RULE-MAKING ORDER
EMERGENCY RULE ONLY

CR-103E (December 2017)
(Implements RCW 34.05.350 and 34.05.360)

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FILED

DATE: June 11, 2026
TIME: 3:10 PM

WSR 26-13-050

Agency: Department of Children, Youth, and Families (DCYF)

Effective date of rule:

Emergency Rules

☒ Immediately upon filing.

☐ Later (specify)

Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

☐ Yes ☒ No If Yes, explain:

Purpose: The DCYF Licensing Division is amending the following WACs based on Engrossed Substitute House Bill 2219 related to the enhanced operational efficiency of child care providers :

- 110-300-0005 Definitions.
- 110-301-0005 Definitions.
- 110-302-0005 Definitions.
- 110-300-0105 Preservation requirements.
- 110-301-0105 Preservation requirements.
- 110-302-0105 Preservation requirements.
- 110-300-0356 Center capacity, ratio, and group size.
- 110-300-0357 Center mixed age group capacity, ratio, and group size.
- 110-300-0400 Application.
- 110-301-0400 Application.
- 110-302-0400 Application.
- 110-300-0420 Prohibited Substances.
- 110-301-0420 Prohibited Substances.
- 110-302-0420 Prohibited Substances.

Citation of rules affected by this order:

New:

Repealed:

Amended: 110-300-0005, 110-301-0005, 110-302-0005, 110-300-0105, 110-301-0105, 110-302-0105, 110-300-0356, 110-300-0357, 110-300-0400, 110-301-0400, 110-302-0400, 110-300-0420, 110-301-0420, and 110-302-0420

Suspended:

Statutory authority for adoption: Engrossed Substitute House Bill 2219, Chapter 43.216 RCW

Other authority: N/A

EMERGENCY RULE

Under RCW 34.05.350 the agency for good cause finds:

☒ That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.

☐ That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding: These rule amendments are needed to comply with Engrossed Substitute House Bill 2219.

Note: If any category is left blank, it will be calculated as zero. No descriptive text.

Count by whole WAC sections only, from the WAC number through the history note. A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New		Amended		Repealed	
Federal rules or standards:	New		Amended		Repealed	
Recently enacted state statutes:	New		Amended	14	Repealed	

The number of sections adopted at the request of a nongovernmental entity:

	New		Amended		Repealed	

The number of sections adopted on the agency's own initiative:

	New		Amended		Repealed	

The number of sections adopted in order to clarify, streamline, or reform agency procedures:

	New		Amended		Repealed	

The number of sections adopted using:

Negotiated rule making:	New		Amended		Repealed	
Pilot rule making:	New		Amended		Repealed	
Other alternative rule making:	New		Amended	14	Repealed	

Date Adopted: June 11, 2026	**Signature:**
Name: Brenda Villarreal	
Title: DCYF Rules Coordinator	

AMENDATORY SECTION (Amending WSR 26-09-080, filed 4/14/26, effective 5/15/26)

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

"Abuse or neglect" means the same as defined in RCW 26.44.020.

"Accessible to children" means items, areas or materials of an early learning program that a child can reasonably reach, enter, use, or get to on their own.

"Accommodations" means program curriculum and instruction, activities, spaces, and materials that have been adapted to help children and adults with special need function within their surroundings.

"Active supervision" or "actively supervise" means a heightened standard of care beyond supervision. This standard requires early learning providers to see and hear the children they are responsible for during higher risk activities. Providers must be able to prevent or instantly respond to unsafe or harmful events.

"ADA" refers to the Americans with Disabilities Act, 42 U.S.C. Sec. 12101, et seq.

"Aide" is a person who offers support to early learning program staff.

"Allergy" or "allergies" refers to an overreaction of the immune system to a substance that is harmless to most people. During an allergic reaction, the body's immune system treats the substance or "allergen" as an invader. The body overreacts by releasing chemicals that may cause symptoms ranging from mildly annoying to life threatening. Common allergens include certain foods (milk, eggs, fish, shellfish, common tree nuts, peanuts, wheat, and soybeans) pollen, mold, or medication.

"Annual" or "annually" means an event that occurs each calendar year, not to exceed 365 days between occurrences.

"Applicant" means an individual who has made a formal request for a child care license, certification, exemption, or portable background check.

"Appropriate" when used to refer to child care or educational materials means that the materials will interest and challenge children in terms of their ages and abilities.

"Appropriately" means correct or properly suited for a particular situation.

"Asexual" means the lack of a sexual attraction or desire for other individuals.

"Assistant director" is a person responsible for the overall management of the center early learning program including the facility and operations.

"Assistant teacher" is a person whose work is to assist a lead teacher or licensee in providing instructional supports to children and implementing a developmentally appropriate program. The assistant must carry out assigned tasks under the supervision of a lead teacher, program supervisor, director, assistant director, or licensee.

"ASTM" refers to the American Society for Testing and Materials.

"Bathroom" means a room containing a built-in, flush-type toilet.

"Bias" means a tendency to believe that some people or ideas are better than others that usually results in treating some people unfairly.

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

"Body of water" or "bodies of water" is a natural area or human-made area or device that contains or holds a depth of more than two inches of water. Examples include swimming pools, ditches, canals, fish ponds, water retention areas, excavations, and quarries.

"CACFP" means the Child and Adult Care Food Program established by Congress and funded by the United States Department of Agriculture (USDA).

"Cannabis" (also known as "marijuana") refers to all parts of the cannabis plant, whether growing or not, the seeds thereof, the resin or concentrate extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

"Capacity" means the maximum number of children early learning providers are authorized by the department to have in care at any given time. This includes any children on-site at the early learning program and any children in transit to or from the program or other activities such as field trips while the children are signed in to the care of the program.

"Center early learning program" is a facility providing regularly scheduled care for a group of children birth through 12 years of age for periods of less than 24 hours a day, pursuant to RCW 43.216.010 (1)(a) (child day care center).

"Center early learning program licensee" or "center licensee" means an entity licensed and authorized by the department to operate a center early learning program.

"Certificate of exemption (COE)" has the same meaning in this chapter as in WAC 246-105-020.

"Certificate of immunization status" has the same meaning in this chapter as in WAC 246-105-020.

"Certificate of occupancy" means a document issued by a local government agency or building department that certifies a building complies with applicable building codes and other laws and indicates that the building is in a condition suitable for occupancy.

"Certification" means department approval of a person, home, or facility that is exempt from licensing but requests evidence that the program meets these foundational licensing standards.

"Child" means an individual who is younger than age 13, including any infant, toddler, preschool-age child, or school-age child as defined in this chapter.

"Child care" refers to supervision of children outside the child's home for periods of less than 24 hours a day.

"Child care basics (CCB)" means curriculum designed to meet the initial basic training requirement for early learning program staff working in licensed or certified programs in Washington state. It serves as a broad introduction for professionals who are pursuing a career in the early care and education field.

"Chromated copper arsenate (CCA)" is a wood preservative and insecticide that contains roughly 22 percent arsenic, a known carcinogen. The United States restricted the use of CCA on residential lumber in 2003, but it can still be found on older decks and playground equipment. Information about the health hazards of arsenic can be found on the department of health's website.

"Clean" or "cleaning" means to remove dirt and debris from a surface by scrubbing and washing with a detergent solution and rinsing with water. This process must be accomplished before sanitizing or disinfecting a surface.

"Confidential" means the protection of personal information, such as the child's records, from individuals who are not authorized to see or hear the information.

"Consistent care" means providing steady opportunities for children to build emotionally secure relationships by primarily interacting with a limited number of early learning program staff.

"Contagious disease" means an illness caused by an infectious agent of public health concern which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission through an intermediate host or vector, food, water, or air. Contagious diseases pertinent to this chapter are described in WAC 246-110-010.

"Continuous" means without interruptions, gaps, or stopping.

"Core competencies" are standards required by the department that detail what early learning providers need to know and are able to do to provide quality care and education for children and their families.

"CPSC" means the United States Consumer Product Safety Commission.

"Cultural" or "culturally" means in a way that relates to the ideas, customs, and social behavior of different societies.

"Curriculum philosophy" means a written statement of principles developed by an early learning provider to form the basis of the learning program of activities, including age appropriate developmental learning objectives for children.

"DCYF" or "the department" refers to the Washington state department of children, youth, and families.

"Developmental screening" is the use of standardized tools to identify a child at risk of a developmental delay or disorder. (Source: American Academy of Pediatrics, *Healthy Child Care America, 2009).*

"Developmentally appropriate" means:

(a) Early learning providers interact with children in a way that recognizes and respects each child's chronological and developmental age;

(b) Knowledge about how children grow and learn;

(c) Reflects the developmental level of the individual child; and

(d) Interactions and activities are planned with the developmental needs of the individual child in mind.

"Director" means the person responsible for the overall management of a center early learning program including the facility and operation.

"Disability" or "disabilities" has the same meaning in this chapter as in RCW 49.60.040(7), the Washington law against discrimination.

"Discipline" means a method used to redirect a child in order to achieve a desired behavior.

"Disinfect" means to eliminate virtually all germs from an inanimate surface by the process of cleaning and rinsing, followed by:

(a) The application of a fragrance-free chlorine bleach and water solution following the department of health's current guidelines for mixing bleach solutions for child care and similar environments; or

(b) The application of other disinfectant products registered with the EPA, if used strictly according to the manufacturer's label instructions including, but not limited to, quantity, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled "safe for food contact surfaces."

"Disinfectant" means a chemical or physical process that kills bacteria and viruses.

"Drinking water" or "potable water" is water suitable for drinking by the public as determined by the Washington state department of health or a local health jurisdiction.

"Drug paraphernalia" means the same as defined in RCW 69.50.4121.

"Dual language learners" refers to children who are learning two or more languages at the same time. This term includes children who learn two or more languages from birth, and children who are still mastering their home language when they are introduced to and start learning a second language. (Source: The *Washington State Early Learning and Development Guidelines*.)

"Early achievers" is a statewide system of high-quality early learning that connects families to early learning programs with the help of an easy to understand rating system and offers coaching, professional development, and resources for early learning providers to support each child's learning and development.

"Early childhood education and assistance program (ECEAP)" is a comprehensive preschool program that provides free services and support to eligible children and their families.

"Early childhood education (ECE) initial certificate" (12 quarter credits) is Washington's initial certificate in early childhood education and serves as the point of entry for a career in early learning and covers foundational content for early learning professionals.

"Early childhood education (ECE) short certificate," an initial certificate plus eight quarter credits, is Washington state's short certificate in early childhood education and offers areas of specialization, building on the state's initial certificate.

"Early childhood education (ECE) state certificate," a short certificate plus 27 quarter credits, is Washington state's certificate in early childhood education and is the benchmark for Level 2 core competencies for early care and education professionals and prepares for the next step, an associate's degree in early childhood education.

"Early learning program" refers to regularly scheduled care for a group of children birth through 12 years of age for periods of less than 24 hours, licensed by the department.

"Early learning program space" means the licensed indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

"Early learning program staff" refers to all persons who work, substitute, or volunteer in an early learning program during hours when children are or may be present, excluding licensees.

"Early learning provider" or "provider" refers to an early learning licensee or designee who works in an early learning program during hours when children are or may be present. Designees include center directors, assistant directors, program supervisors, lead teachers, assistants, aides, and volunteers.

"Electronic record" means a record generated, communicated, received or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

"Electronic workforce registry" refers to DCYF's current database of professional records of individual early learning providers.

"Emergency preparedness" means a continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action in an effort to ensure effective coordination in case of emergencies or during incident response.

"Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(3). An early learning provider may contest enforcement actions and seek an adjudicative proceeding pursuant to chapter 110-03 WAC.

"EPA" means the United States Environmental Protection Agency.

"Equivalency" when referring to staff qualifications means an individual is allowed to meet the requirements of this chapter through a department recognized alternative credential, or demonstration of competency, that indicates similar knowledge as the named credential.

"Exempt" or "exemption" means, as applied to immunizations, a type of immunization status where a child has not been fully immunized against one or more vaccine preventable diseases required by chapter 246-105 WAC for full immunization due to medical, religious, philosophical or personal reasons. Under chapter 362, Laws of 2019, if a child plans on attending or is attending a center early learning program, a philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.

"Expel" or "expulsion" means to end a child's enrollment in an early learning program. An early learning provider will end a child's enrollment if the provider is unable to meet a child's needs due to the child's challenging behavior.

"Family home early learning program" means an early learning program licensed by the department where a family home licensee provides child care or education services for 12 or fewer children in the family living quarters where the licensee resides as provided in RCW 43.216.010 (1)(c) (family day care provider).

"Family home early learning program licensee" or "family home licensee" means an individual licensee authorized by the department to operate a family home early learning program within the licensee's family living quarters.

"Family living quarters" means a family home licensee or applicant's residence and other spaces or building on the premises.

"Food worker card" means a food and beverage service worker's permit as required under chapter 69.06 RCW.

"Foundational quality standards" refers to the administrative and regulatory requirements contained within this chapter. These standards are designed to promote the development, health, and safety of children enrolled in center and family home early learning programs. The department uses these standards to equitably serve children, families, and early learning providers throughout Washington state.

"Gay" means physically attracted to someone of the same gender. Gay is sometimes an umbrella term for the LGBTQIA+ community.

"Gender" or "gender identity" means an individual's inner sense of being a female, male, a blend of both or neither, or another gender. This may or may not correspond with an individual's sex assigned at birth.

"Gender expression" means individuals' outward communication of their gender through behavior or appearance. This may or may not conform to their sex assigned at birth or socially defined behaviors and characteristics typically associated with being either masculine or feminine.

"Gender fluid" means individuals whose gender identities are flexible, not permanent.

"Good repair" means about 80 percent of materials and components are unbroken, have all their pieces, and can be used by children as intended by the manufacturer or builder.

"Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of Washington state to provide health care in the ordinary course of business or practice of a profession.

"High-potency synthetic opioids" means the same as defined in RCW 13.34.030.

"Household member" means one or more individuals who live in the same dwelling or share living arrangements, and may consist of family relatives or other groups of people.

"Imminent physical harm" means the presence of high-potency synthetic opioids or drug manufacturing equipment in the licensed facility or program space.

"Immunization" is the process of administering a vaccine to make a person immune or resistant to an infectious disease.

"Inaccessible to children" means a method to prevent a child from reaching, entering, using, or getting to items, areas, or materials of an early learning program.

"Inactive" when used by the department to indicate a licensing status, means early learning providers who have requested and have been approved to temporarily cease caring for children and close their early learning program.

"Individual care plan" means a specific plan to meet the individual needs of a child with a food allergy, special dietary requirement due to a health condition, other special needs, or circumstances.

"Infant" is a child birth through 11 months of age.

"In-service training" means professional development requirements for continuing education delivered or approved by the department to maintain staff standards and qualifications while employed as an early learning provider.

"Inspection report" means a written or digital record developed by the department that identifies violations of licensing standards. An inspection report is separate from and does not include a facility licensing compliance agreement (FLCA).

"Internal review process" has the same meaning in this chapter as in RCW 43.216.395, as now or hereafter amended.

"Intersex" is an umbrella term used to describe a wide range of natural bodily variations when the body is born with a combination of chromosomes, internal organs, or external genitalia that do not develop as expected.

"Lead teacher" means an early learning provider who works as the lead staff person in charge of a child or group of children and implements activity programs.

"Lesbian" means females or women who have an emotional or physical attraction for other females or women.

"LGBTQIA+" means lesbian, gay, bisexual, transgender, queer or questioning, intersex, and asexual. The "+" represents identities not specifically named in the LGBTQIA acronym (e.g., pansexual, gender nonbinary, and Two-spirit).

"License" means a permit issued by the department legally authorizing an applicant to operate an early learning program.

"Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

"Licensee" means an individual or legal entity listed on a license issued by the department, authorized to provide child care or early learning services in a center or family home setting.

"Lockdown" means restricted to an interior room with few or no windows while the facility or building is secured from a threat.

"Locking mechanism" means a lock that requires a key, tumbler, dial, passcode, touchpad, or similar device or method to lock and unlock.

"Modification" when used in reference to an early learning provider's licensing status, means an enforcement action by the department to change the conditions identified on a licensee's current license.

"Nonbinary" is a term of self-identification for individuals who do not identify within the limited and binary terms that have described gender identity, e.g., female and male. Nonbinary is also an umbrella term for many identities such as gender expansive, gender fluid, and genderqueer.

"Nonexpiring license" means a license that is issued to an early learning provider following the initial licensing period, pursuant to chapter 43.216 RCW.

"Operating hours" means the hours listed in an early learning program parent handbook when the program is open and providing care and services to children.

"Parent" or "guardian" means birth parent, custodial parent, foster parent, legal guardian or those authorized by the parent or entity legally responsible for the welfare of the child.

"Peer interaction" refers to relationships children have with one another, which includes how infants and toddlers play near one another and how preschoolers play together, communicate, and whether they fight or get along.

"Personal needs" means an early learning provider's toileting or medication needs. Personal needs do not include smoking or use of tobacco products, illegal drug use or misuse or prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unattended.

"Pest" means an animal, plant, or insect that has a harmful effect on humans, food, or living conditions.

"Pesticide" refers to chemicals used to kill pests.

"Pet" means a domestic or tamed animal or bird kept for companionship or pleasure.

"Physical barrier" means a nonclimbable fence or wall that is at least five feet tall and has no openings greater than two inches or a gate or door that allows entry to and exit from a body of water and has the following requirements in addition to those already listed: A locking mechanism, a self-closing or self-latching device, and a device used to open the locks which is inaccessible to children but readily available to staff.

"Physical restraint" means holding a child as gently as possible for the minimum amount of time necessary to control a situation where that child's safety or the safety of others is threatened.

"Poison" includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such as water or salt), or similar items that even in small quantities, are

likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes.

"Premises" means the licensed and unlicensed space at the licensed address including, but not limited to, buildings, land, and residences.

"Preschool-age children" means children 30 months through six years of age not attending kindergarten or elementary school.

"Preservice training" means professional development standards or requirements for early learning program staff prior to hiring or within a department specified time frame and delivered or approved by the department.

"Private septic system" means a septic system as defined in chapter 246-272A WAC that is not connected to a public sewer system or a large on-site sewage system as defined in chapter 246-272B WAC. A private septic system includes, but is not limited to, the septic system's drain field and tanks.

"Probationary license" has the same meaning as in RCW 43.216.010(23).

"Professional development support plan" is a formal means by which an individual who is supervising staff sets out the goals, strategies, and outcomes of learning and training.

"Program supervisor" means the center early learning provider responsible for planning and supervising the learning and activity program.

"Queer" is a term used to express LGBTQIA+ identities and orientations. The term is sometimes used as an umbrella term for all LGBTQIA+ individuals.

"Questioning" means individuals who are exploring their sexual orientation, gender identity, or gender expression at any age.

"RCW" means the Revised Code of Washington.

"Readily available" means able to be used or obtained quickly and easily.

"Revocation" or "revoke" when used in reference to an early learning provider's licensing status, means an enforcement action by the department to close an early learning program and permanently remove the license.

"Routine care" means typical or usual care provided to a child during the time the child is enrolled in the early learning program, for example, feeding, diapering, toileting, napping, resting, playing, and learning.

"Safe route" means a way or course taken to get from a starting point to a destination that is protected from danger or risk.

"Safety plan" means a written plan to implement program changes to bring an early learning program into compliance with this chapter and chapter 43.216 RCW. Safety plans are developed at meetings involving at least an early learning provider and a department licensor and supervisor. Safety plans detail changes the provider needs to make to mitigate the risk of direct and indirect harm to children enrolled in the early learning program. Program changes must be agreed to in writing and signed by all participants at the meeting. Safety plans expire 30 calendar days after being signed by all parties. Safety plans may only be extended for an additional 30 calendar days and extensions may only be authorized by a department supervisor.

"Sanitize" means to reduce the number of microorganisms on a surface by the process of:

(a) Cleaning and rinsing with water at a high temperature pursuant to this chapter; or

(b) Cleaning and rinsing, followed by using:

(i) A fragrance-free chlorine bleach and water solution following the department of health's current guidelines for mixing bleach solutions for child care and similar environments; or

(ii) Other sanitizer product if it is registered with the EPA and used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as "safe for food contact surfaces."

"School-age children" means a child who is five years of age through 12 years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

"Screen time" means watching, using, or playing television, computer, video games, video or DVD players, mobile communication devices, or similar devices.

"Serious injury" means an injury resulting in an overnight hospital stay; a severe neck or head injury; choking or serious unexpected breathing problems; severe bleeding; shock or an acute confused state; sudden unconsciousness; dangerous chemicals in eyes, on skin, or ingested; near drowning; one or more broken bones; a severe burn requiring professional medical care; poisoning; or an overdose of a chemical substance.

"Sexual orientation" means an individual's emotional or physical attraction to other individuals.

"Shelter in place" means staff and children staying at the facility due to an external threat such as a storm, chemical or gas leak or explosion, or other event that prohibits the occupants from safely leaving the facility.

"Sign" means an individual formally placing their name or legal mark on a document by physical signature or electronic signature.

"Sleep equipment" or "sleeping equipment" includes a bed, cot, mattress, mat, crib, bassinet, play pen, play yard or "pack and play" but does not include a car seat or infant swing.

"SOGIE" is an acronym for sexual orientation, gender identity, and expression which are distinct identifiers everyone has. LGBTQIA+ is a subdistinction within SOGIE self-identifiers. SOGIE includes LGBTQIA+ as well as heterosexual, cisgender, and nonquestioning individuals.

"Special needs" is a term used for children who require assistance due to learning difficulties, physical disability, or emotional and behavioral difficulties and who have documentation in the form of an individual educational plan (IEP), individual health plan (IHP), 504 plan, or an individualized family service plan (IFSP).

"Staff" means any early learning provider providing care in the early learning program.

"Strengthening families program self-assessment" refers to a research informed approach to increase family strengths, enhanced child development, and reduce the likelihood of child abuse and neglect. It is based on engaging families, programs, and communities in building five protective factors:

(a) Parental resilience;

(b) Social connections;

(c) Knowledge of parenting and child development;

(d) Concrete support in times of need; and

(e) Social and emotional competence of children.

"Supervise" or "supervision" means an early learning provider must be able to see or hear the children they are responsible for at all times. Early learning providers must use their knowledge of each child's development and behavior to anticipate what may occur to prevent unsafe or unhealthy events or conduct, or to intervene in such circumstances as soon as possible. Early learning providers must also reposition themselves or the children to be aware of where children are and what they are doing during care. An early learning provider must reassess and adjust their supervision each time child care activities change. See "active supervision" for a heightened standard of care.

"Suspend" when used in reference to an early learning provider's licensing status, means an enforcement action by the department to temporarily stop a license in order to protect the health, safety, or welfare of enrolled children or the public.

"Swimming pool" means a pool that has a water depth greater than two feet (24 inches).

"Technical assistance" means a service provided to early learning providers by department staff or a contracted third party. The goal of technical assistance is to offer guidance, information, and resources to help a provider fully comply with the licensing requirements of this chapter and chapter 43.216 RCW.

"Toddler" means a child 12 months through 29 months of age.

"Transgender" is an umbrella term for individuals whose gender identity or expression is different from cultural expectations based on the sex they were assigned at birth. Gender-affirming medical care is not a prerequisite to identify as transgender. Being transgender does not imply any specific sexual orientation.

"Transition" is the process or period of time to change from one activity, place, grade level, or sleeping arrangement to another.

"Tummy time" means placing an infant in a nonrestrictive prone position, lying on their stomach when not in sleeping equipment.

"Two-spirit" means a modern, pan-indigenous umbrella term used by some indigenous North Americans to describe Native people in their communities who fulfill a traditional third-gender or other gender-variant, ceremonial, and social role in their cultures. Being Two-spirit does not imply any specific sexual orientation.

"Unlicensed space" means the indoor and outdoor areas of the premises not approved by the department as licensed space that the early learning provider must make inaccessible to the children during child care hours.

"Unsupervised access" as used throughout this chapter has the same meaning as in WAC 110-06-0020.

"Usable space" means the areas that are available at all times for use by children in an early learning program and meets licensing requirements.

"USDA" means the U.S. Department of Agriculture.

"Vapor product" means any:

(a) Device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(b) Cartridge or container of a solution or substance intended to be used with or in such a device or to refill such a device; or

(c) Solution or substance intended for use in such a device including, but not limited to, concentrated nicotine, nonnicotine substances, or supplemental flavorings. This includes any electronic cigarettes, electronic nicotine delivery systems, electronic cigars,

electronic cigarillos, electronic pipes, hookahs, steam stones, vape pens, or similar products or devices, as well as any parts that can be used to build such products or services. "Vapor product" does not include any drug, device, or combination product approved for sale by the United States Food and Drug Administration that is marketed and sold for such approved purpose.

"Variance" is an official approval by the department to allow an early learning program to achieve the outcome of a rule or rules in this chapter in an alternative way than described due to the needs of a unique or specific program approach or methodology. The department may grant a request for variance if the proposed alternative provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. An early learning provider does not have the right to appeal the department's disapproval of request for variance under chapter 110-03 WAC. The provider may challenge a variance disapproval on a department form.

"Volunteer" includes any person who provides labor or services to an early learning provider but is not compensated with employment pay or benefits. A volunteer must never have unsupervised access to a child unless the volunteer is the parent or guardian of that child or is an authorized person pursuant to WAC 110-300-0345 (1)(c). "Unsupervised access" has the same meaning here as in WAC 110-06-0020.

"WAC" means the Washington Administrative Code.

"Wading pool" means a pool that has a water depth of less than two feet (24 inches).

"Waiver" is an official approval by the department allowing an early learning provider not to meet or satisfy a rule in this chapter due to specific needs of the program or an enrolled child. The department may grant a request for waiver if the proposed waiver provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. An early learning provider does not have the right to appeal the department's disapproval of a waiver request under chapter 110-03 WAC. The provider may challenge a waiver disapproval on a department form.

"Walking independently" means an individual is able to stand and move easily without the aid or assistance of holding on to an object, wall, equipment, or another individual.

"Washington state early learning and development guidelines" refers to guidelines published by the department, the Washington state office of superintendent of public instruction (OSPI), and thrive Washington for children birth through third grade that outlines what children know and are able to do at different stages of their development.

"Water activities" means early learning program activities in which enrolled children swim or play in a body of water that poses a risk of drowning for children. Water activities do not include using sensory tables.

"Weapon" means an instrument or device of any kind that is used or designed to be used to inflect harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.

"WLAD" means the law against discrimination, chapter 49.60 RCW.

"Written food plan" is a document designed to give alternative food to a child in care because of a child's medical needs or special diet, or to accommodate a religious, cultural, or family preference. A

parent or guardian and the early learning provider must sign a written food plan.

AMENDATORY SECTION (Amending WSR 21-15-023, filed 7/12/21, effective 8/12/21)

WAC 110-300-0105 Preservice requirements. (1) The requirements for department-provided orientations for early learning programs are as follows:

(a) All applicants, co-applicants, family home licensees, center directors, assistant directors, and program supervisors must complete ((~~a department provided orientation for the applicable early learning program. Prior to~~)) or be registered for department-provided orientations:

(i) Based on the type of service they provide, either the:

(A) Family home early learning program orientation; or

(B) Center early learning program orientation;

(ii) Before being in charge of the early learning program ((~~fifty~~)) 50 percent or more of the time ((~~or more, those newly promoted or assuming a role of one of the roles listed here must complete or be registered in orientation training~~));

(iii) Unless they have received a waiver from the department as outlined in (b) of this subsection;

(b) The department will waive the early learning program preservice requirement to complete a department-provided orientation when individuals have previously completed the orientation and:

(i) It has been less than five years since their completion of the orientation;

(ii) The orientation content and licensing process have not substantially changed since the date of their completion; and

(iii) The individual has not had a break in service working:

(A) As a licensed child care provider; or

(B) In a licensed child care facility.

(2) Early learning providers and household members in a family home early learning program must complete and pass a department background check, pursuant to chapter 110-06 WAC.

(3) Early learning providers, including volunteers and household members, in a family home early learning program ages ((~~fourteen~~)) 14 and over, must provide documentation signed within the last ((~~twelve~~)) 12 months by a licensed health care professional of tuberculosis (TB) testing or treatment consisting of:

(a) A negative TB symptom screen and negative TB risk assessment;

(b) A previous positive FDA-approved TB test and a current negative chest radiograph and documentation of clearance to safely work or reside in an early learning program; or

(c) A positive symptom screening or a positive risk assessment with documentation of a:

(i) Current negative FDA-approved TB test;

(ii) Previous or current positive FDA-approved TB test; and

(iii) Current negative chest radiograph and documentation of clearance to safely work or reside in an early learning program.

(4) Upon notification of TB exposure, early learning providers may be required to be retested for TB as directed by the local health jurisdiction.

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

WAC 110-300-0356 Center capacity, ratio, and group size. (1) The department issues initial or nonexpiring center early learning provider licenses. The department will not issue a center license to care for more children than permitted by the rules in this chapter. The department may issue a license to care for fewer than the maximum allowable enrolled children. For each center, licenses state:

(a) The maximum number of children that may be in care at any one time (total capacity);

(b) The licensed capacity for each space within the center licensed for use by children; and

(c) The age range of children allowed in care.

(2) The department determines capacity for a center early learning program after considering:

(a) Square footage of the early learning program;

(b) A provider's education and ongoing training;

(c) The age range of children requested or approved by the department;

(d) The amount of developmentally appropriate equipment, materials, and toys an early learning program can provide children to use;

(e) A provider's licensing history with the department; and

(f) The number of qualified staff available to meet staff-to-child ratios.

(3) A center licensee must not exceed the total capacity or age range stated on the child care license at any time except as provided in this section. All children on the premises, signed in to child care, on an off-site trip from the early learning program, or being transported by the early learning program staff are counted in capacity including the children of staff.

(a) A center licensee must receive department approval to care for a child with special needs, pursuant to WAC 110-300-0300, if the child is older than the maximum age identified on the license. A child with documented special needs may be in care up to age ((~~nineteen~~)) 19 and must be counted in capacity and staff-to-child ratio((~~.~~))*;*

(b) A child with special needs who requires individualized supervision pursuant to WAC 110-300-0300 does not count in the staff-to-child ratio((~~.~~))*; and*

(c) A child who turns ((~~thirteen~~)) 13 years old permitted by chapter 110-15 WAC must be counted in both capacity and staff-to-child ratio.

(4) A center licensee must provide qualified staff to fulfill staffing requirements, staff-to-child ratios, group size, and mixed age grouping during operating hours, including off-site activities or when transporting children in care.

(5) In each classroom or well-defined space, the maximum group size and ratio of center staff members to children, including children related to staff or the licensee, must be:

(a) Infants (birth through ((~~eleven~~)) 11 months of age) with a:

(i) Maximum group size of eight with a ratio of one staff to four children (1:4);

(ii) Maximum group size of nine with a ratio of 1:3((~~.~~))*;*

(b) Toddlers (((~~twelve through twenty-nine~~)) 12 through 29 months of age) with a:

(i) Maximum group size of ((~~fourteen~~)) 14 with a ratio of 1:7;

(ii) Maximum group size of ((~~fifteen~~)) 15 with a ratio of 1:5((~~.~~));

(c) Preschoolers (((~~thirty~~)) 30 months through six years of age who are not attending kindergarten or elementary school) with a maximum group size of ((~~twenty~~)) 20 with a ratio of 1:10; and

(d) School-age children (five years through ((~~twelve~~)) 12 years of age who are enrolled in or attending kindergarten or elementary school) with a maximum group size of ((~~thirty~~)) 30 with a ratio of 1:15.

(6) A center licensee may combine children of different age groups ((~~for periods of no more than the first two hours of the day or the last two hours of the day, not to exceed two hours in any given day~~)), provided the staff-to-child ratio and group size designated for the youngest child in the mixed group are maintained for up to:

(a) Two and a half hours per day, on a schedule established by the center; or

(b) Four hours per day, on a schedule established by the center, if at least 90 minutes of that time is reserved for allowing meal and rest breaks for center staff.

(7) Children at least five years old and enrolled in or attending kindergarten may be a part of the preschool or school-age group if developmentally appropriate and the child's parent or guardian agrees to this placement.

(8) A center licensee must conduct activities for each group of children in a specific room or other defined space within a larger area.

(9) A center licensee must provide additional staff as described in WAC 110-300-0350 when children are participating in water activities or activities near water.

(10) When only one center staff is required to care for the only group of children on-site for up to an hour at the beginning or end of the day, the center licensee must ensure:

(a) That staff member provides an appropriate level of supervision at all times to the children in care;

(b) That staff member is free of all other duties while providing care to children; and

(c) A second individual with a cleared background check is on-site and readily available to respond if needed, or the department approves an alternate plan.

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

WAC 110-300-0357 Center mixed age group capacity, ratio, and group size. (1) A center early learning program must ((~~do the following to mix~~)) complete the following to be approved and licensed to care for mixed age groups of children in care, ((~~:~~))in addition to any specific requirements of this section((~~:~~)):

(a) Meet the square footage and staff-to-child ratio requirements for the youngest child present in the group;

(b) Meet the health, safety, and developmental needs for all ages of children in the mixed group; and

(c) Inform the department of the center's mixed age group policy.

(2) A center early learning program must do the following to mix groups of children birth to ((~~thirty-six~~)) 36 months old with a maximum group size of eight children:

(a) Have at least two staff present with the group, consisting of one lead teacher and one other staff member qualified under this chapter; and

(b) Keep a staff-to-child ratio of 1:4.

(3) A center early learning program must do the following to mix groups of children birth to ((~~thirty-six~~)) 36 months old with a maximum group size of nine children:

(a) Have at least three staff present with the group, consisting of one lead teacher and two other staff members qualified under this chapter; and

(b) Keep a staff-to-child ratio of 1:3.

(4) A center early learning program must do the following to mix groups of children ((~~twelve to thirty-six~~)) 12 to 36 months old:

(a) Have at least two staff present with the group, consisting of one lead teacher and one other staff member qualified under this chapter; and

(b) Keep a staff-to-child ratio of 1:7 with a maximum group size of ((~~fourteen~~)) 14 children.

(5) A center early learning program must do the following to mix groups of children ((~~twelve to thirty-six~~)) 12 to 36 months old:

(a) Have at least three staff present with the group, consisting of one lead teacher and two other staff members qualified under this chapter; and

(b) Keep a staff-to-child ratio of 1:5 with a maximum group size of ((~~fifteen~~)) 15 children.

(6) A center early learning program must do the following to mix groups of children between ((~~thirty-six~~)) 36 months old through kindergarten with a maximum group size of ((~~twenty~~)) 20 children:

(a) Have at least two staff present with the group, consisting of one lead teacher and one other staff member qualified under this chapter; and

(b) Keep a staff-to-child ratio of 1:10.

(7) A center early learning program must do the following to mix groups of children between ((~~thirty-six~~)) 36 months old through kindergarten with a maximum group size of ((~~twenty-six~~)) 26 children:

(a) Have at least three staff present with the group, consisting of one lead teacher and two other staff members qualified under this chapter; and

(b) Keep a staff-to-child ratio of 1:10.

(8) A center early learning program must do the following to mix groups of children four and one-half to nine years old with a maximum group size of ((~~twenty~~)) 20 children:

(a) Have at least two staff present with the group, consisting of one lead teacher and one other staff member qualified under this chapter; and

(b) Keep a staff-to-child ratio of 1:10.

(9) A center early learning program must do the following to mix groups of children four and one-half to nine years old with a maximum group size of ((~~twenty-six~~)) 26 children:

(a) Have at least three staff present with the group, consisting of one lead teacher and two other staff members qualified under this chapter; and

(b) Keep a staff-to-child ratio of 1:10.

(10) A center early learning program must follow the time limits in WAC 110-300-0356 when they temporarily combine children of different ages outside the department-approved mixed age classroom or group.

AMENDATORY SECTION (Amending WSR 24-19-056, filed 9/13/24, effective 10/14/24)

WAC 110-300-0400 Application materials. (1) ((~~After completing a department orientation an applicant must submit a complete license application packet, pursuant to chapter 43.216 RCW.~~)) Applicants must submit a complete license application packet after they have completed the department orientation or after they have received verification from the department that they qualify for an orientation waiver as outlined in WAC 110-300-0105. This requirement also applies to a change of ownership. A complete license application packet includes:

(a) Professional and background information about the applicant:

(i) A completed department application form for the type of license being applied for (center or family home);

(ii) One of the following:

(A) A copy of the applicant's orientation certificate ((~~(orientation must be taken within 12 months of license application)~~)); or

(B) Department verification that the applicant qualifies for an orientation waiver as outlined in WAC 110-300-0105;

(iii) A Washington state business license or a tribal, county, or city business or occupation license, if applicable;

(iv) Liability insurance, if applicable;

(v) Certificate of incorporation, partnership agreement, or similar business organization document, if applicable;

(vi) The license fee;

(vii) A copy of current government issued photo identification;

(viii) A copy of Social Security card or sworn declaration stating that the applicant does not have one;

(ix) Employer identification number (EIN) if applicant plans to hire staff; and

(x) Employment and education verification. For example, diploma, transcripts, or a sworn declaration stating that the applicant cannot verify education requirements((~~.~~));

(b) Information about the facility to be licensed:

(i) A floor plan, including use of proposed licensed and unlicensed space, with identified emergency exits and emergency exit pathways;

(ii) Certificate of occupancy, if applicable;

(iii) Documentation, no more than three years old, from a licensed inspector, septic designer, or engineer that states the septic system and drain field are maintained and in working order, if applicable;

(iv) *E. coli* bacteria and nitrate testing results for well water that is no more than 12 months old, if applicable;

(v) A lead or arsenic evaluation agreement for sites located in the Tacoma smelter plume (counties of King, Pierce, and Thurston); and

(vi) Lead and copper test results for drinking water;

(c) Program days and hours of operation, including closure dates and holiday observances; and

(d) Information about early learning program staff:

(i) List of applicant and household members, and if applicable and known, staff persons and volunteers required to complete the background check process as outlined in chapter 110-06 WAC; and

(ii) Resume for applicant, center director, assistant director, program supervisor, and family home lead teacher, if applicable.

(2) An applicant must include the following policy documents with the application, which will be reviewed by the department and returned to the applicant:

(a) Parent and program policies;

(b) Staff policies;

(c) An emergency preparedness plan; and

(d) Health policies.

(3) An applicant must submit the completed application packet at least 90 calendar days prior to the planned opening of the early learning program. The department will inspect the early learning program space and approve all application submissions required in this chapter prior to issuing a license:

(a) The 90 calendar days begins when the department receives a complete application packet((~~.~~))<u>;</u>

(b) Incomplete application packets will be returned to the applicant for completion((~~.~~))<u>;</u>

(c) An applicant who is unable to successfully complete the application and licensing process within 90 days may withdraw the application and reapply when the applicant is able to meet the licensing requirements. If the applicant has completed the steps of the application process within 90 days but an external barrier out of the applicant's control exists, the reapplication fee will be waived one time((~~.~~))<u>; and</u>

(d) An applicant who is unable to meet the application requirements and has not withdrawn their application will be denied a license, pursuant to RCW 43.216.325.

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

WAC 110-300-0420 Prohibited substances. (1) Chapter 70.160 RCW prohibits smoking in public places and places of employment.

(2) Pursuant to RCW 70.160.050, an early learning provider must:

(a) Prohibit smoking, vaping, or similar activities in licensed indoor space, even during nonbusiness hours;

(b) Prohibit smoking, vaping, or similar activities in licensed outdoor space unless:

(i) Smoking, vaping or similar activities occurs during nonbusiness hours; or

(ii) In an area for smoking or vaping tobacco products that is not a "public place" or "place of employment," as defined in RCW 70.160.020((~~.~~))<u>;</u>

(c) Prohibit smoking, vaping, or similar activities in motor vehicles used to transport enrolled children;

(d) Prohibit smoking, vaping, or similar activities by any provider who is supervising children, including during field trips;

(e) Prohibit smoking, vaping, or similar activities within ((~~twenty-five~~)) <u>25</u> feet from entrances, exits, operable windows, and vents, pursuant to RCW 70.160.075; and

(f) Post "no smoking or vaping" signs. Signs must be clearly visible and located at each building entrance used as part of the early learning program.

(3) An early learning provider must:

(a) Prohibit any person from consuming or being under the influence of alcohol on licensed space during business hours;

(b) Prohibit any person within licensed space from consuming or being under the influence of illegal drugs or prescription drugs to the extent that it interferes with the care for children as required by this chapter;

(c) Store any tobacco or vapor products, or the packaging of tobacco or vapor products in a space that is inaccessible to children;

(d) Prohibit children from accessing cigarette or cigar butts or ashes;

(e) Store any cannabis or associated paraphernalia out of the licensed space and in a space that is inaccessible to children; ((~~and~~))

(f) Store alcohol in a space that is inaccessible to children (both opened and closed containers);

(g) Confirm the licensed premises are absent of high-potency synthetic opioids, drug manufacturing equipment, and drug paraphernalia; and

(h) Immediately prevent child access to any item described in (g) of this subsection and:

(i) Report to law enforcement or the department as outlined in WAC 110-300-0475; and

(ii) Comply with department direction, including any investigation or enforcement action.

(4) A center early learning provider must prohibit any person from using, consuming, or being under the influence of cannabis in any form on licensed space.

(5) A family home early learning provider must prohibit any person from using, consuming, or being under the influence of cannabis products in any form on licensed space during business hours.

(6) A center early learning provider or family home early learning provider must prohibit the presence of imminent physical harm on licensed space. Imminent physical harm is a zero-tolerance violation that will result in an immediate suspension.

AMENDATORY SECTION (Amending WSR 26-09-080, filed 4/14/26, effective 5/15/26)

WAC 110-301-0005 Definitions. The following definitions apply to this chapter:

"Abuse or neglect" means the same as defined in RCW 26.44.020.

"Accessible to children" means items, areas, or materials of a school-age program that a child can reasonably reach, enter, use, or get to on their own.

"Accommodations" means program activities, spaces, and materials that have been adapted to help children and adults with special needs function within their surroundings.

"Active supervision" or "actively supervise" means a heightened standard of care beyond supervision. This standard requires a school-age provider to see and hear the children they are responsible for during higher risk activities. The provider must be able to prevent or instantly respond to unsafe or harmful events.

"ADA" refers to the Americans with Disabilities Act.

"Aide" is a person who offers support to the school-age program staff.

"Allergy" or "allergies" refers to an overreaction of the immune system to a substance that is harmless to most people. During an allergic reaction, the body's immune system treats the substance or "allergen" as an invader. The body overreacts by releasing chemicals that may cause symptoms ranging from mildly annoying to life threatening. Common allergens include certain foods (milk, eggs, fish, shellfish, common tree nuts, peanuts, wheat, and soybeans), pollen, mold, or medication.

"Annual" or "annually" means an event that occurs each calendar year, not to exceed 365 days between occurrences.

"Applicant" means an individual who has made a formal request for a child care license, certification, exemption, or portable background check.

"Appropriate" when used to refer to program or educational materials means that the materials will interest and challenge children in terms of their ages and abilities.

"Appropriately" means correct or properly suited for a particular situation.

"Assistant teacher" is a person whose work is to assist a lead teacher, site director, or program director in providing instructional supports to children and implementing a developmentally appropriate program. The assistant teacher must carry out assigned tasks under the supervision of a lead teacher, site director, or program director.

"ASTM" refers to the American Society for Testing and Materials.

"Bathroom" means a room containing a built-in, flush-type toilet.

"Bias" means a tendency to believe that some people or ideas are better than others that usually results in treating some people unfairly.

"Body of water" or "bodies of water" is a natural area or human-made area or device that contains or holds a depth of more than two inches of water. Examples include swimming pools, ditches, canals, fish ponds, water retention areas, excavations, and quarries.

"CACFP" means the Child and Adult Care Food Program established by Congress and funded by the United States Department of Agriculture (USDA).

"Cannabis" (also known as "marijuana") refers to all parts of the cannabis plant, whether growing or not, the seeds thereof, the resin or concentrate extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin.

"Capacity" means the maximum number of children a school-age program is authorized by the department to have in care at any given time. This includes any children on-site at the school-age program and any children in transit to or from the program or other activities such as field trips while the children are signed in to the care of the program.

"Certificate of exemption (COE)" means a form that is approved by the DOH and consistent with the requirements of WAC 246-105-050, or an immunization form produced by the state immunization information system.

"Certificate of immunization status (child)" means a form that is approved by the DOH and consistent with the requirements of WAC 246-105-050, or an immunization form produced by the state immunization information system.

"Certification" means, as applied to the licensing process, department approval of a person, home, or facility that is exempt from licensing but requests evidence that the program meets these foundational licensing standards.

"Child" means an individual who is five years of age through 12 years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

"Child care" refers to supervision of children outside the child's home for periods of less than 24 hours a day.

"Chromated copper arsenate" or "CCA" is a wood preservative and insecticide that contains roughly 22 percent arsenic, a known carcinogen. The United States restricted the use of CCA on residential lumber in 2003, but it can still be found on older decks and playground equipment. Information about the health hazards of arsenic can be found on the DOH's website.

"Clean" or "cleaning" means to remove dirt and debris from a surface by scrubbing and washing with a detergent solution and rinsing with water. This process must be accomplished before sanitizing or disinfecting a surface.

"Confidential" means the protection of personal information, such as the child's records, from individuals who are not authorized to see or hear the information.

"Consistent care" means providing steady opportunities for children to build emotionally secure relationships by primarily interacting with a limited number of school-age program staff.

"Contagious disease" means an illness caused by an infectious agent of public health concern which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission through an intermediate host or vector, food, water, or air. Contagious diseases pertinent to this chapter are described in WAC 246-110-010.

"Continuous" means without interruptions, gaps, or stopping.

"Core competencies" are standards required by the department that detail what a school-age provider needs to know and is able to do to provide quality care and education for children and their families.

"CPSC" means the United States Consumer Product Safety Commission.

"Cultural" or "culturally" means in a way that relates to the ideas, customs, and social behavior of different societies.

"Department of children, youth, and families," "DCYF," or "the department" refers to the Washington state department of children, youth, and families.

"Developmentally appropriate" means:

(a) A school-age provider interacts with each child in a way that recognizes and respects the child's chronological and developmental age;

(b) Knowledge about how children grow and learn;

(c) Reflects the developmental level of the individual child; and

(d) Interactions and activities are planned with the developmental needs of the individual child in mind.

"Disability" or "disabilities" has the same meaning in this chapter as in RCW 49.60.040(7), the Washington law against discrimination.

"Disaster" means a sudden event, such as an accident or natural catastrophe, that causes great damage or loss of life.

"Discipline" means a method used to redirect a child in order to achieve a desired behavior.

"Disinfect" means to eliminate virtually all germs from an inanimate surface by the process of cleaning and rinsing, followed by:

(a) The application of a fragrance-free chlorine bleach and water solution following the DOH's current guidelines for mixing bleach solutions for child care and similar environments; or

(b) The application of other disinfectant products registered with the EPA, if used strictly according to the manufacturer's label instructions including, but not limited to, quantity, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled "safe for food contact surfaces."

"Disinfectant" means a chemical or physical process that kills bacteria and viruses.

"DOD" means the United States Department of Defense.

"DOH" refers to the Washington state department of health.

"Drinking water" or "potable water" is water suitable for drinking by the public as determined by the DOH or a local health jurisdiction.

"Drug paraphernalia" means the same as defined in RCW 69.50.4121.

"Dual language learners" refers to children who are learning two or more languages at the same time. This term includes children who learn two or more languages from birth, and children who are still mastering their home language when they are introduced to and start learning a second language. (Source: The *Washington State Early Learning and Development Guidelines.)*

"Electronic record" means a record generated, communicated, received or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

"Electronic workforce registry" refers to the Washington state department of children, youth, and families' current database of professional records of individual school-age providers.

"Emergency preparedness" means a continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action in an effort to ensure effective coordination in case of emergencies or during incident response.

"Enforcement action" means denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325. A school-age provider may contest enforcement actions and seek an adjudicative proceeding pursuant to chapter 110-03 WAC.

"EPA" means the United States Environmental Protection Agency.

"Equivalent" when referring to staff qualifications means an individual is allowed to meet the requirements of this chapter through a department recognized alternative credential, or demonstration of competency, that indicates similar knowledge as the named credential.

"Exempt" or "exemption" means, as applied to immunizations, a type of immunization status where a child has not been fully immunized against one or more vaccine preventable diseases required by chapter 246-105 WAC for full immunization due to medical, religious, philosophical or personal reasons. Under chapter 362, Laws of 2019, if a child plans on attending or is attending a school-age program, a philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.

"Expel" or "expulsion" means to end a child's enrollment in a school-age program. A school-age provider will end a child's enrollment if the provider is unable to meet a child's needs due to the child's challenging behavior.

"Facility Licensing Compliance Agreement (FLCA)" means an agreement issued by the department in lieu of the department taking enforcement action against a school-age provider.

"FDA" means the United States Food and Drug Administration.

"Food worker card" means a food and beverage service worker's permit as required under chapter 69.06 RCW.

"Foundational quality standards" refers to the administrative and regulatory requirements contained within this chapter. These standards are designed to promote the development, health, and safety of children enrolled in a school-age program. The department uses these standards to equitably serve children, families, and school-age providers throughout Washington state.

"Good repair" means about 80 percent of materials and components are unbroken, have all their pieces, and can be used by children as intended by the manufacturer or builder.

"Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the law of Washington state to provide health care in the ordinary course of business or practice of a profession.

"High-potency synthetic opioids" means the same as defined in RCW 13.34.030.

"Imminent physical harm" means the presence of high-potency synthetic opioids or drug manufacturing equipment in the licensed facility or program space.

"Immunization" is the process of administering a vaccine to make a person immune or resistant to an infectious disease.

"Inaccessible to children" means a method to prevent a child from reaching, entering, using, or getting to items, areas, or materials of a school-age program.

"Inactive" when used by the department to indicate a licensing status, means a school-age provider who has requested and has been ap-

proved to temporarily cease caring for children and close their school-age program.

"Individual care plan" means a specific plan to meet the individual needs of a child with a food allergy, special dietary requirement due to a health condition, other special needs, or circumstances.

"In-service training" means professional development requirements for continuing education delivered or approved by the department to maintain staff standards and qualifications while employed as a school-age provider.

"Inspection report" refers to a written or digital record developed by the department that identifies violations of licensing standards.

"Internal review process" has the same meaning in this chapter as in RCW 43.216.395.

"Lead teacher" means a school-age provider who works as the lead staff person in charge of a child or group of children and implements activity programs.

"License" means a permit issued by the department legally authorizing an applicant to operate a school-age program.

"Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care in a school-age program.

"Licensee" means an individual or legal entity listed on a license issued by the department, authorized to provide child care in a school-age program.

"Lockdown" means restricted to an interior room with few or no windows while the facility or building is secured from a threat.

"Locking mechanism" means a lock that requires a key, tumbler, dial, passcode, touchpad, or similar device or method to lock and unlock.

"Modification" when used in reference to a school-age provider's licensing status, means an enforcement action by the department to change the conditions identified on a licensee's current license.

"Nonexpiring license" means a license that is issued to a school-age provider following the initial licensing period, pursuant to chapter 43.216 RCW.

"Operating hours" means the hours listed in a school-age program parent handbook when the program is open and providing care and services to children.

"OSPI" means the Washington state office of superintendent of public instruction.

"Parent" or "guardian" means birth parent, custodial parent, foster parent, legal guardian or those authorized by the parent or entity legally responsible for the welfare of the child.

"Peer interaction" refers to relationships children have with one another, which includes how children play together, communicate, and whether they fight or get along.

"Personal needs" means a school-age provider's toileting or medication needs. Personal needs do not include smoking or use of tobacco products, illegal drug use or misuse or prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unattended.

"Pest" means an animal, plant, or insect that has a harmful effect on humans, food, or living conditions.

"Pesticide" refers to chemicals used to kill pests.

"Pet" means a domestic or tamed animal or bird kept for companionship or pleasure.

"Physical barrier" means a nonclimbable fence or a wall that is at least five feet tall and has no openings greater than two inches or a gate or door that allows entry to and exit from a body of water and has the following requirements in addition to those already listed: A locking mechanism, a self-closing or self-latching device, and a device used to open the locks which is inaccessible to children but readily available to staff.

"Physical restraint" means holding a child as gently as possible for the minimum amount of time necessary to control a situation where that child's safety or the safety of others is threatened.

"Poison" includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such as water or salt), or similar items that, even in small quantities, are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes.

"Premises" means the licensed and unlicensed space at the licensed address including, but not limited to, buildings, land, and residences.

"Preservice training" means professional development standards or requirements for school-age program staff prior to hiring or within a department specified time frame and delivered or approved by the department.

"Private septic system" means a septic system as defined in chapter 246-272A WAC that is not connected to a public sewer system or a large on-site sewage system as defined in chapter 246-272B WAC. A private septic system includes, but is not limited to, the septic system's drain field and tanks.

"Probationary license" has the same meaning as in RCW 43.216.010(23).

"Professional development support plan" is a formal means by which an individual who is supervising staff sets out the goals, strategies, and outcomes of learning and training.

"Program director" means the person responsible for the overall management of a school-age program including the facility and operation. The program director is not responsible for being on-site at the program, unless the program director is filling in for an on-site role.

"Program philosophy" means a written statement of principles developed by a school-age provider to form the basis of the program's activities in relation to a child's development.

"RCW" means the Revised Code of Washington.

"Readily available" means able to be used or obtained quickly and easily.

"Revocation" or "revoke" when used in reference to a school-age provider's licensing status, means an enforcement action by the department to close a school-age program and permanently remove the license.

"Routine care" means typical or usual care provided to a child during the time the child is enrolled in the school-age program (for example: Feeding, toileting, playing, and learning).

"Safe route" means a way or course taken to get from a starting point to a destination that is protected from danger or risk.

"Safety plan" means a written plan to implement program changes to bring a school-age program into compliance with this chapter and chapter 43.216 RCW.

Safety plans are developed at meetings involving at least a school-age provider and a department licensor and supervisor. Safety

plans detail changes the provider needs to make to mitigate the risk of direct and indirect harm to children enrolled in the school-age program. Program changes must be agreed to in writing and signed by all participants at the meeting.

Safety plans expire 30 calendar days after being signed by all parties. Safety plans may only be extended for an additional 30 days and extensions may only be authorized by a department supervisor.

"Sanitize" means to reduce the number of microorganisms on a surface by the process of:

(a) Cleaning and rinsing with water at a high temperature pursuant to this chapter; or

(b) Cleaning and rinsing, followed by using:

(i) A fragrance-free chlorine bleach and water solution following the DOH's current guidelines for mixing bleach solutions for child care and similar environments; or

(ii) Other sanitizer product if it is registered with the EPA and used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as "safe for food contact surfaces."

"School-age basics" means curriculum designed to meet the initial basic training requirement for school-age program staff working in a licensed or certified school-age child care program in Washington state.

"School-age child" means a child who is five years of age through 12 years of age and is attending a public or private school or is receiving home-based instruction under chapter 28A.200 RCW.

"School-age program" refers to regularly scheduled care for a group of children, five years of age through 12 years of age, who are attending public or private school or receiving home-based instruction under chapter 28A.200 RCW, for periods of less than 24 hours, licensed by the department.

"School-age program licensee" or "school-age licensee" means an entity licensed and authorized by the department to operate a school-age child care program.

"School-age program space" means the licensed indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care in a school-age program.

"School-age program staff" refers to all persons who work, substitute, or volunteer in a school-age program during hours when children are or may be present, excluding licensees.

"School-age provider" or "provider" refers to a licensee or designee who works in a school-age program during hours when children are or may be present. Designees include program directors, site directors, lead teachers, assistant teachers, aides, and volunteers.

"Screen time" means watching, using, or playing television, computer, video games, video or DVD players, mobile communication devices, or similar devices.

"Serious injury" means:

(a) An injury resulting in an overnight hospital stay;

(b) A severe neck or head injury;

(c) Choking or serious unexpected breathing problems;

(d) Severe bleeding;

(e) Shock or an acute confused state;

(f) Sudden unconsciousness;

(g) Dangerous chemicals in eyes, on skin, or ingested;
(h) Near drowning;
(i) One or more broken bones;
(j) A severe burn requiring professional medical care;
(k) Poisoning; or
(l) An overdose of a chemical substance.

"Shelter in place" means staff and children staying at the facility due to an external threat such as a storm, chemical or gas leak or explosion, or other event that prohibits the occupants from safely leaving the facility.

"Sign" means an individual formally placing their name or legal mark on a document by physical signature or electronic signature.

"Site director" means the school-age provider responsible for planning and implementing the school-age program services under the oversight of the program director. The site director is responsible for being on-site during the program's operating hours and providing regular supervision of staff and volunteers.

"Special needs" is a term used for children who require assistance due to learning difficulties, physical disability, or emotional and behavioral difficulties and who have documentation in the form of an individual educational plan (IEP), individual health plan (IHP), 504 plan, or an individualized family service plan (IFSP).

"Staff" means any school-age provider providing care in the school-age program.

"Supervise" or "supervision" means a school-age provider must be able to see or hear the children they are responsible for at all times. A school-age provider must use their knowledge of each child's development and behavior to anticipate what may occur to prevent unsafe or unhealthy events or conduct, or to intervene in such circumstances as soon as possible. A school-age provider must also reposition themselves or the children to be aware of where children are and what they are doing during care. A school-age provider must reassess and adjust their supervision each time program activities change. See "active supervision" for a heightened standard of care.

"Suspend" when used in reference to a school-age provider's licensing status, means an enforcement action by the department to temporarily stop a license in order to protect the health, safety, or welfare of enrolled children or the public.

"Swimming pool" means a pool that has a water depth greater than two feet (24 inches).

"Technical assistance" means a service provided to a school-age provider by department staff or a contracted third party. The goal of technical assistance is to offer guidance, information, and resources to help a provider fully comply with the licensing requirements of this chapter and chapter 43.216 RCW.

"Transition" is the process or period of time to change from one activity or place to another.

"Unlicensed space" means the indoor and outdoor areas of the premises not approved by the department as licensed space that the school-age provider must make inaccessible to the children during program hours.

"Unsupervised access" as used throughout this chapter has the same meaning as in WAC 110-06-0020.

"Usable space" means the areas that are available at all times for use by children in a school-age program and meets licensing requirements.

"USDA" means the United States Department of Agriculture.

"Vapor product" means any:

(a) Device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(b) Cartridge or container of a solution or substance intended to be used with or in such a device or to refill such a device; or

(c) Solution or substance intended for use in such a device including, but not limited to, concentrated nicotine, nonnicotine substances, or supplemental flavorings. This includes any electronic cigarettes, electronic nicotine delivery systems, electronic cigars, electronic cigarillos, electronic pipes, hookahs, steam stones, vape pens, or similar products or devices, as well as any parts that can be used to build such products or services. "Vapor product" does not include any drug, device, or combination product approved for sale by the FDA that is marketed and sold for such approved purpose.

"Variance" is an official approval by the department to allow a school-age program to achieve the outcome of a rule or rules in this chapter in an alternative way than described due to the needs of a unique or specific program approach or methodology. The department may grant a request for variance if the proposed alternative provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. A school-age provider does not have the right to appeal the department's disapproval of request for variance under chapter 110-03 WAC. The provider may challenge a variance disapproval on a department form.

"Volunteer" includes any person who provides labor or services to a school-age provider but is not compensated with employment pay or benefits. A volunteer must never have unsupervised access to a child unless the volunteer is the parent or guardian of that child or is an authorized person pursuant to WAC 110-301-0345. "Unsupervised access" has the same meaning here as in WAC 110-06-0020.

"WAC" means the Washington Administrative Code.

"Wading pool" means a pool that has a water depth of less than two feet (24 inches).

"Waiver" is an official approval by the department allowing a school-age provider not to meet or satisfy a rule in this chapter due to specific needs of the program or an enrolled child. The department may grant a request for waiver if the proposed waiver provides clear and convincing evidence that the health, welfare, and safety of all enrolled children is not jeopardized. A school-age provider does not have the right to appeal the department's disapproval of a waiver request under chapter 110-03 WAC. The provider may challenge a waiver disapproval on a department form.

"Washington state early learning and development guidelines" refers to guidelines published by the department, OSPI, and thrive Washington for children birth through third grade that outlines what children know and are able to do at different stages of their development.

"Water activities" means school-age program activities in which enrolled children swim or play in a body of water that poses a risk of drowning for children. Water activities do not include using sensory tables.

"Weapon" means an instrument or device of any kind that is used or designed to be used to inflect harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.

"Written food plan" is a document designed to give alternative food to a child in care because of a child's medical needs or special diet, or to accommodate a religious, cultural, or family preference. A parent or guardian and the school-age provider must sign a written food plan.

AMENDATORY SECTION (Amending WSR 21-10-035, filed 4/27/21, effective 6/1/21)

WAC 110-301-0105 Preservice requirements. (1) The requirements for department-provided orientations for school-age programs are as follows:

(a) All applicants, co-applicants, program directors, and site directors must complete ((~~a~~)) or be registered for department-provided orientations for school-age programs((~~. Prior to~~)) before being in charge of the school-age program, ((~~those newly promoted or assuming a role of one of the roles listed here must complete or be registered in a department provided orientation training~~)) unless they have received a waiver from the department as outlined in (b) of this subsection; and

(b) The department will waive the school-age program preservice requirement to complete a department-provided orientation when an individual has previously completed the orientation and:

(i) It has been less than five years since completion of the orientation;

(ii) The orientation content and licensing process have not substantially changed since the date of completion; and

(iii) The individual has not had a break in service working:

(A) As a licensed child care provider; or

(B) In a licensed child care facility.

(2) A school-age provider must complete and pass a department background check, pursuant to chapter 110-06 WAC.

(3) A school-age provider, including volunteers must provide documentation signed within the last ((~~twelve~~)) 12 months by a licensed health care professional of tuberculosis (TB) testing or treatment consisting of:

(a) A negative TB symptom screen and negative TB risk assessment;

(b) A previous positive FDA-approved TB test and a current negative chest radiograph and documentation of clearance to safely work in a school-age program; or

(c) A positive symptom screening or a positive risk assessment with documentation of:

(i) A current negative FDA-approved TB test;

(ii) A previous or current positive FDA-approved TB test; and

(iii) A current negative chest radiograph and documentation of clearance to safely work in a school-age program.

(4) Upon notification of TB exposure, a school-age provider may be required to be retested for TB as directed by the local health jurisdiction.

AMENDATORY SECTION (Amending WSR 21-10-035, filed 4/27/21, effective 6/1/21)

WAC 110-301-0400 Application materials. (1) ((~~After completing a~~)) Applicants must submit a complete application packet after they have completed the department orientation((~~, an applicant must submit a complete license application packet, pursuant to chapter 43.216 RCW~~)) or after they have received verification from the department that they qualify for an orientation waiver as outlined in WAC 110-301-0105. A complete license application packet includes:

(a) Professional and background information about the applicant that includes:

(i) A completed department application form for a school-age program;

(ii) One of the following:

(A) A copy of the applicant's orientation certificate ((~~(orientation must be taken within twelve months of license application)~~)); or

(B) Department verification that the applicant qualifies for an orientation waiver as outlined in WAC 110-301-0105;

(iii) A Washington state business license or a tribal, county, or city business or occupation license, if applicable;

(iv) Liability insurance;

(v) Certificate of incorporation, partnership agreement, or similar business organization document, if applicable;

(vi) The license fee;

(vii) A copy of current government issued photo identification;

(viii) A copy of Social Security card or sworn declaration stating that the applicant does not have one;

(ix) Employer identification number (EIN) if applicant plans to hire staff; and

(x) Employment and education verification. For example: Diploma, transcripts, or a sworn declaration stating that the applicant cannot verify education requirements((~~.~~))*;*

(b) Information about the facility to be licensed:

(i) A floor plan, including use of proposed licensed and unlicensed space, with identified emergency exits and emergency exit pathways;

(ii) Certificate of occupancy for any program that is not located on public or private school premises;

(iii) For any program that is not located on public or private school premises, documentation, no more than three years old, from a licensed inspector, septic designer, or engineer that states the septic system and drain field are maintained and in working order, if applicable;

(iv) *E. coli* bacteria and nitrate testing results for well water that is no more than ((~~twelve~~)) 12 months old, if applicable;

(v) A lead or arsenic evaluation agreement for any program that is not located on public or private school premises and is located in the Tacoma smelter plume (counties of King, Pierce, and Thurston); and

(vi) For any program that is not located on public or private school premises, lead and copper test results for drinking water((~~.~~))*;*

(c) Program days and hours of operation, including closure dates and holiday observances; and

(d) Information about school-age program staff:

(i) List of applicant, and if applicable and known, staff persons and volunteers required to complete the background check process as outlined in chapter 110-06 WAC; and

(ii) Resume for applicant, program director, and site director, if applicable.

(2) An applicant must include the following policy documents with the application, which will be reviewed by the department and returned to the applicant:

(a) Parent and program policies;

(b) Staff policies;

(c) An emergency preparedness plan; and

(d) Health policies.

(3) An applicant must submit the completed application packet at least ((~~ninety~~)) 90 calendar days prior to the planned opening of the school-age program. The department will inspect the school-age program space and approve all application submissions required in this chapter prior to issuing a license.

(a) The ((~~ninety~~)) 90 calendar days begins when the department receives a complete application packet((~~.~~))*;*

(b) Incomplete application packets will be returned to the applicant for completion((~~.~~))*;*

(c) An applicant who is unable to successfully complete the application and licensing process within ((~~ninety~~)) 90 days may withdraw the application and reapply when the applicant is able to meet the licensing requirements. If the applicant has completed the steps of the application process within ((~~ninety~~)) 90 days but an external barrier out of the applicant's control exists, the reapplication fee will be waived one time((~~.~~))*; and*

(d) An applicant who is unable to meet the application requirements and has not withdrawn their application will be denied a license, pursuant to RCW 43.216.325.

AMENDATORY SECTION (Amending WSR 21-10-035, filed 4/27/21, effective 6/1/21)

WAC 110-301-0420 Prohibited substances. (1) Chapter 70.160 RCW prohibits smoking in public places and places of employment.

(2) Pursuant to RCW 70.160.050, a school-age provider must:

(a) Prohibit smoking, vaping, or similar activities in licensed indoor space, even during nonbusiness hours;

(b) Prohibit smoking, vaping, or similar activities in licensed outdoor space unless:

(i) Smoking, vaping, or similar activities occurs during nonbusiness hours; or

(ii) In an area for smoking or vaping tobacco products that is not a "public place" or "place of employment," as defined in RCW 70.160.020((~~.~~))*;*

(c) Prohibit smoking, vaping, or similar activities in motor vehicles used to transport enrolled children;

(d) Prohibit smoking, vaping, or similar activities by any provider who is supervising children, including during field trips;

(e) Prohibit smoking, vaping, or similar activities within ((~~twenty-five~~)) 25 feet from entrances, exits, operable windows, and vents, pursuant to RCW 70.160.075; and

(f) For any program that does not operate on public or private school premises, post "no smoking or vaping" signs. Signs must be clearly visible and located at each building entrance used as part of the school-age program.

(3) A school-age provider must:

(a) Prohibit any person from consuming or being under the influence of alcohol on licensed space during business hours;

(b) Prohibit any person within licensed space from consuming or being under the influence of illegal drugs or prescription drugs to the extent that it interferes with the care of children as required by this chapter;

(c) Store any tobacco or vapor products, or the packaging of tobacco or vapor products in a space that is inaccessible to children;

(d) Prohibit children from accessing cigarette or cigar butts or ashes;

(e) Store any cannabis or associated paraphernalia out of the licensed space and in a space that is inaccessible to children; ((~~and~~))

(f) Store alcohol in a space that is inaccessible to children (both opened and closed containers)<u>;</u>

<u>(g) Confirm the licensed premises are absent of high-potency synthetic opioids, drug manufacturing equipment, and drug paraphernalia; and</u>

<u>(h) Immediately prevent child access to any item described in (g) of this subsection and:</u>

<u>(i) Report to law enforcement or the department as outlined in WAC 110-300-0475; and</u>

<u>(ii) Comply with department direction, including any investigation or enforcement action</u>.

(4) A school-age provider must prohibit any person from using, consuming, or being under the influence of cannabis in any form on licensed space.

<u>(5) A school-age provider must prohibit the presence of imminent physical harm on licensed space. Imminent physical harm is a zero-tolerance violation that will result in an immediate suspension.</u>

AMENDATORY SECTION (Amending WSR 26-09-080, filed 4/14/26, effective 5/15/26)

WAC 110-302-0005 Definitions. The following definitions apply to this chapter unless the context clearly requires otherwise.

"Abuse or neglect" means the same as defined in RCW 26.44.020.

"Accessible to children" means items, areas, or materials of an outdoor nature-based program (ONB) that a child can reasonably reach, enter, use, or get to on their own.

"Accommodations" means ONB program curriculum and instruction, activities, spaces, and materials that have been adapted to help children and adults with special needs function within their surroundings.

"Active supervision" or "actively supervise" means a heightened standard of care beyond supervision. This standard requires an ONB provider to see and hear the children they are responsible for during higher risk activities. The ONB provider must be able to prevent or instantly respond to unsafe or harmful events.

"Agency" has the same meaning as described in RCW 43.216.010.

"Aide" is a person who offers support to the ONB program staff.

"Allergy" or "allergies" means an overreaction of the immune system to a substance that is harmless to most people. During an allergic reaction, the body's immune system treats the substance or "allergen" as an invader. The body overreacts by releasing chemicals that may cause symptoms ranging from mildly annoying to life threatening. Common allergens include certain foods such as milk, eggs, fish, shellfish, common tree nuts, peanuts, wheat, and soybeans, as well as pollen, mold, or medication.

"American Society for Testing and Materials (ASTM)" means the international standards organization that develops and publishes voluntary consensus technical standards for a wide range of materials, products, systems, and services.

"Americans with Disabilities Act (ADA)" means the federal "equal opportunity" law protecting people with disabilities.

"Annual" or "annually" means an event that occurs each calendar year, not to exceed 365 days between occurrences.

"Applicant" means an individual who has made a formal request for a child care license, certification, exemption, or portable background check.

"Appropriate" when used to refer to child care or educational materials, means that the materials will interest and challenge children in terms of their ages and abilities.

"Appropriately" means correct or properly suited for a particular situation.

"Assistant director" is the person responsible for the overall management, including the facility and operation, of an ONB program that enrolls preschool-age and school-age children, or only preschool-age children.

"Assistant teacher" is a person whose work is to assist a lead teacher in providing instructional supports to children and implementing a developmentally appropriate ONB program. The assistant teacher must carry out assigned tasks under the supervision of a lead teacher, program supervisor, director, program director, assistant director, site director, or licensee.

"Bathroom" means a room containing a built-in, flush-type toilet.

"Benefit-risk assessment" means, for purposes of outdoor nature-based programs, a process used to identify and document hazards and

risky play elements associated with childhood outdoor play and making plans to mitigate the risk of injury to children while maintaining developmental benefits for children. This process includes identifying the types of risk present in a location or activity, the likelihood and severity of potential injury, the potential benefits to children, methods of mitigating hazards, e.g., elimination, substitution, isolation, safeguards, and managing risk, e.g., heightened supervision, scaffolding, intervention, and identifying who is responsible for implementing the appropriate methods and when.

"Bias" means a tendency to believe that some people or ideas are better than others that usually results in treating some people unfairly.

"Biological needs" means, for purposes of outdoor nature-based programming, department approved toileting, handwashing, and transitional activities for children and providers.

"Body of water" or "bodies of water" is a natural area or human-made area or device that contains or holds a depth of more than four inches of water. Examples include swimming pools, ditches, canals, fish ponds, water retentions, excavations, quarries, streams, rivers, lakes, and ocean waters.

"Campfire" means an outdoor fire that is used for cooking, personal warmth, lighting, or ceremonial or esthetic purposes. For the purposes of this chapter, "campfire" does not include a fire within any building, mobile home, motor vehicle, or recreational vehicle.

"Campfire activities" means ONB program activities in which enrolled children have access to a campfire that may pose a risk of burns to children.

"Cannabis" also known as "marijuana" refers to all parts of the cannabis plant, whether growing or not, the seeds thereof, the resin or concentrate extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture, or preparation of the plant.

"Capacity" means the maximum number of children an ONB provider is authorized by the department to have in care at any given time. This includes any children on-site at the ONB program and any children in transit to or from the ONB program or other activities such as field trips while the children are signed in to the care of the ONB program.

"Certificate of exemption (COE)" means a form that is approved by the DOH and consistent with the requirements of WAC 246-105-050, or an immunization form produced by the state immunization information system.

"Certificate of immunization status (child)" means a form that is approved by the DOH and consistent with the requirements of WAC 246-105-050, or an immunization form produced by the state immunization information system.

"Certification" means, as applied to the licensing process, department approval of a person, home, or facility that is exempt from licensing but requests evidence that the ONB program meets these foundational licensing standards.

"Child" means an individual who is younger than age 13, including any preschool-age child or school-age child as defined in this chapter.

"Child and adult care food program (CACFP)" means the food program established by Congress and funded by the United States Department of Agriculture (USDA).

"Child care" refers to supervision of children outside the child's home for periods of less than 24 hours a day.

"Child care basics (CCB)" means curriculum designed to meet the initial basic training requirement for early learning program staff working in licensed or certified programs in Washington state. It serves as a broad introduction for professionals who are pursuing a career in the early care and education field.

"Chromated copper arsenate (CCA)" is a wood preservative and insecticide that contains roughly 22 percent arsenic, a known carcinogen. The United States restricted the use of CCA on residential lumber in 2003, but it can still be found on older decks and playground equipment. Information about the health hazards of arsenic can be found on the DOH's website.

"Clean" or "cleaning" means to remove dirt and debris from a surface by scrubbing and washing with a detergent solution and rinsing with water. This process must be accomplished before sanitizing or disinfecting a surface.

"Confidential" means the protection of personal information, such as the child's records, from individuals who are not authorized to see or hear the information.

"Consistent care" means providing steady opportunities for children to build emotionally secure relationships by primarily interacting with a limited number of ONB program staff.

"Consumer product safety commission (CPSC)" means the United States Consumer Product Safety Commission.

"Contagious disease" means an illness caused by an infectious agent of public health concern which can be transmitted from one person, animal, or object to another person by direct or indirect means including transmission through an intermediate host or vector, food, water, or air. Contagious diseases pertinent to this chapter are described in WAC 246-110-010.

"Continuous" means without interruptions, gaps, or stopping.

"Core competencies" are standards required by the department that detail what an early learning or school-age provider needs to know and is able to do to provide quality care and education for children and their families.

"Cultural" or "culturally" means in a way that relates to the ideas, customs, and social behavior of different societies.

"Curriculum philosophy" means a written statement of principles developed by an ONB provider to form the basis of the learning ONB program activities, including age appropriate developmental learning objectives for children.

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

"Department of defense (DOD)" means the United States Department of Defense.

"Department of health (DOH)" means the Washington state department of health.

"Developmental screening" is the use of standardized tools to identify a child at risk of a developmental delay or disorder. (Source: American Academy of Pediatrics, *Healthy Child Care America*, 2009)

"Developmentally appropriate" means:

(a) An ONB provider interacts with each child in a way that recognizes and respects the child's chronological and developmental age;

(b) Knowledge about how children grow and learn;

(c) Reflects the developmental level of the individual child; and

(d) Interactions and activities are planned with the developmental needs of the individual child in mind.

"Director" means the person responsible for the overall management, including the facility and operation, of an ONB program that enrolls preschool-age and school-age children, or only preschool-age children.

"Disability" or "disabilities" has the same meaning in this chapter as the meaning in RCW 49.60.040(7).

"Disaster" means a sudden event, accident, or natural catastrophe that causes great damage to property, serious bodily injury, or loss of life.

"Discipline" means a method used to redirect a child in order to achieve a desired behavior.

"Disinfect" means to eliminate virtually all germs from an inanimate surface by the process of cleaning and rinsing, followed by:

(a) The application of a fragrance-free chlorine bleach and water solution following the DOH's current guidelines for mixing bleach solutions for child care and similar environments; or

(b) The application of other disinfectant products registered with the EPA, if used strictly according to the manufacturer's label instructions including, but not limited to, quantity, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled "safe for food contact surfaces."

"Disinfectant" means a chemical or physical process that kills bacteria and viruses.

"Drinking water" or "potable water" means water that is suitable for drinking by the general public as determined by the DOH or a local health jurisdiction.

<u>"Drug paraphernalia" means the same as defined in RCW 69.50.4121.</u>

"Dual language learners" means children who are learning two or more languages at the same time. This term includes children who learn two or more languages from birth, and children who are still mastering their home language when they are introduced to and start learning a second language. (Source: The *Washington State Early Learning and Development Guidelines*, a resource published by the department, OSPI, and Thrive Washington for children birth through third grade that outlines what children know and are able to do at different stages of their development.)

"Early achievers" is a statewide system of high-quality early learning that connects families to early learning programs with the help of an easy to understand rating system and offers coaching, professional development, and resources for early learning providers to support each child's learning and development.

"Early childhood education (ECE) initial certificate" (12 quarter credits) is Washington's initial certificate in early childhood education and serves as the point of entry for a career in early learning and covers foundational content for early learning professionals.

"Early childhood education and assistance program (ECEAP)" is a comprehensive preschool program that provides free services and support to eligible children and their families.

"Early childhood education (ECE) short certificate" is an ECE initial certificate plus eight quarter credits and is Washington's short certificate in early childhood education that offers areas of specialization, building on the state's initial certificate. Outdoor nature-based short certificate is an initial certificate plus eight quarter

credits and is Washington's short certificate in outdoor nature-based education that offers areas of specialization, building on the state's initial certificate.

"Early childhood education (ECE) state certificate" is a short certificate plus 27 quarter credits and is Washington's state certificate in early childhood education that is the benchmark for Level 2 core competencies for early care and education professionals and prepares for the next step, an associate's degree in early childhood education.

"Early learning" has the same meaning as described in RCW 43.216.010.

"Electronic record" means a record generated, communicated, received, or stored by electronic means for use in an information system or for transmission from one information system to another.

"Electronic signature" means a signature in electronic form attached to or logically associated with an electronic record including, but not limited to, a digital signature. An electronic signature is a paperless way to sign a document using an electronic sound, symbol, or process, attached to or logically associated with a record, and executed or adopted by a person with the intent to sign the record.

"Electronic workforce registry" refers to the Washington state department of children, youth, and families' current database of professional records of individual ONB providers.

"Emergency preparedness" means a continuous cycle of planning, organizing, training, equipping, exercising, evaluating, and taking corrective action in an effort to ensure effective coordination in case of emergencies or during incident response.

"Emergent curriculum" means a teaching philosophy and a curriculum planning method designed to create meaningful learning experiences that focus on being responsive to child interests. This philosophy prioritizes active participation, relationship building, flexible and adaptable methods, inquiry, and play-based learning. The curriculum is child-initiated, collaborative and responsive to the child's needs, and teachers come prepared with information, offer resources to support child explorations, or both.

"Enforcement action" means the denial, suspension, revocation, modification, or nonrenewal of a license pursuant to RCW 43.216.325(1) or assessment of civil penalties or fines pursuant to RCW 43.216.325(3). An ONB provider may contest an enforcement action and seek an adjudicative proceeding pursuant to chapter 110-03 WAC.

"EPA" means the United States Environmental Protection Agency.

"Equivalent" or "equivalency" means, when referring to staff qualifications, an individual is allowed to meet the chapter 110-302 WAC requirements that are based on a department recognized alternative credential, or demonstration of competency, that indicates similar knowledge as the identified credential.

"Exempt" or "exemption" means, as applied to immunizations, a type of immunization status where a child has not been fully immunized against one or more vaccine preventable diseases required by chapter 246-105 WAC for full immunization due to medical, religious, philosophical or personal reasons. Under chapter 362, Laws of 2019, if a child plans on attending or is attending an outdoor nature-based program, a philosophical or personal objection may not be used to exempt a child from the measles, mumps, and rubella vaccine.

"Expel" or "expulsion" means to end a child's enrollment in an ONB program. An ONB provider will end a child's enrollment if the ONB

provider is unable to meet a child's needs due to the child's challenging behavior.

"Facility licensing compliance agreement (FLCA)" has the same meaning as in RCW 43.216.395 (2)(a).

"Food and Drug Administration (FDA)" means the United States Food and Drug Administration.

"Food worker card" means a food and beverage service worker's permit as required under chapter 69.06 RCW.

"Good repair" means about 80 percent of materials and components are unbroken, have all their pieces, and can be used by the children as intended by the manufacturer or builder.

"Hazard" means a source of harm that may or may not be obvious to the child. The source of harm is not obvious if the potential for injury is hidden or is greater than a child can manage to avoid given the individual circumstances and characteristics of the child.

"Health care provider" means a person who is licensed, certified, registered, or otherwise authorized by the laws of the state of Washington to provide health care in the ordinary course of business or practice of a profession.

"High-potency synthetic opioids" means the same as defined in RCW 13.34.030.

"Imminent physical harm" means the presence of high-potency synthetic opioids or drug manufacturing equipment in the licensed facility or program space.

"Immunization" means the process of administering a vaccine to make that person immune or resistant to an infectious disease.

"Inaccessible to children" means a method to prevent a child from reaching, entering, using, or getting to items, areas, or materials of an ONB program.

"Inactive" means, when used by the department to indicate a licensing status, an ONB provider who has informed the department of their intent to temporarily cease caring for children and close their ONB program in a manner that departs from the ONB program's regular schedule.

"Individual care plan" means a specific plan to meet the individual needs of a child with a food allergy, special dietary requirement due to a health condition, or other special needs or circumstances.

"In-service training" means professional development requirements for continuing education delivered or approved by the department to maintain staff standards and qualifications while employed as an ONB provider.

"Inspection report" has the same meaning as in RCW 43.216.010(17).

"Internal review process" has the same meaning as described in RCW 43.216.395.

"Lead teacher" means an ONB provider who works as the lead staff person in charge of a child or group of children and oversees or implements ONB activities or ONB programs.

"License" means a permit issued by the department legally authorizing an applicant to operate an outdoor nature-based program.

"Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing an ONB licensed program.

"Licensee" means an individual or legal entity listed on a license issued by the department, authorized to provide child care or early learning services in an ONB program.

"Lockdown" means restricted to an interior room with few or no windows while the facility or building is secured from a threat, or other department approved lockdown plan.

"Locking mechanism" means a lock that requires a key, tumbler, dial, passcode, touchpad, or similar device or method to lock and unlock.

"Modification" means, when used in reference to an ONB provider's licensing status, an enforcement action by the department to change the conditions identified on a licensee's current license.

"Moisture-wicking" means a fabric that draws moisture away from the body, such as polyester or wool. Cotton is not a moisture-wicking fabric.

"Natural space" means land that is natural, semi-natural, or planted and includes plants, animals, and other features and products of the earth.

"Nonexpiring license" means a license that is issued pursuant to chapter 43.216 RCW to an ONB provider following the initial licensing period.

"Office of superintendent of public instruction (OSPI)" means the Washington state office of superintendent of public instruction.

"Operating hours" means the hours listed in an ONB program parent handbook when the ONB program is open and providing care and services to children.

"Outdoor nature-based (ONB) child care" or "outdoor nature-based (ONB) program" has the same meaning as described in RCW 43.216.010(1)(e).

"Outdoor nature-based child care basics" means a curriculum designed to meet the initial basic training requirement for outdoor nature-based program staff working in licensed or certified ONB programs in Washington state. It serves as a broad introduction for professionals who are pursuing a career in the outdoor nature-based child care and education field.

"Outdoor nature-based program (ONB)" means an ONB program that is authorized under RCW 43.216.742.

"Outdoor nature-based (ONB) program staff" or "staff" means all persons who work, substitute, or volunteer in an ONB program during hours when children are or may be present, excluding licensees. "Staff" include ONB child care directors, program directors, assistant directors, site directors, program supervisors, lead teachers, assistant teachers, aides, and volunteers.

"Outdoor nature-based child care (ONB) provider" or "provider" means an outdoor nature-based child care licensee or a designee who works in an ONB program during hours when children are or may be present. Designees include ONB child care directors, program directors, assistant directors, site directors, program supervisors, lead teachers, assistant teachers, aides, and volunteers.

"Outdoor nature-based tools" include, but are not limited to, peelers, whittling knives, small hammers, hand drills, pliers, child-sized saws, wrenches, and screwdrivers. Folding whittling knives must be equipped with a locking feature to keep knives open when in use. Motorized tools must be inaccessible to children.

"Parent" or "guardian" means birth parent, custodial parent, foster parent, legal guardian or those authorized by the parent or entity legally responsible for the welfare of the child.

"Permanently located outdoor classroom" means an outdoor area that is allocated to an ONB program for daily use, and the ONB provider or public park installs permanent or semi-permanent equipment for

the ONB program's use, such as storage containers, portable chemical toilets, or child-sized furniture.

"Personal needs" means an ONB provider's toileting or medication needs that removes the ONB provider from the children. Personal needs do not include smoking or use of tobacco products, illegal drug use or misuse of prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in unattended care.

"Pest" means an animal, plant, or insect that has a harmful effect on humans, food, or living conditions.

"Pesticide" refers to chemicals used to kill pests.

"Pet" means a domestic or tamed animal or bird kept for companionship or pleasure.

"Physical barrier" or "barrier" means a nonclimbable fence or wall that is at least five feet tall and has no openings greater than two inches, nor a gate or door that allows entry to and exit from a body of water. Any gate or opening, in addition to the requirements already listed, must have a locking mechanism, a self-closing or self-latching device, and a device used to open the locks which is inaccessible to children but readily available to staff.

"Physical boundary" or "boundary" means a way of marking the limits of an area consisting of, but not limited to, fences, barriers, ropes, large boulders or logs, or visual aids such as cones, tape, or ribbons.

"Physical restraint" means holding a child as gently as possible for the minimum amount of time necessary to control a situation where that child's safety or the safety of others is threatened.

"Poison" includes, but is not limited to, substances, chemicals, chemical compounds other than naturally occurring compounds such as water or salt, or similar items that, even in small quantities, are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes.

"Premises" means the licensed and unlicensed space at the licensed address including, but not limited to, buildings, land, residences, and other real property.

"Preschool-age child" means a child 30 months through six years of age not attending kindergarten or elementary school.

"Preservice training" means professional development standards or requirements for ONB program staff prior to hiring or within a department specified time frame and delivered or approved by the department.

"Private septic system" means a septic system as defined in chapter 246-272A WAC that is not connected to a public sewer system or a large on-site sewage system as defined in chapter 246-272B WAC. A private septic system includes, but is not limited to, the septic system's drain field and tanks.

"Probationary license" has the same meaning as described in RCW 43.216.010(25).

"Professional development support plan" is a formal means by which an individual who is supervising staff sets out the goals, strategies, and outcomes of learning and training.

"Program director" means the person responsible for the overall management, including the facility and operations, of an ONB program that enrolls only school-age children. The program director is not responsible for being on-site at the ONB program, unless the program director is filling in for an on-site role.

"Program supervisor" means the person responsible for planning and supervising the learning and activity programming of the ONB pro-

gram that enrolls preschool-age and school-age children, or only preschool-age children.

"RCW" means the Revised Code of Washington.

"Readily available" means able to be used or obtained quickly and easily.

"Revocation" or "revoke" when used in reference to an ONB provider's licensing status, means an enforcement action by the department to close an ONB program and permanently remove the license.

"Risk" means, with regard to "risky play," a situation that a child can recognize and evaluate challenges to decide on a course of action, although there may be a potential for injury.

"Risk management policy" means a written policy or plan to mitigate children's risk of injury associated with risky play or learning activities.

"Risky play" means physical activity and play that is challenging and involves a risk of physical injury. Risky play for ONB programs includes, but is not limited to, play involving heights, speed, dangerous tools, close proximity to dangerous elements, such as falling into something potentially hazardous, and risk of getting lost. Risky play is also known as "adventure play."

"Routine care" means typical or usual care provided to a child during the time the child is enrolled in the ONB program, such as feeding, diapering, toileting, napping, resting, playing, and learning.

"Safe route" means a way or course taken to get from a starting point to a destination that is protected from danger or risk.

"Safety plan" means a written plan to implement ONB program changes to bring an ONB program into compliance with this chapter and chapter 43.216 RCW. Safety plans are developed at meetings involving at least an ONB provider and a department licensor and supervisor. Safety plans detail changes the ONB provider needs to make to mitigate the risk of direct and indirect harm to children enrolled in the ONB program. ONB program changes must be agreed to in writing, and signed by all participants at the meeting. Safety plans expire 30 calendar days after being signed by all parties. Safety plans may only be extended for an additional 30 days and extensions may only be authorized by a department supervisor.

"Sanitize" means to reduce the number of microorganisms on a surface by the process of:

(a) Cleaning and rinsing with water at a high temperature pursuant to the requirements described in this chapter; or

(b) Cleaning and rinsing, followed by using:

(i) A fragrance-free chlorine bleach and water solution following the DOH's current guidelines for mixing bleach solutions for child care and similar environments; or

(ii) Other sanitizer product if it is registered with the EPA and used strictly according to the manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as "safe for food contact surfaces."

"School age child" has the same meaning as in RCW 43.216.010(27).

"Screen time" means watching, using, or playing television, computers, video games, video or DVD players, mobile communication devices, or other similar devices.

"Serious injury" means:

(a) An injury resulting in an overnight hospital stay;
(b) A severe neck or head injury;
(c) Choking or serious unexpected breathing problems;
(d) Severe bleeding;
(e) Shock or an acute confused state;
(f) Sudden unconsciousness;
(g) Dangerous chemicals in eyes, on skin, or ingested;
(h) Near drowning;
(i) One or more broken bones;
(j) A severe burn requiring professional medical care;
(k) Poisoning; or
(l) An overdose from a chemical substance.

"Shelter in place" means staff and children staying at the licensed premises due to an external threat such as a storm, chemical or gas leak or explosion, or other event that prohibits the occupants from safely leaving the premises.

"Sign" means an individual formally placing their name or legal mark on a document by physical signature or electronic signature.

"Site director" means the person responsible for planning and implementing the services, under the oversight of the program director, of an ONB program that enrolls only school-age children. The site director is responsible for being on-site during the ONB program's operating hours and providing regular supervision of staff and volunteers.

"Sleeping equipment" means a bed, cot, mattress, or mat.

"Special needs" is a term used for children who require a higher level of care due to learning difficulties, physical or mental disability, or emotional and behavioral difficulties and who have one or more of the following documents that describes a child's condition: A health care provider's diagnosis, an individual educational plan (IEP), individual health plan (IHP), 504 plan, or an individualized family service plan (IFSP).

"Strengthening families program self-assessment" means a research informed approach to increase family strengths, enhance child development, and reduce the likelihood of child abuse and neglect. It is based on engaging families, ONB programs, and communities in building five protective factors:
(a) Parental resilience;
(b) Social connections;
(c) Knowledge of parenting and child development;
(d) Concrete support in times of need; and
(e) Social and emotional competence of children.

"Supervise" or "supervision" means an ONB provider must:

(a) Be able to see or hear the children they are responsible for at all times;

(b) Use their knowledge of each child's development and behavior to anticipate what may occur to prevent unsafe or unhealthy events or conduct, or to intervene in such circumstances as soon as possible;

(c) Reposition themselves or the children to be aware of where children are and what they are doing during care; and

(d) Reassess and adjust their supervision each time ONB program activities change.

See "active supervision" for a heightened standard of care.

"Suspend" means, for purposes of an ONB provider's licensing status, an enforcement action by the department to temporarily stop a license in order to protect the health, safety, or welfare of enrolled children or the public.

"Swimming pool" means a body of water that has a depth greater than two feet (24 inches).

"Technical assistance" means a service provided to an ONB provider by department staff or a contracted third party. The goal of technical assistance is to offer guidance, information, and resources to help an ONB provider fully comply with the licensing requirements described in this chapter and chapter 43.216 RCW.

"Transition" means the process or period of time to change from one activity, place, grade level, or sleeping arrangement to another.

"Unlicensed space" means the indoor and outdoor areas of the premises not approved by the department as licensed space that the ONB provider must make inaccessible to the children during ONB program hours.

"Unsupervised access" has the same meaning as WAC 110-06-0020.

"Usable space" means the areas that are available at all times for use by children in an ONB program and meets licensing requirements.

"USDA" means the United States Department of Agriculture.

"Vapor product" means any:

(a) Device that employs a battery or other mechanism to heat a solution or substance to produce a vapor or aerosol intended for inhalation;

(b) Cartridge or container of a solution or substance intended to be used with or in such device or to refill such device; or

(c) Solution or substance intended for use in such a device including, but not limited to, concentrated nicotine, nonnicotine substances, or supplemental flavorings. This includes any electronic cigarettes, electronic nicotine delivery systems, electronic cigars, electronic cigarillos, electronic pipes, hookahs, steam stones, vape pens, or similar products or devices, as well as any parts that can be used to build such products or devices.

"Vapor product" does not include any drug, device, or combination product approved for sale by the FDA that is marketed and sold for such approved purpose.

"Variance" is an official approval by the department to allow an ONB program to achieve an outcome of a rule or rules in these standards in an alternative way than described due to the needs of a unique or specific ONB program approach or methodology. The department may grant a request for variance if the proposed alternative provides clear and convincing evidence that the health, welfare, and safety of all enrolled children will not be jeopardized. An ONB provider does not have the right to appeal the department's disapproval of request for variance under chapter 110-03 WAC. The ONB provider may challenge a variance disapproval on a department form.

"Volunteer" includes any person who provides labor or services to an ONB provider but is not compensated with employment pay or benefits. A volunteer must never have unsupervised access to a child unless the volunteer is the parent or guardian of that child or is an authorized person pursuant to WAC 110-302-0345.

"WAC" means the Washington Administrative Code.

"Wading pool" means a pool that has a water depth of less than two feet, or 24 inches.

"Waiver" is an official approval by the department allowing an ONB provider not to meet or satisfy a rule in this chapter due to specific needs of the ONB program or an enrolled child. The department may grant a request for waiver if the proposed waiver provides clear and convincing evidence that the health, welfare, and safety of all

enrolled children is not jeopardized. An ONB provider does not have the right to appeal the department's disapproval of a waiver request under chapter 110-03 WAC. The ONB provider may challenge a waiver disapproval on a department form.

"Walk independently" means an individual is able to stand and move easily without the aid or assistance of holding onto an object, wall, equipment, or another individual.

"Water activities" means ONB program activities in which enrolled children swim or play in a body of water that poses a risk of drowning for children. Water activities do not include using sensory tables, or playing in temporary puddles at an ONB program, standing near, but not entering water, or belly exploration where hands are the only body part accessing water.

"Weapon" means an instrument or device of any kind that is used or designed to be used to inflict harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.

"Written food plan" is a document designed to give alternative food to a child in care because of a child's medical needs or special diet, or to accommodate a religious, cultural, or family preference. A parent or guardian and the ONB provider must sign a written food plan.

AMENDATORY SECTION (Amending WSR 23-10-059, filed 5/1/23, effective 6/1/23)

WAC 110-302-0105 Preservice requirements. (1) ((~~A department provided ONB program orientation must be completed by~~)) The requirements for department-provided orientations for ONB programs are as follows:

(a) The following individuals must complete department-provided ONB program orientations, unless they have received a waiver from the department as outlined in (b) of this subsection:

((~~(a)~~)) (i) Applicants, co-applicants, licensees, directors, program directors, assistant directors, site directors, and program supervisors before being in charge of the ONB program 50 percent or more of the time; and

((~~(b)~~)) (ii) Lead teachers who work on-site without any of the individuals listed in (a)(i) of this subsection ((~~on-site~~)); and

((~~(c) Prior to being in charge of the ONB program 50 percent of the time or more, ONB providers who are newly promoted or assuming one of the roles listed in (a) of this subsection~~)) (b) The department will waive the ONB program preservice requirement to complete a department-provided orientation when an individual has previously completed the applicable orientation and:

(i) It has been less than five years since completion of the orientation;

(ii) The orientation content and licensing process have not substantially changed since the date of completion; and

(iii) The individual has not had a break in service working:

(A) As a licensed ONB child care provider; or

(B) In a licensed ONB child care facility.

(2) ONB providers must complete a department background check, pursuant to chapter 110-06 WAC.

(3) ONB providers, including volunteers, must provide documentation signed within the last 12 months by a licensed health care professional of tuberculosis (TB) testing or treatment consisting of:

(a) A negative TB symptom screen and negative TB risk assessment;

(b) A previous positive FDA-approved TB test and a current negative chest radiograph and documentation of clearance to safely work in an ONB program; or

(c) A positive symptom screening or a positive risk assessment with documentation of:

(i) A current negative FDA-approved TB test;

(ii) A previous or current positive FDA-approved TB test; and

(iii) A current negative chest radiograph and documentation of clearance to safely work in an ONB program.

(4) Upon notification of TB exposure, ONB providers may be required to be retested for TB as directed by the local health jurisdiction.

AMENDATORY SECTION (Amending WSR 23-10-059, filed 5/1/23, effective 6/1/23)

WAC 110-302-0400 Application materials. (1) ((~~After completing a department approved ONB program orientation pursuant to chapter 43.216 RCW, applicants must submit complete license application packets as described in this section~~)) Applicants must submit a complete license application packet after they have completed the department orientation or after they have received verification from the department that they qualify for an orientation waiver as outlined in WAC 110-302-0105. The application requirements described in this section also apply to a request for a change of ownership.

(2) Complete license application packets must include the following professional background information about the applicant:

(a) A completed department application form;

(b) ((~~A copy of the applicant's ONB orientation certificate that indicates the orientation was completed within 12 months of the license application~~)) One of the following:

(i) A copy of the applicant's orientation certificate; or

(ii) Department verification that the applicant qualifies for an orientation waiver as outlined in WAC 110-302-0105;

(c) A copy of the applicant's current government issued photo identification;

(d) A copy of the applicant's Social Security card or a sworn declaration stating that the applicant does not have one;

(e) The applicant's employer identification number (EIN) if the applicant plans to hire staff; and

(f) Employment and education verification information that includes, but is not limited to, diplomas, degrees, transcripts, or a sworn declaration stating that the applicant cannot verify education requirements.

(3) Complete license applications must include:

(a) A site plan that:

(i) Describes the proposed use of the licensed and unlicensed space; and

(ii) Provides a diagram with all pertinent measurements of the natural space, licensed space, and unlicensed space;

(b) A description and diagram of any permanently located outdoor classrooms and gross motor active play areas;

(c) A description of any areas or locations that will be used regularly for risky educational or play activities and areas or locations that may involve risky educational or play activities;

(d) For all applicable areas and activities, completed benefit-risk assessments that are in compliance with the requirements described in WAC 110-302-0471;

(e) A description of the proposed shelter that will be used by children and staff during an emergency;

(f) A description of the proposed toileting facilities that will be used by children and staff, including a description of any alternative toileting policies and practices that may be implemented;

(g) A floor plan of any buildings or structures that may or will be used that includes a description and diagram of all emergency exits and emergency exit pathways;

(h) For ONB program spaces that will rely on a private septic system, the applicant must provide documentation that is no more than three years old and is from a licensed inspector, septic designer, or engineer that states the septic system and drain field are maintained and in good working order;

(i) For ONB program spaces that will receive water from a well, the applicant must provide *E. coli* bacteria and nitrate well water testing results that is no more than 12 months old;

(j) For ONB program spaces located in the Tacoma smelter plume areas of King, Pierce, and Thurston counties or the Everett smelter plume area of Snohomish County, the applicant must provide a lead or arsenic evaluation agreement;

(k) Lead and copper test results for drinking water;

(l) ONB program days and hours of operation, including closure dates and holiday observances;

(m) The following information about ONB program staff:

(i) A list of all staff;

(ii) A list of all staff and volunteers who are required to complete the background check process as described in chapter 110-06 WAC; and

(iii) A resume for the applicant, director, program director, assistant director, program supervisor, and site director; and

(n) The following policy documents, which will be reviewed by the department and returned to applicants:

(i) Parent and ONB program policies;

(ii) Staff policies;

(iii) An emergency preparedness plan; and

(iv) Health policies.

(4) In addition to the requirements in subsection (3) of this section, complete license applications must include:

(a) A signed and dated interlocal agreement between a federally recognized tribe and the department, if applicable;

(b) All licenses that are required by the state of Washington, a county, city, or tribe, including a business and occupation license;

(c) Liability insurance;

(d) A certificate of incorporation, partnership agreement, or similar business organization document;

(e) A land-use agreement that is signed by the land owner. If the land-use agreement is between the ONB program and a public park, the official with the designated authority must sign on behalf of the public park. The land-use agreement must describe:

(i) The shared and individual roles and responsibilities of the ONB program, and the land owner or the public park; and

(ii) The agreed-upon space the ONB program will occupy and other agreed-upon space that will be accessible to the ONB program. Land-use agreements are not required for ONB programs operating on private property owned by the licensee;

(f) Proof that the local emergency management system, fire district, or other applicable emergency response agencies have been provided notice of the location of the ONB program. The notice must be provided by the ONB program using a department approved form; and

(g) If required by any local government agency, a certificate of occupancy that approves the ONB program's occupancy of the ONB program licensed and unlicensed space.

(5) Applicants must submit completed application packets at least 90 calendar days before the planned opening of their ONB programs. The department will inspect the ONB program space and all submitted application materials before deciding whether to issue a license to the applicant((~~.~~)):

(a) The 90 calendar days will be calculated from the date the department receives a complete application packet((~~.~~));

(b) Incomplete application packets will be returned to applicants for completion((~~.~~));

(c) Applicants that are unable to successfully complete the application and licensing process within 90 days may withdraw their applications and reapply when they are able to meet the licensing requirements. If the applicant has completed the required application process within 90 days but an external barrier out of the applicant's control exists, the reapplication fee will be waived one time((~~.~~)); and

(d) Pursuant to RCW 43.216.325, applicants who are unable to meet the application requirements and have not withdrawn their applications will be denied a license.

AMENDATORY SECTION (Amending WSR 23-10-059, filed 5/1/23, effective 6/1/23)

WAC 110-302-0420 Prohibited substances. (1) ONB programs must comply with chapter 70.160 RCW, which prohibits smoking in public places and places of employment.

(2) Pursuant to RCW 70.160.030, ONB providers must comply with the requirements described in this subsection.

(a) Prohibit smoking, vaping, or similar smoking activities in licensed indoor space during business and nonbusiness hours;

(b) Prohibit smoking, vaping, or similar activities in licensed outdoor space unless:

(i) The smoking, vaping, or similar activities occurs during nonbusiness hours; ((~~and~~))

(ii) The smoking, vaping, or similar activity occurs in an area reserved for smoking or vaping tobacco products that is not a "public place" or "place of employment" as defined in RCW 70.160.020((~~.~~)); or

(iii) The ONB program is operated on public land and the law allows members of the public to smoke in the area. If smoking is allowed on the public land, the ONB provider must reasonably protect children from second-hand smoke;

(c) Prohibit smoking, vaping, or similar activities in any motor vehicle that is used to transport ONB program enrolled children;

(d) Prohibit smoking, vaping, or similar activities by any ONB provider who is supervising children, including during field trips;

(e) Prohibit smoking, vaping, or similar activities within 25 feet from entrances, exits, operable windows, and vents, pursuant to RCW 70.160.075; and

(f) Except for ONB programs that enroll only school-age children and operate on public or private school premises, post "no smoking or vaping" signs. Signs must be clearly visible and located at each building entrance wherever possible pursuant to WAC 110-302-0505. For ONB programs operating on private land, it is the landowner's duty to post "no smoking" signs.

(3) ONB providers must:

(a) Prohibit any person from consuming or being under the influence of alcohol on licensed space during business hours;

(b) Prohibit any person from consuming or being under the influence of an illegal drug on licensed space during business hours;

(c) Prohibit any person from consuming prescription drugs to the extent that it interferes with the care of children as required by this chapter;

(d) Prohibit any staff person from consuming smokeless cannabis products in licensed space during business hours;

(e) Store any tobacco or vapor products, packaging of tobacco or vapor products, cannabis or associated paraphernalia, or alcohol (both open and closed containers) in a space that is inaccessible to children;

(f) Prohibit children from accessing cigarette or cigar butts and ashes; ((~~and~~))

(g) Protect children from members of the public consuming or under the influence of alcohol, legal drugs, illegal drugs, or misused prescription drugs;

(h) Confirm the licensed premises does not have any high-potency synthetic opioids, drug manufacturing equipment, or drug paraphernalia on site. If a land-use agreement is required by WAC 100-302-0400 (4)(e) and the licensed premises has been confirmed to not have any of these items, the roles and responsibilities must be added to the land use agreement between the:

(i) ONB program; and

(ii) The land owner; or

(iii) The public park;

(i) Immediately prevent child access to any item described in (g) of this subsection and:

(i) Report to law enforcement or the department as outlined in WAC 110-300-0475; and

(ii) Comply with department direction, including any investigation or enforcement action.

(4) The ONB provider must prohibit the presence of imminent physical harm on licensed space. Imminent physical harm is a zero-tolerance violation that will result in an immediate suspension.