



STATE OF WASHINGTON
DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

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March 13, 2023

TO: Interested Persons

FROM: Judy Bunkelman, Child Care Licensing Administrator

SUBJECT: CONCISE EXPLANATORY STATEMENT (*RCW 34.05.325*)

For rules proposed under notice filed as WSR 22-24-069 on December 2, 2022:

- New WAC 110-300-0035 Department access to licensed space.
- Amended WACs 110-300-0005 Definitions, 110-300-0030 Nondiscrimination, 110-300-0166 Emergency preparation and exiting, and 110-300-0210 Immunizations and exempt children.

REASON FOR ADOPTION DCYF is filing permanent rules to clarify the department's authority to access licensed space and the consequences for refusing access. The rules also require two emergency exits for each floor of licensed space in family home child cares and describe the specific criteria for each exit. The rules better ensure nondiscrimination of LGBTQIA+ children enrolled in child care. Lastly, the rules align immunization requirements with chapter 246-105 WAC under which child care providers who enroll unimmunized children must notify their parents or guardians that children who are not immunized within 30 days of enrollment will be excluded from care.

CHANGES MADE SINCE THE RULE WAS PROPOSED:

- "Monitoring" was removed from WAC 110-300-035 (1) and replaced with "inspections."
- WAC 110-300-0166 (4)(a) was revised as follows: "Each level or floor of the home licensed for early learning programming, except basements, must have at least two emergency exits pathways that ~~open~~ lead directly to the exterior of and away from the building space."
- "State" was added after "Washington" in WAC 110-300-0005 in the definition of "Early childhood education (ECE) state certificate."
- "Calendar" was added before "days" in WAC 110-300-0210 (3)(b) and also in WAC 110-300-0005 in the definition of "safety plan."

SUMMARY OF COMMENTS RECEIVED	THE DEPARTMENT CONSIDERED ALL THE COMMENTS. THE ACTIONS TAKEN IN RESPONSE TO THE COMMENTS, OR THE REASONS NO ACTIONS WERE TAKEN, FOLLOW.
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<p>WAC 110-300-0005 Definitions – A commenter asks, “Did the department intend to omit a definition of Pan-sexual”</p>	<p>WAC 110-300-0005. Disagree. DCYF adopted a definition for "LGBTQIA+." This definition includes "pansexual" when it states "The '+' represents identities not specifically named in the LGBTQIA acronym (e.g., pansexual, gender nonbinary, and Two-spirit)." This definition mirrors that in other DCYF licensing requirements for foster care (see WAC 110-145-1305 and WAC 110-148-1305). Nonetheless, the department will look into defining this term in the future.</p>
<p>WAC 110-300-0166 (4) A commenter asks “Should the word “space” be replaced with the word “building” to mirror the language used throughout the rest of WAC 110-300-0166 and to clarify purpose is to exit the building, not licensed space? Additionally, does the exterior exits need to open to ground level or lead to ground level? The way this is written, it opens the interruption for the exits to open out onto an exterior deck located above grade level (second story, etc.) without an additional exit stairway leading to ground level. I believe the department’s intent is to ensure direct exits open or lead to ground level. OR maybe add a definition to WAC 110-300-0005 as to what the department definition is for a “Direct exit.”</p>	<p>WAC 110-300-0166. Agree. DCYF will revise WAC 110-300-0166(4)(a) to read "For family home early learning programs: Each level of floor of the home licensed for early learning programming, except basements, must have at least two emergency exit <u>pathways</u> that <u>lead</u> directly to the exterior of <u>and away from</u> the <u>building</u>." (additions shown in underlined text).</p>
<p>A commenter states, “None of these rules belong in the same category and be under the same commenting section. They should be broken down individually. Immunization requirements should not be something that providers can be written up on. Providers do not have access to the same systems as the public schools do. Providers are not doctors or nurses.”</p>	<p>This comment is commentary. No action taken.</p>
<p>WAC 110-300-0035 (1) A commenter states, “I would ask you to consider an addition to state that licensors must be granted access for complaint inspections and other licensing works that is not directly related to annual monitoring visits.”</p>	<p>Agree. DCYF will update this rule to clarify the department's authority to inspect child care programs. WAC 110-300-0035(1) will be revised to read "(1) Pursuant to RCW 43.216.250(8), licensees must grant reasonable access to department licensors during the licensees' hours of operation for the purpose of announced or unannounced <u>inspections</u>."</p>
<p>These are good updates.</p>	<p>This comment is commentary. No action taken.</p>
<p>A commenter states that “WAC 110-301-0210 should be updated as well to be comparable to the changes made to section 110-300-0210.”</p>	<p>This comment is commentary. However, DCYF agrees and will update the school age licensing requirements in the future to reflect current immunization requirements.</p>
<p>Good communication is important</p>	<p>This comment is commentary. No action taken.</p>
<p>A commenter states, “For sure. [responding to rules changes that require two exits for each floor and specifying criteria for each exit.]</p>	<p>This comment is commentary. No action taken.</p>

<p>A commenter states, “I recommend better training on equality and inclusiveness so this is less of a concern. Are you thinking to specifically outline what can and can't be taught, done, etc.? In an inclusive classroom, one uses non-discriminative language for all children regardless of who they are or where they come from. Children will copy adults so training adults hopefully will help with better inclusive language and modeling in the classroom. It is also important to show respect for the different values that families hold and so rules need to be open enough to hold space for differences.”</p>	<p>This comment is commentary. No action taken. DCYF recommends contacting your nearest DCYF licensing office with particular questions about training criteria.</p>
<p>A commenter states that “this applies only if there is no record? Signed letters from doctors for exemptions still OK? I already have been letting parents know that forms for immunizations or exemptions are a requirement for attendance. Making it easier to access CIS forms online would be helpful. Some Doctors offices still don't use them.”</p>	<p>This comment is commentary. No action taken. The department recommends contacting your nearest DCYF licensing office with particular questions about how this update may impact your program.</p>
<p>WAC 110-300-0005 The commenter recommends adding “CIS” after the definition of “certificate of immunization status” to be consistent with the COE (certificate of exemption) definition and the SBOH (State Board of Health) WAC.</p>	<p>This change is insignificant. No action taken.</p>
<p>WAC 110-300-0005 The commenter proposes DCYF change the definition of “school-age children” to children not less than four years of age. Per the commenter, “OSPI has defined Transitional Kindergarten (TK) as a kindergarten program for children younger than 5 as students in K-12 school. Children in TK who are 4-years-old attending school would not fall under the current DCYF definition and so we have suggested changes to align with the OSPI definition and our immunization guidance.”</p>	<p>Disagree. The definition of school-age children is set by DCYF statute in RCW 43.216.010(27). No action taken.</p>
<p>WAC 110-300-0210 (2) The commenter proposes the following changes in (2)(a) through (2)(c):</p> <ul style="list-style-type: none"> • (a) Combining the WAIS CIS and hardcopy CIS to better align with the SBOH WAC. • (b) Adding a reason for a COE, adding ‘current’ to align with CIS, and removing “department approved” as this is in the COE definition, and DCYF, not DOH is the ‘department’ defined in the definitions. • (c) Deleting because it is included in new (a) text and could be interpreted to be an immunization record that is not a CIS. 	<p>Disagree. These changes are unnecessary. No action taken.</p>
<p>WAC 110-300-0210 (3) The commenter states that the current DCYF language does not specify when</p>	<p>Disagree. This language conflicts with the DCYF intent of vaccinate schedule and exceptions. No action taken.</p>

<p>the child must be scheduled to be immunized or be brought up to date. The commenter suggests using the language in the SBOH WAC because it clearly defines the timelines and what the parent needs to sign and acknowledge.</p>	
<p>WAC 110-300-0210 (4) The commenter suggests adding the following:</p> <ul style="list-style-type: none"> • Language from SBOH WAC that early learning providers must be able to produce a list of children not fully vaccinated to the local health department upon request. • That CIS or COE must be returned to the parent when the child withdraws. • Adding state and local health department agents to the list of people who must have access to the immunization records. • Language regarding the required annual immunization report 	<p>Disagree. These changes are unnecessary. The language regarding the required annual immunization report places an unnecessary obligation on providers. No action taken.</p>
<p>WAC 110-300-0210 (5) The commenter suggests changing the proposed language to better align with the McKinney-Vento Act. For context: McKinney-Vento includes public preschool 42 USC CHAPTER 119, SUBCHAPTER VI, Part B: Education for Homeless Children and Youths (house.gov) “(1) Each State educational agency shall ensure that each child of a homeless individual and each homeless youth has equal access to the same free, appropriate public education, including a public preschool education, as provided to other children and youths.”</p>	<p>Disagree. These changes are unnecessary. No action taken.</p>
<p>WAC 110-300-0210 (6) The commenter points to RCW 28A.210.170, which requires DSHS (now DCYF) to establish the procedural and due process rules for exclusion. Currently due process rules for exclusion are not included in this rule language. The commenter suggests adding that or referring to the OSPI exclusion process rules established for public schools so that a process is outlined.</p>	<p>Disagree. These changes are unnecessary and place an unnecessary obligation on providers. No action taken.</p>
<p>WAC 110-300-0210 (7) The commenter suggests adding language about notifiable condition, a reference to relevant WAC, and a requirement to notify the local health officer.</p>	<p>Disagree. These changes are unnecessary. This is covered under sections 110-300-0120, -0205(6), -0205(8), -0460(4)(j), -0475(2)(d), and -0500(2)(f). No action taken.</p>

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

cc: DCYF Rules Coordinator