



# EXPEDITED RULE MAKING

## CR-105 (December 2017) (Implements RCW 34.05.353)

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DATE: April 12, 2021

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WSR 21-09-029

**Agency:** Department of Children, Youth, and Families

**Title of rule and other identifying information:** (describe subject) WAC 110-300-0015 Licensee absence; 110-300-0016 Inactive status – Voluntary and temporary closure; 110-300-0105 Preservice requirements; 110-300-0107 In-service training; 110-300-0145 Outdoor early learning program space; 110-300-0146 Equipment and surfaces in outdoor early learning space; 110-300-0150 Program and activities; 110-300-0165 Safety requirements; 110-300-0175 Water hazards and swimming pools; 110-300-0335 Physical restraint; 110-300-0360 Program and daily schedule; 110-300-0443 Enforcement actions, notice, and appeal; and 110-300-0460 Child records

**Purpose of the proposal and its anticipated effects, including any changes in existing rules: For Licensing of Early Learning Programs,** the proposed amendments clarify language without changing the rules' effect, specifically: replacing references to "facility licensing compliance agreement (FLCA)" with "inspection report" after the Licensing Division renamed forms, remove references to outdated authorities, better clarify that early learning providers must pass a background check; change fiscal year to calendar year to align with a change the Licensing Division has made to an internal operation that allows accumulation and carry forward of early learning providers' excess continuing education credits, better clarify that certain in-service training is required only for those licensed, hired, or proposed after August 1, 2019, and otherwise clarify language without changing the rules' effect.

**Reasons supporting proposal:** The proposed amendments have been requested by the regulated community and DCYF staff to remove confusing language and make the rules more concise. Proposed amendments also correct or remove outdated authority citations and publications.

**Statutory authority for adoption:** RCW 43.216.065

**Statute being implemented:** RCW 43.216.255

**Is rule necessary because of a:**

- Federal Law?  Yes  No
- Federal Court Decision?  Yes  No
- State Court Decision?  Yes  No

If yes, CITATION:

**Name of proponent:** (person or organization) Department of Children, Youth, and Families

- Private
- Public
- Governmental

**Name of agency personnel responsible for:**

	Name	Office Location	Phone
Drafting:	Tyler Farmer		(360) 628-2151
Implementation:	DCYF	Statewide	
Enforcement:	DCYF	Statewide	

**Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:**

**Expedited Adoption - Which of the following criteria was used by the agency to file this notice:**

- Relates only to internal governmental operations that are not subject to violation by a person;
- Adopts or incorporates by reference without material change federal statutes or regulations, Washington state statutes, rules of other Washington state agencies, shoreline master programs other than those programs governing shorelines of statewide significance, or, as referenced by Washington state law, national consensus codes that generally establish industry standards, if the material adopted or incorporated regulates the same subject matter and conduct as the adopting or incorporating rule;
- Corrects typographical errors, make address or name changes, or clarify language of a rule without changing its effect;
- Content is explicitly and specifically dictated by statute;
- Have been the subject of negotiated rule making, pilot rule making, or some other process that involved substantial participation by interested parties before the development of the proposed rule; or
- Is being amended after a review under RCW 34.05.328.

**Expedited Repeal - Which of the following criteria was used by the agency to file notice:**

- The statute on which the rule is based has been repealed and has not been replaced by another statute providing statutory authority for the rule;
- The statute on which the rule is based has been declared unconstitutional by a court with jurisdiction, there is a final judgment, and no statute has been enacted to replace the unconstitutional statute;
- The rule is no longer necessary because of changed circumstances; or
- Other rules of the agency or of another agency govern the same activity as the rule, making the rule redundant.


**Explanation of the reason the agency believes the expedited rule-making process is appropriate pursuant to RCW 34.05.353(4):** The proposed rules update references to internal government operations (forms), correct outdated or incorrect citations and references to publications, and clarify the language of rules without changing their effect.

**NOTICE**

**THIS RULE IS BEING PROPOSED UNDER AN EXPEDITED RULE-MAKING PROCESS THAT WILL ELIMINATE THE NEED FOR THE AGENCY TO HOLD PUBLIC HEARINGS, PREPARE A SMALL BUSINESS ECONOMIC IMPACT STATEMENT, OR PROVIDE RESPONSES TO THE CRITERIA FOR A SIGNIFICANT LEGISLATIVE RULE. IF YOU OBJECT TO THIS USE OF THE EXPEDITED RULE-MAKING PROCESS, YOU MUST EXPRESS YOUR OBJECTIONS IN WRITING AND THEY MUST BE SENT TO**

Name: DCYF Rules Coordinator  
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Other:

**AND RECEIVED BY** (date) June 22, 2021

<b>Date:</b> April 12, 2021	<b>Signature:</b> 
<b>Name:</b> Brenda Villarreal	
<b>Title:</b> DCYF Rules Coordinator	

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

**WAC 110-300-0015 Licensee absence.** (1) In a family home early learning program, the licensee must have a written plan for when the licensee will be absent but the program remains open for the care of children. If a family home licensee is absent more than ten consecutive operating days, the licensee must submit a written notification to the department and each child's parent or guardian at least two business days prior to the planned absence.

(2) In a center early learning program, the licensee must have a written plan for when the director, assistant director, and program supervisor will be simultaneously absent but the program remains open for the care of children. If the director, assistant director, and program supervisor are simultaneously absent for more than ten consecutive operating days, an early learning provider must submit a written notification to the department and each child's parent or guardian at least two business days prior to the planned absence.

(3) A written notification under this section must include the following information:

- (a) The time period of the absence;
- (b) Emergency contact information for the absent early learning provider; and
- (c) A written plan for program staff to follow that includes:
  - (i) A staffing plan that meets child-to-staff ratios;
  - (ii) Identification of a lead teacher to be present and in charge;
  - (iii) Early learning program staff roles and responsibilities;
  - (iv) How each child's needs will be met during the absence; and
  - (v) The responsibility for meeting licensing requirements.

(4) If ~~((a facility licensing compliance agreement (FLCA) is developed as a result of early learning program staff failing to comply with licensing regulations during an absence described in))~~ an early learning provider, program, or staff member fails to comply with one or more of the requirements of this section, an early learning provider must:

- (a) Retrain early learning program staff on the foundational quality standards documented on the ~~((FLCA))~~ inspection report; and
- (b) Document ~~((that))~~ when the retraining occurred.

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

**WAC 110-300-0016 Inactive status—Voluntary and temporary closure.** (1) If a center or family home licensee plans to temporarily close their early learning program for more than thirty calendar days, and this closure is a departure from the program's regular schedule, an early learning provider must submit a notification to go on inactive status to the department at least two business days prior to the planned closure. Notifications for inactive status must include:

- (a) The date the early learning program will cease operating;
- (b) The reasons why the licensee is going on inactive status; and

(c) A projected date the early learning program will reopen.

(2) The requirements of this section do not apply to licensed early learning programs that have temporary closures beyond thirty calendar days as part of their regular schedule, such as programs based on the school year or seasonal occupation.

(3) A licensee may not request inactive status during their first initial licensing period (six months) unless for an emergency.

(4) An early learning provider must inform parents and guardians that the program will temporarily close.

(5) An early learning provider is responsible for notifying the department of changes to program status including voluntary closures, new household members or staff, or other program changes. Program status updates must also be completed in the department's electronic system.

(6) Background check rules in chapter 110-06 WAC, including allegations of child abuse or neglect, will remain in effect during inactive status.

(7) After receiving a notice of inactive status, the department will:

(a) Place the license on inactive status;

(b) Inform the licensee that the license is inactive; and

(c) Notify the following programs of the inactive status:

(i) The department's child care subsidy programs;

(ii) ~~((USDA Child and Adult Care Food Program (-)))~~ CACFP ~~((+))~~; and

(iii) Early achievers, ECEAP, Head Start Grantee, and child care aware of Washington.

(8) A licensee is still responsible for maintaining annual compliance requirements during inactive status pursuant to RCW 43.216.305.

(9) If inactive status exceeds six months within a twelve-month period, the department must close the license ~~((for failing to comply with RCW 43.216.305(2)))~~. The licensee must reapply for licensing pursuant to RCW 43.216.305(3).

(10) The department may pursue enforcement actions after three failed attempts to monitor an early learning program if the:

(a) ~~((The))~~ Early learning provider has not been available to permit the monitoring visits;

(b) ~~((The))~~ Monitoring visits were attempted within a three-month time period; and

(c) ~~((The))~~ Department attempted to contact the provider by phone during the third attempted visit while still on the early learning premises.

(11) When a licensee is ready to reopen after a temporary closure, the licensee must notify the department in writing. ~~((After receiving))~~

(12) Once the department receives a provider's notice of ((the)) intent to reopen, the department will:

(a) Conduct a health and safety visit of the early learning program within ten business days to determine that the provider is in compliance with this chapter;

(b) Activate the license and inform the licensee that the license is active; and

(c) Notify the following programs of the active status:

(i) The department's child care subsidy programs;

(ii) CACFP; and

(iii) Early achievers, ECEAP, Head Start Grantee, and child care aware of Washington.

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

**WAC 110-300-0105 Preservice requirements.** (1) All applicants, coapplicants, family home licensees, center directors, assistant directors, and program supervisors must complete a department provided orientation for the applicable early learning program. Prior to being in charge of the early learning program fifty percent 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.

(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 and over, must provide documentation signed within the last twelve 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) ((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 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 19-22-103, filed 11/6/19, effective 12/7/19)

**WAC 110-300-0107 In-service training.** (1) An early learning provider must complete ten hours of annual in-service training after twelve months of cumulative employment.

(a) A family home licensee((s)), center director((s)), assistant director((s)), program supervisor((s)), lead teacher((s,—and)) or assistant teacher((s)) who has not completed the department's enhancing quality of early learning (EQEL) in-service training and was licensed, hired, or promoted on or after August 1, 2019, must complete the ((department enhancing quality of early learning (EQEL) in-service)) training within thirty-six months of ((being hired in a licensed family)) assuming the role, unless the provider has completed a department approved alternative training. EQEL hours may count towards the ten hours of annual in-service training.

(b) Every thirty-six months, following the completion of EQEL or a department approved alternative training, a family home licensee((s)), center director((s)), assistant director((s,—and)) or program supervisor((s)), must complete a minimum of ten hours of in-serv-

ice training "child development" and a minimum of ten hours of in-service training on "leadership practices."

(i) Child development training includes the following Washington state core competencies: Child growth and development, curriculum and learning environment, ongoing measurements of child progress, family and community partnerships, health, safety, nutrition, and interactions.

(ii) Leadership practices training includes the following Washington state core competencies: Program planning and development, professional development, and leadership.

(2) In-service training requirements of this chapter may be met by completing college courses that align with the Washington state core competencies. These courses must be delivered by a postsecondary institution and approved by the department.

(3) Only five in-service training hours that exceed the requirements of subsection (1) of this section may be carried over from one (~~fiscal~~) calendar year to the next (~~fiscal~~) calendar year.

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

**WAC 110-300-0145 Outdoor early learning program space.** (1) An early learning provider must visually inspect outdoor program space and equipment daily to ensure outdoor areas and equipment are free of hazards.

(2) Outdoor play space must contain a minimum of seventy-five square feet of licensed usable space per child accessing the play space at any given time. An early learning provider may develop an alternate plan if an early learning program does not have enough outdoor play space to accommodate all enrolled children at once (~~(for example)~~), such as rotating groups of children to play outdoors or using an off-site play area(+)). The department must approve alternate plans to use off-site play spaces.

(3) An early learning program must have shaded areas in outdoor play space provided by trees, buildings, or shade structures.

(4) Outdoor play space must promote a variety of age and developmentally appropriate active play areas for children in care. Activities must encourage and promote both moderate and vigorous physical activity such as running, jumping, skipping, throwing, pedaling, pushing, pulling, kicking, and climbing.

(5) When the licensed outdoor play space is not immediately adjacent to the early learning program site, an early learning provider must use a safe route when moving to and from the licensed outdoor play space.

(6) Licensed outdoor play areas must be enclosed with a fence or barrier that is intended to prevent children from exiting and discourages climbing. If the outdoor play area is enclosed by a barrier that is not a fence, the barrier may be a wall constructed with brick, stone, or a similar material.

(7) Licensed outdoor play areas must be enclosed to deter people without permission from entering the area.

(8) Fences, barriers, and gates must be in good condition, have no gap through which a sphere with a diameter of three and one-half

inches can pass, and have a minimum height of forty-eight inches or conform in height to applicable local codes.

(9) The opening between a fence post and gate or fence post and building must have no gap through which a sphere with a diameter of three and one-half inches can pass.

(10) An early learning provider must not install any wooden fence, playground structure, or furniture if it contains chromated copper arsenate (CCA), creosote, or pentachlorophenol. If wooden fences, structures, and furniture are suspected of having CCA, they must be tested. If CCA is present, fences, structures, and furniture must be removed or sealed with an oil-based outdoor sealant annually or more often as needed (~~within six months of the date this section becomes effective~~).

(11) (~~Within six months of the date this section becomes effective or~~) Prior to licensing, exiting mechanisms on gates from a licensed outdoor play area to unlicensed space must be equipped with a self-closing and self-latching mechanism (shuts automatically when released from an individual's control). A gate that is not an emergency exit must be locked or self-closing and self-latching.

(12) Outdoor play areas must have two exits that must not be partially or entirely blocked (~~with at least one exit located away from the building~~). At least one of the two exits must not lead back into licensed indoor space.

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

**WAC 110-300-0146 Equipment and surfaces in outdoor early learning space.** (1) Playground equipment and surfacing used by an early learning provider must comply with applicable CPSC guidelines (~~as now and hereafter amended~~) including, but not limited to, installing, arranging, designing, constructing, and maintaining outdoor play equipment and surfacing.

(a) Climbing play equipment must not be placed on or above concrete, asphalt, packed soil, lumber, or similar hard surfaces;

(b) The ground under swings and play equipment must be covered by a shock absorbing material (grass alone is not an acceptable) such as:

(i) Pea gravel at least nine inches deep;

(ii) Playground wood chips at least nine inches deep;

(iii) Shredded recycled rubber at least six inches deep; or

(iv) Any material that has a certificate of compliance, label, or documentation stating it meets ASTM standards (~~F1292-13 and F2223-10, as now and hereafter amended~~) F1292.

(2) Permanently anchored outdoor play equipment must not be placed over septic tank areas or drain fields (~~7~~) and must be installed according to the manufacturer's directions.

(3) Handmade playground equipment must be maintained for safety or removed when no longer safe. Prior to construction of new handmade playground equipment, the provider must notify the department and have plans and a materials list available upon request.

(4) Bouncing equipment including, but not limited to, trampolines, rebounders, and inflatable equipment must be inaccessible and locked. This requirement does not apply to bounce balls designed to be used by individual children.

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

**WAC 110-300-0150 Program and activities.** (1) An early learning provider must supply children in care with early learning materials that are age and developmentally appropriate. For each age group of children in care, a provider must supply a variety of materials that satisfy individual, developmental, and cultural needs. Early learning materials must be:

- (a) Clean;
- (b) Washable or disposable;
- (c) Accommodating to a range of abilities of children in care;
- (d) Available to children in care appropriate to a child's age and developmental level;
- (e) Nonpoisonous and free of toxins. If an early learning provider is using prepackaged art materials, the material(s) packaging must be labeled "non-toxic" by the manufacturer and meet ASTM standard D-4236 as described in 16 C.F.R. 1500.14 (b) (8) (i) (~~(, as now and hereafter amended)~~);
- (f) In good and safe working condition;
- (g) Accommodating to special needs of children in care; and
- (h) Removed from the early learning program space once an item has been recalled by CPSC.

(2) An early learning provider must ensure a sufficient quantity and variety of materials to engage children in the early learning program (~~(for example)~~), such as arts and crafts supplies, various textured materials, construction materials, manipulative materials, music and sound devices, books, and social living equipment(~~(+)~~). Materials must:

- (a) Encourage both active physical play and quiet play activities;
- (b) Promote imagination and creativity;
- (c) Promote language development and literacy skills;
- (d) Encourage social skill development;
- (e) Promote numeracy (counting and numbers) and spatial ability;
- (~~(e)~~) (f) Encourage discovery and exploration; and
- (~~(f)~~) (g) Promote learning skills.

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

**WAC 110-300-0165 Safety requirements.** (1) An early learning provider must keep indoor and outdoor early learning program space, materials, and equipment free from hazards and in safe working condition. Equipment and toys purchased and used must be compliant with CPSC guidelines or ASTM standards(~~(, as now and hereafter amended)~~). Playground equipment and surfaces must meet the requirements of WAC 110-300-0146.

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

- (a) Making inaccessible to infants and toddlers any equipment, material, or objects that may pose a risk of choking, aspiration, or ingestion. For the purposes of this section, equipment, material, or



objects that have a diameter or overall dimension of one and three-quarter inches or less (~~shall be~~) are considered items that may pose a risk of choking, aspiration, or ingestion. Small parts from larger equipment, material, or objects that have a diameter or overall dimension of one and three-quarter inches or less, that may become detached from the larger equipment, materials, or object (~~shall~~) are also (~~be~~) considered items that may pose a risk of choking, aspiration, or ingestion;

(b) Eliminating and not using in the licensed space, pursuant to RCW 43.216.380, any window blinds or other window coverings with pull cords or inner cords capable of forming a loop and posing risk of strangulation to children.

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

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

(c) Making inaccessible to children straps, strings, cords, wires, or similar items capable of forming a loop around a child's neck that are not used during supervised early learning program activities;

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

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

(f) Preventing children from walking into or through a glass door, window, or other glass barrier, by placing stickers or art work at the children's eye level on the glass; and

(g) Cribs, play pens, bassinets, infant beds, and indoor climbing structures must not be placed next to windows, to prevent harm from shattered glass, unless the window is made of safety glass.

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

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

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

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

(d) **Entrapment.** (~~Freezers, refrigerators,~~) Washers, dryers, large compost bins, spare or secondary freezers and refrigerators, and other entrapment dangers must be inaccessible to children unless being actively supervised;

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

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

(g) **Equipment in poor condition.** Equipment in poor condition (loose parts, rusty parts, flaking paint, or other dangers) must be repaired, removed, or made inaccessible to children.

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

(a) **Indoor temperatures for the premises.** The temperature of indoor early learning licensed space must be between 68 and 82 degrees Fahrenheit. If indoor licensed space is colder than 68 or hotter than 82 degrees Fahrenheit, an early learning provider must use climate control devices that are inaccessible to children to bring the temperature within the required range;

(b) **Window openings.** Windows within the reach of children must only open up to three and one-half inches or have some barrier or preventative measure to discourage children from exiting through the window. The three and one-half inch opening does not apply to exit windows in family home early learning programs;

(c) **Licensed space lighting.** Early learning program space must have natural or artificial light that provides appropriate illumination for early learning program activities and supervision. A provider must comply with all light fixture manufacturers' installation and use requirements. A provider must also ensure compliance with the following requirements:

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

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

(iii) Free standing lamps must be attached or secured to prevent tipping; and

(iv) Halogen lamps and bulbs are prohibited.

(d) **Safe noise levels.** Noise levels must be maintained at a level in which a normal conversation may occur;

(e) **Safe water temperature.** All water accessible to enrolled children must not be hotter than 120 degrees Fahrenheit;

(f) **Stairway safety.**

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

(ii) All stairways (indoor and outdoor), not including play structures, must meet local building codes pursuant to RCW 43.216.340.

(A) Open stairways with no walls on either side must have handrails with slats (balusters) that prevent a child from falling off either side of the stairway.

(B) Stairways with a wall on only one side must have a handrail with slats (balusters) on the side without the wall that prevents a child from falling off the stairway.

(C) Stairways with a wall on both sides must have a handrail no higher than thirty-eight inches on at least one side of the stairway.

(iii) Stairways must have a pressure gate, safety gate, or door to keep stairs inaccessible to infants and toddlers when not in use. Openings between slats on pressure or safety gates must not be large enough to allow a sphere that is three and one-half inches wide to pass through.

(g) **Platforms and decks.** All platforms and decks used for child care activities must meet local building codes pursuant to RCW 43.216.340. This does not include play equipment. All platforms and

decks with a drop zone of more than eighteen inches must have guard-rails in sections without steps.

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

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

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

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

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

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

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

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

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

**WAC 110-300-0175 Water hazards and swimming pools.** To prevent injury or drowning and ensure the health and safety of children, an early learning provider must comply with the requirements described in this section.

(1) The following bodies of water must be inaccessible to children in care by using a physical barrier with a locking mechanism in compliance with WAC 246-260-031(4):

(a) Swimming pools when not being used as part of the early learning program(~~(, hot tubs, spas and jet tubs)~~);

(b) Ponds, lakes, storm retention ponds, ditches, fountains, fish ponds, landscape pools, or similar bodies of water; and

(c) Uncovered wells, septic tanks, wastewater, wastewater tanks, below grade storage tanks, farm manure ponds, or other similar hazards.

(2) Hot tubs and similar equipment must be made inaccessible by using a physical barrier with a locking mechanism.

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

(a) Comply with the supervision requirements of WAC 110-300-0350;

(b) Audible alarms must be on all doors, screens, and gates in licensed areas that lead to a swimming pool. The alarm must be sufficient to warn staff when children enter the outdoor area and could access the swimming pool;

(c) Swimming pools must be maintained according to manufacturer specifications;

(d) Swimming pools must be cleaned and sanitized according to manufacturer instructions, chapter 246-260 WAC, and department of health or local health jurisdiction guidelines;

(e) A swimming pool must not be used if the main drain cover is missing; and

(f) Children in diapers or toilet training must wear swim pants to lower the risk of contaminating the water.

~~((3))~~ (4) Filtered wading pools must be inaccessible to children when not in use. Wading pools that do not have a filtering system are not permitted in the early learning program space.

~~((4))~~ (5) For bodies of water not located in early learning program space, but that are in close proximity, a physical barrier on the property must make such bodies of water inaccessible to children in care.

~~((5))~~ (6) Five gallon buckets or other similar containers must not be used for infant or toddler water play.

~~((6))~~ (7) If an early learning provider uses water tables or similar containers, the tables or containers must be emptied and sanitized daily, or more often if necessary.

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

**WAC 110-300-0335 Physical restraint.** (1) An early learning provider must have written physical restraint protocols pursuant to WAC 110-300-0490, and implement such protocols only when appropriate and after complying with all requirements of WAC 110-300-0330 and 110-300-0331.

(2) Physical restraint must only be used if a child's safety or the safety of others is threatened~~((r))~~ and must be:

(a) Limited to holding a child as gently as possible to accomplish restraint;

(b) Limited to the minimum amount of time necessary to control the situation; and

(c) Developmentally appropriate~~((r and~~

~~(d) Only performed by early learning providers trained in a restraint technique pursuant to WAC 110-300-0106(9))~~.

(3) No person may use bonds, ties, blankets, straps, car seats, high chairs, activity saucers, or heavy weights (including an adult sitting on a child) to physically restrain children.

(4) Licensees, center directors, assistant directors, program supervisors, lead teachers, or trained staff must remove ~~((him or herself))~~ themselves from a situation if they sense a loss of their own self-control and concern for the child when using a restraint technique if another early learning provider is present. ~~((If))~~ An early learning provider must intervene when the provider observes another staff member or volunteer using inappropriate restraint techniques~~((r the staff must intervene))~~.

(5) If physical restraint is used, staff must:

(a) Report the use of physical restraint, pursuant to WAC 110-300-0475 (2) (f);

(b) Assess any incident of physical restraint to determine if the decision to use physical restraint and its application were appropriate;

(c) Document the incident in the child's file, including the date, time, early learning program staff involved, duration, and what happened before, during, and after the child was restrained;

(d) Develop a written plan with input from the child's primary care or mental health provider, and the parents or guardians, to address underlying issues and reduce need for further physical restraint if:

(i) Physical restraint has been used more than once; and

(ii) A plan is not already a part of the child's individual care plan.

(e) Notify the department when a written plan has been developed.

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

**WAC 110-300-0360 Program and daily schedule.** (1) An early learning provider must have an established program and daily schedule that is familiar to children.

(2) A schedule must be designed to meet enrolled children's developmental, cultural, and special needs. The daily schedule must:

(a) Be specific for each age group of children, when applicable;

(b) Offer a variety of activities to meet children's needs, pursuant to WAC 110-300-0150;

(c) Meet the following daily morning or afternoon active outdoor play time requirements:

(i) Twenty minutes for each three hours of programming for infants (as tolerated) and toddlers;

(ii) Thirty minutes for each three hours of programming for children preschool age and older; ~~((and))~~

(iii) Programs that operate more than six hours a day must provide:

(A) Ninety minutes of active play for preschool age and ~~((up to))~~ older; and

(B) Sixty minutes of active play for infants and toddlers ~~((thirty))~~; and

(iv) Thirty minutes of ~~((which))~~ the active play required by ~~(c) (iii)~~ of this subsection may be moderate to vigorous indoor activities ~~((-))~~;

(d) Include scheduled and consistent times for meal service;

(e) Include routine transportation times, if applicable;

(f) Include rest periods, if applicable; and

(g) Include evening and overnight care, if applicable.

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

**WAC 110-300-0443 Enforcement actions, notice, and appeal.** (1) Pursuant to RCW 43.216.325, the department is authorized to take enforcement actions when an early learning provider fails to comply with this chapter or chapter 43.216 RCW. Enforcement actions are taken pursuant to RCW 43.216.020, 43.216.065, and 43.216.250. Enforcement ac-

tions include civil monetary penalties (fines) and the denial, suspension, revocation, modification, or nonrenewal of a license.

(2) An early learning provider subject to an enforcement action has the right to appeal by requesting an adjudicative proceeding (or "hearing") pursuant to chapter 110-03 WAC, DCYF hearing rules.

(3) The department must issue a notice of violation to an early learning provider when taking enforcement actions. A notice of violation must be sent by certified mail or (~~personal service~~) personally served and must include:

- (a) The reason why the department is taking the action;
- (b) The rules the provider failed to comply with;
- (c) The provider's right to appeal enforcement actions; and
- (d) How the provider may appeal and request a hearing.

(4) Fines (~~shall~~) must not exceed two hundred fifty dollars per day per violation for center early learning programs or one hundred fifty dollars per day per violation for family home early learning programs, or as otherwise set by the legislature. Fines may be:

(a) Assessed and collected with interest for each day a violation occurs;

(b) Imposed in addition to other enforcement actions; and

(c) Withdrawn or reduced if an early learning provider comes into compliance during the notification period.

(5) An early learning provider must pay fines within twenty-eight calendar days after receiving a notice of violation unless:

(a) The office of financial recovery establishes a payment plan for the provider; or

(b) The provider requests a hearing, pursuant to chapter 110-03 WAC, DCYF hearing rules and RCW 43.216.335(3).

(6) The department may suspend or revoke a license if an early learning provider fails to pay a fine within twenty-eight calendar days or becomes delinquent in making payments, pursuant to RCW 43.216.327 and 43.216.335. If a provider's license is due for (~~annual compliance~~) renewal, the department may elect not to continue the license for failure to pay a fine.

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

**WAC 110-300-0460 Child records.** (1) An early learning provider must keep current individualized enrollment and health records for all enrolled children, including children of staff, updated annually or (~~more~~) as often as enrolled children's health records are updated.

(a) A child's record must be kept in a confidential manner but in an area easily accessible to staff.

(b) A child's parent or guardian must be allowed access to all of (~~his or her~~) their own child's records.

(2) Each child's enrollment record must include the following:

(a) The child's birth date;

(b) An enrolled child's parent or guardian's phone numbers, address, and contact information for reaching the family while the child is in care;

(c) Emergency contact information. If no emergency contact is available, a written and signed emergency contact plan may be accepted;

- (d) Names and phone numbers of persons authorized to pick up enrolled children;
  - (e) A plan for special or individual needs of the child, if applicable, including parent or guardian signature, pursuant to WAC 110-300-0300;
  - (f) Signed parent or guardian permissions, pursuant to WAC 110-300-0450 as applicable for:
    - (i) Field trips;
    - (ii) Transportation;
    - (iii) Bathing;
    - (iv) Water activities including swimming pools or other bodies of water; and
    - (v) Photo, video, or surveillance activity.
  - (g) The beginning and end enrollment date for children no longer in the early learning program's care;
  - (h) ~~((A parent or guardian approved plan for use of))~~ Physical restraint ((and)) documentation ((of parental or guardian notification)) pursuant to WAC 110-300-0335, if applicable;
  - (i) Expulsion information, documentation, and steps taken to avoid expulsion, if applicable;
  - (j) Termination of services documentation and communication, if applicable; and
  - (k) Notification of child developmental screening information given to the child's parent or guardian, if applicable.
- (3) Each child's health record and the information described in subsection (2)(a) through (e) of this section must be available to staff for medical administration or emergencies.
- (4) A health record is required for every child who is enrolled and counted in an early learning program's capacity. A health record must include:
- (a) An immunization record, pursuant to WAC 110-300-0210(1);
  - (b) The child's health history including any known health conditions and the child's individual care plan, if applicable;
  - (c) A medication authorization and administration log, pursuant to WAC 110-300-0215, if applicable;
  - (d) Documentation of special medical procedure training by parent or guardian, if applicable;
  - (e) Medical and dental care provider names and contact information or what facility ~~((the))~~ parents or guardians would prefer for treatment;
  - (f) Dates of the child's last physical ~~((exam))~~ and dental exams, if available;
  - (g) Consent to seek medical care and treatment of the child in the event of injury or illness, signed by the child's parent or guardian;
  - (h) Signed parent or guardian permission for visiting health professionals who provide direct services to children at the early learning program;
  - (i) An incident or injury report, pursuant to WAC 110-300-0475, that includes:
    - (i) The date and description of the child's incident or injury;
    - (ii) Treatment provided to the child while in care;
    - (iii) The names of the early learning program staff providing the treatment; and
    - (iv) Evidence that a copy of the incident or injury report was given to the child's parent or guardian.

(j) Documentation that a provider reported food poisoning or contagious diseases to the local health jurisdiction or the department of health, if applicable.