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| The Early Start Act mandated that DEL update the child care licensing rules so that the early learning system has a unified set of foundational health, safety and child development regulations that are easy to understand and align with other requirements by providers in the field. (RCW 43.215.201)DEL is taking a transparent, methodical, and inclusive approach to this legislatively-mandated process.  The Child Care and Development Block Grant Act of 2014 updated the federal child care law, placing an emphasis on quality child care. There are new requirements related to children’s health and safety. The implementing regulations specify that lead agencies (which, in Washington, mean the Department of Early Learning) can rely on Caring for Our Children Basics (http:// www.acf.hhs.gov/programs/ecd/caringfor-our-children-basics) for any minimum standards required by the federal law and regulations. (See Fed Register https://www.gpo.gov/fdsys/pkg/FR-2016-09-30/pdf/2016-22986.pdf Page 67484 last column) The regulations go on to state, “Lead Agencies are encouraged, however, to go beyond these baseline standards to develop a comprehensive and robust set of health and safety standards that cover additional areas related to program design, caregiver safety, and child developmental needs, using the full Caring for Our Children: National Health and Safety Performance Standards guidelines.” (Id.) This is precisely what the Department of Early Learning has done in these proposed regulations in addition to proposing regulations that directly implement the federal requirements.  This section covers the authority behind the regulations as well as the intent and provides definitions for terms that are used throughout the WAC. This section also covers the types of programs that require licenses or programs that are exempt from licensing. | | | | | | | | |
| **Intent and Authority** | | | | | |  | |  |
| Family Home WAC | **Center WAC** | | **Proposed WAC** | | | **Satisfactory/Minor/Major revisions; Concerns; Suggested Alternate Language** | | **Conflicts with ECEAP, Head Start, Schools District Standards and Practices** |
| WAC 170-296A-0001  The department of early learning was established under chapter 265, Laws of 2006. Chapter [43.215](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215) RCW establishes the department's responsibility and authority to set and enforce licensing requirements and standards for licensed child care agencies in Washington state, including the authority to adopt rules to implement chapter [43.215](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215) RCW.  WAC 170-296A-0005  This chapter reflects the department's commitment to quality early learning experiences for children, and promotes the health, safety, and positive development of children receiving care in a licensed family home setting. | WAC 170-295-0001  (1) The rules for child care centers are governed under chapter [43.215](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215) RCW.  (2) The rules establishing licensing fees are adopted under authority of RCW [43.215.255](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215.255) | | **170-300-0001**  **Intent and authority.**  (1) The Department of Early Learning was established under chapter 265, Laws of 2006. Chapter 43.215 RCW establishes the department’s responsibility and authority to set and enforce licensing requirements and ECEAP standards, including the authority to adopt rules to implement chapter 43.215 RCW. Weight NA  (2) Under chapter 7, Laws of 2015 (the Early Start Act), the state legislature directed the department to create a single set of licensing standards for center and family home providers. Weight NA  (3) This chapter reflects the department’s commitment to:  (a) Promoting the health, safety, and well-being of children;  (b) Expanding access to high quality early learning opportunities to improve outcomes in young children;  (c) Promoting strong school readiness; and  (d) Recognizing parents and guardians as a child’s primary teacher and advocate. Weight NA  (4) Pursuant to this chapter, the department will periodically monitor early learning programs to determine compliance with health, safety, and these Foundational Quality Standards as well as to assess the quality of early learning programs. Weight NA | | |  | |  |
| **Justification:**  The proposed changes stem from the Early Start Act as well as the federal Child Care and Development Block Grant Act of 2014. Reference is made to the Early Start Act, through which the legislature directed the Department of Early Learning to create a single set of licensing standards, see chapter 7, Laws of 2015.  Regulation 170-300-0001 is proposed for amendment to achieve greater consistency with both the Early Start Act as well as the federal Child Care and Development Block Grant regulations, which include several purposes, including “delivering high-quality, coordinated early childhood care and education services to maximize parents’ options and support parents….,improving the overall quality of child care services and programs, improv[ing] child care and development of participating children” (see 45 C.F.R. § 98.1.(1 Likewise, the introduction of 170.300.0001(4) incorporates the CCDBG regulatory provisions calling for ongoing monitoring. See 45 C.F.R. § 98.42 Enforcement of licensing and health and safety requirements, which requires pre-licensing and licensing inspections and unannounced visits. *Caring for Our Children, 3rd Edition* devotes several sections to monitoring and inspection and its vital role in the licensing process. See STANDARD 10.4.2.1: Frequency of Inspections for Child Care Centers, Large Family Child Care Homes, and Small Family Child Care Homes and STANDARD 10.4.2.2: Statutory Authorization of On-Site Inspections. The new proposed language makes the intent of licensing and its scope clear. | | | | | | | | |
| **Definitions** | | | | | |  | |  |
| **Family Home WAC** | **Center WAC** | | | **Proposed WAC** | **Satisfactory/Minor/Major revisions; Concerns; Suggested Alternate Language** | | **Conflicts with ECEAP, Head Start, Schools District Standards and Practices** | |
| RCW 43.215.010 Definitions | RCW 43.215.010 Definitions | | | **170-300-0005**  Definitions–in a separate document |  | |  | |
| **License required** | | | | | |  | |  |
| **Family Home WAC** | **Center WAC** | | | **Proposed WAC** | **Satisfactory/Minor/Major revisions; Concerns; Suggested Alternate Language** | | **Conflicts with ECEAP, Head Start, Schools District Standards and Practices** | |
| WAC 170-296A-1000License required. (1) An individual who provides care for children in his or her home must be licensed by the department unless exempt under RCW [43.215.010](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215.010)(2).  (2) The individual claiming an exemption must provide to the department proof that they qualify for an exemption using a department approved form.  170-296A-1025  Who must be licensed.  An individual must be licensed to care for children if any of the following apply:  (1) Care is provided in the individual's home and outside the child's home on a regular and ongoing basis for one or more children not related to the licensee. As used in this section, "not related" means not any of the relatives listed in RCW [43.215.010](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215.010) (2)(a); or  (2) Care is provided in the individual's home for preschool age children for more than four hours a day.  See WAC [170-296A-8350](http://apps.leg.wa.gov/wac/default.aspx?cite=170-296A-8350) regarding providing child care without a license. | WAC 170-295-0020  Who needs to become licensed?  (1) Individuals, entities and agencies that provide care for children must be licensed unless specifically exempt under RCW [43.215.010](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215.010)(2).  (2) The person or organization claiming an exemption must provide us with proof of right to the exemption if we request it.  (3) We do not license a center that is legally exempt from licensing per RCW [43.215.010](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215.010)(2). However, if the applicant requests it, we follow all licensing regulations to investigate and may certify the center as meeting licensing and other pertinent requirements. In such a case, all our licensing requirements and procedures apply equally to certification.  (4) We may certify a child care center for payment without further investigation if the center is:  (a) Licensed by an Indian tribe;  (b) Certified by the Federal Department of Defense; or  (c) Approved by the superintendent of public instruction's office.  (5) The center listed in subsection (4)(a), (b), or (c) of this section must be licensed, certified, or approved in accordance with national or state standards, or standards approved by us. It must be operated on the premises where the entity operating the center has jurisdiction.  (6) We must not license a department employee or a member of their household when the employee is involved directly, or in an administrative or supervisory capacity, in the:  (a) Licensing or certification process;  (b) Placement of a child in a licensed or certified center; or  (c) Authorization of payment for the child in care.  (7) We may license a center located in a private family residence when the portion of the residence accessible to the child is:  (a) Used exclusively for the child during the center's operating hours or while the child is in care; or  (b) Separate from the family living quarters. | | | **170-300-0010**  **License required.**  (1) An individual or entity that provides child care or early learning services for a group of children birth through twelve years of age must be licensed by the department, pursuant to RCW 43.215.250, unless exempt under RCW 43.215.010(2) and WAC 170-300-0025. Weight NA  (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. Weight NA  (3) A license is required when an individual provides child care or early learning services in his or her 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.  (c) As used in this chapter, “not related” means not any of the relatives listed in RCW 43.215.010(2)(a). Weight NA  (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. Weight NA |  | |  | |
| **Justification:**  The proposed revision is to avoid conflicts of interest by indicating those DEL employees, or their household members, who may not operate an early learning program due to the nature of their employment with DEL, including those involved with the licensing process; placement of a child in a licensed early learning program; or authorization of payment for the child in care.  In 1994, a set of ethics principles governing public employees (chapter 42.52 RCW) were signed into law to ensure the public’s interest is placed before any private interest. Specifically, RCW 42.52.070 prohibits a state employee from using their position “to secure special privileges” for themselves, friends, or family. In line with these principles, WAC 170-300-0010(2) prohibits the department from licensing a DEL employee or member of the employee’s household if the employee holds a position in the department that would allow them to influence licensing decisions. | | | | | | | | |
| **Licensee absence** | | | | | |  | |  |
| **Family Home WAC** | | **Center WAC** | **Proposed WAC** | | | **Satisfactory/Minor/Major revisions; Concerns; Suggested Alternate Language** | | **Conflicts with ECEAP, Head Start, Schools District Standards and Practices** |
| WAC 170-296A-5775 Licensee Absence   1. The licensee must have a written policy and procedure for staff to follow any time the licensee is absent from the child care. The policy and procedure must include, but is not limited to:   (a) A staffing plan to include:  (i) That a qualified primary staff person will be present and in charge at all times during the licensee’s absence;  (ii) Staff roles and responsibilities;  (iii) How staff-to-child ratios will be met; and  (iv) How staff will meet the individual needs of children in care.  (b) How parents will be notified in writing of the licensee’s absence described in WAC 170-296A-5810  (1), closures, or staffing changes; (c) Responsibility for meeting the requirements of this chapter and chapter 43.215 RCW; (d) Emergency contact information for the licensee; and (e) Licensee’s expected outside work schedule if applicable.   1. Prior to engaging in outside employment or ongoing activities outside the child care during operating hours, the licensee must inform the department in writing. 2. The department must approve the licensee’s policy and procedure for licensee absence. The department may require modifications to the proposed policy and procedure if it does not meet licensing requirements.   WAC 170-296A- 5810 Licensee notice of absences   1. The licensee must notify the department forty-eight hours prior to the following absences when the absence is during child care hours: (a) Outside employment; (b) Vacation or absence exceeding seven consecutive days when the child care will remain open; or (c) Regular absences scheduled during child care hours. As used in this section, “regular absence” is an absence that is planned and reoccurring, and is more than four hours duration. 2. The licensee must inform the department of the following regarding the licensee’s absence:   (a) Time period of the absence;  (b) Written plan including who will be left in charge of the child care. See WAC 170-296A-5775;  (c) Contact information for licensee; and  (d) How parents will be informed prior to the absence.  WAC 170-296A-5825 License absence – Retraining for staff if standards are violated   1. The licensee must provide an orientation to all staff on licensing standards in this chapter, including the licensee’s policies and procedures, and document when training occurred and identify the staff that received the training. 2. If the department issues a facility license compliance agreement as a result of staff not following the licensing standards of this chapter in the licensee’s absence, the licensee must: (a) Retrain the staff on the licensing standards in this chapter; and  (b) Document that the retraining occurred. | | 170-295-0001 What gives the authority to the department to license child care and charge licensing fees? (1) The rules for child care centers are governed under chapter [43.215](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215) RCW. | **170-300-0015**  **Licensee absence.**  (1) In a family home early learning program, the Family Home Licensee must provide written notification to the department and parents when the licensee plans to be absent but the program shall remain open for the care of children. Weight #5  (2) In a center early learning program, the Director or Assistant Director must provide written notification to the department and parents when the Director, Assistant Director, and Program Supervisor plan to be simultaneously absent but the program remains open for the care of children. Weight #5  (3) A written notification required under this section must be submitted to the department and each child’s parent or guardian at least two business days prior to the planned absence from the early learning program. Absences requiring notice are:  (a) A vacation or travel extending beyond seven calendar days;  (b) Outside employment during child care hours;  (c) Regular absences scheduled during child care hours. As used in this section, “regular absence” is an absence that is planned and reoccurring, and is more than four hours duration;  (d) Schooling or educational goals; and  (e) Planned medical procedures that will result in absence from the early learning program for more than three business days.  Weight #4  (4) A written notification must include the following information to the department:  (a) Time period of the absence, including expected outside work schedule if performing outside work;  (b) Emergency contact information for the absent early learning provider(s);  (c) A written plan, which must be approved by the department, for program staff to follow that includes:  (i) A staffing plan that meets child-to staff ratios;  (ii) Identification of a Lead Teacher to be present and in charge;  (iii) Early learning program staff roles and responsibilities;  (iv) How individual children’s specialized needs will be met;  (v) Responsibility for meeting licensing requirements; and  (vi) How parents will be informed of the absence and the plan to meet their child’s needs. Weight NA  (5) If a Facility Licensing Compliance Agreement (FLCA) is developed as a result of early learning program staff failing to follow licensing regulations during an absence described in this section, an early learning program must:  (a) Retrain early learning program staff on the Foundational Quality Standards documented on the FLCA; and  (b) Document that the retraining occurred. Weight NA | | |  | |  |
| **Justification:**  This regulation proposed that family child care licensees, center directors, and center program supervisors are required to give notification of absence under specific circumstances. Two additional circumstances are added at 170-300-0015(d) and (e), adding notification of absence for educational and/or health procedures of a certain duration. These clarifications are intended to make the requirements clearer. | | | | | | | | |
| **Inactive status - voluntary and temporary closure** | | | | | |  | |  |
| **Family Home WAC** | | **Center WAC** | **Proposed WAC** | | | **Satisfactory/Minor/Major revisions; Concerns; Suggested Alternate Language** | | **Conflicts with ECEAP, Head Start, Schools District Standards and Practices** |
| No WAC | | No WAC | **170-300-0016**  **Inactive status – voluntary and temporary closure.**  (1) If a center or family home licensee plans to temporarily close their early learning program for more than 14 calendar days, and this closure is a departure from the program’s regular schedule, an early learning provider must submit a request to go on inactive status to the department at least two business days prior to the planned closure. Requests for inactive status must include:  (a) The date the early learning program will cease operating;  (b) A reason why the licensee is requesting an inactive status; and  (c) A projected date the early learning program will reopen. Weight #1  (2) The requirements of this section do not apply to licensed early learning programs that have temporary closures beyond 14 calendar days as part of their regular schedule, such as programs based on the school year or seasonal occupation. Weight NA  (3) A licensee may not request inactive status during their first initial licensing period (six months). Weight #1  (4) An early learning provider must inform parents the licensee plans to temporarily close their program. Weight #1  (5) The department may complete a site inspection of an early learning program during the inactive period to observe health and safety standards and to ensure no children are in care or receiving services. Weight NA  (6) An early learning provider is responsible for notifying the department of changes to program status including voluntary closures, new household members or staff, or other program changes. Program status updates must also be completed in the department’s electronic system. Weight #1  (7) Background check rules in chapter 170-06 WAC, including allegations of child abuse or neglect, will remain in effect during inactive status. Weight NA  (8) After receiving a notice of closure or inactive request form, the department will:  (a) Place the license on inactive status;  (b) Close the SSPS provider number;  (c) Inform the licensee that the license is inactive; and  (d) Notify the following programs of the voluntary inactive status:  (i) Working Connections Child Care subsidy program;  (ii) USDA Child and Adult Care Food Program (CACFP); and  (iii) Early Achievers, ECEAP, and Child Care Aware of Washington. Weight NA  (9) A licensee is still responsible for maintaining annual compliance requirements during inactive status. Weight #1  (10) If inactive status exceeds six months within a twelve month period, the department must close the license for failing to comply with RCW 43.215.260(2). The licensee must reapply for licensing pursuant to RCW 43.215.260(3). Weight NA  (11) If the department attempts three monitoring visits within a three month span prior to the monitoring due date, but the early learning provider has not been available to permit the visits, the department may pursue enforcement actions. Weight NA  (12) When a licensee is ready to reopen their program after a temporary closure, they must provide to the department written notification of intent to reopen. The department shall conduct a health and safety check of the early learning program within 10 business days of the written notification to reopen. If the early learning program is in compliance with the department’s rules and regulations, the department will:  (a) Activate the license;  (b) Reactivate the SSPS provider number; and  (c) Notify the Working Connections Child Care subsidy program, CACFP, Early Achievers, ECEAP, and Child Care Aware of Washington the license was reactivated.  Weight NA | | |  | |  |
| **Justification:**  The federal government’s Child Care Development Black Grant (CCDBG) awarded funding to Washington state to improve the quality of child care services by facilitating compliance with “requirements for inspection, monitoring, training, and health and safety, and with State licensing standards.” See 42 U.S.C. § 9858e. The Washington state legislature, through the Early Start Act (chapter 7, Laws of 2015) granted the Department of Early Learning the administrative responsibility for “monitoring program quality and assuring the program is responsive to the needs of eligible children.”  Proposed WAC 170-300-0001(4) introduces DEL’s responsibility of keeping children safe in licensed early learning programs. A large part of this responsibility includes annual 100% monitoring of early learning programs to determine compliance with health and safety standards as well as assessing the educational quality of these programs. DEL routinely adopts “best practices” and national standards when developing the highest quality health and safety practices. *Caring for Our Children, 3rd Edition* devotes several sections to monitoring and inspection and its vital role in the licensing process. See STANDARD 10.4.2.1: Frequency of Inspections for Child Care Centers, Large Family Child Care Homes, and Small Family Child Care Homes and STANDARD 10.4.2.2: Statutory Authorization of On-Site Inspections.  The language of proposed WAC 170-300-0016 makes DEL’s intent and scope of licensing clear by crafting monitoring practices during temporary closures at early learning programs. These rules establish a uniform procedure and clear definitions applicable to licensees. The rules also make clear the roles and responsibilities of DEL and the licensee during such a time period. The result is a practical, efficient, consistent, and orderly approach to temporary closures. These rules help DEL achieve the goals of the CCDBG and the Washington state legislature through ongoing, annual 100% monitoring of early learning programs to uphold health, safety, and licensing standards through the state. | | | | | | | | |
| **Unlicensed programs** | | | | | |  | |  |
| **Family Home WAC** | | **Center WAC** | **Proposed WAC** | | | **Satisfactory/Minor/Major revisions; Concerns; Suggested Alternate Language** | | **Conflicts with ECEAP, Head Start, Schools District Standards and Practices** |
| WAC 170-296A-8350 Providing unlicensed care – Notice   1. If the department determines that an individual is providing unlicensed child care in his or her home, the department will send the individual written notice within ten calendar days to explain;   (a) Why the department suspects that the individual is providing child care without a license; (b) That a license is required and why; (c) that the individual must immediately stop providing child care; (d) That if the individual wishes to obtain a license, within thirty calendar days from the date of the department’s notice in this subsection (1) the individual must submit a written agreement on a department form, stating the he or she agrees to:  (i) Attend the next available department child care licensing orientation; and  (ii) Submit a child care licensing application after completing orientation; and (e) That the department has the authority issue a fine of one hundred fifty dollars per day for each day that the individual continues to provide child care without a license.   1. The department’s written notice in subsection (1) of this section must inform the individual providing unlicensed child care:  (a) How to respond to the department; (b) How to apply for a license; (c) How a fine, if issued, may be suspended or withdrawn if the individual applies for a license; (d) that the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and (e) How to ask for a hearing. 2. If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in subsection (1)(d) of this section within thirty calendar days from the date of the department’s written notice, the department will post information on its web site that the individual is providing child care without a license.   WAC 170-296A-8375 Unlicensed care – Fines and other penalties  A person providing unlicensed child care may be:  (1) Assessed a fine of hone hundred fifty dollars a day for each day unlicensed child care is provided; (2) Guilty of a misdemeanor or (3) Subject to an injunction.  WAC 170-296A-8400  Hearing process.  (1) Department notice of an enforcement action includes information about the individual's or licensee's right to request an adjudicative proceeding (hearing) and how to request a hearing.  (2) The hearing process is governed by chapter [34.05](http://app.leg.wa.gov/RCW/default.aspx?cite=34.05) RCW Administrative Procedure Act, applicable sections of chapter [43.215](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215) RCW department of early learning, and chapter [170-03](http://apps.leg.wa.gov/wac/default.aspx?cite=170-03) WAC, DEL hearing rules. | | WAC 170-295-0120 How much can I be fined?  We can impose a civil fine for the following:   1. If we determine that an agency or child care center is operating without a license we may assess a fine of two hundred fifty dollars per day for each day you provide unlicensed child care. A fine is effective and payable within thirty days of receipt of the notification.   WAC 170-295-0130 When can an individual be fined for operating an unlicensed program?  If the department receives information that an individual is operating a child care center without a license, the department investigates the allegation;   1. If the department suspects that an individual is providing an unlicensed child care, the department will send the individual written notice within ten calendar days to explain:   (a) Why the department suspects the individual is providing child care without a license;  (b) That a license is required and why;  (c) That the individual must immediately stop providing child care;  (d) That if the individual seeks to obtain a license, within thirty calendar days from the date of the department’s notice in this subsection, the individual must submit a written agreement on a department form, stating the he or she agrees to:  (i) Attend the next available department child care licensing orientation; and  (ii) Submit a child care licensing application after completing orientation; and  (e) That the department has the authority issue a fine of two hundred fifty dollars per day for each day that the individual continues to provide child care without a license.   1. The department’s written notice in subsection (2) of this section must inform the individual providing unlicensed child care:   (a) How to respond to the department;  (b) How to apply for a license;  (c) How a fine, if issued, may be suspended or withdrawn ;  (d) that the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and  (e) How to ask for a hearing.   1. If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in subsection (2)(d) of this section within thirty calendar days from the date of the department’s written notice, the department will post information on its web site that the individual is providing child care without a license. | **170-300-0020**  **Unlicensed programs.**  (1) If the department suspects that an individual is providing unlicensed child care, the department must follow the requirements of RCW 43.215.335. Weight NA  (2) If an individual wishes to obtain a license, within 30 calendar days from the date of the department's notice in subsection (1) of this section, the individual must submit a written agreement on a department form stating that he or she agrees to:  (a) Attend and participate in the next available child care licensing orientation put on by the department; and  (b) Submit a child care licensing application after completing orientation.  Weight #1  (3) The department's written notice under subsection (1) must inform the individual providing unlicensed child care:  (a) How to respond to the department;  (b) How to apply for a license;  (c) How a fine, if issued, may be suspended or withdrawn if the individual applies for a license;  (d) That the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and  (e) How to ask for a hearing, under chapter 34.05 RCW (Administrative Procedure Act), chapter 43.215 RCW, and chapter 170-03 WAC (DEL hearing rules).  Weight NA  (4) If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in subsection (2) of this section within 30 calendar days from the date of the department's written notice, the department will post information on its web site that the individual is providing child care without a license. Weight NA  (5) A person providing unlicensed child care:  (a) Shall be guilty of a misdemeanor pursuant to RCW 43.215.340; and  (b) May be subject to an injunction pursuant to RCW 43.215.330.  Weight NA | | |  | |  |
| **Justification:**  As part of the Early Start Act alignment, the Department of Early Learning analyzed all existing licensing, both family home and center rules. The issues identified included duplication, inconsistency, dual language learners (DLL), inclusion and equity, and underscored the importance of the connections between policy, practice, and reporting. There was an identified need to have consistent and clear connections in early learning programs in order to best support providers and the children and families that they serve. At the same time, gaps were noted between family home and center rules, many because of more recent revisions to family home rules than center rules. The revisions respect each unique setting but also seek to align center and family home as appropriate. This standard complies with the requirements under RCW 43.215.335. | | | | | | | | |
| **Certified and exempt programs** | | | | | |  | |  |
| **Family Home WAC** | | **Center WAC** | **Proposed WAC** | | | **Satisfactory/Minor/Major revisions; Concerns; Suggested Alternate Language** | | **Conflicts with ECEAP, Head Start, Schools District Standards and Practices** |
| 170-296A-1100Tribal or military regulated or operated child care—Certification for payment. (1) A family home child care that is regulated by an Indian tribe or the federal Department of Defense is exempt from licensing.  (2) A tribe or a child care regulated by the federal Department of Defense may request certification:  (a) For subsidy payment only; or  (b) As meeting licensing standards of this chapter.  (3) A child care seeking certification under this section must be located on the premises over which the tribe or federal Department of Defense has jurisdiction | | 170-295-0020  (1) Individuals, entities and agencies that provide care for children must be licensed unless specifically exempt under RCW [43.215.010](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215.010)(2).  (2) The person or organization claiming an exemption must provide us with proof of right to the exemption if we request it.  (3) We do not license a center that is legally exempt from licensing per RCW [43.215.010](http://app.leg.wa.gov/RCW/default.aspx?cite=43.215.010)(2). However, if the applicant requests it, we follow all licensing regulations to investigate and may certify the center as meeting licensing and other pertinent requirements. In such a case, all our licensing requirements and procedures apply equally to certification.  (4) We may certify a child care center for payment without further investigation if the center is:  (a) Licensed by an Indian tribe;  (b) Certified by the Federal Department of Defense; or  (c) Approved by the superintendent of public instruction's office.  **WAC 170-295-6030**  **What are the special requirements regarding American Indian children?**  When five percent or more of the center's child enrollment consists of American Indian children, you must develop social services resource and staff training programs designed to meet the special needs of such children through coordination with tribal, Indian health service, and Bureau of Indian Affairs social service staff, and appropriate urban Indian and Alaska native consultants. | **170-300-0025**  **Certified and exempt programs.**  (1) The department must not license an early learning program that is legally exempt from licensing per RCW 43.215.010(2). However, if an applicant requests it, the department will follow all licensing regulations to certify an otherwise exempt early learning program as meeting licensing and other pertinent requirements. In such a case, all licensing requirements and procedures apply equally to certification. Weight NA  (2) The department may certify an early learning program for subsidy payment without further investigation if the program is:  (a) Licensed by an Indian tribe, band, nation, or other organized community of Indians, including an Alaska Native village as defined in 43 U.S.C. § 1602(c), recognized as eligible for services by the United States Secretary of the Interior;  (b) Certified by the Federal Department of Defense.  (c) Approved by the Office of Superintendent of Public Instruction (OSPI).  Weight NA  (3) An applicant claiming an exemption must provide to the department proof that he or she qualifies for an exemption using the department’s form (found at <https://del.wa.gov/providers-educators/publications-forms-and-research/licensing-forms-and-documents-providers>). Weight NA  (4) The early learning program seeking certification must be located on the premises over which the tribe, federal Department of Defense or OSPI has jurisdiction. Weight NA  (5) An early learning program regulated by a tribe, the federal Department of Defense or OSPI may request certification:  (a) For subsidy payment only; or  (b) As meeting Foundational Quality Standards of this chapter. Weight NA  (6) The department must not certify a department employee or a member of their household when the employee is involved directly, or in an administrative or supervisory capacity, in the:  (a) Certification process;  (b) Placement of a child in a certified program; or  (c) Authorization of payment for the child in care.  Weight NA | | |  | |  |
| **Justification:**  In order to clarify certain situations in which certification is not available, a new revision of rule 170-300-0025(6) specifies that certification is not available to Departmental employees, or their household members, who are involved in a) certification, b) placement of a child in a certified program, or c) authorization of payment for the child care.  In 1994, a set of ethics principles governing public employees (chapter 42.52 RCW) were signed into law to ensure the public’s interest is placed before any private interest. Specifically, RCW 42.52.070 prohibits a state employee from using their position “to secure special privileges” for themselves, friends, or family. In line with these principles, WAC 170-300-0010(2) prohibits the department from licensing a DEL employee or member of the employee’s household if the employee holds a position in the department that would allow them to influence licensing decisions. | | | | | | | | |
| **Non-discrimination** | | | | | |  | |  |
| **Family Home WAC** | **Center WAC** | | **Proposed WAC** | | | **Satisfactory/Minor/Major revisions; Concerns; Suggested Alternate Language** | | **Conflicts with ECEAP, Head Start, Schools District Standards and Practices** |
| There is no current FH WAC specific to this category. | WAC 170-295-6010 What are the regulations regarding discrimination?  (1) Child care centers are defined by state and federal law as places of public accommodation and must not discriminate in employment practices and client services on the basis of race, creed, color, national origin, marital status, gender, sexual orientation, class, age, religion, or disability. (2) You must:  (a) Post a nondiscrimination poster where families and staff can easily read it;  (b) Have a written nondiscrimination policy; and  (c) Comply with the requirements of the Americans with Disabilities Act.  WAC 170-295-6020 What are the regulations regarding religious activities?  You must:   1. Respect and facilitate the rights of the child in care to observe the tenets of the child’s faith, consistent with state and federal laws; 2. Not punish or discourage the child for exercising these rights; and 3. Maintain a written description of the center’s religious policies and practices that affect the child in care. | | **170-300-0030**  **Non-discrimination.**  (1) Early learning programs are defined by state and federal law as places of public accommodation that must not discriminate in employment practices or client services based on race, creed, color, national origin, marital status, gender, sexual orientation, class, age, religion, or disability. Weight #5  (2) An early learning program must:  (a) Have a written non-discrimination policy addressing at least the factors listed in subsection (1) of this section; and  (b) Comply with the requirements of the Washington Law Against Discrimination (chapter 49.60 RCW) and the ADA. Weight #5 | | |  | |  |
| **Justification:**  To better serve all Washington children, this proposed regulation is inclusive to all populations and capitalizes on diverse strengths rooted in different culture, language, abilities and belief systems knowing that race or location are not predictors of a child’s success. The inclusion of children with specific developmental challenges relies on a provider’s compliance with the Washington Law Against Discrimination (WLAD) and the American with Disabilities Act (ADA), consistent with DEL’s emphasis on inclusion in its work. Complying with these laws guarantees that children with disabilities and their families have the same access to high quality early learning settings and programs as all other children and families in the state. Additionally, the Individuals with Disabilities Education Act (IDEA) guarantees children (with special focus on ages 0 to 5) and “guarantees children with disabilities the same access to education as children who do not have disabilities.” This revision also incorporates vital feedback from community and stakeholders to ensure that all children receive equitable care and the proposed standards eliminate the opportunity gap. Furthermore, the proposed standard draws from the Washington State Early Learning and Development Guidelines’ focus on implementing appropriate supports to help all children reach their full potential.  Additionally, per *Caring for Our Children, 3rd Edition*, Standard 2.1.1.8 information is focused on addressing culture and diversity, stating “Programs should provide cultural curricula that engage children and families and teach multicultural learning activities. Indoor and outdoor learning/play environments should have an array of toys, materials, posters, etc. that reflect diverse cultures and ethnicities. Stereotyping of any culture must be avoided.” | | | | | | | | |