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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 constitutes the largest Standards Alignment category and delineates the expectations and requirements for the provision of a safe, healthy and educational environment in consideration with the uniqueness of both the family home and center settings. There are eight subcategories that include: space and furnishings, activities, safety, food and nutrition, health practices, cleaning and sanitation, sleep and rest, and infant and toddler-specific regulations. In particular, we note that the inclusion of infant and toddler specific provisions covering infant toddler nutrition (e.g., breastmilk, bottles, feeding), sleep (e.g., rest, equipment, safe sleep), program and activities, and infant and toddler development. |
| **Space and Furnishings – Indoor early learning program space** |
| **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-4225(1) The indoor licensed space must have thirty-five square feet per child for the maximum number of children stated on the license, measured to include only the space intended for use by children in care.(2) The space under furniture used by the children is counted in square footage.(3) Indoor space that is not counted in the minimum square footage requirement includes:(a) Unlicensed space that is made inaccessible to children in care;(b) Space under furniture not used by the children;(c) Hallway space that leads to an exit;(d) Bathrooms; and(e) Closets.(4) An office or kitchen that is made inaccessible to the children and is not intended for their use may be included as licensed space but is not counted as part of the minimum square footage. | WAC 170-295-0080(1) Maximum allowable capacity of your center is determined based on useable square footage and available toilets and sinks. The licensed capacity (the number of children you are allowed to have in your center at any one time) may be less than the maximum capacity, but not exceed it. The licensed capacity is based on our evaluation of the program, the ages and characteristics of the children, the experience of the staff, and usable floor space. You must have:(a) Fifty square feet of useable floor space per infant (includes crib, playpen, infant bed and bassinets);(b) Thirty-five square feet of useable floor space for each toddler or older child that is dedicated to the children during child care hours; and(c) Fifteen additional square feet must be provided for each toddler using a crib or playpen when cribs are located in the sleeping and play area.(2) The areas included in your square footage must be available at all times for the children. The following areas will not be included in determining the useable square footage for each child:(a) Food preparation areas of the kitchen;(b) Laundry areas;(c) All bath, toilet rooms and hand washing areas;(d) Hallways, diaper changing areas (includes the changing table, sink and twenty-four inches of floor space around the changing table and sink), stairways, closets, offices, staff rooms, lockers and custodial areas;(e) Furnace rooms, hot water heater rooms, storage rooms, or mop sink rooms; and(f) Cabinets, storage, and fixed shelving spaces unless accessible to and used by children (for example, cubbies, shelves for storing toys and puzzles, bookshelves, etc.). If the children do not have access to their cubbies or toy storage areas, it is not included in the square footage.(3) You can use a multipurpose room and gymnasium for multiple purposes such as playing, dining, napping, and learning activities, and before and after school programs when the room:(a) Meets the square footage requirements for the purpose and number of children to be served; and(b) Is being used for one purpose and does not interfere with usage of the room for another purpose.(4) You may use and consider the napping area as child care space if staff remove mats and cots when they are not in use and the children then have free access to the area.(5) We will not issue you a license to care for more children than the rules in this chapter permit.(6) We may issue you a license to care for fewer children than the center's maximum capacity. | **170-300-0130****Indoor early learning program space.**1. Indoor center early learning program space must comply with the Washington State Building Code (chapter 19.27 RCW) and the International Building Code (chapter 51-50 WAC) which the department adopts and incorporates by reference as now or hereafter amended. Weight #7
2. Indoor family home early learning program space must comply with the International Residential Code (chapter 51-51 WAC) which the department adopts and incorporates by reference as now or hereafter amended. Weight NA
3. Indoor early learning program space includes only the space intended to be used by children in care and must be accessible during program operating hours. Weight #4
4. Early learning program space, ramps, and handrails must comply with, be accessible to, and accommodate children and adults with disabilities as required by the ADA, as now and hereafter amended. Weight #4

                               1. Early learning program space must include pathways for children to move between areas without disrupting another child’s work or play. Weight #4
2. A Family Home Licensee must provide a signed and dated declaration form, (found at <https://del.wa.gov/providers-educators/publications-forms-and-research/licensing-forms-and-documents-providers>) if the early learning program meets any of the following requirements in unlicensed space:
3. Furnace area safety, or smoke or carbon monoxide detector requirements under WAC 170-300-0170(3);
4. Guns, weapon, or ammunition storage under WAC 170-300-0165(2)(f);
5. Medication storage under WAC 170-300-0215;
6. Refrigerator or freezer under WAC 170-300-0198; or
7. Storage areas that contain chemicals, utility sinks, or wet mops under WAC 170-300-0260. Weight NA
 | **X****x****x****x****x****x** | **x****x****x****x****x** |
| **Justification:**The proposed revision calls for facilities to ensure sufficient passing or walkway space for children. This is in keeping with *Caring for Our Children, 3rd Edition*, Standard 5.1.2, space per child, that stresses the need to prevent crowding, and notes, in the rationale, that “Child behavior tends to be more constructive when sufficient space is organized to promote developmentally appropriate skills.” The proposal clarifies that certain spaces are not countable towards the amount specified per child, including diaper and laundry areas, as well as areas that are taken up by shelving, cabinets, and staff equipment. These changes can be seen in *Caring for Our Children, 3rd Edition* Standard 5.1, which says, “This excludes floor area that is used for: a) Circulation (e.g., walkways around the activity area); b) Classroom support (e.g., staff work areas and activity equipment storage that may be adjacent to the activity area); c) Furniture (e.g., bookcases, sofas, lofts, block corners, tables and chairs); d) Center support (e.g., administrative office, washrooms, etc.) Usable, indoor floor space for the children’s activity area depends on the design and layout of the child care facility, and whether there is an opportunity and space for outdoor activities.Taking into account the statement in *Caring for Our Children, 3rd Edition* regarding children’s activity areas, the proposal allows for use of napping space if the space is truly available for other uses when napping is not occurring, and specifies the parameters for DEL in allowing for use of indoor space that is also oriented for gross motor play. DEL has sought to make its state-specific approach very concrete to aid in understanding and compliance of the parameters.The final proposed revision relates to documenting that equipment and toys to show conformance with the federal CPSC guidelines and ASTM standards F1292-13 and F2223-10. Caring for Our Children, 3rd Edition, at Standard 5.3.1.1: Safety of Equipment,Materials, and Furnishings, notes Equipment, materials, furnishings, and play areas should be sturdy, safe, and in good repair and should meet the recommendations of the U.S. Consumer Product Safety Commission (CPSC) for control of the following safety hazards: a) Openings that could entrap a child’s head or limbs; b) Elevated surfaces that are inadequately guarded; c) Lack of specified surfacing and fall zones under and around climbable equipment; d) Mismatched size and design of equipment for theintended users; e) Insufficient spacing between equipment; f) Tripping hazards; g) Components that can pinch, sheer, or crush bodytissues; h) Equipment that is known to be of a hazardous type; i) Sharp points or corners; j) Splinters; k) Protruding nails, bolts, or other components that could entangle clothing or snag skin; l) Loose, rusty parts; m) Hazardous small parts that may become detached during normal use or reasonably foreseeable abuse of the equipment and that present a choking, aspiration, or ingestion hazard to a child; n) Strangulation hazards (e.g., straps, strings, etc.); o) Flaking paint; p) Paint that contains lead or other hazardous materials; q) Tip-over hazards, such as chests, bookshelves, and televisions.Likewise, *Caring for Our Children, 3rd Edition,* Standard 6.2.1 General Requirements. STANDARD 6.2.1.1: Play Equipment Requirements, explicitly references ASTM as well. It says, “All play equipment should be constructed, installed, and made available to the intended users in such a manner that meets CPSC guidelines and ASTM standards, as warranted by the manufacturers’ recommendations.”  |
| **Space and Furnishings – Routine care, play, learning, relaxation and comfort** |
| **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-5000Play equipment.(1) The licensee must have play equipment that is developmentally appropriate and maintained in a safe working condition. The licensee must inspect play equipment at least weekly for injury hazards, broken parts, or damage. Unsafe equipment must be repaired immediately or must be made inaccessible to children until repairs are made.(2) Play equipment must be arranged so that it does not interfere with other play equipment when in use.(3) The licensee must install or assemble new play equipment acquired after March 31, 2012, according to manufacturer specifications, and keep specifications on file for review by the licensor.(4) For used or "hand-made" play equipment, or for play equipment acquired and installed prior to March 31, 2012, the licensee must assemble the equipment in a manner that provides a safe play experience for the children.  | WAC 170-295-2010What types of play materials, equipment and activities must I provide for the children?You must:(1) Provide a variety of easily accessible learning and play materials of sufficient quantity to implement the centers program and meet the developmental needs of children in care.(2) Have a current daily schedule of activities and lesson plans that are designed to meet the children's developmental, cultural, and individual needs. The toys, equipment and schedule must be:(a) Specific for each age group of children; and(b) Include at least one activity daily for each of the following (you can combine several of the following for one activity):(i) Child initiated activity (free play);(ii) Staff initiated activity (organized play);(iii) Individual choices for play;(iv) Creative expression;(v) Group activity;(vi) Quiet activity;(vii) Active activity;(viii) Large and small muscle activities; and(ix) Indoor and outdoor play.(3) You must ensure the lesson plan, daily schedule of events, available toys and equipment contains a range of learning experiences to allow each child the opportunity to:(a) Gain self-esteem, self-awareness, self-control, and decision-making abilities;(b) Develop socially, emotionally, intellectually, and physically;(c) Learn about nutrition, health, and personal safety; and(d) Experiment, create, and explore.(4) Post the daily schedule and lesson plan in each room for easy reference by parents and by caregivers;(5) Keep the daily schedule of events and lesson plans for the past six months on site for inspection;(6) Maintain staff-to-child ratios and group size during transitions from one activity to another during the day;(7) Plan for smooth transitions by:(a) Establishing familiar routines; and(b) Using transitions as a learning experience.(8) Ensure the center's program affords the child daily opportunities for small and large muscle activities, outdoor play, and exposure to language development and books; and(9) Afford staff classroom planning time. | **170-300-0135****Routine care, play, learning, relaxation, and comfort.**1. An early learning provider must have accessible and child-size furniture and equipment in sufficient quantity for the number of children in care. Tables must not be bucket style. Weight #4

 1. Furniture and equipment must be:
2. Maintained in a safe working condition;
3. Developmentally and age appropriate;
4. Inspected at least weekly for hazards, broken parts, or damage. All equipment with hazardous, broken parts, or damage must be repaired immediately or must be made inaccessible to children until repairs are made according to the manufacturer’s instructions, if available;
5. Arranged in a way that does not interfere with other play equipment;
6. Installed and assembled according to manufacturer specifications. An early learning provider must keep manufacturer specifications on file for review by the department;
7. Stored in a manner to prevent injury; and
8. Accessible to the child’s height so that he or she can find, use, and return materials independently.

Weight #61. Indoor handmade play structures must be maintained for safety or removed when no longer safe. The department must review and approve construction plans and a list of materials to be used to construct indoor handmade play structures before construction begins. Weight #5

 1. An early learning provider must provide 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, stuffed animals and soft dolls. Soft furnishings must be:
	1. Accessible to the children in care;
	2. Developmentally appropriate for the children in care; and
	3. Maintained in a clean and sanitary condition.

Weight #4 | **X****x****x****x** | **X****x****x****x** |
| **Justification:**The proposed regulation adds a prohibition against bucket style chairs. This is in keeping with *Caring for Our Children, 3rd Edition,* STANDARD 4.5.0.1: Developmentally Appropriate Seating and Utensils for Meals, which states “The child care staff should ensure that children who do not require highchairs are comfortably seated at tables that are between waist and mid-chest level and allow the seated child’s feet to rest on a firm surface. All furniture and eating utensils that a child care facility uses should make it possible for children to eat at their best skill level and to increase their eating skill.” Elsewhere in Caring for Our Children, it is noted that children need to have child-sized equipment and that chairs and tables should be set up to allow the child’s feet “to rest on a firm surface.” See STANDARD 5.3.1.3: Size of Furniture. A revision is also proposed to acknowledge the use of handmade indoor play structures. Consistent with DEL’s commitment to respecting the diversity of populations in Washington State, this provision provides for a prudent approach to ensure that children’s safety is the priority for these handmade structures. These proposed changes are also in keeping with the focus in the federal law on child safety, including new provisions that require public reporting on a web-site of serious injuries, at Section 98.15, that the state make available “the results of monitoring and inspection reports, as well as the number of deaths, serious injuries, and instances of substantiated child abuse that occurred in child care settings.”  |
|  **Space and Furnishings – Room arrangement, child-related displays, private space and belongings** |
| **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-4750Storage for each child’s belongingsThe licensee must provide separate storage for each child’s belongings. Belongings of children from the same family may be stored togetherNo current Family Home WAC regarding specific privacy | WAC 170-295-5140Are there any requirements for storage space provided for children?You must provide accessible individual storage space for each child’s belongings that prevents the spread of diseases or parasites such as scabies or lice.WAC 170-295-4140 (1) You are required to have extra clothing available for the children who wet or soil their clothes.(2) You may require the parent to provide the clothing, but you must have clothing available for use in case the parent forgets the change of clothingNo current Center WAC regarding specific privacy | **170-300-0140****Room arrangement, child-related displays, private space, and belongings.**1. Early learning materials and equipment must be visible and accessible to children in care, and must be arranged to promote and encourage independent access by children. Weight #3
2. An early learning provider must display age and developmentally appropriate early learning materials. Materials must be posted at enrolled children’s eye level and related to current activities, themes, or lessons plans. Weight #1
3. An early learning provider must provide, or allow a child to create, a place for privacy. This space must:
4. Allow for appropriate supervision; and
5. Include an area for children, visible to staff, and accessible to children who seek or need time alone or small group time. Weight #4

(4)An early learning provider must have extra clothing available for children who wet, soil, or have a need to change clothes. A provider may require parents to provide their own children’s extra clothing. Weight #1(5)An early learning provider must provide individual and separate storage space for each child’s belongings. At a minimum, the space must be:  (a) Accessible to the child; (b) Large enough and spaced sufficiently apart from other storage space to:(i) Store the child’s personal articles and clothing;(ii) Prevent contact with the belongings of other children;(iii) Prevent the spread of diseases or parasites; and(iv) Promote or encourage children to organize their possessions. Weight #4(6)Child useable and accessible areas must be arranged to provide sufficient space for routine care, child play, and learning activities. These areas must:(a) Be designed to allow for appropriate supervision so no obstructions to sight such as walls, tall shelving, or tall furniture are between the children in care and the staff supervising the children; Weight #5(b) Allow children to move freely from one interest area to another (for example: blocks, puppets, language and literary materials, art materials, clay or play dough, music and movement, or dramatic play); and Weight #5 (c) Be designed to allow for different types of activities at the same time. Weight #1 | **x****x****x****x****x****X** | **x****x****x****x****x****x** |
| **Justification:**This proposed regulation provides for materials and equipment to be visible to and accessible by children, and to be developmentally appropriate, and for materials and equipment relevant to children’s daily activities, themes and lessons plans to be available. Chapter 2 of *Caring for Our Children, 3rd Edition* addresses program activities for healthy development, and there are numerous standards that reflect what DEL has proposed. For example, STANDARD 2.1.2.3: Space and Activity to Support Learning of Infants and Toddlers states that “The facility should provide a safe and clean learning environment, both indoors and outdoors, colorful materials and equipment arranged to support learning. The indoor and outdoor learning/play environment should encourage and be comfortable with staff on the floor level when interacting with active infant crawlers and toddlers. The indoor and outdoor play and learning settings should provide opportunities for the child to act upon the environment by experiencing age-appropriate obstacles, frustrations, and risks in order to learn to negotiate environmental challenges.” The rationale notes that “Children need access to age-appropriate toys and safe household objects.” Standard 2.1.3, entitled Program Activities for Three- to Five-Year-Olds, also addresses these issues. For example, Standard 2.1.3.2 says “Programs should provide children a balance of guided and self-initiated play and learning indoors and outdoors. These should include opportunities to observe, explore, order and reorder, to make mistakes and find solutions, and to move from the concrete to the abstract in learning,” thus underscoring the need for visible, accessible materials and equipment. Likewise, the Washington State Early Learning and Development Guidelines Birth through 3rd Grade (2012) also stress the ideas that are found in the proposed regulation concerning accessibility, appropriateness, and relevance introduced here. The proposed regulation introduces the concept of child privacy in this proposal, requiring smaller “private” space, subject to the need for ongoing supervision. In discussing *Caring for Our Children, 3rd Edition* Standard 5.1.2.1, which focuses on space per child, the rationale for the recommended square foot per child takes into account the various dimensions of child development and how this translates into space. Privacy is mentioned explicitly, as follows (emphasis added): “Studies have shown that the quality of the physical designed environment of early child care centers is related to children’s cognitive, social, and emotional development (e.g., size, density**,** privacy, well-defined activity settings, modified open-plan space, a variety of technical design features and the quality of outdoor play spaces). In addition to meeting the needs of children, caregivers/teachers require space to implement programs and facilitate interactions with children.” DEL’s proposal balances this aspect of the developmental needs of child with the ongoing requirement for supervision. The proposed regulation also addresses issue of personal storage for children’s belongings, which is found in *Caring for Our Children, 3rd Edition* at STANDARD 5.5.0.1: Storage and Labeling of Personal Articles, stating “The facility should provide separate storage areas for each child’s and staff member’s personal articles and clothing. Personal effects and clothing should be labeled with the child’s name. Bedding should be labeled with the child’s full name, stored separately for each child, and not touching other children’s personal items.” *Caring for Our Children, 3rd Edition* Standard 5.5.0.2: Coat Hooks/Cubicles underscores the issue of adequate space so that children’s belongings are not touching those of other children, stating “Coat hooks should be spaced so coats will not touch each other, or individual cubicles or lockers of the child’s height should be provided for storing children’s clothing and personal possessions.” The rationale is to prevent the spread of disease, such as ringworm. Finally, these proposed regulations require that the areas children are using need to include space for routine uses- care, play, learning, taking into account supervision needs as well as the development of children’s independence, the need to have more than one activity occurring at a time. The *Caring for Our Children, 3rd Edition* standard on space per child is based on the need for these multiple activities to take place, and to sufficient room for them. As discussed in the rationale for 5.5.2.1, “Child behavior tends to be more constructive when sufficient space is organized to promote developmentally appropriate skills. Crowding has been shown to be associated with increased risk of developing upper respiratory infections. Also, having sufficient space will reduce the risk ofinjury from simultaneous activities.” Elsewhere in the discussion, the importance of supervision is stressed as well, with a note that the space must address “ease of supervision.” Likewise, the Washington State Early Learning and Development Guidelines Birth through 3rd Grade (2012) also stress the ideas that are found in the proposed regulation regarding child development and the various activities that take place in the physical space.The costs of complying with proposed WAC 170-300-0140(5)(b)(i) cannot be reduced because storage containers are largely available from market retailers. Under the proposed rule, each child enrolled at an early learning program would require a storage bin for their personal belongings. The Department of Early Learning (DEL) believes imposing this new rule is necessary to ensure the health and safety of children in programs the department regulates. The one-time costs identified above are necessary to prevent the spread of the spread of diseases or infections such as lice or ringworm, which are common in child care and early learning environments. Proposed WAC 170-300-0140(5)(b)(i) is a low cost requirement for center and family home early learning programs to provide storage space for each enrolled child’s personal belongings to help prevent the spread of disease or infection, which is common in child care and early learning environments. The cost of purchasing storage containers is not expected to exceed minor cost threshold. |
| **Space and Furnishings – Outdoor early learning program space**  |
| **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-4925Space for gross motor play(1) The licensee must provide a safe outdoor play area on the premises.(a) The outdoor play space must contain seventy-five square feet of usable space per child for the number of children stated on the license.(b) If the premises does not have seventy-five square feet of available outdoor space per child, the licensee may provide an alternative plan, approved by the department, to meet the requirement for all children in care to have daily opportunities for active outdoor play.(2) The licensed outdoor play space must be securely enclosed with a fence of a minimum height of four feet. When a fence has slats, openings between the slats must be no wider than three and one-half inches.(3) When the licensed outdoor play space is not adjacent to the home the licensee must:(a) Identify and use a safe route to and from the licensed outdoor space that is approved by the department; and(b) Supervise the children at all times when passing between the licensed outdoor space and the home.(4) The licensee must provide a written plan, approved by the department, to make roadways and other dangers adjacent to the licensed outdoor play space inaccessible to children.**WAC 170-296A-5025****Outdoor physical activities.**The licensee must have an outdoor play area that promotes a variety of age and developmentally appropriate active play for the children in care. | WAC 170-295-2130; 5090(1) You must provide an outdoor program that promotes the child's coordination, active play, and physical, mental, emotional, and social development based on their age. The play area must:(a) Adjoin the indoor premises directly or be reachable by a safe route or method;(b) Have adequate drainage and be free from health and safety hazards;(c) Contain a minimum of seventy-five usable square feet per child using the play area at any one time. If the center uses a rotational schedule of outdoor play periods so only a portion of the child population uses the play area at one time, you may reduce correspondingly the child's play area size.(2) If you provide full-time care, the activity schedule must provide the child daily morning and afternoon outdoor play;170-295-5090What are the fence requirements?(1) You must fence the outdoor play area to:(a) Prevent unauthorized people from entering; and(b) Prevent children from escaping and having access to hazardous areas.(2) At a minimum fences and gates must:(a) Be safe, and maintained in good repair; and(b) Be designed to discourage climbing and prevent entrapment. | **170-300-0145****Outdoor early learning program space.**1. An early learning provider must inspect outdoor play areas daily to ensure outdoor program space is safe and free of hazards. Weight #6
2. Outdoor play space must contain a minimum of 75 square feet of licensed space per child accessing the play space at any given time. An early learning provider may develop an alternate plan if an early learning program does not have enough outdoor play space to accommodate all enrolled children at once (for example, rotating groups of children to play outdoors or using an off-site play area). The department must approve plans to use off-site play spaces. Weight #5
3. “Usable space” means the areas that are available at all times for use by children in an early learning program and meets licensing requirements. Weight NA
4. An early learning program must have shaded areas in outdoor play space provided by trees, buildings, or shade structures. Weight #1

 1. Outdoor play space must promote a variety of age and developmentally appropriate active play areas for children in care. Activities must encourage and promote both moderate and vigorous physical activity such as running, jumping, skipping, throwing, pedaling, pushing and pulling, kicking, and climbing. Weight #1
2. When the licensed outdoor play space is not immediately adjacent to the early learning program site, an early learning provider must identify and use a safe route to and from the licensed outdoor play space. Weight #6
3. Licensed outdoor play areas must be enclosed with a fence or barrier that prevents children from exiting and discourages climbing. If the outdoor play area is enclosed by a barrier that is not a fence, the barrier may be a wall constructed with brick, stone, or a similar material. Weight #7

 1. Licensed outdoor play areas must be enclosed to prevent people without permission from entering. Weight #7
2. Fences, barriers, and gates must be in good condition and conform to applicable local building codes in height and construction or have a minimum height of 48 inches and not have a gap more than three and one-half inches from the ground. Weight #6

 1. The opening between a fence post and gate or fence post and building must not be greater than three and one-half inches. Weight #6

(11) An early learning provider must not install any wooden fence, playground structure, or furniture if it contains chromated copper arsenate (CCA), creosote or pentachlorophenol. If wooden fences, structures, and furniture are suspected of having CCA they must be tested. If CCA is noted, fences, structures, and furniture must be removed or sealed with an oil-based outdoor sealant annually or as needed within six months of the date this section becomes effective. Weight #61. Gates allowing access to a licensed outdoor play area must be equipped with self-closing or self-latching mechanisms (shuts automatically when released from an individual’s control) within six months of the date this section becomes effective. The latch or securing device must be high enough or of a type that children cannot open. Weight #6

(13) Outdoor play areas must have two exits that must not be partially or entirely blocked. At least one exit must be located away from the early learning program, and one exit may be into the early learning program space. Weight #6 | **X****X****X****x****X****X****X****x****x****x****X****x****x** | **X****X****X****X****x****x****X****x****x****x****X****x****x** |
| **Justification:***Caring for Our Children, 3rd Edition*, calls for the daily inspection of outdoor space, as outlined at Standard 6.2.5.1: Inspection of Indoor and Outdoor Play Areas and Equipment, which states “The indoor and outdoor play areas and equipment should be inspected daily for the following: a) Missing or broken parts; b) Protrusion of nuts and bolts; c) Rust and chipping or peeling paint; d) Sharp edges, splinters, and rough surfaces; e) Stability of handholds; f) Visible cracks; g) Stability of non-anchored large play equipment (e.g., playhouses); h) Wear and deterioration. Observations should be documented and filed, and the problems corrected.”The proposed regulations call for shade, which is specifically addressed in *Caring for Our Children, 3rd Edition* Standard 6.1.0.7: Shading of Play Area, providing that “Children should be provided shade in play areas (not just playgrounds). Shading may be provided by trees, buildings, or shade structures. Metal equipment (especially slides) should be placed in the shade. Sun exposure should be reduced by timing children’s outdoor play to take place before ten o’clock in the morning or after four o’clock in the afternoon standard time.”*Caring for Our Children, 3rd Edition* Standard 6.1.0.8: Enclosures for Outdoor Play Areas addresses several of the proposals in these regulations. It addresses the need for barriers, whether natural or not; two exits; types of gates; fencing; and testing and response to chromated copper arsenate, providing the following language: “The outdoor play area should be enclosed with a fence or natural barriers. Fences and barriers should not prevent the observation of children by caregivers/teachers. If a fence is used, it should conform to applicable local building codes in height and construction. Fence posts should be outside the fence where allowed by local building codes. These areas should have at least two exits, with at least one being remote from the buildings.” This standard also provides “Gates should be equipped with self-closing and positive self-latching closure mechanisms. The latch or securing device should be high enough or of a type such that children cannot open it. The openings in the fence and gates should be no larger than three and one-half inches. The fence and gates should be constructed to discourage climbing. Play areas should be secured against inappropriate use when the facility is closed. Wooden fences and playground structures created out of wood should be tested for chromated copper arsenate (CCA). Wooden fences and playground structures created out of wood that is found to contain CCA should be sealed with an oil-based outdoor sealant annually.”According to the Center for Disease Control and Prevention (CDC), a few serious sunburns can increase a child’s risk of skin cancer later in life, and unprotected skin can be damaged by ultraviolet (UV) rays in as little as 15 minutes. The CDC advocates protection from UV rays any time a child is outdoors. In addition to developing skin cancer, the Mayo Clinic states that young children are also at a higher risk of heat exhaustion because the body’s ability to regulate its temperature is not fully developed in young children. The costs of complying with proposed WAC 170-300-0145(4) cannot be reduced because shade devices or structures are largely available from market retailers. Under the proposed rule, an early learning program must provide shade in licensed outdoor space. The Department of Early Learning believes imposing this new rule is necessary to ensure the health and safety of children by helping prevent the development of skin cancer or heat exhaustion. The one-time costs identified above are necessary to protect children from overexposure to the sun, which could result in a child overheating or contribute to the risk of developing skin cancer.Proposed WAC 170-300-0145(4) is a low cost requirement for center and family home early learning programs to provide shade in licensed outdoor space. Shade is outdoor space is necessary to promote the health and safety of children by helping prevent the development of skin cancer or heat exhaustion in young children. The cost of purchasing shade devices or structures is not expected to exceed minor cost threshold. |
| **Space and Furnishings - Equipment in outdoor early learning space** |
| **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-5000Play equipment(1) The licensee must have play equipment that is developmentally appropriate and maintained in a safe working condition. The licensee must inspect play equipment at least weekly for injury hazards, broken parts, or damage. Unsafe equipment must be repaired immediately or must be made inaccessible to children until repairs are made.(2) Play equipment must be arranged so that it does not interfere with other play equipment when in use.(3) The licensee must install or assemble new play equipment acquired after March 31, 2012, according to manufacturer specifications, and keep specifications on file for review by the licensor.(4) For used or "hand-made" play equipment, or for play equipment acquired and installed prior to March 31, 2012, the licensee must assemble the equipment in a manner that provides a safe play experience for the children. WAC 170-296A-5050Bouncing equipment prohibitedThe licensee must not use or allow the use of bouncing equipment including, but not limited to, trampolines, rebounders and inflatable equipment. This requirement does not apply to bounce balls with or without handles for use by individual children.WAC 170-296A-5075Playground equipment—Ground cover—Fall zones(1) The licensee must not place climbing play equipment on concrete, asphalt, packed soil, lumber, or similar hard surfaces when being used by children.(2) The ground under swings and play equipment intended to be climbed must be covered by a shock absorbing material. Grass alone is not an acceptable ground cover material under swings or play equipment intended to be climbed. Acceptable ground cover includes: (a) Pea gravel - At least nine inches deep; (b) Playground wood chips - At least nine inches deep; (c) Shredded recycled rubber - At least six inches deep; or (d) Other department approved material.(3) A six-foot fall zone must surround all equipment that has a platform over forty-eight inches tall that is intended to be climbed.(4) The fall zone area must extend at least six feet beyond the perimeter of the play equipment. For swings, the fall zone must be the distance to the front and rear of the swing set equal to or greater than twice the height of the top bar from which the swing is suspended.(5) Swing sets must be positioned further away from structures to the front and rear of the swing set. The distance to the front and rear of the swing set from any playground equipment or other structure must be the distance equal to or greater than twice the height of the top bar from which the swing is suspended. |  | **170-300-0146****Equipment in outdoor early learning space.**1. An early learning provider must inspect outdoor play equipment daily to:
	1. Ensure it is properly maintained and safe, and
	2. Ensure unsafe equipment is removed or made inaccessible to children. Weight #6
2. Playground equipment used by an early learning provider must comply with CPSC’s guidelines for playground equipment as now or hereafter amended including, but not limited to:

(a) Climbing play equipment must not be placed on or above concrete, asphalt, packed soil, lumber, or similar hard surfaces;(b) The ground under swings and play equipment must be covered by a shock absorbing material. Grass alone is not an acceptable ground cover material under swings or other play equipment. Weight #61. An early learning provider must comply with the standards in the CPSC’s guidelines including, but not limited to installing, arranging, designing, constructing, and maintaining outdoor play equipment. Weight #
2. Permanently anchored outdoor play equipment must not be placed over septic tank areas or drain fields, and must be installed according to the manufacturer’s directions. Weight #6
3. Handmade playground equipment must be maintained for safety or removed when no longer safe. The department must review and approve construction plans and a list of materials to be used to construct handmade playground equipment before construction begins. Weight #6
4. Bouncing equipment including, but not limited to, trampolines, rebounders and inflatable equipment must be inaccessible and not in early learning program space. This requirement does not apply to bounce balls designed to be used by children individually. Weight #7
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| **Justification:***Caring for Our Children, 3rd Edition*, calls for the daily inspection of outdoor equipment, as outlined at Standard 6.2.5.1: Inspection of Indoor and Outdoor Play Areas and Equipment, which states “The indoor and outdoor play areas and equipment should be inspected daily for the following: a) Missing or broken parts; b) Protrusion of nuts and bolts; c) Rust and chipping or peeling paint; d) Sharp edges, splinters, and rough surfaces; e) Stability of handholds; f) Visible cracks; g) Stability of non-anchored large play equipment (e.g., playhouses); h) Wear and deterioration. Observations should be documented and filed, and the problems corrected.”In addition to the proposal for daily inspection, noted above, this regulation is enhanced by a proposal to add compliance with CPSC standards, the removal of homemade equipment unless it complies with CPSC and submission of plans for homemade equipment for advance DEL approval, and certain specifications about bouncing equipment. In the general requirements for playground equipment, *Caring for Our Children, 3rd Edition*states, at Standard 6.2.1 General Requirements STANDARD 6.2.1.1: Play Equipment Requirements that “Play equipment and materials in the facility should meet the recommendations of the U.S. Consumer Product Safety Commission (CPSC) and the ASTM International (ASTM) for public playground equipment.” This standard goes on, “All play equipment should be constructed, installed, and made available to the intended users in such a manner that meets CPSC guidelines and ASTM standards, as warranted by the manufacturers’ recommendations.” DEL’s proposal around homemade equipment provides a balanced approach to permitting homemade equipment within a framework of a commitment to child safety.Finally, the proposal addresses making bouncing equipment inaccessible while not in use, and barring it from indoor learning space. Washington proposes greater permissibility than *Caring for Our Children, 3rd Edition* which says STANDARD 6.2.4.4: Trampolines states, “Trampolines, both full and mini-size, should be prohibited from being used as part of the child care program activities both on-site and during field trips.” This proposal permits this type of equipment but only under controlled, specified conditions in order to reduce hazards.  |
| **Space and Furnishings - Weather conditions and outdoor requirements**  |
| **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-5125****Daily outdoor activity.**The licensee or staff must provide outdoor activities at least thirty minutes each day unless conditions pose a health and safety risk to the children. Conditions that may pose a health and safety risk include, but are not limited to:(1) Heat in excess of one hundred degrees Fahrenheit;(2) Cold less than twenty degrees Fahrenheit;(3) Lightning storm, tornado, hurricane, or flooding, if there is immediate or likely danger to the children;(4) Earthquake;(5) Air quality emergency ordered by a local or state air quality authority or public health authority;(6) Lockdown order by a public safety authority; or(7) Other similar incidents | WAC 170-295-5150 (2)(b) Not take children outdoors during extremes temperatures that put children at risk for physical harm. | **170-300-0147****Weather conditions and outdoor requirements.**1. An early learning provider must observe weather conditions and other possible hazards. The provider must not take or leave children outside if conditions exist that may pose a health or safety risk. Conditions that pose a health or safety risk include, but are not limited to the following:
2. Heat in excess of 100 degrees Fahrenheit or less for children under five years old, or pursuant to advice of the local sources;
3. Cold less than 20 degrees Fahrenheit, or pursuant to advice of the local sources;
4. Lightning storm, tornado, hurricane, or flooding if there is immediate or likely danger to children in care;
5. Earthquake;
6. Air quality emergency ordered by a local or state authority on air quality or public health;
7. Lockdown ordered by a public safety authority; and
8. Other similar incidents. Weight #7

(2) An early learning provider must appropriately dress children for weather conditions during outdoor play time. Weight #6 |  |  |
| **Justification:** This proposed regulation addresses outdoor conditions. It includes a proposal for monitoring of outdoor conditions, clarifying that local weather reports may be included in determining whether temperatures are considered health and safety risks. *Caring for Our Children, 3rd Edition* Standard 3.1.3.2 indicates that “Weather that poses a significant health risk should include wind chill factor at or below minus 15°F and heat index at or above 90°F, as identified by the National Weather Service (NWS).” Caring for Our Children notes that the exact temperatures are geographically and regionally specific, and may be age-specific as well. It says: “Some flexibility is needed depending on the location of the program. For example, in some climates where children do not have warm winter clothing even 20°F could be too cold. In some southern climates it is always above 90°F, but older children are acclimated and can play in shaded areas.” Washington’s initial temperature setting is contextual, relying on the professional judgment of the program. Health and safety risks regarding very hot weather is defined. Additional discretion is provided in addressing heat conditions for young children.  |
| **Space and Furnishings - Gardens in outdoor early learning program space** |
| **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 current WAC** | **No current WAC**  | **Adopted Permanent Rule****170-300-0148****Gardens in outdoor early learning program space.** 1. A garden in early learning program space must:
2. Have safeguards in place to minimize risk of cross-contamination by animals; Weight #5
3. Use soil free from agricultural or industrial contaminants such as lead or arsenic if gardening directly in the ground; Weight #6
4. Use new soil that is labeled as organic and obtained from a gardening supply store or other retail store if gardening in raised beds; and Weight #5
5. Use water that comes from a private well approved by the local health jurisdiction or from a public water system. An early learning provider must make water for gardens inaccessible to children if the provider uses irrigation water. Weight #5
6. Garden beds must be made of materials that will not leach chemicals into the soil including, but not limited to, wood treated with chromated copper arsenate, creosote or pentachlorophenol, reclaimed railroad ties, or tires. Weight #6
7. Any herbicide or pesticide must be applied pursuant to the product manufacturer’s directions. The product must not be applied during program hours. Children must not apply the product or have access to the garden during the manufacturer’s prescribed waiting period following application. Weight #7
8. Commonplace toxic plants or plants with poisonous leaves (for example: tomato, potato, or rhubarb) may be grown in the garden. An early learning provider must actively supervise children who are able to access a garden where commonplace toxic plants or plants with poisonous leaves are growing. Weight #6
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| **Justification:** According to the United States Environmental Protection Agency (EPA), contaminants such as lead, arsenic, mercury, and other heavy metals can harm human health. The EPA also states that these contaminants are commonly found in soil in residential settings. The Washington State Department of Health shares these concerns: “Soil in many areas of Washington State is contaminated with arsenic from smelter operations or from arsenical pesticides and herbicides.” To protect children health and safety from these and other contaminants in residential gardens, the United States Department of Agriculture (USDA) recommends doing the following: • Create barriers that keep animals away from gardens; • Purchase commercially packaged soil; • Use soil that is free from contaminants (for example: pesticides, fertilizers, vermiculite, and asbestos); • Use non-toxic, non-leaching materials for raised-bed gardens (do not use pressure-treated wood, used tires, single use plastics, old railroad ties, etc.); and• Select non-allergenic and non-toxic plants.The Department of Early Learning (DEL) promotes best practices to protect the health and safety of staff and children in early learning programs. Proposed WAC 170-300-0148 addresses these concerns when dealing with gardens. This rule addresses the health concerns raised by the EPA and adopts several USDA recommendations while still allowing child care businesses choice and flexibility in how to implement these requirements. This proposed rule requires early learning providers to use safeguards in licensed garden space to minimize contamination by animals, use soil that is free from health hazards such as lead or arsenic, use organic bagged soil labeled “organic” by the manufacturer (for raised beds), and use water from a public water system, approved private well, or irrigation systems if the water is inaccessible to children. See proposed WAC 170-300-0148(1). This rule also requires garden beds to be made of materials that will not leach harmful chemicals into the soil, using proper procedures when applying herbicide or pesticide, and using active supervision if the garden grows common but toxic plants such as tomato, potato, and rhubarb. See proposed WAC 170-300-0148(2) through (4). DEL promotes the learning and health benefits that come from using a garden in teaching environments; however, DEL also requires providers to use techniques and materials that prevent or limit children’s exposure to chemicals and contaminants that are harmful to human health. Proposed WAC 170-300-0148 successfully balances these interests and concerns.  |