Chapter 170-06 WAC

DEL BACKGROUND CHECK RULES

NEW SECTION

WAC 170-06-0010 Purpose and scope. (1) The purpose of this chapter is to establish rules for background checks conducted by the department of early learning (DEL or department). The department does background checks on individuals who are authorized to care for or have unsupervised access to children in child care agencies or in facilities that are certified by DEL. Background checks are conducted to find and evaluate any history of criminal convictions, pending charges, negative actions, or other information that raises concerns about an individual's character, suitability and competence to care for or have unsupervised access to children in child care.

(2) This chapter applies to all individuals who are applying for a new or renewal license or certification, applying for authorization to care for or have unsupervised access to children in child care and to persons who are licensed, certified by DEL or authorized to care for or have unsupervised access to children in child care.

(3) If any provision of this chapter conflicts with any provision in any chapter containing a substantive rule relating to background checks and qualifications of persons who are authorized to care for or have unsupervised access to children in child care, the provisions in this chapter shall govern.

(4) These rules implement chapters 43.215 and 43.43 RCW, including DEL responsibilities in RCW 43.215.200, 43.215.205, 43.215.215, 43.43.830, and 43.43.832.

(5) Effective date: These rules are initially effective July 3, 2006, and apply prospectively.

NEW SECTION

WAC 170-06-0020 Definitions. The following definitions apply to this chapter:

(1) **"Agency"** has the same meaning as "agency" in RCW

43.215.020(2).

(2) **"Appellant"** means only those with the right of appeal under this chapter.

(3) **"Applicant"** means an individual who is seeking a DEL background check authorization as part of an application for a child care agency license or DEL certification or who seeks DEL authorization to care for or have unsupervised access to children in child care.

(4) **"Authorized"** or **"authorization"** means approval by DEL to care for or have unsupervised access to children in child care or to work in or reside on the premises of a child care agency or certified facility.

(5) **"Certification"** or **"certified by DEL"** means an agency that is legally exempt from licensing that has been certified by DEL as meeting minimum licensing requirements.

(6) **"DEL"** or **"department"** means the department of early learning.

(7) **"Director's list"** means a list of crimes, the commission of which disqualifies an individual from being authorized by DEL to care for or have unsupervised access to children in child care, WAC 170-06-0120.

(8) **"Disqualified"** means DEL has determined that a person's background information prevents that person from being licensed or certified by DEL or from being authorized by DEL to care for or have unsupervised access to children in child care.

(9) **"Negative action"** means a court order, court judgment or an adverse action taken by an agency, in any state, federal, tribal or foreign jurisdiction, which results in a finding against the applicant reasonably related to the individual's character, suitability and competence to care for or have unsupervised access to children in child care. This may include but is not limited to:

(a) A decision issued by an administrative law judge.

(b) A final determination, decision or finding made by an agency following an investigation not subject to further review.

(c) Termination, revocation or denial of a license or certification, or if pending adverse agency action, the voluntary surrender of a license, certification or contract in lieu of the adverse action.

(d) Revocation, denial or restriction placed on any professional license.

(e) A final decision of a disciplinary board.

(10) **"Unsupervised access"** means:

(a) An individual will or may have the opportunity to be alone with a child in child care at any time for any length of time; and

(b) Access that is not within constant visual and auditory range of the licensee, an employee authorized by DEL, nor a relative or guardian of the child in child care.

NEW SECTION

WAC 170-06-0030 Reason for background checks. The department does background checks to reduce the risk of harm to children from caregivers or others who have been convicted of certain crimes or who pose a risk to children. The department's rules and state law require the evaluation of background information to determine the character, suitability and competence of persons who will care for or have unsupervised access to children in child care.

NEW SECTION

WAC 170-06-0040 Background clearance requirements. (1) At the time of application for a license or certification or for authorization to care for or have unsupervised access to children in child care, the applicant shall submit to the department a completed background check form and fingerprint card, if required. A fingerprint card is required for a Federal Bureau of Investigation check if the applicant has resided in the state of Washington for less than three years. This requirement applies to:

(a) Each individual applicant for a license or certification;

(b) All staff of the licensed child care agency or certified facility, whether they provide child care or not, including but not limited to:

(i) Primary staff persons;

(ii) Assistants;

(iii) Volunteers;

(iv) Interns;

(v) Contracted providers;

(vi) Each person residing on the premises of a licensed facility who is sixteen years of age or older; and

(vii) All individuals who are sixteen years of age or older who will care for or have unsupervised access to children in child care.

(2) Each person identified in this section must complete a DEL background check form, disclosing:

(a) Whether he or she has been convicted of any crime;

(b) All arrests and the subsequent dispositions of such arrests; and

(c) Negative actions, to which he or she has been subject, as defined by WAC 170-06-0020(9).

(3) An agency, licensee, or certified facility shall require an applicant to submit to the licensee or facility a completed background check form:

(a) By the date of hire of new staff, assistants, volunteers, interns or contracted providers;

(b) By the date a person age sixteen or older moves onto the premises; or

(c) By the date a person who resides on the premises turns sixteen years old.

(4) The licensee or certified facility must submit the background check form to the department within seven days of the staff, assistant, volunteer, intern or contracted provider's first day of employment, date the person moves on the premises or turns sixteen years old, as applicable.

(5) An individual shall not care for or have unsupervised access to children in child care unless he or she has obtained a DEL authorization under this chapter.

(6) Agencies, licensees and facilities shall not permit any individual to care for or have unsupervised access to children in child care, unless the individual has been authorized by DEL to care for or have unsupervised access to children in child care.

(7) An individual who has been disqualified by DEL shall not be present on the premises of a licensed or certified facility.

NEW SECTION

WAC 170-06-0050 Department action following completion of background inquiry. After the department receives the background information it will conduct a character, suitability and competence assessment as follows:

(1) Compare the background information with the DEL director's list, WAC 170-06-0120, to determine whether the applicant must be disqualified under WAC 170-06-0070 (1) and (2). In doing this comparison, the department will use the following rules:

(a) A pending charge for a crime or a deferred prosecution is given the same weight as a conviction.

(b) If the conviction has been renamed it is given the same weight as the previous named conviction. For example, larceny is now called theft.

(c) Convictions whose titles are preceded with the word "attempted" are given the same weight as those titles without the word "attempted."

(d) The term "conviction" has the same meaning as the term "conviction record" as defined in RCW 10.97.030 and shall include convictions or dispositions for crimes committed as either an adult or a juvenile. It shall also include convictions or dispositions for offenses for which the person received a deferred or suspended sentence, unless the record has been expunged according to law.

(e) Convictions and pending charges from other states or jurisdictions will be treated the same as a crime or pending charge in Washington state. If the elements of the crime from the foreign jurisdiction are not identical or not substantially similar to its Washington equivalent or if the foreign statute is broader than the Washington definition of the particular crime, the defendant's conduct, as evidenced by the indictment or information, will be

analyzed to determine whether the conduct would have violated the comparable Washington statute.

(f) The crime will not be considered a conviction for the purposes of the department when it has been pardoned or a court of law acts to expunge, dismiss, or vacate the conviction record, or if an order of dismissal has been entered following a period of probation, suspension or deferral of sentence.

(2) Evaluate any negative action information to determine whether the applicant has any negative actions requiring disqualification under WAC 170-06-0070(3).

(3) If the applicant is not disqualified under WAC 170-06-0070 (1), (2) or (3), evaluate any negative action information and any other pertinent background information, including nondisqualifying criminal convictions, to determine whether disqualification is warranted under WAC 170-06-0070 (4), (5) or (7).

(4) Notify the child care agency, licensee, or certified facility whether or not the department is able to authorize the applicant to care for or have unsupervised access to children in child care.

(5) The department will discuss the result of the criminal history and background check information with the licensee or management staff of a licensed or certified facility, when applicable.

NEW SECTION

WAC 170-06-0060 Additional information the department may consider. (1) If DEL has reason to believe that additional information is needed to determine the character, suitability and competence of the applicant to care for or have unsupervised access to children in child care, additional information will be requested. Upon request, the applicant must provide to the department any additional reports or information requested. This additional information may include, but is not limited to:

(a) Sexual deviancy evaluations;

(b) Substance abuse evaluations;

(c) Psychiatric evaluations; and

(d) Medical evaluations.

(2) Any evaluation requested under this section must be conducted by a DEL-approved evaluator and will be at the expense of the person being evaluated.

(3) The applicant must give the department permission to speak with the evaluator in subsection (1)(a) through (d) of this section prior to evaluation, to establish the need for and scope of the evaluation, and after the evaluation to discuss the results.

NEW SECTION

WAC 170-06-0070 Disqualification. (1) An applicant who has a background containing any of the permanent convictions on the director's list, WAC 170-06-0120, shall be permanently disqualified from providing licensed child care, caring for children or having unsupervised access to children in child care.

(2) An applicant who has a background containing any of the nonpermanent convictions on the director's list, WAC 170-06-0120, shall be disqualified from providing licensed child care, caring for children or having unsupervised access to children in child care for five years after the conviction date.

(3) An applicant shall be disqualified when their background contains a negative action that relates to:

(a) An act, finding, determination, decision, or the commission of abuse or neglect of a child as defined in chapters 26.44 RCW and 388-15 WAC.

(b) An act, finding, determination, decision, or commission of abuse or neglect or financial exploitation of a vulnerable adult as defined in chapter 74.34 RCW.

(4) An applicant may be disqualified for other negative action(s), as defined in WAC 170-06-0020(9) which reasonably relate to the applicant's character, suitability and competence to care for or have unsupervised access to children in child care.

(5) An applicant may be disqualified from caring for or having unsupervised access to children if the individual is the subject of a pending child protective services (CPS) investigation.

(6) An applicant who has a "founded" finding for child abuse or neglect will not be authorized to care for or have unsupervised access to children during the administrative hearing and appeals process.

(7) The department may also disqualify an applicant if the applicant has other nonconviction background information that renders the applicant unsuitable to care for or have unsupervised access to children in child care. Among the factors the department may consider are:

(a) The applicant attempts to obtain a license, certification, or authorization by deceitful means, such as making false statements or omitting material information on an application.

(b) The applicant used illegal drugs or misused or abused prescription drugs or alcohol that either affected their ability to perform their job duties while on the premises when children were present or presented a risk of harm to any child in child care.

(c) The applicant attempted, committed, permitted, or assisted in an illegal act on the premises. For purposes of this subsection, an applicant attempted, committed, permitted, or assisted in an illegal act if he or she knew or should have known that the illegal act occurred or would occur.

(d) The applicant lacks sufficient physical or mental health to meet the needs of children in child care.

(e) The applicant had a license or certification for the care of children or vulnerable adults terminated, revoked, suspended or

denied.

(8) If an applicant who has been disqualified can demonstrate by clear and convincing evidence that he or she has the character, suitability and competence to care for or have unsupervised access to children in child care, the department may consider authorizing the applicant to care for or have unsupervised access to children in child care.

NEW SECTION

WAC 170-06-0080 Notification of disqualification. (1) The department will notify the applicant in writing if the applicant is disqualified by the background check.

(2) If the department sends a notice of disqualification, the applicant will not be authorized to care for or have unsupervised access to children in child care.

(3) Any decision by the department disqualifying an applicant under this chapter is effective immediately upon receipt of notice by the applicant.

NEW SECTION

WAC 170-06-0090 Administrative hearing to contest disqualification. (1) An applicant may request an administrative hearing to contest the department's disqualification decision.

(2) The employer or prospective employer cannot contest the department's decision on behalf of any other person, including a prospective employee.

(3) The administrative hearing will take place before an administrative law judge employed by the office of administrative hearings, pursuant to chapter 34.05 RCW, and chapter 170-03 WAC.

NEW SECTION

WAC 170-06-0100 Request for administrative hearing. (1) Any person who has a right to contest the disqualification under this chapter must request a hearing within twenty-eight days of receipt of the decision.

(2) A request for a hearing must meet the requirements of chapter 170-03 WAC.

(3) Any decision by the department disqualifying a person under this chapter shall remain in effect pending the outcome of the administrative hearing or review under chapter 170-03 WAC, notwithstanding any provision of chapter 170-03 WAC to the contrary.

NEW SECTION

WAC 170-06-0110 Limitations on challenges to disqualifications. (1) If the disqualification is based on a criminal conviction, the appellant cannot contest the conviction in the administrative hearing.

(2) If the disqualification is based on a finding of child abuse or neglect, or a finding of abandonment, abuse, neglect, exploitation, or financial exploitation of a vulnerable adult as defined in chapter 74.34 RCW, the appellant cannot contest the finding if:

(a) The appellant was notified of the finding by the department of social and health services (DSHS) and failed to request a hearing to contest the finding; or

(b) The appellant was notified of the finding by DSHS and requested a hearing to contest the finding, but the finding was upheld by final administrative order or superior court order.

(3) If the disqualification is based on a court order finding the applicant's child to be dependent as defined in chapter 13.34 RCW, the applicant cannot contest the finding of dependency in the administrative hearing.

(4) If the disqualification is based upon a negative action as defined in WAC 170-06-0020(9) the appellant cannot contest the underlying negative action in the administrative hearing if the appellant was previously afforded the right of review or hearing right and a final decision or finding has been issued.

NEW SECTION

WAC 170-06-0120 Director's list. (1) An applicant's conviction for any crimes listed in column (a) in the table below shall permanently disqualify the applicant from authorization to care for or have unsupervised access to children in child care.

(2) An applicant's conviction for any crime listed in column (b) in the table below shall disqualify the applicant from authorization to care for or have unsupervised access to children in child care for a period of five years from the date of conviction.

(a) Crimes that permanently disqualify an applicant	(b) Crimes that disqualify an applicant for five years from date of conviction
Abandonment of a child	Abandonment of a dependent person not against child
Arson	Assault 3 not domestic violence
Assault 1	Assault 4/simple assault
Assault 2	Burglary
Assault 3 domestic violence	Coercion
Assault of a child	Custodial assault
Bail jumping	Custodial sexual misconduct
Carnal knowledge	Extortion 2
Child buying or selling	Forgery
Child molestation	Harassment
Communication with a minor for immoral purposes	Identity theft
Controlled substance homicide	Leading organized crime
Criminal mistreatment	Malicious explosion 3
Custodial interference	Malicious mischief
Dealing in depictions of minor engaged in sexually explicit conduct	Malicious placement of an explosive 2
Domestic violence (felonies only)	Malicious placement of an explosive 3
Drive-by shooting	Malicious placement of imitation device 1
Extortion 1	Patronizing a prostitute
Harassment domestic violence	Possess explosive device
Homicide by abuse	Promoting pornography
Homicide by watercraft	Promoting prostitution 1
Incendiary devices (possess, manufacture, dispose)	Promoting prostitution 2
Incest	Promoting suicide attempt
Indecent exposure/public indecency (felonies only)	Prostitution
Indecent liberties	Reckless endangerment
Kidnapping	Residential burglary
Luring	Stalking
Malicious explosion 1	Theft
Malicious explosion 2	Theft-welfare
Malicious harassment	Unlawful imprisonment

(a) Crimes that permanently disqualify an applicant	(b) Crimes that disqualify an applicant for five years from date of conviction
Malicious mischief domestic violence	Unlawful use of a building for drug purposes
Malicious placement of an explosive 1	Violation of the Imitation Controlled Substances Act (manufacture/deliver/intent)
Manslaughter	Violation of the Uniform Controlled Substances Act (manufacture/deliver/intent)
Murder/aggravated murder	Violation of the Uniform Legend Drug Act (manufacture/deliver/intent)
Patronizing a juvenile prostitute	Violation of the Uniform Precursor Drug Act (manufacture/deliver/intent)
Possess depictions minor engaged in sexual conduct	
Rape	
Rape of child	
Robbery	
Selling or distributing erotic material to a minor	
Sending or bringing into the state depictions of a minor	
Sexual exploitation of minors	
Sexual misconduct with a minor	
Sexually violating human remains	
Use of machine gun in felony	
Vehicular assault	
Vehicular homicide (negligent homicide)	
Violation of child abuse restraining order	
Violation of civil anti-harassment protection order	
Violation of protection/contact/ restraining order	
Voyeurism	

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-151-070 How do I apply or reapply for a license? (1) You must comply with the department's application procedures and submit to the department:

(a) A completed department-supplied application for school-age child care center license, including attachments, ninety or more days before the:

(i) Expiration of your current license;

(ii) Opening date of your center;

(iii) Relocation of your center; or

(iv) Change of the licensee.

(b) A completed ((~~criminal history and~~)) background ((~~inquiry~~)) check form for each staff person or volunteer having unsupervised or regular access to the child in care; and

(c) The annual licensing fee. The fee is forty-eight dollars per year for the first twelve children plus four dollars for each additional child over the licensed capacity of twelve children.

(2) In addition to the required application materials specified under subsection (1) of this section, you must submit to the department:

(a) An employment and education resume of the person responsible for the active management of the center and of the site coordinator;

(b) Copies of diplomas or education transcripts of the director and site coordinator; and

(c) Three professional references each for you, the director, and the site coordinator.

(3) You, as the applicant for a license under this chapter must be twenty-one years of age or older.

(4) ((~~The department may, at any time, require additional information from you, any staff person, any volunteer, members of the household of any of these individuals, and other persons having access to the children in care. The additional information includes, but is not limited to:~~

~~(a) Sexual deviancy evaluations;~~

~~(b) Substance and alcohol abuse evaluations;~~

~~(c) Psychiatric evaluations;~~

~~(d) Psychological evaluations; and~~

~~(e) Medical evaluations.~~

~~(5) The department may perform investigations of you, staff persons, volunteers, members of the households of these individuals, and other persons having access to the child in care as the department deems necessary, including accessing criminal histories and law enforcement files.~~

~~(6)~~)) You must conform to rules and regulations approved or

adopted by the:

(a) State department of health and relating to the health care of children at school-age child care centers;

(b) State fire marshal's office, establishing standards for fire prevention and protection of life and property from fire, under chapter ((~~212-56A~~)) 212-12 WAC.

((~~(7)~~)) (5) The department must not issue a license to you until the ((~~department of health and the~~)) state fire marshal's office ((~~have~~)) has certified or inspected and approved the center.

((~~(8)~~)) (6) The department may exempt a school site possessing a fire safety certification signed by the local fire official within six months prior to licensure from the requirement to receive an additional fire safety inspection by the state fire marshal's office.

((~~(9)~~)) (7) You must submit a completed plan of deficiency correction, when required, to the department of health and the department licensor before the department will issue you a license.

((~~(10)~~)) (8) You, your director and site coordinator must attend department-provided orientation training.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-151-090 When can my license application be denied and when can my license be suspended or revoked? (1) We must deny your license application, or suspend or revoke your license if you do not meet the requirements outlined this chapter.

(2) If more than one person applies for a license or is licensed under this chapter to provide child care at the same facility, we will consider qualifications separately and together. We may deny your license application, or suspend or revoke your license if one person fails to meet the minimum licensing requirements.

(3) We must deny, suspend, or revoke your license if you:

(a) Have been found to have abused, neglected, or sexually exploited a child as defined in chapters 26.44 RCW and 388-15 WAC ((~~388-15-130~~));

(b) Have a disqualifying criminal history ((~~as listed in~~)) under chapter ((~~388-06~~)) 170-06 WAC;

(c) Have had a license denied, suspended, or revoked for the care of adults or children in this state or any other state. The exception: If you can demonstrate by clear and convincing evidence that you have taken enough correction action or rehabilitation to justify the public trust and to operate the center according to the rules of this chapter, we may issue you a license;

(d) Commit or allow an illegal act on the licensed premises;

(e) Allow a child in your care to be abused, neglected, exploited, or treated with cruelty or indifference;

(f) Use illegal drugs, or use alcohol excessively;

(g) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office to inspect the premises; or

(h) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office access to records related to the center's operation or to interview staff or a child in care.

(4) We may deny, suspend, or revoke your license if you:

(a) Try to get a license by deceitful means, such as making false statements or leaving out important information on your application;

(b) Do not provide enough staff in relation to the numbers, ages, or characteristics of children in care;

(c) Allow a person who is not qualified by training, experience or temperament to care for or be in contact with a child in care;

(d) Fail to provide adequate supervision to a child in care;

(e) Are not able to exercise fiscal responsibility and accountability while operating the center;

(f) Knowingly allow an employee or volunteer on the premises who has made false statements on an application for employment or volunteer service;

(g) Refuse to supply additional information reasonably requested by the department; or

(h) Fail to comply with the minimum licensing requirements set forth in this chapter or any provision of chapter ((~~74.15~~)) 43.215 RCW.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-151-180 What staff patterns and qualifications does the department require? (1) General qualifications. You, your staff, volunteers, and other persons associated with the operation of the center who have access to the child in care must:

(a) Be of good character;

(b) Demonstrate the understanding, ability, personality, emotional stability, and physical health suited to meet the cultural, emotional, mental, physical, and social needs of the children in care; ((~~and~~))

(c) Not have committed or been convicted of child abuse or any crime involving harm to another person; and

(d) Be authorized by DEL to care for or have unsupervised access to children in child care or to work or reside on the premises of a child care agency or certified facility as defined in chapter 170-06 WAC.

(2) The department may, at any time, require additional

information from you, any staff person, any volunteer, members of the household of any of these individuals, and other persons having access to children in care. The additional information includes, but is not limited to:

(a) Sexual deviancy evaluations;

(b) Substance and alcohol abuse evaluations;

(c) Psychiatric evaluations;

(d) Psychological evaluations; and

(e) Medical evaluations.

(3) Any evaluation requested under subsection (2)(a) through (e) of this section will be at the expense of the person being evaluated.

(4) The person being evaluated must give the department permission to speak with the evaluator(s) in subsection (2)(a) through (e) of this section prior to and after the evaluation.

(5) Program director. You must serve as or employ a director responsible for the overall management of the center's facility and operation. The director must:

(a) Be twenty-one years of age or older;

(b) Serve as administrator of the center, ensuring compliance with licensing requirements;

(c) Have knowledge of development of school-age children as evidenced by professional references, education, experience, and on-the-job performance;

(d) Have the management and supervisory skills necessary for the proper administration of the center, including:

(i) Record maintenance;

(ii) Financial management; and

(iii) Maintenance of positive relationships with staff, children, parents, and the community.

(e) Employ, provide, or arrange for fulfillment of clerical, accounting, maintenance, transportation, and food service responsibilities so the child care staff is free to concentrate on program implementation and maintaining the required staff-to-child ratio;

(f) Have completed thirty or more college quarter credits or combination of one-third clock hours and two-thirds college credits, in early childhood education/child development, elementary education, social work, other child-related field, including, but not limited to, art, music, dance, recreation, physical education, education, home economics, psychology, social services, child development associate (CDA), or nutrition;

(g) Have two or more years of successful experience working with school-age children as evidenced by professional references and on-the-job performance;

(h) Have planning, coordination, and supervisory skills to implement a high quality, developmentally appropriate program; and

(i) Have completed one of the following prior to or within the first six months of licensure or employment except as provided in subsection (2)(i) of this section:

(i) Twenty clock hours or two college quarter credits of basic training. The Washington state training and registry system (STARS) must approve the training; or

(ii) Current CDA or equivalent credential or twelve or more college quarter credits in a child development associate sequence; or

(iii) Forty-five or more college quarter credits in early childhood education, child development, school-age care, elementary education, special education, or recreation; or

(iv) An associate of arts (AA) or associate of applied science (AAS) or higher college degree in early childhood education, child development, school-age care, elementary education, special education, or recreation.

((~~(3)~~)) (6) Site coordinator. You may employ a site coordinator responsible for being on site with children, program planning and program implementation. The program director must provide regular supervision of the site coordinator.

((~~(4)~~)) (7) The same person may serve as the site coordinator and program director when qualified for both positions. The site coordinator must:

(a) Be twenty-one years of age or older;

(b) Have completed thirty or more college quarter credits or combination of one-third clock hours and two-thirds college credits in early childhood education/child development, elementary education social work, other child-related field including, but not limited to, art, music, dance, relevant to school age children, recreation, physical education, education, music, art, psychology, social services, home economics, CDA, or nutrition;

(c) Serve as staff supervisor;

(d) Have demonstrated knowledge in:

(i) Behavior management skills specific to school-age children;

(ii) Program management skills; and

(iii) School-age child activity planning and coordinating skills.

(e) Have a minimum of two years experience working with school-age children, or possess equivalent experience.

(f) Have completed one of the following prior to or within the first six months of licensure or employment:

(i) Twenty clock hours or two college quarter credits of initial training. STARS must approve the training; or

(ii) Current CDA or twelve or more college quarter credits in child development, associate sequence;

(iii) Forty-five or more college quarter credits in early childhood education, child development, school-age care, elementary education, special education, or recreation; or

(iv) An associate of arts (AA) or associate of applied science (AAS) or higher college degree in early childhood education, child development, school-age care, elementary education, special education, or recreation.

((~~(5)~~)) (8) The program director or site coordinator must normally be on the premises while children are in care. If temporarily absent from the center, the director and site coordinator must leave a competent, designated staff person in charge.

((~~(6)~~)) (9) The director and site coordinator may also serve

as child care staff when that role does not interfere with the director's or site coordinator's management and supervisory responsibilities.

((~~(7)~~)) (10) Center staffing. You may employ a lead school-age child care staff person to be in charge of a child or a group of children. Lead school-age child care staff must:

(a) Be eighteen years of age or older;

(b) Possess a high school education or equivalent;

(c) Have school-age child development knowledge and experience; and

(d) Have the ability to implement the activity program.

((~~(8)~~)) (11) You may use a child care assistant, volunteer, or trainee. The assistant, volunteer, or trainee must support staff. The school age child care assistant, volunteer, or trainee must:

(a) Be sixteen years of age or older; and

(b) Care for children only under direct supervision.

((~~(9)~~)) (12) You must ensure that you and your program director or site coordinator assigns no person under eighteen years of age sole responsibility for a group of children. You, your program director, or your site coordinator may assign the assistant, eighteen years of age or older, sole responsibility for a child or group of children for a brief period of time.

((~~(10)~~)) (13) You may count the assistant, volunteer, or trainee in the staff-to-child ratio when that person meets staff requirements.

((~~(11)~~)) (14) The licensee may utilize youth volunteers fourteen to fifteen years of age. The youth volunteers:

(a) Must not be counted as staff at any time.

(b) Must not count in the staff-child ratio;

(c) Must meet all requirements in WAC ((~~388-151-470(4) [170-151-470(4)]~~)) 170-151-470(4); and

(d) Must be under the direct supervision of a lead staff person.

((~~(12)~~)) (15) The lead staff person must not supervise more than one youth volunteer at one time.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-151-440 What are the department's limitations regarding persons on premises? (1) During ((~~center~~)) operating hours or while ((~~children are~~)) a child is in care, ((~~only~~)) individuals allowed to have unsupervised access to children in care are:

(a) You((~~, your~~));

(b) An employee((~~s, and your~~)) or volunteer((~~s, or an~~)) who has been authorized by DEL to care for or have unsupervised access to children in child care;

(c) A representative of a school district; and

(d) A representative of a governmental agency((~~, school district, or an approved adult related to the child in care may have unsupervised access to the children in care~~)) who has specific, verifiable authority supported by documentation for the access.

(2) ((~~You must allow the~~)) A parent ((~~of a~~)) can have unsupervised access only to his or her own child ((~~in care~~)). A parent may sign an authorization for an individual to have unsupervised access ((~~only~~)) to the parent's own child (for example a therapist).

(3) You must not allow anyone else to have unsupervised access to a child in child care.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-151-470 What personnel policies and records must I develop and maintain? (1) Each employee and volunteer having unsupervised or regular access to the child in care must complete and submit to you or your director by the date of hire:

(a) An application for employment on a department-prescribed form or its equivalent; and

(b) A ((~~criminal history and~~)) background ((~~inquiry~~)) check form:

(i) You must submit this form to the department for each employee and volunteer, within seven calendar days of the employee's first day of employment so that the department may complete a ((~~criminal and~~)) background ((~~history~~)) check; and

(ii) The department must discuss the inquiry information with you or your director, when applicable.

(c) A Federal Bureau of Investigation (FBI) check, for you or any employee, or volunteer, if you, the employee, or volunteer has lived in the state for less than three years.

(2) Each employee serving as a program director, site coordinator, or staff person required to complete training under WAC ((~~388-151-190~~)) 170-151-190(8) must complete and submit a Washington state training and registry system (STARS) profile form to you or your director by the date of hire. You must submit this form to STARS within seven calendar days of the employee's first day of employment, so that the department may track the employee's compliance with training requirements.

(3) You must have written personnel policies describing staff benefits, if any, duties, qualifications, grievance procedures, pay dates, and nondiscrimination policies.

(4) You must maintain on the premises a personnel record keeping system, including a file for you and each staff person and volunteer containing:

(a) An employment application including work and education history;

(b) Documentation of ((~~criminal history and~~)) background ((~~inquiry~~)) check form submission, or FBI fingerprint check, if applicable;

(c) A copy of the department notification of background clearance authorization;

(d) A record of Mantoux method tuberculin skin test results, X ray, or an exemption to the skin test or X ray;

((~~(d)~~)) (e) Documentation on HIV/AIDS education and training;

((~~(e)~~)) (f) A record of participation in staff development training;

((~~(f)~~)) (g) Documentation of orientation program completion;

((~~(g)~~)) (h) Documentation of a valid food handler permit, when applicable;

((~~(h)~~)) (i) Documentation of current first-aid and CPR training, when applicable; and

((~~(i)~~)) (j) Documentation of basic and annual training required under WAC ((~~388-151-180~~)) 170-151-180 (2)(i) and (4)(f), ((~~388-151-190~~)) 170-151-190(8) and ((~~388-151-200~~)) 170-151-200(7).

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-0010 What definitions under this chapter apply to licensed child care providers? "American Indian child" means any unmarried person under the age of eighteen who is:

(1) A member or eligible for membership in a federally recognized Indian tribe, or who is Eskimo, Aleut, or other Alaska Native and a member of an Alaskan native regional corporation or Alaska Native Village;

(2) Determined or eligible to be found Indian by the Secretary of the Interior, including through issuance of a certificate of degree of Indian blood, or by the Indian health service;

(3) Considered to be Indian by a federally recognized or nonfederally recognized Indian tribe; or

(4) A member or entitled to be a member of a Canadian tribe or band, Metis community, or nonstatus Indian community from Canada.

"Anti-bias" is an approach that works against biases and recognizes when others are treated unfairly or oppressively based on race, color, national origin, marital status, gender, sexual orientation, class, religion, creed, disability, or age.

"Capacity that you are licensed for" means the maximum number of children that you are authorized to have on the premises of the child care at any one time.

"Center" means the same as **"child care center."**

"Certification" means department approval of a person, home, or facility that does not legally need to be licensed, but wants evidence that they meet the minimum licensing requirements (also see **"Tribal certification"**).

"Child abuse or neglect" means the physical abuse, sexual abuse, sexual exploitation, abandonment or negligent treatment or maltreatment of a child by any person indicating the child's health, welfare, and safety is harmed.

"Child-accessible" means areas where children regularly have access such as: Entrances and exits to and from the center, classrooms or child care areas, playground area including equipment and fencing, parking areas, walkways, decks, platforms, stairs and any items available for children to use in these areas.

"Child care center" means the same as a **"child day care center"** or a facility providing regularly scheduled care for a group of children one month of age through twelve years of age for periods less than twenty-four hours.

"Clean" means to remove dirt and debris from a surface by scrubbing and washing with a detergent solution and rinsing with water. This process must be accomplished before sanitizing a surface.

"CACFP" means child and adult care food program established by

congress and funded by the United States Department of Agriculture (USDA).

"Commercial kitchen equipment" means equipment designed for business purposes such as restaurants.

"Communicable disease" means a disease caused by a microorganism (bacterium, virus, fungus, or parasite) that can be transmitted from person to person via an infected body fluid or respiratory spray, with or without an intermediary agent (such as a louse, or mosquito) or environmental object (such as a table surface).

"Cultural relevancy" creates an environment that reflects home cultures, communities and lives of children enrolled in the program.

"Department," "we," "us," or **"our"** refers to and means the state department of early learning (DEL) and its predecessor agency the department of social and health services (DSHS)((~~, including but not limited to the division of child care and early learning (DCCEL) licensors and health specialists~~)).

"Developmentally appropriate practice":

(1) Means that the provider should interact with each child in a way that recognizes and respects the child's chronological and developmental age;

(2) Is based on knowledge about how children grow and learn; and

(3) Reflects the developmental level of the individual child, and interactions and activities must be planned with the needs of the individual child in mind.

"Director" means the person responsible for the overall management of the center's facility and operation, except that "DEL director" means the director of the department of early learning.

"Disinfect" means to eliminate virtually all germs from inanimate surfaces through the use of chemicals or physical agents.

"Domestic kitchen" means a kitchen equipped with residential appliances.

"External medication" means a medication that is not intended to be swallowed or injected but is to be applied to the external parts of the body, such as medicated ointments, lotions, or liquids applied to the skin or hair.

"I," "you," and **"your"** refer to and mean the licensee or applicant for a child care license.

"Inaccessible to children" means stored or maintained in a manner preventing children from reaching, entering, or using potentially hazardous items or areas. Examples include but are not limited to: Quantities of water, sharp objects, medications, chemicals, electricity, fire, mechanical equipment, entrapment or fall areas.

"Individual plan of care" means that the center's health policies and procedures do not cover the needs of the individual child so an individual plan is needed. Examples may include children with allergies, asthma, Down syndrome, tube feeding, diabetes care such as blood glucose monitoring, or nebulizer treatments.

"Infant" means a child one-month through eleven months of age.

"Lead teacher" means the person who is the lead child care staff person in charge of a child or group of children and implementing the activity program.

"License" means a permit issued by the department authorizing you by law to operate a child care center and certifying that you meet the minimum requirements under licensure.

"Licensee" or **"you"** means the person, organization, or legal entity responsible for operating the center.

"Maximum potential capacity based on square footage" is the maximum number of children you can be licensed for based on the amount of useable space (square footage) in your center. You may be licensed for less than the maximum potential capacity. You may not be licensed for more than the maximum potential capacity.

"Moisture impervious" or **"moisture resistant"** means a surface incapable of being penetrated by water or liquids.

"Parent" means birth parent, custodial parent, foster parent, legal guardian, those authorized by the parent or other entity legally responsible for the welfare of the child.

"Pesticides" means chemicals that are used to kill weeds, pests, particularly insects.

"Potentially hazardous food" means any food or ingredient that requires temperature control because it supports rapid growth of infectious or toxin forming microorganisms.

"Potable water" means water suitable for drinking by the public as determined by the state department of health or local health jurisdiction.

"Premises" means the building where the center is located and the adjoining grounds over which you have control.

"Preschool age child" means a child thirty months through five years of age not attending kindergarten or elementary school.

"Program supervisor" means the person responsible for planning and supervising the center's learning and activity program.

"Sanitize" means a surface must be clean and the number of germs reduced to a level that disease transmissions by that surface are unlikely. This procedure is less vigorous than disinfection.

"Satellite kitchen" means a food service establishment approved by a local health jurisdiction where food is stored, prepared, portioned or packaged for service elsewhere.

"School-age child" means a child not less than five years through twelve years of age who has begun attending kindergarten or elementary school.

"Staff" means a child care giver or group of child care givers employed by the licensee to supervise children served at the center who are authorized by DEL to care for or have unsupervised access to children under chapter 170-06 WAC.

"Supervised access" refers to those individuals at a child care center who have no responsibility for the operation of the center and do not have unsupervised access to children. These individuals are not required to submit a ((~~criminal history authorization~~)) background check form. This includes those persons

on the premises for "time limited" activities whose presence is supervised by a center employee and does not affect provider/child ratios or the normal activities or routine of the center. Examples include:

(1) A person hired to present an activity to the children in care such as a puppet show, cooking activity, and story telling;

(2) Parent participation as part of a special theme; or

(3) A relative visiting a child on the premises.

((~~**"Staff"** means a child care giver or group of child care givers employed by the licensee to supervise children served at the center.~~))

"The Washington state training and registry system (STARS)" means the entity approved by the department to determine the classes, courses, and workshops licensees and staff may take to satisfy training requirement.

"Toddler" means a child twelve months through twenty-nine months of age.

"Terminal room cleaning" means thorough cleaning of walls, ceiling, floor and all equipment, and disinfecting as necessary, in a room which has been used by a person having a communicable disease before it is occupied by another person.

"Tribal certification" means that the department has certified the tribe to receive state payment for children eligible to receive child care subsidies.

"Unsupervised access" refers to those individuals at a child care center who can be left alone with children in the child care center. These individuals must have received a full ((~~criminal history and~~)) background authorization clearance under chapter 170-06 WAC.

"Useable space" means the areas that are available at all times for use by the children that do not cause a health or safety hazard.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-0060 What are the requirements for applying for a license to operate a child care center? (1) To apply or reapply for a license to operate a child care center you must:

(a) Be twenty-one years of age or older;

(b) The applicant, director and program supervisor must attend the orientation programs that we provide, arrange or approve;

(c) Submit to us a completed and signed application for a child care center license or certification using our forms (with required attachments).

(2) The application package must include the following attachments:

(a) The annual licensing fee. The fee is based on your

licensed capacity, and is forty-eight dollars for the first twelve children plus four dollars for each additional child;

(b) If the center is solely owned by you, a copy of your:

(i) Photo identification issued by a government entity; and

(ii) Social Security card that is valid for employment or verification of your employer identification number.

(c) If the center is owned by a corporation, verification of the corporation's employer identification number;

(d) An employment and education resume for:

(i) The person responsible for the active management of the center; and

(ii) The program supervisor.

(e) Diploma or education transcript copies of the program supervisor;

(f) Three professional references each, for yourself, the director, and the program supervisor;

(g) Articles of incorporation if you choose to be incorporated;

(h) List of staff (form is provided in the application);

(i) Written parent communication (child care handbook);

(j) Copy of transportation insurance policy (liability and medical);

(k) In-service training program (for facilities employing more than five persons);

(l) A floor plan of the facility drawn to scale;

(m) A copy of your health care plan reviewed and signed by an advisory physician, physician's assistant, or registered nurse;

(n) A copy of your policies and procedures that you give to parents; and

(o) A copy of your occupancy permit.

(3) You must submit to the department((~~'s background check central unit~~)) a completed ((~~criminal history and~~)) background ((~~inquiry~~)) check form for ((~~yourself and for each staff person or volunteer who has regular or~~)) all persons required to be authorized by DEL to care for or have unsupervised access to the children in care under chapter 170-06 WAC; and

(4) You must submit your application and reapplication ninety or more calendar days before the date:

(a) You expect to open your new center;

(b) Your current license is scheduled to expire;

(c) You expect to relocate your center;

(d) You expect to change licensee; or

(e) You expect a change in your license category.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-0070 What personal characteristics do my

volunteers, all staff and I need to provide care to children? (1) You, your staff and volunteers must have the following personal characteristics in order to operate or work in a child care facility:

(a) The understanding, ability, physical health, emotional stability, good judgment and personality suited to meet the physical, intellectual, mental, emotional, and social needs of the children in care;

(b) Be ((~~qualified by our background inquiry check prior to having~~)) authorized by DEL to care for or have unsupervised access to children((~~. To "be qualified" means not having been convicted of, or have charges pending for, crimes posted on the DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at http://www.dshs.wa.gov/esa/dccel/policy.shtml. This includes not having committed or been convicted of child abuse or any crime involving harm to another person~~)) in child care under chapter 170-06 WAC; and

(c) Be able to furnish the child in care with a healthy, safe, nurturing, respectful, supportive, and responsive environment.

(2) If we decide it is necessary, you must provide to us any additional reports or information regarding you, any assistants, volunteers, members of your household, or any other person having access to ((~~the child~~)) children in care if any of those individuals may be unable to meet the requirements ((~~in~~)) of chapter ((~~388-295~~)) 170-295 WAC. This could include:

(a) Sexual deviancy evaluations;

(b) Substance abuse evaluations;

(c) Psychiatric evaluations; ((~~and~~))

(d) Psychological evaluations; and

(e) Medical evaluations.

(3) Any evaluation requested under ((~~WAC 388-295-0070~~)) subsection (2)(a) through ((~~(d)~~)) (e) of this section will be at the expense of the person being evaluated.

(4) ((~~You must give us permission to speak with the evaluator in WAC 388-295-0070 (2)(a) through (d) prior to and after the evaluation.~~

~~(5) We investigate staff and volunteers, including accessing criminal histories and law enforcement files.~~

~~(6) We can also investigate members of your household and members of your staffs and volunteers households. This includes accessing criminal histories and law enforcement files.~~

~~(7) We can investigate any other person who has access to a child in care, including accessing criminal history and law enforcement files.~~)) The person being evaluated must give us permission to speak with the evaluator(s) in subsection (2)(a) through (e) of this section prior to and after the evaluation.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-0100 When can my license application be denied and when can my license be suspended or revoked? (1) If you do not meet the requirements in chapter ((~~388-295~~)) 170-295 WAC we deny your license application or suspend or revoke your license.

(2) If more than one person applies for a license or is licensed under this chapter to provide child care at the same facility:

(a) We consider qualifications separately and together.

(b) We deny the license application, or suspend or revoke the license if one person fails to meet the minimum licensing requirements.

(3) We must deny, suspend, or revoke your license if you:

(a) Have been found to have abused, neglected, sexually exploited, abandoned a child or allowed such persons on the premises as defined in chapter 26.44 RCW;

(b) Have been convicted of, or have charges pending for, crimes ((~~posted~~)) on the ((~~DSHS secretary's list of permanently disqualifying convictions for ESA. You can find the complete list at http://www.dshs.wa.gov/esa/dccel/policy.shtml~~)) DEL director's list under WAC 170-06-0120;

(c) Have had a license denied, suspended, or revoked for the care of adults or children in this state or any other state. However, if you demonstrate by clear and convincing evidence that you have taken enough corrective action and rehabilitation to justify the public trust to operate the center according to the rules of this chapter, we consider issuing you a license;

(d) Commit or allow an illegal act to be committed on the licensed premises;

(e) Allow children in your care to be abused, neglected, exploited, or treated with cruelty or indifference;

(f) Use illegal drugs;

(g) Use alcohol to the extent that it interferes with your ability to provide care for the children as required by this chapter;

(h) Refuse to permit an authorized representative of the department, state fire marshal, or state auditor's office with official identification to:

(i) Inspect the premises;

(ii) Access your records related to the centers operation; or

(iii) Interview staff or children in care.

(i) Refuse to provide us a copy of your:

(i) Photo identification issued by a government entity; and

(ii) Social Security card that is valid for employment or verification of your employer identification number.

(4) We may deny, suspend, or revoke your license if you:

(a) Try to get or keep a license by making false statements or leaving out important information on your application;

(b) Do not provide enough staff in relation to the numbers, ages, or characteristics of children in care;

(c) Allow a person who is not qualified by training, experience or temperament to care for or be in contact with children in care;

(d) Fail to provide adequate supervision to children in care;

(e) Do not exercise fiscal responsibility and accountability while operating the center;

(f) Knowingly allow an employee or volunteer on the premises that has made false statements on an application for employment or volunteer service;

(g) Refuse to supply additional information requested by us;

(h) Fail to pay fees when due;

(i) Fail to comply with the minimum licensing requirements set forth in this chapter or any provision of chapter ((~~74.15~~)) 43.215 RCW; or

(j) Provide care on the premises for children of an age different from the ages for which the center is licensed.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-6060 Who is allowed to have unsupervised access to children in care? (1) During operating hours or while ((~~the~~)) a child is in care, ((~~the only persons~~)) individuals allowed to have ((~~regular or~~)) unsupervised access to the child in care are:

(a) ((~~The child's parent,~~

~~(b)~~)) You;

((~~(c)~~)) (b) An employee or volunteer who has ((~~received a Washington state patrol background check clearance~~)) been authorized by DEL to care for or have unsupervised access to children in child care; and

((~~(d)~~)) (c) A representative of a governmental agency who has specific, verifiable authority supported by documentation for the access.

(2) ((~~You must not allow anyone else unsupervised access to a child in care.~~)) A parent can ((~~only~~)) have unsupervised access only to his or her own child ((~~unless the parent~~)). A parent may sign((~~s~~)) an authorization for an individual to have unsupervised access to ((~~their~~)) his or her own child((~~.~~)) (for example a therapist((~~.~~))).

(3) You must not allow anyone else to have unsupervised access to a child in child care.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-295-7050 What personnel records and policies must I have? (1) Each employee and volunteer who has unsupervised access to a child in care must complete the following forms on or before their date of hire:

(a) An application for employment on a form prescribed by us, or on a comparable form approved by the department; and

(b) A ((~~criminal history and~~)) background ((~~inquiry~~)) check form.

(2) You must submit the ((~~criminal history and~~)) background ((~~inquiry~~)) check form to us within seven calendar days of the employee's first day of work. The form authorizes a criminal history background inquiry for that person.

(3) Until the ((~~criminal~~)) background ((~~inquiry~~)) check results are returned and show the employee to not be disqualified, you must not leave the employee unsupervised with the children.

(4) We discuss the information on the ((~~criminal history~~)) background ((~~inquiry~~)) check form with you, the director, or other person responsible for the operation of the center, such as a human resources professional, if applicable.

(5) If you employ five or more people you must have written personnel policies. These policies must describe staff benefits, if any, and duties and qualifications of staff.

(6) You must maintain a system of record keeping for personnel. In addition to the other requirements in this chapter, you must keep the following information on file on the premises for yourself, each staff person and volunteer:

(a) An employment application, including work and education history;

(b) Documentation that a ((~~criminal history and~~)) background ((~~inquiry~~)) check form was submitted;

(c) A copy of the department notification of background clearance authorization.

(d) Written documentation of trainings and meetings such as but not limited to:

(i) Orientation;

(ii) On-going trainings;

(iii) Bloodborne pathogen training (including HIV/AIDS);

(iv) CPR/first aid;

(v) Food handler's cards (if applicable);

(vi) STARS;

(vii) Staff meetings; and

(viii) Child abuse and neglect.

((~~(d)~~)) (e) Documentation of the results of Tuberculosis (TB) testing by the Mantoux skin test prior to starting work.

(7) You must keep the following information on file for the owner of the facility:

(a) If the center is solely owned by you:

(i) A photocopy of your Social Security card that is valid for employment or verification of your employer identification number

(EIN); and

(ii) A photocopy of your photo identification issued by a government entity.

(b) If the center is owned by a corporation, verification of the corporation's EIN.

(8) Training documentation must include a certificate, card, or form with a copy placed in each individual employees file that contains the:

(a) Topic presented;

(b) Number of clock hours;

(c) Date and names of persons attending; and

(d) Signature and organization of the person conducting the training.

AMENDATORY SECTION (Amending WSR 07-24-028, filed 11/28/07, effective 12/29/07)

WAC 170-296-0020 What definitions do I need to know to understand this chapter? For the purpose of this chapter:

"Accessible to children" means areas of the facility and materials that children can easily get to on their own.

"Age appropriate" means the developing stages of growth typical of children within a given age group.

"American Indian child" means any unmarried person under the age of eighteen who is:

(1) A member of or eligible for membership in a federally recognized Indian tribe, or who is Eskimo, Aleut or other Alaska Native and a member of an Alaskan native regional Corporation or Alaska Native Village;

(2) Determined or eligible to be found to be Indian by the Secretary of the Interior, including through issuance of a certificate of degree of Indian blood;

(3) Considered to be Indian by a federally recognized Indian tribe; or

(4) A member or entitled to be a member of a Canadian tribe or band, Metis community, or nonstatus Indian community from Canada.

"Antibias" is an approach that recognizes when others are treated unfairly or oppressively based on race, color, national origin, marital status, sexual orientation, gender, class, religion, creed, disability, or age.

"Assistant" means a person fourteen years or older (whether a volunteer or an employee) who assists a licensed home provider in the operation of the family home child care and is not solely responsible for the supervision of children.

"Capacity" means the highest number of children you can care for at any time, as written on your license.

((~~**"Character, competence, and suitability assessment"** means a determination of whether an applicant should be allowed access to vulnerable people if that applicant has a conviction record, pending charges and/or findings of abuse, neglect, exploitation or abandonment of a child or vulnerable adult and child protective services (CPS) adverse referral history.~~))

"Child" means a person who has not yet reached the age of twelve years.

"Child care" means the developmentally appropriate care, protection and supervision of children that is designed to promote positive growth and educational experiences for children outside of their home for periods of less than twenty-four hours a day.

"Child abuse and neglect" means the injury, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child by any person indicating that the child's health, welfare, and

safety is harmed.

"Communicable disease" means an illness that can be spread from one person to another, in the child care setting, by either direct or indirect contact.

"Conditions of the license" means what you must do to keep a license.

"Confidentiality" means the protection of personal information, such as the child's records, from persons who are not authorized to see or hear it.

"Corporal punishment" means the infliction of pain by any means for the purpose of punishment, correction, discipline, instruction or any other reason.

"Cultural relevancy" means an environment in which the learning experiences, play materials and activities are meaningful, inclusive and respectful for the participating children, their families and the community at large.

"Department," "we," "us," or **"our"** refers to and means the state department of early learning (DEL), and its predecessor agency the department of social and health services (DSHS)((~~, including but not limited to the division of child care and early learning (DCCEL)~~)).

"Department of health" means the state department of health.

"Developmentally appropriate" means activities and interactions that recognize and address how children learn and what they can do at each stage of development - socially, emotionally, cognitively, and physically.

"Discipline" means a process of guiding children to develop internal, positive social behaviors through methods that include consistent use of the following: Modeling appropriate behavior, positive reinforcement, active listening, limit setting, redirecting and modifying the environment.

((~~**"Division" or "DCCEL"** means the division of child care and early learning within the department of social and health services (DSHS).~~))

"Facility licensing compliance agreement" means a written notice of rule violations and the intention to initiate enforcement, including a corrective action plan.

"Family home" means a single dwelling unit and accessory buildings occupied for living purposes by a family which provides permanent provisions for living, sleeping, eating, cooking, and sanitation.

"Family home child care" means a facility licensed to provide direct care, supervision and early learning opportunities for twelve or fewer children, in the home of the licensee where the licensee resides and is the primary provider.

"Family home child care provider" means a person who provides direct care, supervision, behavior management, and early learning opportunities for twelve or fewer children in their family home living quarters for periods of less than twenty-four hours.

"I," "you," and **"your"** refer to and mean the licensee or applicant for a child care license.

"Inaccessible to children" means areas kept or items stored in a manner that makes it impossible for children to reach, enter, or use potentially hazardous items or areas. Examples of how this can be accomplished are through the use of locks, gates, or other means that are effective to prevent access by the children in your care.

"Infant" means a child birth through eleven months of age.

"License" means an official document that certifies you have been granted permission by the department to operate a family home child care in compliance with the rules.

"Licensed space," means the indoor and outdoor space approved by the department as useable space where children in care may be present, or space that is otherwise accessible to children.

"Licensee" means the person or persons named on the license as having been issued the license and who are responsible for maintaining compliance with the regulations.

"Licensor" means the person with authority to grant licenses.

"Parent" means a child's parent or legal guardian.

"Premises" means the buildings where the home is located and the adjoining grounds (at the same address) over which the licensee has control.

"Preschool age child" means a child thirty months through five years of age not attending kindergarten or elementary school.

"Primary staff person" means a person who has been ((~~approved~~)) authorized by ((~~the department~~)) DEL to care for or have unsupervised access to children in child care under chapter 170-06 WAC, age eighteen years or older, who has responsibilities for the operation of the program and the direct supervision, behavior management and care of children.

"Provider" means the same as licensee.

"Repeatedly" means a violation of a licensing regulation that is written on a facility licensing compliance agreement that occurs more than once during a twelve-month time frame.

"Reportable communicable disease" means an illness that can be spread from one person to another by either direct or indirect contact, and is of the type that is required by law to be reported to the department of health. Examples include Hepatitis, measles, smallpox, and tuberculosis.

"Revocation" means the formal act of closing your child care business and taking your license from you due to your failure to follow the rules.

"Sanitize" means a surface must be clean and the number of germs reduced to a level where disease transmissions by that surface are unlikely.

"Staff" means a child care giver or group of child care givers employed by the licensee to assist with or supervise children served at the family home child care who have been authorized by DEL to care for or have unsupervised access to children in child care under chapter 170-06 WAC.

"STARS" (Washington state training and registry system) means the entity approved by the department to determine the classes, courses, and workshops that licensees and staff may take to satisfy

training requirements.

"Summary suspension" means the formal act of immediately stopping your license for a certain time because the health, safety or well being of a child is at risk.

"Supervision of children," means the knowledge of and responsibility for the activity and whereabouts of each child in care and assuring immediate intervention of staff to safeguard a child from harm.

"Terms of the license" means the address, number and ages of children, and the beginning and ending dates listed on the license issued by the department.

"Toddler" means a child twelve months through twenty-nine months of age.

((~~**"Unsupervised access"** means not in the absence of the licensed child care provider or primary staff person. (Anyone sixteen years or older who lives at the same address as the provider must pass a complete criminal history background check.)~~))

"Useable space" means the space actually available for children to engage in developmentally appropriate activities, that has been inspected and approved by the department for providing child care.

"Weapons" means an instrument or device of any kind that is designed to be used to inflict harm on another person. For example, BB guns, pellet guns, air rifles, stun guns, antique guns, bows and arrows, handguns, rifles, shotguns, knives.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-0180 Am I required to have a criminal history background check? ((~~(1)~~)) At the time you apply for a license you must submit a completed background check form and finger print card if required to the ((~~background check central unit (BCCU)~~)) department for each person ((~~who will have unsupervised access to children in your care~~)) required to have a background check under chapter 170-06 WAC. ((~~This includes:~~

~~(a) You;~~

~~(b) Members of your household sixteen years and older;~~

~~(c) Staff;~~

~~(d) Volunteers, and~~

~~(e) Other persons living at the same address as you.~~

~~(2) When you plan to have new staff or volunteers, you must require each person to complete and submit to you by the date of hire a criminal history and background check form:~~

~~(a) You must submit this form to the BCCU for the employee and volunteer, within seven calendar days of the employee's or volunteer's first day of work, permitting a criminal and background history check.~~

~~(b) The employee and volunteer must not have unsupervised access to the children in care until they have been cleared by a full background check.~~

~~(c) We must discuss the result of the criminal history and background check information with you, when applicable.~~))

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-0200 Will my license be denied or revoked if I have been disqualified from providing licensed child care? Your license will be denied or revoked if you are disqualified from providing licensed child care under chapter 170-06 WAC.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-0210 What are my responsibilities if I am notified that a family member, staff person, volunteer, or anyone else ((~~living~~)) residing at the same address as me has been disqualified? If we inform you that a family member, staff person, volunteer, or anyone else ((~~living~~)) residing at the same address as you has been disqualified, you must ensure that the disqualified person does not have access to children in the licensed facility.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-0215 Will my license be denied, suspended, or revoked if a family member, or someone else ((~~living~~)) residing at the same address as me has been disqualified from having unsupervised access to children? Your license will be denied or revoked if your family member or any other person who is ((~~living~~)) residing at the same address as you has been disqualified from ((~~have~~)) having unsupervised access to children.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-0220 Must I keep the results of the background checks on family members, staff and volunteers? You must keep a copy of the department notification of background clearance authorization, for a period of three years, for all persons required to have a background ((~~check results for you, your family, staff, volunteers and any other persons required to have a background check~~)) authorization under chapter 170-06 WAC.

AMENDATORY SECTION (Amending WSR 07-24-028, filed 11/28/07, effective 12/29/07)

WAC 170-296-0450 When will my license be denied, suspended or revoked? (1) When you demonstrate that you cannot provide the required care for children in a way that promotes their safety, health and well-being we must deny, suspend or revoke your license.

(2) We must deny, suspend or revoke your license if you:

(a) Have been disqualified by your background check ((~~(see DSHS secretary's list of disqualifying convictions for ESA at http://www1.dshs.wa.gov/esa/dccel/pdf/Crime_and_Backg_Chex.pdf);~~

~~(b) Have been found to have committed or have allowed others to commit child abuse, child neglect or exploitation, or you or others you supervise treat, permit or assist in treating children in your care with cruelty, or indifference~~)) under chapter 170-06 WAC;

((~~(c)~~)) (b) Fail to report instances of alleged child abuse, child neglect and exploitation to the DSHS children's administration intake or law enforcement when an allegation of abuse, neglect or exploitation is reported to you;

((~~(d)~~)) (c) Or anyone residing at the same address as you had a license denied or revoked by an agency that provided care to children or vulnerable adults;

((~~(e)~~)) (d) Try to get or keep a license by deceitful means, such as making false statements or leaving out important information on the application;

((~~(f)~~)) (e) Commit, permit or assist in an illegal act at the address of your child care business;

((~~(g)~~)) (f) Use illegal drugs, or excessively use alcohol or abuse prescription drugs;

((~~(h)~~)) (g) Knowingly allow employees or volunteers with false statements on their applications to work at your facility;

((~~(i)~~)) (h) Repeatedly lack the required number of qualified staff to care for the number and types of children under your care;

((~~(j)~~)) (i) Repeatedly fail to provide the required level of supervision for a child in care;

((~~(k)~~)) (j) Repeatedly care for more children than your

license allows;

((~~(l)~~)) (k) Refuse to allow our authorized staff and inspectors requested information or access to your licensed space, child and program files, or staff and children in care during times when licensed activities are conducted; or

((~~(m)~~)) (l) Are unable to manage the property, fiscal responsibilities, or staff in your facility.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-0550 What change of circumstance must I report to my licensor? (1) Before making any change to your licensed space you must report to your licensor any changes you plan to make. Examples of changes include but are not limited to:

(a) Planned use of space not previously approved by us; and

(b) Plans for remodeling the home.

(2) You must also report any of the following changes to your licensor within twenty-four hours:

(a) The number and qualifications of you, your staff and volunteers that may affect the ability to carry out the specified activities and routines of the family home child care or meet the requirements of ((~~the WAC~~)) this chapter, such as a change in a person's criminal history;

(b) A marriage, separation or divorce;

(c) Persons moving in or out of the household;

(d) Your phone number;

(e) Occurrence of a fire, structural change, or damage to the premises from any cause; and

(f) The serious illness or incapacity of you and any other member of your household.

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-1410 What are the required staffing qualifications for child care? (1) You, a primary staff person, assistant, volunteer, and other person associated with the operation of the business who has access to the child in care must:

(a) Meet the qualifications in WAC ((~~388-296-0140~~)) 170-296-0140;

(b) ((~~Not have committed or been convicted of child abuse or any crime involving physical harm to another person~~)) Be authorized by DEL to care for or have unsupervised access to children in child

care under chapter 170-06 WAC; and

(c) Not have been disqualified from working in a licensed child care setting or have had a license revoked.

(2) If we have reason to believe that you, any staff, volunteers, assistants, or members of your household may be unable to meet the requirements in chapter 170-296 WAC, we may require any of the following evaluations:

(a) Substance and alcohol abuse evaluations and documentation of treatment;

(b) Psychiatric and psychological evaluations;

(c) Psycho-sexual evaluations; and

(d) Medical evaluations.

(3) Any evaluation requested under subsection (2)(a) through (d) of this section will be at the expense of the person being evaluated.

(4) The person being evaluated must give us permission to speak with the evaluator(s) in subsection (2)(a) through (d) of this section prior to and after the evaluation.

(5) The licensee must:

(a) Be eighteen years of age or older;

(b) Be the primary child care provider;

(c) Ensure compliance with minimum licensing requirements under this chapter; and

(d) Have completed one of the following prior to or within the first six months of obtaining an initial license:

(i) Twenty clock hours or two college quarter credits of basic training approved by the Washington state training and registry system (STARS);

(ii) Current child development associate (CDA) or equivalent credential or twelve or more college quarter credits in early childhood education or child development; or

(iii) Associate of arts or AAS or higher college degree in early childhood education, child development, school age care, elementary education or special education.

((~~(3)~~)) (6) Child care staff must be:

(a) Fourteen years of age or older if an assistant; or

(b) Eighteen years of age or older if a primary worker and assigned sole responsibility for the child in care.

((~~(4)~~)) (7) You and your staff must meet the following qualifications:

Position	Qualifications	Background ((~~Check~~)) Authorization	TB Test	STARS Training	First Aid and CPR	HIV/AIDS and bloodborne pathogens training
Licensee	Eighteen years of age	X	X	X	X	X

Position	Qualifications	Background ((~~Check~~)) Authorization	TB Test	STARS Training	First Aid and CPR	HIV/AIDS and bloodborne pathogens training
Primary child care staff	Eighteen years of age	X	X	X Basic 20 hour training to be completed within the first six months of employment	X	X
Child care assistant/volunteer	Fourteen years of age; (directly supervised by the licensee or a primary staff)	X	X	Recommended	If counted in staff to child ratio	X

AMENDATORY SECTION (Amending WSR 06-15-075, filed 7/13/06, effective 7/13/06)

WAC 170-296-1450 What personnel records must I have? You, the primary staff, assistant, and volunteer must have on file at the home:

(1) An application, including work and education history (resume);

(2) Documentation of ((~~criminal history and~~)) background ((~~inquiry~~)) check form submission;

(3) A copy of the department notification of background clearance authorization;

(4) A record of the tuberculin skin test results, X ray, or an exemption to the skin test or X ray;

((~~(4)~~)) (5) Documentation of HIV/AIDS training and bloodborne pathogen information;

((~~(5)~~)) (6) Documentation of current CPR and first-aid training, when applicable; and

((~~(6)~~)) (7) Documentation of basic and annual STARS training when applicable.

REPEALER

The following sections of the Washington Administrative Code are repealed:

WAC 170-296-0150	What personal information may I be required to provide to be licensed?
WAC 170-296-0190	What happens after we receive the background information?
WAC 170-296-0195	When will I be disqualified from providing licensed child care?
WAC 170-296-0205	When will my family members, staff, volunteer, and other people who live at the same address [as] me be disqualified from having access to children in a family home child care?