



**STATE OF WASHINGTON
DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES**

1500 Jefferson Street, SE • P.O. Box 40975 • Olympia WA 98504-0975

May 12, 2021

TO: Interested Persons

FROM: Tyler Farmer, Policy Program Manager, Licensing Division

SUBJECT: CONCISE EXPLANATORY STATEMENT (*RCW 34.05.325*)

For rules proposed under notice filed as WSR 21-06-092 on March 2, 2021:

New Chapter 110-301 WAC, Foundational Quality Standards for School-Age Programs

REASON FOR ADOPTION: New chapter 110-301 WAC recognizes the unique needs of school-age children and those who care for them. Chapter 110-301 WAC aligns the licensing requirements for programs that operate when school is not in session and serve only children aged five through twelve who attend school with the requirements for child cares serving children from birth to twelve years of age, addresses critical health and safety needs of children in care, ensures licensed programs meet federal requirements the state must comply with, and promotes cultural diversity.

CHANGES MADE SINCE THE RULE WAS PROPOSED:

The text of the adopted rule varies from the text of the proposed rule. The changes, other than non-substantive edits are:

- An equivalency alternative to education requirements inserted in 110-301-0100 and its corresponding definition inserted in 110-301-0005.
- “Evening and overnight care” inserted in WAC 110-301- 0110(2)(e), 110-301-0345(2), 110-301-0360(2) and 110-301-0450(2)(i).
- “School-age program space must allow children to move between areas without disrupting another child’s work or play” removed from WAC 110-301-0130.
- Exemption from compliance with state and local building codes for programs not operating on public or private school premises inserted in WAC 110-301-0170(1) and 110-301-0415(3).
- Bathtub and shower standards inserted in WAC 110-301-0220 and standards for storing toilet plungers and brushes moved from WAC 110-301-0260.
- “Bathing, if the program uses a bathtub or shower described in WAC 110-301-0220(3)” inserted in WAC 110-301-0460.
- “[I]ncluding in the evening and during overnight hours if the school-age program offers care for children during those hours” inserted in WAC 110-301-0470.

SUMMARY OF COMMENTS RECEIVED	THE DEPARTMENT CONSIDERED ALL THE COMMENTS. THE ACTIONS TAKEN IN RESPONSE TO THE COMMENTS, OR THE REASONS NO ACTIONS WERE TAKEN, FOLLOW.
WAC 110-301-0005. Add a definition for 'Termination of Services'. The definition of 'Expel' is very limited for causes of expulsions, which are typically related to the child. Additionally, there is not a WAC regarding 'Termination of Services' which is referenced in other WACs related to other causes (primarily due to the parents) for removal including non-payment.	Disagree. <i>Expulsion and termination of services</i> are intentionally distinguished from each other. WAC 110-301-0485 states the grounds for termination and provides examples. An expulsion occurs when a child is unable to behave in a safe manner and poses a risk to themselves or others.
WAC 110-301-0030. Using a double negative is confusing. I'm sure the intent is that discrimination is prohibited, but in this phrase it means the opposite.	Disagree. The section header, <i>Nondiscrimination</i> , describes the subject of the rule. The text reads ... <i>programs ... must not discriminate ...</i>
WAC 110-301-0085. This needs further clarification and detail on how the attempt to work with the family would be verified.	Disagree. Licensees or program staff and licensors may have conversations about family partnership and communication efforts, but this rule will not be included on the monitoring checklist.
WAC 110-301-0100. In order to recognize other educational and career experiences, we strongly recommend an experience matrix that provides experience equivalency for credits and ability to demonstrate skill sets that align based on school-age child care core competencies; these can include out-of-state relevant employment; STARS trainings completed; program quality trainings; Continuing Education Units (CEU credits); OSPI clock hours; and/or a school-age child care certificate.	Agreed. Experience equivalencies inserted for all positions requiring college course work in WAC 110-301-0100 and <i>equivalency</i> defined in WAC 110-301-0005.
Please consider adding a matrix for experience and/or STARS courses that provide experience equivalency for college credits similar to the previous way of crediting 10 STARS hours of training as equal to 1 college credit.	See above.
Site Directors and Lead Teachers: I don't agree with the requirement of having 30 and 12 college credits respectively in order to be a site director and lead teacher. There should be an experience & training equivalent to the college credits. This is inequitable for individuals who do not have the financial ability to go to college, but have experience and training, and are wonderful and dedicated to working in this field.	See above.
Clarify what 'other personnel' means. Additionally, registrars and program administrators that are not in the same building as children should not be required to have a TB test.	Disagree. <i>Other personnel who do not directly care for children</i> is intended to be a general category to accommodate variances among licensed programs. According to the CDC, TB in children is a public health problem and the greatest number of cases are seen in children who are less than five and more than 10 years of age. Since TB is an air-borne disease and coworkers who are not in the same building still have the potential of in-person contact, pre-screening all employees will reduce the risk of children's exposure.
An 18-year old MIGHT have the education done, but there should still be experience required as an assistant to another	Disagree. WAC 110-301-0100 establishes the minimum licensing requirements. A program may

program director. We need education AND experience. Even 6 months assisting a director gives a wealth of knowledge to a future Program Director.	impose additional hiring requirements that are not contrary to the rule.
Having the ability to hire 18 years and up allows our agency to hire the best candidate. Often the age group 18-20 has a strong passion to work with our clients, are enthusiastic, and has a real openness to learn best practices with the population we serve.	Commentary.
Missing a word "additional" before eighteen college credits in any one hundred-level or above. This is not consistent with (3)(a)(ii)(A)	Agreed. Correction made.
WAC 110-301-0130. "School-age program space must allow children to move between areas without disrupting another child's work or play. This is vague. Why not work stick to the thirty-five square feet per child. And/or add "reasonably disrupting" or "physically disrupting." This bullet appears redundant due to the details on WAC 110-301-0140.	Agreed. Requirement removed.
Remove (2) - this does not make sense for school-age children.	See above.
WAC 110-301-0165. Eliminate or clarify 'noise level' requirements as well as lightbulb requirements.	Disagree. Both are safety concerns. A noise level that allows for a normal conversation to be heard reduces the risk of unsafe noise levels that could potentially damage children's hearing. Shatterproof light bulbs reduce the risk of injury to children in the area.
WAC 110-301-0186. Eliminate the need for a doctor's note for foods from home, regardless of the reason.	Disagree. A doctor's note is not required for foods from home. Care instructions must be provided by health care providers and parents or guardians for any children with known food allergies or dietary needs required by health conditions.
WAC 110-301-0190. Change the 'supplement food' requirement to one that requires the provider to 'offer supplement food.' This is a parental choice, food waste, and provider cost issue.	Disagree. Adequate nutrition is important for a child's development and academic success.
WAC 110-301-0198. Eliminate the need for a second hand washing sink in a kitchen. Costly for providers and not necessary, especially given most programs only offer pre-packaged food or food that does not need cooking or reheating (ex. fruits)	Disagree. Hand washing sinks and food workers are regulated by the state Board of Health in chapter 246-215 WAC and DCYF lacks authority to adopt conflicting requirements. On a case-by-case basis, DCYF may waive a requirement under certain conditions. The programs described in the comment may be eligible for a waiver.
WAC 110-301-0210. Provide more alternatives for immunization forms such as a printout from a health care agency.	Disagree. DCYF lacks authority to establish additional acceptable immunization forms; they are regulated by the state Board of Health at WAC 246-105-050.
WAC 110-301-0240. Remove requirement for 12 inch barrier around sink and fragrance-free cleaning products.	Disagree. The requirement is 24" of moisture resistant and cleanable material <u>or</u> a barrier around the sink and it is necessary to prevent growth of mold and the spread of bacteria. According to the state Department of Health, added fragrances can trigger asthma attacks, allergies, and sensitization.
WAC 110-301-0300. This regulation places entirely too much	Disagree. The requirement is for children who

<p>burden on providers. This is the equivalent to a K12 Individualized Education Plan which is not necessary for child care and much of it would be redundant. Also, some of what might be required is beyond the training, funding, and staffing levels most school-age programs can provide.</p>	<p>have a special need, which chapter 110-301 WAC defines, in part, as children who have individual educational, individual health, 504, or individualized family service plans [not developed by the child care provider]. For those children, the individual care plan is critical to identify the special need that will be met by the child care program, such as needed medication and dosage instructions or dietary needs, as well as activity, behavioral, or environmental modifications, or any of the other special needs specified in WAC 110-301-0300.</p>
<p>WAC 110-301-0331. If a school-age provider follows all strategies in this section, and a child continues to behave in an unsafe manner, then only a licensee, program director, site director, lead teacher, or an assistant teacher may physically remove the child to a less stimulating environment. Staff must remain calm and use a calm voice when directing or removing the child. In addition, the program may leverage support from the private/public school staff, including the principal, assistant principal, teacher, counselor and special education staff. Finally, for children who are accessing community-based mental health services, these mental health professionals can also be leveraged during a crisis to help children de-escalate, until the child is able and ready to return to the group.</p>	<p>Disagree. WAC 110-301-0331 does not preclude a provider from accessing additional support as described in the comment, as long as all other provisions of chapter 110-301 WAC are complied with, e.g., parents' or guardians' permission for counselors to have access to their children, background checks, etc..</p>
<p>WAC 110-301-0345. ADD:(6)(d): there is a 10 minute exception for an emergent need to use the bathroom and for emergency-related incidents.</p>	<p>Disagree. Supervision is the primary preventative safety measure. The suggested exception would create a risk to the safety of children in care.</p>
<p>A school-age program staff member may undertake other activities for a temporary time period when not required to be providing active supervision required under subsection (5)(c) of this section. Such activities include, but are not limited to, cleaning up after an activity or preparing items for a new activity. This school-age staff member must remain in visual or auditory range, EXCEPT WHEN CHILDREN ARE IN THE RESTROOM, and be available and able to respond if needed.</p>	<p>See above.</p>
<p>WAC 110-301-0356. Increase ratios to align with national standards and practice for school-age children. Eliminate age-range alternatives since all school-age students should fall under the same set of rules.</p>	<p>Disagree. The prescribed ratio of 1:15 children aligns with the National After School Association's standard for children above age 6.</p>
<p>WAC 110-301-0400. Due to challenges with background checks, timeline for getting information to MERIT, and hiring timelines (can take 90 days and providers lose staff), providers should be able to submit a staffing plan with positions and key functions.</p>	<p>Changes to background check requirements for licensure are beyond the scope of this rule making.</p>
<p>WAC 110-301-0402. Add a school-building waiver since moving of child care space throughout a school building is common and aligns with the environmental safety standards in child care WACs related to public and private schools.</p>	<p>Disagree. To ensure the safety of children in care, DCYF must always inspect the space before a licensed program begins operating in it.</p>
<p>WAC 110-301-0465. Allow for electronic record keeping for all documents. This will help with record retention and with limited space many programs have, particularly in school buildings.</p>	<p>WAC 110-301-0465 does not preclude electronic record keeping.</p>

<p>Retaining facility and program records. Please allow for electronic record keeping of all files. We are limited on storage in programs located in school buildings.</p>	<p>See above.</p>
<p>WAC 110-301-0443. Change to 60 days (from 28 days) to allow a feasible time to make changes.</p>	<p>Disagree. The 28-day time period in WAC 110-301-0443 refers to when a fine must be paid, which is dictated by RCW 43.216.327. This comment may be about changes necessary under a facility licensing compliance agreement. If so, WAC 110-301-0440 acknowledges DCYF's discretion for determining a completion date and the criteria to be used for determining that date.</p>
<p>WAC 110-301-0450. Require that all programs have a water safety plan submitted to the department. If the program never takes children near a body of water, the plan may simply be a statement to this effect. This makes sense to have for programs that have water activities and simplifies the documentation for those that do not.</p>	<p>Disagree. The requirement to include a water activity policy in the parent's handbooks is necessary for risk mitigation. A program that doesn't engage in water activities would state that as their policy.</p>
<p>WAC 110-301-0480. Annual blanket field trip permit should be included, with an 'announcement'/inform parent' requirement when an individual field trip opportunity is planned.</p>	<p>WAC 110-301-0480(1)(b)(iii) allows permission for field trips to be given annually.</p>
<p>Meal patterns, WAC 110-301-0180; cleaning, WAC 110-301-0200; and water activities WAC 110-301-5150. Overall, these are heavily regulated and these issues are not regulated in any other public industry or service to this degree - particularly for school-age children.</p>	<p>Disagree. Required meal patterns follow U.S. Department of Agriculture's guidance. Active supervision during water activities is critical for children's safety. Requiring cleaning schedules supports a consistently healthy environment for children in care.</p>

This document also serves as the summary of public hearing comments to the agency head required under RCW 34.05.325(4).

cc: DCYF Rules Coordinator