Includes Alaska-Cedar.

(5) Includes Western White Pine in SVA 6-7.

(6) Stumpage value per ton.

(7) Stumpage value per cord.

(8) Includes Lodgepole posts and other posts, Stumpage value per 8 lineal feet or portion thereof.

(9) Stumpage value per lineal foot.

(3) **Harvest value adjustments.** The stumpage values in subsection (2) of this rule for the designated stumpage value areas are adjusted for various logging and harvest conditions, subject to the following:

(a) No harvest adjustment is allowed for special forest products, chipwood, or small logs.

(b) Conifer and hardwood stumpage value rates cannot be adjusted below one dollar per MBF.

(c) Except for the timber yarded by helicopter, a single logging condition adjustment applies to the entire harvest unit. The taxpayer must use the logging condition adjustment class that applies to a majority (more than 50 percent) of the acreage in that harvest unit. If the harvest unit is reported over more than one quarter, all quarterly returns for that harvest unit must report the same logging condition

adjustment. The helicopter adjustment applies only to the timber volume from the harvest unit that is yarded from stump to landing by helicopter.

(d) The volume per acre adjustment is a single adjustment class for all quarterly returns reporting a harvest unit. A harvest unit is established by the harvester prior to harvesting. The volume per acre is determined by taking the volume logged from the unit excluding the volume reported as chipwood or small logs and dividing by the total acres logged. Total acres logged does not include leave tree areas (RMZ, UMZ, forested wetlands, etc.,) over two acres in size.

(e) A domestic market adjustment applies to timber which meet the following criteria:

(i) **Public timber** - Harvest of timber not sold by a competitive bidding process that is prohibited under the authority of state or federal law from foreign export may be eligible for the domestic market adjustment. The adjustment may be applied only to those species of timber that must be processed domestically. According to type of sale, the adjustment may be applied to the following species:

Federal Timber Sales: All species except Alaska-cedar. (Stat. Ref. - 36 C.F.R. 223.10)

State, and Other Nonfederal, Public Timber Sales: Western Redcedar only. (Stat. Ref. - 50 U.S.C. appendix 2406.1)

(ii) **Private timber** - Harvest of private timber that is legally restricted from foreign export, under the authority of The Forest Resources Conservation and Shortage Relief Act (Public Law 101-382), (16 U.S.C. Sec. 620 et seq.); the Export Administration Act of 1979 (50 U.S.C. App. 2406(i)); a Cooperative Sustained Yield Unit Agreement made pursuant to the act of March 29, 1944 (16 U.S.C. Sec. 583-583i); or Washington Administrative Code (WAC 240-15-015(2)) is also eligible for the Domestic Market Adjustment.

The following harvest adjustment tables apply from ((~~July 1 through December 31, 2025~~)) January 1 through June 30, 2026:

TABLE 9—Harvest Adjustment Table
Stumpage Value Areas 1, 2, 3, 4, 5, and 9
((~~July 1 through December 31, 2025~~))
January 1 through June 30, 2026

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of 30 thousand board feet or more per acre.	$0.00
Class 2	Harvest of 10 thousand board feet to but not including 30 thousand board feet per acre.	-$15.00
Class 3	Harvest of less than 10 thousand board feet per acre.	-$35.00
II. Logging conditions		
Class 1	Ground based logging a majority of the unit using tracked or wheeled equipment or draft animals.	$0.00
Class 2	Logging a majority of the unit: Using an overhead system of winch-driven cables and/or logging on slopes greater than 45% using tracked or wheeled equipment supported by winch-driven cables.	-$85.00
Class 3	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-$200.00

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
III. Remote island adjustment:		
	For timber harvested from a remote island	-$50.00
IV. Thinning		
	A limited removal of timber described in WAC 458-40-610 (29)	-$100.00

TABLE 10—Harvest Adjustment Table
Stumpage Value Areas 6 and 7
((~~July 1 through December 31, 2025~~))
January 1 through June 30, 2026

Type of Adjustment	Definition	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
I. Volume per acre		
Class 1	Harvest of more than 8 thousand board feet per acre.	$0.00
Class 2	Harvest of 8 thousand board feet per acre and less.	-$8.00
II. Logging conditions		
Class 1	The majority of the harvest unit has less than 40% slope. No significant rock outcrops or swamp barriers.	$0.00
Class 2	The majority of the harvest unit has slopes between 40% and 60%. Some rock outcrops or swamp barriers.	-$50.00
Class 3	The majority of the harvest unit has rough, broken ground with slopes over 60%. Numerous rock outcrops and bluffs.	-$85.00
Class 4	Applies to logs yarded from stump to landing by helicopter. This does not apply to special forest products.	-$200.00
Note:	A Class 2 adjustment may be used for slopes less than 40% when cable logging is required by a duly promulgated forest practice regulation. Written documentation of this requirement must be provided by the taxpayer to the department of revenue.	
III. Remote island adjustment:		
	For timber harvested from a remote island	-$50.00
IV. Thinning		
	A limited removal of timber described in WAC 458-40-610 (29)	-$60.00

TABLE 11—Domestic Market Adjustment

Class	Area Adjustment Applies	Dollar Adjustment Per Thousand Board Feet Net Scribner Scale
	SVAs 1 through 5 only:	$0.00
Note:	This adjustment only applies to published MBF sawlog values.	

(4) **Damaged timber.** Timber harvesters planning to remove timber from areas having damaged timber may apply to the department of revenue for an adjustment in stumpage values. The application must contain a map with the legal descriptions of the area, an accurate estimate of the volume of damaged timber to be removed, a description of the damage sustained by the timber with an evaluation of the extent to which the stumpage values have been materially reduced from the values shown in the applicable tables, and a list of estimated additional costs to be incurred resulting from the removal of the damaged timber. The application must be received and approved by the department of revenue before the harvest commences. Upon receipt of an application, the de-

partment of revenue will determine the amount of adjustment to be applied against the stumpage values. Timber that has been damaged due to sudden and unforeseen causes may qualify.

(a) Sudden and unforeseen causes of damage that qualify for consideration of an adjustment include:

(i) Causes listed in RCW 84.33.091; fire, blow down, ice storm, flood.

(ii) Others not listed; volcanic activity, earthquake.

(b) Causes that do not qualify for adjustment include:

(i) Animal damage, root rot, mistletoe, prior logging, insect damage, normal decay from fungi, and pathogen caused diseases; and

(ii) Any damage that can be accounted for in the accepted normal scaling rules through volume or grade reductions.

(c) The department of revenue will not grant adjustments for applications involving timber that has already been harvested but will consider any remaining undisturbed damaged timber scheduled for removal if it is properly identified.

(d) The department of revenue will notify the harvester in writing of approval or denial. Instructions will be included for taking any adjustment amounts approved.

(5) **Forest-derived biomass**, has a $0/ton stumpage value.

WSR 25-21-126
PROPOSED RULES
DEPARTMENT OF HEALTH
(Veterinary Board of Governors)
[Filed October 21, 2025, 7:56 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 23-18-060.

Title of Rule and Other Identifying Information: Veterinary technicians and unregistered assistants; supervision and delegation of animal health care tasks from licensed veterinarians. To align with industry standards, the veterinary board of governors (board) is proposing amendments to WAC 246-935-010, 246-935-040, and 246-935-050 to update animal health care tasks that may be delegated to a veterinary technician or unregistered assistant. For readability, the board is proposing to reformat the list of animal health care tasks in WAC 246-935-050 into categorized tables. The board is also proposing to update an existing definition and add a new definition to ensure consistency with the amendments to the animal health care tasks rule.

Hearing Location(s): On December 8, 2025, at 9:05 a.m., at the Department of Health, Town Center 2, Room 153, 111 Israel Road S.E., Tumwater, WA 98501; or via Teams at https://teams.microsoft.com/l/meetup-join/19%3ameeting_NDVhOTM0MDQtYjczZC00ZmJhLTk2YzAtZTBmNDRjMjY1OTI3%40thread.v2/0?context=%7b%22Tid%22%3a%2211d0e217-264e-400a-8ba0-57dcc127d72d%22%2c%22Oid%22%3a%227bfba9ef-0251-4647-8346-3fa4ff1ed862%22%7d, Meeting ID 211 596 193 460 9, Passcode K5SQ68NB; or dial in by phone 564-999-2000, 833-322-1218 (toll-free), Phone conference ID 735 458 69#.

Date of Intended Adoption: December 8, 2025.

Submit Written Comments to: Poppy Budrow, P.O. Box 47852, Olympia, WA 98504-7852, email veterinary@doh.wa.gov, https://fortress.wa.gov/doh/policyreview/, beginning the date and time of this filing, by December 1, 2025, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact Poppy Budrow, phone 564-669-0026, TTY 711, email poppy.budrow@doh.wa.gov, veterinary@doh.wa.gov, by November 24, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In 2018, the chiropractic quality assurance commission (commission) approached the board expressing a desire to collaborate on the topic of animal chiropractic care. The purpose of the collaboration was to consider whether rules could be adopted to regulate such practice. A committee was created and the board and commission, along with interested parties, considered and discussed this topic between 2018 to 2023 in a series of public meetings.

In 2023, the board voted to open the animal health care task rule to consider reviewing all allowable animal tasks, prohibited animal tasks, consider new tasks, and set appropriate delegation standards for animal chiropractic care. Throughout the rule-making process, the taskforce was unable to come to a mutual agreement on delegation standards for chiropractors performing animal chiropractic care.

The board ultimately decided that adding delegation standards for chiropractors to perform animal chiropractic care in rule would not meet the commission's intended goal for a chiropractor to independently practice animal chiropractic care. Therefore, it was not addressed in this rule-making package. It was instead determined that the chiro-

practic scope of practice would need to be changed through legislation. Program staff anticipates a bill to be reintroduced in the 2026 legislative session regarding animal chiropractic care.

The purpose of the proposed amendments to animal health care tasks in WAC 246-935-050 is to align Washington state with industry standards. The proposed amendments designate the animal health care tasks that may be delegated to veterinary technicians and unregistered assistants and the level of supervision that is required for each task. For readability purposes, the board is proposing to reformat the rule to list individual tasks and the required level of supervision in a categorized table format.

The board is also proposing to add a definition for "general anesthesia" and update the current definition of "immediate supervision" as related to unregistered assistants in WAC 246-935-010. These updates are consistent with and clarify amendments made to the animal health care tasks rule.

Finally, the board is proposing to update the language in subsection WAC 246-935-040 (2)(b) to strengthen the intent of the rule and move the language to the beginning of the section. The amendment clarifies the responsibilities of the supervising veterinarian in relation to the delegation of animal health tasks to veterinary technicians and unregistered assistants.

Reasons Supporting Proposal: Overall, the proposed amendments are needed to update animal health care tasks to align with industry standards and clearly identify animal health care tasks that can be delegated and level of supervision. Specifically, the restructuring of WAC 246-935-050 improves the readability to reduce the confusion of animal health care tasks that can be delegated and the required level of supervision. The board conducted workshops and solicited input from interested parties in order to develop rules that are consistent with industry standards, provide greater access to care, and maintain patient safety. These amendments are necessary to ensure rules are clear, concise, and up-to-date in the practice of veterinary medicine, surgery, and dentistry.

Statutory Authority for Adoption: RCW 18.92.030.

Statute Being Implemented: RCW 18.92.030.

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

Name of Proponent: Veterinary board of governors, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Poppy Budrow, 111 Israel Road S.E., Tumwater, WA 98501, 564-669-0026.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Poppy Budrow, P.O. Box 47852, Olympia, WA 98504-7852, phone 564-669-0026, TTY 711, email poppy.budrow@doh.wa.gov, veterinary@doh.wa.gov.

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

Is exempt under RCW 19.85.025(4).

Explanation of exemptions: The proposed amendments only apply to the credential holder, not the business.

Scope of exemption for rule proposal:

Is fully exempt.

October 21, 2025
Andrea Sanchez-Chambers, DVM, Chair
Veterinary Board of Governors

RDS-6329.3

AMENDATORY SECTION (Amending WSR 09-15-120, filed 7/17/09, effective 8/17/09)

WAC 246-935-010 Definitions. The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Anesthesia maintenance" means maintaining adequate depth of anesthesia through control of the amount and type of drug(s) delivered to the animal patient.

(2) "Anesthesia monitoring" means measuring, reporting, and recording vital signs.

(3) "Direct supervision" means the ((~~veterinary~~)) supervisor is on the premises, is quickly and easily available and the animal patient has been examined by a veterinarian at such times as acceptable veterinary medical practice requires, consistent with the particular delegated animal health care task.

(4) "Emergency" means that the animal patient has a life-threatening condition where immediate treatment is necessary to sustain life or avoid significant injury and morbidity.

(5) "General anesthesia" means a state of unconsciousness produced by anesthetic agents, with absence of response to painful stimuli over the entire body, in which the animal patient is without protective reflexes, and in which cardiovascular function may be impaired.

(6) "Immediate supervision" means the supervisor is in audible and visual range of the animal patient and the person treating the patient. Immediate supervision of an unregistered assistant requires consultation and instruction from the supervisor.

((~~(6)~~)) (7) "Indirect supervision" means the supervisor is not on the premises, but has given either written or oral instructions for treatment of the animal patient and the animal patient has been examined by a veterinarian at such times as acceptable veterinary medical practice requires, consistent with the particular delegated animal health care task and the animal patient is not anesthetized.

((~~(7)~~)) (8) "Licensed veterinary technician" means any person who has met the requirements of RCW 18.92.015 and who is licensed as required by chapter 18.92 RCW.

((~~(8)~~)) (9) "Supervisor" means a veterinarian or a licensed veterinary technician.

((~~(9)~~)) (10) "Unregistered assistant" means any individual who is not a veterinary technician or veterinarian.

((~~(10)~~)) (11) "Veterinarian" means a person ((~~authorized by~~)) licensed under chapter 18.92 RCW to practice veterinary medicine in the state of Washington.

((~~(11)~~)) (12) "Veterinary medical facility" is any premises, unit, structure or vehicle where any animal patient is received ((~~and/~~))or confined, in order to provide veterinary medicine, surgery, or dentistry as defined in RCW 18.92.010.

AMENDATORY SECTION (Amending WSR 09-15-120, filed 7/17/09, effective 8/17/09)

WAC 246-935-040 Responsibilities of a veterinarian supervising a licensed veterinary technician or an unregistered assistant. It is the supervising veterinarian's responsibility to delegate animal health care tasks only if the licensed veterinary technician or unregistered assistant is qualified, competent, educated, trained, and able. The supervising veterinarian shall ensure the delegated task is appropriate for the species of the animal patient.

(1) A veterinarian must not delegate:

(a) To any licensed veterinary technician the performance of any animal health care services not authorized by WAC 246-935-040 or 246-935-050.

(b) To any unregistered assistant the performance of any animal health care services not authorized by WAC 246-935-040 or 246-935-050.

(2) The supervising veterinarian shall:

(a) Have legal responsibility for the health, safety and welfare of the animal patient which the licensed veterinary technician or unregistered assistant serves.

(b) ((~~Delegate animal health care tasks only if the licensed veterinary technician or unregistered assistant is qualified to perform the task, and the task is not precluded by the medical condition of the animal patient.~~

~~(c)~~)) Use the level of supervision required for a specific task.

((~~(d)~~)) (c) Make all decisions relating to the diagnosis, treatment, management, and future disposition of an animal patient.

((~~(e)~~)) (d) Limit the number of unregistered assistants under indirect supervision to that which is appropriate for the circumstances.

((~~(f)~~)) (e) Allow licensed veterinary technicians and unregistered assistants the right and responsibility to refuse to perform duties they are not legally or technically able to perform.

(3) A supervising veterinarian shall examine the animal patient prior to the delegation of any animal health care task to either a licensed veterinary technician or unregistered assistant. The examination of the animal patient must be conducted at the times and in the manner consistent with veterinary medicine practice, and the particular delegated animal health care task.

(4) If a licensed veterinary technician is authorized to provide supervision for an unregistered assistant performing a specified health care task, the licensed veterinary technician ((~~shall~~)) must be under the same degree of supervision by the veterinarian, as if the licensed veterinary technician were performing the task.

AMENDATORY SECTION (Amending WSR 16-03-086, filed 1/20/16, effective 2/20/16)

WAC 246-935-050 Animal health care tasks. No individual, other than a licensed veterinary technician, may advertise or offer ((~~her/his~~)) their services in a manner calculated to lead others to believe that ((~~she/he is~~)) they are a trained or licensed veterinary technician.

(1) Licensed veterinary technicians and unregistered assistants are prohibited from performing the following activities:

(a) Surgery except as outlined below;

(b) Diagnosis and prognosis;

(c) Prescribing drugs, medication or appliances;

(d) Initiation of treatment without prior instruction by a veterinarian except as outlined under emergency animal care.

(2) ((~~Immediate supervision. Unregistered assistants are not authorized to perform the tasks in this section. A licensed veterinary technician may perform the following tasks only under the immediate supervision of a veterinarian: Dental extractions.~~

~~(3) Direct supervision. Unregistered assistants are not authorized to perform the tasks in this section. A licensed veterinary technician may perform the following tasks only under the direct supervision of a veterinarian:~~

~~(a) Anesthesia:~~

~~(i) Induction, including preanesthesia;~~

~~(ii) Maintenance;~~

~~(iii) Monitoring.~~

~~(b) Application of casts and splints;~~

~~(c) Floating teeth;~~

~~(d) Intraperitoneal injections;~~

~~(e) Blood administration;~~

~~(f) Closure, including suturing, of prepared skin wound or gingival incision;~~

~~(g) Arterial and central venous catheters.~~

~~(4) Indirect supervision. Unregistered assistants are not authorized to perform the tasks in this section. A licensed veterinary technician may perform the following tasks only under the indirect supervision of a veterinarian:~~

~~(a) Intravenous injections into uncatheterized vein;~~

~~(b) Centesis, including fine needle aspirates;~~

~~(c) Unobstructed bladder catheter;~~

~~(d) Diagnostic procedures:~~

~~(i) Fecal analysis;~~

~~(ii) Electrocardiograms;~~

~~(iii) Blood pressure;~~

~~(iv) Cytology analysis, including urinalysis and hematology;~~

~~(v) Microbiology.~~

~~(e) Placement and use of nasogastric and orogastric tubes for gavage, lavage, or reflux;~~

~~(f) Ophthalmological procedures:~~

~~(i) Tear production testing;~~

~~(ii) Topical anesthetic application;~~

~~(iii) Fluorescein staining of the cornea;~~

~~(iv) Tonometry.~~

~~(g) Tasks authorized to be performed under immediate or direct supervision for unregistered assistants, may be performed by licensed~~

~~veterinary technicians under indirect supervision unless otherwise restricted.~~

~~(5) Immediate supervision for unregistered assistants. An unregistered assistant may perform the following tasks only under the immediate supervision of a veterinarian or licensed veterinary technician:~~

~~(a) Place and secure an intravenous catheter;~~

~~(b) Monitor vital signs of an anesthetized patient;~~

~~(c) Dental prophy.~~

~~(6) Direct supervision for unregistered assistant. An unregistered assistant may perform the following tasks only under the direct supervision of a veterinarian or licensed veterinary technician:~~

~~(a) Intravenous injection into catheterized vein;~~

~~(b) Vaccines (except for rabies and those diseases described in subsection (8) of this section) with the veterinarian's verification signature on an appropriate certificate;~~

~~(c) Imaging procedures;~~

~~(d) Removal of sutures, drain tubes and staples;~~

~~(e) Bandaging;~~

~~(f) Removal of exposed foreign bodies;~~

~~(g) Lab sample collection and test preparation (not evaluation) to include:~~

~~(i) Venipuncture;~~

~~(ii) Skin scraping.~~

~~(h) Microchip implantation;~~

~~(i) Enema;~~

~~(j) Ear flush;~~

~~(k) Perform electrocardiogram and blood pressure measurements;~~

~~(l) Intramuscular and subcutaneous injection;~~

~~(m) Massage except where regulated.~~

~~(7) Indirect supervision for unregistered assistants. An unregistered assistant must always be under the indirect supervision of a veterinarian or licensed veterinary technician, except as listed in subsections (5) and (6) of this section. Tasks not specifically listed or otherwise restricted may be performed by a licensed veterinary technician or unregistered assistant under the indirect supervision of a veterinarian.~~

~~(8) Veterinary biologics. Licensed veterinary technicians and unregistered assistants may only administer veterinary biologics for rabies and those diseases listed in WAC 16-42-026(1) under the direct supervision of a veterinarian.~~

~~(9)~~)) Tasks not specifically listed or delegated by the veterinarian, or otherwise restricted, may be performed by a licensed veterinary technician or unregistered assistant under the indirect supervision of a veterinarian.

(3) A licensed veterinary technician or unregistered assistant may perform the following animal health care tasks under the supervision of a licensed veterinarian as indicated in the tables categorized in this subsection.

Table A: Anesthesia

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Induction of anesthesia		X					X

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Maintenance of anesthesia		X		X (requires supervisor consultation)			
Monitor sedated or anesthetized patient			X	X			
Intubation		X					X

Table B: Bandaging

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Application of casts, splints, and slings		X					X
Closure, including suturing of prepared skin wound or gingival incision		X					X
Removal of sutures, drain tubes, and staples			X		X		
Removal of exposed foreign bodies			X		X		

Table C: Centesis Procedures

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Centesis of abdominal, thoracic, ocular, or cerebrospinal fluids except the urinary bladder	X						X
Cystocentesis			X				X
Fine needle aspirate of any other area			X	X			

Table D: Dental Procedures

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Single root (except canine tooth) extractions not requiring sectioning of the tooth or sectioning of the bone or incision of gingiva	X						X
Dental prophy			X	X			
Floating teeth		X					X

Table E: Procedures

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Blood pressure			X		X		
Cytology analysis including urine sediment and basic hematology			X		X		

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Electrocardiogram measurement			X		X		
Fecal analysis			X		X		
Urine dipstick and specific gravity			X		X		
Placement of a urinary catheter in unobstructed animal			X				X
Acquisition of diagnostic images			X		X		
Placement of nasogastric and orogastric tubes			X				X
Use of nasogastric and orogastric tubes			X		X		
Skin scraping			X		X		
Euthanasia		X					X
Carbon dioxide and blood oxygen saturation			X		X		

Table F: Injections

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Intramuscular and subcutaneous injections			X		X		
Intraperitoneal injections		X					X
Intra-testicular block for local anesthesia			X	X			
Peripheral nerve block and epidurals		X					X
Intravenous injection in uncatheterized vein			X	X			
Microchip implantation			X		X		
Vaccines (except rabies and those diseases described in subsection (8) of this section) with the veterinarian's verification signature on an appropriate certificate			X		X		

Table G: Veterinary Biologics

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Veterinary biologics for rabies and those diseases listed in WAC 16-42-026(1)		X			X		

Table H: Intravenous Devices

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Placement of arterial and central venous catheters		X					X
Place and secure an IV catheter			X		X		
Blood and blood product administration		X					X

Table I: Lab Sample Collection and Test Preparation (not evaluation)

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Venipuncture			X		X		

Table J: Ophthalmological Procedures

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Tear production testing			X		X		
Topical anesthetic application			X		X		
Fluorescein staining of cornea			X		X		
Eye pressures/ tonometry			X		X		

Table K: Other

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Enema			X		X		
Ear flush			X		X		
Massage (except where regulated)			X		X		
Noninvasive cardiopulmonary resuscitation and basic first aid procedures			X			X	
Packaging, preparation, administration, or delivery of controlled substances, see also: WAC 246-935-420			X				X
Ear tipping (for the identification of sterilized cats)		X		X			

(4) Emergency animal care: Under conditions of an emergency, a licensed veterinary technician and unregistered assistant may render certain life saving aid to an animal patient as indicated in the table in this subsection. Nothing in the table shall be construed to prohibit the provision of basic first aid to animals in the absence of a veterinarian or licensed veterinary technician.

Task	Licensed Veterinary Technician			Unregistered Assistant			
	Immediate	Direct	Indirect	Immediate	Direct	Indirect	Prohibited
Administer pharmacologic agents and parenteral fluids only after communication with a veterinarian			X			X	
Utilize basic life support including noninvasive cardiopulmonary resuscitation and basic first aid procedures			X			X	
Provide other aid upon the order of a licensed veterinarian as outlined in this section			X			X	

(5) Rabies vaccinations require an appropriate rabies certificate. The certificate is considered part of the medical record and must contain at least the following information:

(a) Owner's name, address, and telephone number;

(b) Species, age, breed, sex, size, name, and predominant colors/markings;

(c) Month, day, and year of vaccination;

(d) Month, day, and year of next vaccination due date;

(e) Product name and identification of manufacturer;

(f) Effective date of vaccine, example: One year, three years;

(g) Vaccine serial or lot number; and

(h) Veterinarian's name, license number, address, and signature.

((~~(10)~~)) (6) To be authorized to dispense pharmaceuticals, an unregistered assistant((~~s~~)) must be registered as a veterinary medication clerk under chapter 246-937 WAC.

((~~(11) Emergency animal care. Under conditions of an emergency, a licensed veterinary technician and unregistered assistant may render certain life saving aid to an animal patient.~~

~~(a) A licensed veterinary technician may:~~

~~(i) Apply emergency cardiopulmonary resuscitation and first-aid procedures and all tasks as listed in subsections (3), (4), (5), and (6) of this section;~~

~~(ii) Administer pharmacologic agents and parenteral fluids only after communication with a veterinarian.~~

~~(b) An unregistered assistant may:~~

~~(i) Apply noninvasive cardiopulmonary resuscitation and basic first aid procedures;~~

~~(ii) Provide other aid upon the order of a licensed veterinarian as outlined in this section.~~))

WSR 25-21-128
PROPOSED RULES
DEPARTMENT OF
LABOR AND INDUSTRIES
[Filed October 21, 2025, 8:28 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-16-091.

Title of Rule and Other Identifying Information: Pension discount rate (PDR); amending WAC 296-14-8810 Pension tables, pension discount rate and mortality tables in chapter 296-14 WAC, Industrial insurance.

Hearing Location(s): On December 3, 2025, at 10:00 a.m., via Zoom at https://lni-wa-gov.zoom.us/j/4174628707?omn=84044493298, Meeting ID 417 462 8707; or join by phone 253-215-8782 US (Tacoma). Find your local number at https://lni-wa-gov.zoom.us/u/kcpM3LVgyX. The virtual meeting starts at 10:00 a.m. and will continue until all oral comments are received.

Date of Intended Adoption: January 20, 2026.

Submit Written Comments to: Suzy Campbell, Department of Labor and Industries (L&I), Insurance Services, Legal Services, P.O. Box 44270, Olympia, WA 98504-4270, email Suzanne.Campbell@Lni.wa.gov, fax 360-902-5029, beginning October 22, 2025, at 8:00 a.m., by December 3, 2025, at 5:00 p.m.

Assistance for Persons with Disabilities: Contact Cristina Gaffoglio, phone 360-902-4252, fax 360-902-6509, TTY 360-902-4252, email Cristina.Gaffoglio@Lni.wa.gov, by November 25, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The purpose of this rule making is to lower PDR to better align with the rate of return for long term treasuries for self-insured pensions. PDR is the interest rate used to account for the time value money when evaluating the present value of future pension payments. This rule proposes to lower PDR for self-insured employers from 5.4 percent to 5.3 percent effective April 1, 2026.

Reasons Supporting Proposal: These reductions allow our financial statements to more accurately reflect our liabilities and overall financial position, and are consistent with recommendations from our annual independent actuarial review of our rate making.

Statutory Authority for Adoption: RCW 51.04.020, 51.44.070, and 51.44.080.

Statute Being Implemented: RCW 51.44.070.

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

Name of Proponent: L&I, governmental.

Name of Agency Personnel Responsible for Drafting: Suzy Campbell, Tumwater, Washington, 360-902-5003; Implementation: Cindy Gaddis, Tumwater, Washington, 360-995-2374; and Enforcement: Kirsta Glenn, Tumwater, Washington, 360-701-2114.

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. L&I is exempt from preparing a cost-benefit analysis under RCW 34.05.328 (5)(b)(vi) since the purpose of this rule making is to set or adjust fees or rates pursuant to legislative standards.

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

Is exempt under RCW 19.85.025(3) as the rules set or adjust fees under the authority of RCW 19.02.075 or that set or adjust fees or rates pursuant to legislative standards, including fees set or adjusted under the authority of RCW 19.80.045.

Scope of exemption for rule proposal:
Is fully exempt.

October 21, 2025
Joel Sacks
Director

RDS-6683.1

AMENDATORY SECTION (Amending WSR 25-03-113, filed 1/21/25, effective 4/1/25)

WAC 296-14-8810 Pension tables, pension discount rate and mortality tables. (1) The department uses actuarially determined pension tables for calculating pension annuity values, required pension reserves, and actuarial adjustments to monthly benefit amounts.

(a) The department's actuaries calculate the pension tables based on:

(i) Mortality tables from nationally recognized sources;

(ii) The department's experience with rates of mortality, disability, and remarriage for annuity recipients;

(iii) A pension discount rate of 4.0 percent for state fund pensions;

(iv) A pension discount rate of ((~~5.4~~)) 5.3 percent for self-insured pensions, including the United States Department of Energy pensions; and

(v) The higher of the two pension discount rates so that pension benefits for both state fund and self-insured recipients use the same reduction factors for the calculation of death benefit options under RCW 51.32.067.

(b) The department's actuaries periodically investigate whether updates to the mortality tables relied on or the department's experience with rates of mortality, disability, and remarriage by its annuity recipients warrant updating the department's pension tables.

(2) To obtain a copy of any of the department's pension tables, contact the department of labor and industries actuarial services.

WSR 25-21-132
PROPOSED RULES
DEPARTMENT OF
SOCIAL AND HEALTH SERVICES
(Home and Community Living Administration)
[Filed October 21, 2025, 9:45 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 22-04-047.

Title of Rule and Other Identifying Information: Chapter 388-78A WAC, Assisted living facility licensing rules; chapter 388-97 WAC, Nursing homes; and chapter 388-107 WAC, Licensing requirements for enhanced services facilities.

Hearing Location(s): On November 25, 2025, at 10:00 a.m., virtually via Teams or call in. See the department of social and health services (DSHS) website at https://www.dshs.wa.gov/sesa/rpau/proposed-rules-and-public-hearings for the most current information.

Date of Intended Adoption: Not earlier than November 26, 2025.

Submit Written Comments to: DSHS Rules Coordinator, P.O. Box 45850, Olympia, WA 98504, email DSHSRPAURulesCoordinator@dshs.wa.gov, beginning noon on October 22, 2025, by 5:00 p.m. on November 25, 2025.

Assistance for Persons with Disabilities: Contact Shelley Tencza, rules consultant, phone 360-664-6036, TTY 711 relay service, email shelley.tencza@dshs.wa.gov, by 5:00 p.m. on November 12, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The proposed rules implement SHB 1218, chapter 159, Laws of 2021. Amended sections include WAC 388-78A-2700 Emergency and disaster preparedness, 388-97-1740 Disaster and emergency preparedness, and 388-107-1600 Emergency disaster preparedness. These rules were originally proposed with a number of other new rules and amendments, which DSHS adopted. The rule text for the proposed rules has changed significantly since the original proposal. The changes reflect the interested parties' work and the elements required by SHB 1218, chapter 159, Laws of 2021.

Reasons Supporting Proposal: The proposed rules implement SHB 1218, chapter 159, Laws of 2021. This rule making expands definitions and examples of disasters; adds requirements for emergency preparedness plans that address infection control, personal protective equipment, employee training, and communication as part of emergency preparedness.

Statutory Authority for Adoption: RCW 18.20.090, 18.51.070, 70.97.230, and chapter 70.129 RCW.

Statute Being Implemented: Chapter 74.39 RCW.

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

Name of Proponent: DSHS, governmental.

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: Colleen Jensen, 4500 10th Avenue S.E., Lacey, WA 98503, 564-999-3182.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Colleen Jensen, P.O. Box 45600, Olympia, WA 98504, phone 564-999-3182, TTY 711 relay service, email rcspolicy@dshs.wa.gov.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement (SBEIS)

Chapter 19.85 RCW, the Regulatory Fairness Act (RFA), requires that the economic impact of proposed regulations be analyzed in relation to small businesses. The statute defines small businesses as those business entities that employ 50 or fewer people and are independently owned and operated. Preparation of an SBEIS is required when a proposed rule has the potential of placing a disproportionate economic impact on small businesses. The statute outlines information that must be included in an SBEIS.

DSHS has analyzed the proposed rule amendments and has determined that small businesses will be impacted by these changes, with some costs considered "more-than-minor" and disproportionate to small businesses. When proposed rule changes cause more-than-minor costs to small businesses, RFA requires an analysis that compares these costs between small businesses and 10 percent of the largest businesses.

We can assume that the costs vary minimally depending on the size of the business. However, because larger businesses are generally able to absorb costs more easily, the impact may be felt more disproportionately by small businesses. Costs associated with updating and maintaining the emergency and disaster plans may impact smaller businesses more than their larger counterparts. For example, $400 for updating and maintaining disaster and emergency plans would be more burdensome to a smaller business than a larger business.

While DSHS cannot directly mitigate disproportionate costs for the smaller businesses, the increase in requirements will add to the safety of the residents and the ability for the facility to respond to disasters and emergencies. DSHS assumes that this added safety will increase the residents' health and safety as well as quality of life. The proposed rules do not create or eliminate jobs.

DSHS has considered the impact of proposed rules in chapter 388-78A WAC, Assisted living facilities licensing rule; chapter 388-97 WAC, Nursing homes; and chapter 388-107 WAC, Licensing requirements for enhanced services facilities. To comply with RFA, chapter 19.85 RCW, DSHS analyzed impacts on small businesses and proposed ways to mitigate costs considered more-than-minor and disproportionate, and concluded that the probable costs of the proposed rule do not exceed the probable benefits.

A copy of the statement may be obtained by contacting Colleen Jensen, P.O. Box 45600, Olympia, WA 98504, phone 564-999-3182, TTY 711 relay, email rcspolicy@dshs.wa.gov.

October 14, 2025
Katherine I. Vasquez
Rules Coordinator

SHS-5114.1

AMENDATORY SECTION (Amending WSR 20-02-104, filed 12/31/19, effective 1/31/20)

WAC 388-78A-2700 Emergency and disaster preparedness. (1) The assisted living facility must:

(a) Maintain the premises free of hazards;

(b) Maintain any vehicles used for transporting residents in a safe condition;

(c) Provide, and tell staff persons of a means of emergency access to resident-occupied bedrooms, toilet rooms, bathing rooms, and other rooms;

(d) Provide emergency lighting or flashlights in all areas accessible to residents of the assisted living facility((~~.~~));

(e) Make sure first-aid supplies are:

(i) Readily available and not locked;

(ii) Clearly marked;

(iii) Able to be moved to the location where needed; and

(iv) Stored in containers that protect them from damage, deterioration, or contamination.

(f) Make sure first-aid supplies are appropriate for:

(i) The size of the assisted living facility;

(ii) The services provided;

(iii) The residents served; and

(iv) The response time of emergency medical services.

((~~(g) Develop~~)) (2) The assisted living facility must develop and maintain a ((~~current disaster plan describing~~)) written emergency preparedness plan that describes measures to take in the event of ((~~internal or external~~)) emergencies or disasters, including, but not limited to:

((~~(i) On-duty staff persons' responsibilities;~~

~~(ii) Provisions for summoning emergency assistance;~~

~~(iii) Coordination with first responders regarding plans for evacuating residents from area or building;~~

~~(iv) Alternative resident accommodations;~~

~~(v) Provisions for essential resident needs, supplies and equipment including water, food, and medications; and~~

~~(vi) Emergency communication plan.~~))

(a) Fires;

(b) Earthquakes;

(c) Floods;

(d) Infectious disease outbreaks;

(e) Loss of power or water; and

(f) Other events that may require sheltering in place, evacuations, or other emergency measures to protect the health and safety of residents.

(3) The assisted living facility's emergency preparedness plan must include procedures for:

(a) Staff roles and responsibilities;

(b) Identifying and locating residents;

(c) Summoning emergency assistance and coordinating with first responders;

(d) Communicating emergency information to staff and residents as well as external partners, including emergency contacts for residents, state and local agencies, developmental disability ombuds, and long-term care ombuds;

(e) How resident care and treatment needs will be maintained;

(f) Provision of essential resident needs and supplies, including water, food, medications, and personal care items; and

(g) Alternative resident accommodations.

(4) The assisted living facility must incorporate infection prevention and control capability into its emergency preparedness plan. At minimum, the plan must:

(a) Include procedures for the procurement, inventory, tracking, safe storage, and rotation of personal protective equipment to ensure supplies remain within manufacturer recommended shelf life and are available for use; and

(b) Describe how the facility will ensure adequate staffing and implement isolation or cohorting procedures during an infectious disease emergency.

(5) In addition to the plan requirements, the assisted living facility must:

(a) Maintain an adequate supply of personal protective equipment appropriate to the facility size and resident population, including, but not limited to: gloves, gowns, surgical masks, eye protection, and NIOSH-approved respirators;

(b) Train all employees in the comprehensive emergency preparedness plan and staff procedures upon hire and reviewed annually thereafter;

(c) Review the comprehensive emergency preparedness plan and procedures and update at least annually;

(d) Communicate the location of the emergency preparedness plan to residents and staff to ensure access as needed during emergencies; and

(e) Comply with WAC 388-78A-3140.

AMENDATORY SECTION (Amending WSR 24-07-008, filed 3/7/24, effective 4/7/24)

WAC 388-97-1740 Disaster and emergency preparedness. The department amended or suspended portions of this section from June 23, 2020, through June 7, 2022, in response to the state of emergency related to the COVID-19 pandemic. For requirements in place during that time, see WAC 388-97-17401.

(1) The nursing home must develop and implement detailed written plans and procedures to meet potential emergencies and disasters. At a minimum the nursing home must ensure these plans provide for:

(a) Fire or smoke;

(b) Flood;

(c) Severe weather;

((~~(c)~~)) (d) Loss of power or water;

((~~(d)~~)) (e) Earthquake;

((~~(e)~~)) (f) Explosion;

((~~(f)~~)) (g) Missing resident, elopement;

((~~(g)~~)) (h) Loss of normal water supply;

((~~(h)~~)) (i) Bomb threats;

((~~(i)~~)) (j) Armed individuals;

((~~(j)~~)) (k) Gas leak, or loss of service; ((~~and~~))

((~~(k)~~)) (l) Loss of heat supply((~~.~~)) ;

(m) Infectious disease outbreak; and

(n) Any other events that may require sheltering in place, evacuations, or other emergency measures to protect the health and safety of residents.

(2) The nursing home emergency preparedness plan must ((~~train all employees in emergency procedures when they begin work in the nursing home, periodically review emergency procedures with existing staff, and carry out unannounced staff drills using those procedures.~~)) :

(a) Be developed and maintained with the assistance of qualified fire, safety, and other appropriate experts as necessary;

(b) Include procedures for:

(i) Staff roles and responsibilities;

(ii) Accounting for residents;

(iii) Summoning emergency assistance and coordinating with first responders;

(iv) Plans for evacuation of the facility;

(v) Communicating emergency information to staff and residents as well as external partners, including emergency contacts for residents, state and local agencies, developmental disability ombuds, and long-term care ombuds;

(vi) How resident care and treatment needs will be maintained; and

(vii) Provision of essential resident needs and supplies, including water, food, medications, and personal care items.

(3) The nursing home must ((~~ensure emergency plans:~~)) incorporate infection prevention and control capabilities into its emergency preparedness plan. At a minimum, the plan must:

((~~(a) Are developed and maintained with the assistance of qualified fire, safety, and other appropriate experts as necessary;~~

~~(b) Are reviewed annually; and~~

~~(c) Include evacuation routes prominently posted on each unit.~~))

(a) Include procedures for the procurement, inventory, tracking, safe storage, and rotation of personal protective equipment to ensure supplies remain within manufacturer recommended shelf life and are available for use; and

(b) Describe how the facility will ensure adequate staffing and implement isolation or cohorting procedures during an infectious disease emergency.

(4) In addition to the plan requirements, the nursing home must:

(a) Maintain an adequate supply of personal protective equipment appropriate to the facility size and resident population, including, but not limited to: gloves, gowns, surgical masks, eye protection, and NIOSH-approved respirators;

(b) Train all employees in emergency procedures when they begin work in the nursing home, review emergency procedures with existing staff at least annually, and carry out unannounced staff drills using those procedures;

(c) Review and update the comprehensive emergency preparedness plan and procedures at least annually;

(d) Communicate the location of the emergency preparedness plan to residents and staff to ensure access as needed during emergencies;

(e) Prominently post evacuation route(s) throughout the facility, and at minimum on every floor, if applicable; and

(f) Comply with WAC 388-97-4360.

AMENDATORY SECTION (Amending WSR 14-19-071, filed 9/12/14, effective 10/13/14)

WAC 388-107-1600 Emergency disaster plan. (1) The enhanced services facility must develop and implement detailed written plans and procedures to meet potential emergencies and disasters. At a minimum, the enhanced services facility must ensure these plans provide for:

(a) Fire or smoke;
(b) Severe weather;
(c) Loss of power;
(d) Earthquakes;
(e) Explosion;
(f) Missing resident, elopement;
(g) Loss of normal water supply;
(h) Bomb threats;
(i) Armed individuals;
(j) Gas leak, or loss of service;
(k) Loss of heat supply;
(l) Floods;

((~~Accounting for residents during a disaster~~)) (m) Infectious disease outbreaks; and

((~~(m) Plans for evacuation of the facility~~)) (n) Other events that may require sheltering in place, evacuations, or other emergency measures to protect the health and safety of residents.

(2) The enhanced services ((~~facility must train all employees in emergency procedures when they begin work in the enhanced services facility, periodically review emergency procedures with existing staff, and carry out unannounced staff drills using those procedures.~~)) facility's emergency preparedness plan must:

(a) Be developed and maintained with the assistance of qualified fire, safety, and other appropriate experts as necessary; and

(b) Include procedures for:

(i) Staff roles and responsibilities;

(ii) Accounting for residents;

(iii) Summoning emergency assistance and coordinating with first responders;

(iv) Plans for evacuation of the facility;

(v) Communicating emergency information to staff and residents as well as external partners, including emergency contacts for residents, state and local agencies, developmental disability ombuds, and long-term care ombuds;

(vi) How resident care and treatment needs will be maintained; and

(vii) Provision of essential resident needs and supplies, including water, food, medications, and personal care items.

(3) The enhanced services facility must ((~~ensure emergency plans~~)) incorporate infection prevention and control capabilities into its emergency preparedness plan. At minimum, the plan must:

((~~(a) Are developed and maintained with the assistance of qualified fire, safety, and other appropriate experts as necessary;~~

~~(b) Are reviewed annually;~~

~~(c) Include plans to continue to serve and meet the needs of the residents during the emergency; and~~

~~(d) Include evacuation routes prominently posted on each unit.~~))

(a) Include procedures for the procurement, inventory, tracking, safe storage, and rotation of personal protective equipment to ensure

supplies remain within manufacturer recommended shelf life and are available for use; and

(b) Describe how the facility will ensure adequate staffing and implement isolation or cohorting procedures during an infectious disease emergency.

(4) In addition to the plan requirements, the enhanced services facility must:

(a) Maintain an adequate supply of personal protective equipment appropriate to the facility size and resident population, including, but not limited to: gloves, gowns, surgical masks, eye protection, and NIOSH-approved respirators;

(b) Train all employees in emergency procedures when they begin work in the enhanced services facility, annually review emergency procedures with existing staff, and carry out unannounced staff drills using those procedures;

(c) Review and update the comprehensive emergency preparedness plan and procedures at least annually;

(d) Communicate the location of the emergency preparedness plan to residents and staff to ensure access as needed during emergencies;

(e) Prominently post evacuation route(s) throughout the facility, at minimum on every floor, if applicable; and

(f) Comply with WAC 388-107-1420.

WSR 25-21-136
PROPOSED RULES
OFFICE OF THE
INSURANCE COMMISSIONER

[Insurance Commissioner Matter R 2025-08—Filed October 21, 2025, 10:52 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-15-140.

Title of Rule and Other Identifying Information: Clarifying and updating rules concerning when title insurers are permitted to conduct or sponsor educational programs.

Hearing Location(s): On December 1, 2025, at 1:00 p.m. PT, virtual via Zoom meeting. Detailed information for attending the Zoom meeting posted on the office of the insurance commissioner (OIC) website at https://www.insurance.wa.gov/laws-rules/legislation-and-rulemaking/rulemaking/clarifying-rules-title-insurer-educational-programs-r-2025-08. Registration link for the virtual public hearing at https://wa-oic.zoom.us/meeting/register/6k9Y7C-0TJefPefOeWVkXw.

Date of Intended Adoption: December 3, 2025.

Submit Written Comments to: Rules Coordinator, P.O. Box 40255, Olympia, WA 98504-0255, email rulescoordinator@oic.wa.gov, fax 360-586-3109/3535, beginning October 21, 2025, at 12:00 a.m. PT, by December 2, 2025, at 11:59 p.m. PT.

Assistance for Persons with Disabilities: Contact rules coordinator, phone 360-725-7171, fax 360-586-3109/3535, TTY 360-586-0241, email rulescoordinator@oic.wa.gov, by November 25, 2025, at 5:00 p.m.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: RCW 48.29.210(2) prohibits title insurers from giving anything of value to any person in a position to refer or influence the referral of title insurance business. Certain exceptions to this prohibition are specified in rule, including conducting or sponsoring educational programs.

Current rules concerning title insurers conducting or sponsoring educational programs are ambiguous and need clarification. OIC is considering amending WAC 284-29-205, 284-29-220, and 284-29-235. The anticipated effects of these amendments are to: (1) Create a clear definition of "educational program"; (2) amend the definition of "give" to be more in line with common usage of the term; and (3) align rules concerning title companies sponsoring educational programs for trade associations with rules concerning sponsorship of educational programs for other types of entities.

Reasons Supporting Proposal: OIC has received several inquiries from title insurers as to what activities are permitted under the current rules. This rule making is necessary to clarify permitted activities such that title insurers and other interested parties understand their rights and obligations under the law.

Statutory Authority for Adoption: RCW 48.02.060 (3)(a), 48.29.005, and 48.29.210(2).

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

Name of Proponent: Patty Kuderer, insurance commissioner, governmental.

Name of Agency Personnel Responsible for Drafting: Tyler Langford, 302 Sid Snyder Avenue, Olympia, WA 98501, 360-725-7171; Implementation and Enforcement: Sofia Pasarow, 5000 Capitol Boulevard S.E., Tumwater, WA 98501, 360-725-7000.

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

A cost-benefit analysis is required under RCW 34.05.328. A preliminary cost-benefit analysis may be obtained by contacting Rules Coordinator, 302 Sid Snyder Avenue, Olympia, WA 98501, phone 360-725-7171, fax 360-586-3109/3535, TTY 360-586-0241, email rulescoordinator@oic.wa.gov.

Scope of exemption for rule proposal from Regulatory Fairness Act requirements:

Is not exempt.

The proposed rule does not impose more-than-minor costs on businesses. Following is a summary of the agency's analysis showing how costs were calculated. OIC determined that title insurers may be small businesses. Based on 2024 employment security department covered employment data, title insurers had an average annual employment of 46.2 (1,942 average annual employment, 42 average firms).

The rule does not impose more-than-minor costs to title insurers because conducting or sponsoring educational programs is optional for the insurers. This rule clarifies permitted activities such that title insurers and other interested parties understand their rights and obligations if they choose to conduct or sponsor educational programs.

A copy of the detailed cost calculations may be obtained by contacting Rules Coordinator, P.O. Box 40255, Olympia, WA 98504-0255, phone 360-725-7171, fax 360-586-3109/3535, TTY 360-586-0241, email rulescoordinator@oic.wa.gov.

October 21, 2025
Patty Kuderer
Insurance Commissioner

RDS-6663.1

AMENDATORY SECTION (Amending WSR 09-05-077, filed 2/17/09, effective 3/20/09)

WAC 284-29-205 Definitions. For purposes of WAC 284-29-200 through 284-29-265:

(1) "Advertising" or "advertisement" means a representation about any product, service, equipment, facility, or activity or any person who makes, distributes, sells, rents, leases, or otherwise makes available such a product, service, equipment, facility, or activity, when the representation:

(a) Is communicated to a person that, to any extent, by content or context, informs the recipient about such product, service, equipment, facility, or activity;

(b) Recognizes, honors, or otherwise promotes such a product, service, equipment, facility, or activity; or

(c) Invites, advises, recommends, or otherwise solicits a person to participate in, inquire about, purchase, lease, rent, or use such a product, service, equipment, facility, or activity.

(2) "Associates of producers" has the same meaning as set forth in RCW 48.29.010 (3)((~~(f)~~))(c).

(3) "Bona fide employee of a title company" means an individual who devotes substantially all of his or her time to performing services on behalf of a title company and whose compensation for these services is in the form of salary or its equivalent by the title company.

(4) "Commercial real estate" means a fee title interest or possessory estate in real property located in this state, except an interest in real property which is:

(a) Improved with one-single family residential unit or multifamily structure with four or less residential units;

(b) Unimproved and the maximum permitted development is one to four residential units or structures under the county or city zoning ordinances or comprehensive plan applicable to that real estate;

(c) Classified as farm and agricultural land or timber land for assessment purposes under chapter 84.34 RCW; or

(d) Improved with ((~~singe-family~~)) single-family residential units such as condominiums, townhouses, timeshares, or stand-alone houses in a subdivision that may be legally sold, leased, or otherwise disposed of on a unit-by-unit basis.

(5) "Educational program" means a structured learning event, or a structured and organized plan of learning activities, whether held in-person or virtually, in which information is delivered to an audience, or in which participants engage with an expert or facilitator, on one or more topics, in order to achieve specific educational goals or objectives.

(a) Examples of educational programs include, but are not limited to:

(i) In-person lectures;

(ii) Webinars;

(iii) Podcasts; and

(iv) Educational videos posted online.

(b) Examples of activities or products not considered educational programs include, but are not limited to:

(i) Social media posts;

(ii) Blog posts available to the general public; and

(iii) Brief informational articles posted on company or agency websites and available to the general public.

(6) "Give" means to transfer to another person, or cause another person to receive((~~, retain, use~~)) or otherwise benefit from a thing of value ((~~whether or not the title company receives~~)) without receiving fair-market value compensation in return. It also means the transfer to a third person of anything of value that in any manner benefits a person in a position to refer or influence the referral of title insurance business.

((~~(6)~~)) (7) "Market rate" means the price at which a seller, under no obligation or duress to sell, is willing to accept and a buyer, under no obligation or duress to buy, is willing to pay in an arms-length transaction. The market rate is determined by comparing the items or services purchased or sold to similar items or services that have been recently purchased by others or sold to others, including others not in the title insurance business.

((~~(7)~~)) (8) "Person" has the meaning set forth in RCW 48.01.070.

((~~(8)~~)) (9) "Producers of title insurance business" or "producer" has the meaning set forth in RCW 48.29.010 (3)((~~(c)~~)) (g); this term includes associates of producers and any person in a position to refer or influence the referral of title business to the title company.

((~~(9)~~)) (10) "Representative of a title company" means any person acting directly or indirectly on behalf of the title company.

((~~(10)~~)) (11) "Restrictive covenants" means private agreements that restrict the use or occupancy of real property generally by specifying lot sizes, building lines, occupancy, architectural styles, and the use to which the property may be put. Restrictive covenants do not include matters such as easements and road maintenance agreements.

((~~(11)~~)) (12) "Self-promotional" means an advertisement or promotional function which is conducted by a single title company solely for the benefit of the title company or a promotional item intended for distribution by a single title company and only on behalf of the title company.

((~~(12)~~)) (13) "Thing of value" means anything that has a monetary value. It includes, but is not limited to, cash or its equivalent, tangible objects, services, use of facilities, monetary advances, extensions of lines of credit, creation of compensating balances, title company employee time, advertisements, discounts, salaries, commissions, services at special prices or rates, sales or rentals at special prices or rates, and any other form of consideration, reward or compensation.

((~~(13)~~)) (14) "Title company" means either a title insurance company authorized to conduct title insurance business in this state under chapter 48.05 RCW or a title insurance agent defined in RCW 48.17.010((~~(15)~~)) (16), or both. The term includes employees, representatives, and agents of title insurance companies and title insurance agents.

((~~(14)~~)) (15) "Trade association" means an association of persons, a majority of whom are producers or persons whose primary activity involves real property. Trade association does not include an association of persons, a majority of whom are title insurance companies and title insurance agents.

AMENDATORY SECTION (Amending WSR 09-05-077, filed 2/17/09, effective 3/20/09)

WAC 284-29-220 Trade associations. (1) A title company may donate the time of its employees to serve on a trade association committee.

(2) A title company may donate to, contribute to or otherwise sponsor a trade association event only if all of the following conditions are met:

(a) The event is a recognized association event that generally benefits all members and affiliated members of the association in an equal manner;

(b) The donation must not benefit a selected producer member of the association unless through a random process; and

(c) Solicitation for the donation must be made of all association members and affiliated members in an equal manner and amount.

(3) A title company may pay for its employees and a single guest of each employee to attend trade association events only if all of the following conditions are met:

(a) The title company pays a fee equal to fees paid by producer members of the association in the events;

(b) The title company employees and their guest(s) actually attend the event (except when attendance is prevented by an emergency); and

(c) The guest of the title company employee is not a producer (except where the guest is related to the title company employee by blood or marriage or their domestic partner).

(4) For purposes of this section, trade association events include, but are not limited to, conventions, award banquets, symposiums, ((~~educational seminars,~~)) breakfasts, lunches, dinners, receptions, cocktail parties, open houses, sporting activities and other similar activities.

(5) A title company may:

(a)(i) Donate to, contribute to, or otherwise sponsor a trade association event under subsection (2) of this section; and

(ii) Advertise in a trade association publication under WAC 284-29-215(1)((~~; and~~

~~(iii) Sponsor a trade association educational seminar under WAC 284-29-235(3);~~)).

(b) Give a thing of value listed under (a) of this subsection to a trade association only if all of the following requirements are met:

(i) The thing of value is limited to ((~~one thousand dollars~~)) $1,000 per event, advertisement, or sponsorship ((~~of an educational seminar~~));

(ii) The title company must not give a thing of value to all trade associations more than three times in a calendar year;

(iii) The title company must not combine any of these permitted expenditures into one expenditure; and

(iv) The title company must not accumulate or carry forward left over or unused expenditures from one of these permitted expenditures to a subsequent expenditure.

(c) Sponsor a trade association educational program, subject to the limitations in WAC 284-29-235;

(6) If a title company owns or leases and maintains a complete set of tract indexes in more than one county:

(a) The limits set forth in subsection (5) of this section apply on a county by county basis for donations, contributions, sponsorships, payments for events, advertisements, or sponsorship of educational ((~~seminars~~)) programs of trade associations a majority of whose members are located in that county;

(b) A donation, contribution, sponsorship, payment for an event, or advertisement((~~, or sponsorship of an educational seminar~~)) to a statewide trade association shall constitute one of its expenditures for each and every county in which the title company is authorized to issue title insurance policies; and

(c) The title company must not combine or accumulate unused expenditures of these permitted expenditures from one county to another county nor to a statewide trade association.

(7) If a title company that is under common ownership makes a donation, contribution, sponsorship, payment for an event, or advertisement((~~, or sponsorship of an educational seminar~~)) to a statewide trade association, the expenditure shall constitute an expenditure as one of the expenditures for each and every one of the title companies that are under common control.

AMENDATORY SECTION (Amending WSR 09-05-077, filed 2/17/09, effective 3/20/09)

WAC 284-29-235 Educational ((~~seminars~~)) programs. (1) A title company may conduct educational programs at no charge only if the content of the program consists solely of education regarding title insurance, title to real property, and escrow topics.

(a) A title company must spend no more than ((~~ten dollars~~)) $10 per person for refreshments at any one educational program.

(b) Any materials that the title company provides to attendees must be directly related to the topic of the ((~~seminar~~)) program or are self-promotional advertising of the title company.

(2) A title company may provide a speaker at no charge for an educational program conducted or presented by other persons, only if the following conditions are met:

(a) The speaker is an employee of the title company;

(b) If a title insurance agent is providing the speaker, the speaker may be an employee of the title insurer for whom the title insurance agent has been properly appointed;

(c) The topic of the presentation by the employee is solely related to title insurance, escrow, or real property law; and

(d) Any materials that the speaker provides to attendees are directly related to the topic of the speaker or are self-promotional advertising of the title company of the employee.

(3) ((~~A title company may sponsor an educational seminar of a trade association subject to the limits in WAC 284-29-220.~~

~~(4)~~)) A title company may sponsor or conduct an educational program on topics other than title insurance, title to real property, and escrow only if:

(a) The educational program is open to all producers; and

(b) The attendees actually pay to attend the program the greater of:

(i) All expenses and costs associated with the delivery of the educational program by the title company; or

(ii) What the attendee would pay to attend a similar ((~~seminar~~)) educational program sponsored by entities other than title companies on the open market.

The calculation by the title company of the expenses and costs associated with the delivery of the ((~~education~~)) educational program must include, but not be limited to, all travel, refreshments, speaker fees or wages of the speaker, facility rental, preparation of materials distributed at the educational program, parking, advertisement, and wages of arranging and planning for the program.

WSR 25-21-137
PROPOSED RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES
[Filed October 21, 2025, 10:55 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 24-24-099.

Title of Rule and Other Identifying Information: The licensing division (LD) is creating a new chapter 110-146 WAC, Licensing requirements for residential private schools (RPS).

Hearing Location(s): On November 25, 2025, telephonic. Comments can be made by calling 360-972-5385 and leaving a voicemail that includes the comment, emailing the rules coordinator, or submitting comments to the online comment application linked below. All comments must be received by the date and time listed below.

Date of Intended Adoption: November 26, 2025.

Submit Written Comments to: Department of children, youth, and families (DCYF) rules coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, https://www.dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online, beginning October 25, 2025, at 8:00 a.m., by November 25, 2025, at 11:59 p.m.

Assistance for Persons with Disabilities: Contact DCYF rules coordinator, email dcyf.rulescoordinator@dcyf.wa.gov, relay users dial 711, by November 14, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: LD is creating a new rules chapter to meet the requirements of ESSB 5515. DCYF does not currently license RPSs, but with this new legislation, DCYF will create new rules for licensing the residential component of RPSs and begin licensing these schools statewide. These rules will include application requirements, as well as licensing and monitoring requirements, for the living accommodations in RPSs.

Reasons Supporting Proposal: LD engaged in negotiated rule making (NRM) to complete this rule-making project. The NRM process included representatives of LD, office of tribal relations, office of government affairs, and community partners. Community partners included the affected schools, their accrediting bodies, school representatives, and the state board of education (SBE). Out of the 12 identified schools that were invited, 75 percent of them participated. LD worked to reach consensus on every section that was negotiated. When consensus could not be reached, LD attempted to make decisions to reach a compromise in service of improving care for children and youth. LD believes these changes will empower RPSs to provide high quality care that supports the safety and well-being of the children and youth they serve.

Statutory Authority for Adoption: ESSB 5515, section 3, chapter 441, Laws of 2023; RCW 74.15.020; and chapter 43.216 RCW.

Statute Being Implemented: ESSB 5515, section 3, chapter 441, Laws of 2023; RCW 74.15.020; and chapter 43.216 RCW.

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

Name of Proponent: DCYF, governmental.

Name of Agency Personnel Responsible for Drafting: David Charrington, Centralia, Washington, 360-957-8131; 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). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

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

Is exempt under RCW 19.85.025(3) as the rule content is explicitly and specifically dictated by statute; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Explanation of exemptions: These rules are required to be established to meet the requirements of ESSB 5515.

Scope of exemption for rule proposal:

Is fully exempt.

The proposed rule does impose more-than-minor costs on businesses.

Small Business Economic Impact Statement (SBEIS)

RPS NRM
Chapter 110-146 WAC

SECTION 1: Describe the proposed rule, including:

- **A brief history of the issue;**
- **An explanation of why the proposed rule is needed; and**
- **A brief description of the probable compliance requirements and the kinds of professional services that a small business is likely to need in order to comply with the proposed rule:** ESSB 5515 requires DCYF to license the living accommodations provided by residential private schools as defined in RCW 74.15.020. DCYF has not previously licensed this type of facility, which is unlike other types of facilities licensed by DCYF. ESSB 5515 requires DCYF to engage in a NRM process with SBE and others impacted by this rule making to create a new chapter that adopts the minimum health and safety rules for the living accommodations in RPSs. The adopted rules must address the needs of children and youth during noninstructional hours including, but not limited to, the following:

- Space allotted to each child or youth for sleeping.
- Developmentally appropriate privacy requirements.
- Personal storage.
- Nutritional needs.
- Cleanliness and hygiene of living quarters.
- Social and emotional well-being.
- Health and wellness accommodations.
- Compliance with Americans with Disabilities Act (ADA).
- Physical safety.

The proposed rules discussed in this SBEIS are new rules that address the health and safety requirements for the living accommodations in RPSs. DCYF identified nine rules in this new chapter that may result in a potential cost increase that exceeds the minor cost threshold for agencies as defined in chapter 74.15 RCW. The rules are:

• **WAC 110-146-0090 Personnel coverage.** This rule requires schools to provide a level of training resources to personnel that meets the physical, emotional, and cultural needs of their students.

• **WAC 110-146-0130 Living accommodation requirements.** This rule requires schools to have fire safety items, safety prevention items, and emergency planning and preparation items in place.

• **WAC 110-146-0140 Bedrooms and sleeping areas.** This rule requires the spaces meet ADA requirements and each student have an appropriately sized bed and mattress, along with adequate bedding.

• **WAC 110-146-0150 Privacy.** This rule requires schools to provide barriers for privacy or separation from other youth while toileting and bathing.

• **WAC 110-146-0160 Personal storage requirements.** This rule requires schools to provide separate personal storage for students' clothing and personal items.

• **WAC 110-146-0180 Health and wellness accommodations during non-instructional hours.** This rule requires schools to allow students to participate in activities, which may include covering all related fees associated with them, including transportation fees. It also requires schools to provide students access to personal hygiene supplies that are appropriate to their age, gender, and culture.

• **WAC 110-146-0200 Nutritional requirements.** This rule requires schools to have state approved storage methods for food and to serve food that meets the dietary restrictions of their students.

SECTION 2: **Identify which businesses must comply with the proposed rule using the North American Industry Classification System (NAICS) codes and the minor cost thresholds:**

NAICS Code (4, 5, or 6 Digit)	NAICS Business Description	# of Businesses in Washington	Minor-Cost Threshold = 1% of Average Annual Payroll	Minor-Cost Threshold = 0.3% of Average Annual Receipts
611110	Elementary and Secondary Schools	345* 186**	$14,484	$3,092

* Based on data from the 2021 Washington state employment security department.
** Based on data from the 2021 Washington state department of revenue.

SECTION 3: **Describe how small businesses were involved in the development of the proposed rule:** In January of 2024, DCYF held the first of four weekly scheduled workgroup sessions to learn more about the issues that residential private schools had with the initial draft rules and to gather input about the specific health and safety areas noted in ESSB 5515. All identified residential private schools were invited to the workgroup, including private schools who appear to meet the definition of being a small business. Sixty-six percent of the residential private schools that appear to meet the definition of being a small business attended the sessions.

In March of 2024, DCYF began the RPS NRM rule-making process and all schools identified as possibly being impacted by ESSB 5515 were invited. To see the schools identified to meet the definition of being a small business, see table below. Each participating school was able to have two representatives and at least one backup representative. The representatives brought the interests of their school to the negotiation meetings for discussion and consensus-reaching.

RPS NRM Participant Invitees
1. Eastside Academy - Meets the definition of small business 2. Flying H - Meets the definition of small business 3. Mission Creek - Meets the definition of small business 4. Washington Preparatory - Meets the definition of small business 5. St. Michael School - Meets the definition of small business 6. Spring Street International - Meets the definition of small business 7. Annie Wright - Does not meet the definition of a small business 8. Upper Columbia - Does not meet the definition of a small business 9. Auburn Adventist Academy - Does not meet the definition of a small business 10. Northwest Schools - Does not meet the definition of a small business 11. Kings Schools - Does not meet the definition of a small business 12. Kennedy Catholic - Does not meet the definition of a small business

SECTION 4: **Analyze the probable cost of compliance. Identify the probable costs to comply with the proposed rule, including the cost of equipment, supplies, labor, professional services, and increased administrative costs. Also consider, based on input received, whether compliance with the rule will cause businesses to lose sales or revenue:** To gather information about probable costs, a survey was sent to the six provider representatives who meet the definition of being a small business and the two largest providers that make up over 10 percent of the total providers being licensed. The survey asked if each of the nine rules listed in section 1 above would have an additional financial impact on the provider's operation of their facility. If the provider indicated the rule would have an additional financial impact, they were asked to provide a brief explanation and estimated cost. The survey had an 83 percent return rate from the providers who qualify for a small business with five of the six providers responding, and one of two responses from the largest providers for a 50 percent response rate.

WAC 110-145-0090 Personnel coverage.		
Two of the six small business providers who responded indicated this rule would have an additional financial impact. Ten percent of the largest providers did not indicate a financial impact. The figures below were the highest cost estimates submitted pertaining to this rule.		
One-time cost: Creating/drafting policy Develop training Train staff Hire one new staff member **Total**	 $0 $0 *$2,000* *$44,000* **$46,000 in year one**	Exceeds the minor cost threshold
Recurring cost: Routine review of policy annually Add to new hire orientation Train staff annually **Annual Total**	 $0 $0 *$2,000* **$2,000**	
WAC 110-146-0130 Living accommodation requirements.		
One of the six small business providers responded indicating that this rule would have an additional financial impact. Ten percent of the largest providers did not indicate an impact. The figures below were the highest cost estimates submitted pertaining to this rule.		
One-time cost: Fire safety items, safety prevention items, and emergency planning and preparation items **Total**	 $70 **$70**	Does not exceed the minor cost threshold
Recurring cost: **Annual Total**	*$0* **$0**	
WAC 110-146-0140 Bedrooms and sleeping areas.		
Two of the six small business providers who responded indicated this rule would have an additional financial impact. Ten percent of the largest providers did not indicate an impact. The figures below were the highest cost estimates submitted pertaining to this rule.		
One-time cost: Bed, mattress, bedding *Two windows* **Total**	 $0 $200 **$200**	Does not exceed the minor cost threshold
Recurring cost: **Annual Total**	$0 **$0**	
WAC 100-146-0200 Nutritional requirements.		

Three of the six providers responded, indicating that this rule would have an additional financial impact. Ten percent of the largest providers did not indicate that there would be a financial impact. The figures below were the highest cost estimates submitted pertaining to this rule.		
One-time cost: Update policy Update storage methods *Food handlers permit* **Total**	 $0 $0 *$90* **$90**	Does not exceed the minor cost threshold
Recurring cost: Nutritional needs increase Update food handlers every two years **Total**	 $1000 $90 **$1090**	

SECTION 5: Analyze whether the proposed rule may impose more-than-minor costs on businesses in the industry:

Total cost for the rule-making package - Highest estimate:	
One-time costs:	$96,310
Recurring costs after year one:	$3,090

SECTION 6: Determine whether the proposed rule may have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rule. Use one or more of the following as a basis for comparing costs: Cost per employee, cost per one hour of labor, cost per $100 of sales: DCYF does not expect the proposed rules to have a disproportionate impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rules.

Most costs are labor costs, which would either be incurred per employee or per one hour of labor. The costs per employee are additional required annual trainings. The cost to train each new employee would be the same across the industry, as the cost of training does not vary by business. There are several costs that would come with an hourly rate, such as creating and updating policies, completing inventory, and providing transportation. The results of the survey showed a consistent hourly rate paid to employees of the same type across the industry. DCYF does not expect that this will create a disproportionate impact on small businesses.

There are three expenses that are not labor costs: Windows, cleaning supplies, and locks. When looking at these expenses, except for windows, we expect larger businesses to have more expenses in these areas because they provide care to more children and youth. It is expected that they will be in need or more cleaning supplies and safety devices such as locks than their smaller counterparts. DCYF did not find any evidence that these costs would not be standard per child or youth served across the industry. Therefore, there is no expected disproportionate impact on small businesses.

SECTION 7: If the proposed rule is likely to impose a disproportionate impact on small businesses, identify the steps taken to reduce the costs of the rule on small businesses. If the costs cannot be reduced, provide a clear explanation of why: Due to there being no disproportionate impact found on small businesses, this section does not apply.

SECTION 8: Identify the estimated number of jobs that will be created or lost as a result of compliance with the proposed rule: These new licensing WAC would most likely not result in the loss of jobs. However, two RPS providers indicated that these rules may result in the need to hire one or more additional staff to implement the rules and the necessary planning, preparation, upkeep, and supervision that will be required. One of those providers indicated that an additional

staff member may be needed to ensure back-up coverage to meet the supervision requirement of the rule.

DCYF does not expect the proposed rules to have a disproportionate hiring impact on small businesses as compared to the 10 percent of businesses that are the largest businesses required to comply with the proposed rules. Given the largest businesses have significantly more residents, it is expected they would have to increase staff in a proportionately more significant manner in order to meet any staffing needs created by the rules.

SECTION 9: Summarize the results of the analysis, including the determination if costs are disproportionate: These new licensing WAC will likely impose more-than-minor costs on RPSs regulated by this chapter. However, DCYF's analysis does not indicate that the costs will be disproportionate to small businesses in the industry. Additionally, while this report details the expected costs of compliance with the proposed rules, it does not outline the expected benefits. Establishing a minimal level of oversight in RPS facilities will increase the overall safety of the environment and prevent instances of abuse and neglect from occurring undetected. DCYF believes that the benefits of this proposed rule are important for carrying out the mission to protect children and youth and allow them to grow up safe, healthy, and thriving.

A copy of the statement may be obtained by contacting DCYF rules coordinator, phone 360-902-7956, email dcyf.rulescoordinator@dcyf.wa.gov.

October 21, 2025
Brenda Villarreal
Rules Coordinator

RDS-6337.3

Chapter 110-146 WAC
LICENSING REQUIREMENTS FOR RESIDENTIAL PRIVATE SCHOOLS

PURPOSE, DEFINITIONS, AND NONDISCRIMINATION

NEW SECTION

WAC 110-146-0010 Legal basis for the department licensing residential private schools' (RPS) living accommodations. The legal basis for the department licensing RPSs' living accommodations is RCW 74.15.325.

NEW SECTION

WAC 110-146-0020 Purpose. (1) The licensing division (LD) is responsible for the:

(a) Licensing and monitoring of the care provided to residential students at RPSs with living accommodations; and

(b) Verifying RPSs meet the minimum licensing requirements in this chapter.

(2) This chapter contains licensing requirements for the living accommodations of RPSs. These licensing regulations are designed to verify children in RPSs are safe, healthy, and protected from all forms of child abuse and neglect, as outlined in:

(a) RCW 26.44.020; and

(b) Chapter 110-30 WAC.

(3) This chapter reflects the department's commitment to:

(a) Recognizing the traumatic history of RPS and boarding schools that were used to following a policy of forced assimilation on tribal individuals for over a century and half.

(b) Empathetically understanding the intergenerational impact these institutions had on tribal communities across the nation that resulted in the loss of traditional language, culture, and beliefs today.

(c) Acknowledging the hard truths of our past and present not only honors the deep wounds tribal individuals and communities carry as a direct result of being targeted and dispossessed but is necessary for healing and progress to occur.

NEW SECTION

WAC 110-146-0030 Definitions. The following definitions apply to this chapter:

"Abuse or neglect" means the same as defined in RCW 26.44.020.

"Administer medication" means the direct application of a drug to the body or an individual by injection, inhalation, ingestion, or any other means.

"Adults" means individuals 18 years old or older not in the care of the department.

"Agency" means the same as defined in RCW 74.15.020.

"Americans with Disabilities Act (ADA)" means the federal Americans with Disabilities Act of 1990.

"Asexual" means the lack of a sexual attraction or desire for other individuals.

"Bisexual" means individuals who have an emotional or physical attraction to individuals of the same and different genders.

"Cardiopulmonary resuscitation (CPR)" means an emergency lifesaving procedure performed when an individual's breathing or heartbeat has stopped.

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

"Department of health (DOH)" means the Washington state department of health.

"Developmental disability" means the same as defined in RCW 71A.10.020.

"Firearms" means a weapon or any device designed to cause bodily harm or physical damage from which projectiles may be fired by an ex-

plosive such as gunpowder. These include, but are not limited to, handguns, rifles, and shotguns.

"Gay" means a sexual orientation to describe individuals who are emotionally or physically attracted to someone of the same gender. Gay is sometimes an umbrella term for the LGBTQIA+ community.

"Gender expression" means individuals' outward communication of their gender through behavior or appearance. This may or may not conform to their sex assigned at birth or socially defined behaviors and characteristics typically associated with being either masculine or feminine.

"Gender fluid" means individuals whose gender identities are flexible, not permanent.

"Gender" or **"gender identity"** means an individual's inner sense of being a female, male, a blend of both or neither, or another gender. This may or may not correspond with an individual's sex assigned at birth.

"Guardians" means the same as legal guardian defined in RCW 26.33.020.

"Health Insurance Portability and Accountability Act (HIPAA)" means the federal Health Insurance Portability and Accountability Act of 1996.

"Homicidal behaviors" means actions, threats, or patterns of conduct that reasonably indicate an imminent intent or attempt to commit homicide as defined in RCW 9A.32.010.

"Inappropriate sexual behavior" means sexual behavior that:

(a) Is not considered within the normal range of behaviors based on age and developmental level of the children involved;

(b) Takes place between children of widely different ages;

(c) Involves coercion, force, or aggression of any kind; or

(d) Causes harm or potential harm to the children.

"Instructional hours" means the same as defined in RCW 28A.150.205.

"Intersex" means an umbrella term used to describe a wide range of natural bodily variations when the body is born with a combination of chromosomes, internal organs, or external genitalia that do not develop as expected.

"Involuntary seclusion" means temporarily removing students from residential living areas to unlocked areas for the purposes of carrying out appropriate positive behavior intervention plans.

"Lesbian" means females or women who have an emotional or physical attraction for other females or women.

"LGBTQIA+" means lesbian, gay, bisexual, transgender, queer or questioning, intersex, and asexual. The "+" represents identities not specifically named in the LGBTQIA acronym, e.g., pansexual, gender nonbinary, and Two-Spirit.

"License" means a permit issued by the department when the licensee meets the licensing requirements established in this chapter.

"Licensees" means individuals or entities named on a license issued by the department that authorizes them to provide care to residential students at a RPS. Licensing requirements issued in this chapter apply to licensees and their employees, volunteers, interns, and work study students.

"Licensing division (LD)" means the division within the department that supports child safety and well-being through licensing, monitoring, compliance, investigations, and technical assistance to individuals and agencies that provide direct care for children and youth outside the care of their parents or guardians.

"Licensing provider portal" means the internet connected provider application system used by the department and agencies to securely store digital employment and licensing documents and data.

"Living accommodations" means areas on the school premises that residential students access for noninstructional purposes, including areas where they eat, sleep, bathe, recreate, or otherwise reside.

"Nonbinary" means a term of self-identification for individuals who do not identify within the limited and binary terms that have described gender identity, e.g., female and male. Nonbinary is also an umbrella term for many identities such as gender expansive, gender fluid, and genderqueer.

"Other weapons" means instruments other than firearms intentionally designed to cause bodily harm or physical damage. These include, but are not limited to, BB guns, pellet guns, air rifles, stun guns, and archery equipment.

"Over-the-counter medications" means drugs that can be obtained without a prescription and are not restricted to use by a licensed health care provider. For the purposes of this chapter this includes, but is not limited to, herbal supplements, vitamins, eye drops, ointments, and pain relievers.

"Parents" means the same as defined in RCW 26.26A.010.

"Pending status" means that the department has received and is processing a renewal application submitted by the facility and the licensee, and they are considered licensed in good standing during this process even if their most current license shows as expired.

"Personnel" means every paid and nonpaid individual working directly for the residential private school's living accommodations, including interns and volunteers.

"Queer" means LGBTQIA+ identities and orientations. The term is sometimes used as an umbrella term for all LGBTQIA+ individuals.

"Questioning" means individuals who are exploring their sexual orientation, gender identity, or gender expression at any age.

"Residential private schools (RPS)" means a nonpublic, K-12 school that is subject to approval by the state board of education that provides living accommodations to enrolled residential students, while primarily focusing on education.

"Serious illness or injury" means physical or mental conditions that involve either inpatient hospitalization or continuing treatment by a health care provider, and that are unexpected and not part of routine medical care.

"Sexual orientation" means an individual's emotional or physical attraction to other individuals.

"Sexual orientation, gender identity, and expression (SOGIE)" means distinct identifiers everyone has. LGBTQIA+ is a subdistinction within SOGIE self-identifiers. SOGIE includes LGBTQIA+ as well as heterosexual, cisgender, and nonquestioning individuals.

"State board of health" means the same as "state board" as defined in RCW 43.20.025.

"Transgender" means an umbrella term for individuals whose gender identity or expression is different from cultural expectations based on the sex they were assigned at birth. Gender-affirming medical care is not a prerequisite to identify as transgender. Being transgender does not imply any specific sexual orientation.

"Two-Spirit" means a modern umbrella term used by some Native Americans to describe Native American individuals in their communities who fulfill a traditional third-gender or other gender-variant, cere-

monial, and social role in their cultures. Being Two-Spirit does not imply any specific sexual orientation.

"Washington My Health My Data Act" means the same as defined in chapter 19.373 RCW.

"Washington state patrol fire protection bureau (WSP/FPB)" means the Washington state fire marshal.

NEW SECTION

WAC 110-146-0040 Nondiscrimination. (1) RPSs with living accommodations and places of public accommodation must:

(a) Comply with chapter 49.60 RCW and federal laws regarding the Americans with Disabilities Act (ADA);

(b) Support and engage students in the RPSs care with dignity and respect regardless of their actual or perceived race, ethnicity, disability, religion, culture, or SOGIE; and

(c) Have policies and procedures approved by the department that:

(i) Outline their living accommodations;

(ii) Connect students with resources; and

(iii) Support the student's needs regarding disability status, religion, actual or perceived race, ethnicity, culture, sex, sexual orientation, or gender identity.

(2) RPSs that are not places of public accommodation, such as education facilities operated or maintained by a bona fide religious or sectarian institution, are exempt from subsection (1)(b) and (c) of this section and must provide proof of this status to be excluded, per RCW 49.60.040.

REQUIRED LICENSE

NEW SECTION

WAC 110-146-0050 License requirement for RPSs with living accommodations. (1) RPSs must have a license for their living accommodations to provide care on a 24-hour basis to residential students, except as outlined in RCW 74.15.325.

(2) The department:

(a) Will license the living accommodations provided by the RPSs as outlined in RCW 74.15.325 when applicants, their personnel, and their living accommodations must meet the licensing regulations contained in this chapter.

(b) May allow exceptions to the licensing requirement for RPSs when:

(i) They are accredited through a body approved by the state board of education; and

(ii) The accreditation covers the living accommodations.

(3) Licenses are valid:

(a) For three-year periods;
(b) Only for the individual or entity named on the license; and
(c) Only for the specific address listed on the license.

LICENSING PROCESS

NEW SECTION

WAC 110-146-0060 RPS licensing process. (1) The department will:

(a) Send RPS written notice explaining why a license is required, and the consequences for not establishing a license per RCW 43.216.325;

(b) Verify the application materials have been received by the deadline in subsection (2)(a) of this section;

(c) Complete inspections of the RPS facilities and verify all licensing rules are being followed; and

(d) Send a copy of the approved license to the licensee.

(2) RPSs must complete the following when required to be licensed as an RPS:

(a) Submit their application and all required documents within 90 calendar days of receiving written notice from the department requiring them to be licensed;

(b) Complete the licensure process within 120 calendar days of the day the department receives all application materials, unless the department has issued an administrative review; and

(c) Notify the department at least 30 calendar days before any change to their location, including changes to their address or telephone number.

NEW SECTION

WAC 110-146-0070 License monitoring and renewal requirements. (1) RPSs must complete a monitoring review with the department midway through each three-year licensing cycle.

(2) The department will:

(a) Send renewal notices and materials to licensees prior to their license expiration date; and

(b) Put the current RPS licenses in pending status once a renewal application has been received.

(3) Licensees must:

(a) Contact the LD licensor if they do not receive the renewal notice prior to the expiration date;

(b) Complete the renewal application and all required background authorization forms:

(i) No earlier than 90 calendar days before the license expires; and

(ii) No later than the date of expiration of the current license.

NEW SECTION

WAC 110-146-0080 Department access to RPSs, personnel, and residential students. (1) RPSs must allow the department:

(a) Access to the living accommodations; and

(b) The ability to meet privately with personnel working with residential students.

(2) The department will obtain consent from parents or guardians to interview residential students for licensing purposes.

NEW SECTION

WAC 110-146-0090 Personnel coverage requirements. RPSs must complete the following to meet personnel coverage requirements:

(1) Maintain appropriate personnel coverage;

(2) Develop and follow department-approved policies and procedures that include personnel coverage requirements for the supervision and protection of the residential students;

(3) Verify:

(a) Supervision is adequate for the:

(i) Time of day or night;

(ii) Age and developmental needs of the residential students;

(iii) Location; and

(iv) Living accommodations design; and

(b) The personnel have the availability to respond immediately. This includes when there is only one employee on duty, RPSs must have additional personnel who can be available immediately, but no later than 30 minutes, in the event of an emergency;

(4) Maintain records that document adequate supervision and coverage during noninstructional hours. Records must include:

(a) Staff names;

(b) Dates; and

(c) Times of supervision changes; and

(5) Verify RPS personnel and others in the living accommodations who will have regular, unsupervised access to students during noninstructional hours have met the following requirements before access is allowed. These requirements apply when access allows unsupervised communication or physical contact with residential students:

(a) A cleared background check provided by the department;

(b) First-aid and CPR certification and bloodborne pathogens training if caring for residential students; and

(c) Training by the RPS, if caring for residential students,that considers students':

(i) Ages and developmental levels; and

(ii) Physical and emotional safety and cultural needs.

PERSONNEL AND RESIDENTIAL STUDENT RECORDS

NEW SECTION

WAC 110-146-0100 Personnel records. RPSs must complete the following for personnel records:

(1) Allow the department access to all personnel records for personnel working in the living accommodations and, if applicable, other individuals residing in the living accommodations, to verify the safety and welfare of residential students.

(2) Maintain the following:

(a) A file for each:

(i) Personnel working in the living accommodation areas providing care to residential students that includes the following records:

(A) Application or resume, including work and education history;

(B) Position description;

(C) Signed mandated reporter statement;

(D) Record of participation in the RPS orientation and trainings;

(E) Medication disbursement training, if applicable; and

(F) Valid copies of the following:

(I) First-aid, CPR, and bloodborne pathogens training documentation;

(II) Food worker card outlined in chapter 246-217 WAC, if applicable;

(III) Driver's license or government issued photo identification for all personnel;

(IV) Driver's license if transporting residential students; and

(V) Proof of auto insurance, if using private vehicle to transport residential students;

(ii) Personnel working in the living accommodation areas not providing care to residential students that includes the following records:

(A) Application or resume, including work and education history;

(B) Position description; and

(C) Food worker card, if applicable; and

(iii) Individuals residing in the living accommodation areas with the residential students, but are not personnel, that includes the following records, if applicable:

(A) Training documentation;

(B) First-aid, CPR, and bloodborne pathogens training documentation;

(C) Food worker card;

(D) Driver's license or government issued photo identification;

(E) Driver's license if transporting residential students; and

(F) Proof of auto insurance if using private vehicle to transport residential students;

(b) A background check log for all individuals in (a) of this subsection that documents the dates the background checks were requested and completed; and

(c) Ongoing personnel evaluations and corrective action plans for all individuals in (a) of this subsection.

NEW SECTION

WAC 110-146-0110 Sharing, securing, and retaining residential student records. RPSs must meet the following requirements for sharing, securing, and retaining residential students' records:

(1) Store and secure residential student records by:

(a) Keeping any identifying and personal information about residential students and their families:

(i) Confidential; and

(ii) In a secure place inaccessible to residential students, unauthorized personnel, and the public; and

(b) Maintaining these records on-site while residential students are enrolled;

(2) Provide the department with access to residential student records to verify records are maintained as required by licensing requirements, except for records protected by the:

(a) HIPAA; and

(b) Washington My Health My Data Act; and

(3) Keep residential student records:

(a) At a secure location either on-site or off-site when they are no longer enrolled; and

(b) According to their record retention schedule.

NEW SECTION

WAC 110-146-0120 Residential student records. RPSs must obtain the following information for residential student records:

(1) The residential student's name and birth date;

(2) The date families were given initial orientation documentation;

(3) Any documented incident reports involving the student as outlined in this chapter, including WAC 110-146-0220 and 110-146-0230;

(4) The names, addresses, and telephone numbers of parents, guardians, or individuals to be contacted in case of emergency;

(5) Special instructions including supervision requirements and suggestions for behavior management, if applicable;

(6) Written approval for RPSs to monitor residential students' communication, as outlined in WAC 110-146-0150.

(7) Other pertinent information related to the student's health, including:

(a) Current prescription medications;

(b) Immunizations; and

(c) Allergies; and

(8) Signed consent forms from parents or guardians authorizing:

(a) RPSs to provide routine and emergency medical care and administer medications; and

(b) Residential students to participate in potentially hazardous activities including, but not limited to:

(i) Using motorized yard equipment;

(ii) Swimming;

(iii) Horseback riding; and

(iv) Agricultural activities.

ENVIRONMENT, SPACE, AND FURNISHINGS

NEW SECTION

WAC 110-146-0130 Living accommodation requirements. RPSs must:

(1) Meet the following living accommodations requirements:

(a) Provide the department with:

(i) A certificate of occupancy or equivalent approval; and

(ii) Documentation that their residential facilities comply with the:

(A) State fire marshal or their designee;

(B) DOH or their designee; and

(C) Local and state regulations including, but not limited to:

(I) Zoning regulations;

(II) Community covenants;

(III) Local building codes; and

(IV) Fire codes; and

(b) Comply with the most stringent requirement in (a) of this subsection if requirements differ between the entities;

(c) Maintain adequate sewage and garbage facilities;

(d) Maintain furnishings in a clean, durable, and safe manner;

(e) Keep the living accommodations clean and free of hazards;

(f) Appropriately store, use, and dispose of cleaning and toxic chemicals based on the developmental capabilities of the residential students;

(g) Store medications appropriately;

(h) Have adequate first-aid supplies that are readily available;

(i) Have emergency lighting devices that are readily available;

(j) Have exhaust and outdoor air ventilation in all living spaces that removes air contaminants, heat, and condensation;

(k) Have cooling and heating systems that help maintain a safe living environment;

(l) Conduct and document quarterly fire drills for the living accommodations;

(m) Inspect smoke detectors and carbon monoxide detectors quarterly to verify they are properly installed and working, and document the results of the inspections;

(n) Post evacuation floor plans;

(o) Develop and follow written emergency plans and test them quarterly;

(p) Develop policies and procedures with the department for the safety of residential students around bodies of water, based on their developmental capabilities:

(q) Comply with all city, county, state, and federal statutes and regulations regarding animals, including:

(i) All indoor and outdoor animals in residential living accommodations must be safe around students and cared for in a sanitary manner;

(ii) Residents with allergies or other sensitivities must be accommodated; and

(r) Provide safe and reliable transportation that complies with all applicable laws; and

(s) Protect residential students in living accommodations from firearms, other weapons, drugs, hazardous and biohazardous materials, and other potentially harmful items; and

(2) Develop and follow policies and procedures approved by the department that address potentially harmful items and materials on school grounds during noninstructional hours including:

(a) What is not allowed on school grounds;

(b) How dangerous items allowed on school grounds will be safely stored; and

(c) If conducting searches, include information on conducting them in the least intrusive manner possible and document searches as required.

NEW SECTION

WAC 110-146-0140 Bedrooms and sleeping areas. (1) RPSs with living accommodations must provide each residential student a single or shared bedroom with:

(a) Privacy and space that meets each student's developmental needs and ADA requirements, if applicable;

(b) Adequate ceiling height for the safety and comfort of the occupants;

(c) Direct access to outdoors that:

(i) Can open to the outside;

(ii) Allows natural light into the bedroom; and

(iii) Permits emergency access or exit; and

(d) Appropriately sized separate beds with:

(i) A mattress in good condition; and

(ii) Clean bedding for each residential student.

(2) The department may approve bedrooms that do not have direct access to the outdoors if they:

(a) Have a fire sprinkler protection system; and

(b) Were previously approved by the state fire marshal or their designee.

RESIDENTIAL STUDENTS' PRIVACY AND BELONGINGS

NEW SECTION

WAC 110-146-0150 Privacy. (1) RPSs must:

(a) Provide each residential student with privacy regarding:

(i) Sleeping areas;

(ii) Toileting;

(iii) Bathing;

(iv) Personal mail;

(v) Electronic messages;
(vi) Online communications;
(vii) Phone calls; and
(viii) Access to:
(A) Parents;
(B) Guardians;
(C) Medical and community providers;
(D) End harm line; and
(E) Law enforcement; and
(b) Prohibit video and audio monitoring of residential students in their bathing, toileting, and sleeping areas.
(2) RPSs may monitor the following as required by residential students' parents or guardians in writing, court order, or for students' health, safety, and well-being:
(a) Personal mail;
(b) Electronic messages;
(c) Online communications; and
(d) Phone calls.

NEW SECTION

WAC 110-146-0160 Personal storage requirements. RPSs with living accommodations must provide storage for residential students' clothing and other personal belongings. The storage must be:
(1) In adequate condition; and
(2) Separate from other students' clothing and personal belongings.

HEALTH REQUIREMENTS

NEW SECTION

WAC 110-146-0170 Medical policies. RPSs with living accommodations must develop and follow medical policies and procedures approved by the department that include, but are not limited to, the following:
(1) Steps for disbursing medicine, including when and by whom, per RCW 28A.210.260;
(2) How over-the-counter and prescription medications will be stored and locked;
(3) Necessary actions to take when residential students are sick or have medical emergencies, including:
(a) Who is responsible for responding to the medical need or notifying the parent or guardian;
(b) When students must be taken to seek outside medical attention; and
(c) How to decrease the spread of communicable diseases following the DOH guidelines;

(4) Making life-saving medications accessible;

(5) Keeping non-life-saving medications and medical supplies locked to unauthorized individuals when residential students are taking their own medication; and

(6) How to dispose of medication.

NEW SECTION

WAC 110-146-0180 Health and wellness accommodations during non-instructional hours. RPSs must provide:

(1) Residential students with access to culturally appropriate items needed for grooming and personal hygiene; and

(2) Opportunities for residential students' health and wellness during noninstructional hours that include:

(a) Developmentally appropriate physical activity for residential students; and

(b) Activities that integrate residential students into the school and community when appropriate.

NEW SECTION

WAC 110-146-0190 Mental health. RPSs must develop and follow mental health awareness and suicide prevention policies and procedures approved by the department that document the following:

(1) The mental health resources available on-site;

(2) How to access mental health resources in the community;

(3) Instructions on how RPSs will respond to residential students exhibiting mental health concerns;

(4) Emergency protocol and contacts; and

(5) Training requirements for personnel, including:

(a) Suicide prevention; and

(b) Suicide risk assessment tool training.

NEW SECTION

WAC 110-146-0200 Food storage, preparation, and nutritional requirements. RPSs must complete the following when providing meals and snacks to residential students:

(1) Properly store, prepare, and serve food that meets the nutritional needs of residential students as outlined in chapter 246-215 WAC;

(2) Confirm that all:

(a) Cultural and developmental needs of residential students are met; and

(b) Personnel are aware of each residential student's dietary restrictions; and

(3) Obtain and follow written instructions from the RPSs medical professionals, the students' health care providers, or parents or guardians when providing meals and snacks to residential students with known food allergies or special dietary restrictions. The instructions must:

(a) Be easily accessible to personnel;

(b) Identify foods that must not be consumed by the residential student; and

(c) Provide a treatment plan to follow in case an allergic reaction or dietary restriction error occurs, including:

(i) Names and doses of medication to be administered;

(ii) Directions for how to administer medication; and

(iii) Names of those who should be notified;

(4) Obtain written authorization from parents or guardians if serving food collected by the school through school-based agricultural operations; and

(5) Provide the department the inspections from DOH or designee for their food services and facilities.

BEHAVIOR MANAGEMENT

NEW SECTION

WAC 110-146-0210 Behavioral management. RPSs must:

(1) Develop and follow behavior management policies and procedures that are approved by the department. Behavior management policies must include personnel:

(a) Using positive methods of guidance and behavior management that promote self-control, self-responsibility, self-direction, self-esteem, and cooperation; and

(b) Not doing any of the following:

(i) Corporal punishment;

(ii) Verbally abusive, neglectful, humiliating, intimidating, or frightening behavior management;

(iii) Withholding food, water, clothing, shelter, bedding, rest, sleep, or hygiene or toilet access;

(iv) Strenuous work or exercise as a form of behavior management; or

(v) Restraints, except:

(A) In emergency situations, such as those that would threaten the physical safety of the students or personnel; or

(B) For personnel trained in behavior management including the use of restraints;

(vi) Involuntary seclusion including, but not limited to, time-out rooms in which residential students are locked and cannot exit;

(vii) Delegating behavior management responsibility to students; or

(viii) Denying residential students the right to visit or communicate with parents, guardians, or siblings as a disciplinary measure; and

(2) Immediately provide the LD licensor with new or revised policies and procedures reflecting any changes to behavioral management methods.

NEW SECTION

WAC 110-146-0220 Documenting restraints. RPSs must document when restraints are used on residential students in the living accommodations and include:

(1) The date and time of the incident;

(2) Parental or guardian notification;

(3) The name and job title of the individual who administered the restraint;

(4) A description of the activity that led to the restraint;

(5) The type of restraint used;

(6) The duration of the restraint;

(7) Whether the residential student, other students, or personnel were physically injured during the incident;

(8) Any medical care provided; and

(9) Recommendations to prevent this type of incident in the future, including needed resources.

REPORTING

NEW SECTION

WAC 110-146-0230 Reporting incidents. RPSs must:

(1) Report the following incidents involving residential students to the department intake immediately and no later than 24 hours:

(a) Death or near death;

(b) Serious illness or injuries;

(c) Psychiatric care that requires hospital admission or medical treatment;

(d) Any time personnel suspect physical or sexual abuse, neglect, or exploitation of a residential student as required in chapter 26.44 RCW;

(e) Inappropriate sexual behavior by or toward a residential student;

(f) Disclosure by a residential student of sexual or physical abuse;

(g) The following suicidal situations by residential students:

(i) Expressed suicidal thoughts or behaviors; or

(ii) Suicide attempts that result in injury requiring medical treatment or hospitalization;

(h) Homicidal behaviors or attempts on the premises by residential students, personnel, or visitors;

(i) Any use of physical restraints on residential students by personnel working in the living accommodations that results in injury or is improperly applied;

(j) The following physical assault situations:

(i) Physical assault between two or more residential students that results in injury requiring off-site medical attention or hospitalization; or

(ii) Physical assault by a residential student on personnel or other adults that results in injury requiring off-site medical attention or hospitalization;

(k) Property damage that is a safety hazard and, if not immediately corrected, may affect residential students' health and safety; or

(l) Residential students missing from residence;

(2) Maintain a written record of reported incidents as outlined in subsection (1) of this section. The report must include the:

(a) Date and time the report was made; and

(b) Name of the individual making the report; and

(3) Store these records as outlined in WAC 110-146-0120.

COMPLIANCE AND ENFORCEMENT

NEW SECTION

WAC 110-146-0240 Enforcement actions, notices, and appeals. The department:

(1) May take action against a licensee's license:

(a) Including:

(i) Denial;

(ii) Suspension; or

(iii) Revocation;

(b) When licensees:

(i) Do not meet the minimum licensing requirements in this chapter;

(ii) Have not met the background check requirements;

(iii) Have been determined by the department to have abused or neglected a residential student;

(iv) Have committed, permitted, or assisted in an illegal act on the premises of an RPS;

(v) Are unable to manage the premises and financial responsibilities of the living accommodations;

(vi) Tried to get a license by deceitful means, such as making false statements or omitting critical information on the application;

(vii) Knowingly allowed personnel who made false statements or omitted critical information on their applications to work at the agency; or

(viii) Cannot provide for the health, safety, and well-being of the residential students;

(2) Will send a certified letter to licensees informing them of:

(a) The decision to take action against the license; and

(b) Their appeal rights as outlined in chapter 110-03 WAC;

(3) Has jurisdiction over:

(a) All licenses issued by the department;

(b) All applicants for licenses; and

(c) Licensees as outlined in RCW 74.15.030; and

(4) Retains jurisdiction even if:

(a) Applicants request to withdraw their application; or
(b) Licensees surrender or fail to renew their license.

WSR 25-21-143
PROPOSED RULES
DEPARTMENT OF CORRECTIONS
[Filed October 21, 2025, 12:58 p.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-18-041.

Title of Rule and Other Identifying Information: Chapter 137-25 WAC, Serious violations—Total and partial confinement facilities; and chapter 137-56 WAC, Partial confinement.

Hearing Location(s): On November 25, 2025, at 2:00 p.m., via Microsoft Teams meeting. Contact the rules coordinator at vvchebotar@doc1.wa.gov to register.

Date of Intended Adoption: December 27, 2025.

Submit Written Comments to: Vadim V. Chebotar, Senior Contracts Attorney, Department of Corrections (DOC), Contracts and Legal Affairs, P.O. Box 41114, Tumwater, WA 98504-1114, email Vchebotar@doc1.wa.gov [Vvchebotar@doc1.wa.gov], by November 21, 2025, 3:00 p.m.

Assistance for Persons with Disabilities: Contact Vadim V. Chebotar, senior contracts attorney, email Vchebotar@doc1.wa.gov [Vvchebotar@doc1.wa.gov].

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: WAC revisions are necessary to redefine some definitions to better capture the intent of the rules and to create new infractions that align with our current philosophy.

Reasons Supporting Proposal: The WAC should accurately comply with DOC policy.

Statutory Authority for Adoption: RCW 72.01.090.

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

Name of Proponent: DOC, governmental.

Name of Agency Personnel Responsible for Drafting: Michael Hathaway and Carrie Stanley, DOC headquarters; Implementation: Carrie Stanley, DOC headquarters; and Enforcement: Scott Russell, DOC headquarters.

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. Not applicable.

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect.

October 17, 2025
Tim Lang
Secretary

RDS-6725.1

AMENDATORY SECTION (Amending WSR 23-22-112, filed 10/31/23, effective 12/1/23)

WAC 137-25-030 Serious violations. (1) Any of the following types of behavior may constitute a serious violation. Attempting or conspiring to commit one of the following violations, or aiding and abetting another to commit one of the following violations, shall be considered the same as committing the violation, with the exception of attempting an aggravated assault. Attempting to commit an aggravated assault will be charged as violation:

(a) #633 When against another incarcerated individual;
(b) #704 When against a staff member; or
(c) #711 When against a visitor or community member.

Category A

501 - Committing homicide
502 - Committing aggravated assault against another incarcerated individual
507 - Committing an act that would constitute a felony and that is not otherwise included in these rules
511 - Committing aggravated assault against a visitor or community member
521 - Taking or holding any person hostage
550 - Escaping
601 - Possessing, manufacturing, or introducing an explosive device or any ammunition, or any component thereof
602 - Possessing, manufacturing, or introducing any firearm, weapon, sharpened instrument, knife, or poison, or any component thereof
((~~603 - Possessing, introducing or transferring any unauthorized drug or drug paraphernalia~~))
604 - Committing aggravated assault against a staff member
611 - Committing sexual assault against a staff member
613 - Committing an act of sexual contact against a staff member
635 - Committing sexual assault against another ((~~offender~~)) incarcerated individual, as defined in department policy (i.e., aggravated sexual assault or incarcerated individual on incarcerated individual sexual assault)
637 - Committing sexual abuse against another incarcerated individual, as defined in department policy
650 - Rioting
651 - Inciting others to riot
((~~830 - Escaping from work/training release with voluntary return within 24 hours~~
~~831 - While in work/training release, failing to return from an authorized sign out~~))
665 - Introduction/trafficking of any unauthorized drug or drug paraphernalia
882 - While in prison, introducing, possessing, or using a cell phone, electronic/wireless communication device, or related equipment without authorization

Category B - Level 1

504 - Engaging in a sex act with another person(s) that is not otherwise included in these rules, except in an approved extended family visit
553 - Setting a fire
560 - Possessing items or materials likely to be used in an escape without authorization
633 - Assaulting another incarcerated individual
667 - Possession of any unauthorized drug
669 - Giving, selling, or trading any prescribed medication, or possessing another person's prescribed medication
704 - Assaulting a staff member
711 - Assaulting a visitor or community member
744 - Making a bomb threat
884 - Urinating, defecating, or placing feces or urine in any location other than a toilet or authorized receptacle
886 - Adulterating any food or drink
((~~892 - Giving, selling, or trading any prescribed medication, or possessing another incarcerated individual's prescribed medication~~))

Category B - Level 2

505 - Fighting with another incarcerated individual
556 - Refusing to submit to or cooperate in a search when ordered to do so by a staff member
((~~607 - Refusing to submit to a urinalysis and/or failing to provide a urine sample within the allotted time frame when ordered to do so by a staff member~~
~~608 - Refusing or failing to submit to a breath alcohol test or other standard sobriety test when ordered to do so by a staff member~~
~~609 - Refusing or failing to submit to testing required by policy, statute, or court order, not otherwise included in these rules, when ordered to do so by a staff member~~))
652 - Engaging in or inciting a group demonstration
((~~655 - Making any drug, alcohol, or intoxicating substance, or possessing ingredients, equipment, items, formulas, or instructions that are used in making any drug, alcohol, or intoxicating substance~~))
668 - Possession of drug paraphernalia
670 - Making any drug, alcohol, or intoxicating substances, or possessing ingredients, equipment, items, formulas, or instructions that are used in making any drugs, alcohol, or intoxicating substances
671 - Introducing or transferring alcohol or any intoxicating substance not otherwise included in these rules
672 - Using an over-the-counter medication without authorization or failing to take prescribed medication as required when administered under supervision
675 - Admitting use, or receiving a positive test for use of, an unauthorized drug, alcohol, or other intoxicating substance

676 - Refusing to submit to a urinalysis and/or failing to provide a urine sample within the allotted time frame when ordered to do so by a staff member
677 - Providing a urine specimen that has been diluted, substituted, or altered in any way
678 - Refusing or failing to submit to a breath alcohol test or other standard sobriety test when ordered to do so by a staff member
679 - Refusing or failing to submit to testing required by policy, statute, or court order, not otherwise included in these rules, when ordered to do so by a staff member
682 - Engaging in or inciting an organized work stoppage
((~~707 - Introducing or transferring alcohol or any intoxicating substance not otherwise included in these rules~~
~~716 - Using an over the counter medication without authorization or failing to take prescribed medication as required when administered under supervision~~))
736 - Possessing, manufacturing, or introducing an unauthorized key or electronic security access device
750 - Committing indecent exposure
((~~752 - Admitting use, or receiving a positive test for use of, an unauthorized drug, alcohol, or other intoxicating substance~~
~~778 - Providing a urine specimen that has been diluted, substituted, or altered in any way~~))

Category B - Level 3

503 - Extorting or blackmailing, or demanding or receiving anything of value in return for protection against others or under threat of informing
506 - Threatening another with bodily harm or with any offense against any person or property
509 - Refusing a direct order by any staff member to proceed to or disperse from a particular area
525 - Violating conditions of a furlough
549 - Providing false or misleading information during any stage of an investigation of sexual misconduct, as defined in department policy
558 - Interfering with staff members, medical personnel, firefighters, or law enforcement personnel in the performance of their duties
600 - Tampering with, damaging, blocking, or interfering with any locking, monitoring, or security device
605 - Impersonating or assuming the identity of any other person
653 - Causing an inaccurate count or interfering with count by means of unauthorized absence, hiding, concealing oneself, or other form of deception or distraction
654 - Counterfeiting or forging, or altering, falsifying, or reproducing any document, article of identification, money, or security or other official paper without authorization
660 - Possessing money, stamps, or other negotiable instruments without authorization, the total value of which is five dollars or more

709 - Out-of-bounds: Being in another incarcerated individual's cell or being in a restricted or out of bounds area of the facility with one or more incarcerated individuals without authorization
738 - Possessing clothing or assigned equipment of a staff member
739 - Possessing, transferring, or soliciting any person's identification information, including current staff members or their immediate family members, when not voluntarily given. Identification information includes Social Security numbers, home addresses, telephone numbers, driver's license numbers, medical, personnel, financial, or real estate information, bank or credit card numbers, or other like information not authorized by the superintendent
745 - Refusing a transfer to another facility
746 - Engaging in or inciting an organized hunger strike
762 - Noncompliance with the DOSA program. Note: *This violation must be initiated by authorized staff and heard by a community corrections hearing officer in accordance with chapter 137-24 WAC*
777 - Causing injury to another person by resisting orders, assisted movement, or physical efforts to restrain
813 - Being in the community without authorization, ((~~or~~)) being in an unauthorized location in the community, unaccounted time, or having unauthorized contact with prohibited persons in the community
814 - ((~~While in work/training release,~~)) Violating an imposed special condition
879 - Operating or being in a motor vehicle without permission or in an unauthorized manner or location
889 - Using facility phones, information technology resources/systems, or related equipment without authorization

Category C - Level 1

508 - Spitting or throwing objects, materials, or substances in the direction of another person(s)
557 - Refusing to participate in an available work, training, education, or other mandatory programming assignment
563 - Making a false fire alarm or tampering with, damaging, blocking, or interfering with fire alarms, fire extinguishers, fire hoses, fire exits, or other firefighting equipment or devices
((~~610 - While in prison, receiving or possessing prescribed medication without authorization~~))
620 - Receiving or possessing contraband during participation in off-grounds or outer perimeter activity or work detail
659 - Committing sexual harassment against another incarcerated individual, as defined in department policy
661 - Committing sexual harassment against a staff member, visitor, or community member
663 - Using physical force, intimidation, or coercion against any person
673 - Receiving or possessing prescribed medication without authorization

702 - Possessing, manufacturing, or introducing an unauthorized tool
708 - Organizing or participating in an unauthorized group activity or meeting
717 - Causing a threat of injury to another person by resisting orders, assisted movement, or physical efforts to restrain
720 - Flooding a cell or other area of the facility
724 - Refusing a cell or housing assignment
734 - Participating or engaging in the activities of any unauthorized club, organization, gang, or security threat group; or wearing or possessing the symbols of an unauthorized club, organization, gang, or security threat group
810 - Failing to seek/maintain employment or training or maintain oneself financially, or being terminated from a work, training, education, or other programming assignment for negative or substandard performance
893 - Damaging, altering, or destroying any item that results in the concealment of contraband or demonstrates the ability to conceal contraband
894 - Disposing and/or destroying evidence to interfere with identifying contraband or an investigation
896 - Harassing, using abusive language, or engaging in other offensive behavior directed to or in the presence of another person(s) or group(s) based upon race, creed, color, age, sex, national origin, religion, sexual orientation, marital status or status as a state registered domestic partner, disability, veteran's status, or genetic information
899 - Failing to obtain prior written authorization from the sentencing court, contrary to RCW 9.94A.645, prior to commencing or engaging in any civil action against any victim or family of the victim of any serious violent ((~~crime the offender~~)) offenses the incarcerated individual committed

Category C - Level 2

552 - Causing an innocent person to be penalized or proceeded against by providing false information
554 - Damaging, altering, or destroying any item that is not the incarcerated individual's personal property, the value of which is ten dollars or more
710 - Acquiring an unauthorized tattoo/piercing/scar, tattooing/piercing/scarring another, or possessing tattoo/piercing/scarring paraphernalia
718 - Using the mail, telephone, or electronic communications in violation of any law, court order, or previous written warning, direction, and/or documented disciplinary action
726 - Telephoning, sending written or electronic communication, or otherwise initiating communication with a minor without the approval of that minor's parent or guardian

Category C - Level 3

((~~606 - Possessing, introducing, or transferring any tobacco, tobacco products, matches, or tobacco paraphernalia~~))

562 - Arcing or possessing arcing materials
657 - Being found guilty of four or more general violations arising out of separate incidents within a 90-day period
658 - Failing to comply with any administrative or posthearing sanction imposed for committing any violation
674 - Possessing, introducing, or transferring any tobacco, tobacco products, matches, or tobacco paraphernalia
812 - Failing to report/turn in all earnings

Category D

517 - Committing an act that would constitute a misdemeanor and that is not otherwise included in these rules
551 - Providing false information to the hearing officer or in a disciplinary appeal
555 - Stealing property, possessing stolen property, or possessing another ((~~offender's~~)) person's property
559 - Gambling or possessing gambling paraphernalia
656 - Giving, receiving, or offering any person a bribe or anything of value for an unauthorized favor or service
662 - Soliciting goods or services for which the provider would expect payment, when the incarcerated individual knows or should know that they lack sufficient funds to cover the cost
706 - Giving false information when proposing a release plan
714 - Giving, selling, purchasing, borrowing, lending, trading, or accepting money or anything of value except through approved channels, the value of which is ten dollars or more
725 - Telephoning or sending written or electronic communication to any incarcerated individual in a correctional facility, or partial confinement directly or indirectly, without prior written approval of the superintendent/community corrections supervisor/ designee
728 - Possessing any sexually explicit material(s), as defined in DOC Policy 450.100
740 - Committing fraud or embezzlement, or obtaining goods, services, money, or anything of value under false pretense
741 - Stealing food, the value of which is ten dollars or more
742 - Establishing a pattern of creating false emergencies by feigning illness or injury
755 - Misusing or wasting issued supplies, goods, services, or property, the replacement value of which is ten dollars or more
811 - Entering into an unauthorized contract
861 - Performing or taking part in an unauthorized marriage
890 - Failing to follow a medical directive and/or documented medical recommendations, resulting in injury

(2) If contraband or another violation is discovered in an incarcerated individual's assigned area of responsibility, such as within the confines or contents of a cell, the contraband or other violation shall be constructively attributed (i.e., cell tagged) to all incarcerated individuals assigned responsibility for that area.

RDS-6726.1

AMENDATORY SECTION (Amending WSR 24-08-017, filed 3/22/24, effective 4/22/24)

WAC 137-56-030 Reasons for placement in a reentry center. Reentry centers may be authorized for one or more of the following:

(1) To participate in full-time employment or part-time employment at specialized programs;

(2) To participate in a vocational training program, including attendance at an accredited college.

(3) To secure services to support transition back to the community.

(4) As a sanction for violating community custody conditions.

(5) Transfer to a reentry center as a result of violation of conditions of partial confinement programs.

(6) ((~~Incarcerated individuals depending on the program, must apply and go through an investigative process, with a committee determination regarding suitability~~)) Transfer to a reentry center if the individual is on partial confinement programs and their circumstances, situation, or living arrangements change, they may be placed in a reentry center to develop a new plan.

AMENDATORY SECTION (Amending WSR 24-08-017, filed 3/22/24, effective 4/22/24)

WAC 137-56-040 Eligibility criteria. (1) An individual is eligible for reentry center placement and/or graduated reentry programming provided that((~~:~~

~~(a) Individual has a minimum security status for the purpose of reentry center placement;~~

~~(b)~~)) individuals who are found eligible for the graduated reentry program must meet program criteria and either:

((~~(i)~~)) (a) Served at least six months total confinement and may serve no more than the last ((~~five~~)) nine months of the individual's term of confinement in a department approved release residence on electronic home monitoring; or

((~~(ii)~~)) (b) Able to complete the last ((~~12~~)) 18 months of sentence in a reentry center with no more than the last ((~~five~~)) nine months of the individual's term of confinement in a department approved release residence on electronic home monitoring; or

((~~(iii)~~)) (c) Able to serve at least ((~~four~~)) three months total confinement and may serve no more than the last 18 months of the individual's term of confinement in a department approved release residence on electronic home monitoring.

Partial confinement programs.

(2) Individuals convicted of rape in the first degree shall not be eligible for work/training release reentry centers or graduated reentry program at any time during the first three years of confinement.

(3) Individuals convicted of murder first degree are not eligible for work/training release reentry centers or graduated reentry program, without the written approval of the secretary or their designee.

(4) Individual who violates condition(s) of community custody may be sanctioned to a reentry center for a term of 90 days or less.

(5) Individual who violates condition(s) for partial confinement programs may be sanctioned to a reentry center for a term of 90 days or less, to more restrictive status, or returned to total confinement.

AMENDATORY SECTION (Amending WSR 24-08-017, filed 3/22/24, effective 4/22/24)

WAC 137-56-070 Screening. (1) The supervisor/manager or designee shall screen the individuals referred to the programs.

(2) The partial confinement programs participation is subject to a screening process based on established criteria for each program and determination of suitability for each program.

AMENDATORY SECTION (Amending WSR 24-08-017, filed 3/22/24, effective 4/22/24)

WAC 137-56-095 Orientation. (1) At the time of admission, each partial confinement individual shall be advised in writing of:

(a) Program goals and services available.

(b) Rules governing conduct and program rules.

(c) Incentives earned, as defined in policy, for positive behavior and program completions.

(d) Conditions for their specified program that is applicable to them and to their success.

(e) Disciplinary action which may be taken in the event of a serious violation of rules or special conditions. To include, but not be limited to:

(i) Remain confined to the partial confinement premises at all times other than the time necessary to implement the plan or when authorized under WAC 137-56-140. Any partial confinement individual approved for placement under a partial confinement plan who willfully fails to report to their designated assignment or return to the designated place of confinement at the time specified may be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a felony and sentenced in accordance with state law.

(ii) Have employment or other approved resources in order to maintain themselves financially.

(iii) Not consume, ingest, inject, or possess nonprescription narcotic or "dangerous" drugs or controlled substances, or any mood altering drug or alcoholic beverages.

(iv) Report all income to the reentry center manager or their designee. All income, for individuals in a reentry center from any source shall be immediately placed in the individual's banking account

by the reentry center manager or their designee. A receipt will be issued.

(v) Individuals in a partial confinement program, with case manager approval, may enter into contracts for banking accounts that support their transition to the community. Each individual must provide their account information.

(2) All amendments or additions to disciplinary rules, policies, and procedures shall be posted at a specifically designated place or places in each reentry center in advance of their effective date if possible and for at least 30 days after their effective date. Partial confinement individuals shall be responsible for informing themselves of such postings. Complete and up-to-date copies of these rules and all program rules shall be available at each reentry center and provided to each individual on partial confinement programs for review.

(3) The reentry center manager shall ensure that each individual has the opportunity to understand rules which relate to their conduct. If the individual is unable to read or understand English, the rules shall be read to them promptly in their accustomed language.

(4) All individuals will receive orientation within ((~~48 hours~~)) two business days of placement in a reentry center program. Orientation must be completed before the individual can leave the reentry center or leave the approved partial confinement programs location. The individual must sign the appropriate form indicating they will comply with all the partial confinement program policies and program rules.

AMENDATORY SECTION (Amending WSR 24-08-017, filed 3/22/24, effective 4/22/24)

WAC 137-56-110 Serious violations. (1) Any of the following types of behavior may constitute a serious violation. Attempting or conspiring to commit one of the following violations, or aiding and abetting another to commit one of the following violations, shall be considered the same as committing the violation.

(2) If contraband or another violation is discovered in an individual's assigned area of responsibility, such as within the confines or contents of an assigned room, the contraband or other violation shall be constructively attributed (i.e., cell tagged) to all individuals assigned responsibility for that area.

Seriousness Level: Category A: Egregious Acts/Inflicting Harm/Violence	
402	Committing an act that would constitute a felony or misdemeanor and that is not otherwise included in these rules((.))
403	Taking or holding any person hostage((.))
405	Possessing, manufacturing, or introducing an explosive device, any firearm, ammunition, weapon, sharpened instrument, knife, poison, or any components thereof((.))
611	Committing sexual assault against a staff member((.))

613	Committing any act of sexual contact against a staff member((.))
635	Committing sexual assault against another individual, as defined in department policy (i.e., aggravated sexual assault or individual-on-individual sexual assault)((.))
637	Committing sexual abuse against another individual, as defined in department policy((.))
665	Introduction/trafficking of any unauthorized drug or drug paraphernalia
Seriousness Level: Category B: Level 1 High Profile/Harmful/Violence Against Persons/Safety	
401	Assaulting another person((.))
404	Escaping from partial confinement((.))
406	Rioting, or inciting others to riot((.))
667	Possession of any unauthorized drug
669	Giving, selling, or trading any prescribed medication, or possessing another incarcerated individual's prescribed medication
Seriousness Level: Category B: Level 2 High Profile/Harmful/Violence Against Persons/Safety	
407	Setting fire((.))
408	Engaging in or inciting a group demonstration((.))
409	Fighting with another person((.))
415	Possessing, transferring, or soliciting any person's identification information, including current ((~~employees/contract~~)) staff or their immediate family members when not voluntarily given. Identification information includes Social Security numbers, home addresses, telephone numbers, driver's license numbers, medical, personnel, financial, or real estate information, bank or credit card numbers, or other like information not authorized by the community corrections supervisor((.))
416	Counterfeiting/forgery of official documents((.))
419	Possessing clothing or assigned equipment of ((~~an employee/contract staff.~~)) a staff member
437	Engaging in a sex act within facility boundaries((.))
438	Indecent exposure((.))
549	Providing false or misleading information during any stage of an investigation of sexual misconduct, as defined in department policy((.))

((~~463~~	~~Making any drug, alcohol, or intoxicating substance, or possessing ingredients, equipment, items, formulas, or instructions that are used in making any drug, alcohol, or intoxicating substance.~~
~~700~~	~~Failing to complete or administrative termination from a DOSA treatment program. Note: This violation must be initiated by authorized employees/ contract staff and heard by a community corrections hearing officer in accordance with chapter 137-24 WAC. A guilty finding will result in reclassification.~~
~~701~~	~~Failure to comply with the DOSA program. Note: This violation must be initiated by authorized employees/ contract staff and heard by a community corrections hearings officer in accordance with chapter 137-24 WAC. A guilty finding may result in reclassification or lesser sanctions.~~))
Seriousness Level: Category C: Level 1 Noncompliance/Attitudes and Behaviors/Court and DOC Conditions Related	
410	Threatening another with bodily harm or with any offense against any person or property((~~.~~))
Seriousness Level: Category C: Level 2 Noncompliance/Attitudes and Behaviors/Court and DOC Conditions Related	
411	Extorting or blackmailing another person((~~.~~))
412	Refusing a direct order from ((~~an employee/contract~~)) a staff member to proceed to or disperse from a particular area((~~.~~))
413	Interfering with ((~~an employee/ contract~~)) a staff member or other personnel, in the performance of their duties((~~.~~))
414	Tampering with a locking device((~~.~~))
417	Committing fraud or embezzlement, or obtaining goods, services, money, or anything of value under false pretense((~~.~~))
418	Making a false fire alarm or tampering with, damaging, blocking, or interfering with fire alarms, fire extinguishers, fire hoses, fire exits, or other firefighting equipment or devices((~~.~~))
420	Stealing property, possessing stolen property, or possessing another individual's property((~~.~~))

423	Participating or engaging in the activities of any unauthorized club, organization, gang, or security threat group; or wearing or possessing the symbols of an unauthorized club, organization, gang, or security threat group((.))
425	Causing an innocent person to be penalized or proceeded against by providing false information((.))
((~~659~~	~~Committing sexual harassment against another incarcerated individual, as defined in department policy.~~
~~896~~	~~Harassing, using abusive language, or engaging in other offensive behavior directed to or in the presence of another person(s) or group(s) based upon race, creed, color, age, sex, national origin, religion, sexual orientation, marital status or status as a state registered domestic partner, disability, veteran's status, or genetic information.~~
~~661~~	~~Committing sexual harassment against a staff member, visitor, or community member.~~))
460	Using an over-the-counter medication without authorization or failing to take prescribed medication as required when administered under supervision
461	((~~Introducing or transferring any unauthorized drug or~~)) Possession of drug paraphernalia((.))
462	Refusing to submit to or cooperate in a search((~~, urinalysis, oral swab, breath alcohol test, or any testing required by policy, statute, or court order, not otherwise included in these rules,~~)) when ordered to do so by ((~~an employee/contract~~)) a staff member((.))
463	Making any drug, alcohol, or intoxicating substances, or possessing ingredients, equipment, items, formulas, or instructions that are used in making any drugs, alcohol, or intoxicating substances
464	((~~Possessing or using an unauthorized drug, intoxicating substance or alcohol; receiving a positive test for an unauthorized drug, alcohol or intoxicating substance; possession of paraphernalia.~~)) Introducing or transferring alcohol or any intoxicating substance not otherwise included in these rules
465	((~~Providing a diluted, altered, or substituted urine sample.~~)) Using an over-the-counter medication without authorization

466	Admitting use, or receiving a positive test for use of, an unauthorized drug, alcohol, or other intoxicating substance
467	Refusing to submit to a urinalysis and/or failing to provide a urine sample within the allotted time frame when ordered to do so by a staff member
468	Providing a urine specimen that has been diluted, substituted, or altered in any way
469	Refusing or failing to submit to a breath alcohol test or other standard sobriety test when ordered to do so by a staff member
470	Refusing or failing to submit to testing required by policy, statute, or court order, not otherwise included in these rules, when ordered to do so by a staff member
472	Unauthorized contact with prohibited persons as defined in case plan((.))
((899	~~Failing to obtain prior written authorization from the sentencing court, contrary to RCW 9.94A.645, prior to commencing or engaging in any civil action against any victim or family of the victim of any serious violent crime the individual committed.~~))
477	Being in the community without authorization, being in an unauthorized location in the community, unaccounted time, or having unauthorized contact with prohibited persons in the community((.))
((~~810 *Mandatory programming 72.09~~	~~Refusing to seek/maintain employment, training, or programming, or being terminated from work, training, education, or other programming for negative or substandard performance.~~
~~557 *Mandatory programming 72.09~~	~~Refusing to participate in an available work, training, education, or other mandatory programming assignment.~~))
481	Violating conditions of furlough((.))
485	Using the mail, telephone, or electronic communications in violation of any law, court order, or previous written warning, direction, and/or documented disciplinary action, or initiating communication with a minor without the approval of that minor's parent or guardian((.))
494	Receiving or possessing contraband((.))

557 *Mandatory programming 72.09	Refusing to participate in an available work, training, education, or other mandatory programming assignment
659	Committing sexual harassment against another incarcerated individual, as defined in department policy
661	Committing sexual harassment against a staff member, visitor, or community member
700	Failing to complete or administrative termination from a DOSA treatment program. Note: This violation must be initiated by authorized staff and heard by a community corrections hearing officer in accordance with chapter 137-24 WAC. A guilty finding will result in reclassification
701	Failure to comply with the DOSA program. Note: This violation must be initiated by authorized staff and heard by a community corrections hearings officer in accordance with chapter 137-24 WAC. A guilty finding may result in reclassification or lesser sanctions
810 *Mandatory programming 72.09	Refusing to seek/maintain employment, training, or programming, or being terminated from work, training, education, or other programming for negative or substandard performance
896	Harassing, using abusive language, or engaging in other offensive behavior directed to or in the presence of another person(s) or group(s) based upon race, creed, color, age, sex, national origin, religion, sexual orientation, marital status or status as a state registered domestic partner, disability, veteran's status, or genetic information
899	Failing to obtain prior written authorization from the sentencing court, contrary to RCW 9.94A.645, prior to commencing or engaging in any civil action against any victim or family of the victim of any serious violent crime the individual committed
Seriousness Level: Category D: Self-Destructive Behavior/Risky Behavior/Case Plan Related	
421	Using facility phones, information technology resources/systems, or related equipment intended for ((~~employee/contract~~)) staff use without authorization((~~.~~))
422	Possessing, manufacturing, or introducing an unauthorized tool((~~.~~))

424	((~~Damaging, altering, or destroying any item that results in the concealment of contraband or demonstrates the ability to conceal contraband.~~)) Disposing and/or destroying evidence to interfere with identifying contraband or an investigation
435	Intentional destruction, damage, or altering any item that is not the individuals personal property, the value of which is $10 or more((.))
436	Possessing any sexually explicit material(s), as defined in WAC 137-48-020((.))
439	Urinating, defecating, or placing feces or urine in any location other than a toilet or authorized receptacle((.))
459	Receiving or possessing prescribed medication without authorization
474	Unauthorized modification or noncompliance of an approved case plan((.))
482	Violating an imposed special condition((.))
483	Failing to comply with any administrative or post-hearing sanction imposed for committing any violation((.))
484	Operating motor vehicle or being in a motor vehicle without permission((.))
486	Telephoning, or sending written or electronic communication to any individual in a correctional facility, directly or indirectly, without prior written approval of the superintendent/community corrections supervisor/designee((.))
Seriousness Level: Category E: General Noncompliance	
471	Failing to comply with written rules, handbook, or case plan((.))
475	Entering into an unauthorized contract((.))
476	Failing to report/turn in all earnings((.))
487	Possession of unauthorized items, to include money or other negotiable instruments without proper authorization((.))
491	Introducing, possessing, or using a cell phone, electronic/wireless device, or related equipment, without proper authorization((.))
492	Misusing or wasting issued supplies, goods, services, or property((.))

493	((~~Out-of-bounds:~~)) Being in the room/ dorm assigned to another individual under department jurisdiction or an area of the facility without authorization((~~,~~))
495	Giving, selling, purchasing, borrowing, lending, trading, or accepting money or anything of value except through approved channels((~~,~~))

AMENDATORY SECTION (Amending WSR 24-08-017, filed 3/22/24, effective 4/22/24)

WAC 137-56-160 Termination of plan. At any time after approval has been granted to any partial confinement program individual to participate in the program, such approval may be revoked, and the individual may be sent to a state correctional institution or jail. A partial confinement individual may be terminated from the program as a result of a disciplinary or classification decision or the following:

(1) If requested in writing by the partial confinement individual;

(2) If the partial confinement individual lacks aptitude for the assignment or is improperly placed; or

(3) If the partial confinement individual has been unable to adjust or adapt to the conditions of the partial confinement program; or

(4) If the partial confinement individual's situation and circumstances have significantly changed; or

(5) If the individual is on partial confinement programs and their circumstances, situation or living arrangements change, they may be ((~~returned to~~)) placed in a reentry center to develop a new plan; or

(6) If the partial confinement individual has failed to comply with federal or state laws or local ordinances.

AMENDATORY SECTION (Amending WSR 24-08-017, filed 3/22/24, effective 4/22/24)

WAC 137-56-175 Alternatives to the formal disciplinary hearing. When addressing serious violations, the partial confinement case manager may, with the supervisor's/manager's permission, choose to address the violation behavior through a ((~~reentry~~)) multidisciplinary team meeting, or using a department authorized stipulated agreement process.

WSR 25-21-149
PROPOSED RULES
EMPLOYMENT SECURITY DEPARTMENT
[Filed October 22, 2025, 8:29 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-12-056.

Title of Rule and Other Identifying Information: Amending WAC 192-500-010 Employer, 192-500-185 Waiting period, 192-510-040 How does an employer's size affect liability for premiums and eligibility for small business assistance grants?, 192-510-050 How will the department assess the size of new employers?, 192-560-010 Which businesses are eligible for small business assistance grants?, 192-560-020 What is the application process for a small business assistance grant?, 192-620-005 What is the minimum claim duration?, 192-700-015 How is employer size determined for employment protection?, 192-700-020 When does an employer need to provide a continuation of health benefits to an employee who is on paid family or medical leave?, and 192-800-100 What is the process for filing petition for review and any reply to the petition for review?; adding new WAC 192-700-008 What is the time frame in which an employer may apply FMLA leave to a period of PFML job protection?, 192-700-025 How does an employee's use of leave under the federal family and medical leave act (FMLA) affect employment restoration rights?, and 192-700-030 Do employers need to provide a notice to employees regarding their employment restoration rights?; and repealing WAC 192-560-011 What small business grants are available under pandemic leave assistance?

Hearing Location(s): On November 25, 2025, at 9:00 a.m., via Microsoft Teams. Link available at paidleave.wa/rulemaking; or join by phone 564-999-2000, PIN 742 034 32#.

Date of Intended Adoption: On or after December 1, 2025.

Submit Written Comments to: Janette Benham, Employment Security Department (department), P.O. Box 9046, Olympia, WA 98507-9046, email rules@esd.wa.gov, by November 25, 2025, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Teresa Eckstein, state EO office, phone 360-480-5708, email teckstein@esd.wa.gov, by November 18, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: The department, leave and care division, is adopting rules for the paid family and medical leave (PFML) program to implement portions of E2SHB 1213 (chapter 304, Laws of 2025) and SSB 5191 (chapter 178, Laws of 2025). Rules include implementation of legislative changes related to benefit eligibility requirements, employer sizing, small business grants, definitions, and employment restoration rights. A procedural rule regarding the filing of a petition for review is also included.

Reasons Supporting Proposal: The proposed rules implement requirements of E2SHB 1213 and SSB 5191. An additional rule is also included to clarify deadlines regarding the filing of a petition for review.

Statutory Authority for Adoption: RCW 50A.05.060.

Statute Being Implemented: RCW 50A.10.030, 50A.15.020, 50A.24.010, 50A.24.030, 50A.35.010, and 50A.35.020.

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

Name of Agency Personnel Responsible for Drafting, Implementation, and Enforcement: April Amundson, Olympia, Washington, 360-485-2816.

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.

WAC 192-500-010 Employer.	**RCW 34.05.328 (5)(a)(iii):** The rule adopts without material change Washington state statutes.
WAC 192-500-185 Waiting period.	**RCW 34.05.328 (5)(a)(iii):** The rule adopts without material change Washington state statutes.
WAC 192-510-040 How does an employer's size affect liability for premiums and eligibility for small business assistance grants?	**RCW 34.05.328 (5)(a)(iii):** The rule adopts without material change Washington state statutes.
WAC 192-510-050 How will the department assess the size of new employers?	**RCW 34.05.328 (5)(a)(iii):** The rule adopts without material change Washington state statutes.
WAC 192-560-010 Which businesses are eligible for small business assistance grants?	**RCW 34.05.328 (5)(a)(iii):** The rule adopts without material change Washington state statutes.
WAC 192-560-011 What small business grants are available under pandemic leave assistance? (Repeal)	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-560-020 What is the application process for a small business assistance grant?	**RCW 34.05.328 (5)(a)(iii):** The rule adopts without material change Washington state statutes.
WAC 192-620-005 What is the minimum claim duration?	**RCW 34.05.328 (5)(a)(iii):** The rule adopts without material change Washington state statutes.
WAC 192-700-008 What is the time frame in which an employer may apply FMLA leave to a period of PFML job protection?	**RCW 34.05.328 (5)(a)(iii):** The rule adopts without material change Washington state statutes.
WAC 192-700-015 How is employer size determined for employment protection?	**RCW 34.05.328 (5)(a)(iv):** The rule only clarifies language of a rule without changing its effect.
WAC 192-700-020 When does an employer need to provide a continuation of health benefits to an employee who is on paid family or medical leave?	**RCW 34.05.328 (5)(a)(iii):** The rule adopts without material change Washington state statutes.
WAC 192-700-025: How does an employee's use of leave under the federal family and medical leave act (FMLA) affect employment restoration rights?	**RCW 34.05.328 (5)(a)(iii):** The rule adopts without material change Washington state statutes.
WAC 192-700-030 Do employers need to provide a notice to employees regarding their employment restoration rights?	**RCW 34.05.328 (5)(a)(iii):** The rule adopts without material change Washington state statutes.
WAC 192-800-100 What is the process for filing petition for review and any reply to the petition for review?	**RCW 34.05.328 (5)(c)(i):** The rule is a procedural rule that amends a procedure, practice, or requirement relating to an agency hearing.

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

Is exempt under RCW 19.85.025(3) as the rules only correct typographical errors, make address or name changes, or clarify language of a rule without changing its effect; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Explanation of exemptions:

WAC 192-500-010 Employer.	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-500-185 Waiting period.	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.

WAC 192-510-040 How does an employer's size affect liability for premiums and eligibility for small business assistance grants?	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-510-050 How will the department assess the size of new employers?	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-560-010 Which businesses are eligible for small business assistance grants?	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-560-011 What small business grants are available under pandemic leave assistance? (Repeal)	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-560-020 What is the application process for a small business assistance grant?	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-620-005 What is the minimum claim duration?	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-700-008 What is the time frame in which an employer may apply FMLA leave to a period of PFML job protection?	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-700-015 How is employer size determined for employment protection?	**RCW 34.05.310 (4)(d):** This rule clarifies language of a rule without changing its effect.
WAC 192-700-020 When does an employer need to provide a continuation of health benefits to an employee who is on paid family or medical leave?	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-700-025: How does an employee's use of leave under the federal family and medical leave act (FMLA) affect employment restoration rights?	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-700-030: Do employers need to provide a notice to employees regarding their employment restoration rights?	**RCW 34.05.310 (4)(e):** The content of this rule is explicitly and specifically dictated by statute.
WAC 192-800-100 What is the process for filing petition for review and any reply to the petition for review?	**RCW 34.05.310 (4)(g)(i):** This rule amends a procedure, practice, or requirement relating to agency hearings.

Scope of exemption for rule proposal:
Is fully exempt.

October 22, 2025
April Amundson
Policy and Rules Manager
ESPI, Leave and Care Programs

RDS-6694.2

AMENDATORY SECTION (Amending WSR 20-20-074, filed 10/2/20, effective 11/2/20)

WAC 192-500-010 Employer. (1) An "employer" is:

(a) Any individual or type of organization, including any partnership, association, trust, estate, joint stock company, insurance company, limited liability company, or corporation, whether domestic or foreign, or the receiver, trustee in bankruptcy, trustee, or the legal representative of a deceased person, having any person in employment or, having become an employer, has not ceased to be an employer as provided in this chapter;

(b) The state, state institutions, and state agencies;

(c) Any unit of local government including, but not limited to, a county, city, town, municipal corporation, quasi-municipal corporation, or political subdivision; ((~~and~~))

(d) A franchisee; and

(e) Representatives for employers of dockworkers who normally work for several employers in the same industry interchangeably through a collectively bargained agreement. Other than for their own employees, employer representatives are not obligated to report dockworkers who are not covered by the collective bargaining agreement.

(2) "Employer" does not include the United States of America.

(3) For the purposes of paid family and medical leave, the term employer is used for both employer and employer agent.

(4) This section does not apply to:

(a) Any self-employed person or federally recognized tribe that has not elected coverage under Title 50A RCW; and

(b) Any person performing casual labor as defined in RCW 50A.05.010.

AMENDATORY SECTION (Amending WSR 22-10-031, filed 4/26/22, effective 6/9/22)

WAC 192-500-185 Waiting period. (1) A "waiting period" is the first seven consecutive calendar days beginning with the Sunday of the first week an eligible employee starts taking paid family or medical leave.

(2) An employee will satisfy the waiting period requirement if the employee takes at least ((~~eight~~)) four consecutive hours of leave during the first week of the employee's paid family or medical leave claim.

(3) An employee will not receive a benefit payment for hours claimed during the waiting period.

(4) A waiting period does not reduce the maximum duration of an employee's available paid family or medical leave.

(5) Subject to subsection (7) of this section, an employee must only meet the requirement of one waiting period in a claim year.

(6) If an employee is denied eligibility for a period of time that satisfied the waiting period requirement, the waiting period requirement will not be deemed satisfied for a future claim for which the employee is deemed eligible.

(7) The waiting period does not apply to:

(a) Medical leave taken upon the birth of a child;

(b) Family leave taken for bonding after the child's birth or placement; or

(c) Family leave taken for reasons related to a qualified military exigency.

(8) An employee's use of paid time off for all of or any portion of the waiting period will not affect the satisfaction of the waiting period requirement.

RDS-6695.1

AMENDATORY SECTION (Amending WSR 21-04-067, filed 1/29/21, effective 3/1/21)

WAC 192-510-040 How does an employer's size affect liability for premiums and eligibility for small business assistance grants? (1) To assess premiums and determine eligibility for small business assistance grants, the department must determine the size of each applicable employer. The department will determine the size of each employer as provided in RCW 50A.10.030. The department will only count the number of in-state employees as defined in RCW 50A.05.010 when calculating employer size.

(2) If the department determines that the employer's status has changed as it relates to premium liability, the department will notify the employer. This notification will include the following information:

(a) If the employer was determined to have ((~~fifty~~)) 50 or more employees for the preceding calendar year, and the employer is then determined to have fewer than ((~~fifty~~)) 50 employees for the subsequent calendar year, the employer will not be required to pay the employer portion of the premium for the next calendar year; or

(b) If the employer was determined to have fewer than ((~~fifty~~)) 50 employees for the preceding calendar year, and the employer is then determined to have ((~~fifty~~)) 50 or more employees for the subsequent calendar year, the employer will be required to pay the employer portion of the premium for the next calendar year.

((**Example:** ~~On September 30, 2018, a business is determined to have had 53 employees on average during the previous four completed quarters, which covers July 1, 2017, through June 30, 2018. The employer is liable for the employer portion of premiums for 2019. On September 30, 2019, the business is determined to have had 48 employees on average during the previous four completed quarters, which covers July 1, 2018, through June 30, 2019. The employer is no longer liable for the employer share of premiums for 2020.~~)) (3) An employer that elects to submit the number of employees employed on the last day of each calendar quarter may do so in the employer portal or in another manner approved by the department. Such employers will, on September 30th of each year, have their size determined by averaging the number of employees reported on the last day of each calendar quarter over the last four calendar quarters.

(4) Employers that elect not to submit the number of employees employed on the last day of each calendar quarter as described in subsection (3) of this section will, on September 30th of each year, have their size determined by averaging the total number of employees reported during the preceding four calendar quarters.

(5) For the purposes of subsection (3) of this section, the term "employed" has the same meaning as WAC 192-700-015(3).

AMENDATORY SECTION (Amending WSR 21-11-009, filed 5/7/21, effective 6/7/21)

WAC 192-510-050 How will the department assess the size of new employers? An employer that has not been in business in Washington long enough to report four calendar quarters by September 30th will have its size calculated after the second quarter of reporting is due by averaging the number of employees reported over the quarters for

which reporting exists in accordance with WAC 192-510-040. Premium assessment based on this determination will begin on this reporting date. This size determination remains in effect for the following calendar year under RCW 50A.10.030.

RDS-6696.1

AMENDATORY SECTION (Amending WSR 21-11-009, filed 5/7/21, effective 6/7/21)

WAC 192-560-010 Which businesses are eligible for small business assistance grants? (1) An employer determined to have ((~~one hundred fifty~~)) 150 or fewer employees in the state that is assessed the employer share of the premiums is eligible to apply for small business assistance grants as provided in chapter 50A.24 RCW.

(2) An employer determined to have fewer than ((~~fifty~~)) 50 employees is only eligible for a small business assistance grant if the employer opts to pay the employer share of the premiums.

(a) The employer will be assessed the employer share of the premiums for a minimum of ((~~twelve~~)) 12 consecutive calendar quarters beginning with the first calendar quarter after the most recent grant is approved.

(b) The employer may provide notice at any time after the approval of the grant to opt out of paying the employer share of the premiums.

(i) If the ((~~twelfth~~)) 12th consecutive quarter following approval of the grant has ended, the opt-out will become effective on the first day of the following quarter.

(ii) If the ((~~twelfth~~)) 12th consecutive quarter following approval of the grant has not ended, the opt-out will become effective on the first day of the ((~~thirteenth~~)) 13th quarter following approval of the grant.

(3) An employer is not eligible for a small business assistance grant if, at the time of application, the employer has outstanding and delinquent reports, outstanding and delinquent payments, or due and owing penalties or interest under Title 50A RCW.

(4) An employer may request only one grant per year for each employee who takes paid family or medical leave under this title. Submissions under (a) and (b) of this subsection do not qualify as grant applications and therefore do not count against the employer's limit of ((~~ten~~)) 10 applications per year.

(a) An employer that qualifies for a grant under RCW 50A.24.010 for an amount that is less than ((~~one thousand dollars~~)) $1,000 may submit documentation of significant additional wage-related costs incurred after filing the initial grant application in an attempt to qualify for additional grant funds.

(b) An employer may submit a revised application for a grant under RCW 50A.24.010 in an attempt to qualify for additional grant funds.

(5) An employer must apply for any grant no later than four months following the last day of the employee's paid family or medical leave.

AMENDATORY SECTION (Amending WSR 21-04-067, filed 1/29/21, effective 3/1/21)

WAC 192-560-020 What is the application process for a small business assistance grant? (1) Applications for small business assistance grants must be submitted online or in another format approved by the department. To be approved, an application must contain:

(a) The name and Social Security number or individual taxpayer identification number of the employee taking leave;

(b) The amount and type of grant being requested; and

(c) ((~~An explanation summarizing any personnel or significant additional wage-related costs that were taken because of an employee taking leave; and~~

~~(d)~~)) For businesses with:

(i) Fewer than 50 employees, a written statement attesting that the employer hired a temporary worker or incurred other significant wage-related costs due to an employee's use of family or medical leave.

(ii) Between 50 and 150 employees, written documentation including, but not limited to, personnel records related to the hiring of a new temporary employee, wage reports, and signed statements, showing the temporary worker hired or significant additional wage-related costs incurred are due to an employee's use of paid family or medical leave.

(d) The department may require additional information as necessary to verify an employer's eligibility for a small business grant.

(2) Incomplete applications will not be reviewed and will not count against an employer's limit of ((~~ten~~)) 10 applications per year under RCW 50A.24.010.

(3) The department will deny the application for reasons including, but not limited to, the employer's failure to demonstrate that:

(a) It hired a temporary worker or incurred any significant additional wage-related costs; or

(b) The temporary worker hired or significant additional wage-related cost incurred was not due to an employee's use of family or medical leave.

(4) ((~~If a grant application is denied, the application will count against an employer's limit of ten applications per year.~~

~~(5)~~)) The denial of a grant application is appealable.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 192-560-011	What small business grants are available under pandemic leave assistance?

RDS-6697.1

AMENDATORY SECTION (Amending WSR 19-13-001, filed 6/5/19, effective 7/6/19)

WAC 192-620-005 What is the minimum claim duration? (1) The minimum claim duration for paid family or medical leave is ((~~eight~~)) four consecutive hours in a week. If an employee on leave claims ((~~eight~~)) four consecutive hours at any point during a week, the minimum claim duration is satisfied.

((**Example 1:** ~~An employee typically works six-hour shifts each weekday. The employee takes leave Monday, works Tuesday and Wednesday, and takes leave Thursday and Friday. The minimum claim duration requirement would be satisfied with the leave taken Thursday and Friday. That employee could also include the hours missed on Monday in the weekly claim.~~

~~(2) If an employee on leave typically works less than eight-hour shifts, the employee will meet the requirement of a minimum claim when the employee has missed eight consecutive hours at any point during a week the employee typically would have been scheduled.~~)) (2) If an employee on leave typically works less than four-hour shifts, the employee will meet the requirement of a minimum claim when the employee has missed four consecutive hours at any point during a week the employee typically would have been scheduled.

Example ((~~2~~)): An employee typically works ((~~four~~)) two-hour shifts. The employee will need to take two consecutive shifts of leave in a week to have a minimum claim.

RDS-6778.1

NEW SECTION

WAC 192-700-008 What is the time frame in which an employer may apply federal family and medical leave (FMLA) to a period of paid family and medical leave (PFML) job protection? (1) If leave under the federal Family and Medical Leave Act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on January 1, 2026 (FMLA)), is not taken, or if a PFML claim year is in effect when a duration of FMLA leave is taken that the employer designates as counting against a future duration of PFML job protection, the "52 consecutive calendar weeks" as referenced in RCW 50A.35.010 means the employee's PFML claim year.

(2) If a PFML claim year is not in effect when a duration of FMLA leave is taken that the employer designates as counting against a future duration of PFML job protection, the "52 consecutive calendar weeks" as referenced in RCW 50A.35.010 means a 52-week period beginning with the first day of such FMLA leave. In such cases, an employee is entitled to a maximum of a combined total of 16 times the typical workweek hours of job protection in the 52-week period. The maximum duration is extended to 18 times the typical workweek hours if the employee took leave due to a serious health condition with a pregnancy that results in incapacity.

AMENDATORY SECTION (Amending WSR 19-16-081, filed 7/31/19, effective 8/31/19)

WAC 192-700-015 How is employer size determined for employment protection? (1) Employment protection ((~~applies to employees who work for an employer with fifty or more employees in employment~~)) is available to employees as provided in RCW 50A.35.010.

(2) For the purpose of ((~~employment protection~~)) RCW 50A.35.010 (6)(a)(i), employers are considered to have ((~~fifty or more~~)) the required number of employees when:

(a) The employer has ((~~fifty or more~~)) the required number of employees ((~~working~~)) or more employed each work day for ((~~twenty~~)) 20 or more calendar workweeks; and

(b) The ((~~twenty~~)) 20 calendar workweeks occur in the current calendar year or occurred in the preceding calendar year.

(3) For the purposes of this section, any employee whose name appears on the employer's payroll will be considered employed. Employees on paid or unpaid leave, including leave taken under Title 50A RCW, leave taken under the federal Family and Medical Leave Act, leaves of absence, disciplinary suspension, etc., are counted as long as the employer has a reasonable expectation that the employee will later return to active employment. If there is no employer/employee relationship (as when an employee is laid off, whether temporarily or permanently) such individual is not counted.

AMENDATORY SECTION (Amending WSR 20-11-035, filed 5/14/20, effective 6/14/20)

WAC 192-700-020 When does an employer need to provide a continuation of health benefits to an employee who is on paid family or medical leave? (1) An employee taking family or medical leave under Title 50A RCW is entitled to the continuation of health benefits as provided in ((~~this section when there is at least one day of concurrent use with leave taken under the federal Family and Medical Leave Act as it existed on October 19, 2017~~)) RCW 50A.35.020.

(2) When required under subsection (1) of this section, the employee's health benefits must be maintained as if the employee had continued to work from the date family or medical leave under Title 50A RCW commenced until whichever of the following occurs first:

(a) The employee's family or medical leave under Title 50A RCW ends; or

(b) The employee returns from leave to any employment.

(3) If the employer and employee share the cost of existing health benefits, then during any continuation of health benefits as provided in this section, the employee remains responsible for the employee's share of the cost as prescribed by 29 C.F.R. 825.210, 825.211, and 825.212, and any subsequent amendments to those regulations.

(4) If an employee gives the employer unequivocal notice of intent not to return to work, the employer's obligations under Title 50A RCW to maintain health benefits cease.

(5) Nothing in this section should be construed as restricting an employer from providing a continuation of health benefits for any employee's claim for paid family or medical leave.

NEW SECTION

WAC 192-700-025 How does an employee's use of leave under the federal Family and Medical Leave Act (FMLA) affect employment restoration rights? (1) An employee is entitled to employment restoration upon returning from:

(a) Family or medical leave under Title 50A RCW (PFML), regardless of whether the employee also qualifies for and receives concurrent leave under the federal Family and Medical Leave Act of 1993 (Act Feb. 5, 1993, P.L. 103-3, 107 Stat. 6, as it existed on January 1, 2026 (FMLA)), as provided under RCW 50A.15.110; or

(b) Leave protected by the FMLA, during a period in which the employee was eligible for benefits under this title but did not apply for and receive those benefits.

(2) An employee is entitled to a combined maximum duration of 16 typical workweeks of leave under subsection (1) of this section taken during a period of 52 consecutive calendar weeks, except this duration is extended to 18 typical workweeks if any of the leave was taken as a result of a serious health condition with a pregnancy resulting in incapacity.

(3) If the employee is approved for a duration of PFML and the associated job protection of such leave would result in a combined duration of job protected leave in excess of the maximum duration described in subsection (2) of this section, an employer may reduce the employee's job protection associated with the duration of PFML by a duration of leave previously taken under FMLA, if the FMLA leave was taken no more than 52 weeks prior to the leave taken under PFML to the extent that such a reduction still entitles the employee to the maximum duration of job protection described in subsection (2) of this section.

(4) Employers that choose to offset job protection, as described in subsection (1) of this section, must provide written notice to the employee in a language understood by the employee and transmitted by a method reasonably certain to be received promptly by the employee. The notice must include the following:

(a) That the employer is designating and counting the employee's initial use of leave against the employee's entitlement under FMLA, including specifying the amount of the entitlement used and remaining, as estimated by the employer based on information provided by the department and employee;

(b) The start and end dates of the employer's designated 12-month leave year under the FMLA;

(c) Since the employee is eligible for paid family or medical leave under this title but is not applying for and receiving benefits, that the employer is counting the FMLA leave toward the maximum periods of job protection associated with leave taken under PFML, including specifying the start and end dates of FMLA leave, and the total amount of FMLA leave counting toward those maximum periods, as estimated by the employer based on information provided by the department and employee; and

(d) That the use of FMLA leave counting against job protection associated with PFML does not affect the employee's eligibility for paid family or medical leave benefits under this title.

(5) The notice described in subsection (2) of this section must be delivered within five business days of the employee requesting or taking FMLA leave and at least monthly thereafter.

(a) The requirement to provide this notice will cease if:

(i) The employer has applied the maximum amount of FMLA leave to an employee's PFML job protection; or

(ii) The employer does not wish to retain the option to reduce PFML job protected leave by FMLA job protected leave.

(b) The notice requirement resumes if the employee takes additional FMLA leave and the employer chooses to apply that leave to reduce job protection under PFML as described in this section.

(6) An employer that does not comply with the notice requirements in this section is required to recognize an employee's full employment restoration rights under PFML regardless of any prior use of leave under FMLA.

(7) An employer may apply FMLA leave toward an employee's job protection under PFML regardless of whether leave taken under either program is intermittent or for different qualifying events.

(8) Any investigation of a complaint filed by an employee under RCW 50A.40.020 that includes an alleged violation of this section will be based on information the employer had or reasonably should have had when the employer allegedly committed the unlawful act.

(9) Nothing in this section prevents an employer from adopting more generous leave or job protection not covered by Title 50A RCW.

Example 1: An employee takes six weeks of leave under FMLA but does not receive benefits under PFML for the same period. The employer wishes to retain the right to apply these six weeks of FMLA leave toward a potential future use of paid family or medical leave that would result in a combined maximum of more than 16 weeks of leave. Leave is not being taken as a result of a serious health condition with a pregnancy resulting in incapacity. The employer provides the proper notice and continues to do so monthly. Six months later, the employee is approved for 12 weeks of paid family leave to bond with a new child in the home. The employer notifies the employee that their previous use of FMLA within the last 52 weeks is being applied to job protection associated with their paid family leave. Because the combined total of job protection would amount to 18 weeks, the employee would need to return to work after the 10th week of paid family leave to retain job protection rights. This would result in a maximum of 16 weeks of job protection. If the employee elects to remain on paid family leave after the 10th week, they will still be eligible for PFML benefits, but the employer would not be required to offer the same or a substantially similar position of employment when the employee returns to work.

Example 2: An employee takes four weeks of leave under FMLA, but does not receive paid family or medical leave benefits for the same period. The employee begins their FMLA leave on March 12, 2026, and returns to work on April 10, 2026. The employer wishes to retain the right to apply these four weeks of FMLA leave toward a potential future use of paid family or medical leave. The employer provides the proper notice and continues to do so monthly. On April 2, 2027, the employee elects to take 16 weeks of paid family and medical leave after giving birth to a child. The employer notifies the employee that their previous use of FMLA within the last 12 months is being applied to job protection associated with their paid family leave. The employer is only able to apply one week of previously used FMLA leave toward the employee's paid medical leave job protection because the additional FMLA leave occurred more than one year prior to the employee's use of paid medical leave.

NEW SECTION

WAC 192-700-030 Do employers need to provide a notice to employees regarding their employment restoration rights? (1) Employers are required to provide a notice to employees eligible for employment restoration rights as described in RCW 50A.35.010 (7)(b).

(2) Employers must provide this notice:

(a) Each time an employee takes or is expected to take a continuous period of leave that lasts at least two typical workweeks; or

(b) One time for each qualifying event if the employee takes or is expected to take combined intermittent periods of leave exceeding 14 typical work days for that qualifying event. In this case, an employer may use an approximate date rather than a precise date for the employee's first scheduled workday after the leave ends.

Example: An employee applies for and receives paid medical leave benefits on an intermittent basis, taking every Monday off for treatment over an extended period of time. After the 14th Monday, an employer is required to provide the notice. The employer may provide a single notice for this qualifying event, and the notice may list "the day after you have received your treatment" as the expected time for the employee's return to work.

(3) The notice described in this section must be delivered in a language understood by the employee and transmitted by a method reasonably certain to be received by the employee no later than:

(a) Five business days in advance of the date the employee is expected to return to work; or

(b) If the employer becomes aware of the employee's use of paid family or medical leave less than five business days in advance of the date the employee is expected to return to work, as soon as is practicable.

(4) Any investigation of a complaint filed by an employee under RCW 50A.40.020 that includes an alleged violation of this section will be based on information the employer had or reasonably should have had when the employer allegedly committed the unlawful act.

RDS-6698.1

AMENDATORY SECTION (Amending WSR 19-23-090, filed 11/19/19, effective 12/20/19)

WAC 192-800-100 What is the process for filing petition for review and any reply to the petition for review? (1) The written petition for review must be filed by using the department's online services or by mailing it to the Commissioner's Review Office, Employment Security Department, Post Office Box 9555, Olympia, WA 98507-9555, within ((~~thirty~~)) 30 days of the date of mailing or delivery of the decision of the office of administrative hearings, whichever is earlier.

(2) Any written argument in support of the petition for review must be attached to the petition for review and be filed at the same time. The commissioner's review office will acknowledge receipt of the petition for review by assigning a review number to the case, entering the review number on the face of the petition for review, and setting

forth the acknowledgment date on the petition for review. The commissioner's review office will also send copies of the acknowledged petition for review and attached argument in support thereof to the petitioning party, nonpetitioning party, and their representatives of record, if any.

(3) Any reply to the petition for review and any argument in support thereof by the nonpetitioning party must be filed by using the department's online services or by mailing it to the Commissioner's Review Office, Employment Security Department, Post Office Box 9555, Olympia, WA 98507-9555. The reply must be ((~~received by~~)) filed with the commissioner's review office within ((~~fifteen~~)) 15 days of the date of the acknowledged petition for review. An informational copy must be mailed by the nonpetitioning party to all other parties of record and their representatives, if any.

(4) The petition for review and argument in support thereof, and the reply to the petition for review and argument in support thereof, must:

(a) Be captioned, and include the docket number of the decision of the office of administrative hearings, and be signed by the party submitting it or by a designated representative of that party; ((~~and~~))

(b) Be legible, reproducible, and five pages or less; and

(c) Be filed in accordance with the provisions of RCW 50A.50.040.

(5) Arrangements for representation and requests for copies of the hearing record and exhibits will not extend the period for the filing of a petition for review, argument in support thereof, or a reply to the petition for review.

(6) Any argument in support of the petition for review or in reply thereto not submitted in accordance with the provisions of this regulation is not considered in the disposition of the case unless it is determined that the failure to comply with these provisions was beyond the reasonable control of the individual seeking relief.

WSR 25-21-159
PROPOSED RULES
BOARD OF REGISTRATION
FOR PROFESSIONAL ENGINEERS
AND LAND SURVEYORS
[Filed October 22, 2025, 11:19 a.m.]

Original Notice.

Preproposal statement of inquiry was filed as WSR 25-15-066.

Title of Rule and Other Identifying Information: Chapter 196-09 WAC, Board practices and procedures.

Hearing Location(s): On December 3, 2025, 12:30 p.m., at the Board of Registration for Professional Engineers and Land Surveyors (board) Office, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501; or virtually via WebEx meeting at https://brpels.wa.gov/current-laws-and-rules/rulemaking-activity.

Date of Intended Adoption: December 11, 2025.

Submit Written Comments to: Shanan Gillespie, P.O. Box 9025, Olympia, WA 98507-9025, email Shanan.Gillespie@brpels.wa.gov, beginning November 5, 2025, 7:00 a.m., by December 5, 2025, 5:00 p.m.

Assistance for Persons with Disabilities: Contact Mackenzie Wherrett, phone 360-664-1568, TTY 711, email Mackenzie.Wherrett@brpels.wa.gov, by December 1, 2025.

Purpose of the Proposal and Its Anticipated Effects, Including Any Changes in Existing Rules: In WAC 196-09-050, the categories of when a brief adjudicative proceeding (BAP) can be used was expanded to include disciplinary matters where alleged violations are simple and can be proven solely with documentary evidence. WAC 196-09-055 was amended to include the types of records required for a BAP.

Reasons Supporting Proposal: To improve consistency in the disciplinary process while continuing to provide due process and allowing the process to move quickly and fairly for all parties.

Statutory Authority for Adoption: RCW 18.43.035.

Statute Being Implemented: RCW 18.43.105.

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

Name of Proponent: Board of registration for professional engineers and land surveyors, governmental.

Name of Agency Personnel Responsible for Drafting: Shanan Gillespie, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-664-1570; Implementation and Enforcement: Ken Fuller, 605 11th Avenue S.E., Suite 201, Olympia, WA 98501, 360-664-1575.

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. The board is not one of the agencies to which RCW 34.05.328 applies pursuant to RCW 34.05.328 (5)(a).

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

Is exempt under RCW 19.85.025(3) as the rules relate only to internal governmental operations that are not subject to violation by a nongovernment party; and rules adopt, amend, or repeal a procedure, practice, or requirement relating to agency hearings; or a filing or related process requirement for applying to an agency for a license or permit.

Explanation of exemptions: These rules (WAC 196-09-050 and 196-09-055) are exempt per RCW 34.05.310 (4)(b) because the rules re-

late to internal governmental operations that are not subject to violation by a nongovernment party, and RCW 34.05.310 (4)(g) because the rules relate to agency hearings.

Scope of exemption for rule proposal:

Is fully exempt.

October 22, 2025
Ken Fuller
Director

RDS-6770.1

AMENDATORY SECTION (Amending WSR 21-22-092, filed 11/2/21, effective 12/3/21)

WAC 196-09-050 Brief adjudicative proceedings. (1) The board may conduct brief adjudicative proceedings as provided in RCW 34.05.482 through 34.05.494 of the Administrative Procedure Act.

(2) Brief adjudicative proceedings may ((~~only~~)) be ((~~allowed~~)) offered when a respondent challenges the following categories of board decisions:

(a) A denial of application for licensure, including renewal, reinstatement, or denial of eligibility to take examinations;

(b) A finding that a licensee has failed to meet continuing professional development requirements;

(c) A finding that a licensee has violated the terms of a final order or agreed order issued by the board or the board's designee;

(d) A finding that a person has engaged in false, deceptive, or misleading advertising, or engaged in unlicensed practice;

(e) A finding that a professional land surveyor has violated the provisions of the Survey Recording Act, chapter 58.09 RCW and the survey standards, chapter 332-130 WAC;

(f) A finding that a licensee has violated the provisions of chapter 196-23 WAC, Stamping and seals, chapter 196-27A WAC, Rules of professional conduct, or chapter 196-33 WAC, Rules of professional practice for licensees designing on-site wastewater treatment systems.

(3) A brief adjudicative proceeding may be offered only where the violations alleged are simple and can be proven solely with documentary evidence and where no oral testimony or opinion is needed for the presiding officer to make a fully informed decision on the matter.

AMENDATORY SECTION (Amending WSR 21-22-092, filed 11/2/21, effective 12/3/21)

WAC 196-09-055 Records required for brief adjudicative proceeding. The records for the brief adjudicative proceeding may include, but are not limited to:

(1) License related denials and violations of law:

(a) All correspondence, including emails, between the applicant or respondent, complainant, and the board staff regarding an initial determination ((~~including copies of~~)) such as complaints, requests for

information, responses, applications, renewal notice(s), denials, or appeals;

(b) All documents ((~~received by the board from or on behalf of the applicant, licensee or respondent~~)) or data relating to ((~~information, payments, or explanations that have been provided to the board~~)) violations or license denials including records from educational institutions, company employment records, attestations by licensees, plans, maps, drawings, recorded documents, contracts, advertisements, letterhead, business cards, invoices, and records from financial institutions;

(c) ((~~Copies of all supplementary information related to application or complaint review by staff or board member;~~

~~(d)~~)) All documents relied upon by board staff and case manager or board member in reaching the initial determination;

((~~(c)~~)) (d) Any other ((~~information~~)) documentary evidence that may be of assistance to the presiding officer in deciding the case.

(2) Determination of compliance with previously issued board order:

(a) The previously issued final order, default, or ((~~agreement~~)) agreed order;

(b) All reports or other documents submitted by, or at the direction of, the license holder, in full or partial fulfillment of the terms of the final order or agreement;

(c) All correspondence between the license holder and the board regarding compliance with the final order, default, or ((~~agreement~~)) agreed order; and

(d) All documents relied upon by the board staff and case manager showing that the license holder has failed to comply with the previously issued final order, default, or ((~~agreement~~)) agreed order.