

Slide #1 Welcome

Welcome to this course titled, “***Understanding Waivers and Variances – What are the differences?***”.

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

WA 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 listing 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 or 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 listing 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 for, and demonstrate ongoing compliance with the Foundational Quality Standards.

Upon completion of this course, participants will:

- Understand the importance of complying with the Foundational Quality Standards
- Recognize the similarities and differences between waivers and variances
- Identify the steps to request a waiver or a variance

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:

- It is the role of the early learning professionals to meet the Foundational Quality Standards which are designed to promote the development, health, and safety of children enrolled in center and family home early learning programs.
- A program can meet the intent of a requirement in the Foundational Quality Standards with an approved waiver or variance as long as it does not jeopardize the health, safety or welfare of the children in care.

Slide #6 Course Introduction continued

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

This course will cover the following sections from the Foundational Quality Standards which are found in the “Program Administration and Oversight” section in the subsection called, “Licensing Process”:

- WAC 110-300-0435 Waiver from department rules - WAC
- WAC 110-300-0436 Variance from department rules - WAC

Slide #7 Quick Review

Let's begin with a quick review. The Foundational Quality Standards for Early Learning Programs, Chapter 110-300 WAC are the key regulatory source for early learning programs, with the update going into effect on August 1, 2019. As envisioned by the Early Start Act, the Foundational Quality Standards focus on ensuring that the early learning system has a unified set of regulations that are easy to understand by providers in the field, and creates a clear progression connecting the Licensing, Early Achievers and ECEAP standards. The updated standards are:

- Well-Informed: regulation development and negotiation process was robust with many touchpoints, including provider voices and statewide representation;
- Achievable with Support: these regulations are attainable through a variety of provider practices and supports; and
- Child-Focused: the WAC is based on current research and its implementation means better outcomes for children.

Slide #8 Understanding the “why”?

Understanding the importance and the “why” early learning providers need to be in compliance with the Foundational Quality Standards is essential to quality programming that leads to better child outcomes. By complying with each foundational rule, early learning professionals ensure children’s developmental, health and safety needs are met.

There are rare times when meeting an individual child, staff, or programmatic need, cannot be accomplished by complying with a particular WAC. Early learning programs, whether family home or center based, may request exceptions to the Foundational Quality Standards. There are two categories of exceptions. The first type of exception is known as a waiver. A waiver can be approved on a case by case basis to meet a specific child or program need. The second type of exception is known as a variance. A variance can be approved for a program approach or methodology. Variances can apply across multiple programs that share a program approach or methodology or may apply to a single program.

This module will explore the two types of exceptions – waivers and variances.

Slide #9 WAC 110-300-0435

The first WAC we will explore is:

WAC 110-300-0435 Waiver from department rules – WAC

(1) The department cannot waive a requirement of state law (RCW) or federal law.

(2) Pursuant to RCW [43.216.065](#), the department may approve a waiver from a rule in this chapter if it does not jeopardize the health, safety, or welfare of the children in care.

A waiver of a rule is based on a specific need of the program or an enrolled child. DCYF may grant a request for a waiver if the proposed waiver provides clear and convincing evidence that the health, welfare, and safety of children will not be jeopardized. Waivers cannot be provided for RCW or federal law.

WAC 110-300-0435 Waiver from department rules – WAC

(3) An early learning provider's request for a waiver from a rule in this chapter must be:

- (a) Submitted in writing on the department's form to the local licensing office;**
- (b) Approved in writing by the department director or the director's designee prior to the early learning provider implementing the waiver from the rule; and**
- (c) For a specific program need or child.**

A waiver requires advance DCYF approval, prior to implementation by the early learning provider.

Waivers are requested in advance using a specific form that DCYF has created for this purpose. The form is known as the Child Care Waiver (Exception) Request form and can be found in the Resources section of your learner's screen. An approval must be given before a waiver can go into effect. DCYF will not approve waivers retroactively.

Waivers are individually approved or disapproved on a case-by-case basis, and will take into account licensing history, complaint history, training and staff qualifications, and any other relevant information.

Slide #10 WAC 110-300-0435 continued

Let's continue with this requirement.

WAC 110-300-0435 Waiver from department rules – WAC

(4) A granted waiver may be time specific or may remain in effect for as long as the early learning provider continues to comply with the conditions of the waiver. If the waiver from the rule is time limited, the provider must not exceed the time frame established by the department.

(5) The department may revoke a granted waiver if a licensing rule which was considered in granting the waiver is materially altered or amended.

Family home and center waivers may be time specific, or may be ongoing. However, the early learning provider must continue to comply with the waiver whenever it is in effect.

The process of obtaining a waiver includes submitting the required form to DCYF to request a waiver. This can be submitted to your local licensing office.

An early learning provider does not have the right to file a formal appeal of the department's disapproval of request for waiver under chapter [110-03 WAC](#). However, there is an opportunity for a provider to challenge a waiver disapproval on a department form. The provider will use a department form for this purpose known as the Child Care Waiver (Exception) Dispute Decision form and can be found in the Resources section of your learner's screen. Other forms associated with this process are also found in the Resources section.

Please note, waivers can be rescinded at any time by DCYF if the early learning provider fails to comply with the conditions of the waived rule. This is different than the department revoking a granted waiver based on a rule being materially altered or amended through the rule filing process. If a WAC rule is changed, and the conditions of the granted waiver now meet WAC, the approved waiver is no longer necessary or needed.

Slide #11 Examples of Waiver Requests

Let's consider some examples of possible waivers:

- An early learning program has a child in care turning 13 years of age. The parents do not feel comfortable with the child being left home alone during the

summer based upon their rural location and the child's relative immaturity. The parents want the early learning program to provide summer care after the child is 13 years of age. The program seeks a short-term waiver.

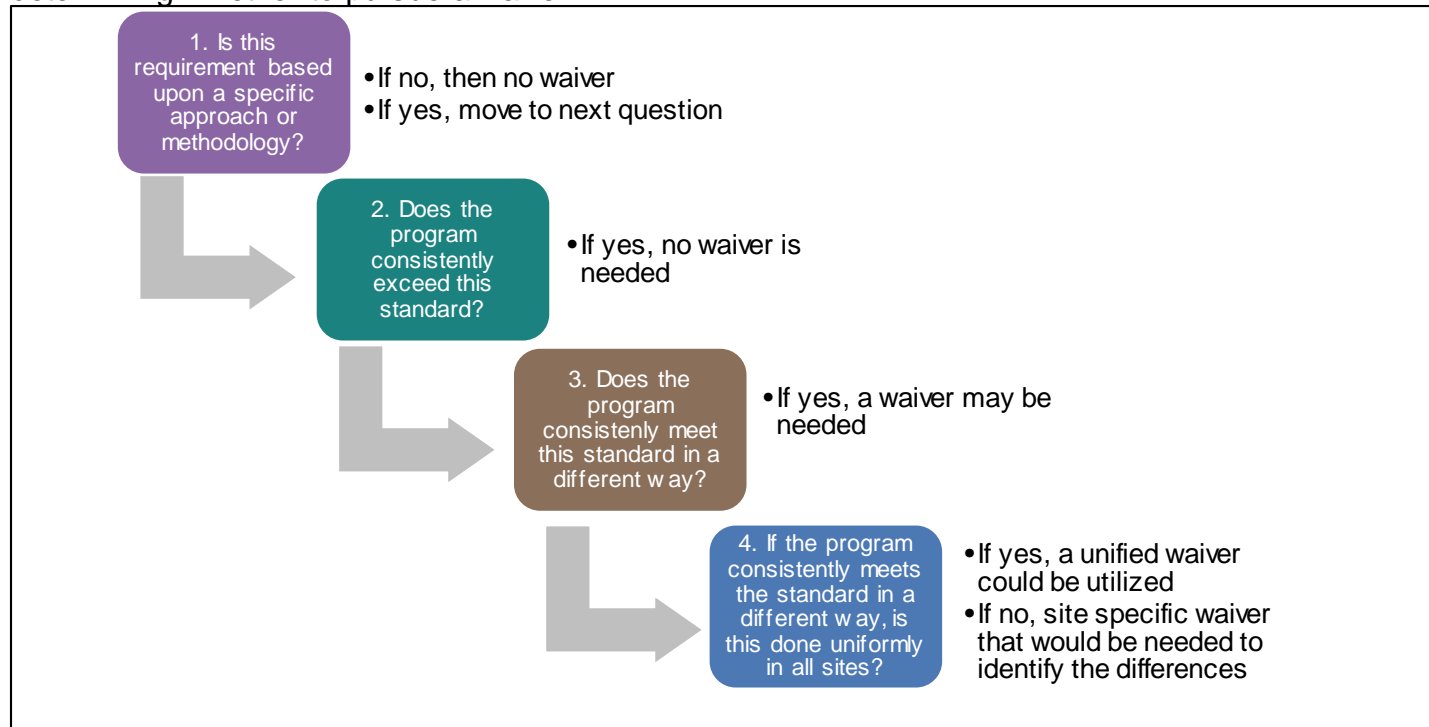
Here's another example:

- An early learning program is located on school property and has 2 classrooms of preschoolers, with 17 children each. They will be using the bathroom across the hall and have 2 toilets in the boy's bathroom and 2 toilets in the girl's bathroom. There is a trough sink with 2 spigots immediately outside the bathrooms that is shared. WAC 170-300-0220 requires one toilet and one sink for every 15 children and staff. The WAC also allows for staff to have toilets and sinks available to them outside of licensed premises and in this situation, there is a staff bathroom.

While there are enough toilets for the total of 34 children, there are not enough handwashing sinks. The school is unable to add another sink. The program can request a waiver to the handwashing sink requirement showing how they will assure all children have access to appropriate handwashing after toileting. This is a waiver request because the WAC as written cannot be met by the facility but the facility can create a plan to provide for the health and safety of the children in care.

Slide #12 Pursue or Not To Pursue a Waiver

The questions in this flow chart are designed to assist early learning programs in determining whether to pursue a waiver.



Slide #13 WAC 110-300-0436

Now, let's move onto Variances. The next WAC we will explore is:

WAC 110-300-0436 Variance from department rules – WAC

(1) The department cannot provide variance from a requirement in state (RCW) or federal law.

(2) Upon written request of an applicant, licensee, center director, assistant director, or program supervisor, the department may grant a variance from a rule in this chapter if the proposed program alternative does not jeopardize the health, safety, or welfare of the children in care.

The variance from the rule is based on the specific program approach of methodology or pedagogy. A few examples of this are: ECEAP, Montessori, Waldorf, High Scope and the Reggio Emilia Approach.

A variance is an official approval by the department to allow an early learning program to achieve the outcome of a rule or rules in [WAC 110-300](#) in an alternative way than described, due to the needs of a unique or specific program approach or methodology.

DCYF may grant a request for variance if the proposed alternative provides clear and convincing evidence that the health, welfare, and safety of children is not jeopardized.

WAC 110-300-0436 Variance from department rules – WAC

(3) A request for variance from a rule in this chapter must be:

- (a) Submitted in writing on the department's form to the local licensing office;**
- (b) Approved in writing by the department director or the director's designee prior to the early learning provider implementing the variance from the rule; and**
- (c) For a specific program approach or methodology.**

A variance requires advance agency approval prior to implementation by the early learning provider.

A provider will use a the DCYF form Child Care Variance Request to obtain a variance. This form can be found in the Resources section of your learner's screen. An approval must be given before a variance can go into effect. DCYF will not approve variances retroactively.

Variances are individually approved or disapproved on a case-by-case basis, and will

take into account licensing history, complaint history, training and staff qualifications, and any other relevant information.

Slide #14 WAC 110-300-0436 continued

WAC 110-300-0436 Variance from department rules – WAC

(4) A granted variance may be time specific or may remain in effect for as long as the early learning provider continues to comply with the conditions of the variance. If the variance from the rule is time limited, the provider must not exceed the time frame established by the department.

(5) The department may revoke a granted variance if a licensing rule which was considered in granting the variance is materially altered or amended.

Family home and center variances may be time specific, or may be ongoing. However, the early learning provider must continue to comply with the variance whenever it is in effect.

The process of obtaining a variance includes submitting the required form to DCYF to request a variance.

An early learning provider does not have the right to file a formal appeal of the department's disapproval of request for variance under chapter [110-03 WAC](#). However, there is an opportunity for a provider to challenge a variance disapproval on a department form, if the initial variance is not approved. The provider will use a department form for this purpose known as the Child Care Variance Dispute Decision form and can be found in the Resources section of your learner's screen. Other forms associated with this process are also found in the Resources section.

Please note, variances can be rescinded at any time by DCYF if the early learning provider fails to comply with the conditions of the varied rule. This is fundamentally different than the department revoking a granted variance based on a rule being materially altered or amended through the rule filing process. If a WAC rule is changed, and the conditions of the granted variance now meet WAC, the approved variance is no longer necessary or needed.

Slide #15 Examples of Variance Requests

Let's consider an example of a variance request:

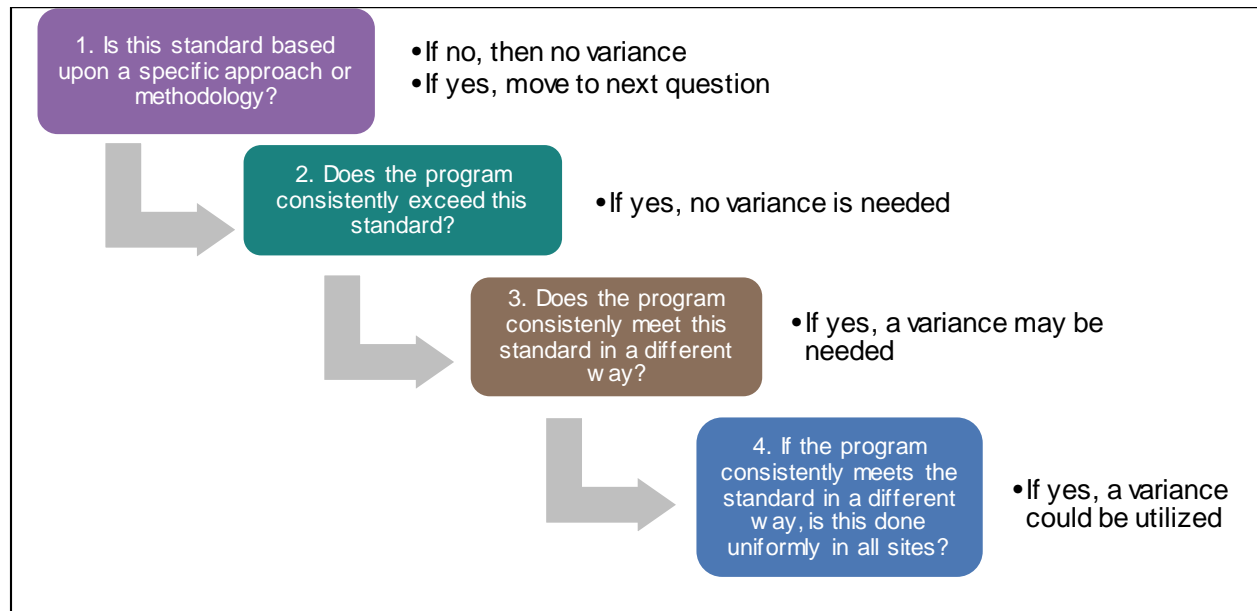
- Multiple early learning programs, across many physical locations, are managed by one entity or agency. They structure their management of the facilities and

programs using a different structure than is outlined in the WAC but have clear duties assigned to specific roles. The approach assures that all aspects of the duties required for Directors, Assistant Directors and Program Supervisors are met consistently across all of their sites and programs. They would be meeting the WAC requirements but in a different way. This would require a variance request. Because this specific variance is necessary for all programs managed by the same agency or entity, this variance would be considered a unified variance.

- An early learning program provides transportation to and from home for children in care. All of the agency's programs operate with the same transportation practice. In order to do so, they may need to exceed grouping size for the youngest child in the vehicle for part of each trip. They do meet the child to staff ratio protecting the health, safety and welfare of children in care. This would require a variance as the program can meet the ratio requirement but will exceed the group size requirement.

Slide #16 Pursue or Not To Pursue a Variance

The questions in this flow chart are designed to assist early learning programs in determining whether to pursue a variance.



Slide #17 Differences and Similarities between Waivers and Variances

Let's review with a summary of the differences and similarities between waivers and variances.

First, let's consider how they are different:

- A waiver from a rule must be for a specific program need or child
- A variance from a rule must be for a specific program approach or methodology
- An early learning provider may request a waiver
- An applicant, licensee, center director, assistant director, or a program supervisor may request a variance

Now, let's review how they are the same:

- The department cannot waive or provide a variance from a requirement of state law (RCW) or federal law
- Pursuant to RCW 43.216.065, the department may approve a waiver or grant a variance from a rule in the 110-300 chapter if it does not jeopardize the health, safety, or welfare of the children in care
- A request for a waiver or a variance must be submitted in writing on the department's form to the local licensing office
- Waivers and variances must be approved in writing by the department's director or the director's designee prior to the early learning provider implementing the waiver or variance from rule
- A granted waiver or variance may be time specific or may remain in effect for as long as the early learning provider continues to comply with the conditions
- If the waiver or variance is time limited, the provider must not exceed the time frame established by the department
- The department may revoke a granted waiver or variance if a licensing rule which was considered is materially altered or amended
- Per DCYF policy, an approved waiver or variance can be rescinded if the early learning provider fails to comply with the conditions
- An early learning provider does not have the right to file an appeal of the department's disapproval of request for a waiver or variance under chapter 110-03

Slide #18 Test Your Learning!

Review the question and select the best response.

Which of the following applies to both waiver and variance requests?

- A. Must be submitted in writing to the department
- B. May be time specific
- C. Must be approved prior to implementation

D. All of the above

Slide #19 Test Your Learning!

Review the question and select the best response.

A family home provider is licensed to care for three children under the age of two. The provider currently has enrolled one child age 6 months, another child age 18 months and a third child age 23 months. A parent requests enrollment for a child age 16 months. What type of exception does the provider request?

- A. A waiver
- B. A variance

Slide #20 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 and ways that each of the principles relate to early learning professionals.

Guiding Principles:

- It is the role of the early learning professionals to meet the Foundational Quality Standards which are designed to promote the development, health, and safety of children enrolled in center and family home early learning programs.
- A program can meet the intent of a requirement in the Foundational Quality Standards with an approved waiver or variance as long as it does not jeopardize the health, safety or welfare of the children in care.

What take-a-ways do you have? How will you change your practices as a result of participation in this learning module?

Slide #21 Policies and Procedures

Although much of the information found in the DCYF policies and procedures regarding waivers and variances was covered in this learning module, the following policies and procedures are located in the Resources section of your learner's screen:

- 10.2.8 POL-Managing Child Care Waiver (Exception) Requests
- 10.2.8 PRO – Managing Child Care Waiver (Exception) Requests

- 10.2.9 POL- Managing Variance Requests for Family Home and Center Programs
- 10.2.9 PRO- Managing Variance Requests for Family Home and Center Programs

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 #22 Forms

You will also find the following forms related to waiver and variance requests in the Resources section of your learner's screen. Please open and read each of the forms.

- 15-961 Child Care Waiver (Exception) Request
- 15-930 Child Care Waiver (Exception) Decision and 15-962 Dispute of Child Care Waiver (Exception) Decision
- 15-931 Rescission of Child Care Waiver (Exception)
- 15-932 Child Care Waiver (Exception) Dispute Decision

- 15-957 Child Care Variance Request
- 15-923 Child Care Variance Decision and 15-958 Dispute of Child Care Variance Decision
- 15-924 Rescission of Child Care Variance
- 15-925 Child Care Variance Dispute Decision

Slide #23 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.

- 10.2.8 POL & PRO – Managing Child Care Waiver (Exception) Requests
 - 10.2.9 POL & PRO - Managing Variance Requests for Family Home and Center Programs
- 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 #24 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 #25 Course Evaluation continued

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

- True
- False

Slide #26 Course Evaluation continued

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

- True
- False

Slide #27 Course Evaluation continued

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

- True
- False

Slide #28 End of Course

This concludes this course on **Understanding Waivers and Variances – What are the differences?** 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

WA DCYF Educational Series

Understanding Waivers and Variances – What are the differences?

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.