

## **Slide #1 Welcome**

Welcome to this course titled, “***Understanding Enforcement Actions and Provider Rights***”.

This course is developed as part of the Washington State Department of Children, Youth, and Families (DCYF) alignment process, to prepare providers and licensors in their understanding of the “why”, the “what”, and the “how” of complying with the updated Foundational Quality Standards for Early Learning Programs (referred to in each course as the Foundational Quality Standards).

## **Slide #2 Helpful Hints**

DCYF is pleased to present this e-Learning course! To help provide a positive learning experience for you, please take a moment to review the following Helpful Hints summary, detailing what you can expect from this course. A complete list of Helpful Hints has been added to the Resources section of your learner’s screen for reference.

- If you would like to access and review the full course text, please visit the Resources section of your learner’s screen. You can view, print, or download a full version of the course text that is narrated within each module. The full text will be included in each course and listed as the first resource in the Resources section of your course frame.
- The time to complete the course will depend on the course topic and the pace at which you advance through the slides.
- To help you get the most out of the course, settings are in place to prevent users from skipping ahead through the slides. You can advance through the course when the narration for each slide concludes by selecting the “Next” button, or, go back to review material already presented by selecting the “Previous” button.
- Web links and additional resources will be utilized in some of the courses to enhance your learning experience. We hope you will take time to explore them to further develop your knowledge about the topics being presented.

## **Slide #3 Course Introduction**

This course is designed to introduce you to the updated Washington Administrative Code (WAC), as well as outline strategies and examples of WAC compliance. Updated WACs will be detailed in each course as a reference and a full list of the WAC is included in the Resources section of your learner’s screen. You can print or download this resource at any time, either as a reference while you complete this course, or as a resource after the course is completed.

### **Slide #4 Learning Outcomes**

This course will help early learning professionals understand how to meet, assess, and demonstrate ongoing compliance with the Foundational Quality Standards.

Upon completion of this course, participants will:

- Understand DCYF's responsibility and authority to set and enforce licensing requirements
- Identify how and when an Inspection Report or Facility Licensing Compliance Agreement (FLCA) is utilized in the licensing process
- Understand the purpose, desired outcome, and steps of a Probationary license, and
- Identify and recognize enforcement action options and provider's rights

### **Slide #5 Guiding Principles**

As we cover the material in this course, please keep in mind the following Guiding Principles. We will revisit these at the end of the course to check in with you and give you an opportunity to assess your understanding and application of the course content.

Guiding Principles:

- Consistent, equitable, and fair licensing enforcement ensures high quality programs are accessible and available for families.
- Utilizing a variety of enforcement actions enables the department to collaborate with providers and ensure successful results while keeping children safe and healthy.
- DCYF is committed to supporting early learning providers through technical assistance and other support to maintain or achieve compliance with the Foundational Quality Standards.

### **Slide #6 Course Introduction continued**

These Foundational Quality Standards contain important details and information for early learning providers and their staff, as well as for licensors. The standards provide information about how to demonstrate and assess compliance with the WAC.

The course will cover the following sections from the Foundational Quality Standards:

- WAC 110-300-0001 Intent and authority
- WAC 110-300-0440 Facility licensing compliance agreements, Non-referral status, probationary license, and provider rights
- WAC 110-300-0443 Enforcement actions, notice, and appeal

**Slide #7 WAC 110-300-0001**

The first WAC this course will explore is:

**WAC 110-300-0001 Intent and authority.**

**(1) The department of children, youth, and families was established under chapter 6, Laws of 2017. Chapter [43.216](#) RCW establishes the department's responsibility and authority to set and enforce licensing requirements and ECEAP standards, including the authority to adopt rules to implement chapter [43.216](#) RCW.**

**(2) Under chapter 7, Laws of 2015 3rd sp. sess. (Early Start Act), the state legislature directed the department to create a single set of licensing standards for center and family home providers.**

**Slide #8 WAC 110-300-0001 continued**

**WAC 110-300-0001 Intent and authority.**

**(3) This chapter reflects the department's commitment to:**

- (a) Promoting the health, safety, and well-being of children;**
- (b) Expanding access to high quality early learning opportunities to improve outcomes for young children;**
- (c) Promoting strong school readiness; and**
- (d) Recognizing parents and guardians as a child's primary teacher and advocate.**

**(4) Pursuant to this chapter, the department will periodically monitor and assess early learning programs to determine compliance with these foundational quality standards.**

**Slide #9 Foundational Quality Standards**

The department's charge was to create a single set of standards for both family home and center providers. These rules were filed on July 5, 2018, and implemented on August 1, 2019.

Through these updated licensing standards, titled "Foundational Quality Standards," the department is committed to the health, safety and well-being of children. These standards enable DCYF to help providers expand high quality early learning opportunities and improve the outcomes for all children. Specifically, these rules focus on improving children's school readiness and partnering with parents, who the department recognizes as their child's most

important advocate and teacher.

### **Slide #10 Monitoring Responsibility**

As a result of the department's responsibility and authority under chapter [43.216 RCW](#), early learning programs will be monitored by DCYF's Licensing Division (LD) to ensure that children receive quality care and that early learning programs comply with the Foundational Quality Standards.

Through periodic and consistent monitoring practices, licensing will provide support and technical assistance to early learning providers. Licensing staff will also focus on positive reinforcement using a strength based approach when early learning programs successfully comply with the standards.

Additionally, the department believes a commitment to parents is paramount to its charge and duties to provide for the needs of children across the state in safe and meaningful ways.

### **Slide #11 Parents and Licensing**

A National Association for Regulatory Administration (NARA) research paper, "Strong Licensing: The Foundation for a Quality Early Care and Education System," (2011) states "Parents need to know that they can count on state licensing programs to monitor and enforce quality child care that is licensed to protect their children while promoting children's learning and development, particularly before they enter kindergarten."

WAC 110-300-0001 declares not only the intent of chapter 110-300 WAC, but also details the department's authority to assess, monitor, and issue enforcement actions if needed to ensure the health, safety, and protection of children within early learning environments. The department is deeply committed to parents being able to rely on the important work of ensuring quality child care environments.

**Slide #12 WAC 110-300-0440**

The next WAC in this course is:

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

**(1) At the department's discretion, when an early learning provider is in violation of this chapter or chapter [43.216](#) RCW, a facility licensing compliance agreement (FLCA) may be issued in lieu of the department taking enforcement action. The FLCA must contain:**

- (a) A description of the violation and the law or rule that was violated;**
- (b) A proposed plan from the provider or a designee to comply with the law or rule;**

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

- (c) The date the violation must be corrected, determined by:
  - (i) The seriousness of the violation;**
  - (ii) The potential threat to the health, safety, and well-being of the children in care; and**
  - (iii) The number of times the early learning program has violated rules in this chapter or under chapter [43.216](#) RCW.****
- (d) Information regarding other licensing action that may be imposed if compliance does not occur by the required date;**
- (e) The signature of the department licensor and the licensee.**

**Slide #13 Inspection Reports and Facility Licensing Compliance Agreement (FLCA)**

This subsection pertains to Inspection Reports and the Facility Licensing Compliance Agreement (FLCA). When licensors monitor an early learning program and assess the environment, there may be areas of non-compliance, especially those with associated high risk, that will need to be addressed with the early learning provider.

Starting August 1, 2019, any rule violations will be noted on an Inspection Report and notation must occur during the monitoring inspection visit. Violations found during a monitoring inspection must be recorded only if listed on the licensing

checklist. The inspection report must be discussed, completed and signed by the licensee or their designee. If non-compliance violations are observed not listed on the checklist, the licensor will give technical assistance to the early learning provider.

Technical assistance will be given for first time violations and observed violations that are not on the Inspection Report. Violations noted can be based on WAC or RCW. While giving technical assistance, licensing staff will focus on a partnered approach to a compliance plan and positive reinforcement using a strength based approach.

### **Slide #14 Inspection Reports and FLCA continued**

Pursuant to RCW 43.216.395(6) “The department shall not develop a child care facility licensing compliance agreement with a child care provider for first-time violations of rules that do not relate to health and safety standards and that can be corrected on the same day that the violation is identified. The department shall develop a procedure for providing a warning and offering technical assistance to providers in response to these first-time violations.”

Health and Safety standards means rules or requirements developed by the department to protect the health and safety of children against substantial risk of bodily injury, illness, or death. This can be found in the Terms and Definitions PDF located in the Resources section of your learner’s screen.

To review, FLCAs will only be used if the department (a) could issue an enforcement action and (b) decides not to and instead enters into a FLCA. The issuance of a FLCA must be discussed first internally and approved by licensing leadership. Once approval has been received, the FLCA report must be discussed, completed and signed by the licensee or their designee.

When noting non-compliance issues on an Inspection Report or a FLCA, children’s names or identifying factors must not be recorded. Children may be identified by “Child 1” or “Child 2”. Additionally, Inspection Reports or FLCA’s must not contain non-compliance issues that are connected to a valid complaint. A separate report must be created to document any complaints with non-compliance concerns.

### **Slide #15 Immediate, short term and long term concerns**

When non-compliance or violations are observed and noted:

**Immediate concerns** must be corrected immediately or by the start of the next business day

**Short term concerns** must be corrected as soon as possible but no more than 10 business days from the date of non-compliance

**Long term concerns** must be corrected as soon as possible but no more than 20 business days from the date of non-compliance

### **Slide #16 Immediate, short term and long term concerns and Rechecks**

Whether a rule is considered to be of immediate, short term, or long term is based on risk level to the child or children. DCYF staff must verify immediate or short term safety concerns are corrected. If a non-compliance violation is corrected at the time of the licensing visit, a recheck for that specific violation is not required with the exception of Safe Sleep practices. If non-compliance issues were not corrected on site during the visit, a recheck may be necessary:

**Immediate concerns** must be verified on site but no later than 10 business days from date of non-compliance

**Short term concerns** must verify compliance within 15 business days from date of non-compliance

**Long term concerns** do not require a licensor recheck

To determine compliance, photographic or email verification may be used for some non-compliance issues and a licensor may consult with their supervisor in determining the necessity of a recheck visit. Please review the policies, procedures and forms related to this module in the Resources section of your learner's screen.

### **Slide #17 WAC 110-300-0440 continued**

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

**(2) An early learning provider must return a copy of the completed FLCA to the department after corrective action has been completed and by the date indicated.**

**(3) An early learning provider may request an internal review process regarding the violation of department rules pursuant to RCW [43.216.395](#).**

### **Slide #18 FLCA Return**

In subsection (2), the standard requires the early learning provider to return a copy of the completed FLCA to the department once the program has corrected or resolved the area(s) of noncompliance. The return of the FLCA conveys to the department that the early learning program has fully corrected any deficiencies observed and noted on the FLCA during the monitoring visit.

### **Slide #19 Internal Review Process**

An early learning provider in subsection (3) also has the ability to request an internal review if they disagree with the documented non-compliance area(s). Select the link to review the process listed under RCW [43.216.395](#).

The internal review process is meant “to determine whether department licensors have appropriately and consistently applied agency rules in child care facility licensing compliance agreements that do not involve a violation of health and safety standards.” An early learning provider must request an internal review within ten calendar days of the development of a FLCA by submitting the DCYF 15-880 Child Care FLCA Dispute Request form. DCYF will not process any FLCA Dispute Request if an enforcement action is pending. For further information, please review the RCW PDF located in the Resources section to review the entire internal review process.

### **Slide #20 WAC 110-300-0440 continued**

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

- (4) In an enforcement action against an early learning program or provider, the provider has the right to:**
- (a) Refuse to accept or sign a FLCA**
  - (b) Refuse to agree to a probationary license.**

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

- (5) If an early learning provider refuses a FLCA or probationary license, this may result in any of the following enforcement actions:**
- (a) Modification of the license;**
  - (b) Noncontinuation of a nonexpiring license;**
  - (c) Suspension of the license;**
  - (d) Revocation of the license; or**
  - (e) Civil penalties.**

### **Slide #21 WAC 110-300-0440 continued**

In subsection (4)(a) and (b), an early learning provider can refuse the FLCA and also refuse a probationary license. As you recall, a FLCA is an agreement negotiated between the department and the early learning provider in lieu of an enforcement



action. If an agreement cannot be reached, then the department may move to enforcement action.

In subsection (5), the early learning provider's refusal may result in potential enforcement actions, such as:

- Modification of a license 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.
- Non continuation of a non-expiring license which would end the license that has been issued to an early learning provider following the initial licensing period, pursuant to chapter 43.216 RCW.
- Suspension of the license used in reference to 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.
- Revocation of the license used in reference to an enforcement action by the department to close an early learning program and permanently remove the license, or
- Civil penalties which is a monetary fine based on specific non-compliance issues

We will review these potential enforcement actions later in this module.

### **Slide #22 Test Your Learning!**

Before we continue let's test your learning. Review the question and select all that apply.

When non-compliance or violations are observed and noted, which concerns should be addressed?

- A. Immediate concerns must be corrected immediately or by the start of the next business day
- B. Short term concerns must be corrected as soon as possible but no more than 10 business days from the date of non-compliance
- C. Medium concerns must be corrected no more than 15 days from the date of non-compliance
- D. Long term concerns must be corrected as soon as possible but no more than 20 business days from the date of non-compliance

**Slide #23 WAC 110-300-0440 continued**

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

**(6) The department may place an early learning provider on nonreferral status, pursuant to RCW [43.216.325\(4\)](#), in addition to or in lieu of an enforcement action under this chapter.**

**Slide #24 Non-referral status**

In addition to or in lieu of one or more enforcement action, the department, under subsection (6) may place an early learning provider in a non-referral status. Non-referral status means that the early learning program is not able to receive placement of any additional children or other possible restrictions.

Non-referral status may be used when:

- Enforcement action has been activated
- A provider is in “Inactive Status”
- Non-referral status is a part of voluntary probationary conditions, or
- An early learning provider voluntarily chooses to be placed on non-referral status.

When a non-referral is department generated, this status may continue until the department determines no enforcement action is appropriate or non-compliance issues have been resolved. The department will give written notice to the early learning provider and notify the public and private child care resource referral agency. This communication and action is important to ensure all entities are aware of an early learning program being placed on or taken off non-referral status. This signals to parents as well as referral and payment sources that early learning program circumstances have changed.

Once conditions have changed which prompted the non-referral status, DCYF staff will notify the appropriate entities and process the early learning program back into referral status.

**Slide #25 WAC 110-300-0440 continued**

We will now explore the probationary license section in WAC 110-300-0440 subsection (7) that may be issued to an early learning program as part of a corrective action plan.

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

**(7) A probationary license may be issued to an early learning provider or program operating under a nonexpiring license as part of a corrective action plan. Prior to issuing a probationary license, the department must refer the program or provider for technical assistance, pursuant to RCW [43.216.320\(2\)](#).**

### **Slide #26 Technical Assistance Referral**

In subsection (7), the department is required to make a referral for technical assistance in accordance with RCW 43.216.320(2) prior to issuing a probationary license. A technical assistance referral is made to Child Care Aware or similar acting agencies. If an early learning provider refuses or does not respond to the technical assistance referral within 15 days, the department may issue a probationary license.

Often, when an early learning provider receives a technical assistance referral, there is improvement in the early learning environment and further services are not necessary. An early learning provider has 60 days after the technical assistance referral is made to come into compliance. DCYF staff will conduct site visits to check toward progress in correcting non-compliance issues outlined in the technical assistance plan.

### **Slide #27 WAC 110-300-0440 continued**

If an early learning provider is not successful with additional technical assistance supports, the department may issue a probationary license according to the criteria listed in subsection (8).

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

**(8) A department decision to issue a probationary license is based on an early learning program or provider's:**

- (a) Negligent or intentional noncompliance with the licensing rules;**
- (b) History of noncompliance with licensing rules;**
- (c) Current noncompliance with licensing rules;**
- (d) Fire safety inspection or health and sanitation inspection report that failed to gain approval;**

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

- (e) Use of unauthorized space for child care;**
- (f) Inadequate supervision of children;**
- (g) Understaffing for the number of children in care;**
- (h) Noncompliance with requirements addressing children's health, proper nutrition, discipline, emergency medical plan, sanitation or personal hygiene practices; and**
- (i) Any other factors relevant to the specific situation and consistent with the intent or purpose of chapter [43.216](#) RCW.**

Probationary licenses may not be issued when imminent danger or risk to children are present in the early learning environment. Probationary licenses may be issued to early learning providers who hold an initial, non-expiring or other license.

Additionally, an important part of any probationary license is a mutual agreement between the department and the early learning provider to correct noncompliance issues in the probationary period. Some examples of agreed terms include: placement on "no-referral status, restrictions for new enrollments or specific age groups, specific training for the early learning provider or staff or limits to age range or capacity in the early learning program. A provider does not have the right to appeal a probationary license.

Notification must be given to the appropriate and relevant entities when a probationary license has been issued and when the probationary license has been completed.

**Slide #28 WAC 110-300-0440 continued**

It is imperative that the department draft and enforce rules that safeguard children, but also consider the best course of action to support the provider. Doing so ensures a high level quality of care for children in a licensed child care environment. Probationary licenses are one way that gives additional supports to a provider so that the early learning program environment will be improved.

A probationary license must not exceed two six month periods, pursuant to RCW 43.216.320. However, a probationary license may be issued up to six months and may be renewed for an additional six months. If there is imminent danger or risk to children during the probationary period, DCYF may terminate the probationary license and move to another course of action.

**Interesting facts:** DCYF has not issued any probationary licenses in 2017 or 2018 and historically has only issued probationary licenses 219 times.

**Slide #29 WAC 110-300-0440 continued**

If the department issues a probationary license, subsection (9) lists responsibilities of the early learning provider.

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

**(9) When the department issues a probationary license, the early learning provider must:**

- (a) Provide notice of the probationary license and a copy of the department's probationary licensing agreement to the parents or guardians of enrolled children within five business days of receiving the probationary license;**
- (b) Provide documentation to the department that parents or guardians of enrolled children have been notified within ten business days of receiving the probationary license;**

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

- (c) Inform new parents or guardians of the probationary status before enrolling new children into care;**
- (d) Return the early learning program's nonexpiring license to the department; and**
- (e) Post documentation of the approved written probationary license as required by RCW [43.216.687](#).**

**Slide #30 Probationary License**

The early learning provider must ensure within five business days that currently enrolled parents receive notice of the probationary license. Additionally, if the early learning program enrolls future families, this same notice must be provided to them prior to their children receiving care. The early learning provider must provide this documentation to the department within ten business days. This ensures that parents are aware of the non-compliance issues but also what support plans are in place for a successful transition back to a non-expiring license for the early learning provider. The probationary license must be posted in the early learning program.

During the probationary license status, DCYF will conduct unannounced monthly site visits and check the progress towards correcting the non-compliance issues and the probationary conditions. If the early learning provider is demonstrating compliance and conditions have been met, probationary status may be removed and the initial or non-expiring license will be reinstated.

**Slide #31 Test Your Learning!**

Before we continue let's test your learning. Review the question and select all that apply.

What does a provider need to do when a probationary license has been issued?

- A. Return their non-expiring license to the department
- B. Post on Facebook about the situation
- C. Inform new parents enrolling about their probationary license
- D. Provide documentation to the department that parents have been informed

**Slide #32 WAC 110-300-0440 continued**

In WAC 110-300-0440 subsection (10), we will review the requirements for early learning providers keeping inspection reports and enforcement actions.

**WAC 110-300-0440 Facility licensing compliance agreements, nonreferral status, probationary license, and provider rights.**

**(10) Pursuant to RCW [43.216.689](#), an early learning provider must have inspection reports and notices of enforcement actions for the past three years readily available for review by the department, parents, and the public.**

### **Slide #33 Accessible Reports**

According to RCW [43.216.689](#), the department, parents, and the public must have ready access to inspection reports and enforcement actions that span the previous three years. This ensures parents receive vital information regarding the early learning program's compliance and non-compliance status. This also allows the department or other authorized entities the information necessary for reviews or inspections.

Additionally, RCW 43.216.290 requires that "All agencies subject to this chapter shall accord the department...or their designees, the right of entrance and the privilege of access to and inspection of records for the purpose of determining whether or not there is compliance with the provisions of this chapter and the requirements adopted under it."

### **Slide #34 WAC 110-300-0443**

**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 actions 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.**

### **Slide #35 Enforcement actions, notice and appeal**

The department is authorized to take enforcement action when necessary if an early learning provider fails to comply with the Foundational Quality Standards or governing

RCW. The department seriously considers enforcement action decisions knowing that it may disrupt attendance and benefits as well as impact the business of early learning programs. There are a variety of enforcement actions that the department may take and circumstances will be considered when making this decision. The enforcement action options will be reviewed later in this module.

When the department takes enforcement action, an early learning provider has the right to appeal the decision and receive a hearing. The adjudicative hearing process, also known as “due process”, is detailed in a different chapter, 110-03 WAC. Please select the 110-03 WAC PDF in the Resources section to learn more about a provider’s right to a hearing and details of the hearing process.

**Slide #36 WAC 110-300-0443 continued**

**WAC 110-300-0443 Enforcement actions, notice, and appeal.**

**(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 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.**

Formal notification of all enforcement actions must be given to early learning providers or unlicensed providers through certified mail or personal service.

**Slide #37 Enforcement Action-Civil Penalty**

If the department chooses to utilize civil monetary penalties, the fine may be assessed based on a violation of either WAC or RCW. Fines may also be assessed in addition to other enforcement actions. The department will consider licensing history, degree, or type of non-compliance concerns and number of violations during a visit when deciding what enforcement actions to use.

First time violations for short term and long term shall not be cited if that violation is the first time the provider was found in violation of a specific regulation. Additionally, as you recall from the FLCA section of this module, first time violations that do not relate to the health and safety standards will not be noted if there is immediate correction on the same day, pursuant to RCW 43.216.395(6).

Civil penalties may also be utilized for violations of unlicensed child care when programs are not exempt under RCW 43.216.010.



DCYF may reduce or withdraw the civil penalty if the violations or non-compliance issues have been corrected.

Under WAC 110-300-0443(2), an early learning provider has the right to appeal if the department issues a civil penalty. In this case, the provider must request an adjudicative proceeding (or "hearing") pursuant to chapter 110-03 WAC, DCYF hearing rules.

### **Slide #38 Civil Penalty**

A provider demonstrates that they are unable to meet WAC requirements if they have a history of repeated violations.

#### **Example:**

Licensors Andrew conducts a monitor visit at the home of Provider Sally and sees that Provider Sally's water temperature is 132 degrees F. Licensor Andrew offers technical assistance and explains how the water temperature can be lowered to under 120 degrees F, as required by WAC 110-300-0165(4)(e) and then tested by Provider Sally. Licensor Andrew returns to the site five days later and sees that the water is still at 132 degrees F. Licensor Andrew then records this violation on an Inspection Report. Licensor Andrew returns after another five days and once again sees that the water temperature is 132 degrees F. Licensor Andrew staffs this with Supervisor Bee. A decision is made that this provider should be issued a civil penalty for repeatedly violating this health and safety WAC.

### **Slide #39 WAC 110-300-0443 continued**

#### **WAC 110-300-0443 Enforcement actions, notice, and appeal.**

**(4) Fines shall 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.**

**WAC 110-300-0443 Enforcement actions, notice, and appeal.**

**(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, the department may elect not to continue the license for failure to pay a fine.**

If an early learning provider does not pay the civil penalty within 28 calendar days, or becomes delinquent in payments, the department may suspend or revoke the provider's license. If a provider is in the midst of annual compliance, and does not pay their fine or fails to pay in a timely manner, the department may choose not to continue the license and the license would be closed.

**Interesting Fact:** During the state fiscal year of 2018, DCYF issued approximately 22 civil penalties to early learning providers. This equates to just 0.4 percent of all licensed facilities.

#### **Slide #40 Enforcement Action-Denials**

DCYF may deny an application for licensure when a provider has a pending license application or a provider has not yet received a full, non-expiring license. The department decides to deny a license application based on whether the early learning provider has failed or refused to comply with the provisions of the licensing chapter. Under WAC 110-300-0443(2), an early learning provider has the right to appeal if the department denies a license application or non-expiring license. In this case, the provider must request an adjudicative proceeding (or "hearing") pursuant to chapter 110-03 WAC, DCYF hearing rules.

#### **Denial:**

An example of a denial is when an applicant has submitted an application and they are not licensed within the 90-day time frame.

#### **Example:**

Applicant Sheri submitted her application with all of the required paperwork. The application has been accepted by the department, starting the 90-day clock to license.

At 60 days, Licensor Jerry reaches out to the provider to check on this applicant's process in completing the required trainings and preparing the facility. Applicant Sheri ensures that the facility is ready for a licensing inspection. Around this same time, Licensor Jerry finds out that Sheri has not yet completed her background checks on family members and has not completed her Basic STARS training. Licensor Jerry reaches out to Sheri to explain that this must be completed before licensing. Sheri is unable to complete these before the 90-day deadline and does not wish to withdraw her application. Licensor Jerry must now deny Sheri's application for a license.

**Interesting fact:** During the state fiscal year 2018, DCYF issued seven denials. This equates to 0.1 percent of all licensed providers in the state. Six of those denials occurred at initial application and one occurred when attempting to move an initial license to a full, non-expiring license.

### **Slide #41 Enforcement Action-Suspension**

The suspension of a license 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 to protect the public.

The department may need to suspend or summarily suspend a license due to the health and safety or imminent risk of children. Imminent risk may include but is not limited to environmental or early learning program problems or incidents that are considered abuse or neglect or child endangerment if the condition remains. Suspension generally takes 28 days to go into effect. When a license is summarily suspended, this means immediate closure and is used when needed to immediately close a facility based on severe health and safety issues pursuant to RCW 43.216.327.

A suspension decision is based on if the early learning provider has failed or refused to comply with the provisions of the licensing chapter. A suspension decision may also be based on information from outside entities which could include public health, safety or welfare. An early learning provider may surrender their license in lieu of a suspension or summary suspension.

#### **Suspension:**

An LD/CPS complaint is received with the licensee as the named subject.

#### **Example:**

A screened in complaint comes in from LD/CPS with allegations that there may be immediate danger to the children in care because the Director has been accused of hitting the children. To allow for a proper investigation into the situation, the department may choose to suspend the license, a temporary action, to ensure the safety of the enrolled children until the investigation has been closed.

The health, safety, and wellbeing of children will always be the foundation of the department's decision to suspend a license. Under WAC 110-300-0443(2), an early

learning provider has the right to appeal the department's suspension by requesting an adjudicative proceeding (or "hearing") pursuant to chapter 110-03 WAC (DCYF hearing rules).

During a summary suspension, DCYF staff will remain on site until all children have been picked up from the early learning program. DCYF staff will also supply parents the appropriate information and brochures to ensure information has been provided for alternate care. Notification must be given to the appropriate and relevant entities when a license has been suspended and when the suspension has been rescinded, lifted or revoked.

**Interesting fact:**

During the state fiscal year 2018, DCYF issued 58 suspensions. This equates to just 1.1 percent of all licensed providers in the state. Over half of these early learning programs were able to reopen after the inspections or investigations were completed.

**Slide #42 Enforcement Action-Revocations**

DCYF may also revoke a child care license if the early learning provider has failed or refused to comply with the provisions of the licensing chapter or chapter 43.216 RCW. Under WAC 110-300-0443(2), an early learning provider has the right to appeal if the department revoked that provider's license by requesting an adjudicative proceeding (or "hearing") pursuant to chapter 110-03 WAC (DCYF hearing rules). If imminent risk to children occurs during the revocation process, DCYF may approve a suspension to ensure the safety of children. Notification must be given to the appropriate and relevant entities when a license has been revoked.

**Revocation:**

A license may be revoked when a provider cannot ensure the health and safety of the children.

**Example:**

Director Smith and several staff have a valid finding for child abuse or neglect. The department takes action by revoking the license of the center to ensure the safety of the children.

**Interesting fact:**

During the state fiscal year 2018, DCYF issued 19 revocations. This equates to just 0.4 percent of all licensed providers in the state.

**Slide #43 Enforcement Action-Modification**

Modification of a license is used in reference to an early learning provider's licensing status. It is an enforcement action where the department changes the conditions identified on a licensee's license. However, if a provider voluntarily requests the change to their license, it is not considered an enforcement action. Modifications can include

changing the age groups for which a provider can provide care or the conditions of their license. DCYF may suspend or revoke a license if the early learning provider fails to follow the license modification.

The department may modify a license if:

- A provider is unable or unwilling to comply with the licensing standards
- A new measurement requires a reduction in capacity
- Licensed space is not utilized permissive within the Certificate of Occupancy (CO)
- A provider fails to come into compliance after a civil penalty has been issued
- A provider refuses probationary license or a FLCA
- Other legal decisions such as Settlement Agreements or a court order

Notification must be given to the appropriate and relevant entities when a license has been modified.

**Modification of license:**

When a provider demonstrates that they are unable to handle certain situations or age groups.

Example:

Provider Darling is struggling to care for six children, two of which are infants. Her license states that she is allowed to care for six children, ages birth through 13 years old. She repeatedly leaves the infants to cry in infant swings for hours and has had several safe sleep violations. This noncompliant behavior continues, even after receiving technical assistance and CCR referrals from Licensor Bob. After staffing with Supervisor Jan, the department decides to modify the license by removing her ability to care for infants. Provider Darling is now licensed for six children age two through 13 years old.

Under WAC 110-300-0443 (2), an early learning provider has the right to appeal if the department modifies the provider's license. The provider must appeal by requesting an adjudicative proceeding (or "hearing") pursuant to chapter 110-03 WAC (DCYF hearing rules).

**Slide #44 Test Your Learning!**

Before we continue let's test your learning. Review the question and select the best response.

Which of these enforcement actions can a provider request a hearing?

- A. Suspension
- B. Denial
- C. Modification

- D. Civil Penalty
- E. All of the above

### **Slide #45 Department Duties**

In conclusion, this module detailed important duties and responsibilities of the department and the rights of providers.

RCW 43.216.020(1)(e) (Department duties.) requires DCYF “To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide such care;” The commitment to parents in the positive outcomes for children is the driving force for the DCYF oversight and responsibility. All enforcement actions and licensing decisions are carefully considered to safeguard children, bring positive supports and preserve the rights of providers.

### **Slide #46 Guiding Principles**

This concludes the content portion of this course! Thank you for your participation!

Before this course ends, please take a moment to reflect and set personal goals related to the following Guiding Principles. Specifically consider ways that each of the principles relate to early learning professionals.

Guiding Principles:

- Consistent, equitable and fair licensing enforcement ensures high quality programs are accessible and available for families.
- Utilizing a variety of enforcement actions enables the department to collaborate with providers and ensure successful results while keeping children safe and healthy.
- DCYF is committed to supporting early learning providers through technical assistance and supports to maintain or gain compliance with the Foundational Quality Standards.

What take-a-ways do you have? Will you change your practices after participating in this learning module?

### **Slide #47 Policies and Procedures**

Although much of the information found in the DCYF policies and procedures regarding Understanding Enforcement Actions and Provider Rights was covered in this learning module, the following policies and procedures are located in the Resources section of your learner’s screen:

- 10.1.3 POL & PRO Managing Facility Licensing Compliance Agreements

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- 10.1.4 POL & PRO Managing Child Care Violation Dispute Process
- 10.1.21 POL & PRO Managing Child Care Inspection Reports
- 10.2.1 POL & PRO Revoking Child Care Licenses
- 10.2.2 POL & PRO Issuing Child Care Suspensions
- 10.2.5 POL & PRO Issuing Child Care Probationary Licenses
- 10.2.7 POL & PRO Assessing Civil Monetary Penalties (Fines)
- 10.2.10 POL & PRO Modifying Child Care Licenses (Enforcement Action)

Please open and read each of the policies and procedures for early learning providers as well as DCYF responsibilities for submission, review and approval. If you have questions, please talk with your supervisor.

**Slide #48 Forms**

You will also find the following form related to Understanding Enforcement Actions and Provider Rights in the Resources section of your learner's screen.

Please open and read the following form.

- 15-880 Child Care FLCA Dispute Request

**Slide #49 Acknowledgement**

Review the following acknowledgement question. Select whether you have completed the review of all policies and procedures in this course.

I acknowledge and understand the designated DCYF Child Care Licensing Policies and Procedures that were part of this course.

- Yes – I have completed my review of the designated DCYF Child Care Licensing Policies and Procedures, and I acknowledge and understand them.
- No – I do NOT acknowledge and understand the designated DCYF Child Care Licensing Policies and Procedures in this course.

**Slide #50 Course Evaluation**

Please take a moment to answer the following end-of-course evaluation questions by selecting the appropriate choice.

This course improved my understanding of the course content.

- True
- False

**Slide #51 Course Evaluation continued**

The information presented in this course was clearly connected to the session and Learning Outcomes.

- True
- False

**Slide #52 Course Evaluation continued**

There are opportunities for application of this course content in my role as an early learning professional.

- True
- False

**Slide #53 Course Evaluation continued**

I would recommend this course to others who work in the field.

- True
- False

**Slide #54 End of Course**

This concludes this course on **Understanding Enforcement Actions and Provider Rights**.

If you have questions following this session, please contact your supervisor or licensor.

We hope this course has been helpful in providing information about the WAC and how programs can meet the new standards with compliance.

Our goal is that all early learning professionals viewing this course have left with an increased understanding and knowledge of the updated WAC, and that you will be able to either assess programs for compliance or be able to maintain and demonstrate compliance.

Be sure to visit the Learning Management System to review and select additional modules that are part of this series.