

## NEGOTIATED RULE MAKING

Dates: August 25 – 27, 2017

Location: Red Lion Hotel, Renton, Washington

Participants: Family Home Child Care Providers  
Center Child Care Providers  
Families/Parents  
Head Start/ECAP Providers  
DEL Licensing Staff

Others Present: Tina Chen-Xu, Hallie Wells, Zane Wyrick, Public Consulting Group, Facilitators  
Lori Anderson, Department of Early Learning, Mediator  
Debbie O'Neil, Tyler Farmer, Yvonne Lewis, Department of Early Learning, Data  
& Content Experts  
Luba Bezborodnikova, Project Manager

Agenda: See Attachment A

Summary: See Attachment B

Public Comment: Rachel Acheson, Little Edisons School, Pullman, WA  
Tom Emery, Washington Child Care Alliance  
Family Home Child Care Providers

Materials available online at <https://www.del.wa.gov/Negotiated-Rule-Making>

# Negotiated Rule Making

**Friday, August 25, 2017**  
**10 AM – 5:00 PM**

10:00 – 10:30 AM	<p>Welcome</p> <ul style="list-style-type: none"> <li>• Announcement and Logistics</li> <li>• Team Caucus</li> </ul>
10:30 – 11:20 AM	<p>Environment Negotiation</p> <ul style="list-style-type: none"> <li>• Subgroup Breakouts</li> </ul>
11:20 – 11:30 AM	BREAK
11:30– NOON	<p>Environment Negotiation</p> <ul style="list-style-type: none"> <li>• Subgroup Breakouts</li> </ul>
NOON-1:00 PM	LUNCH
1:00 – 1:15 PM	Team Caucus
1:15 – 2:30 PM	<p>Environment Negotiation</p> <ul style="list-style-type: none"> <li>• Subgroup Breakouts</li> </ul>
2:30 – 2:40 PM	BREAK
2:40- 4:15 PM	<p>Environment Negotiation</p> <ul style="list-style-type: none"> <li>• Subgroup Breakouts</li> </ul>
4:15 – 4:30 PM	BREAK
4:30 – 4:50 PM	<p>Public Comments**</p> <p><i>Team Caucus, if time allows</i></p>
4:50 – 5:00 pm	Wrap up, Saturday logistics

**Saturday, August 26, 2017**

**8:30 AM – 4:00 PM**

**Subgroup Breakout 4:00 – 6:00 PM**

8:30 – 9:00 AM	<p>Welcome</p> <ul style="list-style-type: none"> <li>• Announcement and Logistics</li> <li>• Team Caucus, as needed</li> </ul>
9:00 – 10:00 AM	<p>Environment Negotiation</p> <ul style="list-style-type: none"> <li>• Consensus Taking</li> <li>• Team Caucus, as needed</li> </ul>
10:00 – 10:10 AM	BREAK

10:10 –NOON	Environment Negotiation <ul style="list-style-type: none"> <li>• Consensus Taking</li> <li>• Team Caucus, as needed</li> </ul>
Noon – 1:00 PM	LUNCH
1:00 – 2:30 PM	Environment Negotiation <ul style="list-style-type: none"> <li>• Consensus Taking</li> <li>• Team Caucus, as needed</li> </ul>
2:30 – 2:40 PM	BREAK
2:40- 3:15 PM	Environment Negotiation <ul style="list-style-type: none"> <li>• Consensus Taking</li> <li>• Team Caucus, as needed</li> </ul>
3:15 – 3:45 PM	Public Comments**
3:45 – 4:00 PM	Wrap up, Sunday logistics
4:00 – 6:00 PM	Negotiation - subjects to be determined <ul style="list-style-type: none"> <li>• Subgroup Breakout</li> </ul>

**Sunday, August 26, 2017**  
**8:30 AM – 12 Noon**

8:30 – 8:45 AM	Welcome <ul style="list-style-type: none"> <li>• Announcement and Logistics</li> <li>• Team Caucus</li> </ul>
8:45 – 10:00 AM	Negotiation <ul style="list-style-type: none"> <li>• Finish Consensus Taking for Environment</li> <li>• As time allows, begin subgroup break outs for Bucket 3: Interactions and Curriculum, Program Administration and Oversight</li> </ul>
10:00 – 10:10 AM	BREAK
10:10 – 11:20 AM	Negotiation <ul style="list-style-type: none"> <li>• Finish Consensus Taking for Environment</li> <li>• As time allows, begin subgroup break outs for Bucket 3: Interactions and Curriculum, Program Administration and Oversight</li> </ul>
11:20– 11:30 AM	BREAK
11:30 – 11:55 AM	Public Comments**
11:55 – Noon	Wrap Up
12 Noon	LUNCH / TEAM TIME

\*\* Excess time will be used for negotiation or preparing for the next day, as necessary.

The following table outlines the progress made during the August 2017 Negotiated Rule Making.

<b>ENVIRONMENT</b>		
<b>SECTION</b>	<b>TITLE</b>	<b>RESOLUTION</b>
170-300-0155	Use of television, video, and computers	Consensus reached
170-300-0165	Safety Requirements	Consensus reached
170-300-0166	Emergency Preparation and Exiting	Consensus reached
170-300-0170	Fire safety	Consensus reached
170-300-0175	Water Hazards and swimming pools	Consensus reached
170-300-0180	Meal and snack schedule	Consensus reached
170-300-0185	Menus, Milk, and food	Consensus reached
170-300-0186	Food allergies and special dietary needs	Consensus reached
170-300-0195	Food service, equipment, and practices	Consensus reached
170-300-0196	Food sources	Consensus reached
170-300-0197	Safe food practices	Consensus reached
170-300-0198	Food preparation areas	Consensus reached on 1, 2, and 5 DEL to review/edit 3, 4
170-300-0200	Handwashing and hand sanitizer	Consensus reached
170-300-0205	Child, staff, and household member illness	Consensus reached

## 170-300-0155

### Use of television, video, and computers.

If an early learning provider offers screen time to children in care:

~~(1) The screen time available for each child must be educational, developmentally and age appropriate, non-violent, and culturally sensitive and should be interactive with staff. Weight #5 (Small Group) [AL1]~~ ~~(2) The screen time must be interactive. For example, staff must help children focus on the story on the screen and less on the sounds and movements. Staff must ask questions and direct children to point to pictures or talk about what is happening; Weight~~

~~(3) Children must not be required to participate in screen time activities; Weight #4~~ (2) Children must not be required to participate in screen time activities.

Alternative activities must be provided to children in care when the television or computer is being used; Weight #4 (Small Group) [AL2]

(4) Alternative activities must be provided to children in care when the television or computer is being used; Weight #

(5) (3) Screen time must not occur during scheduled meals or snacks; Weight #4

(4) Total screen time must not exceed 2.5 hours per week for each child over 24 months of age through preschool in full-day care (1.25 hours per child in half-day care) Weight # 4 (Small Group) [AL3]

~~(7) For preschool children, computer use must be limited to 15 minutes per day for each child in full-day care (7 minutes per child in half-day care) unless computer use is a part of curriculum approved under this chapter; Weight #3~~

((5) For school-age children, screen time must be limited 2.5 hours per week for each child unless computer use is required for homework or a part of curriculum.

Weight #4 (Small Group) [AL4]

(6) There must not be intentional screen time for children under 24 months of age. An infant or toddler must be redirected from an area where screen time is displayed. Weight #4 [AL5] [WH6]

## 170-300-0165

### Safety requirements.

~~Centers: The first statement (1) is just a declarative statement. No weight.  
HS/ECEAP: Agree with Centers. Have changes to proposed after conversation with architect. Is current licensed space grandfathered in? Bldg code references.  
FHP: Agree with Centers. Issues with other weights. Concerned about splinters.  
Want to change "premises" with early learning space. Window openings ...~~

~~Parents:~~

Consensus not reached on (4)(b). FHPs: Only open windows need a screen

HS: Issues w/ screens – school dists do not have screens. Will need variance.

Parents: Concerns around alignment and keeping pests from entering (screens)

Licensors: 3-1/2" gaps in fences needs to be reworked

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~~Parents: Concerns around alignment and keeping pests from entering (screens)~~

~~Licensors: 3-1/2" gaps in fences needs to be reworked~~

~~(1) An early learning provider must keep indoor and outdoor early learning program space, materials, and equipment free from hazards and in safe working condition. [Equipment and toys purchased and used must be compliant with CPSC guidelines or ASTM standards as now or hereafter amended.](#) [Playground<sup>\[AL7\]</sup> equipment and surfaces must meet the requirements of WAC 170-300-0146.](#)~~

~~Weight #7 Weight N/A~~

~~Centers: declarative statement — requirement is later in 0165 and weighted higher. (1) should be lower weight.~~

~~(a) An early learning program must purchase and use equipment and toys that are compliant with CPSC guidelines or ASTM standards as now or hereafter amended; and Weight #3~~

~~(b) [Playground<sup>\[AL8\]</sup>](#) equipment and surfaces must meet the requirements of WAC 170-300-0146. have a certificate of compliance, label, or documentation stating they meet ASTM standards F1292-13 and F2223-10 as now or hereafter amended. Weight #3~~

(2) An early learning provider must take measures intended to prevent hazards to children including, but not limited to:

(a) Making inaccessible to infants and toddlers any equipment, material, or objects that may pose a risk of choking, aspiration, or ingestion. For the purposes of this section, equipment, material, or objects that have a diameter or overall dimension of one and three-quarter ( $1\frac{3}{4}$ ) inches or less shall be considered items that may pose a risk of choking, aspiration, or ingestion. Small parts from larger equipment, material, or objects that have a diameter or overall dimension of one and three-quarter ( $1\frac{3}{4}$ ) inches or less, that may become detached from the larger equipment, materials, or object shall also be considered items that may pose a risk of choking, aspiration, or ingestion; [Weight #6](#)

(b) Eliminating and not using in the [licensed space](#) ~~premises~~, pursuant to RCW 43.215.360, as now or hereafter amended, any window blinds or other window

coverings with pull cords or inner cords capable of forming a loop and posing risk of strangulation to children;

(i) Window blinds and other window coverings that have been manufactured or properly retrofitted in a manner that eliminates the formation of loops posing a risk of strangulation are allowed;

(ii) A window covering must not be secured to the frame of a window or door used as an emergency exit in a way that would prevent the window or door from opening easily.

Weight #7

~~(c) Making inaccessible to children straps, strings, cords, wires, or similar items capable of forming a loop around a child's neck that are not being used for a supervised activity; Activities using string, yarn, jump ropes, or other similar items must be actively supervised at all times; Weight #5~~

(d) Making inaccessible to children plastic bags and other suffocation hazards;

Weight #7

(e) Making inaccessible to children poisons, chemicals, toxins, or any product labeled "Keep out of reach of children<sup>[CT9]</sup>"; Weight #N/A

(f) Ensuring firearms, guns, weapons, and/or ammunition are not on the premises of a center early learning program. Firearms, guns, weapons, and ammunition on the ~~premises~~ licensed space of a family home early learning program must be stored in a locked gun safe or locked room inaccessible to children. If stored in a locked room, each gun must be stored unloaded and with a trigger lock or other disabling device. The locked room must be inaccessible to children at all times; and Weight #8

(g) Preventing children from attempting to walk or go through a glass door, window, or other glass barrier, there must be stickers or art work placed at child's eye level on the glass. Weight #3

~~(h) Cribs, play pens, bassinets, infant beds, and indoor climbing structures must not be placed next to windows, to prevent harm from shattered glass unless, unless the window is made of safety glass, to prevent shattering. Weight #68 could be weight of 7~~

(3) An early learning provider must take measures intended to prevent other hazards to children in care in early learning program space including, but not limited to:

(a) Cuts, abrasions, and punctures. Equipment, materials, and other objects on the premises that have splintered edges, sharp edges, points, ~~corners~~, protruding nails, bolts, or other dangers must be repaired, removed, or made inaccessible to children; Weight #5

(b) **Burns.** Equipment, materials, or products that may be hot enough to injure a child must be made inaccessible to children; Weight #7

(c) **Sheering, crushing, or pinching.** Broken or cracked equipment, materials, and objects must be repaired, removed, or made inaccessible to children; Weight #5

~~(d) **Splinters.** All equipment, materials, and objects made of wood or material that splinters must be sanded and sealed;~~

(de) **Entrapment.** Freezers, refrigerators, washers, dryers, compost bins, and other entrapment dangers must be inaccessible to children unless being actively supervised; Weight #-6

(ef) **Tripping.** tripping hazards must be eliminated. Uneven walkways, damaged flooring or carpeting, or other tripping hazards must be removed or repaired; Weight #4

~~(g) **Falling objects.** Large objects must be securely attached to the premises. Large objects include, but are not limited to, televisions, dressers, bookshelves, wall cabinets, sideboards or hutches, and wall units; and~~

(fg) **Falling objects.** Large objects capable of tipping ~~that pose a risk of falling~~ must be securely ~~anchored~~attached. Large objects include, but are not limited to, televisions, dressers, bookshelves, wall cabinets, sideboards or hutches, and wall units; and Weight #6

(gh) **Equipment in poor condition.** Equipment ~~with loose parts, rusty parts, flaking paint, or other dangers~~in poor condition must be repaired, removed, or made inaccessible to children. Weight #8-4<sup>[CT10]</sup>

(4) To ensure a safe environment for children in care, an early learning provider must comply with the following requirements:

(a) **Indoor temperatures for the premises.**

(i) The indoor temperature for the early learning ~~premises~~licensed space must not be less than 65 degrees Fahrenheit or greater than 82 degrees Fahrenheit; and

(ii) Fans, air conditioner or cross ventilation must be used in licensed space when the indoor temperature exceeds 82 degrees Fahrenheit. Fans and air conditioners must be inaccessible to children. Weight #4

(b) **Windows screens and openings.** All windows designed to be opened must have screens ~~and have a chime or sensor in place [Licensors]~~. Windows within the reach of children must only open up to three and one-half inches. The three and one-half inch opening does not apply to a family home early learning program when a window is utilized as an exit window. <sup>[CT11]</sup>Weight #wait on clarification

(c) **~~Premises~~Licensed Space lighting.** All areas of an early learning program ~~premises~~licensed space must have natural or artificial light that provides appropriate illumination for early learning program activities and supervision. A provider must comply with all light fixture manufacturer's installation and use requirements. A provider must also ensure compliance with the following requirements:

(i) Light fixtures must have shatter-resistant covers or light bulbs;

(ii) Lights or light fixtures used indoors must be designed for indoor use only;

(iii) Free standing lamps ~~and table lamps~~ must be attached or secured ~~to the floor or a table~~ to prevent tipping; and

(iv) Halogen lamps and bulbs are prohibited.

Weight #5

(d) **Safe noise levels.** Noise levels must be maintained at a level in which a normal conversation may occur. Weight #3<sup>[CT12]</sup>

(e) **Safe water temperature.** All water accessible to children must not be hotter than 120 degrees Fahrenheit. Weight #7<sup>[CT13]</sup>

(f) **Stairway safety.**

(i) All stairways (indoor and outdoor) must have natural or artificial light that provides sufficient illumination to safely use the stairway;

(ii) There must not be clutter or obstructions in the stairway;

(iii) All stairways (indoor and outdoor), not including play structures, must meet local building codes pursuant to RCW 43.215.308 ~~within six months of the date this section becomes effective~~. Open stairways with no walls on either side must have handrails with slats (balusters) that prevent a child from falling off either side of the stairway. For stairways with a wall on only one side, there must be a handrail with slats (balusters) on the side without the wall that prevents a child from falling off the stairway. For stairways with a wall on both sides, there must be at least one side of the stairway that has a handrail no higher than 38 inches; and

(iv) Stairways must have a pressure gate, safety gate or, door to keep stairs inaccessible to infants and toddlers when not in use. Openings between slats on pressure or safety gates must not be larger than three and one-half inches wide in any direction (a 3-1/2" sphere). Weight #7

(g) **Platforms and decks.** All platforms and decks used for child care activities must meet local building codes pursuant to RCW 43.215.308 within six months of the date this section becomes effective. This does not include play equipment. All platforms and decks with a drop zone of more than 18 inches must have guardrails<sup>[AL14]</sup> in sections without steps. **Weight #7**

(5) To ensure a safe environment for children in care, an early learning provider must comply with the following electrical requirements:

(a) In areas accessible to children, electrical outlets must have automatic shutters that only allow electrical plugs to be inserted (tamper-resistant) or are covered by blank plates or other tamper-resistant covers <sup>[CT15]</sup> appropriate to the electrical outlet;

(b) Outlets near sinks, tubs, toilets, or other water sources must be inaccessible to children or be tamper-resistant and equipped with a ground fault circuit interrupter (GFCI) outlet type;

(c) Electrical cords must be in good working condition, not torn or frayed, and not have any exposed wires;

(d) Electrical cords must be plugged directly into a wall outlet or a surge protector;

(e) Power strips with surge protectors may be used but must not be accessible to children in care;

(f) Extension cords may only be used for a brief, temporary purpose and must not replace direct wiring; and

(g) Electrical devices accessible to children must not be plugged into an electrical outlet near a water source such as sink, tub, water table, or swimming pool. **Weight #7**

## 170-300-0166

### Emergency preparation and exiting.\*

- (1) To be properly prepared for an emergency, an early learning program must have and follow an emergency preparedness plan pursuant to WAC 170-300-0470 and comply with the following requirements:
  - (a) A working flashlight or other emergency lighting device must be available for use as an emergency light source. Battery powered flashlights must have an extra set of batteries easily available; and
  - (b) A working telephone must be available for use with sufficient backup power to function for at least five hours.

#### Weight #6

- (2) To ensure [WH16] a safe exit from the premises during an emergency, the early learning provider must comply with the following requirements:
  - (a) ~~Emergency exit doors must remain unlocked while the early learning program is open.~~ Emergency exit doors must remain unlocked from the inside, but may be locked from the outside while the early learning program is open. The door handle must be of the type that can be opened from the inside without the use of a key, tools, or special knowledge, and must automatically unlock when the knob or handle is turned;
  - (b) Exit doors that are not designated as an emergency exit door may be locked during operating hours. Locking interior doors in early learning program space must be designed to be unlocked from either side. An unlocking device must be readily available; and
  - (c) Family home early learning programs must have at least one pivoting or side-hinged swinging exit door. Other exit doors may be sliding glass doors.

#### Weight #7

HS/ECEAP: Concerns about retrofitting to meet new requirements.

DEL response: No retrofitting required. Upon relicensing, the Fire Marshall would require the conditions be met.

FHP: Remove (1) weight. Explanatory statement. Term "furnaces and heating devices" – concerns that baseboard and wall mount heaters may be prohibited.

DEL response: Specially made cages or barriers would make them inaccessible to children. DEL is amenable to revising to address irons used for craft projects.

FHP: Fire safety form is not currently available. Concern about access to fire dist/dept official willing to perform inspection

HS: Can a plastic gas can be used?

**Fire safety.\***

- (1) An early learning provider must comply with the State Building Code as now or hereafter amended, pursuant to RCW 19.27.031. **Weight #7**
- (2) An early learning provider must arrange for ~~a building~~ and fire safety inspection annually, and inspection documents must be available for department review. A provider must arrange ~~a building~~ or fire safety inspection with a local government agency. If a local government agency is not available to conduct a fire safety inspection, a provider must inspect for fire safety using the State Fire Marshal form (found at <https://del.wa.gov/providers-educators/publications-forms-and-research/licensing-forms-and-documents-providers>). **Weight #6**
- (3) To ensure a safe environment for children in care, an early learning provider must comply with the following fire safety requirements:
  - (a) **Combustible materials.** Combustible materials must be properly discarded pursuant to local jurisdictions, removed from the premises, or properly stored in closed metal containers specifically designed to hold such combustible materials. Combustible materials stored in a closed metal container must not be stored in the premises licensed space or any place that may be accessible to children in care. Combustible materials include, but are not limited to, lint, gasoline, natural gas, diesel, fuel, propane, rags soaked in combustible materials, oils, chemicals, or solvents.
  - (b) **Furnaces and other heating devices.**
    - (i) Paper, rubbish, or other combustible materials must be at least three feet from furnaces, fireplaces, or other heating devices;
    - (ii) Furnaces and other heating devices must be inaccessible <sup>to</sup><sub>[OD(19)]</sub> children in care; and
    - (iii) An appliance or heating device that has a surface capable of burning a child or reaching 110 degrees Fahrenheit must be inaccessible to children in care. **Unless under direct supervision during a specific activity**<sub>[OD(20)]</sub>
  - (c) **Electrical motors.** Electrical motor fans and appliances must be regularly cleaned to prevent accumulation of dust or lint.

- (d) **Open flame devices, candles, matches and lighters.** Except for the use of a gas kitchen range, open flame devices must not be used in early learning program space or any other space accessible to children in care during operating hours. Candles must not be used during operating hours, matches, and lighters must be inaccessible to children.
- (e) **Portable heaters and generators.** Portable heaters or fuel powered generators must not be used inside early learning program space during operating hours.
  - (i) In case of an emergency, a generator may be used but must be placed at least 15 feet from buildings, windows, doors, ventilation intakes, or other places where exhaust fumes may be vented into the premises or early learning space; and
  - (ii) Appliances must be plugged directly into a generator or into a heavy duty outdoor-rated extension cord that is plugged into a generator.
- (f) **Fireplaces, woodstoves, or similar wood burning heating devices.** Chimneys, fireplaces, gas burning fireplaces, wood stoves or similar wood-burning devices must be inspected annually by a state or locally certified inspector, unless the provider submits to the department a written statement that the chimney, fireplace, wood stove or similar word-burning device will not be used at any time.
- (g) **Fire alarms and smoke and carbon monoxide detectors.**
  - (i) An early learning program must have and maintain at least one smoke detector per licensed sleeping area and one per floor. Pursuant to the State Building Code, center early learning providers must comply with WAC 51-50-0907 and family early learning providers must comply with WAC 51-51-0314; and
  - (ii) An early learning program must have and maintain carbon monoxide detectors. Pursuant to the State Building Code, the State Building Code, center early learning providers must comply with WAC 51-50-0915 and family early learning providers must comply with WAC 51-51-0315.
- (h) **Backup method to sound an alarm.** In addition to working smoke detectors, an early learning program must have another method to alert all staff and enrolled children of a fire, emergency situation, or drill.
- (i) **Extinguishers.** An early learning program must have and maintain working fire extinguishers that are marked with a minimum rating of 2A:10 BC.
  - ~~(i) Fire extinguishers must be readily available for use in case of an emergency;~~

Fire extinguishers must be located per the requirements of the International Fire Code with Washington State Amendments, and must be readily available for use in case of an emergency.

- (ii) Fire extinguishers must be located on each level of the early learning program space used by children and mounted within seventy-five feet of an exit next to the path of the exit; and

- (iii) If a fire extinguisher is mounted in a closet, there must be a sign indicating the location of the extinguisher and obstructions must not block access to the closet.
- (j) **Monthly inspections.** At least once per month a provider must inspect the premises to identify possible fire hazards and eliminate any hazards found. A provider must:
  - (i) Involve Lead Teachers responsible for a child or group of children and staff persons responsible for observing the premises or their individual classrooms.
  - (ii) Keep records of monthly inspections for department review for:
    - (A) Fire extinguishers;
    - (B) Smoke detectors;
    - (C) Alternate alarms; and
    - (D) Emergency lighting. **Weight #7**[OD(21)]

## 170-300-0175

### Water hazards and swimming pools.

To prevent injury or drowning and ensure the health and safety of children, an early learning provider must comply with the requirements described in this section.

(1) The following bodies of water must be inaccessible to children in care by using a physical barrier with a locking mechanism:

- (a) Swimming pools when not being used as part of the early learning program, hot tubs, spas and jet tubs;
- (b) Ponds, lakes, storm retention ponds, ditches, fountains, fish ponds, landscape pools or similar bodies of water; and
- (c) Uncovered wells, septic tanks, below grade storage tanks, farm manure ponds or other similar hazards. **Weight #8**

(2) An early learning provider must comply with the following requirements when using a swimming pool as part of the early learning program:

- (a) Comply with the supervision requirements of WAC 170-300-0350;
- (b) Audible alarms must be on all doors, screens, and gates in licensed areas that lead to a swimming pool. The alarm must be sufficient to warn staff when children enter the outdoor area and could access the swimming pool;
- (c) Swimming pools must be maintained according to manufacturer specifications;
- (d) Swimming pools must be cleaned and sanitized according to manufacturer instructions and DOH or local health jurisdiction guidelines;
- (e) A swimming pool must not be used if the main drain cover is missing; and
- (f) Children in diapers or toilet training must wear swim pants to lower the risk of contaminating the water. **Weight #8**

(3) ~~Unfiltered~~ Portable wading pools must be inaccessible to enrolled children when not in use. "Wading pool" means a pool that has a water depth of less than two feet (24 inches). A portable wading pool is one that is formed of molded plastic or inflatable parts, and can be removed after use. **Weight #7**

(4) For bodies of water not located in early learning program space, but that are in close proximity, a physical barrier on the property must make such bodies of water inaccessible to children in care. **Weight #8**

(5) Five gallon buckets or other similar containers must not be used for infant or toddler water play. **Weight #8**

~~(6) Water tables or other similar containers must be emptied and sanitized after each activity session, or more often if necessary. Weight #6~~

(6) If a provider uses water tables or ~~other~~ similar containers, they must be emptied and sanitized ~~after each activity session~~ daily, or more often if necessary. **Weight #6\_4**

(7) "Locking mechanism" means a lock that requires a key, tumbler, dial, passcode, touchpad, or similar device or method to lock and unlock. **Weight NA**

(8) "Physical barrier" means:

(a) A non-climbable fence or wall that is at least five feet tall and has no openings greater than two inches

(b) A gate or door that allows entry to and exit from the body of water must meet the following requirements:

(i) Contain a locking mechanism;

(ii) Be at least five feet tall;

(iii) Have no openings greater than two inches;

(iv) Have a self-closing or self-latching device;

(v) A device used to open the locks must be inaccessible to children but readily available to staff; and **Weight NA**

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

170-300-0180

~~Meal and snack schedule:~~

(1) An early learning provider must serve meals and snacks to children in care as follows:

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

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

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

(ii) Two meals and one snack.

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

(i) Two meals and two snacks; or

(ii) Three snacks and one meal.

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

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

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

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

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

(v) A breakfast or morning snack must be available to children in care. **Weight #5.4 DEL & HS/ECEAP: Clarify that (v) applies in the morning (to children who arrive before 9 AM).**

~~(2) Meals and snacks must be served not less than two hours and not more than three hours apart. Weight #5~~

~~(3) An early learning provider must offer daily children the opportunities after a meal or snack opportunity for developmentally appropriate tooth brushing activities after each meal or snack that are~~

~~\_\_\_\_\_ (a) Toothbrushing activities must be safe, sanitary, educational ~~and with parental permission.~~~~

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

~~(c) The parent or guardian of any child may opt out of the daily toothbrushing activities by signing a written form that states their child's dental health needs are met outside of the early learning program.~~

(2) An early learning provider must offer dental health education to all children.

(a) Providers must also offer support for one scheduled daily opportunity for developmentally appropriate tooth-brushing activities that are safe, sanitary, and educational with parent permission (not all children must receive this opportunity);

(b) For overnight care, the early learning provider must offer the opportunity before bed;

(b) Parents may opt-out of tooth-brushing activities for their children with a signed form that is specific to their child, ensuring they are aware of the ADA guidance for twice daily tooth-brushing; and

(c) For children whose parents opt-in to tooth-brushing support, toothbrushes must be stored in a manner that prevents cross contamination. Weight #1

170-300-0185

Menus, milk, and food.\*

Parents suggest expressing 8-12 oz. in equivalent terms

To ensure proper nutrition of children in care, an early learning provider must comply with the child nutrition requirements described in this section.

(1) Meals, snack foods, and beverages provided to children in care must comply with the requirements contained in the most current edition of the USDA Child and Adult Care Food Program (CACFP) and CACFP Crediting Handbook or the national school breakfast and lunch program. ~~Weight #5~~

DEL believes referencing CACFP Crediting Handbook is duplicative

~~(2) Meals, snack foods, and beverages provided to children in care must comply with the requirements contained in the USDA Crediting Handbook for the CACFP, which describes what food and beverages meet meal pattern requirements or the national school breakfast and lunch program.. Weight~~

~~(a) An early learning provider must provide dated menus children's parents or guardians the dates each particular \_ menu is in effect. Weight #1~~

~~(b) Food and beverage substitutions to a scheduled menu must be of equal nutritional value pursuant to subsection (1). Weight #1~~

~~(c) An early learning provider must only serve water, unflavored milk or 100% fruit or vegetable juice. Weight #5~~

~~(d) An early learning provider must limit the consumption of 100% fruit juice to no more than 4-6 ounces per day for children between one and six years old, and 8-12 ounces per day for children seven through twelve years old. Weight #1~~  
Weight: 5

(2) An early learning provider must serve a fruit or vegetable as one of the two required components during at least one snack per day. Weight #1  
Weight: 5

## 170-300-0186

### Food allergies and special dietary needs.\*

FHP: New language – combine calling 911 & administering emergency meds. Add language “identified allergies.” Requirement of a policy should not be weighted.

FHP: (1) refers to -0300 which is also weighted. Only one instance should be weighted.

- (1) An early learning provider must obtain written instructions (The Individual Care Plan) from the child's health care provider and parent or guardian when caring for a child with a known <sup>Food</sup><sub>(00)(22)</sub> allergy or special dietary requirement due to a health condition. The Individual Care Plan (WAC 170-300-0300(3)) must:
  - (a) Identify foods that must not be consumed by the child and steps to take in the case of an unintended allergic reaction;
  - (b) Identify foods that can substitute for allergenic foods; and
  - (c) Provide a specific treatment plan for the early learning provider to follow in response to an allergic reaction. The specific treatment plan must include the names of all medication to be administered, directions for how to administer the medication and directions related to medication dosage amounts. The specific treatment plan must also describe allergic reactions and symptoms associated with the child's particular allergies.

Weight #8

- (2) An early learning provider and staff must arrange with the parents or guardians of a child in care to ensure the early learning program has the necessary medication, training, and equipment to properly manage a child's food allergies.

Weight #8

- (3) If a child suffers from an allergic reaction, the early learning program staff must promptly administer medication pursuant to the instructions in the Individual Care Plan.

Weight #8

- (4) Early learning program staff must immediately contact 911 whenever epinephrine or other lifesaving medication has been administered.

Weight #8

- (5) Early learning program staff must immediately notify the parents or guardians of a child if it is suspected or appears that any of the following occurred, or is occurring:

- (a) The child is having an allergic reaction; or
- (b) The child consumed or came in contact with a food identified by the parents or guardians that must not be consumed by the child, even if the child is not having or did not have an allergic reaction.

Weight #8

~~(6) Early learning program staff must immediately contact 911 whenever epinephrine or other lifesaving medication has been administered. Weight #8~~

~~(7)~~  
~~(8)~~ (6) Early learning program staff must notify the parents or guardians of enrolled children of the program's food allergy policies. **Weight #7** 5<sup>[OD(23)]</sup>

~~(9)~~ (7) Early learning program staff including substitutes must review each child's Individual Care Plan information for food allergies prior to serving food to children. **Weight #8** 7<sup>[OD(24)]</sup>

3) An early <sup>[WH25]</sup> learning provider must post individual children's food allergies or special dietary needs in a classroom or wherever food is prepared and served. The list must be posted in a location easily viewable by early learning staff but not viewable by children in care, parents, guardians, or other members of the public.

**Weight #7** 7<sup>[AL26][OD(27)]</sup>

(9) To ensure proper treatment of an allergic reaction during field trips, early learning program staff must carry children's written Individual Care Plans, a mobile phone, and children's medication.

**170-300-0195**

**Food service, equipment, and practices.**

~~(1) Early learning program staff preparing and/or serving food, including volunteers, must:~~

~~(a) Comply comply with the DOH's current Washington State Food and Beverage Workers' Manual; and~~

~~(b) Observe food preparation services. **Weight #6**~~

(b) Supervise services that prepare or deliver food to the early learning program. **Weight 5**

(1) <sup>[WH28]</sup> Early learning program staff preparing and/or serving food, including volunteers, must comply with the DOH's current Washington State Food and Beverage Workers' Manual and observe food preparation services when someone other than program staff are preparing food. **Weight #5**

(2) Snacks and meals must be prepared and served by a program staff person who possesses a valid and current Food Worker card pursuant to WAC 0106(14), unless the food is provided pursuant to WAC 170-300-0196(3). **Weight #6** 0

(3) An early learning provider must:

(a) Provide durable and developmentally appropriate individual eating and drinking equipment, or developmentally appropriate single use disposable items;

(b) Clean and sanitize eating and drinking equipment after each use. Water cups/bottles can be cleaned and sanitized daily if designated for a single child;

(c) Ensure plastic eating and drinking equipment does not contain BPA (a chemical used in hard plastic bottles and as a protective lining in food and beverage cans) or have cracks or chips;

(d) Use gloves, utensils, or tongs to serve food;

HS/ECEAP (d) more restrictive than necessary – avoid bare hand contact

~~(e) Serve each child individually or serve family style dining, allowing each child the opportunity to practice skills such as passing shared serving bowls and serving themselves;~~

(f) (e) Serve meals or snacks on plates, dishware, containers, or trays, or napkins or paper towels, if appropriate. Food should not be served directly on eating surface.;

FHP: Use "have a barrier between food and surface"

HS/ECEAP: "have a SAFE barrier"

~~(g) Sit with children during meals and snacks and engage in pleasant conversation, if family style dining is not possible; and~~

(h) (e) Be respectful of each child's cultural food practices.

Weight #5

(4) An early learning provider must:

(a) Serve each child individually or serve family style dining, allowing each child the opportunity to practice skills such as passing shared serving bowls and serving themselves; and

(b) Sit with children during meals and engage in pleasant conversation.

Weight 3

## **170-300-0196**

### **Food sources.**

(1) Food prepared and served from an early learning program must not be known to be tampered with or spoiled. **Weight #8**

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

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

(b) Home canned food;

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

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

(e) Food from roadside stands selling without a permit. **Weight #7-6**

(3) Food not prepared on-site by early learning program staff pursuant to WAC 170-300-0195(2) must be provided by:

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

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

(c) A manufacturer of prepackaged food. **Weight #6**

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

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

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

(c) Produce that shows signs of rotting must be discarded. **Weight #~~6~~3**

**Safe food practices.**

~~(1) Early learning provider staff must wash their hands prior to handling, preparing, and serving food, and ill staff members must not handle, prepare, or serve food.~~

~~Weight #7~~

~~(2) An early learning provider and staff must comply with the safe food storage, preparation, cooking, proper holding temperature, serving, and dishwashing guidelines in the current Washington State Food and Beverage Workers' Manual prepared by DOH. Weight #7~~

(1) Early learning provider staff **providers** must wash their hands prior to handling, preparing, and serving food, and ill staff members must not handle, prepare, or serve food. **pursuant to WAC 170-300-0200 (Handwashing and hand sanitizer).**

~~Weight #7-Weight NA~~

(2) An early **Early** learning providers and staff must **store, prepare, cook and hold food and wash dishes pursuant to WAC 170-300-0195 (Food service, equipment and practices).** comply with the safe food storage, preparation, cooking, proper holding temperature, serving, and dishwashing guidelines in the current Washington State Food and Beverage Workers' Manual prepared by DOH. ~~Weight #7-Weight NA~~

(3) For all foods ~~in the early learning provider's possession, including foods~~ offered by the provider or given to an enrolled child by a parent or guardian, the provider must:

(a) Provide appropriate refrigeration to preserve foods from spoiling. Foods that may be subject to spoiling include, but are not limited to, meats, cooked potatoes, cooked legumes, cooked rice, sprouts, cut melons, cut cantaloupes, milk, and cheese; and

~~(b) Refrigerate foods requiring refrigeration at 41 degrees Fahrenheit or less and freeze foods required to be frozen at 10 degrees Fahrenheit or less. Foods required to be frozen must not be allowed to thaw until such food is being prepared for immediate consumption. Weight #7 not agreed~~

(4) ~~Stored food must be described-~~ **Food must be stored** as follows:

(a) Food must be in original containers or in clean, labeled, dated, and airtight food grade containers, **if appropriate**. If refrigeration is not required, the container must be stored at least six inches off the floor;

(b) Food must be stored in a manner that prevents contamination from other sources;

(c) Food and food service items (such as utensils, napkins, and dishes) must not be stored in an area with toxic materials (such as cleaning supplies, paint, or pesticides);

(d) Food that is past the manufacturer's expiration or "best served by" date must be discarded; and

(e) Raw meat must be stored in the refrigerator or freezer below cooked or ready to eat foods. **Weight #7** [not agreed](#)

(5) For food requiring temperature control, a center early learning program must maintain a food temperature log by using a calibrated and working metal stem-type or digital food thermometer. **Weight #5**

(6) Prior to storing leftover food in a refrigerator or freezer, an early learning provider must label the food with the date ~~and time~~ the leftover food was opened or cooked. **Weight #5**

(7) An early learning provider may serve leftover food that originated from the early learning program if:

(a) The food was not previously served; ~~and~~

[\(b\) It was stored at the proper temperature for less than 48 hours after preparation; and](#)

(c) Leftover food may be frozen and served [promptly after thawing](#). **Weight #5** [not agreed](#)

(8) Frozen food must be thawed by one of the following methods:

(a) In a refrigerator;

(b) Under cool running water inside a pan placed in a sink with the drain plug removed; or

(c) In a microwave if the food is to be cooked immediately as part of the continuous cooking process. **Weight #6** [not agreed](#)

**170-300-0198**

**Food preparation areas.** [AL30]

(1) An early learning provider or staff must clean and sanitize food preparation [TC31] areas and eating surfaces before and after each use. **Weight #6**

(2) In an early learning program's food preparation area, kitchens must:

- (a) Have walls, counter tops, floors, cabinets, and shelves that are:
  - (i) Maintained in good repair including, but not limited to, being properly sealed without chips, cracks, or tears; and
  - (ii) Moisture resistant.
- (b) Have a properly maintained and vented range hood, exhaust fan, or operable window; and
- (c) Have a properly maintained and working refrigerator, freezer, or a combination refrigerator and freezer with sufficient space for proper storage and cooling of food.

**Weight #6**

(3) A center early learning program must have:

- (a) A handwashing sink separate from dishwashing facilities;
- (b) A food preparation sink located in the food preparation area; and
- (c) A method to clean and sanitize dishes, pans, and kitchen utensils and equipment in the food preparation area using:
  - (i) A two-compartment sink and an automatic dishwasher that reaches at least 155 degrees Fahrenheit; or
  - (ii) A three-compartment sink method (sink one is used to wash, sink two is used to rinse, sink three contains a sanitizer, and the dishes are allowed to air dry). **Weight #6** [CT32]

(4) ~~An~~ A family home early learning provider must:

- (a) Clean and sanitize a sink immediately before using it to prepare food to be served to children in care;
- (b) Use a colander or other method to prevent food and kitchen utensils from touching the sink basin; and
- (c) Dishes, pans, and kitchen utensils must be:
  - (i) Cleaned and sanitized by an automatic dishwasher that reaches at least 155 degrees Fahrenheit; or
  - (ii) Hand washed, rinsed, sanitized, and allowed to air dry. **Weight #6**

(5) An early learning provider may use the kitchen for supervised cooking or food preparation activities with children in care. **Weight #N/A**

## 170-300-0200

### Handwashing and hand sanitizer.

~~(1) Early learning program staff, including volunteers, must comply with the following handwashing procedures or those defined by the United States Center for Disease Control and Prevention, and children should strongly be encouraged to. DEL recommends the following steps:~~

- (a) Wet hands with warm water;
- (b) Apply soap to the hands;
- (c) Rub hands together to wash for at least 20 seconds;
- (d) Thoroughly rinse hands with water;
- (e) Dry hands with a paper towel, single-use cloth towel, or air hand dryer;
- (f) Turn water faucet off with using a paper towel or single use cloth towel unless it turns off automatically; and

(g) Properly discard paper single-use cloth towels after each use. **Weight # 0**

Licensors: There is discussion of taking (f) out....the DEL teams believes this is an important step in the process and follows DOH hand washing protocols.

(2) An early learning provider must wash and sanitize cloth towels after a single use. Soiled and used towels must be inaccessible to children. **Weight #6 Weight #4**

(3) To prevent children from being burned, air hand dryers must have a heat guard **(barrier that prevents user from touching heating element)** and turn off automatically. **Weight #6**

(4) Early learning program staff must wash their hands following handwashing procedures listed above:

- (a) When arriving at work;
- (b) After toileting a child;
- (c) Before, during, and after diapering a child ~~or~~ (use a wet wipe in place of handwashing during the middle of diapering only) and must wash hands after diapering is complete; [wz33]
- (d) After personal toileting;
- (e) After attending to an ill child;
- (f) Before and after preparing, serving, or eating food;
- (g) After handling raw or undercooked meat, poultry, or fish;
- (h) Before and after giving medication or applying topical ointment;
- (i) After handling, feeding, or cleaning up after animals;
- (j) After handling bodily fluids;
- (k) After using tobacco or vapor products;
- (l) After being outdoors;
- (m) After gardening activities;
- (n) After handling garbage and garbage receptacles; and
- (o) As needed or required by the circumstances. **Weight #7 Weight N/A**[wz34]

(5) Early learning program staff must direct, assist, teach, and coach, children to wash their hands, using the steps listed above:

ATTACHMENT B

- (a) When arriving at the early learning premises;
- (b) After using the toilet;
- (c) After diapering;
- (d) After outdoor play;
- (e) After gardening activities;
- (f) after playing with animals;
- (g) After touching body fluids such as blood or after nose blowing or sneezing;
- (h) Before and after eating or participating in food activities including table setting; and
- (i) As needed or required by the circumstances. ~~Weight #7~~ ~~Weight N/A~~<sup>[WZ35]</sup>

(6) ~~Hand sanitizers~~<sup>[WZ36]</sup> or hand wipes with alcohol may be used for adults and children over 24 months of age under the following conditions:

(a) ~~Traditional handwashing is not readily available such as during field trips~~ **when proper handwashing facilities are not** available ~~or after wiping a child's nose on the playground;~~

(b) Hands are not visibly soiled or dirty;

~~Weight N/A~~

(7) Children should be supervised when using hand sanitizers to avoid potential ingestion or contact with eyes, nose or mouths.

(a) Hand sanitizer should not be used in place of proper handwashing

**(b) An alcohol-based hand sanitizer must contain 60-95% alcohol to be effective**

~~Weight #7~~

Does hand sanitizer require the medical form? YES

**Licensors: DEL would like to call out a need for training regarding the use of hand wipes that do not contain alcohol as an alternative that does not pose risk to children.**

## 170-300-0205

### Child, staff, and household member illness.

(1) An early learning provider must ~~check~~observe all children for signs of illness when they arrive at the early learning program and throughout the day. Parents or guardians of a child should be notified as soon as possible if the child develops signs or symptoms of illness. **Weight #6**

(2) If an early learning provider becomes ill, a Licensee, Center Director, Assistant Director, or Program Supervisor must determine whether that person should be required to leave the ~~premises~~licensed early learning space. **Weight #6**

~~(3) When a child becomes ill, a Licensee, Center Director, Assistant Director, or Program Supervisor~~ and early learning provider or school nurse when applicable must determine whether the child should be sent home and/or isolated from others. ~~When isolation is necessary, an early learning provider must provide a mat or cot in an area away from other children.~~ A provider must supervise the child to reasonably prevent contact between the ill child and healthy children. **Weight #6**

(4) An ill child must be sent home or reasonably isolated from other children;  
(a) If the illness or condition prevents the child from participating in normal activities;  
(b) If the illness or condition requires more care and attention than the early learning provider can give;  
(c) If the required amount of care for the ill child compromises or places at risk the health and safety of other children in care; or  
(d) If there is a risk that the child's illness or condition will spread to other children or individuals. **Weight #7-6**

(5) Unless covered under an individual care plan or protected by the ADA, an ill child, staff member, or other individual must be sent home or isolated from children in care if he or she has:

(a) A fever equal to or greater than 100 degrees Fahrenheit for a person's temperature measured under the arm or by a forehead (temporal artery) scanner. Fever alone does not require that a child be sent home unless accompanied by other symptoms;

(b) A fever 101 degrees Fahrenheit measured orally for preschool age children or older. Fever alone does not require that a child be sent home unless accompanied by other symptoms;

(c) An earache, headache, sore throat, or vomiting;

(d) Diarrhea that includes more than one abnormally loose, runny, or watery stool, or one bloody stool;

(e) A rash not associated with heat, diapering, or an allergic reaction;

(f) Drainage of thick mucus or pus from the eye or nose;

(g) Open sores or wounds discharging bodily fluids;

(h) Lice or scabies. Individuals with head lice or scabies must be excluded from the child care premises beginning from the end of the day the head lice or scabies was discovered. The provider may allow An individual with head lice or scabies may to

return to the premises after receiving the first ~~head lice~~ treatment. ~~An individual with scabies may return 24 hours following the beginning of treatment;~~ (Please check caring for our children and ensure that this should be the same requirement)  
or

(i) Fatigue that prevents participation in regular activities. **Weight #7\_0**

(6) At the first opportunity, but in no case longer than 24 hours of learning that an enrolled child, staff member, volunteer, or household member has been diagnosed by a health care professional with a contagious condition listed in the current DOH Notifiable Conditions List

(<http://www.doh.wa.gov/ForPublicHealthandHealthcareProviders/NotifiableConditions/ListofNotifiableConditions>), an early learning provider must provide written notice to:

(a) The department and DOH or the local health jurisdiction; and

(b) Parents or guardians of each of the children in care. **Weight #7**

List needs to be provided by DEL – DOH list doesn't break out "contagious" conditions

(7) An early learning provider must not take ear or rectal temperatures to determine a child's body temperature.

(a) Providers must use developmentally appropriate methods when taking infant or toddler temperatures (for example, digital forehead scan thermometers or underarm auxiliary methods);

(b) Oral temperatures may be taken for preschool through school-age children if single use covers are used to prevent cross contamination; and

(c) Glass thermometers containing mercury must not be used. **Weight #6**

(8) An early learning provider may readmit a child into care or a staff member, volunteer, or household member into the early learning program area with written notification from DOH or a health care provider stating the individual may safely return after being diagnosed with a condition from the current DOH Notifiable Conditions List. **Weight #5**

(9) An early learning provider must follow its Health policy (WAC 170-300-0500) before readmitting a child into the program, allowing staff or volunteers to continue work, or allowing household members to participate in child care activities. **Weight #6**