

WSR 24-19-056
PERMANENT RULES
DEPARTMENT OF
CHILDREN, YOUTH, AND FAMILIES

[Filed September 13, 2024, 9:33 a.m., effective October 14, 2024]

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

Purpose: These rules are being amended to make housekeeping changes to several department of children, youth, and families WAC to reflect gender-neutral pronouns. The WAC currently use he/she or his/her instead of they/them. Other minor housekeeping changes are also being made.

Citation of Rules Affected by this Order: Amending WAC 110-01-0200, 110-50-0170, 110-60-0020, 110-147-1305, 110-147-1455, 110-147-1470, 110-147-1600, 110-300-0005, 110-300-0010, 110-300-0120, 110-300-0135, 110-300-0180, 110-300-0196, 110-300-0215, 110-300-0285, 110-300-0291, 110-300-0315, 110-300-0345, 110-300-0400, 110-300-0450, 110-700-0040, 110-700-0045, 110-710-0005, 110-740-0010, 110-740-0040, 110-740-0060, and 110-740-0070.

Statutory Authority for Adoption: RCW 34.05.020.

Adopted under notice filed as WSR 24-13-049 on June 12, 2024.

Number of Sections Adopted in Order to Comply with Federal Statute: New 0, Amended 0, Repealed 0; Federal Rules or Standards: New 0, Amended 0, Repealed 0; or Recently Enacted State Statutes: New 0, Amended 0, Repealed 0.

Number of Sections Adopted at the Request of a Nongovernmental Entity: New 0, Amended 27, Repealed 0.

Number of Sections Adopted on the Agency's own Initiative: New 0, Amended 0, Repealed 0.

Number of Sections Adopted in Order to Clarify, Streamline, or Reform Agency Procedures: New 0, Amended 0, Repealed 0.

Number of Sections Adopted using Negotiated Rule Making: New 0, Amended 0, Repealed 0; Pilot Rule Making: New 0, Amended 0, Repealed 0; or Other Alternative Rule Making: New 0, Amended 0, Repealed 0.

Date Adopted: September 13, 2024.

Brenda Villarreal
Rules Coordinator

OTS-5483.1

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-01-0200 How the department responds to public records requests. Within five business days of receiving the request, the department will either:

- (1) Provide the record;
- (2) Acknowledge the request and give a reasonable time estimate of how long the department will take to provide records;
- (3) Contact the requestor to clarify the request if it isn't understood by the public records officer; or

(4) Deny all or part of the request in writing, with reasons for the denial. The explanation will include the law that the department relied upon in its denial.

At ((his or her)) their discretion, the public records officer may send the requested records by email, fax, postal mail, or commercial delivery. The records may be delivered on paper, computer or compact discs, or other methods.

OTS-5484.1

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-50-0170 Under what circumstances does the department choose a relative as the placement for a child in need of out-of-home care? (1) When the department determines that a child needs to be placed outside the home, the department must search for appropriate relatives to care for the child before considering nonrelative placements. See RCW 74.15.020 for the definition of "relative."

(2) The department reviews and determines the following when selecting a relative placement:

- (a) The child would be comfortable living with the relative;
- (b) The relative has a potential relationship with the child;
- (c) The relative is capable of caring for the child and is willing to cooperate with the permanency plan for the child;
- (d) The relative is able to provide a safe home for the child;
- (e) Each child has ((his or her)) their own bed or crib if the child remains in the home beyond ((thirty)) 30 days.

(3) The department may consider nonrelated family members as potential resources, if these family members become licensed to provide foster care (see RCW 74.15.030).

OTS-5485.1

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-60-0020 What definitions apply to the department's adoption program? "Agency" means any public or private association, corporation, or individual licensed or certified by the department as a child placing agency under chapter 74.15 RCW or as an adoption agency.

"Adoptee" means a person who is to be adopted or who has been adopted.

"Adoption" means the legal granting of the adoption decree consistent with chapter 26.33 RCW.

"Adoptive parent" refers to a person or persons who seeks to adopt or who has adopted.

"Alleged father" refers to a person whose parent-child relationship has not been terminated, who is not a presumed father under chap-

ter 26.26 RCW, and who alleges ((himself)) to be the father or whom a party alleges to be the father of the child. It includes a person whose marriage to the mother was terminated more than ((three hundred)) 300 days before the birth of the child or who was separated from the mother more than ((three hundred)) 300 days before the birth of the child.

"Approved adoptive home" refers to any person or persons who has been approved for adoption in a preplacement report completed pursuant to RCW 26.33.190.

"Birth parent" means the biological mother or biological or alleged father of a child, including a presumed father under chapter 26.26 RCW, whether or not a court of competent jurisdiction has terminated the person's parent-child relationship.

"Child placing agency" means an agency licensed by the department to place children for temporary care, continued care, or adoption.

"Children's administration" (CA) means the cluster of programs within the department of social and health services responsible for the provision of child welfare, adoption, child protective, child care licensing, and other services to children and their families.

"Department" means the department of ((social and health services - (DSHS))) children, youth, and families (DCYF).

"Department placement" refers to the placement of a child for whom the department has placement authority in an approved adoptive home.

"Division of children and family services" (DCFS) is the division of children's administration that provides child welfare, child protective, family reconciliation, and support services to children in need of protection and their families.

"Division of licensed resources" (DLR) is the division of children's administration responsible for licensing or certifying child care homes and facilities under the authority of chapter 74.15 RCW.

"Foster-adopt" refers to families that are interested in adoption who have an approved adoptive home study and who have also been granted a foster home license in accordance with chapter 388-148 WAC.

"Independent placement" refers to the placement of a child in an adoptive home by a doctor, attorney, or other individual acting as a facilitator.

"Inter-country placement" refers to the placement of a child for adoption who is not a resident and/or citizen of the United States.

"Relative" means a person related by blood, marriage, or legal adoption, as defined in RCW 74.15.020.

"Voluntary adoption plan" means an agreement by the birth parent(s) to the termination of parental rights with a specific proposal for adoptive placement for the child.

OTS-5486.1

AMENDATORY SECTION (Amending WSR 22-11-091, filed 5/18/22, effective 6/18/22)

WAC 110-147-1305 What definitions do I need to know to understand this chapter? The following words and terms 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 as defined in RCW 26.44.020.

"Adult" means a person 18 years old or 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.

"Assessment" means the appraisal or evaluation of a child's physical, mental, social or emotional condition.

"Bisexual" means individuals who have an emotional or physical attraction to individuals of the same and different genders.

"Business hours" means hours during the day in which business is commonly conducted. Typically, the hours between 9 a.m. and 5 p.m. on weekdays are considered to be standard business hours.

"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 parents or guardians, 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 or guardians, child, and foster parents in order to improve the conditions in the parents' or guardians' 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 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 other government agency.

"Certification" means a licensed child placing agency (CPA) re-view that a foster home being supervised by that CPA meets licensing regulations. The final decision for licensing is the responsibility of the department of children, youth, and families.

"Chapter" means chapter 110-147 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 the department of social and health services, developmental disabilities administration (DDA) the day prior to (~~his or her~~) their 18th birth-day 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 the juvenile rehabilitation system.

"Child placing agency (CPA)" means an agency licensed to place children for foster care or adoption.

"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" means the department of children, youth, and families (DCYF).

"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.

"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.

"Health care staff" means anyone providing qualified medical consultation to your staff or medical care to the children in your care.

"Hearing" means the administrative review process conducted by an administrative law judge.

"I," "my," "you," and "your" refer 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 your agency meets 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.

"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.

"Licensor" means either:

(a) An 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 service" 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 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.

"Property or premises" means a facility's buildings and adjoining grounds that are managed by a person or agency in charge.

"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.

"Volunteer" means a person who provides services without compensation, for your agency.

"Washington state patrol fire protection bureau (WSP/FPB)" means the state fire marshal.

"We," "our," and "us" refer to DCYF, including LD and child welfare staff.

"Young child" refers to a child age 12 months through eight years old.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-147-1455 What are the requirements of case management staff? (1) Case management staff will provide individualized case management and coordination of services.

(2) Case management staff hired before January 10, 2015, must have five years of experience or a bachelor's degree in social services or closely related field from an accredited school.

(3) Case management staff hired after January 10, 2015, must have a master's or bachelor's degree in social services or a closely related field from an accredited school.

(4) Case management staff with a bachelor's degree must consult with a person with a master's degree in social services or closely related field for one hour for every (~~twenty~~) 20 hours the case management employee works.

(5) Case managers must maintain:

(a) Training, experience, knowledge, and demonstrated skills in each area (~~he or she~~) they will be supervising;

(b) Skills and understanding needed to effectively manage cases; and

(c) The ability to monitor staff development and training.

(6) You may use case management staff provided by another agency if these staff meet the educational qualifications and you have a written agreement with the agency describing the scope of services to be provided.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-147-1470 Do I need to employ consultants at my agency?

(1) You must have a consultant available as needed to work with your staff, the children you serve, and the children's families. Consultants may be used for case management or program support.

(2) A case management consultant is responsible to:

(a) Review treatment, case plans, or adoption home studies as appropriate;

(b) Provide one hour of consultation/clinical supervision to case management staff without a master's degree in social services or a closely related field for every (~~twenty~~) 20 hours that person works. Staff consultations shall be documented and available to staff on an as needed basis; and

(c) Monitor the staff skill development in order to effectively manage their cases.

(3) Each case management consultant must have:

(a) A master's degree in social services or a closely related field from an accredited school;

(b) The training, experience, knowledge and demonstrated skills for each area in which (~~he or she~~) they will be supervising or advising;

(c) The ability to ensure staff develop their skills and understanding needed to effectively manage cases;

(d) The ability to monitor staff development and training; and

(e) Knowledge of mandatory child abuse and neglect reporting requirements.

AMENDATORY SECTION (Amending WSR 18-14-078, filed 6/29/18, effective 7/1/18)

WAC 110-147-1600 Do I need a social summary for children under my care? (1) You must develop a written diagnostic social summary for each child accepted for care. The social summary must serve as the basis of the child's admission to your care.

(2) The social summary must be completed as soon as possible or no later than (~~thirty~~) 30 days from the date of placement.

(3) The summary must contain the following information for the child:

- (a) Available copies of psychological or psychiatric evaluations, if any, on the child under care;
- (b) A narrative description of the child's background and family that identifies the immediate and extended family resources;
- (c) Exploration of the child's relationships and the problems and behaviors that have required care away from (~~his or her~~) their own home;
- (d) The child's primary and alternate permanency plan;
- (e) Previous placement history, if any; and
- (f) An evaluation of the child's need for the particular services and type of care you provide.

OTS-5487.2

AMENDATORY SECTION (Amending WSR 23-07-066, filed 3/10/23, effective 4/10/23)

WAC 110-300-0005 Definitions. Unless the context requires otherwise, the following definitions apply to this chapter:

"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 licenser 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 (~~his or her~~) 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 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.

"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 110-300-0010 License required. (1) An individual or entity that provides child care and early learning services for a group of children, birth through (~~twelve~~) 12 years of age, must be licensed by the department, pursuant to RCW 43.216.295, unless exempt under RCW 43.216.010(2) and WAC 110-300-0025.

(2) The department must not license a department employee or a member of the employee's household if the employee is involved directly, or in an administrative or supervisory capacity in the:

(a) Licensing process;

(b) Placement of a child in a licensed early learning program; or

(c) Authorization of payment for the child in care.

(3) A license is required when an individual provides child care and early learning services in (~~his or her~~) their family home:

(a) Outside the child's home on a regular and ongoing basis for one or more children not related to the licensee; or

(b) For preschool age children for more than four hours a day.

As used in this chapter, "not related" means not any of the relatives listed in RCW 43.216.010 (2)(a).

(4) The department may license a center located in a private family residence when the portion of the residence accessible to children is:

- (a) Used exclusively for children during the center's operating hours or when children are in care; or
- (b) Separate from the family living quarters.

AMENDATORY SECTION (Amending WSR 19-22-103, filed 11/6/19, effective 12/7/19)

WAC 110-300-0120 Providing for personal, professional, and health needs of staff. (1) A licensee must provide for the personal and professional needs of staff by:

- (a) Having a secure place to store personal belongings that is inaccessible to children;
- (b) Having a readily accessible phone to use for emergency calls or to contact the parents of enrolled children; and
- (c) Providing file and storage space for professional materials.

(2) An early learning provider must be excluded from the early learning premises when that provider's illness or condition poses a risk of spreading a harmful disease or compromising the health and safety of others. The illnesses and conditions that require a staff member to be excluded are pursuant to WAC 110-300-0205.

(3) If a staff person has not been vaccinated, or shown documented immunity to a vaccine preventable disease, that person may be required by the local health jurisdiction or the department to remain off-site during an outbreak of a contagious disease described in WAC 246-110-010. A center early learning program staff person or volunteer who has not been vaccinated against measles, mumps, and rubella or shown proof of immunity from measles must not be allowed on the center early learning premises except as provided in (a) and (b) of this subsection.

(a) A center early learning program may allow a person to be employed or volunteer on the center early learning premises for up to (~~thirty~~) 30 calendar days if the person signs a written attestation that the employee or volunteer has received the measles, mumps, and rubella vaccine, or is immune from measles, but requires additional time to obtain and provide (~~his or her~~) their immunization records. The required records must include immunization records indicating the employee or volunteer has received the measles, mumps, and rubella vaccine; or records that show proof of immunity from measles through documentation of laboratory evidence of antibody titer or a health care provider's attestation of the person's history of measles sufficient to provide immunity against measles.

(b) A center early learning program may allow a person to be employed or volunteer on the center early learning premises if the person provides the center early learning program with a written certification signed by a health care practitioner, as defined in RCW 28A.210.090(3), that the measles, mumps, and rubella vaccine is, in the practitioner's judgment, not advisable for the person. This subsection (3)(b) does not apply if a person's health care practitioner determines that the measles, mumps, and rubella vaccine is no longer contraindicated.

(4) An early learning program's health policy, pursuant to WAC 110-300-0500, must include provisions for excluding or separating staff with a contagious disease described in WAC 246-110-010, as now and hereafter amended.

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

WAC 110-300-0135 Routine care, play, learning, relaxation, and comfort. (1) An early learning provider must have accessible and child-size furniture and equipment (or altered and adapted in a family home early learning program) in sufficient quantity for the number of children in care. Tables must not be bucket style.

(2) Furniture and equipment must be:

(a) Maintained in a safe working condition;

(b) Developmentally and age appropriate;

(c) Visually inspected at least weekly for hazards, broken parts, or damage. All equipment with hazardous, broken parts, or damage must be repaired as soon as possible and must be inaccessible to children until repairs are made according to the manufacturer's instructions, if available;

(d) Arranged in a way that does not interfere with other play equipment;

(e) Installed and assembled according to manufacturer's specifications;

(f) Stored in a manner to prevent injury; and

(g) Accessible to the child's height so that (~~he or she~~) they can find, use, and return materials independently.

(3) An early learning provider must supply soft furnishings in licensed space accessible to children. Soft furnishings may include, but are not limited to, carpeted areas and area rugs, upholstered furniture, cushions or large floor pillows, and stuffed animals.

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

WAC 110-300-0180 Meal and snack schedule. (1) An early learning provider must serve meals and snacks to children in care as follows:

(a) Meals and snacks must be served not less than two hours and not more than three hours apart unless the child is asleep;

(b) Children in care for five to nine hours:

(i) At least one meal and two snacks; or

(ii) Two meals and one snack.

(c) Children in care for more than nine hours:

(i) Two meals and two snacks; or

(ii) Three snacks and one meal.

(d) After school snack, dinner, evening snack, and breakfast:

(i) A snack or meal must be provided to a child that arrives to the early learning program after school;

(ii) Dinner must be provided to children in nighttime care if a child is at an early learning program after (~~his or her~~) their nighttime, or has not had dinner;

(iii) An evening snack must be provided to children in nighttime care;

(iv) Breakfast must be provided to children in nighttime care if a child remains in care after the child's usual breakfast time; and

(v) A breakfast or morning snack must be available to children in care.

(2) At least once per day, an early learning provider must offer children an opportunity for developmentally appropriate tooth brushing activities.

(a) Tooth brushing activities must be safe, sanitary, and educational.

(b) Toothbrushes used in an early learning program must be stored in a manner that prevents cross contamination.

(c) The parent or guardian of a child may opt out of the daily tooth brushing activities by signing a written form.

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

WAC 110-300-0196 Food sources. (1) Food prepared and served from an early learning program must not be tampered with or spoiled.

(2) Food prepared and served from an early learning program must be obtained from an approved source licensed and inspected by the local health jurisdiction, the Washington state department of agriculture (WSDA), or the USDA. Food items not approved to be served to children in care include:

(a) Meat, fish, poultry, eggs, or milk that has not been inspected by the USDA or WSDA;

(b) Home canned food;

(c) Game meat or other meat that has not been inspected by the WSDA or USDA;

(d) Leftover food that was previously served from outside of the early learning program; or

(e) Food from roadside stands selling without a permit.

(3) Food not prepared on-site by an early learning provider, pursuant to WAC 110-300-0195(2), must be provided by:

(a) A licensed food establishment, kitchen, or catering business that meets food service requirements (chapter 246-215 WAC) and is regularly inspected by a local health jurisdiction;

(b) A parent or guardian for (~~his or her~~) their own children;

or

(c) A manufacturer of prepackaged food.

(4) Fruits and vegetables (produce) grown on-site in a garden as part of an early learning program may be served to children as part of a meal or snack. Prior to preparing and serving:

(a) The produce must be thoroughly washed and scrubbed in running cold water to remove soil and other contaminants;

(b) Damaged or bruised areas on the produce must be removed; and

(c) Produce that shows signs of rotting must be discarded.

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

WAC 110-300-0215 Medication. (1) **Managing medication.** A medication management policy must include, but is not limited to, safe medication storage, reasonable accommodations for giving medication, mandatory medication documentation, and forms pursuant to WAC 110-300-0500.

(2) **Medication training.** An early learning provider must not give medication to a child if the provider has not successfully completed:

- (a) An orientation about the early learning program's medication policies and procedures;
- (b) The department standardized training course in medication administration that includes a competency assessment pursuant to WAC 110-300-0106(10) or equivalent training; and
- (c) If applicable, a training from a child's parents or guardian (or an appointed designee) for special medical procedures that are part of a child's individual care plan. This training must be documented and signed by the provider and the child's parent or guardian (or designee).

(3) **Medication administration.** An early learning provider must not give medication to any child without written and signed consent from that child's parent or guardian, must administer medication pursuant to directions on the medication label, and using appropriate cleaned and sanitized medication measuring devices.

(a) An early learning provider must administer medication to children in care as follows:

(i) **Prescription medication.** Prescription medication must only be given to the child named on the prescription. Prescription medication must be prescribed by a health care professional with prescriptive authority for a specific child. Prescription medication must be accompanied with medication authorization form that has the medical need and the possible side effects of the medication. Prescription medication must be labeled with:

- (A) A child's first and last name;
- (B) The date the prescription was filled;
- (C) The name and contact information of the prescribing health professional;
- (D) The expiration date, dosage amount, and length of time to give the medication; and
- (E) Instructions for administration and storage.

(ii) **Nonprescription oral medication.** Nonprescription (over-the-counter) oral medication brought to the early learning program by a parent or guardian must be in the original packaging.

(A) Nonprescription (over-the-counter) medication needs to be labeled with child's first and last name and accompanied with medication authorization form that has the expiration date, medical need, dosage amount, age, and length of time to give the medication. Early learning providers must follow the instructions on the label or the parent must provide a medical professional's note; and

(B) Nonprescription medication must only be given to the child named on the label provided by the parent or guardian.

(iii) **Other nonprescription medication:** An early learning provider must receive written authorization from a child's parent or guardian and health care provider with prescriptive authority prior to administering if the item does not include age, expiration date, dosage amount, and length of time to give the medication:

- (A) Vitamins;
- (B) Herbal supplements;
- (C) Fluoride supplements;
- (D) Homeopathic or naturopathic medication; and
- (E) Teething gel or tablets (amber bead necklaces are prohibited).

(iv) **Nonmedical items.** A parent or guardian must annually authorize an early learning provider to administer the following nonmedical items:

- (A) Diaper ointments (used as needed and according to manufacturer's instructions);
 - (B) Sunscreen;
 - (C) Lip balm or lotion;
 - (D) Hand sanitizers or hand wipes with alcohol, which may be used only for children over (~~twenty-four~~) 24 months old; and
 - (E) Fluoride toothpaste for children two years old or older.
- (v) An early learning provider may allow children to take (~~his or her~~) their own medication with parent or guardian authorization. The early learning staff member must observe and document that the child took the medication.

(vi) An early learning provider must not give or permit another to give any medication to a child for the purpose of sedating the child unless the medication has been prescribed for a specific child for that particular purpose by a qualified health care professional.

(b) Medication documentation (excluding nonmedical items). An early learning provider must keep a current written medication log that includes:

- (i) A child's first and last name;
- (ii) The name of the medication that was given to the child;
- (iii) The dose amount that was given to the child;
- (iv) Notes about any side effects exhibited by the child;
- (v) The date and time of each medication given or reasons that a particular medication was not given; and
- (vi) The name and signature of the person that gave the medication.

(c) Medication must be stored and maintained as directed on the packaging or prescription label, including applicable refrigeration requirements. An early learning provider must comply with the following additional medication storage requirements:

- (i) Medication must be inaccessible to children;
- (ii) Controlled substances must be locked in a container or cabinet which is inaccessible to children;
- (iii) Medication must be kept away from food in a separate, sealed container; and
- (iv) External medication (designed to be applied to the outside of the body) must be stored to provide separation from internal medication (designed to be swallowed or injected) to prevent cross contamination.

(d) An early learning provider must return a child's unused medication to that child's parent or guardian. If this is not possible, a provider must follow the Food and Drug Administration (FDA) recommendations for medication disposal.

(e) An early learning provider must not accept or give to a child homemade medication, such as diaper cream or sunscreen.

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

WAC 110-300-0285 Infant and toddler nutrition and feeding. (1)
An early learning provider must have and follow written policies on

providing, preparing, and storing breast milk or infant formula and food.

(2) After consulting a parent or guardian, an early learning provider must implement a feeding plan for infants and toddlers that includes:

(a) A plan to support the needs of a breastfeeding mother and infant by:

(i) Providing an area for mothers to breastfeed their infants; and

(ii) Providing educational materials and resources to support breastfeeding mothers.

(b) Feeding infants and toddlers when hungry according to their nutritional and developmental needs, unless medically directed;

(c) Serving only breast milk or infant formula to an infant, unless the child's health care provider offers a written order stating otherwise; and

(d) When bottle feeding, an early learning provider must:

(i) Test the temperature of bottle contents before feeding to avoid scalding or burning the child's mouth;

(ii) Hold infants and, when developmentally appropriate, toddlers to make eye contact and talk to them;

(iii) Stop feeding the infant or toddler when (~~he or she~~) they shows signs of fullness; and

(iv) Not allow infants or toddlers to be propped with bottles or given a bottle or cup when lying down.

(e) Transitioning a child to a cup only when developmentally appropriate;

(f) Introducing age-appropriate solid foods no sooner than four months of age, based on an infant's ability to sit with support, hold (~~his or her~~) their head steady, close (~~his or her~~) their lips over a spoon, and show signs of hunger and being full, unless identified in written food plan pursuant to WAC 110-300-0190 or written medical approval;

(g) Not adding food, medication, or sweeteners to the contents of a bottle unless a health care provider gives written consent;

(h) Not serving (~~one hundred~~) 100 percent juice or any sweetened beverages (for example, juice drinks, sports drinks, or tea) to infants less than (~~twelve~~) 12 months old, unless a health care provider gives written consent, and helping prevent tooth decay by only offering juice to children older than (~~twelve~~) 12 months from a cup;

(i) Increasing the texture of the food from strained, to mashed, to soft table foods as a child's development and skills progress between six and (~~twelve~~) 12 months of age. Soft foods offered to older infants should be cut into pieces one-quarter inch or smaller to prevent choking;

(j) Allowing older infants or toddlers to self-feed soft foods from developmentally appropriate eating equipment;

(k) Placing infants or toddlers who can sit up on their own in high chairs or at an appropriate child-size table and chairs when feeding solid foods or liquids from a cup, and having an early learning provider sit with and observe each child eating. If high chairs are used, each high chair must:

(i) Have a base that is wider than the seat;

(ii) Have a safety device, used each time a child is seated, that prevents the child from climbing or sliding down the chair;

(iii) Be free of cracks and tears; and

(iv) Have a washable surface.

- (l) Not leaving infants or toddlers more than (~~(fifteen)~~) 15 minutes in high chairs waiting for meal or snack time, and removing a child as soon as possible once (~~(he or she finishes)~~) they finish eating;
- (m) Preventing infants or toddlers from sharing the same dish or utensil;
- (n) Not serving any uneaten food from the serving container after the intended meal; and
- (o) Not serving food to infants or toddlers using polystyrene foam (styrofoam) cups, bowls, or plates.

AMENDATORY SECTION (Amending WSR 19-14-076, filed 7/1/19, effective 8/1/19)

WAC 110-300-0291 Infant safe sleep practices. (1) An early learning provider must follow safe infant sleep practices when infants are napping or sleeping by following the current standard of American Academy of Pediatrics concerning safe sleep practices including SIDS/SUIDS risk reduction, including:

- (a) Actively supervising infants by visibly checking every (~~(fifteen)~~) 15 minutes and being within sight and hearing range, including when an infant goes to sleep, is sleeping, or is waking up;
- (b) Placing an infant to sleep on (~~(his or her)~~) their back or following the current standard of American Academy of Pediatrics. If an infant turns over while sleeping, the provider must return the infant to (~~(his or her)~~) their back until the infant is able to independently roll from back to front and front to back;
- (c) Not using a sleep positioning device unless directed to do so by an infant's health care provider. The directive must be in writing and kept in the infant's file;
- (d) Sufficiently lighting the room in which the infant is sleeping to observe skin color;
- (e) Monitoring breathing patterns of an infant;
- (f) Allowing infants to follow their own sleep patterns;
- (g) Not allowing blankets, stuffed toys, pillows, crib bumpers, and similar items inside a crib, bassinet, or other equipment if occupied by a resting or sleeping infant;
- (h) Not allowing a blanket or any other item to cover or drape over an occupied crib, bassinet, or other equipment where infants commonly sleep;
- (i) Not allowing bedding or clothing to cover any portion of an infant's head or face while sleeping, and readjusting these items when necessary; and
- (j) Preventing infants from getting too warm while sleeping, which may be exhibited by indicators that include, but are not limited to, sweating; flushed, pale, or hot and dry skin, warm to the touch; a sudden rise in temperature; vomiting; refusing to drink, a depressed fontanelle; or irritability.

(2) An early learning provider who receives notice of a safe sleep violation must:

- (a) Post the notice in the licensed space for two weeks or until the violation is corrected, whichever is longer, pursuant to WAC 110-300-0505; and
- (b) Within five business days of receiving notice of the violation, provide all parents and guardians of enrolled children with:

- (i) A letter describing the safe sleep violation; and
- (ii) Written information on safe sleep practices for infants.

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

WAC 110-300-0315 Language modeling and reasoning. (1) An early learning provider must be aware of and responsive to children's developmental, linguistic, cultural, and academic needs.

(2) An early learning provider must be aware of and responsive to children's needs by engaging in activities such as:

(a) Asking developmentally appropriate questions for the age group and allow children to answer without interruption from the provider;

(b) Circulating among the children during free choice activities and talking with children about what they are doing;

(c) Using teaching techniques such as:

(i) Self-talk: When the provider talks about what (~~he or she is~~) they are doing, seeing, eating, touching, or thinking as (~~he or she is~~) they are involved in that activity;

(ii) Parallel-talk: When the provider talks about what the child is doing, seeing, eating, or touching as the child is engaging in those activities; or

(iii) Language expansion: When the provider adds detail or new words to build on ideas that children are expressing.

(d) An early learning provider working with preschool and school-age children must use language to develop and encourage reasoning skills by using techniques such as:

(i) Talking about logical relationships or concepts during the day including, but not limited to, the daily schedule, the differences and similarities between objects, or people in the classroom;

(ii) Introducing concepts using guiding questions that encourage children to figure out cause and effect relationships;

(iii) Providing opportunities for reading and writing activities; and

(iv) Asking open ended questions to help children improve skills and acquire knowledge.

(e) An early learning provider working with non-English speaking children must encourage language development and acquisition by using techniques such as:

(i) Using words in various languages to talk about the routines;

(ii) Reading books out loud or using audio books; and

(iii) Playing games in different languages.

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

WAC 110-300-0345 Supervising children. (1) An early learning provider must only allow the following persons to have unsupervised access to a child in care:

(a) That child's own parent or guardian;

(b) Licensees or early learning program staff authorized by the department in chapter 110-06 WAC;

(c) A government representative including an emergency responder who has specific and verifiable authority for access, supported by documentation; and

(d) A person authorized in writing or over the phone by that child's parent such as a family member, family friend, or the child's therapist or health care provider.

(2) An early learning provider must meet capacity, group size, mixed age grouping, and staff-to-child ratios while children are in care. This includes, but is not limited to:

- (a) Indoor and outdoor play activities;
- (b) Off-site activities;
- (c) During transportation;
- (d) Meal times;
- (e) Rest periods;
- (f) Evening or overnight care; and

(g) When children are on different floor levels of the early learning program.

(3) An early learning provider must supervise children in care by:

(a) Scanning the environment looking and listening for both verbal and nonverbal cues to anticipate problems and plan accordingly;

(b) Visibly checking children on many occasions with little time in between;

(c) Positioning (~~(him or herself)~~) themselves to supervise all areas accessible to children;

(d) Attending to children and being aware of what children are doing at all times;

(e) Being available and able to promptly assist or redirect a child as necessary; and

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

- (i) Ages of children;
- (ii) Individual differences and abilities of children;
- (iii) Layout of the indoor and outdoor licensed space and play area;

(iv) The risk associated with the activities children are engaged in; and

(v) Any nearby hazards including those in the licensed or unlicensed space.

(4) An early learning program staff member may undertake other activities for a temporary time period when not required to be providing active supervision required under subsection (5)(c) of this section. Such activities include, but are not limited to, cleaning up after an activity or preparing items for a new activity. This early learning staff member must remain in visual or auditory range, and be available and able to respond if needed.

(5) An early learning provider must:

(a) Not use devices such as a baby monitors, video monitors, or mirrors in place of supervision, unless used pursuant to WAC 110-300-0270(5);

(b) Be able to hear when doors in the immediate area are opened to prevent children from leaving unsupervised;

(c) Actively supervise children when the children:

- (i) Interact with pets or animals;
- (ii) Engage in water or sand play;
- (iii) Play in an area in close proximity to a body of water;

- (iv) Use a safe route to access an outdoor play area not immediately adjacent to the early learning program;
 - (v) Engage in planned activities in the kitchen;
 - (vi) Ride on public transportation;
 - (vii) Engage in outdoor play; and
 - (viii) During field trips.
- (d) Ensure no infant or child is left unattended during:
- (i) Diapering;
 - (ii) Bottle feeding; or
 - (iii) Tummy time.
- (e) Provide developmentally appropriate supervision to children while bathing.

AMENDATORY SECTION (Amending WSR 19-14-076, filed 7/1/19, effective 8/1/19)

WAC 110-300-0400 Application materials. (1) After completing a department orientation an applicant must submit a complete license application packet, pursuant to chapter 43.216 RCW. This requirement also applies to a change of ownership. A complete license application packet includes:

- (a) Professional and background information about the applicant:
 - (i) A completed department application form for the type of license being applied for (center or family home);
 - (ii) A copy of the applicant's orientation certificate (orientation must be taken within (~~twelve~~) 12 months of license application);
 - (iii) A Washington state business license or a tribal, county, or city business or occupation license, if applicable;
 - (iv) Liability insurance, if applicable;
 - (v) Certificate of incorporation, partnership agreement, or similar business organization document, if applicable;
 - (vi) The license fee;
 - (vii) A copy of current government issued photo identification;
 - (viii) A copy of Social Security card or sworn declaration stating that the applicant does not have one;
 - (ix) Employer identification number (EIN) if applicant plans to hire staff; and
 - (x) Employment and education verification. For example, diploma, transcripts, or a sworn declaration stating that the applicant cannot verify education requirements.
- (b) Information about the facility to be licensed:
 - (i) A floor plan, including use of proposed licensed and unlicensed space, with identified emergency exits and emergency exit pathways;
 - (ii) Certificate of occupancy, if applicable;
 - (iii) Documentation, no more than three years old, from a licensed inspector, septic designer, or engineer that states the septic system and drain field are maintained and in working order, if applicable;
 - (iv) *E. coli* bacteria and nitrate testing results for well water that is no more than (~~twelve~~) 12 months old, if applicable;
 - (v) A lead or arsenic evaluation agreement for sites located in the Tacoma smelter plume (counties of King, Pierce, and Thurston); and
 - (vi) Lead and copper test results for drinking water;

- (c) Program days and hours of operation, including closure dates and holiday observances; and
- (d) Information about early learning program staff:
- (i) List of applicant and household members, and if applicable and known, staff persons and volunteers required to complete the background check process as outlined in chapter 110-06 WAC; and
- (ii) Resume for applicant, center director, assistant director, program supervisor, and family home lead teacher, if applicable.
- (2) An applicant must include the following policy documents with the application, which will be reviewed by the department and returned to the applicant:
- (a) Parent and program policies;
- (b) Staff policies;
- (c) An emergency preparedness plan; and
- (d) Health policies.
- (3) An applicant must submit the completed application packet at least (~~ninety~~) 90 calendar days prior to the planned opening of the early learning program. The department will inspect the early learning program space and approve all application submissions required in this chapter prior to issuing a license:
- (a) The (~~ninety~~) 90 calendar days begins when the department receives a complete application packet.
- (b) Incomplete application packets will be returned to the applicant for completion.
- (c) An applicant who is unable to successfully complete the application and licensing process within (~~ninety~~) 90 days may withdraw the application and reapply when the applicant is able to meet the licensing requirements. If the applicant has completed the steps of the application process within (~~ninety~~) 90 days but an external barrier out of the applicant's control exists, the reapplication fee will be waived one time.
- (d) An applicant who is unable to meet the application requirements and has not withdrawn (~~his or her~~) their application will be denied a license, pursuant to RCW 43.216.325.

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

- 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 (~~his or her~~) 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;
- (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 re-view 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.

OTS-5488.1

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-700-0040 What action must be taken if there is a belief that sexual misconduct by a ((JRA)) JR contractor has occurred? The secretary requires the individual contractor, or employee of a contractor, when there is reasonable cause to believe ((he/she has)) the contractor or employee of the contractor had sexual intercourse or sexual contact with a ((JRA)) JR youth, to be immediately removed from access to any ((JRA)) JR youth, and follow reporting requirements in chapter 26.44 RCW, ((Reporting abuse and neglect of a child)) Abuse of children.

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-700-0045 What action is required if there is evidence that sexual misconduct by a ((JRA)) JR contractor has occurred? (1) If there is a preponderance of evidence that sexual intercourse or sexual contact between a ((JRA)) JR contractor and a ((JRA)) JR youth occurred, the secretary must inform the contractor that the individual employee is disqualified from employment with a contractor in any position with access to ((JRA)) JR youth.

(2) A contract with a contractor who has had an employee who has been disqualified for employment based on a preponderance of evidence that ((he or she has)) they had sexual intercourse or sexual contact with a ((JRA)) JR youth, must not be renewed until the secretary determines that significant progress has been made by the contractor to reduce the likelihood that any of its employees or subcontractors have sexual intercourse or sexual contact with a ((JRA)) JR youth.

OTS-5489.1

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-710-0005 Definitions. "Administration" means activities and costs necessary for management and support of a consolidated juvenile services program.

"Application" means the document requesting state funds for specific projects under the consolidated juvenile services program.

"Community input" means information received from local entities which must include, unless impracticable: Providers, judges, law enforcement, juvenile court staff, social service agencies, schools, tribes, organizations representing communities of color, as well as other persons with an interest in juvenile justice. An existing advisory group, committee, or public forum may be used to gather input provided such groups include representation from the entities listed above.

"**Director**" means the director of the division of community programs/juvenile rehabilitation (~~(administration or his or her)~~) or designee.

"**Division**" means the division of community programs of the juvenile rehabilitation (~~(administration)~~).

"**Outcome**" means specific changes in the lives of youth and families which lead to a decrease in recidivism.

"**Participating county**" means a county or counties applying under this chapter.

"**Program administrator**" or "**administrator**" means the person designated to administer the consolidated juvenile services program in the juvenile court.

"**Project**" means a specific intervention or program performed as a part of consolidated juvenile services.

"**Project supervisor**" or "**supervisor**" means a person designated to supervise a project or projects in the consolidated juvenile services program.

"**Regional administrator**" means the regional administrator or designee of one of the division's six administrative regions (~~(, or his or her designee)~~).

OTS-5490.4

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-740-0010 Definitions. "**Department**" means the department of (~~(social and health services)~~) children, youth, and families.

"**Active parole**" means all time served by a (~~(JRA)~~) JR youth under (~~(JRA)~~) JR parole supervision except that time during which the offender is:

- ~~((1))~~ (a) Under a (~~(JRA)~~) JR warrant;
- ~~((2))~~ (b) Held in detention within or outside the state of Washington pending a parole revocation hearing, pending charges or pending a civil commitment hearing under chapter 71.09 RCW;
- ~~((3))~~ (c) Serving a term of confinement for a parole revocation;
- ~~((4))~~ (d) Placed on (~~(seventy-two)~~) 72 hour hold status pursuant to RCW 13.40.050;
- ~~((5))~~ (e) Placed on unauthorized leave status;
- ~~((6))~~ (f) Committed involuntarily for mental health or chemical dependency treatment; or
- ~~((7))~~ (g) On temporary assignment status to a county juvenile detention center, a county jail, or to a department of corrections facility.

If no other time is concurrently tolled against active parole per (~~((1) through (7))~~) (a) through (g) above, one additional day is tolled against active parole when the offender is subject to:

- A parole revocation initiated by the (~~(JRA)~~) JR.
- A (~~(seventy-two)~~) 72 hour hold in a (~~(JRA)~~) JR facility pending a parole revocation hearing.

"**Confinement**" means electronic monitoring of a juvenile or physical custody of a juvenile:

• By the department of (~~social and health services~~) children, youth, and families in a facility operated by or pursuant to a contract with the juvenile rehabilitation (~~administration~~);

• In a county detention facility as defined in RCW 13.40.020 or in a county jail;

• In a facility operated by the department of corrections under provisions of RCW 13.40.280 or 13.40.285; or

• In another state under terms of chapter 13.24 RCW and of the interstate compact to which the state of Washington is a party.

"**Detention**" means, for purposes of this rule, temporary confinement of a juvenile pending charges, court disposition or administrative hearing.

"**Juvenile parole officer**" means a state employee, or person under contract to the state, whose responsibilities include supervising juvenile parolees.

"**Juvenile parolee**" means a person under age (~~twenty-one~~) 21 released from a juvenile rehabilitation (~~administration~~) residential facility and placed under the supervision of a juvenile parole officer.

"**Modification of parole conditions**" means a change in the "order of parole conditions" provided by the juvenile parole officer with full knowledge of the change by the juvenile parolee.

"**Parole**" means a period of supervision following release from a juvenile rehabilitation (~~administration~~) residential facility, during which time certain parole conditions are to be followed.

"**Parole conditions**" mean interventions or expectations that include, but are not limited to, those listed in RCW 13.40.210, intended to facilitate the juvenile parolee's reintegration into the community and/or to reduce the likelihood of reoffending.

"**Secretary**" means secretary or designee of the department of (~~social and health services or his/her designee~~) children, youth, and families.

"**Violation**" means behavior by a juvenile parolee contrary to written parole conditions which may result in sanctions that include, but are not limited to, modification of parole conditions and/or confinement.

"**Target victim population**" means persons who, by age, sex, race, ethnicity, body conformation or coloration or other personal characteristics are consistent with those of a (~~JRA~~) JR youth's known victim(s).

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-740-0040 Parole revocation petition. (1) The juvenile parole officer:

(a) Must initiate a parole revocation petition if the juvenile parole officer has reason to believe the juvenile parolee possessed a firearm or used a deadly weapon during the parole period; or

(b) May initiate a parole revocation petition if the juvenile parole officer has reason to believe the juvenile parolee has violated a condition of parole, other than possession of a firearm or use of a deadly weapon. Criteria in WAC (~~388-740-0070~~) 110-740-0070 (2), (3), (4) and (5) are assessed by the juvenile parole officer to determine

the type of revocation and duration of confinement for which to petition.

(2) The petition, on department forms, must include:

(a) A statement of the nature of the violation and the date it occurred;

(b) The relief requested by the juvenile parole officer as a result of the violation;

(c) Notice of the juvenile parolee's right to be represented by an attorney, either one of (~~his/her~~) their own choosing or one appointed at public expense;

(d) A parole revocation hearing waiver agreement;

(e) The dated signature of the regional administrator or designee; and

(f) If the parole revocation hearing is not waived, notice of the time, date, and location of the parole revocation hearing and notice that failure to appear may result in default.

(3) An initial copy of the petition that includes the information described in subsection (2) (a) through (e) of this section must:

(a) Be provided to the juvenile parolee or the juvenile parolee's attorney; and

(b) Be provided to the juvenile parolee's parent/guardian, if reasonably possible, and in accordance with laws and rules governing the release of confidential information. The juvenile parole officer must document the date and time (~~he/she~~) they provided the initial copy of the petition to the juvenile parolee or the juvenile parolee's attorney.

(4) A juvenile parolee, only through an attorney, may waive the right to a parole revocation hearing and agree to the parole revocation and agreed upon relief. The decision to waive must be documented with dated signatures on the original petition.

(5) If the juvenile parolee through (~~his/her~~) their attorney does not waive the right to a hearing, the parole revocation petition must be filed with the local office of the state office of administrative hearings within (~~seventy-two~~) 72 hours (excluding Saturdays, Sundays, and holidays) of:

(a) The juvenile parolee being placed in detention for an alleged violation of parole conditions; or

(b) The juvenile parolee or (~~his/her~~) their attorney being provided with a copy of the petition under subsection (3) of this section if the juvenile parolee is not detained.

(6) The filed petition must include notice that failure to appear may result in default, and the time, date, and location of the parole revocation hearing, as determined by the state office of administrative hearings. A copy of the filed petition must:

(a) Be served either personally or by certified mail, return receipt requested, on the juvenile parolee or the juvenile parolee's attorney; and

(b) Be provided to the juvenile parolee's parent/guardian, if reasonably possible, and in accordance with laws and rules governing the release of confidential information.

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-740-0060 Parole revocation hearing. (1) After the petition is filed a parole revocation hearing must be held to determine whether the alleged parole violation occurred unless the juvenile parolee waives (~~(his/her)~~) their right to a parole revocation hearing. If the juvenile parolee is held in detention as described under WAC (~~(275-30-030)~~) 110-740-0030, the administrative law judge must hold the hearing within (~~(seventy-two)~~) 72 hours (excluding Saturdays, Sundays, and holidays) of the petition being served. Otherwise the administrative law judge must hold a hearing no sooner than seven days after the petition is served, but no later than (~~(fourteen)~~) 14 days after the petition is served.

(2) At the parole revocation hearing, the juvenile may waive the right to be represented by an attorney. A juvenile waiving the right to an attorney may either contest or agree to the parole revocation.

(3) The administrative law judge must:

(a) Conduct a parole revocation hearing in accordance with chapter 10-08 WAC except as otherwise indicated in these rules;

(b) Grant the parole revocation petition if the administrative law judge finds, by a preponderance of the evidence, the violation occurred and the violation warrants revocation;

(c) Order the relief requested in the petition, if the parole revocation petition is granted;

(d) Issue an oral decision immediately following the parole revocation hearing;

(e) Issue a written decision within (~~(forty-eight)~~) 48 hours of the hearing; and

(f) Provide a copy of the decision to the juvenile parole officer, the juvenile parolee and (~~(his/her)~~) their attorney, the juvenile parolee's parent/guardian, and the department. The administrative law judge's decision shall constitute a final administrative decision.

AMENDATORY SECTION (Amending WSR 19-14-079, filed 7/1/19, effective 7/1/19)

WAC 110-740-0070 Confinement. (1) Mandatory confinement.

A (~~(JRA)~~) JR youth must be confined for a minimum of (~~(thirty)~~) 30 days for possession of a firearm or use of a deadly weapon while on parole, per RCW 13.40.210 (4) (c).

(2) Confinement for up to (~~(thirty)~~) 30 days.

A (~~(JRA)~~) JR youth may be confined for a period not to exceed (~~(thirty)~~) 30 days for violating one or more conditions of parole, per RCW 13.40.210 (4) (a) (i) through (iv).

(3) Confinement for remainder of sentence.

As provided for in RCW 13.40.210 (4) (a) (v) and (vi), certain (~~(JRA)~~) JR youth who are placed on parole before completing their maximum sentence may be returned to confinement for the remainder of their sentence if they violate conditions of parole.

(a) Sex offenders: A (~~(JRA)~~) JR youth may be returned to confinement for the remainder of the sentence range if the offense for which the youth was sentenced is rape in the first or second degree, rape of a child in the first or second degree, child molestation in the first

degree, indecent liberties with forcible compulsion, or a sex offense that is also a serious violent offense as defined under RCW 9.94A.030.

(i) The remainder of sentence is calculated as the maximum aggregated term of qualifying sex offenses, minus the number of days served on the aggregated sentence for the qualifying sex offense or offenses.

(ii) Previous days in confinement for a parole violation are not deducted in this calculation.

(iii) Aggregated terms are served such that any term or terms for qualifying sex offenses are considered the last served.

(b) Graduates of basic training camp: A ((JRA)) JR youth who has successfully completed the juvenile offender basic training camp program under RCW 13.40.320 may be returned to confinement for the remainder of their sentence range.

(i) The remainder of sentence is calculated as the maximum aggregated term or ((four hundred fifty five)) 455 days, whichever is shorter, minus the number of days served on their aggregated sentence and on active parole.

(ii) Previous days in confinement for a parole violation are not deducted in this calculation.

(4) Juvenile sex offender confinement for up to ((twenty four)) 24 weeks.

(a) As provided for in RCW 13.40.210 (4) (b), a ((JRA)) JR youth may be returned to confinement for up to ((twenty four)) 24 weeks if:

(i) The ((JRA)) JR youth was sentenced for a sex offense as defined in RCW 9A.44.130;

(ii) The ((JRA)) JR youth is known to have violated the terms of parole; and

(iii) In the determination of the secretary, other graduated sanctions or interventions have not been effective in controlling the youth's parole violations; or

(iv) The behavior is so egregious it warrants the use of the higher level intervention and the violation:

(A) Is a known pattern of behavior consistent with a previous sex offense that puts the ((JRA)) JR youth at high risk for reoffending sexually;

(B) Consists of sexual behavior that is determined to be predatory as defined in RCW 71.09.020; or

(C) Requires a review under chapter 71.09 RCW, due to a recent overt act.

(b) The total number of days of confinement under this subsection (4) shall not exceed the number of days provided by the maximum sentence imposed by the disposition for the underlying sex offense or offenses pursuant to RCW 13.40.0357.

(c) The department shall not aggregate multiple parole violations that occur prior to the parole revocation hearing and impose consecutive ((twenty four)) 24-week periods of confinement for each parole violation under this subsection (4).

(5) Criteria for juvenile sex offender confinement.

A parole revocation petition to confine a juvenile sex offender for the remainder of sentence under subsection (3) of this section or for up to ((twenty four)) 24 weeks under subsection (4) of this section will be based on, but not limited to, the following behavioral and sentence considerations:

(a) Behavioral criteria:

(i) Behavior that appears to constitute a new sex offense or a statement by the ((JRA)) JR youth reporting a new sex offense;

(ii) Statements by the ((JRA)) JR youth that ((he/she is at)) indicate an imminent risk to re-offend sexually unless confined;

(iii) Accessing, making or possessing child pornography;

(iv) Accessing, making or possessing pornography that depicts excessive physical violence, death or threats of death, torture or infliction of pain, use of a weapon, humiliation or bondage;

(v) Possession of materials which, in total, constitute a "rape kit";

(vi) Unsupervised contact with previous victim(s) or target victim populations, except for approved peer age contact (attending school, etc.);

(vii) Use, possession or providing of drugs and/or alcohol associated with the ((JRA)) JR youth's illegal sexualized behaviors.

(b) Available remainder of sentence range.

If the ((JRA)) JR youth has not served the maximum sentence imposed for the underlying offense or offenses, and confinement under WAC ((388-740-0070)) 110-740-0070 (3) or (4) are both available, the petition for relief will take into account whether the remainder of sentence is sufficient to accomplish the purposes of the revocation. If so, the petition will be for confinement for the remainder of the sentence range; if not, the petition will be for up to ((twenty-four)) 24 weeks of confinement.

(6) If the ((JRA)) JR youth's parole is revoked, the department must give the youth credit against any period of confinement for days served in detention pending the parole revocation hearing.

(7) Serving confinement.

(a) The ((JRA)) JR youth must serve ((his or her)) their confinement in a facility or detention facility as described in WAC ((388-740-0010)) 110-740-0010.

(b) Confinement may be continuous, or for a portion of each day, or for certain days each week with the balance of time under supervision.

(8) If a juvenile's parole is revoked two or more times during one parole period, the secretary must approve any period of confinement exceeding a combined total of ((thirty)) 30 days.

(9) Unless conditions of parole are otherwise amended, the order of parole conditions in effect at the time the parole was revoked shall be deemed reinstated immediately following any period of confinement.