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November 14, 2011

TO: Interested Stakeholders

FROM: Andy Fernando, DEL Rules Coordinator

SUBJECT: **Concise Explanatory Statement**
Final Adoption of New WAC Chapter 170-296A
Licensed Family Home Child Care Standards
(And Repealing All Sections of WAC Chapter 170-296)

RCW 34.05.325(6) requires that when a state agency adopts a permanent rule (known as Washington Administrative Code or WAC), the agency must prepare a "*Concise Explanatory Statement*" (CES). This statement is a public document that generally summarizes comments received on a state agency's proposed rules, notes the agency's responses to those comments, and whether the comment resulted in any changes to the final rule compared to the proposal.

The Department of Early Learning (DEL) sends the CES to everyone who testified at public hearings, sent a written comment, or asks to receive the CES. The CES is also posted on the DEL website (see http://www.del.wa.gov/laws/development/Default.aspx, *DEL Rules Under Development*).

This document also serves as the summary of public comments to the DEL Director required under RCW 34.05.325(4).

This Concise Explanatory Statement includes the following sections:

Section I. Background
Section II. a. Comments (summarized) received on proposed new WAC 170-296A, and
b. DEL Responses to comments, including whether the rule was changed as a result
Section III. Differences between the text of the proposed rules and text of the rule as adopted, other than editing:

Section I. Background

Most of the current chapter 170-296 WAC was adopted in 2004 when child care licensing was under the Department of Social and Health Services (DSHS) Division of Child Care and Early Learning. In 2006, the

Department of Early Learning was created as a separate state agency by chapter 265, Laws of 2006, which also transferred child care licensing authority from DSHS to DEL. Under DSHS, child care licensing statutes were under chapter 74.15 RCW. The 2006 act established what is now chapter 43.215 RCW, and certain child care licensing laws were recodified from chapter 74.15 to chapter 43.215 RCW. Child care licensing rules were transferred from DSHS to DEL in July 2006, including the rules that became DEL chapter 170-296 WAC, *Child care business regulations for family home child care* (See the '"recodification" of WAC 388-296 to 170-296 filed as WSR 06-15-075).

The adopted rules represent the first comprehensive revision of the Family Home Child Care rules since 2004. Since chapter 170-296 WAC was recodified in 2006, DEL has made limited rule revisions regarding:

- Inspection of records in the licensed child care space in 2007 (rules initiated under DSHS)
- Background checks related to new adoption of chapter 170-06 WAC in 2008
- Updating obsolete terms and references from when the rules were under DSHS chapter 388-296 WAC in 2008
- The use of hand sanitizer gels with children in care in 2010.

Statutory Authority. RCW 43.215.200 establishes the DEL Director's authority to establish and enforce requirements for licensing child care agencies regulated under chapter 43.215 RCW, including family home child care (FHCC). RCW 43.215.060 and 43.215.070 provide authority to adopt rules to implement RCW 43.215 and to qualify for federal funds (most of DEL's funding for child care licensing and monitoring activities comes from the federal Child Care and Development Fund). RCW 43.43.832(6) provides additional authority for DEL to adopt rules and conduct background checks for child care licensees, staff, volunteers, individuals living on the premises of a child care and others who would or may have unsupervised access to children in care.

In RCW 43.215.005(4), the Legislature states that the purpose of adopting chapter 43.215 RCW is:

(a) To establish the Department of Early Learning;

(b) To coordinate and consolidate state activities relating to child care and early learning programs;

(c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care;

(d) To provide tools to promote the hiring of suitable providers of child care by:

(i) Providing parents with access to information regarding child care providers;

(ii) Providing parents with child care licensing action histories regarding child care providers; and

(iii) Requiring background checks of applicants for employment in any child care facility licensed or regulated under current law

(e) To promote linkages and alignment between early learning programs and elementary schools and support the transition of children and families from prekindergarten environments to kindergarten;

(f) To promote the development of a sufficient number and variety of adequate child care and early learning facilities, both public and private; and

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(g) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities

Any person who seeks a license in Washington State to provide child care in their own home should understand that child care is a closely regulated industry. With respect to licensing family home child cares, RCW 43.215.200 states generally that it shall be the DEL Director's duty to:

- Adopt standards for obtaining and maintaining a child care license;
- Investigate backgrounds of licensees, staff and other having access to children in care. In family home child care, this includes conducting background checks on certain household members;
- Establish the qualifications and standards for individuals working with children in care;
- Determine the allowable number and ages of children in care;
- Establish standards for maintaining a safe and healthy child care environment, and for early learning standards appropriate to the developmental stages of the children in care;
- Monitor and periodically inspect licensed child care agencies to determine if they are in compliance with the law and DEL rules.
- Take appropriate corrective action when it is determined that a licensee is not in compliance with the law or DEL rules; and
- Establish what licensees must report to the Department or other agencies.

Other sections in chapters 43.215 and 43.43 RCW further delineate these duties, and together provide the basis for adopting standards in this chapter.

Negotiated rule making. In the same year DEL was created, the Legislature passed chapter 54, Laws of 2006 (later codified in part as RCW 43.215.350) requiring DEL to engage in "negotiated rule making" with FHCC providers, their exclusive bargaining representative - the Service Employees International Union Local 925 (SEIU) - and other affected interests before adopting FHCC rules. Negotiated rule making is a process briefly described in RCW 34.05.310 (the Washington Administrative Procedure Act) where the individuals or businesses regulated by a set of rules participate directly in developing or revising the rules. Negotiated rule making is a rarely used method. The process is considered appropriate when there has been a history of controversy between the government agency and the regulated parties, where the parties may be at impasse, or there is potential or likelihood for litigation about the rules.

In autumn 2006, DEL staff began discussions with SEIU on reviewing the FHCC rules to respond to rule making petitions filed on the 2004 WAC 388-296[1], and on using a negotiated rule making process.

[1] 138 rule making petitions under RCW 34.05.330 were filed from November 2004 through March 2005 seeking to amend or repeal several sections of DSHS WAC 388-296 WAC that was newly adopted in August 2004. DSHS

DEL and SEIU held joint public forums in January 2007 on how the rule development process should proceed. A joint decision was made to review the entire FHCC WAC chapter, rather than only the sections subject to the 2004 rule making petitions. A 35-member Negotiated Rule Making Team (NRMT) was formed comprised of:

11	SEIU-member FHCC licensees and SEIU staff
11	DEL staff
1	FHCC Licensee representing the Washington State Family Child Care Association
1	Licensee (provider) advocate
1	Parent advocate

And, up to:

4	Other FHCC licensees to provide cultural/geographic/linguistic diversity
2	Washington State Child Care Resources & Referral Network (CCR&R) representatives
5	Parents

(The five parent seats remained unfilled during this process. The NRMT tried to recruit parents to participate, but parents found it daunting to attend the dozens of evening and weekend meetings of the full NRMT and its sub-teams. The "other FHCC licensee" and CCR&R seats were partly filled, but not to their listed capacity.) See the NRMT Roster for a list of members as of November 2009.

The NRMT's charge was to review the current FHCC rules, research child development and child health and safety resources plus other state laws and regulations, and make comprehensive recommendations to DEL for revising chapter 170-296 WAC.

There were no examples found of negotiated rule making used by other Washington state agencies to develop WAC, and so the NRMT was faced with developing a process on its own. DEL and SEIU used the state Office of Financial Management Guide to Negotiated Rule Making as a resource. However, the process for reviewing, researching and making recommendations about the DEL FHCC rules was created by the NRMT members.

Due to a history of strained relations between licensees and the state, the process of achieving a working dialog was slow. DEL and SEIU unsuccessfully attempted in spring 2007 to conduct NRMT meetings jointly without an independent facilitator. The 2007 Legislature appropriated funds to contract with an independent facilitator and to provide a NRMT process coordinator – funding which ended in December 2009.

The facilitator was instrumental in helping the NRMT in structuring its meetings, developing action-oriented agendas, and in adopting:

- A protocol for respectful dialog and orderly decision making (signed by the members);
- A set of guiding principles that recommendations would be based upon (including that the rules must support a "child's right to have safe and healthy child care"); and

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agreed to review the 2004 rules for possible revision, but substantive work on revising WAC 388-296 had not begun by July 2006 when DEL was created and WAC chapter was transferred to DEL to become WAC 170-296.

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- Voting structure and other organizing procedures

Rule Review Process. From March 2007 through December 2009, the full NRMT met in-person on 29 Saturdays to discuss the rules. In addition, three regional sub-teams of NRMT members met more than 100 times (most by conference call) during this period to conduct the detailed research and to make preliminary recommendations to the full NRMT. The NRMT divided the work in to thirteen major topic areas, and more than 200 subtopics. The major topic areas included:

- Infant Care
- Food and Nutrition
- Staff Qualifications
- Licensing Process
- Indoor Environment
- Outdoor Environment
- Health
- Nurture and Guidance
- Recordkeeping, Reporting and Posting
- Program
- Emergency Preparedness
- Enforcement Actions
- Special Programs

The sub-teams organized their work on matrixes that included the:

- Current WAC 170-296 content if any;
- Child development or safety research and other state regulations;
- Possible alternatives to the current rules the sub-team discussed;
- Potential concerns or areas of controversy; and finally
- The sub-team's recommended rule changes to the full NRMT, if any.

These matrixes were shared with the full NRMT and became the basis NRMT discussions.

During the process the full NRMT also invited and heard experts on: Fire safety; Infant care; Outdoor activities/play; Diversity; Emergency preparedness; and Onsite septic systems and water wells. The NRMT decided to use *Caring for Our Children – Health and Safety Standards: Guidelines for Out-of-Home Child Care Programs, Second edition*, as the group's primary reference, although many other research sources were used and referenced. (*Caring for Our Children* has since been replaced by a third edition, released in June 2011.)

The full NRMT reviewed each sub-team's matrixes, discussed issues and concerns, and then voted on in concept recommendations to DEL for changing most of the current rules. Some issues were more complex than others, requiring discussion by the full team over several months before the NRMT could reach at least majority consensus. Each issue forwarded as an "in-concept" recommendation of the

NRMT to DEL for revising the rules was voted on by the group.[2] In some instances the NRMT recommended that certain existing FHCC standards in WAC 170-296 remain, but with revised structure or wording (an early team recommendation was to rewrite the FHCC rules without the question-and-answer and pronoun format of WAC 170-296). Notes for each of the 29 full NRMT meeting - including votes taken - were kept and are available online at http://www.del.wa.gov/publications/laws/.

Using the NRMT's in-concept recommendations, a drafting team comprised of one FHCC licensee and one DEL staff person began work on a NRMT preliminary working draft of the new WAC chapter. A Rule Review Group consisting of three FHCC licensees, two DEL staff and a CCR&R representative, plus the two NRMT rule drafters (and the DEL Rules Coordinator as a WAC technical consultant) reviewed the draft WAC for consistency with the NRMT recommendations and current law. The Rule Review Group/Rule Writers made decisions on a consensus basis and did not use a voting process.

As portions of the NRMT's preliminary working draft rules were completed throughout 2009, nearly 40 small forums were held statewide to gather preliminary input, mostly sponsored by the local and statewide family home child care associations or by SEIU, with participation at several forums by DEL staff and other NRMT members. Generally, notes were not kept of these forums, but NRMT members reported significant comments or issues from each forum to the NRMT at the next full team meeting.

Funding for NRMT eliminated. By spring 2009, the NRMT had completed recommendations on only half of the thirteen major topic areas. The 2009 Legislature discontinued funding for the NRMT process (including meeting costs, the contracted independent facilitator, and DEL coordination and support) effective December 31, 2009. New DEL Director Bette Hyde asked the team to prioritize work on the remaining topic areas by December, and suggest to DEL how to complete review of any unfinished topics. In response, the full NRMT and its sub-teams stepped up the pace of the work and met more frequently – see the NRMT notes from the May 6, 2009 meeting.

By the last full NRMT meeting on December 5, 2009, the group completed recommendations on eleven of the thirteen topic areas, as well as most of the Health topic and a portion of Nurture and Guidance topic. The NRMT tasked the Rule Review Committee to complete work on those two topics as well as review of the writing team's working draft rules. The Rule Review Committee finished in February 2010. The process culminated in a NRMT-recommended working draft of the new FHCC WAC that was circulated for public input in March and April 2010. See this link to read the NRMT's recommended WAC changes http://www.del.wa.gov/publications/laws/docs/FHCCDraft.pdf.

DEL Director responds to the NRMT's Draft. Dr. Hyde reviewed the 300-page NRMT recommendations and preliminary draft rules. She met with the NRMT members on March 27, 2010, to personally present nearly 30 pages of her comments and observations of the NRMT's working draft rules. She noted that

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[2] Under the NRMT's protocol, a "thumbs up" vote meant agreement with the recommendation; "thumbs down" meant disagreement; and "thumbs sideways" meant the member had questions or concerns but could live with the recommendation if adopted. These votes were sometimes recorded as "for," "opposed," and "undecided" respectively. After votes, concerns of the members voting "thumbs sideways" and "thumbs down" were discussed and included in the meeting notes.

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about 90 percent of the NRMT's concept recommendations DEL could likely adopt as rules with little or no substantive change. But Dr. Hyde said that DEL would need to revise the remainder of NRMT recommendations further into establish more robust standards to protect the safety, health and wellbeing of children in care. She directed DEL staff to gather more public and staff input on the NRMT working draft rules before the Department would begin writing the next drafts of the FHCC WAC.

Public input on NRMT's preliminary draft rules. DEL held eight forums statewide in April 2010 to take input on the NRMT draft WAC recommendations, in Tumwater, Vancouver, Everett, Seattle, Kent, Spokane, Pasco and Wenatchee. Comments were also received on the DEL website, by e-mail, fax and postal mail. In all, DEL received more than 300 pages of comments, which are summarized at this link http://www.del.wa.gov/publications/laws/docs/NRMTPublicComments.pdf

DEL Develops Proposed Rules. Upon reviewing the NRMT working draft and comments on the draft, DEL decided to:

- Reorganize and revise the NRMT's working draft into Washington Administrative Code (WAC) format;
- Repeal all of the current WAC chapter 170-296 and replace it with a new WAC chapter (170-296A);
- Make the changes recommended by Dr. Hyde and many other suggested revisions from the public and DEL staff.
- Gather more research and data on several child care health and safety topics, including but not limited to emergency fire evacuation, outdoor play ground safety, communications, child injuries, breast milk storage, education and professional development, and other topics.
- Postpone proposing some changes recommended by the NRMT that would have required resources that were and remain unavailable to DEL in the state's severely reduced revenue and budget climate, including but not limited to: Developing comprehensive pre-service training prior to an applicant receiving a new FHCC license; Establishing new specialty licenses (and required training) for infant-toddler only child care, age 2 to 5-only care, and school-age-only care; and Creating a comprehensive Guidebook to accompany the new rules. DEL plans to continue pursuing these elements as resources permit, and the department may propose additional rules as appropriate at a later date.
- Draft a Small Business Economic Impact Statement (SBEIS) to accompany the proposed rules. A SBEIS is an analysis required under chapter 19.85 RCW when a new or revised rule creates "more than minor" costs (as defined in the statute) for businesses that must comply with the rules. A SBEIS is not required for proposed WAC sections where the underlying requirement has not changed from the previous version of the WAC. A SBEIS is filed with the state Code Reviser with a state agency's proposed rules, and is subject to public review and comment.

SEIU/Licensees Seek More Discussion. DEL planned to file the proposed FHCC rules and SBEIS in October 2010 for public review and formal comment. However, SEIU and Licensees requested more time to discuss changes that DEL made to the rules since the NRMT working draft. DEL agreed to postpone the formal rule proposal. On October 29, 2010, Dr. Hyde and SEIU Local 925 President Kim Cook issued a joint letter to Family Home Child Care licensees around the state explaining what was occurring during this interim. From October through December 2010, SEIU and Licensees submitted

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concerns about the Department's draft proposed rules, and the Department and SEIU staff decided on a process for discussing the concerns. On January 7, 2011 DEL staff, SEIU staff, and the former NRMT Rule Review Committee members met to review twenty-six to-be-proposed WAC sections that SEIU and Licensees identified as the top concerns. From this discussion, DEL agreed to make some of the SEIU/Licensee's requested changes, did not agree to make others, and offered to gather more research on selected topics before completing the proposed rules.

As a result, DEL filed the proposed new chapter 170-296A and preliminary SBEIS with the state Code Reviser as required by RCW 34.05.320 on April 20, 2011, filing number 11-09-081.

Public Comment Process. RCW 34.05.325 requires DEL to hold at least one public hearing on a rule proposed for permanent adoption. From June 11 through June 25, 2011, the Department held seven public hearings, in Everett, Renton, Tumwater, Vancouver, Yakima, Spokane and Pasco. An additional hearing was held in Seattle on July 9, 2011 when it was found that video equipment failed to record the June 11, 2011 public hearing held at Renton and Everett by video conference – see the continuance notice filed as WSR 11-14-037. Written comments were also accepted at the public hearings, at the DEL rules comment website, and by e-mail, fax or postal mail through the June 26, 2011 comment deadline. The Department also accepted written comments submitted at the continued July 9, 2011 hearing. Section II. a. of the Concise Explanatory Statement describes the issues raised in hearing testimony or written comments on the proposed rules.

2011 Legislative changes impacted the proposed rules. The proposed rules were filed shortly before the end of the 2011 regular legislative session. The filing notice WSR 11-09-81 noted that certain pending legislation would likely impact the adopted content of several proposed sections. Applicable provisions of following bills enacted by the 2011 Legislature are reflected in the final rules in adopted WAC chapter 170-296A:

2011 Laws affecting the proposed rules:	Proposed sections revised as a result of 2011 Laws:
House Bill 1087 (chapter 50, Laws of 2011, 1st Special Session), the 2011-2013 state operating appropriations Act, section 617 (2). This subsection directed DEL to raise annual license fees for all licensed family home child cares and child care centers.	See the new fee amount under HB 1087 is in 170-296A-1325(1). Proposed WAC 170-296A-1350 – Licensee fee amount, is withdrawn.
House Bill 1903, (chapter 293, Laws of 2011). This bill directs DEL to create a system of portable background checks for child care workers, and authorizes new fees and requirements for obtaining a background checks.	WAC 170-296A-1200 (2)(b) and (3), 170-296A-1250, 170-296A-1325(4); 170-296A-1450(1)(d), 170-296A-2075(5), 170-296A-2100(1) are revised, and related cross references to these rules in other sections.
Senate Bill 5005 (chapter 299, Laws of 2011). This bill changed how a child's exemption from state immunization requirements are documented.	WAC 170-296A-3300(1) and (2) are revised.
Senate Bill 5504 (chapter 296, Laws of 2011). This bill raised the maximum civil fine that may be levied to a family home child care licensee who violates these rules	WAC 170-296A-8050(1), 170-296A-8350(1)(e), and 170-296A-8375(1) are revised with the new fine amount.

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or provisions of chapter 43.215 RCW.	
Senate Bill 5625, (chapter 297, Laws of 2011). SB 5625 establishes the requirements for a child care facility to obtain and maintain a non-expiring license. The new law effectively eliminates the three-year license renewal cycle under the previous and proposed rules.	Revised WAC 170-296A-1200(5), 170-296A-1430(5) and (6), 170-296A-1450, and related cross references are updated. SB 5625 made WAC 170-296A-1550 and 170-296A-1575 obsolete and these sections have been withdrawn from the final rules.

Section II. Comments received on the proposed rule, and the Department's response, noting if the proposed rule was changed as a result of the comments.

The following table:

- Summarizes the issues raised in comments on the rules proposed as WSR 11-09-081;
- Describes the Department's response to the issues summarized; and
- Notes whether the comments resulted in a change to the adopted rule, or if not why.

Please note: The Department received input at public hearings, by e-mail, postal mail, and at the DEL online rules comment webpage. Since identical or substantially similar comments on particular WAC sections or subjects were received from several individuals and organizations, the Department has summarized the identical or substantially similar input where appropriate as allowed under RCW 34.05.325. Verbatim comments received are maintained in the Department's official rule making file. Proposed WAC sections that do not appear in the following table did not receive comments during the formal public input period described in WSR 11-09-081 and "continuance" notice filed as WSR 11-14-037.

a. Summarized Comments received on the proposed new WAC 170-296A	**b. Department response, including whether the proposed rule was changed as a result of the comment(s).**
WAC 170-296A-0010 Definitions	
The proposed WAC 170-296A-0010 should include definitions for "repeatedly", "revocation", and "summary suspension".	The proposed WAC 170-296A-0010 was partially changed as a result of these comments. 1. The Department declines to add a definition for "repeatedly" in proposed WAC 170-296A-0010. This term is defined in proposed WAC 170-296A-8060(6). Proposed WAC 170-296A-8060 is the only section in new chapter 170-296A WAC that uses this term. This is consistent with the code reviser's Bill Drafting Guide 2011, Part II, Formal And Technical Requisites, section (10)(h) [Suggestions for Commonly Used Clauses] (the "Bill Drafting Guide, Part II") used for drafting bills

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	and WAC. 2. The Department agrees to include a definition of "revocation" in proposed WAC 170-296A-0010, similar to the defined term in current WAC 170-296-0010, modified as follows: ***"'Revocation'*** *or* ***'revoke'*** *means the formal act of closing a child care business and taking the license due to the licensee's failure to follow the rules."* 3. The term "summary suspension" is not used anywhere in proposed chapter 170-296A WAC. Accordingly, the Department denies the request for the Department to include a definition for this term. The fact that a term may be important to an administrative hearing proceeding is not cause to define the term in this chapter, if the term does not appear in the rules.
Definitions were removed from current WAC's: *Age Appropriate; American Indian Child; Anti bias; Assistant; Child; Communicable disease; Conditions of the license; Corporal punishment; cultural relevancy; Department of health; Facility licensing compliance agreement; Family home; Family home child care provider; license; Parent; Provider; Repeatedly; Reportable communicable disease; Revocation; Summary suspension; Supervision of children; Terms of the license; Useable space*. Definitions must include: *facility licensing compliance agreement family home family home child care provider repeatedly revocation summary suspension supervision of children.* Repeatedly is vital because if this definition is not included: If you have a violation in 2005 and the same violation again in 2011, it could and will be interpreted as a repeat violation, which could cause a Provider to lose their license. Legislators purposely used repeatedly in one current WAC 170-296-0450 for what is considered the most serious violations which DEL states they "must deny, suspend or revoke your license if you": (h) repeatedly lack the required number of qualified	The proposed WAC 170-296A-0010 was partially changed as a result of these comments. The Negotiated Rule Making Team making recommendations on changes to the current WAC 1709-296 did not vote to recommend an overarching list of definitions. Throughout its four-year process, the team did vote that certain specific terms be defined in the rules. The following is from the NRMT meeting notes from September 20, 2008: ***"Definitions*** *"A small group, consisting of* [three NRMT members]*, worked on definitions and sent their recommendations to the Rule Writers. In the future if a sub-group identifies words that should be specifically defined, these should be identified on the topic matrixes and send the recommendations to the Rule Writers."* Through its three year process, the NRMT noted terms that the group thought should be defined and occasionally suggested possible definitions, but generally the NRMT not vote on specific definitions, with the noted exception of the following terms in which the NRMT did vote to recommended definition language: • *Licensed space* • *Unlicensed space*

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staff to care for the number and types of children (i) repeatedly fail to provide the required level of supervision for a child in care (j) repeatedly care for more children than your license allows Definitions are vital in the Office of Administrative Hearing process by clarifying what is expected or giving criteria that hopefully puts everyone on the same page. In the new WAC's, repeatedly is only defined for #8060 When fines are levied (6).	• *Premises* • *Accessible to children* • *Inaccessible to children* DEL considered and used many of the NRMT recommended definitions. As a result of this comment and others, the Department has added definitions in WAC 170-296A-0010 of: • *Revocation* • *Suspension* • *Child* • *Parent* • *License* The following terms were already defined within proposed chapter 170-296A WAC, either in WAC 170-296A-0010, in a specific section, or by context: • *Assistant* • *DOH* • *Facility license compliance agreement,* • *Supervision of children* • *Repeatedly* (Also, see the response to comments on WAC 170-296A-8175 Violations – Enforcement action) However, the Department denies the request to add definitions of the following terms, since these terms no longer appear in the proposed or adopted rules: • *American Indian child* • *Age appropriate* (however, see the new definition of "developmentally appropriate in WAC 170-296A-0010) • *Anti bias* • *Conditions of the license* • *Cultural relevancy* • *Family home* (however, see the definition of "Family home child care" and "Family living quarters," the latter developed in conjunction with SEIU and Licensees on January 7, 2011) • *Provider* • *Terms of the license* • *Reportable communicable disease* (although adopted WAC 170-296A-3210 is revised to include a list of "communicable diseases" that require reporting and specific action by the licensee to limit their spread to children in care.*)*
Definitions: Where are all the definitions that were agreed upon by NRMT? All the definitions should be brought back into the new WAC's. These are vital to providers to know what the expectations are; revocation, probation, repeatedly, substitutes, and summarily suspended at the least. Where is unplanned emergency causing overcapacity, not used against a provider? Windows used as exits need to be defined as rescue windows not escape windows. Platforms shouldn't be required outside the windows according to the fire marshal's office. This would actually hinder the rescue of children if such a platform is in the way for the ladder to get to the window during an emergency.	

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	• *Substitute* In addition, the term *"emergency exit window"* is defined in WAC 170-296A-4550 intentionally as a window that children, the licensee, staff and family members may use as a means of emergency escape to evacuate the home in the event of a fire. When a fire occurs, the licensee's first responsibility is evacuate the children in care from the licensed home, not to wait for the fire department to effect a rescue. The National Fire Protection Association notes that in many home fires, there may be less than six minutes, and in some cases much less time, after a smoke alarm sounds to safely evacuate everyone from a burning home. Comments by the State Fire Marshal to the Negotiated Rule Making Team meeting on March 28, 2009, regarding the size of a window being important for the fire department to effect rescue have been repeatedly taken out of context by individuals commenting on the proposed rules. The Fire Marshal's comments were a reflection about the size of the window required by the state's adoption of the International Residential Code for a rescue/ escape windows, and whether firefighters would need a platform to effect a rescue. The Fire Marshal noted that firefighters would get into the home any way needed regardless of the window size of whether a platform was provided outside. The Department does not believe the Fire Marshal's comments were intended to suggest that the licensee should stay with the children inside the home awaiting rescue during a fire as suggested by some comments. The purpose of having an emergency exit window, and a safe platform beneath windows higher than 48 inches to ground level, is so that the licensee and staff may safely escape the home when a fire occurs, so that the children may be in a safe location when emergency responders arrive. As a result, a new subsection (1) is added to WAC 170-296A-2825 to clarify this requirement: ***"WAC 170-296A-2825 Fire evacuation plan.*** *(1) If there is a fire in the home during child care operating hours, the licensee's and staff's first responsibility is to evacuate the*

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	children in care to a safe place outside the home…" The National Fire Protection Association recommends that if a home fire occurs, the first priority is to get out of the home as quickly as possible, and then to call 911 or the Fire Department once everyone is safely outside. The rules as proposed and adopted require window and door emergency exits, emergency exit pathways, and related methods and procedures (including requiring monthly fire drills) to provide means for effective escape and evacuation, and so provide the greatest opportunity for children in care to be safely away from harm if a fire occurs.
Revise the definition of *"sanitize"* means to reduce the number of microorganisms on a surface by the process of using: (a) <u>cleaning with soap and water, followed by</u> a bleach and water solution, prepared fresh daily; (b) Other sanitizer product if used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry; or (c) For laundry and dishwasher use only, a bleach and water solution or temperature control. **<u>Justification</u>** Bleach is not a cleaner and only effective as a sanitizer on surfaces that have had soil and particulates removed.	The proposed rule was changed as a result of this comment. The Department has revised the definitions of *"clean"* and *"sanitize,"* in the adopted rule, and added a new definition of *"disinfect"* as follows: ***"Clean" or "cleaning"*** *means to remove dirt and debris (such as soil, food, blood, urine, or feces) by scrubbing and washing with a soap or detergent solution and rinsing with water. Cleaning is the first step in the process of sanitizing or disinfecting a surface or item.* ***"Disinfect"*** *or* ***"disinfecting"*** *means to eliminate virtually all germs on a surface by the process of cleaning and rinsing, followed by:* *(a) A chlorine bleach and water solution of appropriate concentration; or* *(b) Other disinfectant product if used strictly according to manufacturer's label instructions including, but not limited to quantity used, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable; and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled safe for food contact surfaces;* ***"Sanitize"*** *means to reduce the number of microorganisms: (1) On a surface by the process of cleaning and rinsing, followed by using:* *(a) A chlorine bleach and water solution of appropriate concentration ;or*

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	(b) Other sanitizer product if used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys a sanitizer product must be labeled safe for food contact surfaces; or *(2) In laundry or on dishes cleaned in a dishwasher, using a bleach and water solution or temperature control.*
Issues raised in public comments on proposed WAC 170-296A-1025 Who must be licensed.	**Was the proposed rule changed as a result of this comment?**
The rule should read: *"An individual must be licensed to care for children if care is provided in the individual's home for one or more children not related to the licensee, on a regular and ongoing basis, for more than four hours per day."* This statement would be more concise. The phrase "not to exceed 12 children is elsewhere in the WAC" and is not needed here.	The proposed WAC 170-296A-1025 was changed as a result of these comments in part. The phrase *"not to exceed 12 or more children as provided in statute"* is removed from the adopted rule. Also, "not related" is defined as *"not any of the relatives listed in RCW 43.215.010(2)(a)."* However, the Department declines to make the other requested changes as inconsistent with RCW 43.215.010. The limitation of caring for children for less than four hours per day applies to providing preschool services only to children of preschool age – it does not apply to a facility providing child care for children younger or older than preschool age.
WAC 170-296A-1025 Who must be licensed. During a time of financial distress for many working families to make it illegal for a stay at home mom to watch a child or 2 and call it a crime??? In America!!! I am Licensed because there is a segment of the population who desire a licensed facility. What happens to those families who can't afford our prices or who have a friend who could do the job safely and cheaply……without having to jump through the hoops that licensed home day cares have to jump through. Not to mention all the new proposed control.	The proposed WAC was not changed as a result of this comment. The legislature has defined in RCW 43.215.010(1) who must be licensed to provide child care. WAC 170-296A-1025 is consistent with this statute.
Issues raised in public comments on proposed WAC 170-296A-1050 The licensee.	**Was the proposed rule changed as a result of this comment?**

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1050(c) The phrase "for not more than twelve children" is redundant and unnecessary as capacity is addressed later in the WAC 170-296A-5550.	The proposed WAC 170-296A-1050 was not changed as a result of this comment. Although repeated, the use of the phrase "not more than twelve children" in 1050(1) and 5550 (1) clarifies the intent of each section.
Issues raised in public comments on proposed WAC 170-296A-1075 Child care subsidy.	**Was the proposed rule changed as a result of this comment?**
This rule is not necessary and should be removed. Of course those requirements must be followed, if a provider wants to get paid by those programs. Those requirements are enforced by those programs and therefore not necessary in this WAC. (It) Has nothing to do with the health and safety of children.	The proposed WAC 170-296A-1050 was not changed as a result of this comment. The NRMT recommended including an informational rule (also known as a "procedural rule" under RCW 34.05.328) clarifying when a provider must follow DEL child care subsidy rules, and where the rules are located. This section is consistent with the NRMT recommendation.
9. Issues raised in public comments on proposed WAC 170-296A-1125 Orientation required.	**Was the proposed rule changed as a result of this comment?**
Orientation required within 12 months prior to submitting license application. There has been an incredible shortage of DEL orientations across the state. Will there be adequate availability of orientations to meet this WAC? On-line orientation should be available. Therefore, this WAC should read: "An individual applying for an initial license must complete must complete an in-person or on-line orientation…"	The proposed WAC 170-296A-1125 was not changed as a result of these comments. So far for 2011, the Department has conducted or scheduled throughout Washington 70 orientations for prospective family home child care license applicants. The various Department offices provide family home child care license orientations at least two times per year. Some offices sponsor up to six FHCC orientations per year. The typical enrollment is up to thirty individuals, with some locations able to accommodate more. This provides approximately 2,100 orientation slots this year. Only 7 to 20 percent of the orientation attendees later apply for family home child care licensure. The Department is working to develop an online orientation to increase access and reduce the state's fiscal cost, but at this time online orientation is not available.
Add requirement that orientation, STARS 20-hour training or pre-service training include SIDS awareness and safe sleep practices (WAC 170-296A-1125 or 170-296A-1150 or 170-296A-1175) 6/23/2011	The proposed rule was not changed as a result of this comment. The Department plans to review the STARS 20-hour basic curriculum, as well as the FHCC licensing orientation curriculum, and will review how SIDS awareness is covered.
*When I moved from Moses Lake to Pasco to	The proposed rule was not changed as a result of this

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start my new venture this would have put me in a financial mess. I was required by my licensor to redo orientation even though I went through orientation in Moses Lake, Washington to get my license in Grant county. The licensor has 90 days to get around to coming to our home to license us. It is not unreasonable for Orientation to be taken the week or 2 after you submit a license application.	comment. This is an administrative practice issue. The rule requires orientation be completed 12 months prior to submitting a license, but does require that orientation be completed in any particular DEL office. The FHCC licensing orientation is often useful to help a prospective license applicant decide if Family Home Child Care is a good career or business choice. Currently fewer than 20 percent of individuals who sign up for licensing orientation submit a license application and actually become licensed. Submitting an application before taking orientation may result in unnecessary paperwork and time for individuals who then decide not to pursue the license. Also, the license application fee, due with the application, is nonrefundable – completing orientation after submitting an application may result in many applicants paying a nonrefundable fee before deciding whether to complete the licensing process.
Issues raised in public comments on proposed WAC 170-296A-1150 Pre-service training.	**Was the proposed rule changed as a result of this comment?**
Pre-service training – Will rules be developed with provider input? This is our lively hood…..we love on these kids daily……..This needs to be open for discussion.	The proposed WAC 170-296A-1150 was not changed as a result of these comments. Proposed WAC 170-296A-1150 stated that "the Department intends to develop rules on required pre-service training standards at a later date." The NRMT recommended that pre-service training be required prior to licensing provided by the Department either on-line, in video or in person. As part of the licensing process, the NRMT has also recommended that the training include business practice training, WAC/rules training, and portions of the basic 20-hour training. The Department will be seeking input from the SEIU, licensees and other affected interests in the development of comprehensive pre-service training requirements in addition to taking the STARS 20-hour basic training. Both the statewide Professional Development Consortium and *Caring for Our Children* (2nd and 3rd editions) recommend that a family home child care license applicant complete 30 hours of pre-service training prior to obtaining a license. Caring for our

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	Children, 2nd Edition, recommended pre-service training in health management, child development , appropriate responses to children's needs, and oral and written communication. CFOC noted: *"Staff training in child development and/or early childhood education is related to positive outcomes for children. "* In addition, the Negotiated Rule Making Team, the majority of whom were family home child care licensees, SEIU staff or provider advocates, voted to recommend: *"(The licensee must) attend a pre-service training, provided by DEL either online, through video or in person, as part of the licensing process."* The current rules in WAC 170-296 do not require minimum training or education prior to obtaining a license, other than completing First Aid/CPR and HIV/AIDS classes. Due to some licensee's not completing the minimum STARS 20-hour basic training during their first initial licensure period (in some case not during their first or second initial license extensions), some licensees may not have any training in the fundamentals of child development and other key aspects of providing safe and healthy care for up to two years after receiving a license.
Add a pre-service training requirement of 40 hours. Implementation could be set for a future date.	The proposed rule was not changed as a result of this comment. The Department will consider this comment for future revision of the rules.
Issues raised in public comments on proposed WAC 170-296A-1175 STARS basic 20-hour training.	**Was the proposed rule changed as a result of this comment?**
The proposed WAC 170-296A-1175 should not be implemented because of concerns that, under this proposed rule, a provider cannot access scholarship funds unless he or she is licensed.	The proposed rule was not changed as a result of this comment. The Department respectfully denies the request for the Department to withdraw proposed WAC 170-296A-1175 for the following reasons. There are other scholarship and financial aid resources that may provide funding for license applicants. For example, individuals may be eligible for tuition waivers or general institution-specific financial aid if the individual takes the STARS 20-hour basic course at a state community or technical college. The Washington Child Care Resources and Referral Network also offers scholarships for persons pursuing an early childhood

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	education certificate or degree and are currently licensed or working in child care.[3] This may be a viable option for a child care staff person who wants to pursue their own family home license. Private scholarships focusing on early childhood education include the Helen May Rose Endowed Scholarship and Betty Henderson Scholarship, and possibly others. Current chapter 170-296 WAC does not require a family home child care license applicant to receive any pre-license training related to the fundamentals of child growth and development, child nurturing and guidance techniques, or child health and safety standards (except First Aid/CPR and HIV/AIDS training). WAC 170-296-1410 (5)(d)(1) requires completion of twenty clock hours of basic training approved by the Washington State Training and Registry System ("STARS") within the first six months of a licensee obtaining an initial license. Child growth and development, child nurturing and guidance techniques, and child health and safety standards are all core elements of the STARS basic twenty hour training. Under the current system, the Department has granted extensions of the initial licenses when the STARS training requirement has not been completed. The proposed requirement that the STARS training occur prior to issuance of the license, or initial license, is consistent with the legislative findings and goals for improving the quality of care provided in licensed family child care homes.[4] In December 2010, the Professional Development Consortium submitted various recommendations to the Washington Legislature for setting new statewide standards for child care licensees and other early learning professionals.[5] The Consortium's advisory committee membership was comprised of a wide spectrum of child care and child development professionals and advocates, including licensed family home child care providers and staff from the SEIU. The Professional Development Consortium's first recommendation is as follows:

[3] For additional information related to scholarships offered by the Washington Child Care Resources and Referral Network you may access http://www.childcarenet.org/providers/scholarships/general-scholarship.

[4] "The legislature intends to establish a robust birth-to-three continuum of services for parents and caregivers of young children in order to provide education and support regarding the importance of early childhood development. RCW 43.215.005 (3).

[5] During the 2009 legislative session SHB 1943 was passed requiring the Early Learning Professional Development Consortium to accomplish various tasks. Among those tasks included developing and providing to the legislature and governor "final recommendations for a statewide integrated system of preparation and continuing professional development for the early learning and school-age program workforce." SHB 1943 sec. 2, sub-§(6).

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	"**Increase minimum educational requirements for early learning professionals:** **A-1(a):** Licensed family child care providers will have high school completion or equivalent and 30 hours of approved pre-service training before becoming licensed." See *page 6, Early Learning Professional Development System Report and Recommendations, December 2010*. The Consortium's justification for the above recommendation is the following: "Higher levels of education and training in the early learning and care professional will increase professionals' knowledge, skills and competencies, which will improve their practices. Establishing clear educational requirements for positions in the early learning field will support alignment and consistency of hiring across the field and will professionalize the field of early learning and school-age care." *December 2010, Early Learning Professional Development System Report and Recommendations, page 7*. Based on the above information, the Department respectfully denies the request to eliminate proposed WAC 170-296A-1175. Completing 20 hours STARS is an investment in becoming a licensed child care provider. In other licensed occupations, including child care centers, the prospective licensee must obtain required preservice training without an assumption that their education costs will be reimbursed.
Issues raised in public comments on proposed WAC 170-296A-1200 Background checks	**Was the proposed rule changed as a result of this comment?**
1200 should read "Criminal history background check…" Otherwise, we could be authorizing DEL to perform all types of "background checks", including medical history background checks.	The proposed WAC 170-296A-1200 was not changed as a result of these comments. RCW 43.43.832 requires that *"The director of the department of early learning shall adopt rules and investigate conviction records, pending charges, <u>and other information including civil adjudication proceeding records</u>……."* As defined in RCW 43.43.830, a "civil adjudication proceeding": *" is a judicial or*

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	administrative adjudicative proceeding that results in a finding of, or upholds an agency finding of, domestic violence, abuse, sexual abuse, neglect, abandonment, violation of a professional licensing standard regarding a child or vulnerable adult, or exploitation or financial exploitation of a child or vulnerable adult under any provision of law… also includes judicial or administrative findings that become final due to the failure of the alleged perpetrator to timely exercise a legal right to administratively challenge such findings." The DEL background check includes more than a Washington State Patrol or FBI criminal history check. If appropriate to determine if an individual is suitable to care for children or have unsupervised access to children in care, the Department may require the applicant to undergo medical, psychological, drug or alcohol evaluation(s). See WAC 170-06-0050 through 170-06-0070.
1200(4) is redundant and should be removed.	The proposed rule was changed as a result of this comment. Redundant wording in subsection (4) is removed.
Issues raised in public comments on proposed WAC 170-296A-1225 Noncriminal background checks for individual thirteen to sixteen years of age.	**Was the proposed rule changed as a result of this comment?**
The proposed rule should specify the types of issues that "will disqualify the person, such as sexual or aggression issues". The rule should include information about which databases will be searched and the type of form providers will need to fill out. It's unreasonable for someone to make judgments against our children when we don't even know the criteria you will use. Regarding the non-criminal background check, there is no listing of the data bases that DEL can look into. Non criminal databases could go as far as school records if DEL is not restricted from accessing those records. I would like DEL to list the data bases that would searched for the non-criminal background check.	The proposed WAC 170-296A-1225 was not changed as a result of these comments. The Department denies the request to modify proposed WAC 170-296A-1225 and include additional specification about the types of issues that will disqualify a person. Proposed WAC 170-296A-1225(3) would require the Department to apply the criteria contained in chapter 170-06 WAC for determining the authorization or disqualification of a person thirteen to sixteen years old. Chapter 170-06 WAC provides sufficient guidance to the licensee or provider about disqualification criteria. On January 7, 2011, the Department, Service Employees International Union Local 925 and Family Home Child Care licensees discussed this proposed rules as part of a larger discussion of SEIU/Licensee concerns about rule DEL intended to propose under RCW 34.05.320. The Department and SEIU agreed at that time that the rules found in chapter 170-06 WAC and proposed 170-296A-1225 provide sufficient information

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	and protections related to disqualification criteria, appropriate database searches, and applicant forms. For example, see RCW 43.215.200(3)(4), RCW 43.215.215, WAC 170-06-0040 thru WAC 170-06-0070, WAC 170-06-0110 and WAC 170-06-0120. Because chapter 43.215 RCW and chapter 170-06 WAC provide sufficient guidance to the licensee or provider about disqualification criteria, database searches, and applicant forms; it is unnecessary to include such guidance in proposed WAC 170-296A-1225.
This rule is invading more of our private life, family and home. If our family members residing in our home are not in contact or participating with the paying childcare families leave them alone. Clearer language is definitely needed. This is way too vague. I also have concerns over this proposed WAC infringing on rights of minor children Redundant and not necessary. Persons under the age of 16 are to be supervised with children per another WAC. Also, since a criminal history background check has not been performed on them, 1200(5) also prevents unsupervised access to children. This is over regulation. Teens make errors and now Del is going to put its nose into more business that isn't their responsibility. I know they have been doing this for years and that it wasn't public knowledge, which is wrong if you are going to check my kids it is only right that you tell me and them you are doing it.	The proposed rule was not changed as a result of this comment. RCW 43.43.832(6) and current DEL rules require a background check for anyone age 16 or older residing in the licensed family home child care, regardless of whether the individual provides child care or not. The same as some adults, younger juveniles may be or have been engaged in behaviors or activity that may make the juvenile unsuitable for having even occasional access to children in care. While most adults and juveniles would likely pass a background screening, a number of adults or juveniles may not. The rule prevents DEL from using a judgment regarding a crime committed by a juvenile 13 to 16 years old, unless the juvenile was charged or convicted of the crime as an adult. When determining whether an individual may be cleared to have access to children in care, under WAC 170-06 the department must consider with the individual's behaviors or actions are reasonably related to the person's appropriateness to have access to children in care.
Character & Suitability Review for 13-16 years of age of household member & staff No definition for character & suitability; no criteria; who will judge; what is the DEL form?; disqualification for future; character & suitability who are disqualified have hearing rights? Non criminal background is invasive and cost	The proposed rule was not changed as a result of this comment. See the response above. Any individual age 13 to 16 who is disqualified from having access to children in care has the right to appeal this Department decision. DEL licensing staff currently review records of "negative

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extra paper work should be if licensor had a complaint then it can be requested.	actions" as defined in RCW 43.215.010 and WAC 170-06-0020 for persons 16 and older following the State Patrol or FBI criminal background check. The same staff would likely be conducting non-criminal background check under this rule.
Issues raised in public comments on proposed WAC 170-296A-1250 License application packet – Contents.	**Was the proposed rule changed as a result of this comment?**
In reference to WAC 170-296a-1250, could you tell us what a "sworn declaration." We are not familiar with this term.	The proposed WAC 170-296A-1250 was not changed as a result of these comments. A sworn declaration means a written acknowledgement, by signature of the individual making the declaration that: 1. The information provided by the individual is true, and 2. If the information is found not to be true, that the individual may face a penalty or sanction.
These should be the requirements for an initial license. A renewal should be much simpler and is addressed in 1550. Therefore, this should read: "(1) The individual seeking an initial license…" And "(2) An applicant for an initial license must submit an application that includes…"	The proposed WAC 170-296A-1250 was changed as a result of these comments. Subsection (1) of WAC 170-296A-1250 was changed as suggested. Once the definition of "license applicant" is established in subsection (1), it is not necessary to use the term "applicant for an initial license" in subsection (2). "License applicant" is used in subsequent references.
(2)(g) should be deleted. Not necessary for the health & safety of children. The provider's relationship with the IRS and whether or not they plan to pay staff is their own business. We are not employed by the state of Washington, we are employed by the parent's. This has nothing to do with the safety of the children.	The proposed WAC 170-296A-1250 was not changed as a result of these comments. The Department is required by RCW 26.23.150 to request a license applicant's Social Security number and Employer Identification Number (EIN)as required in WAC 170-296A-1250(2)(g). The IRS letter serves as official confirmation of the licensee's EIN. This information is forwarded to DSHS Division of Child Support as required by the statute. See also RCW 43.215.320.
1250 (2)(l) should be removed. 1250(3) redundant and should be removed. Licensee defined under "definitions" and in 1050.	The proposed WAC 170-296A-1250 was not changed as a result of these comments. As long as DEL requires a noncriminal background check for persons age 13 to 16 residing in the home or assistants or volunteers age 14 to 16, subsection (2)(l) remains a valid part of the license application.

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	Subsection (3) describes the specific information that is needed from other individual(s) if more than one individual's name will appear on the license as a co-licensee.
(2) (c) Documentation of the licensee's high school diploma or equivalent education under WAC 170-296A-1725; What does this mean for those who are watching their neighbors kids….who realize they need to be licensed because they are breaking the law……set out to become licensed and don't have a diploma……this is discrimination.	The proposed rule was not changed as a result of this comment. The rule makes the requirement equal for all new and current licensees. It does not discriminate and provides several options for meeting the requirement. See the response to comments on proposed WAC 170-296A-1725.
(2) (c) Documentation of the licensee's high school diploma or equivalent education under WAC 170-296A-1725; (d) Resume for the license applicant (f)(i) Copy of license applicant's Social Security card pursuant to 42 U.S.C. 666(a)(13) and RCW 26.23.150 regarding child support; (g) Copy of the federal Internal Revenue Service letter showing the applicant's employer identification number (EIN) if the applicant plans to employ staff; The amount of info needed to get licensed is intrusive and beyond the purposes of DEL.	The proposed WAC 170-296A-1275 was not changed as a result of these comments. RCW chapter 43.215 authorizes the Director of DEL to set the requirements for obtaining and maintaining a license, including qualifications for staff of a licensed child care agency. DEL is required by federal and state child support laws to obtain a license applicant's SSN and EIN, which must be reported to the DSHS Division of Child Support under RCW 26.23.150.
Issues raised in public comments on proposed WAC 170-296A-1275 Application processing.	**Was the proposed rule changed as a result of this comment?**
Should be Initial Application Processing.	The proposed WAC 170-296A-1275 was changed as a result of these comments. The title of WAC 170-296A-1275 is renamed "**Initial license application processing.**"
Issues raised in public comments on proposed WAC 170-296A-1325 Licensee fees – When due.	**Was the proposed rule changed as a result of this comment?**
License fee- why are we going to pay a fee annually when our license is valid for three years. only charge when we renew our license, not annually. This is another cost that is not needed.	The proposed WAC 170-296A-1325 was not changed as a result of these comments. Under Senate Bill 5625, licensees who meets the requirements of the new law will have a nonexpiring license. There will no longer be a three-year license renewal cycle. One of the

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	requirements for maintaining a continuous nonexpiring license under SB 5625 is for the licensee to be current with his or her annual license fee. The Legislature has acknowledged in 2ESHB 1087 that the department's license fee is to levied on an annual basis. The proposed or adopted rule does not prevent a licensee from paying licensing fees in advance. However, if the Legislature raises fees later (as it did in 2011), the licensee would still need to pay the difference between the fee paid in advance and the new annual rate.
WAC 170-296A-1325 and 1350 should be combined and titled "License Fee."	The proposed WAC 170-296A-1325 was changed as a result of these comments. WAC 7170-296A-1325 and 170-296A-1350 have been combined in the final rule and have been revised to reflect 2011 changes in law (House Bill 1087 and House Bill 1903)
1325(1) is redundant and should be removed as it is required by 1250(2)(r). 1325(2) should then read "After an initial license is issued, the licensee must pay…" 1325(3) On-line payment should be an option.	The proposed WAC 170-296A-1325 was not changed as a result of these comments. Making the initial fee due with the initial license application helps defray the department's cost of processing the application, even if the application is later withdrawn or denied. Online payment is not an option under the current DEL payment handling process, but could be considered in the future.
Issues raised in public comments on proposed WAC 170-296A-1350 License fee amount.	**Was the proposed rule changed as a result of this comment?**
1325 and 1350 should be combined and titled "License Fee"	The proposed WAC 170-296A-1350 was withdrawn as a result of these comments. The content of proposed WAC 170-296A-1325 and 170-296A-1350 have been combined in the final rule.
Issues raised in public comments on proposed WAC 170-296A-1375 Private septic system – Inspection and maintenance	**Was the proposed rule changed as a result of this comment?**
This proposed rule "needs a financial impact study".	The proposed WAC 170-296A-1375 was not changed as a result of these comments. The Department completed and filed a small business economic impact statement for this proposed rule. See www.del.wa.gov/publications/laws/docs/FHCC_SBEIS.pdf.
Septic inspections every 3 years - my septic is	Once a license has been issued, if the licensee has had the

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pumped according to my Licensor while they pump it they check it. If I want your inspection done at that time it costs me another $300.00 for that slip of paper. When they pump it they mark if there is something needing to be fixed and it doesn't cost me a dime more than the pump fee. Is the state in business with the septic pumping companies? Between the septic pump and inspection were talking over $600.00	septic tank pumped and the system inspected anytime during the three-year interval provided in the rule, DEL would accept a recent inspection report. The licensee would not be required to take further action unless the inspection report indicates that other maintenance or more frequent inspection or pumping is appropriate.
Should be rewritten to eliminate redundancy and to be clearer and more reasonable: Private Septic System (1) If the licensed premises is served by a private septic system (not connected to a sewer system), the septic system must be maintained in a manner acceptable to the local public health authority. (2) Within six months prior to submitting an initial license application under WAC 170-296A-1250, the system must be inspected by the local public health authority or by an inspector certified by the local public health authority. (3) The system must be serviced every three years or more frequently if recommended by the local public health authority or by the inspection report. (4) Septic system inspection, maintenance, and service records must be kept on the premises and made available to the department upon request.	The proposed rule was not changed as a result of this comment. If the license applicant or licensee is following local public health jurisdiction's septic system inspection and pumping requirements, they do not need to follow the inspection/pumping schedule in the proposed rule. However, not all local health jurisdictions in Washington State have periodic septic system inspection and maintenance requirements. The rule assures that all licensed family home child cares with an onsite septic system are inspected and maintained. See the Small business economic impact statement for a discussion of health risks from a failing or damaged septic system www.del.wa.gov/publications/laws/docs/FHCC_SBEIS.pdf.
It is great that the requirement for periodic inspection was added. The way this section is worded also allows for local health jurisdictions to enforce different requirements based on their particular environment. With an inspection done every three years, the concern is that this will give providers a false sense of security that their septic system is okay – there could still be a significant problem if a home with only a 2 bedroom septic system and 4 people living in the house is then licensed for 12 additional kids – this can put enormous stress on the system. It may be okay on the day of the inspection, but begin to fail a couple months later.	The proposed rule was not changed as a result of this comment. The Department plans to provide Guidance that licensees who have an onsite septic system should work with local health jurisdictions on learning the signs of a healthy or failing septic systems, as well as ways to reduce stress on the system from the child care operation. While it is true that a system could fail in between three-year inspections, it could also fail shortly after an annual inspection and not be detected for months. Without the rule, in counties without a periodic septic system inspection requirement, a failing system could be undetected for years. The rule provides greater health and safety protection for children in FHCC care in those counties.

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Issues raised in public comments on proposed WAC 170-296A-1400 Private water well.	**Was the proposed rule changed as a result of this comment?**
(**Suggestion**: Replace "public health authority" with "local health jurisdiction" throughout the chapter.) **Suggestion:** (2) If there are no local ~~public~~ health jurisdiction requirements for periodic water testing, the licensee must have the water tested for coliform bacteria and nitrate by: (a) the local ~~public health authority~~ health jurisdiction, or (b) an environmental laboratory accredited to analyze drinking water samples under chapter 173-50 WAC, or (c) by a qualified individual, which would include local public health authority, qualified private lab, or water system operator. (3) Water must be test for coliform bacteria and nitrate must be tested: (a) within six months prior to submitting a license application under WAC 170-296A-1250; and (b) Every year ~~three~~ after a license is issued under this chapter. The test results must indicate no presence of coliform bacteria, and must not exceed 10 part per million (ppm) for nitrate.~~"safe" levels of nitrates as defined by the state department of Health (DOH)~~ (~~3~~4) If test results indicate the presence of coliform bacteria or ~~unsafe nitrate levels as defined by DOH~~ nitrate greater than 10 ppm, the licensee must: (a) Immediately re-test the water, if the repeated test indicates the presence of coliform bacteria or nitrate greater than 10 ppm then, the licensee must immediately stop providing drinking water to the children in care and inform the local health jurisdiction and the department. (~~4~~5)(a) If directed by the local health jurisdiction or the department, the licensee must not serve unsafe drinking water to children under the licensees care; or (~~5~~6) Water testing and system repair records	The proposed WAC 170-296A-1400 was changed as a result of these comments, in part. "Local public health authority" is changed to "local health jurisdiction" throughout the chapter. WAC 170-296A-1400 is revised as suggested, except the recommended change in (2)(c), and except that water testing will remain required once every three calendar years. The new testing requirement – recommended by the Negotiated Rule Making Team - sets a higher standard than is required for private water well testing by any state agency. There are costs to the licensee involved, which are described in the small business economic impact statement filed with the proposed rules. See www.del.wa.gov/publications/laws/docs/FHCC_SBEIS.pdf Requiring annual testing, along with other changes and costs in the rules adopted to promote child health and safety, may place too high a financial burden on licensees during the current economic climate.

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must be kept on the premises, according to the department's record retention schedule, and made available to the department upon request. **Justification** For (3)(a) - Samples on small water systems are frequently positive for total coliform; in 99% of those samples, it is due to sampling error. Another option would be to trigger this kind of response if a sample came back with E. coli. However, that would complicate the requirements, because there would have to be a different level of response for coliform as well as the response for E. coli. The requirements in the proposed section 2(a) and (b) far exceed what is required for water systems. Nitrate is a particular concern for infants and young children because it can cause methemoglobinemia (blue baby syndrome). 10 ppm is the acute action level (maximum contaminate level or MCL) set by the U.S. Environmental Protection Agency for public water systems.	
Issues raised in public comments on proposed WAC 170-296A-1410 Department inspection.	**Was the proposed rule changed as a result of this comment?**
1410(2) should read "…during the licensee's hours of operation when children are present for the purpose of…"	The proposed WAC 170-296A-1410 was not changed as a result of these comments. DEL licensors typically do not inspect a home if there are no children in care. However, a licensor making an unannounced monitoring visit would not discover that children are not present until arriving at the licensed home.
(2) The licensee must grant reasonable access to the department licensor during the licensee's hours of operation for the purpose of announced or unannounced monitoring visits to inspect the indoor or outdoor licensed space to verify compliance with the requirements of this chapter. Concerns: What is the definition of "reasonable access"? Also, the disruption to the	The proposed WAC 170-296A-1410 was not changed as a result of these comments. RCW 43.215.240 requires the licensee to "*accord the department… the right of entrance and the privilege of access to and inspection of records the purpose of determining whether or not there is compliance with the provisions of this chapter and the requirements adopted under it.*"

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daycare schedule and removal of the licensee's attention to caring for the children when a licensor arrives unannounced has long been a hotly debated topic. A licensor who demands that a provider bring out all the files she wishes to review, answer any questions and/or show her specific details within the daycare home is putting a licensee out of compliance by not attending to the children in the proper supervision role. Maybe a solution would be to have monitoring visits occur in the afternoon portion of a licensor's daily schedule when the provider has many of the children napping or resting. The children need to come first in a licensee's priorities. Suggested Changes: Verbiage should be added that the licensor will not make demands of the licensee that will jeopardize the safety and wellbeing of the children in care. The licensor should wait or come back for any inspections that the licensee may not easily comply with due to the demands of the children in care. We would like for the licensor's visits to not last so long. Every so often the licensor's visits are unannounced.	Reasonable access describes the obligation of the licensee to grant the department licensor entrance into the licensed home and space for announced or unannounced monitoring visits. To the extent practicable, for announced visits the licensee and licensor would arrange a time that allows both the licensee and licensor to do their necessary work. However, the department needs to have the ability to make unannounced visits to assure that the licensee remains in compliance the rules. DEL is working toward making routine monitoring visits shorter as part of the nonexpiring license process.
Issues raised in public comments on proposed WAC 170-296A-1420 Licensee declaration.	**Was the proposed rule changed as a result of this comment?**
Signed declaration should be on a form supplied by the department rather than burdening each licensee with the creation of a form that would be approved by the department. This should only be required at initial license. This form will then need to be listed in 1250 as part of the application for initial license. Also, to reduce redundancy, 1420 should read: "When compliance with a requirement in this section is being met in unlicensed space, the applicant for an initial license must sign a form provided by the department declaring that the licensee will be in compliance with the requirements of this chapter regarding:…"	The proposed WAC 170-296A-1420 was not changed as a result of these comments. The declaration is listed among the required elements of an initial license application under WAC 170-296A-1250, if applicable. The declaration form would be provided by the department, and generally would only be needed at the initial license application. However, at a future date the licensee may change the operation in a way that would require a new declaration (for example, if the licensee previously stored medications in the licensed space, but has moved storage to unlicensed space).
WAC-1420 These areas are unlicensed for a reason. We should not have to sign a declaration	The proposed WAC 170-296A-1420 was not changed as a result of these comments.

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for unlicensed space. Licensed space is safe!	Even if though the activity may occur in unlicensed space, the items or action listed in WAC 170-296A-1420 are directly linked to the safety, health, and well being of the children in care. For example, that prescription and other medications required to be stored in a locked space are in fact locked at all times so that children in care do not have access to them. Since the Department is unable to enter the unlicensed space without the licensee's permission, the declaration is needed to assure that the requirements of the particular rule are being met.
Add new (4) Carbon monoxide detector locations and working condition under WAC 170-296A-2950; **Justification** The Legislature adopted RCW 19.27.530 directing the building code council to adopt rules to phase in requirements for carbon monoxide alarms in single-family residences. Over time, homes will be required to have alarms at the point of sale. Because infants and children are especially vulnerable to carbon monoxide poisoning, it makes sense to require alarms in home daycare settings now. See comments 8-10, below.	The proposed WAC 170-296A-1420 was not changed as a result of these comments. The adopted rules require carbon monoxide detectors in homes constructed after July 2010, in areas licensed for sleeping or napping. Children could not be placed in unlicensed space for the purpose of sleeping or napping, so WAC 170-296A-1420 would not apply.
Issues raised in public comments on proposed WAC 170-296A-1500 Moving without submitting application.	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-1500 should be section (5) of WAC 170-296A-1475.	The proposed WAC 170-296A-1500 was withdrawn as a result of this comment. The content of proposed WAC 170-296A-1500 is incorporated with 170-296A-1475 in the final rule.
Issues raised in public comments on proposed WAC 170-296A-1525 Change of circumstances	**Was the proposed rule changed as a result of this comment?**
The proposed rule should be modified or withdrawn for two reasons. The first reason is that a licensee may be in violation of the proposed rule if, for example, a third party calls in a complaint (ie: alleged abuse by an employee) unknown to the licensee. In this circumstance, the licensee could be in violation of the proposed rule despite the fact that the	The proposed WAC 170-296A-1525 was changed as a result of these comments. Regarding the first concern, the Department agrees to modify proposed WAC 170-296A-1525(2) and (3) to require the licensee to have knowledge before being required to make a report, as follows: *(2) Within twenty-four hours after a licensee becomes*

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licensee was unaware of the allegations/complaint. The second reason proposed WAC 170-296A-1525(2)(a) should be withdrawn that an allegation should only have to be reported if the person is "charged or convicted" of the allegation. A neighbor could call in a complaint and the provider would not know about it or a family member could do something and not tell the provider… how would provider have knowledge of all issues/circumstances. You can't report if you don't know about the complaint. What if the person is innocent? An allegation should not have to be reported, only if the person is charged or convicted	*aware of a charge or conviction involving (1) the licensee (2) a staff person or (3) a household member, and the charge or conviction is a disqualifying crime under WAC 170-06-0120, the licensee must report to the department the fact that there is a charge or conviction involving a disqualifying crime against the licensee, staff person or household member.* *(3) Within twenty-four hours after a licensee becomes aware of a allegation or finding made against (1) the licensee (2) a staff person or (3) a household, member involving the abuse or neglect of a child or vulnerable adult, the licensee must report to the department the fact that there is a allegation of abuse or neglect of a child or vulnerable adult made against the licensee, staff person or household member.* Regarding the second concern, under RCW 26.44.030(1)(a) the licensee, staff persons and volunteers in a child care facility are "mandatory reporter[s]" and are required to report suspected child abuse or neglect. This is not a new requirement. The proposed rule is consistent with both the purpose of chapter 43.215 RCW (see RCW 43.215.005) and the requirements of RCW 26.44.030(1)(a). The Department respectfully denies the request for the Department to modify or withdraw the proposed rule.
1525(1) is very vague. It needs to be specific. "Changes" happen to a family child care "facility", the household member's, and it's operation happen on a daily basis. The specific changes needing to be reported need to be listed, as in 1525(2).	The proposed WAC 170-296A-1525(1) was changed as a result of these comments. The final rule is revised to be more clear about the types of changes that must be reported to the Department, as follows: (*1) The licensee must report the following changes in the licensee's circumstances to the department within twenty-four hours, including:* *(a) Household members, including individuals age sixteen or older moving into the home;* *(b) Fire or structural damage to the licensed child care space or other parts of the premises; or* *(c) Prior to making structural changes to the licensed*

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	space or changing license space usage. An updated floor plan must be submitted and approved by the department."
Issues raised in public comments on proposed WAC 170-296A-1550 Renewal application.	**Was the proposed rule changed as a result of this comment?**
The Department should send a renewal notice reminder 120 days prior to the expiration of a license as a part of proposed WAC 170-296A-1550. (Other commenters recommended 180 days prior to the license expiration date).	During the 2011 legislative session SB 5625 was signed into law, related to non-expiring child care licenses. The new law has made proposed WAC 170-296A-1550 obsolete. Accordingly, the Department has withdrawn proposed WAC 170-296A-1550. See changes to WAC 170-296A-1450 regarding continuation of a nonexpiring full license.
30. Issues raised in public comments on proposed WAC 170-296A-1575 Failure to submit a renewal application.	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-1575 should be combined with 1550, as the last item listed	The proposed WAC 170-296A-1575 was not changed as a result of these comments. Passage of SB 5625 has made WAC 170-296A-1575 obsolete, and this section has been withdrawn.
32. Issues raised in public comments on proposed WAC 170-296A-1625 Exception to rule.	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-1625(1) and 1625(2) should be combined: "The department may approve an exception to a rule in this chapter provided that the exception does not violate a requirement in a state or federal law."	The proposed WAC 170-296A-1625 was not changed as a result of these comments. Subsection (1) is needed to inform licensees that DEL does not have authority to waive a requirement that is in law.
33. Issues raised in public comments on proposed WAC 170-296A-1650 Exception to rule – Alternate method of meeting a requirement.	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-1650 should be combined with 1625, as the last item listed. It could then be more concise to read: "The department may approve an alternate method of achieving a specific requirement's intent as an exception to rule as long as the exception does not jeopardize the health or safety of the children in care." 1625(6) and 1650(2) could then be combined as the final item of 1625 and read: "A copy of the department approved exception must be posted on the premises for parent and public view unless the exception is for a specific child."	The proposed rule was not changed as a result of this comment. The Department appreciates this input. However, the rule would likely have the same effect with either construction.

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Issues raised in public comments on proposed WAC 170-296A-1725 Licensee minimum education.	**Was the proposed rule changed as a result of this comment?**
"There are many providers who completed their high school education outside of the US and, due to civil war in these countries, are not able to obtain their records. What will happen in this situation? We also believe that new providers should have two years to obtain their GED. The reason for this is that once they are licensed, they can access the scholarship fund to minimize the financial burden of this new WAC".	The proposed WAC 170-296A-1725 was not changed as a result of these comments. For the reasons set forth below, the Department respectfully denies the request for the Department to modify or withdraw proposed WAC 170-296A-1725. Under proposed WAC 170-296A-1625 and proposed WAC 170-296A-1650, an applicant that is unable to obtain a copy of his or her records, for any reason, may request an exception to the requirements found in proposed WAC 170-296A-1725. Proposed WAC 170-296A-1625 and proposed WAC 170-296A-1650 give the Department the discretionary authority to grant an exception to the proof of high school diploma requirement. Concerns expressed related to the "financial burden of this new WAC" have already been addressed in the Small Business Impact Statement that was prepared and filed with the notice of Proposed Rule Making. See this link: www.del.wa.gov/publications/laws/docs/FHCC_SBEIS.pdf. RCW 28B.15.520 and WAC 131-28-026(4) allow Washington's Community Colleges to waive tuition for high school completion classes and/or GED preparation classes for eligible individuals. WAC 131-28-026(4) also provides for English as a second language classes. Additional sources for free or low cost GED preparation classes include, but are not limited to, the following: • Goodwill Industries under a state contract in parts of Washington; • Benton-Franklin Community Action Council in Richland, Washington; • SW Washington Workforce Development Council in Longview, Washington; • Tacoma Community House; and • The Community Jobs program sponsored by the Commerce Department. There are also many free or low-cost resources in the state for taking "English as a second language" courses to help improve an applicant's or licensee's success in taking the GED tests or high school completion course, including but not limited to: Tacoma Literacy Council, Seattle Crisis Resources, St. James

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	Cathedral in Seattle, Literacy Action Council in Seattle, Ready by Five in Yakima. The "I-Best" program, offered by Washington state community and technical colleges, gives individuals without a high school diploma the opportunity to pursue adult basic education, English-as-a-second-language, and college-level courses simultaneously. Under I-Best, an individual could complete classes toward a high school diploma and an Early Childhood Education certificate at the same time (ECE is one of I-Best's target career fields). Requiring Family Home Child Care license applicants to obtain a high school diploma or equivalent prior to licensure was the first recommendation of the statewide early childhood Professional Development Consortium. The Consortium's advisory committee included FHCC licensees and SEIU representatives. As described in the Small Business Economic Impact Statement for this proposed rule, 16% of the current licensees are estimated to have an education below a high school diploma. Essential to having the ability to care for and ensuring the health and safety of children includes the ability to read a medication label, first aid manual and/or other safety warnings and directions pertaining to children in care. Literacy and analytical skills are generally obtained by the completion of primary and secondary education. Possessing a minimum level of literacy and analytical skills supports the conclusion that this proposed rule is necessary.
Providers must have high school diploma or equivalent by January 2015. No grandfathering.	WAC 170-296A-1735 gives existing child care licensees five years to meet the requirements of this WAC. There are several low cost options for meeting the rule requirement, noted above. The Department does not plan to grant blanket exemptions to this rule. Existing licensees have until March 2017 to meet the requirement in WAC 170-296A-1725. If a licensee who in the past had received a high diploma or equivalent education but documents that they are unable to obtain records of their education, may apply to DEL for an exception to rule under WAC 170-296A-1625 or 170-296A-1650.
I have no objection to reasonable rules for the	The proposed rule was not changed as a result of this

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health, safety, and well being of children receiving care. *See* RCW 43.214.005 (legislative purpose for child care licensing). But this proposal to require an academic credential to provide child care, well intentioned though it may be, is a bad idea because it is unnecessary, will create hardship for parents, providers, and children, and is not legally permissible. The proposed rule is not supported by any cited factual research and would place DEL in legal jeopardy on several grounds. First, and most fundamental, an academic degree requirement is beyond the scope of the DEL's statutory rulemaking authority granted by the legislature. Nothing in the plain language of the licensing statute requires an academic credential. *See* RCW 43.215.200 and 43.215.205. The specific statute on "character, suitability, and competence" requires only a criminal background check. RCW 43.215.215. DEL has only the authority granted it by the legislature. Its rules must not be beyond the scope of its statutory authorization or they will be struck down by the courts. The state Court of Appeals recently affirmed that the family home child care license is not the type of license for which the legislature intended to require an academic credential, and therefore DEL does not have authority to require it. *See Hardee v. Dep't of Early Learning*, 152 Wn. App. 48, 56, 215 P.3d 214 (2009), *rev. granted*, 168 Wn. 2d 1006 (2010) ("the [family home child care] license . . . was in the nature of a site license," "[the] license is more of a site license rather than an operator's license," and "[the] license is more in the nature of an occupational license than a professional license.") Second requiring an academic credential for family home child care providers has no rational relationship to quality child care and as such violates substantive due process and is unconstitutional. Every parent knows, and indeed, it is common sense, that academic	comment. RCW 43.215.200 and 43.215.205 authorize the Director to establish the minimum requirements for licensure of a child care agency, including the qualifications for individuals to be licensed. A high school diploma is not an academic credential in the same way that a medical or nursing degree establishes the academic achievement to become a doctor or nurse. Attainment of a high school diploma. GED or equivalent signifies that the holder has attained a certain level of basic education and literacy to successfully perform daily tasks in the adult world, such as being able to read at a minimum level, have basic math skills, and some communication skills. Each of these skills is necessary for operating a child care, and are skills applied every day in the child care operation. As noted in the small business economic impact statement for this rule, having basic literacy skills are important to reading a medication label or the instructions for using an alternative sanitizing solution, and thereby important to protecting the health and safety of the children in care. As described earlier, there are various low cost and sometimes free opportunities for an individual who qualifies to get financial help or tutoring for high school completion classes, GED preparation classes, adult basic education courses, or English as a second language classes. Obtaining a high school diploma or equivalent is not an examination for licensure. The Department does not require licensees to take or pass an examination for any DEL license. The department does not conduct GED tests, and so would not be required to provide GED tests or study materials to individuals in English or other languages. Individuals seeking to take the GED test should contact the college or testing center about the availability of obtaining materials in other languages. As noted previously, the "I-Best" program, offered by Washington state community and technical colleges, gives individuals without a high school diploma the opportunity to pursue adult basic education, English-as-a-second-language,

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credentials have no relationship to the ability to provide loving, quality care for children to provide them with the foundation to lead happy and successful lives. Third, requiring an academic credential for family home child care providers violates the equal protection of the laws and is unconstitutional. Your rulemaking proposal contains no mention of the many family child care providers who are immigrants like me and speak English as a second language and no acknowledgment of the disparate impact an American high school requirement would have on these licensees. The disparate impact related to native language and immigrant status means that it violates the equal protection of the laws. The many immigrant licensees are unrepresented and not spoken for. The GED is an American high school equivalency test that is culturally and linguistically based. It is based on English as a native language and having American cultural knowledge and background. I am literate, but although I have been studying ESL reading and writing for the past year, it is uncertain or unlikely I could pass the GED. Fourth, requiring a GED for family home child care providers violates federal civil rights law because DEL receives federal funds. The Federal Office of Civil Rights requires an examination for licensure to be translated into the native language of the applicant. Does DEL plan to make arrangements for the GED exam, if it is required, to be translated into other languages? If literacy is DEL's concern, it can be proved by less drastic requirements than requiring an full American high school equivalency. DEL needs to have a conversation about race and culture internally, among its management, and with the parent and provider community it serves. This proposal, with no	and college-level courses simultaneously. An individual could complete classes toward a high school diploma and an Early Childhood Education certificate at the same time (ECE is one of I-Best's target career fields). The proposed and adopted rule requires a high school diploma or equivalent education. The rule does not require the diploma from an high school in the U.S. – it may be an equivalent diploma earned in any country. The equivalent requirement of twelve years of primary and secondary education could also be earned in any country. As described above, any license applicant or current license who can document that they have tried but cannot obtain school records may request an exception to rule under WAC 170-296A-1625 or 170-296A-1650.

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acknowledgment of its devastating impact on immigrant, English as a second language speakers, shows an unfortunate cultural insensitivity that casts DEL's commitment to diversity as lip service or worse. As I said above, the majority of these providers are unrepresented and unspoken for. They do not have a voice. Fifth, requiring an American high school equivalency for family home child care providers violates the Washington Law Against Discrimination as national origin discrimination due to its disparate impact on foreign born child care applicants and providers who are native speakers of other languages. RCW 49.60.215. The proposed rule give no options for immigrants or native speakers of non-English languages that are attainable. Taking the GED test is difficult; in fact it has been reported that a large percentage of American high school graduates cannot pass it. Because many immigrants and non-native English speakers, especially older persons, will not be able to comply with your proposed rule, it will decrease availability of care for children, and create a shortage of child care in some communities, and it would significantly reduce the diversity of caregivers.	
Existing providers must have a high school diploma or equivalent by January 2015. This may be impossible for some providers who have come from another country or are getting older and never received a high school diploma. Perhaps there could be some other provision for these providers such as grandfathering them in or counting the childcare classes that they have taken over the years toward this requirement. Providers must have a diploma..... This doesn't affect me but I think it's an unfair rule for those who are already licensed. Some providers have	The proposed rule was not changed as a result of this comment, however the effective date of this section is extended to March 31, 2017. A license applicant or licensee who documents that he or she has tried but cannot obtain school records may apply for an exception to rule under WAC 170-296A-1625 or 170-296A-1650. DEL does not intend to generally grandfather any group or groups of licensees or license applicants. Existing licensees have options for meeting the requirement by

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worked for years and do not have a diploma or GED. Some from other countries are unable to offer theirs as proof. There should be some way to allow these people to stay in business. Education is important for everyone but there can be extenuating having that diploma circumstances that prohibit providers from obtaining a diploma Perhaps the provider should tell parents, or state in the parent handbook, the level of education. This WAC will eliminate many good providers, and many options for parents.	March 31, 2017. As noted above, there are low cost or in some cases free assistance to adults who qualify when seeking a high school diploma, GED preparation classes, or English as a second language courses.
This section is discriminating and intrusive.	The proposed rule was not changed as a result of this comment. The rule does not discriminate to any individual or group of individuals. The rule seeks to require a consistent and equivalent level of education and training for all family home child care licensees. The rules provide time (five years) for existing licensees to meet the new education requirement. Other comparable child care professionals are required to meet minimum education requirements prior to being licensed or providing child care.
Issues raised in public comments on proposed WAC 170-296A-1750 Tuberculosis.	**Was the proposed rule changed as a result of this comment?**
Suggestion: The correct reference to tuberculosis in this chapter should be to latent tuberculosis. **Suggestion:** (2) A previous or current positive TST or positive IGRA with: (a) ~~Proof~~ Documentation of treatment or a recent negative chest x-ray with negative results; or (b) Documentation showing an individual is receiving therapy for active TB disease, but is not contagious (with release from isolation documented, if applicable) and can safely work in a child care setting while therapy is being administered by a health care professional.	The proposed WAC 170-296A-1750 was changed as a result of these comments, with some modifications for clarity. ***WAC 170-296A-1750 Tuberculosis.*** *The applicant, each staff person fourteen years old and older, and each household member sixteen years old and older, must provide documentation signed by a licensed health care professional of tuberculosis (TB) testing or treatment consisting of:* *(1) A negative Mantoux test (also known as a tuberculin skin test (TST)) or negative interferon gamma release assay (IGRA) completed within twelve months before license application or employment; or* *(2) A previous or current positive TST or positive IGRA test with documentation within the previous twelve months:* *(a) Of a chest X ray with negative results; or*

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Justification This corrects inaccuracies and clarifies the tuberculosis section.	*(b) Showing that the individual is receiving or has received therapy for active or latent TB disease, and is cleared to safely work in a child care setting. As used in the section, "latent TB" means when a person is infected with the TB germ but has not developed active TB disease.*
Issues raised in public comments on proposed WAC 170-296A-1800 On-going training.	**Was the proposed rule changed as a result of this comment?**
Just fearing that staff now will have to take 10 hours/year?? Some of the assistants don't stay long enough to finish 10 hours....I can't even get my girls to an association meeting, yet some are really good. Is it 30 hours or 20 hours? It looks like the whole section needs to be changed to reflect that the proposed change would be 30 hours. At a minimum it should be 10 hours each year, and ideally it would be an annual requirement of more than 10 hours. Many other industries require way more than 10 hours per year. Child care workers are responsible for our community's children and deserve (or should be required) to have the most up-to-date knowledge about best practices. Many assistants don't stay long or are husbands covering on very rare occasions. In my case mostly during nap or parent pick up time. They don't do anything except insure basic safety. They are not planning curriculum, evaluating behaviors or any of the other things trainings would address.	The proposed WAC 170-296A-1800 was not changed as a result of these comments. However, in recognition of Senate Bill 5625 and elimination of the three-year license renewal cycle, the requirement in this section is revised to require ten hours of ongoing training each calendar year. The licensee and primary staff persons are required to maintain on-going training. The revised rules is as follows: *WAC 170-296A-1800 Ongoing training. (1) The licensee and each primary staff person must complete ten hours of department approved ongoing training each year. The training may include:* *(a) Licensee's or primary staff person's choice; and* *(b) Department directed training.* *(2) The licensee must complete the ongoing training requirement each year prior to continuing a nonexpiring full license.* *(3) A primary staff person must complete the ongoing training requirement each year beginning from the date of initial employment.* *(4) A licensee who exceeds the ten-hour ongoing training requirement in any year may carry over up to five hours of ongoing training toward meeting the next year's requirement.* The number of hours over three years (30) is consistent with the NRMT recommendation that the licensee and primary staff person complete 30 hours of ongoing training every three years. Under the proposed and final rules, the primary staff person is expected to have meet many of the same requirements as the licensee, so that the primary staff person is able to provide a level of care comparable to the licensee when the licensee is away for any reason.

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	Other assistants may take training voluntarily, and may register in MERIT so that their training hours may accrue.
Increase annual training requirement to 24 hours per year; implementation could be set for a future date.	The proposed WAC 170-296A-1800 was not changed as a result of these comments. Raising the ongoing training requirement would likely require additional discussions with FHCC licensees and SEIU under RCW 43.215.350. The Department will retain this suggestion for future consideration.
I have two people that I leave in charge maybe 20 hours a year for doctor appointments or errands. These girls keep me from having to close and inconvenience working parents. These girls meet the current requirements. Plus, there are family members who would help out in a jam who don't mind doing a back ground check or get their CPR and First aid. This WAC would bring undue hardship to our businesses, plus the parents.	The proposed WAC 170-296A-1800 was not changed as a result of these comments. The passage of House Bill 1903 creating a portable background check clearance may give licensee's a new opportunity to use "substitutes" who meet the qualifications of the primary staff person or assistants as needed to meet the child supervision and assistance needs of the licensee. Such qualified substitutes could work at any licensed FHCC. DEL is developing rules to implement House Bill 1903. Under the proposed and final rules, the primary staff person must be qualified to be left unsupervised with children in care. The rules require the primary staff person to meet many of the same requirements as the licensee, so that the primary staff person is able to provide a level of safe care comparable to the licensee when the licensee is not present in the child care. The primary requirements for primary staff persons in the proposed and final rules were supported by the Negotiated Rule Making Team, including the requirement that a primary staff person meet on-going training requirements.
Issues raised in public comments on proposed WAC 170-296A-1825 First aid and cardio pulmonary resuscitation (CPR).	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-1825 First aid and cardio pulmonary resuscitation (CPR) certification (2)(b) include infant, child, and adult CPR Concerns: Providers are licensed to provide safe care for children and should not be forced to learn adult	The proposed WAC 170-296A-1825 was not changed as a result of these comments. Adult/Infant CPR training would help the licensee or staff respond to health emergencies involving another staff person or household member working in the child care, as well for

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CPR unless they are caring for adults. Suggested Changes: Remove the adult CPR requirement.	children needing emergency aid.
Issues raised in public comments on proposed WAC 170-296A-1850 Bloodborne pathogens training.	**Was the proposed rule changed as a result of this comment?**
1. "OSHA approved BBP's classes – What is the criteria? How available are they?"	The proposed WAC 170-296A-1850 was not changed as a result of these comments. Proposed WAC 170-296A-1850 required that "the licensee and each staff person must have written proof of attending a U.S. Occupational Safety and Health Administration (OSHA) certified or comparable bloodborne pathogens training." However, based on input from public health agencies, the rule will be revised to retain the requirements found in WAC 170-296-0240: That the licensee and all staff must attend HIV/AIDS training and the licensee must maintain a bloodborne pathogens ("BBP") plan. The anticipated revision is consistent with RCW 70.24.310. RCW 70.24.310 requires employees of a state licensed or certified "Health care facility" to take AIDS training. The facility must also have a BBP plan. RCW 70.24.017(5) defines "health care facility as: (5) "Health care facility" means a hospital, nursing home, neuropsychiatric or mental health facility, home health agency, hospice, child care agency, group care facility, family foster home, clinic, blood bank, blood center, sperm bank, laboratory, or other social service or health care institution regulated or operated by the department of health." The NRMT has recommended that the requirements found in WAC 170-296-0230 (What CPR and first-aid training is required?) be maintained. The NRMT has also recommended that the BBP training requirements be eliminated as an individual separate training so long as the BBP training is included as a part of the combined first aid/CPR training. The revised rule is consistent with state law and the NRMT's recommendation regarding BBP training.
A straightforward reading of this indicates, that a single Bloodborne Pathogens class is required	The Department will retain the current HIV/AIDS training requirement in repealed WAC 170-296-0240 to be consistent

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one time only. Previously there has been much confusion in this area between HIV and BBP. 2 hours of HIV was at one time required, one time only; and yearly BBP classes for employees. Is HIV no longer to be required and is the yearly BBP being replaced by a one time only class? It would be nice to clarify this issue for everyone as it has been confusing for licensors, trainers and providers. If a straight forward reading of it is all that is to be required, it is likely fine. If something has been overlooked, it would be nice to have it clarified.	with state law. Adopted WAC 170-296A-1850 is revised as follows: ***HIV/AIDS training – Bloodborne pathogens plan***. *(1) The licensee and all staff who are responsible for the care of children must complete training under chapter 70.24 RCW on the prevention and transmission of HIV/AIDS (human immunodeficiency virus/acquired immunodeficiency syndrome).* *(2) The licensee must have a written bloodborne pathogen plans that includes:* *(a) A list of staff, volunteers and household member providing child care who may be exposed to bloodborne pathogens;* *(b) Procedures for cleaning up body fluid spills (blood, feces, nasal and eye discharge, saliva, urine or vomit), including the use of gloves, proper disinfection of contaminated items, disposal of waste materials, and hand washing.* Reasons: Some industries or businesses are required to have all employees complete a WISHA (under state law) or OSHA (under federal law) certified BBP training and have annual updates provided by the business. However, it is not clear that family home child care businesses are among those who must provide their employees with BBP training. The current WAC 170-296A-0240 is more consistent with the RCW 70.24.310, requiring HIV/AIDS training, which does apply to licensed child care facilities. No cost analysis is needed, since there is no change from the current requirement. The HIV/AIDS training must be taken one-time only, and the licensee must maintain a bloodborne pathogens plan and train staff on its how to implement the plan.
The licensee and each staff person must have written proof of attending a Washington State Labor and Industries Bloodborne Pathogen class or comparable bloodborne pathogens training. **Justification** The reference to OSHA is incorrect. Washington	The proposed rule was not change as a result of this comment. However, the department has withdrawn the content of proposed WAC 170-296A-1850, and replaced it with the requirement in current WAC 170-296-0240. With input from the Seattle-King County Public Health the Department has determined that HIV/AIDS training is required

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State Labor and Industries Bloodborne Pathogen requirement supersedes OSHA.	by law for child care agencies. The licensee and all staff must attend HIV/AIDS training and the licensee must maintain a bloodborne pathogens ("BBP") plan. The revision is consistent with RCW 70.24.310, which applies to licensed child care facilities.
Recommend: (1)The licensee and each staff person must have written proof of attending ~~a U.S. Occupational Safety and Health Administration (OSHA) certified or comparable bloodborne pathogens training~~ a HIV/AIDS training that meets the requirement of WAC 246-12-270 that is a minimum of 2 hours. This training may include other bloodborne pathogens. (2)The licensee must provide to each staff member an annual Occupational Exposure to Bloodborne Pathogens training that complies with WISHA WAC 296-823-100 for employers.	The proposed WAC 170-296A-1850 (1) was changed as a result of this comment, with certain wording changes (see above). Suggested subsection (2) was not adopted. The Licensee must have a written BBP plan.
41. Issues raised in public comments on proposed WAC 170-296A-1875 Primary staff person :	**Was the proposed rule changed as a result of this comment?**
Imposing such restrictions on home child care will leave some to have to close and inconvenience parents who don't mind if their child is watched by staff who are more than qualified to stand in for an hour or two here and there.	The proposed WAC was not changed as a result of these comments. Any person who is providing unsupervised care to children must be capable of handling all of the safety and health responsibilities of the licensee and many of the reporting duties of the licensee in the licensee's absence. The requirements for a primary staff person in the rules are consistent with qualifications recommended by the Negotiated Rule Making Team comprised of FHCC licensees, SEIU representatives, advocates and DEL.
Issues raised in public comments on proposed WAC 170-296A-1910 Basic 20-hour STARS training :	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-1975 (9) (a) Concerns: The required Basic 20-hour STARS training for both licensee and primary staff person should provide an alternative equivalent training and experience level for those licensees and primary staff who have provided licensed care for years prior to the	The proposed WAC was not changed as a result of these comments. An individual who believes his or her documented training meets the qualifications of primary staff person could apply for an exception to the 20-hour STARS Basic Training requirement.

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development of a 20-hour STARS training component. A daycare employee may have been working with children for many years, having the experience and training provided by the licensee that should allow that employee to move to the status of primary staff person without the need for the twenty hours of STARS training. There should be a grandfathering in or experience alternative added to allow a certain level of training to meet this requirement. Just as the maximum licensed capacity standards list a licensee working alone must have "at least two years of experience and 30 hours of ongoing early childhood education equivalent STARS training" to work alone with 10 children age 3-12, there should also be a similar training and experience alternative offered in lieu of the twenty hours of STARS training. Suggested Changes: A primary staff person must complete the basic twenty hours of STARS training prior to working unsupervised with the children or have at least two years experience and 20 hours of ongoing early childhood education equivalent STARS training.	The department would evaluate the training and determine if it is equivalent to the 20-hour STARS training.
This rule could cause my rates to go up and cause more financial distress on working families. Not a good thing for our economy.	The proposed WAC was not changed as a result of these comments. The current rules require the primary staff person to take the 20-hour STARS basic training. The new rules only changes when the primary staff person must take the training (before versus after employment) compared to the current rules. This change should not increase the cost of providing care.
44. Issues raised in public comments on proposed WAC 170-296A-1925 Assistants and volunteers - Supervision :	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-1925 (3) How can anyone think you can be in visual and auditory range at all times? I think it is a good goal, but almost impossible. You can be in the same room with someone and have your back turned to attend to something or someone's needs. I think this is unrealistic to think this is always possible.	The proposed WAC was not changed as a result of these comments, but was revised for clarity. Different levels of child safety awareness can be associated with whether the caregiver is in sight or hearing range of the child. A caregiver's focus and attention is not necessarily directed towards the child's safety and well-being when the

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	caregiver is frequently within hearing distance but not within sight. To ensure an infant's or toddler's safety and well-being, the caregiver should be, as much as possible, within both sight and hearing range of the child. The proposed and adopted rule provides reasonable exceptions when the licensee or primary may be in visual or auditory range of an assistant or volunteer, when the licensee or primary staff person is attending to his or her personal needs. A definition of "personal needs" has been added to WAC 170-296A-0010 for clarity, as follows: *"Personal needs" means an individual's hygiene, toileting, medication, cleansing, eating or clothing needs. "Personal needs" does not mean smoking or use of tobacco products, illegal drug use or misuse of prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unattended.*
What does "personal needs" in this section mean?	The proposed WAC was changed as a result of these comments. A definition of "personal needs" is included in adopted WAC 170-296A-0010 Definitions for clarity, as follows: ***"Personal needs"*** *means an individual's hygiene, toileting, medication, cleansing, eating, or clothing needs. "Personal needs" does not mean smoking or use of tobacco products, illegal drug use or misuse of prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unsupervised.*
Issues raised in public comments on proposed WAC 170-296A-1975 Licensee/staff qualifications and requirements table:	**Was the proposed rule changed as a result of this comment?**
The asterisk under "food handler permit is confusing. Could the text for this note be put into the tables.	The proposed WAC was changed as a result of these comments. The table is 170-296A-1975 is revised to move the note referenced by the asterisk to within the table, and to remove the asterisk.
47. Issues raised in public comments on proposed WAC 170-296A-2000 Record keeping; Records available to the department :	**Was the proposed rule changed as a result of this comment?**
(3) Provide DEL any records 1-5 years old within 2 weeks – needs to be more specific as to what kind of records connected only to the FCC	The proposed WAC was changed as a result of these comments. Revised the rule for clarity. All records required under chapter 170-296A must be kept for a minimum of five years. The

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business and quantity?	licensee must provide DEL a requested record required under this chapter within two week of DEL's written request. ***WAC 170-296A-2000 Recordkeeping--Records available to the department.*** *The licensee must keep all records required in this chapter for a minimum of five years.* *(1) Current records (including records from the previous twelve months) must be kept in the licensed space as defined in WAC 170-296A-0010 and be available for department's review.* *(2) Records older than twelve months to five years old must be provided to the department within two weeks of the date of the department's written request.* This entire rule is consistent with the recommendation of the Negotiated Rule Making Team.
Issues raised in public comments on proposed WAC 170-296A-2050 Child records – Contents :	**Was the proposed rule changed as a result of this comment?**
Can the provider accept a comparable immunization form? Who needs to sign it.	The proposed WAC 170-296A-2050 was changed as a result of these comments Senate Bill 5005, passed in 2011, requires that the certificate of immunization status (CIS) form, as well as the medical exemption form, must be signed by a health care professional. The form must either be the DOH CIS form or other format approved by DOH. A religious or personal exemption may be either a DOH form or comparable statement, and must be signed by the child's parent or guardian. WAC 170-296A-2050 (1)(d) is revised to reflect this change, as follows: *WAC 170-296A-2050 Child records -Contents. (1) The licensee must have an enrollment record for every child who is enrolled and counted in capacity. Each child's enrollment record must include the following:* *…(d)(i) The child's current immunization record, on a DOH child immunization status form or comparable form completed by a health care professional; or* *(ii) A medical exemption form signed by a health care professional; or* *(iii) A religious, philosophical, or personal exemption form or similar statement signed by the child's parent or guardian…*

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	A similar change is made in adopted WAC 170-296A-3300.
Is a visiting health professional in (3)(d)coming to the home?	The proposed WAC 170-296A-2050 was changed as a result of these comments. The rule was revised to reflect a visiting health professional "*providing services to the child in the family home child care.*"
Issues raised in public comments on proposed WAC 170-296A-2075 Licensee and staff records :	**Was the proposed rule changed as a result of this comment?**
2075(5) DEL does not always return background check clearances ever, let alone timely.	The proposed WAC was not changed as a result of these comments The department must send a background clearance (authorization) or disqualification letter to the licensee. If the licensee does not receive a clearance or disqualification letter, the licensee should contact the DEL licensor to find out why. Some fingerprint-based criminal background checks had been delayed several weeks to several months due mainly to the ink fingerprints (usually done a local police agency) being of unusable quality, and the individual having to be re-fingerprinted and the prints resubmitted to the FBI. In 2011 DEL began using contracted digital fingerprint services statewide, and the error rate has declined sharply. So has the amount of time needed to complete a fingerprint-based criminal history check.
Issues raised in public comments on proposed WAC 170-296A-2100 Required records for household members:	**Was the proposed rule changed as a result of this comment?**
2100(2) Character & Suitability Review for 13-16 years of age of household member & staff No definition for character & suitability; no criteria; who will judge; DEL form?; disqualification for future; character & suitability who are disqualified have hearing rights?	The proposed WAC was not changed as a result of these comments. See the response to comments on WAC 170-296A-1225.
WAC 170-296A-2100 Required records for household members (3) TB test results under WAC 170-296A-1750 for: (a) Household members sixteen years old or older Concerns: There are family members who are never home during daycare operation hours and/or never in contact with the children in care and should not need to be tested for TB. Suggested Changes: This should be revised to add "who will have contact with or	The proposed WAC was not changed as a result of these comments. A household member who has undetected latent or active TB – even if they do not have contact with children in care – raises the risk of infecting other household members who do have contact with the children. TB requirements apply to everyone in the licensee's household age 16 and older, and all staff, to help reduce the risk of TB infection for the children in care.

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provide care for the children."	
Issues raised in public comments on proposed WAC 170-296A-2125 Child attendance records – Staff to child ratio records:	**Was the proposed rule changed as a result of this comment?**
2125(2) Names of staff being counted to meet daily staff/child ratios.	The proposed WAC 170-296A-2125 was not changed as a result of these comments. Names of staff counted in daily staff-to-child ratio are needed to: • Provide documentation that the licensee had the required staff with minimum qualifications on duty – particularly when the licensee is absent; and • In case of emergencies, injuries, or alleged child abuse/neglect, help DEL or DSHS CPS determine which staff person were on duty at the time and whether applicable rules and laws were followed.
53. Issues raised in public comments on proposed WAC 170-296A-2150 Facility records :	**Was the proposed rule changed as a result of this comment?**

a. Summarized Comments received on the proposed new WAC 170-296A	**b. Department response, including whether the proposed rule was changed as a result of the comment(s).**
How might this proposed rule might be applied to "used or handmade equipment." Does this WAC mean that everything I buy must be new? I have 6 children ranging in age from 2mths to 11 years it can be different every year I cann't buy new all the time but I must buy equipment to stimulate the brain and work the Large and small muscles, and the interest of children which I rotate toys and equipment to do that. I don't make the big money doing this job so I do with what I have and what I can buy at a deal and those deals don't come with directions. Assembly instructions for play equipment? What if I made it myself? Will this eliminate all home-made equipment? What if I bought it at a garage sale, or a daycare customer gives it to me and I don't have the original instructions? This is a burdensome rule that is not necessary. Please remove this rule. Many play equipment items are bought second-hand or have already been in use prior to this rule. Would all existing equipment then have to be removed if the instructions had not been retained?	The proposed WAC 170-296A-2150 was changed as a result of these comments. The Department recognizes that the licensee may not have instructions for new or used play equipment purchased in the past, or handmade play equipment. The Department has revised proposed WAC 170-296A-2150(5) as follows: *WAC 170-296A-2150 Facility records. The licensee must keep the following facility records:* *…(5) Installation or assembly instructions for new play equipment under WAC 170-296A-5000(3). This requirement does not apply to used or "hand-made" play equipment built or installed by the licensee or homeowner, or to play equipment purchased prior to March 31, 2012;…* See related changes to WAC 170-296A-5000.
Issues raised in public comments on proposed WAC 170-296A-2175 Materials that must posted:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-2175 Materials Posted How many bulletin boards do you think this will take? I don't have enough wall space for all of this. Why do we need it posted when it's in our Parent handbook? My parents would not stand around long enough to read one of those things - they're in a hurry to get to work and then when picking up in a hurry to get home. This will be a big waste of time and expense. 6/19/2011 Concerns: Too many displayed items will create a clutter and distract from the necessary safety postings. Suggested Changes: Remove items 1,7,8	The proposed WAC was not changed as a result of these comments. Posting this information gives prospective parents an opportunity to gain an impression of the licensee's philosophy immediately upon entering the child care. The rule does not prescribe how the licensee posts the information. Many of the required items could be posted together on a clip board, in a binder or some other method, as long as they are kept where parents and guardians may review them at any time during operating hours. Certain items, such as the number for the Washington Poison Center, the child

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
as these are all included in the licensee's parent handbook and need not be displayed. – Just post license, fire and emergency numbers. Remember this is a home not a center. Excessive postings may hinder anyone looking for emergency info. Trying to search through all of this could cost precious time in getting help quickly.	abuse "End Harm" toll free number, and other information needed in an emergency should be posted where the licensee or staff may find and use them quickly. Posting of the license, department phone number and current enforcement actions is required by RCW 43.215.525.
Issues raised in public comments on proposed WAC 170-296A-2200 Reporting incidents to 911 (emergency services):	**Was the proposed rule changed as a result of this comment?**
Are subsection (3) and (4) regarding giving medications incorrectly the same?	The proposed WAC 170-296A-2200 was changed as a result of these comments. These subsections are similar, but not the same. But the rule is revised to combine WAC 170-296A-2200 (3) and (4) and revise the wording for clarity, to read: "The licensee or primary staff person must report to 911 emergency services the following: (3)… Giving a child too much, any oral, inhaled or injected medication or giving medications to the wrong child"
Issues raised in public comments on proposed WAC 170-296A-2225 Reporting incidents to Washington poison center :	**Was the proposed rule changed as a result of this comment?**
2225 Must call 911 first, then poison control…should be reversed? Should depend on circumstances 6/3/2011	The proposed WAC 170-296A-2225 was not changed as a result of these comments. This order of actions in the rule is recommended by the Washington Poison Center.
Issues raised in public comments on proposed WAC 170-296A-2250 Reporting incidents to a child's parent or guardian and the department:	**Was the proposed rule changed as a result of this comment?**
Reporting Immediately/24 hours reporting differences from old WAC-plan to move & date.	The proposed WAC 170-296A-2250 was changed as a result of these comments. The rule is changed to be consistent with 170-296A-1475 – regarding notice when the licensee makes plans to move.
WAC-2250 How is reporting a change in e-mail address within 24 hours, how is this something that affects the health and safety of the children? Many providers don't have computers. This	The proposed WAC 170-296A-2250 was not changed as a result of these comments. Current contact information is needed for contact purposes and for DEL to promptly provide urgent information to child care

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should not be required. Phone number should be sufficient.	licensees statewide. DEL has increasingly used its capacity to distribute urgent or important information to licensees, by mass e-mail distribution. The rule does not require a licensee to have a computer or e-mail address.
Issues raised in public comments on proposed WAC 170-296A-2275 Other incident reporting to the department:	**Was the proposed rule changed as a result of this comment?**
1. In proposed WAC 170-296A-2275(2)(a)(i), the phrase "reasonable expectation" is not defined. I report to the parents whom I provide care not to my licensor. This is intrusive and unreasonable if I can be fined or written up for being in the hospital, an accident or have to have someone else make calls for me because I'm sick. 2. In proposed WAC 170-296A-2275(2)(b)(i), this section should be modified to say: report a charge or conviction for a crime "reasonably related to providing care for children".	1. The proposed WAC 170-296A-2275(2)(a)(i) was not changed as a result of these comments. Required reporting under WAC 170-296A-2275(2)(a)(i) should occur when the licensee determines that an illness or injury may affect his or her ability to continue providing child care. The proposed rule allows the licensee to assess his or her health condition and make the appropriate decision. Depending on each licensee's health condition and despite the fact that two licensees may have the same symptoms or disease, the ability to provide care in the future may, or may not, be reasonable. Every case is different and the proposed rule allows an appropriate level of discretion for the licensee to determine whether it is feasible to provide future care. The Department and parents need to know that if the licensee plans to remain open while the licensee is incapacitated, that qualified staff will be left in charge and those staff know what their responsibilities for following the WAC in the licensee's absence. The rule allows someone else to contact the department if the licensee is incapacitated. Also, proposed WAC 170-296A-2275(2)(a)(i) is consistent with the following recommendation voted by the Negotiated Rule Making Team: *"(The) Licensee or another person must notify licensor as soon as possible and not later than 24 hours of emergency absence when the physical and/or mental health of the provider prevents them from meeting minimum licensing requirements to provide direct care. A plan that meets all applicable WAC for the situation is required."* Source: August 8, 2009 NRMT meeting notes.

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	2. The proposed WAC 170-296A-2275(2)(b)(iv) was changed as a result of these comments, as follows: *(iv) ~~Other~~ Pending charge, conviction, or negative action from outside Washington state consistent with or the same crime listed in WAC 170-06-0120, or "negative action" as defined in RCW 43.215.010.. ~~for a crime that could be reasonably related to the individual's suitability to provide care for or have unsupervised access to children in care;~~* The proposed rule required the reporting of a charge or crime listed in WAC 170-06-0120 (director's list). The suggested change by is subject to interpretation and would allow a licensee to argue that a particular charge or crime in WAC 170-06-0120 is not necessarily related to child care; therefore, the licensee had no obligation to report. The Department respectfully denies the request for the Department to modify or withdraw proposed WAC 170-296A-2275(2)(b)(i). However, the Department will modify proposed WAC 170-296A-2275(2)(b)(iv) to narrow its scope as described above.
WAC 170-296A-2275 Other incident reporting to the department. (2) The licensee must report to the department within twenty-four hours: (a) Serious illness or incapacity of the licensee, staff or member of household, if the licensee: (i) Has a reasonable expectation that the illness or incapacity will affect the licensee's ability to provide care; and (ii) Is going to continue to provide care.	The licensee reports these changes to the Department. Under RCW 43.215.200, the DEL Director is authorized to set minimum requirements for licensure, including the: "(5) To prescribe the procedures and the form and contents of reports necessary for the administration of this chapter and to require regular reports from each licensee;"
Issues raised in public comments on proposed WAC 170-296A-2300 Reporting to DSHS Children's Administration intake:	**Was the proposed rule changed as a result of this comment?**
# 2300(3) Must report sexual contact between two children, even normal developmental stages?	The proposed WAC 170-296A-2300(3) was changed as a result of these comments and for clarity. The licensee must report

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Why isn't a child death reported to CPS and DEL immediately?	*"inappropriate sexual content."* The department agrees with that a child's death must be reported immediately. Proposed subsection 170-296A-2300(5) is revised as subsection (2), as follows: *(2) The licensee or primary staff person must immediately report to CPS or law enforcement and the department the death of a child while in the licensee's care or from injury or illness that may have occurred while the child was in the licensee's care.*
60. Issues raised in public comments on proposed WAC 170-296A-2325 Reporting notifiable condition to health departments:	**Was the proposed rule changed as a result of this comment?**
Reporting conditions to health department – No DEL reporting? Ecoli not on list?	The proposed WAC 170-296A-2325 was not changed as a result of these comments. Proposed WAC 170-296A-2325 requires the licensee to "report a child diagnosed with a notifiable condition as defined in chapter 246-105 WAC to the local public health jurisdiction or the state department of health (the "DOH"). Contact the local public health jurisdiction for the list of notifiable conditions and reporting requirements." The proposed rule incorrectly references DOH WAC 246-105 – the correct reference is to WAC 246-101. E-coli is included on the list of "notifiable conditions" contained in WAC 246-101-101. Under WAC 246-101-415(1) a licensee is required to "notify the local health department of cases, suspected cases, outbreaks, and suspected outbreaks of notifiable conditions that may be associated with the child day care facility." Proposed WAC 170-296A-2275 requires the licensee to report to the Department "any incidents or changes as required under WAC 170-296A-2325". Proposed WAC 170-296A-3200 and proposed WAC 170-296A-3210 differ from proposed WAC 170-296A-2325, because proposed WAC 170-296A-2325 only requires the licensee to make a report to the local public health department or DOH. Under proposed WAC 170-296A-2325 there are no further actions of the licensee required after making this report Taken together, proposed WAC 170-296A-3200(1) and proposed WAC 170-296A-3210(2), and WAC 170-296A-3325 require the licensee to take the additional step of following the

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	health plan before providing care or readmitting the household member, staff person or child into the child care. For clarity, the Department is combining WAC 170-296A-3210 and 170-296A-3225, and listing the illnesses and conditions that require the licensee to take steps to prevent the spread of specific communicable diseases, including E-coli infections, as follows: *WAC 170-296A-3210 Communicable disease procedure. (1) When the licensee becomes aware that he or she, a household member, staff person or child in care has been diagnosed with any of the following communicable diseases:*

Disease:	***Also known as:***
Chickenpox	*Varicella*
Conjunctivitis (bacterial)	*Pink eye*
Diphtheria	
E. coli infection	
Giardiasis	
Hepatitis A virus	
Invasive haemophilus influenza disease (except otitis media)	
Measles	
Meningitis (bacterial)	*Meningococcal meningitis*
Mumps	
Pertusis	*Whooping cough*
Rubella	*German measles*
Salmonellosis	*Salmonella or "food poisoning"*
Shigellosis	*Shigella*
Tuberculosis (active)	*TB*

The licensee must, within twenty-four hours notify:

(a) The local health jurisdiction or DOH, except notice is not required for a diagnosis of chickenpox, conjunctivitis, or invasive haemophilus influenza;

(b) The department; and

(c) Parents or guardians of each of the children in care.

(2) The licensee must follow the health plan before providing care or before readmitting the household member,

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	staff person or child into the child care. *(3) The licensee's health plan must include provisions for excluding or separating a child, staff person, or household member with communicable disease as described in subsection (1) of this section or any of the following:* *(a) Fever of one hundred one degrees Fahrenheit or higher measured orally, or one hundred degrees Fahrenheit or higher measured under the armpit (axially), if the individual also has:* *(i) Earache;* *(ii) Headache;* *(iii) Sore throat;* *(iv) Rash; or* *(v) Fatigue that prevents the individual from participating in regular activities.* *(b) Vomiting that occurs two or more times in a twenty-four hour period;* *(c) Diarrhea with three or more watery stools, or one bloody stool, in a twenty-four hour period;* *(d) Rash not associated with heat, diapering, or an allergic reaction; or* *(e) Drainage of thick mucus or pus from the eye.*
62. Issues raised in public comments on proposed WAC 170-296A-2375 Parent/guardian policies (handbook):	**Was the proposed rule changed as a result of this comment?**
To make sure we are 'documenting our conversations with parents regarding child's development', because we just aren't busy enough now and parents don't have the mental capacity to choose a learning -oriented daycare.	The proposed WAC 170-296A-2375 was not changed as a result of these comments. The rule requires that the licensee have a plan to communicate with parents about their child's development, but does not require that the communication be documented.
Communications on a child's progress should be on an as needed basis. This should not be included in the parent policies. Period.	The rule requires that this communication occurs at least twice a year, but the licensee could choose to communicate with parents more often. Communication with a child's parents is important to let the parent know about changes they may be unaware of, and to give and receive feedback that may aid in the care being provided to the child.
Suggestion: Change the references from "dispense" to "give" or other appropriate term. Change the strengths as indicated below as these are the correct strengths that need to be	The proposed WAC 170-296A-2375 was changed as a result of these comments. (23)(c) through (g) are revised to read: (c) Medication management including storage and ~~dispensing~~

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reflected in the WAC. **Justification** Chapter 170-296 WAC should not indicate that child care providers can "dispense". Only health care professionals can prescribe, administer, and dispense medications. Section 23 (g) (ii) contains several references to sanitizing, but no reference to disinfection. The terms sanitizing and disinfection are being used interchangeably throughout the chapter. Disinfection kills 100 percent of bacteria while sanitizing kills 97-99 percent of bacteria. Many disinfectants such as quaternary ammonium and phenolic compounds, including Pinesol, Lemon Quat, Lysol, Clorox Clean-Up Cleaner, etc., leave a residue that can be harmful to children if left on surfaces touched by children. (North Dakota Child Care Resource and Referral, 2009) Rinsing of the surface with clean water after sanitizing and disinfecting needs to occur in order to remove the residue and make the surface safe for children. The 2009 North Dakota Child Care Resource and Referral states: "Clorox bleach is the only brand of bleach EPA registered as a disinfectant and sanitizer, and is known to have the percentage of sodium hypochlorite printed on the label. If the bleach label does not state the percentage of sodium hypochlorite, it is best not to use it." The incorrect strength for sanitizing and disinfecting are used in the draft language. The same chemical used for sanitizing can also be used for disinfecting in most instances, but requires higher concentrations or increased contact time or both. The WAC contains ¼ teaspoon of bleach to 1 quart of cool water for sanitizing. This strength is too low. For example the strength of chlorine bleach at 5.25% concentration or higher represents sanitizing at 1	giving (administering) medications. See WAC 170-296A-3325; (d) Exclusion/removal policy of ill persons. See WAC 170-296A-3225; (e) Reporting of notifiable conditions to public health; (f) Immunization tracking. See WAC 170-296A-3250; and (g) Infection control methods, including: (i) Handwashing (WAC 170-296A-3625) and, if applicable, hand sanitizers (WAC 170-296A-3650); and (ii) Cleaning, ~~and~~ sanitizing, <u>and disinfecting</u> procedures including the method and products used. See WAC 170-296A-3850 through 170-296A-3925; Where appropriate throughout the chapter, "administer" medications has been changed to "give" or "take" depending on the context. A new definition of "disinfect" has been added to WAC 170-296A-0010 Definitions, and the appropriate bleach concentration and water for disinfecting a surface is stated in each rule section where disinfecting strength is required. The cleaning and sanitation table in WAC 170-296A-3925 is changed to a "Cleaning, sanitizing and disinfecting table" with appropriate designations for sanitizing or disinfecting each item or surface noted throughout the table. The Department declines to require a specific brand of chlorine bleach to be used in licensed FHCCs, but wherever "bleach" is used in the proposed rule has been changed to "chlorine bleach" in the adopted rules. Caring for Our Children notes that liquid chlorine bleach available at retail, including higher concentration "ultra" brands, can be mixed at the required bleach/water ratios stated in the adopted rules for sanitizing or for disinfecting.

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teaspoon to the quart of cool water and 1 tablespoon to a quart of cool water represents disinfection strength.	
Issues raised in public comments on proposed WAC 170-296A-2400 Program/staff policies:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-2400 program/operations policies seems like it is a repeat of the policies and procedures. This needs to be clarified on why it's needed and what we are doing with it.	The proposed WAC 170-296A-2400 was changed as a result of these comments to note that in addition to parent policies, the licensee must have the program/operation policies listed in WAC 170-296A-2400.
Issues raised in public comments on proposed WAC 170-296A-2450 Offsite activity policy:	**Was the proposed rule changed as a result of this comment?**
The licensee must have a written policy for off-site activities that includes: (1) Parent notification and permissions Concerns: If off-site activities include daily walks to the park or around the neighborhood it is unreasonable to expect the provider to give parent notification and gain permissions. This permission is given on the Permission Authorization Form "take my child on walks". Suggested Changes: Remove this rule.	Proposed WAC 170-296A-2450 was not changed as a result of this comment. However the adopted WAC references WAC 170-296A-6400 Off-site activities – Parent or Guardian permission. WAC 170-296A-6400 was changed to allow for a permission for activities that may occur often, even impromptu activities, as follows: *"(2) For scheduled or unscheduled off-site activities that may occur more than once a month, the licensee must:* *(a) Have a signed parent or guardian permission on file for each child; and* *(b) Inform parents and guardians about how to contact the licensee when children are on an off-site activity."* However, the department does not plan to remove this rule.
Issues raised in public comments on proposed WAC 170-296A-2550 Requesting local fire department visit:	**Was the proposed rule changed as a result of this comment?**
This is regarding the proposed rule for requesting a visit from the fire dept., many providers have gotten negative responses from the fire dept. about this. They feel it is not their job to visit childcares.	The proposed WAC 170-296A-2550 was not changed as a result of these comments. The rule does not require the licensee to ask for a fire department inspection. The Department understands that not all fire departments or districts have the resources to visit family home child cares. But it is important to let the fire department or district know that a new family home child care is located within their service area. The fire department may have helpful suggestions about fire hazards, fire escape, and

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	other emergency preparedness issues.
Issues raised in public comments on proposed WAC 170-296A-2575 Flammable materials:	**Was the proposed rule changed as a result of this comment?**
Must not allow combustible materials or rubbish to be in building or stored in metal containers for rubbish? Most companies have plastic & won't allow metal cans.	The proposed WAC 170-296A-2575 was not changed as a result of these comments. This rule is to prevent of fire spreading if the combustible material catches fire (solvent soaked rags may combust spontaneously). It does not require the licensee to use the metal container for trash pickup. The container could be a metal coffee can or other small metal container with a closed lid, used to store the combustible material until it can be properly disposed of. However, the rule is clarified to delete "or rubbish".
69. Issues raised in public comments on proposed WAC 170-296A-2600 Furnaces:	**Was the proposed rule changed as a result of this comment?**
This should apply to other heating sources such as fireplaces. The old rules also required that hot surfaces be shielded from children when in use.	The proposed WAC 170-296A-2600 was changed as a result of these comments, as follows: *(1) The licensee must keep paper, rubbish, or combustible materials at least three feet away from any furnace, fireplace, or other heating device.* *(2) A furnace must be inaccessible to the children, isolated, enclosed or protected.* *(3) Any appliance or heating device that has a hot surface capable of burning a child must be made inaccessible to the children in care during operating hours when the appliance or device is in use or is still hot after use.*
Issues raised in public comments on proposed WAC 170-296A-2650 Fireplaces, woodstoves, similar heating devices :	**Was the proposed rule changed as a result of this comment?**
The proposed rule "needs a financial impact study." In additions, not all "non-wood burning devices" require regular cleanings. This rule should be withdrawn. The cost of having a certified chimney inspection every year would be a hardship for many providers. Especially if the fireplace is not used	The proposed WAC 170-296A-2650 was changed as a result of these comments. The Department respectfully denies the request to withdraw this proposed rule. The Department completed and filed a small business economic impact statement for proposed WAC 170-296A-2650. In 2010, the Washington State Fire Marshal reported that among the 2,872 structure fires reported in Washington between 2006 and 2010, 703 (24.5%) were

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during child care hours, or at all. 5/11/2011	chimney or flue fires, and were the second highest cause of home structure files. See *page 24, 2010 Fire in Washington, prepared by the Office of the State Fire Marshal*. The State Fire Marshal recommends that woodstoves and similar wood-burning devices be annually inspected and cleaned. See home heating – Preventing Fires Due to Home Heating, incorporated herein by this reference and found at http://www.wsp.wa.gov/fire/docs/prevention/home_heating.pdf. Also, the National Fire Protection Association notes that home heating fires remain a leading cause of fire injury or death. See http://www.nfpa.org/newsReleaseDetails.asp?categoryid=2163&itemId=49659. The NFPA recommends annual chimney inspection and maintenance. The rule as proposed was consistent as recommended by the Negotiated Rule Making Team. The intent of the phrase "similar heating devices" was intended to mean devices similar to fireplaces and woodstoves, not to gas, propane or oil burning devices. But for clarity, the department will revise the rule as follows: "(1) ~~If the~~ Any chimney, ~~home has a~~ fireplace, woodstove or similar wood-burning ~~heating~~ device ~~that will be~~ in use in the licensed home~~, the licensee~~ must be inspected yearly, unless the licensee provides a signed statement that the chimney fireplace, woodstove or similar wood-burning device will not be in use at any time~~:~~ ~~(a) Have the device inspected annually by a qualified fireplace, wood stove or Chimney specialist; and~~ ~~(b) Maintain the heating device as required by the inspection.~~" The adopted rule does not require inspection by a commercial chimney specialist; the licensee/homeowner could make the inspection. This may eliminate the inspection cost for many licensees noted in the small business economic impact statement.

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WAC 170 296A 2650 Woodstoves and fireplaces My Licensor told me I'm not allowed to use the woodstove during operation of my Daycare according to the WAC but you want me to spend more money and have it checked out yearly why? Fireplaces, woodstoves, similar devices must be inspected yearly unless you provide written statement you will not use at any time – then what happens in a disaster or emergency?	The rule does not require a licensee to stop using a fireplace or woodstove, but does require that the fireplace, woodstove, or any heat-generating device located in the licensed space be inspected. If the fireplace or woodstove could not be made inaccessible to the children, then it is possible that the department would disallow its use or use of the room as licensed space. The rule allows the licensee to provide a written statement if the wood stove or fireplace will not be in use. Both the State Fire Marshal and National Fire Protection Association strongly recommend that the chimney of wood stoves and similar wood burning devices be inspected annually to reduce the significant risk of chimney fires. According to the State Fire Marshal, chimney fires are the cause of more than 20 percent of residential structure fires in Washington. If the licensee anticipates using the wood burning device as an emergency backup heat source, the device's chimney should be inspected and properly maintained. Many chimney fires start when an inactive fireplace, wood stove or wood burning device is used for the first time without prior inspection for past creosote buildup.
Issues raised in public comments on proposed WAC 170-296A-2725 Portable heaters and generators:	**Was the proposed rule changed as a result of this comment?**
The licensee must not use or allow the use of portable heaters or fuel powered generators in any area inside of the family home child care or building during operating hours. <u>Outside placement must be at least 15 feet from buildings and not where exhaust fumes can be drawn into the home through attic vents, windows, or doors. Appliances may not be plugged directly into the generator. Connection of generators to house wiring must be done by qualified electricians as specified by the Department of Labor and Industries.</u> **<u>DOH Justification</u>** Incorrect use of fuel powered generators can lead to carbon monoxide (CO) poisoning from the toxic engine exhaust, electric shock, or electrocution and fire. It is very important not to	The proposed WAC 170-296A-2725 was changed as a result of these comments. Subsection (2) of the adopted rule is revised as follows: *(2) When a portable fuel-powered generator is in use:* *(a) The generator must be placed at least fifteen feet from buildings, windows, doors, ventilation intakes, or other places where exhaust fumes may be vented into the home; and* *(b) Appliances must be plugged directly into the generator or to a heavy duty outdoor-rated extension cord that is plugged into the generator.* But the comment is incorrect about plugging in appliances. The DOH website http://www.doh.wa.gov/phepr/handbook/generator.htm says:

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
use those generators in or near garages, carports, basements, or any other enclosed are, even with ventilation. For more information on the hazards of generator use, see: http://www.lni.wa.gov/TradesLicensing/Electrical/files/currents/elc0710special%20.pdf Using a Generator During Power Outages: http://www.doh.wa.gov/phepr/handbook/generator.htm	"Plug appliances directly into the generator, or use a heavy duty, outdoor-rated extension cord that is rated (in watts or amps) at least equal to the sum of the connected appliance loads…" Regulating house wiring is beyond the DEL scope of authority – The Department declines to revise the rule with respect to this comment.
Issues raised in public comments on proposed WAC 170-296A-2775 Telephone:	**Was the proposed rule changed as a result of this comment?**
The rule should be modified or withdrawn the requiring the licensee possess a landline telephone not requiring electricity. In this day and age there must be more than one way to stay connected to Emergency calls. You can still call out during a power outage using Comcast lines. And everyone has cells these day. Maybe it should be more than one line available. 1. The proposed rule cannot be followed as written because all phones, even landline phones, require electricity to function. Telephone service requires electricity whether it is delivered by traditional landline phones or with a VoIP modem. So a rule requiring a telephone that "does not require electricity" is an impossible rule to follow. For that reason alone, the proposed rule must be revised. 2. The proposed rule is based on a false assumption that VoIP service fails in a blackout, but that traditional phone service does not. Traditional landline telephones can only continue to operate in a blackout if the telephone company maintains back-up power at the telephone company's switch. Washington State rules require local telephone companies to provide backup capabilities, including five hours	The proposed WAC 170-296A-2775 was changed as a result of these comments. The Department has received information that, under WAC 480-120-411(3), local exchange companies providing local telephone service are required to maintain reserve battery capacity to their telephone system in the event of a power outage. The Department revised the adopted WAC 170-296A-2775 to say the following: ***WAC 170-296A-2775 Telephone.*** *(1) The licensee must have a working telephone in the licensed space.* *(2) The licensee must have a telephone readily available with sufficient backup power to function for at least five hours in case of an electrical power outage.* The Department has received questions and comments asking whether a landline phone may be plugged into a standard telephone jack and work for the purpose of calling 911. The Department has determined that such connection would not work if the licensee does not have active telephone service. So, the licensee must have a working telephone, which requires either an active service account with a telephone service provider that provides local exchange and 911 service. The requirement to have a working telephone in the licensed home is not new – it has been in the rules for many years.

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of battery power at central offices without a generator. WAC 480-120-411. If the power goes out and the telephone company's back-up power is exhausted, the telephone cannot be used to make or receive calls (even to 911) until the power comes back on. Similarly, if a storm snaps the phone line, the telephone will not work at all. Like traditional landline telephones, VoIP telephones can continue to operate in a blackout if there is back-up power. Although neither traditional circuit switched telephone service nor VoIP is guaranteed to work indefinitely in a prolonged outage or severe storm, there is no reason to require licensees to use the older, traditional technology. 3. The proposed rule unfairly favors older technology, in contravention of state and federal policy that favors regulation that is neutral as to competition and technologies. It unfairly discriminates against cable VoIP service and in favor of traditional telephone service. This type of discrimination runs contrary to the fundamental principle that the government should ensure a level playing field in which businesses compete for customers based on service and innovation. Washington State law embodies principles of competitive neutrality and technological innovation. RCW 80.36.300 declares that it is the policy of the State of Washington to "[m]aintain and advance the efficiency and availability of telecommunications service," and to "[p]romote diversity in the supply of telecommunications services and products in telecommunications markets throughout the state." Allowing the use of innovative technologies such as VoIP is essential to maintaining and advancing efficient and available telecommunications service. 4. The Department can accomplish its goals with a simple revision to the proposed rule. With minor revisions, the Department of Early	

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Learning can accomplish its goals with respect to ensuring that licensees have reliable telephone service in a way that (1) is possible to obey, (2) reflects VoIP's ability to continue working in a blackout, and (3) is competitively neutral. Instead of the current proposed text, the new WAC 170-296A-2775 could instead read as follows: (1) The licensee must have a working telephone in the licensed space. (2) The licensee must have a telephone readily available with sufficient back-up power to function for at least five hours in the event of a blackout. The above language is feasible and fair,* and would ensure that licensees have adequate abilities to communicate to parents, emergency services, and others. That would, in turn, help the Department accomplish its larger goal of educating and protecting the children of Washington State, without interfering with licensees' ability to choose the technologies that best meet their needs. *The five hour back-up power requirement will place VoIP services on a level playing field with incumbent local exchange carriers who, by rule, must maintain five hours of battery back-up power at the central office. *See* WAC 480-120-411(3).	
170-296A-2775(2) If a provider's home gets good cell service, that should be adequate for a phone. A landline should not be required. This WAC puts one more unnecessary cost on the provider. Please change this to cell phone or landline. 170-296A-1850 So a cell phone is required. That will add a cost to providers who do not have a cell phone. But what if now they carry one, but there is no service where they are? This is a waste of money. Please delete this WAC. Received by e-mail 6-20-11 in 13 installments,	The rule was revised to eliminate the requirement of a land line phone, as follows: ***WAC 170-296A-2775 Telephone.*** *(1) The licensee must have a working telephone in the licensed space.* *(2) The licensee must have a telephone readily available with sufficient backup power to function for at least five hours in the event of an electrical power outage.*
Issues raised in public comments on proposed	**Was the proposed rule changed as a result of this comment?**

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
WAC 170-296A-2850 Disaster plan:	
Concerns: These types of plans should be provided to the licensee by the WAC or DEL to ensure all licensees are following best practices as expected by the WAC. The responsibility for writing these important procedures should not be left to the licensee. How is the licensee to know what the expectations of licensor are for these rules? Suggested Changes: The WAC or DEL should provide these procedures for uniformity of use and best practice by all licensees.	The proposed WAC 170-296A-2850 was not changed as a result of these comments. Template emergency preparedness plans are available from local emergency management agencies, local health jurisdictions, and some fire departments. Individual licensees may have different plans depending on their circumstances, so a one-size plan would not be appropriate. A definition of "lockdown" and "shelter-in-place" in added to WAC 170-296A-2850 as adopted for clarity.
Issues raised in public comments on proposed WAC 170-296A-2875 Fire, disaster training for staff and volunteers:	**Was the proposed rule changed as a result of this comment?**
Change (1)(c) to: How to test the smoke and Carbon Monoxide detectors and replace ~~smoke detector~~ their batteries; **Justification** The Legislature adopted RCW 19.27.530 directing the building code council to adopt rules to phase in requirements for carbon monoxide alarms in single-family residences. Over time, homes will be required to have alarms at the point of sale. Because infants and children are especially vulnerable to carbon monoxide poisoning, it makes sense to require alarms in home daycare settings now.	The proposed WAC 170-296A-2875 was changed as a result of these comments. The rule was revised consistent with the suggested change, with some modifications.
Issues raised in public comments on proposed WAC 170-296A-2900 Emergency drills :	**Was the proposed rule changed as a result of this comment?**
Concerns: Most providers know fire and earthquake drills but may not be as familiar with lockdown/shelter-in-place drills. Suggested Changes: Procedures need to be provided for the licensees to follow to ensure they are meeting the expectations of the WAC rule. When best practice procedures are provided to all licensees, there will be uniformity of implementation and understanding of expectations.	The proposed WAC 170-296A-2900 was not changed as a result of these comments Local emergency management, public health, fire dept, police departments are good source for template plans and guidance. WAC 170-296A-2875 describes the minimum elements of the require plans, but the details of a plan would be tailored to the layout of the home, the ages and mobility of the children in care, types and locations of emergency exits, and other factors specific to the licensee's home.
Issues raised in public comments on proposed WAC 170-296A-2925 Record of emergency drills:	**Was the proposed rule changed as a result of this comment?**
WAC 2925 (5)(a) and (b): The idea is to get	The proposed WAC 170-296A-2925 was changed as a result of

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everyone out ASAP and make sure they are safe. Providers should not have to write this down. This is making providers find fault with what they are doing. They should be concentrating on getting out as fast and safe as possible, Not what they need to write down.	these comments for clarity. Fire and emergency management officials who spoke with the negotiated rule making team noted the importance of practicing fire and evacuation drills often, and keeping notes on what was learned from these drills to help in an actual emergency. The information is intended to aid in improving the licensee's evacuation proficiency, not to find fault with their drills. Subsection (5) is revised for clarity, as follows: ***WAC 170-296A-2925 Record of emergency drills.*** *The licensee must keep records of emergency drills performed, and post the records as required in WAC 170-296A-2175. Records must include:* *…(5) Notes about how the drill went and improvements, if any, that need to be made.*
Issues raised in public comments on proposed WAC 170-296A-2950 Smoke detectors:	**Was the proposed rule changed as a result of this comment?**
WAC 2950 smoke detectors in the kitchen and batteries for each detector will be a significant cost to providers.	The proposed WAC 170-296A-2950 was not changed as a result of these comments. Placing smoke detectors "in the kitchen" was removed from the rule on recommendation of fire officials. The licensee must incur the cost of replacing batteries under the current rules, so they would bear this cost regardless.
Change **WAC 170-296A-2950 Smoke <u>and Carbon Monoxide</u> detectors** (1) The licensee must have and maintain working smoke <u>and carbon monoxide</u> detectors in the home. (2) At least one smoke detector must be located: (a) In each licensed sleeping area; (b) On each level of the home and <u>in accordance with manufacturer's instructions.</u> ~~(c) In the kitchen area.~~ (3) ~~Smoke detectors must be placed on the ceiling or wall, but not on the wall above any door.~~ (4) ~~One extra battery for each smoke <u>and carbon monoxide</u> detector must be kept on the premises.~~ <u>Carbon monoxide alarms must be</u>	The adopted rule was revised to require carbon monoxide detectors for homes built on or after July 1, 2010 per WAC 51-51, and require in each area licensed for sleeping or napping, with wording modifications. RCW 19.27.530 requires carbon monoxide detectors in new single family home construction and homes built after July 2009 (June 2010 in the building code rules), but specifically exempts homes built before this date. It is not clear if DEL may adopt rules requiring carbon monoxide detectors in older homes that are exempt by statute.

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installed in accordance with the manufacturer's instructions. **Justification** The Legislature adopted RCW 19.27.530 directing the building code council to adopt rules to phase in requirements for carbon monoxide alarms in single-family residences. Over time, homes will be required to have alarms at the point of sale. Because infants and children are especially vulnerable to carbon monoxide poisoning, it makes sense to require alarms in home daycare settings now.	
Issues raised in public comments on proposed WAC 170-296A-3025 Fire extinguisher, smoke detector use and testing :	**Was the proposed rule changed as a result of this comment?**
WAC 170 296A 3025 Fire Safety I had the fire Dept come out every year to check my home until budget cuts hit the fire dept and now they won't come out. When they did come out I was told every year do not touch my fire extingisher it was useless when I had children to get to safety. Remember your WAC Sight and hearing if I'm fighting a fire what will my children be doing? how do I keep them where they need to stay? How do I count my little heads to make sure they are safe and away from flames? how do I calm there fears? If I was home alone great use the darn thing but making me take another class on how to use it is crazy!	The proposed WAC 170-296A-3025 was not changed as a result of these comments. A fire extinguisher should be used only if needed to clear a path for the licensee or staff to get children to a fire exit, but not to try and put out the fire. The department will consider putting information about fire extinguisher use in guidance. The rule does not require the licensee or staff to take a class on fire extinguisher use, but each must know how to operate the fire extinguisher – otherwise the licensee or staff may not be able to use it to clear a path when needed. A new subsection (1) is added to WAC 170-296A-2825 to clarify that the licensee's and staff's first responsibility in a fire is to evacuate the children, as follows: ***WAC 170-296A-2825 Fire evacuation plan.*** *(1) If there is a fire in the home during child care operating hours, the licensee's and staff's first responsibility is to evacuate the children in care to a safe place outside the home….*
Why is it necessary to demonstrate fire extinguisher use to the licensor when it is done on a monthly basis? We are taught this in the 20	All staff, including staff who are not required to take the 20-hour basic training, must know how to use a fire extinguisher in case the licensee or primary staff person are incapacitated

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hour class.	during a fire. The licensor is required to verify that all staff and volunteers know how to use fire extinguishers, as well as how to test smoke or carbon monoxide detectors to be sure they are working. Demonstrating how to use the fire extinguisher provides verification that all staff are able to use one when needed.
WAC 170-296A-3025 Fire extinguisher, smoke, and carbon monoxide detector use and testing The licensee and staff must demonstrate to the licensor how to: (1) Use fire extinguishers; (2) Test and operate the smoke and carbon monoxide detectors; and (3) Test alternate alarm device(s). **Justification** The Legislature adopted RCW 19.27.530 directing the building code council to adopt rules to phase in requirements for carbon monoxide alarms in single-family residences. Over time, homes will be required to have alarms at the point of sale. Because infants and children are especially vulnerable to carbon monoxide poisoning, it makes sense to require alarms in home daycare settings now.	The rule is revised as a result of this comment to add carbon monoxide use and testing as suggested, if the home is required to have carbon monoxide detectors under WAC 170-296A-2950.
88. Issues raised in public comments on proposed WAC 170-296A-3200 Health plan:	**Was the proposed rule changed as a result of this comment?**
3200 Communicable disease reporting – but states contradictory/not same requirements as #2325?	The proposed WAC 170-296A-3200 was not changed as a result of these comments. However, WAC 170-296A-3210 was revised as described in the next section to clarify the difference between the requirement for reporting "notifiable conditions" to public health, and actions to take when a child, staff person or household member has a communicable disease.
89. Issues raised in public comments on proposed WAC 170-296A-3210 Communicable disease - Notice and procedure:	**Was the proposed rule changed as a result of this comment?**

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3200 Communicable disease reporting – but states contradictory/not same requirements as 3210 and 2325?	The proposed WAC 170-296A-3210 was changed as a result of these comments. WAC 170-296A-2325 only requires the licensee to report any of dozens of "notifiable condition" to the local health jurisdiction or to the state Department of Health – the rule does not require further action by the licensee. Conversely, WAC 170-296A-3210 and 3225 require several actions, up to excluding the child, staff person or household member, if they arrive at the child care with a shorter list of communicable diseases. To clarify these differences, WAC 170-296A-3225 is withdrawn and its content incorporated into WAC 170-296A-3210, as follows: *WAC 170-296A-3210 Communicable disease procedure. (1) When the licensee becomes aware that he or she, a household member, staff person or child in care has been diagnosed with any of the following communicable diseases:*

Disease:	***Also known as:***
Chickenpox	*Varicella*
Conjunctivitis (bacterial)	*Pink eye*
Diphtheria	
E. coli infection	
Giardiasis	
Hepatitis A virus	
Invasive haemophilus influenza disease (except otitis media)	
Measles	
Meningitis (bacterial)	*Meningococcal meningitis*
Mumps	
Pertusis	*Whooping cough*
Rubella	*German measles*
Salmonellosis	*Salmonella or "food poisoning"*
Shigellosis	*Shigella*
Tuberculosis (active)	*TB*

The licensee must, within twenty-four hours notify:

(a) The local health jurisdiction or DOH, except notice is not required for a diagnosis of chickenpox, conjunctivitis, or invasive haemophilus influenza;

(b) The department; and

(c) Parents or guardians of each of the children in care.

(2) The licensee must follow the health plan before

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90. Issues raised in public comments on proposed WAC 170-296A-3225 Exclusion of ill persons:	**Was the proposed rule changed as a result of this comment?**
Vomiting twice in 24 hour period, should be only once & stay home.	The proposed WAC 170-296A-3225 was not changed as a result of these comments. A child person vomiting one time may not be a sign of illness. It could be a one-time reaction not related to an illness. However, WAC 170-296A-3225 is withdrawn and it content incorporated into 170-296A-3210 in the final rules for clarity.
The licensee's health plan includes provisions for excluding or separating a child, staff person, or household member with communicable disease as described in WAC 246-110-010(4) or any of the following: (1) Fever of one hundred one degrees Fahrenheit orally or 100' F axillary or higher; (2) Vomiting that occurs two or more times in a twenty-four-hour period; (3) Diarrhea with three or more watery stools in a twenty-four-hour period or one bloody stool; (4) Rash not associated with heat, diapering or an allergic reaction; or (5) Drainage of thick mucus and pus from the eye. (6) Lice and/or nits	The proposed WAC 170-296A-3225 was changed as a result of these comments, in part. When the content of WAC 170-296A-3225 was moved to WAC 170-296A-3210, the recommended change to subsections (1) and (3) were made with minor wording changes. See the section above on WAC 170-296A-3210. The suggested new (6) was not added. The Department plans to take up the issue of exclusion of persons with head lice or nits in child care soon. There is wide variation of opinion among health professional as to whether a child or other person should be excluded from a child care who arrives with head lice or nits. The American Academy of Pediatrics does not recommend excluding or segregating a child who presents with head lice or nits, but suggests that at the end of the day the parent should be notified that their child may return to the child care after having treatment to remove the lice/nits.
Issues raised in public comments on proposed WAC 170-296A-3250 Immunization tracking:	**Was the proposed rule changed as a result of this comment?**
170-296A-3250 This WAC allows family child care providers to use the CIS form or a similar form supplied by a health care professional. Allowing "a similar form supplied by a health care professional" will reduce transcribing errors.	The proposed WAC 170-296A-3250 was not changed as a result of these comments to include. The commenter appears to agree with the content of the proposed rule.
WAC 170-296A-3250 Immunization tracking. The licensee is required to track each child's immunization status. The licensee must: (1) Except as provided in WAC 170-296A-3200 or 170-296A-3275, have a complete current certificate of immunization status (CIS) form ~~or similar form supplied by a health care professional~~ for each child, submitted on or	The proposed WAC 170-296A-3250 was not changed as a result of these comments to include. Senate Bill 5005, enacted in 2011, permits the health care provider to submit a letter comparable to the DOH-CIS form.

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before the child's first day of child care; (2) Develop a system to update and keep individual immunization records current to include when immunizations are received; and (3) Have the CIS ~~or similar~~ form for each currently enrolled child available in licensed space for review by the licensor;	
Issues raised in public comments on proposed WAC 170-296A-3300 Immunizations--Exemption:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-3300 Immunizations--Exemption. The licensee may accept a child ~~without any immunizations~~ with immunization exemption if the parent or guardians are in compliance with Washington Department of Health Senate bill 5005.	The proposed WAC 170-296A-3275 was not changed as a result of these comments. The suggested change would require the reader to locate and understand the changes in the law directed in SB 5005. However, the adopted rule specifies how a licensee may accept a child who (a) has a medical exemption signed by the child health professional or (b) has religious, philosophical or personal exemption signed by the child's parent or guardian. The adopted rule is revised to be consistent with 2011 Senate Bill 5005, so the licensee would not need to look up the legislation to comply. ***WAC 170-296A-3300 Immunizations--Exemption.*** *The licensee may accept a child without any immunizations if the parent or guardian provides:* *(1) Provides a DOH medical exemption form signed by a health care professional; or* *(2) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization.*
WAC 170-151-3300 Immunizations--Exemption. The program may accept a child without any immunizations if the parent or guardian: (1) Signs a statement expressing a religious, philosophical or personal objection to immunization. (2) Provides a DOH certificate of exemption form or similar statement. I. If a medical exemption, it must be signed by a health	The proposed WAC 170-296A-3300 was not changed as a result of these comments. However, see the revised rule above.

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care practicioner as defined in 28A.210.090 (3).. II. If a parent or guardian claims a religious, philosophical or personal exemption, for thei child, the form must be signed by the child's parent or guardian.	
Issues raised in public comments on proposed WAC 170-296A-3325 Medication storage:	**Was the proposed rule changed as a result of this comment?**
The medication storage table in WAC 170-296A-4100 should be located closer to this rule.	Proposed WAC 170-296A-3325 was changed as a result of these comments. The medication storage portion of the table in WAC 170-296A-4100 was removed from that section and moved up to WAC 170-296A-3325. Also, WAC 170-296A-3350-Child's emergency medications is withdrawn and its content is incorporated into WAC 170-296A-3325(2) for clarity.
Issues raised in public comments on proposed WAC 170-296A-3375 Medication permission:	**Was the proposed rule changed as a result of this comment?**
Suggested changes: (1) The licensee must have written permission from a child's parent or guardian to give a child any medication. The permission must include: (a) Child's name; (b) Name of the medication and condition being treated; (c) Dose to be given; (d) Frequency of dose, if non-prescription or prescribed but without written instructions. **Additional Comment Related to Medication Management**: The Child Care Center rules, WAC - 170-295-3060, contain specific references to medications that can be given. There is no comparable list in the family home child care rules. Those rules are much clearer about medication management. Consider prohibiting the use of over-the-counter teething gels (Orajel, and others) containing the active ingredient benzocaine or similar ingredients such as lidocaine and prilocaine without a physician's	The proposed WAC 170-296A-3375 was changed as a result of these comments, in part. WAC 170-296A-3375 (1)(c) is revised to read "Dose *and frequency* to be given…" However, other changes were not adopted. The proposed and adopted rules list the types of nonprescription medications that a licensee may give a child with written permission from the child's parent or guardian. Several of these medications could cause illness if too much is given or given for reasons other than the illness or condition intended to be treated. The rules required that the licensee confirm that the medication have warnings about possible side effects, or if there are no warnings on the packaging, that the licensee obtain such warnings from the parent prior to agreeing to give the medication to the child. If the medication contains a warning to not give it a child under a particular age, the licensee or primary staff person would be prohibited from giving that medication to the child. DEL will take this consider this comment for future revision of

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
order. Benzocaine can also be found in various sore-throat sprays and other products used to reduce pain in the mouth and gums. The FDA issued a warning related to use in young children and infants. Benzocaine use may cause a rare, but serious condition where the amount of oxygen that can be carried through the blood stream is greatly reduced. Methemoglobinemia is the name of the condition. Infants under six months old are especially sensitive to the effects of methemoglobinemia. The FDA recommends these products not be used in children under 2 years of age, unless recommended and supervised by a healthcare professional and then only sparingly, only when needed, and no more than four times daily (Ash, 2011; Kula, n.d.).	the rules.
Issues raised in public comments on proposed WAC 170-296A-3400 Administering medications:	**Was the proposed rule changed as a result of this comment?**
"Administer" should be changed to "give" medications throughout to make the rule simpler and clearer.	The proposed rules were changed as a result of these comments The word "administer" medications is changed to "give" of "take" medications, or variants of these terms, throughout the chapter as appropriate. However, WAC 170-296A-3400 is withdrawn and its content moved to WAC 170-296A-3315.
Issues raised in public comments on proposed WAC 170-296A-3475 Administering prescription medication:	**Was the proposed rule changed as a result of this comment?**
Medications may only be administered if parent provides list of side effects & storage. The proposed rule should be withdrawn because the SEIU believes these requirements "may put providers at risk" and "knowing the side effects should not change how a provider responds to a first aid situation".	The proposed WAC 170-296A-3475 was not changed as a result of these comments. The proposed rule is consistent with Caring for Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, (both Second and Third Editions). Performance Standard 3.6.3.3 says the following: "Caregivers/teachers need to know what medication the child is receiving, who prescribed the medication and when, for what purpose the

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	medication has been prescribed and what the known reactions or side effects may be if a child has a negative reaction to the medicine. A child's reaction to medication can be occasionally extreme enough to initiate the protocol developed for emergencies." *See pages 143-144, Caring For Our Children: National Health and Safety Performance Standards; Guidelines for Early Care and Education Programs, 3rd Edition*[6]. This publication may be accessed on-line at www.nrckids.org/CFOC3/CFOC3_6-13.pdf; and by this reference is incorporated herein as though set forth in full. The recommendation cited above applies to large and small family child care homes. *See page 144*. The proposed rule promotes the stated purpose of chapter 43.215 RCW. That is, "the purpose of this chapter is … [t]o safeguard and promote the health, safety, and well-being of children receiving care … which is paramount over the right of any person to provide care". RCW 43.215.005(4)(c). The Department respectfully denies the request for the Department to withdraw or modify this proposed rule. The adopted rules do not require a licensee to give any medication to children in care. New WAC 170-296A-3315 Medication Management. (previously proposed as WAC 170-296A-3400) allows the licensee to determine whether to administer medications to children (except in cases where the Americans with Disabilities Act (ADA) applies). If the Licensee decides to administer medications, he or she must follow all of the related medical administration rules, including WAC 170-296A-3475. If the Licensee decides not to administer medications, the Licensee's Parent/Guardian Handbook must state so. The adopted rule also allows the licensee or primary staff person to decline to give any particular medication, subject to the ADA, even after receiving permission from the child's parent or guardian. The revised rule is as follows: ***[previously WAC 170-296A-3400] WAC 170-296A-3315 Medication management.*** *(1) The licensee's health care policy must include:*

[6] The performance standards and guidelines contained in this publication are based on a joint collaborative project completed by the American Academy of Pediatrics, the American Public Health Association, and the National Resource Center for Health and Safety in Child Care and Early Education.

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	(a) Medication management; *(b) Safe medication storage, including the licensee's family medications;* *(c) Whether the licensee chooses to give medications to children in care.* *(2) If the licensee chooses to give medications to children in care, the licensee's policy must include:* *(a) How giving medications will be documented (medication log), including documenting when a medication is given or not given as prescribed or as indicated on the permission form;* *(b) Permission to give medications to a child signed by the child's parent or guardian, and by a licensed medical professional when appropriate;* *(c) Only the licensee or primary staff person may give medication or observe a child taking his or her own medication as described in WAC 170-296A-3550.* *(3) If the licensee chooses not to give any medications to children in care, the licensee must inform parents in the parent/guardian handbook.* *(4) If the licensee or primary staff person decides not to give a specific medication to a child after having received written permission by the child's parent or guardian, the licensee or primary staff person must immediately notify the parent or guardian of the decision to not give the medication.* *(5) The licensee must make reasonable accommodations and give medication if a child has a condition where the Americans with Disabilities Act (ADA) would apply.*
Medications can only be given if a parent provides a list of side effects. Parent won't remember and then what?	The proposed rule was not changed as a result of these comments. The licensee would need to inform the parent that the medication could not be given until the parent provides the list of possible side effects. Subsection (4) of adopted WAC 170-296A-3315 above may apply.
Issues raised in public comments on proposed WAC 170-296A-3525 Nonprescription medications:	**Was the proposed rule changed as a result of this comment?**
Providers are taking huge risks administering medications.	The proposed WAC 170-296A-3525 was not changed as a result of these comments. The rules do not require a licensee to give medications to children in care, in fact the licensee may "opt out" if the licensee informs parents in the parent/guardian handbook, or refuse to give a child a particular medication even if the parent

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	or guardian gives written permission. See adopted WAC 170-296A-3315. The rules set requirements that must be met before giving any medication – these requirements help give the licensee information needed about the child, his or her health condition requiring medication, medicine dose/frequency, start and stop dates, and possible side effects. If the risks of giving medications to the licensee appear too great, the licensee may refuse to give a child medication, except in cases where the Americans With Disabilities Act would apply.
Issues raised in public comments on proposed WAC 170-296A-3550 Children taking their own medication:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-3550 Children taking their own medication. The licensee may permit a child to take his or her own medication if: (1) The licensee follows all of the requirements in WAC 170-296A-3475 (1) through (6); (2) The child is physically and mentally capable of properly taking the medicine; (3) The licensee has on file the child's parent or guardian and health care provider's written approval for the child to take his or her own medication; (4) The medication and related medical supplies are locked and inaccessible to other children and unauthorized persons, except emergency rescue medications that may be stored inaccessible to other children but not locked; and (5) The licensee or a primary staff person observes and documents in the child's medication administration record that the medication was taken.	The proposed WAC 170-296A-3550 was not changed as a result of these comments. In situations where the parent/guardian gives permission for the child to take his/her own medication, it is assumed that the child likely takes the same medication at home or elsewhere without assistance. The rule still requires the licensee or primary staff person to observe and note in the child's medication log each time the child takes his/her medication.
103. Issues raised in public comments on proposed WAC 170-296A-3575 Injuries requiring first aid only:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-3575 Injuries requiring first aid only. When a child has an injury that requires first aid only, a written ~~or verbal~~ notice must be given to	The proposed WAC 170-296A-3575 was not changed as a result of these comments. The proposed rule was developed in consultation with licensees and the SEIU to reduce the amount of formal record keeping

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the parent or guardian the same day and keep a record of the notice ~~on~~ in the child's file	required. The licensee must have a record of any injury report given to the child's parent – this could be a note to the child's file or similar record, without requiring a written notice.
*Define first aid…..a band aid for a torn hang nail? We really have to document that? Keep a recorded file for every little scrape?	The proposed WAC 170-296A-3575 was not changed as a result of these comments. The rule requires the licensee to use his or her experience and judgment to determine whether giving first aid would be appropriate with the supplies required in a first aid kit. It is assumed that parents would appreciate knowing if their child had an injury, even minor ones, to help the parent monitor the injury in case it becomes more serious. The licensee is only required to record that they informed the parent about the injury – this could be a quick note to the child's file or in a daily journal. The licensee has the option and discretion of giving verbal or written notice to the parent/guardian.
Issues raised in public comments on proposed WAC 170-296A-3625 Hand washing:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-3625 Hand-washing. (1) The licensee and staff must follow and teach children proper handwashing procedures. Proper handwashing procedures include: (a) Wetting hands with warm water; (b) Apply soap to the hands; (c) Washing hands; (d) Rinsing hands; (e) Drying hands with a paper towel, single-use cloth towel ~~or air hand dryer~~; and (f) Turning off the water with paper towel or single use cloth towel. (2) Paper towels must be disposed of after a single use into a hands-free trash container. (3) If cloth towels are used, the licensee must ~~wash and sanitize~~ launder each hand towel after a single use. (~~4) If an air hand dryer is used, it must have a heat guard to prevent burning and must turn off automatically~~.	The proposed WAC 170-296A-3625 was changed as a result of these comments, in part. The suggested change to subsection (3) was made to the adopted rule. The suggested change to subsection (1)(e) was not made. Allowing air hand dryers with a heat guard and automatic shutoff was supported by the Negotiated Rule Making Team, with the appropriate safeguards described in subsection (4) of the proposed and adopted rule. Requiring each provider to have a "hands free trash container" would be an added expense to licensees and may trigger a revised small business economic impact statement and re-opening discussion of the rules with FHCC licensees under RCW 43.215.350 prior to proposing such a change. The department will consider recommending hand-free trash containers in guidance.
WAC 170-296A-3625 Hand washing (1) The licensee and staff must follow and teach children proper hand washing procedures. Concerns: For licensees caring for infants and toddlers, this rule	The proposed rules were revised as a result of this comment, in part. WAC 170-296A-3650(1) is revised as follows:

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cannot be applied. Suggested Changes: It should be revised to read: The licensee and staff must follow and teach children 2 years of age and older the proper hand washing procedures. Baby wipes may be used to infant's and toddler's hands.	*(1) If the licensee has a written and signed parent or guardian permission as described in WAC 170-296A-3375(2), the licensee may use hand sanitizer products only with children over twenty-four months old.* WAC 170-296A-3675(2)(b) is revised as follows: *(2) The licensee and staff must direct children to wash their hands or assist children with handwashing:* *(a) Before and after the eating or participating in food activities;* *(b) After toileting or diapering (the licensee may use a diaper wipe to clean hands of a child age zero to six months)…*
WAC 3625 Teaching toddlers to turn off the faucet with a paper towel is a good way to teach, but developmentally may not be appropriate for them to actually be able to perform this. If cloth towels/air dryer are used, providers would not have paper towels.	WAC 170-296A-3625 was not changed as a result of this comment. However, the Department has revised adopted WAC 170-296A-3675-When handwashing is required, to clarify hand washing for the license/staff and for the children in care. Subsection (2) is revised to say: ***WAC 170-296A-3675 When handwashing is required.*** *…(2) The licensee and staff must direct children to wash their hands or assist children with handwashing:* *(a) Before and after the eating or participating in food activities;* *(b) After toileting or diapering (the licensee may use a diaper wipe to clean hands of a child age zero to six months);* *(c) After touching bodily fluids, including after sneezing, coughing;* *(d) After outdoor play;* *(e) After playing with animals or handling animal toys; or* *(f) As needed.* Individual cloth towels or hand air dryers may be used with appropriate safeguards noted in WAC 170-296A-3625 at one or more sinks. But that would not preclude a licensee from using paper towels at other hand washing sinks.
Issues raised in public comments on proposed WAC 170-296A-3650 Hand sanitizers :	**Was the proposed rule changed as a result of this comment?**
Suggested change: **WAC 170-296A-3650 Hand sanitizers** (1) If the licensee has a written and signed parent or guardian permission as described in WAC 170-296A-3375(2), the licensee may use hand	The proposed WAC 170-296A-3650 was not changed as a result of these comments. The department will consider putting information on effective hand sanitizer products into Guidance. Other sections require

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sanitizer products only with children over twelve months old. Hand sanitizer products may be used: (a) When handwashing facilities are not available, such as an outing, emergency, or disaster; or (b) After proper handwashing. (2) Hand sanitizer gels must not be used in place of proper handwashing if handwashing facilities are available. **Recommendation:** Consider drafting criteria for acceptable hand sanitizers, either in the text of the rules, or in a guidance document. According to the DOH Infectious diseases control guidance for schools: • Alcohol-based hand sanitizers must be 60-95% alcohol to be effective. • Unscented is preferred for public areas. • Use by young children must be supervised. • Are not to be used on children under one year old. • Some children will be sensitive to them and not able to use. • Must be stored safely – alcohol poisoning can result from ingestion and they are flammable.	that hand sanitizer gels be made inaccessible to children when not in use. A parent or guardian may also withhold permission for the use of hand sanitizers with their child.
Issues raised in public comments on proposed WAC 170-296A-3675 When hand washing is required:	**Was the proposed rule changed as a result of this comment?**
Suggested change: The licensee, staff and children must wash their hands and follow proper handwashing techniques: (1) After using the toilet; (2) After diapering a child; (3) After outdoor play; (4) After playing with animals; (5) After touching an animal's toys; (6) After touching body fluids; (7) Before and after the child eats or participates in food activities; or	The proposed WAC 170-296A-3675 was changed as a result of these comments, in part. The suggested new (10) and (11) were added to the proposed rule, with minor changes. This entire section is revised for clarity, separating hand washing requirements for the licensee and staff from the requirements for directing children to wash their hands, as follows: ***WAC 170-296A-3675 When handwashing is required.*** *(1)The licensee and staff must wash their hands and follow proper handwashing techniques.*

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(8) As needed ADD: (9) Upon arrival (10) Before and after giving medication (11) Before food preparation or service	*(a) Before and after preparing foods, eating, or feeding a child;* *(b) After handling raw or undercooked meat, poultry or fish;* *(c) After using the toilet or helping a child with toileting;* *(d) Before and after diapering a child. If needed during diapering, a disposable hand wipe cloth may be used;* *(e) After touching bodily fluids as described in the licensee's bloodborne pathogens plan;* *(f) After being outdoors with the children;* *(g) After handling animals or cleaning up animal waste;* *(h) After handling garbage and garbage receptacle;* *(i) Before and after giving medication or applying topical ointment; or* *(j) As needed.* *(2) The licensee and staff must direct children to wash their hands:* *(a) Before and after the eating or participating in food activities;* *(b) After toileting or diapering (the licensee may use a diaper wipe to clean hands of a child age zero to six months);* *(c) After touching body fluids, including after sneezing, coughing* *(d) After outdoor play;* *(e) After playing with animals or handling animal toys; or* *(f) As needed.*
Issues raised in public comments on proposed WAC 170-296A-3700 Carpets:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-3700 Carpets The licensee must clean installed carpet in the licensed space at least once each calendar year or more often when soiled. **<u>Suggestion</u>** If DEL provides guidance on proper carpet cleaning, DOH suggests thorough hot water extraction, being sure to not leave any residual cleaning compound and quick drying to prevent microbial growth. More information is available at is recommended.	The proposed WAC 170-296A-3700 was not changed as a result of these comments. However, the rule is revised to specify how installed carpets must be cleaned, as follows: *WAC 170-296A-3700 Carpets. The licensee must clean installed carpet in the licensed space at least once each calendar year or more often when soiled, using a carpet shampoo machine, steam cleaner, or dry carpet cleaner.* *The Department will consider putting the suggested language in guidance.*

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Carpet and Rug Institute: http://www.carpet-rug.org/, EPA Tools for Schools Carpet Information: http://www.epa.gov/iaq/schooldesign/controlling.html#Carpet.	
115. Issues raised in public comments on proposed WAC 170-296A-3850 Cleaning laundry:	**Was the proposed rule changed as a result of this comment?**
Suggestion: The licensee must wash child care laundry using: (1) Laundry soap or detergent; and (2)(a) Temperature control (~~warm or~~ hot cycle of 140' F); or bleach	The proposed WAC 170-296A-3850 was not changed as a result of these comments. In WAC 170-296A-4700, the licensee is required to limit his/her hot water heater temperature to a maximum of 120 degrees F to reduce the risk of child injuries from scalding. The suggested change would require licensees to change the heater settings whenever they wash clothes (or to install separate or auxiliary water heater(s) with settings for the appropriate use – this could be a significant cost issue). If the water heater temperature setting is not changed back to 120 F. afterwards, children may be at risk for scalding later if water from a faucet is too hot.
Suggestion: **WAC 170-296A-3850 Cleaning laundry** The licensee must wash child care laundry using: (1) Fragrance free laundry soap or detergent; and (2)(a) Temperature control (warm or hot cycle); (b) Bleach. **Justification** The heavy fragrances in laundry products are associated with skin and respiratory irritation and asthma. For example, see: http://zed.alaw.org/asthma/ames/pdfs/amesSection_Four_Creating_A_Safe_And_Supportive_School_modified01-20-2005.pdf	The proposed WAC 170-296A-3850 was not changed as a result of these comments. The department will consider putting information in guidance regarding fragrances or fragrance-free personal care and cleaning products. There are many other products with fragrances that would need to be considered - the discussion should be comprehensive and include licensees and parents before putting this requirement into rule.
Issues raised in public comments on proposed WAC 170-296A-3875 Clean and sanitizing toys:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-3875 Cleaning and sanitizing toys. (1) The licensee must clean and sanitize toys: (a) After they have been in a child's mouth; (b) After being contaminated with body fluids or visibly soiled; or (c) Not less than weekly when the toys	The proposed WAC 170-296A-3875 was changed as a result of these comments and for clarity. Subsection (1)(a) is revised as follows:

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have been used by the children. Concerns: For licensees caring for infants and toddlers, this rule will be impossible to implement. Infants and toddlers always (a) put toys in their mouths and (b) drool excessively from time to time. To expect a licensee to clean and sanitize every toy mouthed or drooled on during the day by the children in this age group is an excessive and unrealistic amount of cleaning- and what about books? Suggested Changes: This should be revised to read (1) The licensee must clean and sanitize toys as needed or when visibly soiled. (a) and (b) should be removed. To expect a licensee to clean and sanitize every toy mouthed or drooled on during the day by the children in this age group is an excessive and unrealistic amount of cleaning- and what about books? Suggested Changes: This should be revised to read (1) The licensee must clean and sanitize toys as needed or when visibly soiled. (a) and (b) should be removed.	*WAC 170-296A-3875 Cleaning and sanitizing toys. (1) The licensee must clean and sanitize toys:* *(a) Before a child plays with a toy that has come into contact with another child's mouth or bodily fluids;* The licensee and staff must still monitor when infants or toddlers are exchanging toys, but the rule no longer requires cleaning and sanitizing toys <u>unless</u> the toy has been in another child's mouth, or if the toy has come into contact with other bodily fluids. Toys may be contaminated with harmful bacteria from fecal matter, urine or bodily fluids even if they do not appear visibly soiled.
Issues raised in public comments on proposed WAC 170-296A-3925 Cleaning and sanitizing table:	**Was the proposed rule changed as a result of this comment?**
Small rugs washed daily? Should be weekly or when visible soiled. This wording should match with WAC #4650. 'I' Children can't share toys? Sad. 'e' Hats and helmets will no longer be in childcare if this in the new WAC's. This is a huge part of dress up and their development. Cleaned weekly or as needed is reasonable. Please save dress up!	The proposed WAC 170-296A-3925 was changed as a result of these comments, in part. Subsection (3)(c) and (d) were revised as follows: *(c) Small rugs Shake outdoors or vacuum daily. Launder weekly or more often when soiled.* (d) *Removable rugs May be used in the bathroom. They must be easily removable and able to be washed when needed. Launder and sanitize weekly or more often when soiled.* Bathroom rugs have a high potential for becoming soiled and unsanitary. The rules do not prevent children from sharing toys, but the licensee and staff must monitor toy sharing to reduce the risk of children also sharing harmful germs. The rule

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	requires dress up clothes that are in use to be laundered weekly, or more often when visibly soiled, to help reduce the risk of sharing harmful germs. Subsection (4) and (5) of the proposed rule were not changed as a result of these comments.
Suggestion: The table should state that diaper change tables and areas, potty chairs, and toileting areas need to be disinfected rather than sanitized. **Justification** See justification under **WAC 170-296A-2375 Parent/guardian policies (handbook)**	The rule was revised consistent with this comment. T he entire table in WAC 170-296A-3925, and other related sections, are clarified to note when "sanitizing" or "disinfecting" are most appropriate method to reduce or eliminate germs from an object or surface. A definition of "disinfect " is added to WAC 170-296A-0010 to clarify how disinfecting is different than sanitizing a surface or item.
Issues raised in public comments on proposed WAC 170-296A-3950 Pest control:	**Was the proposed rule changed as a result of this comment?**
Change 2a as follows: (2)(a) "Use the least poisonous method possible; ~~or~~ and" **Delete (2b). Replace with the following text in red:** **"If chemical pesticides are used, you must follow all regulations cited in RCW17.21.415(**http://apps.leg.wa.gov/rcw/default.aspx?cite=17.21.415 **)** **Rationale:** **(b) is not in full compliance with state law.** **You can also find more information on how to implement this RCW at Compliance Guide For the Use of Pesticides At Public Schools (K-12) And Licensed Day-Care Centers** http://agr.wa.gov/pestfert/pesticides/docs/ComplGuidePub075.pdf **5.19.2011**	The proposed WAC 170-296A-3950 was not changed as a result of these comments. The state Department of Health has researched this subject and provided a written determination that licensed family home child cares do not appear to be subject to the provisions of RCW 17.21.415 regarding integrated pest management. This law does apply to child care centers, however. Quoting DOH: *"It does not appear that RCW 17.21.415 RCW (Pesticide Notification Law) applies to licensed family home child cares. The compliance guide says "All public schools (K-12) and **licensed day-care centers**. The law does not include private schools or **unlicensed (home) day-care** or adult day-care centers." WSDA Compliance Guide for the Use of Pesticides at Public Schools (K-12) and Licensed Day-Care Centers: (http://agr.wa.gov/pestfert/pesticides/docs/ComplGuidePub075.pdf)"*
Suggestions: **WAC 170-296-3950 Pest Control** When pests are present in the licensed space, the licensee must: (1) Take action to remove or eliminate pests; and (2)(a)~~Use the least poisonous method possible~~ Minimize use of pesticides by using non-chemical methods of control. (b) Do not spray pesticides when children are	The proposed WAC 170-296A-3950 was changed as a result of these comments, with minor revisions for clarity, as follows: ***WAC 170-296-3950 Pest control.*** *When pests are present in the licensed space, the licensee must:* *(1) Take action to remove or eliminate pests; and* *(2)(a) Where possible, use nonchemical methods of control instead of chemical controls; or* *(b) If chemical pesticides are used, the licensee must:*

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present. Wipe down surfaces and air out any treated rooms before allowing children to re-enter. Make sure rodent or inset baits are inaccessible to children. (c) If chemical pesticides are used, post a notice visible to parents, guardians and any other interested party forty-eight hours in advance of the application of pesticides. The prenotification requirements of this section do not apply to any emergency application for control of any pest that poses an immediate human health or safety threat, such as an application to control stinging insects. **Justification** It is important to define "least poisonous" methods of pest control. We do not want pesticides used around children and there are many reasonable steps that should be taken to prevent pest problems, or eliminate pest, without pesticides. Consider using integrated pest management (IPM) methods. More specific IPM direction (see below) could be added, but it is difficult to see how it would fit. The goal is to prevent pest problems to avoid the necessity of pesticides – and there are often mechanical means of control that are preferable to pesticides. Idea: Use the least poisonous method possible, including: 1. Removing possible food sources 2. Fixing water leaks 3. Removing clutter where pests hide 4. Eliminating points of entry a. repair/caulk holes b. use screens c. use door sweeps Further information: http://www.ecy.wa.gov/programs/swfa/upest/ http://www.epa.gov/oppfead1/Publications/playi	*(i) Not spray pesticides when children are present. Wipe down surfaces that have been sprayed and air out rooms before allowing children to use sprayed areas;* *(ii) Place and store rodent poison or insect baits inaccessible to children; and* *(iii) Post a notice visible to parents and guardians of children in care forty-eight hours in advance of the application of pesticides, except when pesticides must be used to control pests that may pose an immediate risk to children's health or safety.*

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
tsafe.pdf http://www.epa.gov/pesticides/factsheets/pest_ti.htm http://www.epa.gov/pesticides/factsheets/child-ten-tips.htm http://npic.orst.edu/health/safeuse.html	
Issues raised in public comments on proposed WAC 170-296A-3975 Poisons:	**Was the proposed rule changed as a result of this comment?**
DOH comment/suggestions: The licensee must: (1) Store poisons and other chemicals and toxins that may cause health problems in small children, inaccessible to children and away from food. (2) Pesticides must always be stored in their original containers. ~~Label the containers when poisons are not in their original containers.~~ (3) All other chemical products must be in the original container or clearly labeled with the name of the product. **Justification** Other chemicals include detergents, especially powdered detergents which can scar the lungs of small children if the dust is inhaled, and powdered cleaning agents, etc. It becomes very dangerous when chemicals/poisons are not in their original containers with all the required information regarding ingredients, hazards, and first aid and caution information. http://agr.wa.gov/PestFert/Pesticides/WastePhotoGallery_storage.aspx	The proposed WAC 170-296A-3950 was not changed as a result of these comments. However, WAC 170-296A-3975 has been withdrawn, and its content incorporated into WAC 170-296A-4100, as follows: *WAC 170-296A-4100 Poisons, chemicals and other substances.* *(1) The licensee must:* *(a) Store poisons inaccessible to children and where poisons will not contaminate food.* *(b) If poisons are not in the original container, clearly label the container with the name of the product and the words "poison" or "toxic…"* There are many household cleaners, pesticides or herbicides that are purchased in concentrated form and are intended to be diluted in a separate spray bottle or larger sprayer (including chlorine bleach used in sanitizing or disinfecting solutions) before use. To revise the rule as suggested in (2) could require the licensee to dispose of left over diluted chemicals – risking groundwater quality or putting excess contaminants into septic or sewer systems. The adopted rule more clearly tells the licensee how to label a container that is not the original chemical container.
(2) The telephone number for the poison center should be posted in a location where it is readily available in emergency situations (e.g., next to the telephone).	The proposed rule was not changed as a result of this comment. The licensee is required to post the Washington Poison Center toll-free number visible for the licensee and staff at the same place other emergency numbers are posted. See WAC 170-296A-2175.
Issues raised in public comments on proposed	**Was the proposed rule changed as a result of this comment?**

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WAC 170-296A-4000 Lead, asbestos and arsenic:	
Suggestion: The licensee must take action to prevent child exposure when the licensee becomes aware that any of the following are present in the indoor or outdoor licensed space: (1) Lead based paint; (2) Plumbing containing lead or lead solders; (3) Asbestos; or (4) Arsenic or lead in the soil (5) Other toxins or hazardous material **Justification** Limiting the title or the list of toxic agents in the chapter to just four does not fully capture all the toxic agents that might be present in the child care area.	The proposed WAC 170-296A-4000 was changed as a result of these comments. The rule is revised consistent with these suggestions, and added "Toxic mold," as follows: ***WAC 170-296A-4000 Lead, asbestos, and arsenic, other hazards**. The licensee must take action to prevent child exposure when the licensee becomes aware that any of the following are present in the indoor or outdoor licensed space:* *(1) Lead based paint;* *(2) Plumbing containing lead or lead solders;* *(3) Asbestos; or-* *(4) Arsenic or lead in the soil or drinking water;* *(5) Toxic mold; or* *(6) Other identified toxins or hazardous materials.*
122. Issues raised in public comments on proposed WAC 170-296A-4050 No smoking:	**Was the proposed rule changed as a result of this comment?**
The proposed WAC 170-296A-4050 states. "..the licensee must, under the following conditions, prohibit smoking by anyone during operating hours: (a) Inside the home; (b) In any outdoor or indoor licensed space; (c) Within twenty-five feet from any entrance, exit, window, or ventilation intake of the home; or (D) In motor vehicles while transporting children". It is suggested that "during operating hours" be changed to "at any time". This change reflects the concern of the effects of second hand as well as third hand smoke on children. This change would also be consistent with the requirements of businesses such as restaraunts and bars as well as foster care homes.	The proposed WAC 170-296A-4050 was not changed as a result of these comments. The department has analyzed the underlying law prohibiting smoking in places of public accommodation, RCW 70.160. While it is clear that when a residence is operating as a licensed family home child care this statute applies. A child care center, restaurant or foster home is always that type of facility twenty-four hours a day, and the statute likely applies to those facilities at all times, even if otherwise closed for the day. But it is not clear that the statute applies when the family home child care is closed (including outside daily operating hours), and the home reverts to being a private residence. It is not clear that the Department has the authority to regulate the conduct of the licensee or other household members when the child care is closed. Applicable case law would indicate that the Department regulatory authority or inspection may not extend to space in the home that are not licensed for child care. *De la O v. Arnold-Williams,* and *Fernandez v. DSHS.* The proposed and adopted rules permit the licensee to designate spaces within the home or premises that will not used for child care (unlicensed space) provided that the licensee makes those spaces inaccessible to children in care during child care
In the proposed regulations, we are especially concerned with the lack of strong tobacco prevention standards for family home child care. Environmental tobacco smoke (ETS) is related to a number of serious children's health problems, including: cognitive deficits[i], asthma, increased respiratory and middle ear infections and predisposition to sudden infant death syndrome	

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(SIDS)[ii]. There is no safe level of exposure to tobacco smoke[iii], including residual smoke contamination that remains after the cigarette is extinguished ("third-hand" smoke). The residue includes carcinogens and heavy metals such as lead, cadmium and even radioactive materials that young children can get on their hands and ingest, especially if they're crawling or playing on the floor. Residual toxins from smoking at times when the children are not using the space can trigger asthma and allergies when the children do use the space. We feel the hazards of second-hand and third-hand smoke exposure warrant the prohibition of smoking in proximity of child care areas at any time, including vehicles that are used to transport children. Therefore, we would suggest revised wording for the Family Home Childcare WAC, as follows: *"Smoking or the use of any tobacco product or nicotine delivery device that is not approved by the FDA for tobacco cessation is prohibited in any indoor or outdoor licensed space or vehicle at any time."*	operating hours. The Department is aware of and appreciates the risks of second and third hand smoke, and the Department plans to use guidance to encourage the licensee to limit or stop individuals from smoking in the home during closed hours to reduce the risk of second or third hand smoke when children are in care.
Puget Sound Educational Service District's Head Start and ECEAP programs serve over 4,000 families in King and Pierce Counties. We operate 52 programs through contracts and partnerships including family home childcare. We are writing to add comment to the section specific to tobacco in the proposed rules for family home childcare. We are concerned that the proposed rules do not effectively protect children from the risks of exposure to the toxins present in tobacco smoke and smoke residue. Currently and with the new proposed rules, a family home childcare provider prohibits the use of tobacco during working hours in the indoor and outdoor licensed spaces, including vehicles. Our concern with these rules is that it does not effectively address the risks associated with second and third-hand smoke. These risks include: a predisposition to	The proposed WAC 170-296A-4050 was not changed as a result of these comments. The department has analyzed the underlying law prohibiting smoking in places of public accommodation, RCW 70.160. While it is clear that when a residence is operating as a licensed family home child care this statute applies. A child care center, restaurant or foster home is always that type of facility twenty-four hours a day, and the statute likely applies to those facilities at all times, even if otherwise closed for the day. But it is not clear that the statute applies when the family home child care is closed (including outside daily operating hours), and the home reverts to being a private residence. It is not clear that the Department has the authority to regulate the conduct of the licensee or other household members when the child care is closed. Applicable case law would indicate that the Department regulatory authority or inspection may not

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Sudden Infant Death Syndrome (SIDS), the exacerbation and induction of asthma, acute respiratory tract and middle ear infections, and low birth weight. Exposure is also associated with behavioral problems and cognitive deficits in children. There is no safe level of exposure, and with tobacco smoke and residue containing at least 69 known human carcinogens, it just makes sense to limit, as much as possible, the exposure to children in these childcare facilities. Thirdhand smoke (THS) is a relatively new term, and refers to the toxins and particles that remain after the cigarette has been extinguished. These pollutants adhere to surfaces such as furniture, carpets, car seats, and toys and can remain on these surfaces for many weeks. There is evidence that THS can be more damaging than secondhand smoke due to the smaller size of the particles and reactions that occur when smoke and chemicals oxidize. Children are especially vulnerable to these toxins since they breathe near, play, touch and ingest materials from contaminated surfaces. These risks are very substantial, and we feel warrants the prohibition of tobacco use at all times and in all childcare areas including vehicles. We also are concerned with the alignment of RCW 70.160, Smoking in Public Places, to family home childcare. Currently tobacco use is not permitted in family home childcare or any public place or place of employment as identified in these excerpts from RCW 70.160.020 and 70.160.030: RCW 70.160.030 states, “No person may smoke in a public place or in any place of employment." RCW 70.160.020 (Definitions) states, "A public place does not include a private residence unless a private residence is used to provide licensed child care, foster care, adult care, or other similar social service care on the premises." A private residence or home-based business, unless used to provide licensed child care, foster care, adult care, or other similar social service care on the premises, is not a place of employment." (Italicized emphasis is ours.) If family home childcare is a business and constitutes both a	extend to space in the home that are not licensed for child care. *De la O v. Arnold-Williams,* and *Fernandez v. DSHS.* The proposed and adopted rules permit the licensee to designate spaces within the home or premises that will not used for child care (unlicensed space) provided that the licensee makes those spaces inaccessible to children in care during child care operating hours. The Department is aware of and appreciates the risks of second and third hand smoke, and the Department plans to use guidance to encourage the licensee to limit or stop individuals from smoking in the home during closed hours to reduce the risk of second or third hand smoke when children are in care.

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public place and a place of employment, then why would it have different regulations? The language in the statute does not include exceptions that would permit smoking outside of the regular business hours. In our thinking, this would prohibit smoking in both private residences and vehicles that are used to provide licensed childcare regardless of whether or not children are present. Our suggestions for changes to the proposed family home childcare WAC would then be the following: Thank you for your time and dedication to making these spaces safer for our children. We know this is not an easy task and greatly appreciate the work that you do.	
We are writing on behalf of the Puget Sound Educational Service District's (PSESD) Early Learning Tobacco Cessation Advisory Committee to comment on the "No Smoking" section of the proposed family home child care rules. Our Committee was convened in 2010 to provide oversight to a grant project awarded to PSESD's Early Learning programs. This project is supported by Public Health – Seattle & King County under the Centers for Disease Control's Communities Putting Prevention to Work (CPPW) initiative which works to reduce chronic disease in King County neighborhoods by increasing access to healthy environments. Our committee's task is to direct the work relating to PSESD Early Learning policies, procedures, training and systems. First, we want to thank you for releasing the proposed family home child care rules on April 20th. We realize the work and dedication it takes to strengthen these rules and that it is for the benefit of the children in these childcare settings. This being said, we feel there is some room for improvement in the rules concerning tobacco use and exposure. In the proposed regulations, we are especially concerned with the lack of strong tobacco prevention standards for family home child care. Environmental tobacco smoke (ETS) is related to a number of serious children's health problems, including: cognitive deficits , asthma, increased respiratory and	The proposed WAC 170-296A-4050 was not changed as a result of these comments. The department has analyzed the underlying law prohibiting smoking in places of public accommodation, RCW 70.160. While it is clear that when a residence is operating as a licensed family home child care this statute applies. A child care center, restaurant or foster home is always that type of facility twenty-four hours a day, and the statute likely applies to those facilities at all times, even if otherwise closed for the day. But it is not clear that the statute applies when the family home child care is closed (including outside daily operating hours), and the home reverts to being a private residence. It is not clear that the Department has the authority to regulate the conduct of the licensee or other household members when the child care is closed. Applicable case law would indicate that the Department regulatory authority or inspection may not extend to space in the home that are not licensed for child care. *De la O v. Arnold-Williams,* and *Fernandez v. DSHS.* The proposed and adopted rules permit the licensee to designate spaces within the home or premises that will not used for child care (unlicensed space) provided that the licensee makes those spaces inaccessible to children in care during child care operating hours. The Department is aware of and appreciates the risks of second and third hand smoke, and the Department plans to use guidance to encourage the licensee to limit or stop individuals from smoking in the home during closed hours to reduce the

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middle ear infections and predisposition to sudden infant death syndrome (SIDS) . There is no safe level of exposure to tobacco smoke , including residual smoke contamination that remains after the cigarette is extinguished ("third-hand" smoke). The residue includes carcinogens and heavy metals such as lead, cadmium and even radioactive materials that young children can get on their hands and ingest, especially if they're crawling or playing on the floor. Residual toxins from smoking at times when the children are not using the space can trigger asthma and allergies when the children do use the space. We feel the hazards of second-hand and third-hand smoke exposure warrant the prohibition of smoking in proximity of child care areas at any time, including vehicles that are used to transport children. Therefore, we would suggest revised wording for the Family Home Childcare WAC, as follows: Smoking or the use of any tobacco product or nicotine delivery device that is not approved by the FDA for tobacco cessation is prohibited in any indoor or outdoor licensed space or vehicle at any time. This wording would align with the current regulations for foster care and RCW 70.160. If other businesses and foster parents are not allowed to use tobacco in the business or home, why should it be different for Family Home Childcare? Further, it would protect children from the serious effects of second-hand and third-hand smoke. We hope that these proposed changes can include a stronger voice for children's health and well-being. Further limiting children's exposure to the toxins found in tobacco will have a significant impact in this regard. Sincerely, The CPPW Early Learning Tobacco Cessation Advisory Committee:	risk of second or third hand smoke when children are in care.
Issues raised in public comments on proposed WAC 170-296A-4075 First aid kit:	**Was the proposed rule changed as a result of this comment?**
170-296A-4075 (g) perhaps ice-packs should be kept in the refrigerator or freezer until needed. 6/11/2011	The proposed WAC 170-296A-4075 was not changed as a result of these comments. Gel packs may be in the freezer but it is not necessary to put this into rule.

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Suggestion: If a disposable thermometer is not used, appropriate barriers for a reusable thermometer must be used or other means of ~~alcohol wipes or other wipes to clean~~ cleaning and disinfecting the thermometer between uses on different children must be available and used.	The proposed WAC 170-296A-4075 was changed as a result of these comments, with changes for clarity, as follows: *WAC 170-296A-4075 First aid kit. (1) The licensee must have a complete first aid kit at all times:* *…(h)(i) Mercury free thermometer that is:* *(A) Used with a disposable sleeve; or* *(B) Cleaned and sanitized after each use; or* *(ii) A single-use thermometer that is disposed of after a single use…*
1) The licensee must have a complete first aid kit at all times: (e) ~~An elastic wrapping bandage~~; (l) roller gauze	The proposed WAC 170-296A-4075 was not changed as a result of these comments, as follows: *The proposed and adopted rule require the first aid kit to include sterile gauze pads and adhesive tape. These may be used in place or roller gauze.*
Issues raised in public comments on proposed WAC 170-296A-4100 Storage of medications, chemicals and other substances:	**Was the proposed rule changed as a result of this comment?**
Suggestion: Delete subsection (j): Reason: Air fresheners and aerosols are potential health hazards (asthmagens) and should not be allowed in a childcare. Add the following information in red somewhere else in the document: "Air fresheners and aerosols are potential health hazards (asthmagens) and should not be allowed in a childcare."	The proposed WAC 170-296A-4100 was not changed as a result of these comments. The Department may put this information in Guidance. If a child has an allergy or reaction to air fresheners or aerosols, either • The parent may decide not to place their child in the family home child care; or • If the parent lists airfresheners/aerosols on the child's enrollment/health records, the licensee would work with the parent to prevent the child's exposure to these items. The Department may not prohibit a licensee from using air fresheners or aerosols outside of child care hours. The rule describes how such products must be kept inaccessible to children during child care hours.
Concerns: There are certain medications, such as insulin, that must be stored in the refrigerator. Suggested Changes: A lock on the refrigerator door could suffice as a "locked container or cabinet." This clarification could be helpful for home providers.	The proposed rule was not changed as a result of this comment. However, medication storage table was moved from WAC 170-296A-4100 to WAC 170-296A-3325. A locked refrigerator would qualify as a locked cabinet, so long as children cannot open the refrigerator. The licensee may also use a locked container stored inside the refrigerator for

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	medications that must be stored refrigerated.
Comment/suggestions: **Suggestion:** The chart in the proposed rule does not address storage of inhalers for children who self-administer those medications, such as inhalers such as albuterol. **Justification** Children who self- administer their medications have to be physically and mentally able to safely perform this task, and there must be parent written permission on file per WAC 170-296A-3550.	The rule was not changed as a result of this comment. Rescue inhalers are included in this chart., which as been moved to WAC 170-296-3325 for clarity. Rescue medications for a specific child must be stored inaccessible to other children but available for use to meet the child's medical needs. These requirements have been moved from WAC 170-296A-4100 to WAC 170-296A-3325 in the adopted rules. Even where a child self-administers a rescue medication, the licensee is still responsible for storing the medication so it remains inaccessible to other children in care.
Issues raised in public comments on proposed WAC 170-296A-4200 Removing recalled items:	**Was the proposed rule changed as a result of this comment?**
Several changes were suggested: The proposed rule should be withdrawn and treated as a best practice because the "must maintain awareness" language would be "impossible to enforce". Change to: "The licensee must maintain awareness of equipment, toys or other items used in child care listed for recall by the U.S. Consumer Product Safety Commission, and must remove those items as quickly as possible once they are identified." Change to: The licensee must maintain equipment, toys or other items in the child care in good and safe working condition. The licensee must ~~maintain awareness of~~ remove from the program all recalled equipment, toys or other items ~~used in child care~~ listed ~~for recall~~ by the U.S. Consumer Product Safety Commission. Change to: The licensee must maintain equipment, toys or other items in the child care in good and safe	The proposed WAC 170-296A-4200 was not withdrawn as a result of these comments. However, this section was revised for clarity, as follows: *WAC 170-296A-4200 Toys, equipment, and recalled items. The licensee must maintain equipment, toys or other items in the child care in good and safe working condition. The licensee must remove a recalled item as soon as the licensee becomes aware that the item used in the licensee's operation has been recalled.*

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working condition. The licensee must maintain awareness of equipment, toys or other items used in child care listed for recall by the U.S. Consumer Product Safety Commission, and must remove recalled items.	
Issues raised in public comments on proposed WAC 170-296A-4225 Indoor licensed space – Minimum space:	**Was the proposed rule changed as a result of this comment?**
Subsection (3c) Bathrooms as licensed space have been taken out – required use for hand washing. Lots of learning takes place in the bathroom. Square footage of bathrooms need to go back in.	The proposed WAC 170-296A-4225 was not changed as a result of these comments. The repealed WAC 170-296-1210 does not include bathroom space in calculating the minimum indoor square footage, as follows: ***"WAC 170-296-1210 What are the requirements for indoor play areas?*** *(1) Your indoor play area must contain a minimum of thirty-five square feet of useable floor space per child. This space is considered in determining child capacity of the home, and must be available for use by children at all times. We must not count the following as part of the thirty-five square feet per child requirement:* *(a) Storage areas;* *(b) Bathrooms;…"* The proposed and adopted WAC 170-296A-4225 does not change this requirement. DEL recognizes that bathroom areas provide potential learning environment, but the bathroom is not an area normally accessible to younger children without supervision. The licensee does not lose any space that he or she already has under previous minimum indoor square footage rule.
Issues raised in public comments on proposed WAC 170-296A-4300 Window coverings:	**Was the proposed rule changed as a result of this comment?**
Subsection (1) should state 'freestanding loop'.	The proposed WAC 170-296A-4300 was not changed as a result of these comments. The proposed and adopted rule is consistent with RCW 43.215.360 regarding pull cords on window coverings.
Issues raised in public comments on proposed WAC 170-296A-4325 Stairs:	**Was the proposed rule changed as a result of this comment?**

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WAC 4325 A barrier for all ages? Should be for infants only. Stairs when supervised are good for their large motor development.	The proposed WAC 170-296A-4325 was changed as a result of these comments. Subsection (2) was revised to prevent "infants and toddlers" from accessing the stairs when not in use.
Suggestion: (1) If there are stairs in the licensed space, the licensee must: (a) Keep the stairway well lit; (b) Keep the stairway free of clutter; and (c) Have a handrail or vertical slats on one side of the stairs that children can reach. ~~(2) The licensee must keep the stairs inaccessible to the children when not in use with a:~~ ~~(a) Barrier;~~ ~~(b) Nonpressure gate; or~~ ~~(c) Door.~~ (2) Barriers on stairwells, balconies, decks and playground equipment; vertical and horizontal slats; safety gates and others must be sturdy, safe and free of entrapment and strangulation hazards. **Justification** The original language of (2) should be amended because nonpressure gates and doors are barriers.	The rule was revised generally consistent with this comment, as follows: ***WAC 170-296A-4325 Stairs.*** *(1) If there are stairs in the licensed space, the licensee must:* *(a) Keep the stairway well lit;* *(b) Keep the stairway free of clutter; and* *(c) Have a handrail not higher than thirty inches high or sturdy slats on one side of the stairs.* *(2) The licensee must provide a pressure gate, safety gate, or a door to keep the stairs inaccessible to infants and toddlers when not in use.* *(3) Openings between slats or on pressure gates or safety gates must not be larger than three and one-half inches wide.*
Issues raised in public comments on proposed WAC 170-296A-4360:	**Was the proposed rule changed as a result of this comment?**
170-296A-4360 "bright lighting" is an individual judgment. Lighting "brightness" can be as variable as a cloudy day in Seattle.	The proposed WAC 170-296A-4360 was not changed as a result of these comments.
WAC 170-296A-4360 Area lighting. (1) In the licensed space, lighting must be bright in the children's activity areas, eating areas and the bathroom. (2) All other areas in the licensed space must have lighting so children are safe. My kitchen, living room and sleeping area for the children are all open to each other. Does this mean if little ones are sleeping the lights have to be on? This will interfere with their sleep. There is, however, light enough to see while	"Brightness" may be measured objectively by determining if most children in the licensee's care have adequate light to see what they are doing in activity areas, without squinting or holding/using objects without moving the object toward the face. The rule is not intended to require leaving bright lights on while children are sleeping. Since children must not be behind closed doors while sleeping, an open door, small night lights or low-wattage light or daytime light from a window could provide safe lighting for the children when they awaken.

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sleeping…..its just not bright. We also teach kids to conserve energy by turning out lights. Maybe rephrase it to make allowances for different home set ups.	
Issues raised in public comments on proposed WAC 170-296A-4375 Lighting safety:	**Was the proposed rule changed as a result of this comment?**
170-296A-4375 Lighting Safety--If we are going to make everything shatter proof why isn't Del requiring us to have shatter proof windows, pictures on the wall, etc, etc, This is a very stupid rule. We do supervise our children.	The proposed WAC 170-296A-4375 was not changed as a result of these comments. The proposed rule is consistent with the repealed WAC 170-296-1120(2) and was developed in consultation with SEIU and licensees. Light bulb/tube shattering is a potential child health hazard, both from glass shards and – with fluorescent lights – chemicals within the bulb/tube. CFL bulbs contain small amounts of mercury, a known health hazard to children when broken. The rule provides several options for making the light fixtures safe.
Concerns: Many home daycare providers have track lighting or inset can lighting throughout their homes and changes/replacement costs could be large. Suggested Changes: a cost analysis for replacement or correction should be done and methods for this explained.	The proposed and adopted rule are consistent with the current requirement in chapter 170-296 WAC. A cost analysis is not required if the requirement in the new rule has not changed from the previous requirement .
Suggestions: WAC 170-296A-4375 Lighting safety (1) When ceiling-mounted light fixtures are in the play space, the licensee must provide one or more of the following: (a) Shatter-resistant covers; (b) Shatter-resistant light bulbs; or (c) Otherwise make the light fixtures safe. (2) The licensee must not: (a) Allow bare light bulbs in any play space; or (b) Use lights or light fixtures indoors that are intended or recommended for outdoor use; or (c) Use halogen lamps in any area accessible to children during operating hours. <u>(3) Broken fluorescent bulbs release mercury. If a bulb breaks:</u> <u>(a) Remove children and pets from the area.</u> <u>(b) Open doors and windows for ventilation leave, the room for 10 minutes.</u>	The proposed rule was not changed as a result of this comment. While it is important for licensee's and staff to know how to safely handle and clean up a broken fluorescent or CFL bulb, the suggested revision is more appropriate in guidance.

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(c) Shut off central forced-air heating/air conditioning. (d) Do not vacuum – that will put the mercury into the air. (e) Use stiff paper or a thick layer of paper towels to carefully push broken glass, powder, and the paper towels into a plastic bag. Use sticky tape and damp paper towels to get the last bits. Seal all in the bag. (f) Double bag and take to a household hazardous waste site (1-800-RECYCLE). **Justification** Breakage of fluorescent bulbs in a childcare setting may expose children mercury vapor and is a potential health risk. There should be guidance on cleaning up broken bulbs. For more information, see: http://www.doh.wa.gov/ehp/mercury/default.htm; http://www.epa.gov/cfl/cflcleanup-detailed.html	
Issues raised in public comments on proposed WAC 170-296A-4400 Exit doors:	**Was the proposed rule changed as a result of this comment?**
4400(1) Exit doors that open to the exterior of home – Providers are losing rooms that are 2-3 feet away from front door even when licensed for many years as approved licensed areas.	The proposed WAC 170-296A-4400 was not changed as a result of these comments. If the door is used for emergency exit, then it must be kept clear so that the door can be opened easily in a fire or emergency. This does not prevent the licensee from using this space for child play or other activities, as long in an emergency the emergency exit door is accessible and not blocked.
Issues raised in public comments on proposed WAC 170-296A-4425 Night latches, deadbolts and security chains:	**Was the proposed rule changed as a result of this comment?**
POSITIVE WAC CHANGES: 4425 Night latches, deadbolts & security chains allowed on non-emergency exit with DEL approved safety plan in place.	The proposed WAC 170-296A-4425 was not changed as a result of these comments. The commenter appears to agree with the rule.
Issues raised in public comments on proposed WAC 170-296A-4500 Emergency exits - General:	**Was the proposed rule changed as a result of this comment?**
Revise subsection (2) to read, "Every room used child care, except bathrooms, must have:	The proposed WAC 170-296A-4500 was changed as a result of these comments. The suggested change is consistent with the

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(a) ~~A d~~Doors or doorways leading to two se emergency exit pathways; or (b) An emergency exit door leading directly exterior of the building."	intent of the rule. The Department has modified this section and similar references in other sections as suggested.
Exit WAC. This is still very confusing, with the additional concern that providers will lose more space if there is not language that says that conjoining rooms are to be considered as 1.	The proposed WAC 170-296A-4500 was not changed as a result of this comment. A conjoining room (not used for sleeping or napping) could be safe if there are two ways for children to exit in the event of a fire. If none of the ways lead directly outside, then there must be two ways for children to get out that lead to two separate emergency exit pathways.
We are talking about homes not public buildings. Not every room has a door that opens to the outside.	The proposed WAC 170-296A-4500 was not changed as a result of this comment. The rule does not require a door in every room that opens to the outside. Unless the room is using for sleeping/napping, the rule provides other options that do not include a door or window leading to the outside. If the space is used for sleeping or napping, the space/room must have at least one emergency exit door or an emergency exit window that exits directly outside.
WAC 170-296A-4500 Emergency Exits Concerns: modify (2) so it works for family homes. WAC 170-296-296A-4500 needs to read: (2) Every room used for child care, except bathrooms, must have: (a)Doors or doorways leading to two separate emergency exit pathways; or (b) An emergency exit door leading directly to the exterior of the building.	The proposed WAC 170-296A-4500 was changed as a result of this comments. "…or doorways" was added to subsection (2)(a) and other sections that refer to an interior door(s) as a means of reaching an emergency exit pathway.
WAC 170-296A-4500 For daycares set in private family homes, requiring two separate doors in every room used for child care would be cost prohibitive. If the room has an adequate sized window that can be opened and used in the event of an emergency, that should be sufficient.	The proposed WAC 170-296A-4500 was not changed as a result of this comments The rule does not require two doors that lead to the outside from each room. However, subsection (2)section is revised to make it clearer, as follows: *(2) Every room used for child care, except bathrooms, must have two separate ways to exit that must be:* *(a) An emergency exit door and emergency exit window leading directly to the exterior of the building;* *(b) An emergency exit door or emergency exit window and an interior door or doorway leading to an emergency exit pathway; or* *(c) Two separate doors or doorways leading to two separate emergency exit pathways.*

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	See WAC 170-296A-4575 for additional requirements for rooms used for sleeping or napping.
Issues raised in public comments on proposed WAC 170-296A-4525 Emergency exit doors:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-4525 Emergency exit doors. (2) Any door used as an emergency exit door must: (a) Remain unlocked during operating hours; (b) Be designed to open from the inside without the use of keys, tools, or special knowledge and automatically unlocks when the door knob or handle is turned; If the door is unlocked, the last part of subsection (b) is not needed.	The proposed WAC 170-296A-4525 was changed as a result of these comments. Subsection (1)(b) was revised as follows: *WAC 170-296A-4550 Emergency exit windows* *(1) Any window used as an emergency exit window must:* *(a) Remain unlocked during operating hours, except a manufacturer-installed latch may be latched;* *(b) Be designed to open from the inside of the room without the use of keys, tools or special knowledge; and* *(c) Be easy to open to the full open position….*
Issues raised in public comments on proposed WAC 170-296A-4550 Emergency exit windows:	**Was the proposed rule changed as a result of this comment?**
4-b Building a platform will cause a financial hardship for some providers plus firefighters say they will break a window to get in. I believe this totally uncalled for as our homes are easy to exit thru the doors. 170-296A-4550 4 (b) The state Fire Marshall specifically said this does not need to be a requirement. Also, if DEL requires it anyway, it puts licensors in the position of knowing and understanding the building code. There is not a building code for little platforms under windows. Windows used as exits need to be defined as rescue windows not escape windows. Platforms shouldn't be required outside the windows according to the fire marshal's office. This would actually hinder the rescue of children if such a platform is in the way for the ladder to get to the window during an emergency.	The proposed WAC 170-296A-4550 was changed as a result of these comments. However, subsection (4)(b) was revised to remove the requirement to have a platform inspected by local building officials. It is up to the licensee to understand and comply with the local building codes when constructing a platform if required. If a fire blocks escape through an interior or emergency exit door, then the licensee must have alternative ways for the children to be evacuated to safety, such as an emergency exit window. This is especially true for bedrooms and other sleeping areas. When such a window is higher than 48 inches from the outside ground level (grade), it is important to provide a safe area for the children to land and then get to ground level. The term "emergency exit window" is defined in WAC 170-296A-4550 intentionally as a window that children, the licensee, staff and family members may use as a means of <u>emergency escape</u> to evacuate the home in the event of a fire. When a fire occurs, the licensee's first responsibility is evacuate the children in care from the licensed home, not to wait for the fire department to effect a rescue. The National Fire Protection Association notes that in many home fires, there

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	may be less than five minutes, and in some cases less than two minutes, after a smoke alarm sounds to safely evacuate everyone from a burning home. Comments by the State Fire Marshal at the Negotiated Rule Making Team meeting on March 28, 2009, regarding the size of a window being important for the fire department to effect rescue have been repeatedly taken out of context. The Fire Marshals comments were a reflection about the size of the window required by the International Residential Code for a rescue/ escape window, and that firefighters would get into the home any way needed regardless of the window size of whether a platform was provided outside. The Department does not believe the Fire Marshal's comments were intended to suggest that the licensee should wait with the children inside the home awaiting rescue during a fire. The National Fire Protection Association notes that in many home fires, there may be as little as two minutes after a smoke alarm sounds to safely evacuate everyone, although many people surveyed by NPFA believe they have six or more minutes safe time to evacuate a home fire. The NFPA recommends that if a home fire occurs, the first priority is to get out of the home as quickly as possible, and then to call 911 or the Fire Department. As a result, a new subsection is added to WAC 170-296A-2825 to clarify the licensee's responsibility when a fire occurs: ***"WAC 170-296A-2825 Fire evacuation plan.*** *(1) If there is a fire in the home during child care operating hours, the licensee's and staff's first responsibility is to evacuate the children in care to a safe place outside the home…"* The rules as proposed and adopted require window and door emergency exits, emergency exit pathways, and related methods and procedures (including requiring monthly fire drills) to provide means for effective escape and evacuation, and so provide the greatest opportunity for children in care to be safely away from harm if a fire occurs.

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Suggested new section: **WAC 170-296A-XXX Windows** Windows in areas used by children in the second story or above must not open more than four inches. For each window, window guards with an emergency release device, to be used in case of fire, must be installed. **Justification** Four inches is the generally accepted standard for keeping small children from falling out of windows. CPSC, Safe Kids, and the Neighborhood Safety Network all recommend installing stops that keep windows from opening more than 4 inches in homes.	The proposed rule was not changed as a result of this comment. The National Fire Protection Association notes that while safety /security bars improve fall safety, the NFPA cautions about the use of window security bars or grates: *"If windows or doors in your home have security bars, make sure that the bars have a quick-release mechanism inside so that they can be opened in an emergency. "* Requiring window bars or guards would be a new requirement and expense for licensees, which would likely require opening discussion with licensees and SEIU under RCW 43.215.350, and preparation of a small business economic impact statement prior to proposing the requirement as a rule. The department plans to give further consideration to this suggestion. Before drafting or considering any rule, the Department will invite comment from parents, licensees, fire officials, health and safety officials, manufacturers and others who may provide insights into the issue.
Issues raised in public comments on proposed WAC 170-296A-4575 Emergency exits from sleeping/napping areas:	**Was the proposed rule changed as a result of this comment?**
WAC 4575 should state 'Emergency exits from all licensed childcare rooms.' This should be all rooms used for care. Not just sleeping/napping.	The proposed WAC 170-296A-4575 was not changed as a result of these comments. The rule for sleeping/napping rooms needs to allow for children getting out on their own in the event of a fire or emergency. Children who are awake and involved in activities may be more likely to have multiple options for escaping in the event of a fire. But children who are asleep, especially in a bedroom, are more likely to have fewer options for escape. Therefore, this section requires that one emergency exit in a sleeping or napping area open directly to the outside. However, the department has revised this rule for clarity, as follows: ***WAC 170-296A-4575 Emergency exits from areas used only for sleeping/napping areas****. Each room used for sleeping or napping must have two ways to exit:* *(1) One exit must be an emergency exit door or emergency exit window leading directly to the exterior of the*

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	building; *(2) The other exit may be an interior door leading to an emergency exit pathway.*
Issues raised in public comments on proposed WAC 170-296A-4675:	**Was the proposed rule changed as a result of this comment?**
This required sink should be inside the bathroom.	The proposed WAC 170-296A-4675 was not changed as a result of these comments. The negotiated rule making team discussed this issue at length, and the proposed and adopted rule are consistent with the team's recommendation. Some toilet areas are located within a laundry or mud room of the home that may or may not have sink located in the toilet space.
Issues raised in public comments on proposed WAC 170-296A-4700 Water temperature:	**Was the proposed rule changed as a result of this comment?**
WAC 4700 should say bathroom water temperature-hand washing sinks as in old WACs.	The proposed WAC 170-296A-4700 was not changed as a result of these comments. Having different maximum water temperatures for different uses may require the licensee to have more than one water heater or to constantly be adjusting the water heater temperature for different uses. This may present a scalding hazard children if the licensee does not lower the temperature when needed after a use that requires water temperature higher than 120 degrees F.
Issues raised in public comments on proposed WAC 170-296A-4725 Guns and other weapons:	**Was the proposed rule changed as a result of this comment?**
Weapons should be easier to be defined as guns, rifles but is to broad to include knives,fighting impliments, like a stick, play light saber,foam swords,bows (arrows should be locked), foam or nerf guns ,water guns, water swords, play knife or sword toys should be clearly not be included.	The proposed WAC 170-296A-4725 was not changed as a result of these comments. Weapons are defined in WAC 170-296A-0010 as items used to inflict harm or intended to inflict harm. Hunting knives, fighting implements, various combat weapons, and similar items are or could easily be used to inflict harm. Toys, sticks water pistols, etc. would not fit the definition of items intended to inflict harm, and so would not be required to be stored locked.
WAC 4725 gun safe or similar device that is manufactured to safely store guns that locks, or define gun safe. There are many storage devices manufactured to store guns.	The proposed WAC 170-296A-4725 was not changed as a result of these comments. Not all gun cabinets safely store guns, and a glass-enclosed gun cabinet could be broken making the weapons accessible to the children in care. The rule would not permit a gun cabinet.
Issues raised in public comments on proposed	**Was the proposed rule changed as a result of this comment?**

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WAC 170-296A-4800 Pet policy:	
Suggestion: (1) Pets that have contact with children must: (a) Have current immunizations for communicable diseases; (b) Show no signs of disease, worms or parasites; (c) Be licensed according to local requirements, where applicable; and (d) Be nonaggressive. (2) Children and staff must wash their hands as required under WAC 170-296A3625 after interacting with pets or handling pet toys or equipment.	The proposed WAC 170-296A-4800 was not changed as a result of these comments. Requiring pet licensing is beyond the Department's scope of authority, and would not assure that a pet is safe to be around children nor healthy.
Add the content of child care center WAC 170-295-5170 to this rule: 1) When animals are on the center premises you must: (a) Notify the parents in writing that animals are on the premises and the potential health risks associated with the animals to include how to address the needs of children having allergies to animals; (b) Have a signed document from each parent stating they understand the potential health risks; (c) Not hang pet containers or cages in corridors, entryways or over where children eat, sleep, and play; (d) Post handwashing signs in areas where pets are housed; (e) Have containers or cages to prevent debris from spilling out of the container or cage. The container or cage must not be located in corridors, entrance ways, or where children eat, or play; (f) Assign responsible staff to ensure pet containers, cages, and litter boxes are cleaned and disinfected at least weekly and more often if needed; (g) Not allow animals in food preparation areas. If the sink is used for cleaning food or utensils it cannot be used to clean pet supplies; (h) Not allow animals in rooms that typically are	The proposed WAC 170-296A-4800 was not changed as a result of these comments. WAC 170-295-5170 may be appropriate for child care center environments, but not family home child care. The Department recognizes that the licensee or other members of the household may have pets or other animals on the premises, possibly even reptiles or amphibians in licensed or unlicensed space. The rules require the licensee to take reasonable precautions to protect children in care, but recognize that pets may be an important part of the licensee's home.

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used by infants or toddlers; (i) Keep on file proof of current rabies vaccinations for all dogs and cats; (j) Meet local requirements in counties with immunization, vaccination and licensing requirements for animals; and (k) Organize children into small groups for supervised activity for handling of pets. (2) You must develop policies and procedures for management of pets to include: (a) How the needs of children who have allergies to pets will be accommodated; (b) How pet containers, cages, litter boxes will be cleaned and sanitized and who will do it; (c) How pets will receive food and water, and be kept clean and who will do it (d) Curricula for teaching children and staff about safety and hygiene when handling pets; and (e) Pets (excluding aquatic animals) showing signs of illness must be removed from the facility until they have been seen, treated and given approval to return to the center by a veterinarian. Written proof of veterinary visits must be maintained on file. ~~(3) Reptiles and amphibians must be in an aquarium or other totally self-contained area except during educational activities involving the reptile. Children five years of age or less must not physically handle reptiles and amphibians.~~ (4) Animals with a history of biting or other aggressive behaviors must not be on the premises of the child care center.(5) You must ensure children wash their hands after handling animals.	
Issues raised in public comments on proposed WAC 170-296A-4875 Pets interacting with children:	**Was the proposed rule changed as a result of this comment?**
Comments/suggestion: The licensee: (1) Must have a written plan to keep a pet inaccessible to the children if the pet is known to be dangerous or aggressive. (2) Must directly supervise, or instruct staff to	The proposed WAC 170-296A-4875 was not changed as a result of these comments. Other animals, including kittens and puppies, plus animal bedding and toys present a similar hazard to baby chicks and ducks when children come into contact with them. WAC 170-

a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
directly supervise, children preschool age and younger when the children are interacting with pets. (3) Must make baby chicks and ducks, reptiles and amphibians inaccessible to the children due to the risk of Salmonella. **Justification** Chicks and ducklings may have *Salmonella* bacteria on their bodies, even when they are healthy and look clean. Children are especially at risk of illness because they are less likely to wash their hands without direction to do so, and have more frequent hand-to-mouth contact than adults. Young poultry should be made inaccessible as reptiles and amphibians are. For more information see: http://www.doh.wa.gov/ehp/ts/Zoo/salmonellachick.html	296A-4875 was revised to move hand washing and close supervision requirements into this section for all types of animals and pets, as follows: ***WAC 170-296A-4875 Pets or other animals interacting with children.*** *The licensee:* *(1) Or primary staff person must directly supervise, or instruct staff to directly supervise, children preschool age and younger when the children are interacting with pets or other animals.* *(2) Must have children and staff wash their hands as required under WAC 170-296A-3625 after interacting with pets or other animals, or after handling an animal's toys, bedding litter or equipment.* *(3) Must have a written plan to keep a pet or other animal inaccessible to the children if the pet or animal is known to be dangerous or aggressive.* *(4) Must make reptiles and amphibians inaccessible to the children due to the risk of Salmonella.*
Issues raised in public comments on proposed WAC 170-296A-4900 Pet wastes:	**Was the proposed rule changed as a result of this comment?**
170-296A-4900 Pet waste - If pets are allowed to be used in care, around the children and played with.... why make us have a designated area outside the fenced licensed outdoor space for pets to relieve themselves. It is too costly to tear down fences and make separate ares outside an area. There are city building codes that limits fencing and placement of fences on property. If a provider has a fenced outdoor space that is approx. 30 feet by 40 feet for licensed space... what was wrong with having a designated area inaccessible to the children within the outside space.... Nothing, We can not make area we don't have on our property.	Subsection (2) of the proposed rule was revised as a result of this comment, to read: *"(2) For pets that do not have an indoor litter area, have a designated area outside for pets to relieve themselves that is inaccessible to children in care. This area may not be counted in the licensed outdoor square footage…"* The revised wording could allow a licensee to make a portion of their fenced outdoor space a pet waste area, as long as the pet waste area is made inaccessible to children during operating hours. See the definition of "inaccessible to children" in proposed and adopted WAC 170-296A-0010.
#2 Pets are a very important part of the learning experience of Home Day Care. Excluding them from the yard in not fisable in my eyes. My yard is checked on a daily basis and before the chidren go out to play. This should read Provider will	The rule does not require the licensee to exclude pets/animals from the fenced outdoor space. However, allowing pets to relieve themselves in areas where children play leaves the children at risk for contacting germs or parasites from pet wastes if the licensee or staff does not adequately clean up the

a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
check yard for feces and clean up before children go into the area.	wastes.
Issues raised in public comments on proposed WAC 170-296A-4925 Licensed outdoor space:	**Was the proposed rule changed as a result of this comment?**
1 (b) .If the premises do not have seventy-five square feet of available outdoor space per child, the licensee must provide an alternative plan, approved by the department, to meet the requirement for children to have daily opportunities for moderate to vigorous outdoor play. (added to ensure children who can't go outside have a designated place for gross motor activities.)	The proposed WAC 170-296A-4925 was not changed as a result of these comments. The intent of subsection (1)(b) recognizes that many newer homes may have small yards. In these cases, the department could allow the licensee to have an alternative plan (such as taking the children out in smaller groups) so that all children may have outdoor play each day. Otherwise, the licensee is required to have a variety to outdoor play equipment to provide different ways to for children to have gross motor development. However, the Department will add "all" before "children to have daily outdoor play opportunities…" to clarify the intent of this rule.
Issues raised in public comments on proposed WAC 170-296A-4950 Rails on platforms, decks, and stairs:	**Was the proposed rule changed as a result of this comment?**
Suggestion: **Suggestion:** Horizontal slats should be addressed. **Justification** If there are horizontal slats spaced more than 3.5 inches apart, but not far enough apart so that a child falls through the slats, an entrapment or a strangulation hazard is presented.	The proposed WAC 170-296A-4950 was changed as a result of these comments. The rule was revised to include vertical "or horizontal" slats.
Issues raised in public comments on proposed WAC 170-296A-4975 Outdoor supervision:	**Was the proposed rule changed as a result of this comment?**
Need to emphasize daily "active" – meaning moderate to vigorous activity play, whether it is outside or inside. WAC 170-296A-4975	The proposed WAC 170-296A-4975 was not changed as a result of these comments. The purpose of this section is to address child supervision requirements rather than physical activity. However, proposed WAC 170-296A-4975 has been withdrawn, and its content incorporated into adopted WAC 170-296A-5750 Supervision, to consolidate rules regarding supervision of children in care and the licensee's supervision of staff.
Issues raised in public comments on proposed WAC 170-296A-5000 Play equipment:	**Was the proposed rule changed as a result of this comment?**

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The rule should be modified or withdrawn because it fails to take into account the fact that play equipment is often times purchased second-hand and the licensees do not have access to the specifications; or the play equipment was purchased "many years ago" and the licensee no longer has the specifications.	The proposed WAC 170-296A-5000 was changed as a result of these comments. The Department recognizes that the licensee may not be able to obtain the manufacturer's specifications for used play equipment, or play equipment purchased or acquired before the effective date of the proposed rule. Also, hand-made play equipment may not have written specifications. Taking into account these concerns, the Department will revise proposed WAC 170-296A-5000 as follows: (1) *The licensee must have play equipment that is developmentally appropriate and maintained in a safe working condition. The licensee must inspect play equipment at least weekly for injury hazards, broken parts or damage. Unsafe equipment must be repaired immediately or must be made inaccessible to children until repairs are made.* *(2) Play equipment must be arranged so that it does not interfere with other play equipment when in use.* *(3) The licensee must install or assemble new play equipment acquired on or after March 31, 2012, according to manufacturer specifications. The licensee must keep the specifications on file for review by the licensor.* *(4) For used or home-made play equipment, or play equipment acquired and installed prior to March 31, 2012, the licensee must assemble the equipment in a manner that provides a safe play experience for the children.* The rule was not intended to require licensee's to purchase new equipment or to require obtaining instructions for used or hand-made equipment – the revised rule in more in line with its original intent.
Comment: **WAC 170-296A-5000 Play equipment** (1) The licensee must have play equipment that is developmentally appropriate and maintained in a safe working condition. Unsafe equipment must be repaired immediately or must be made	The proposed WAC 170-296A-5000 was not changed as a result of this comment. However the following wording is added to subsection (1) *"The licensee must inspect play equipment at least weekly for injury hazards, broken parts or damage."*

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inaccessible to children until repairs are made. (2) Play equipment must be arranged so that it does not interfere with other play equipment when in use. (3) The licensee must install or assemble play equipment according to manufacturer specifications, and keep specifications on file for review by the licensor. (4) Frequently check play equipment for safety hazards, including: (a) no open "S" hooks; (b) no protruding bolts; (c) no loose screws or fittings; (d) no areas where fingers/hands can be trapped, crushed, or pinched; and (e) no spaces that could trap children, all openings should be less than 3.5 inches or more than 9 inches. **Justification** The suggested language on inspecting play equipment comes from the CPSC Outdoor Home Playground Safety Handbook: http://www.cpsc.gov/cpscpub/pubs/324.pdf	The proposed rule already requires the Licensee to repair the equipment immediately or make it inaccessible until repairs are made. DEL may include these suggested details in Guidance. @@
Issues raised in public comments on proposed WAC 170-296A-5025 Outdoor physical activities:	**Was the proposed rule changed as a result of this comment?**
Add the underlined wording: The licensee must have an outdoor play area that promotes a variety of age and developmentally appropriate physical activities that allow for active play (such as running, jumping, skipping and hopping)	The proposed WAC 170-296A-5025 was not changed as a result of these comments. The recommendation would be appropriate for guidance. The rule is self explanatory. If the licensee has adequate space and variety of outdoor play options, children would have room for active play and likely not need inducements or a rule to run, jump, skip or hop. However, the department will change "physical activities" in the rule to "active play."
Issues raised in public comments on proposed WAC 170-296A-5075 Ground cover; Fall zones:	**Was the proposed rule changed as a result of this comment?**
The proposed rule be withdrawn because the requirement that the "fall zone for swings needs to be 10 feet from [the] arc" will cause providers to eliminate swing sets which will deprive	The proposed WAC 170-296A-5075 was changed as a result of these comments, but not as suggested. The proposed rule is intended to require fall-absorbing

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children of "an important, developmentally appropriate activity".	material appropriate distances from play equipment. As worded, the proposed rule requires a fall zone of six feet around swings under which fall-absorbing material must be applied. The 10-foot clearance distance is the required distance of the swing set from fences, buildings and other play equipment, but is not the fall zone. The intent of this rule is to protect children playing on the swing set from injuries caused by falling or jumping off the swing onto a fence, nearby structures, or onto nearby play equipment. It is also intended to help protect other children who may be using nearby play equipment. The Department has considered the guidelines contained in the Consumer Product Safety Commission's Outdoor Home Playground Safety Handbook – CPSC Publication 324 (the "Handbook"). www.cpsc.gov/CPSCPUB/PUBS/324.pdf, which say: *"Locate play equipment at least 6 feet from any structure or obstacle, such as a house, fence, sheds, trees or poles. Swings should be further away from structures to the front and rear of the swings – a distance equal to twice the height of the top bar from which the swing is suspended."* *Handbook, at page 2.2*. For swings, fall-absorbing material in front and behind should be extended for a distance equal to twice the height of the top bar from which the swing is suspended. *Handbook, at page 2.7*. The department agrees that swings may be developmentally appropriate play equipment. However, studies by the Consumer Product Safety Commission found that swing related injuries and deaths among children constituted the highest number of reported injuries and deaths involving playground equipment. *See the Consumer Product Safety Commission's report on Injuries and Investigated Deaths Associated with Playground Equipment, 2001 – 2008* (the "Commission Report"). www.cpsc.gov/library/foia/foia10/os/playground.pdf. Between 2001 and 2008, 598 out of 2,691 (22%) home playground equipment related injuries and deaths involved swings. *Commission Report, at 7,* more than any other type of play equipment.

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	Taking into consideration the guidelines set forth by the Handbook, and concerns expressed in these comments, the Department will modify proposed WAC 170-296A-5075 (2), (4) and (5) as follows:. . (2) The ground under swings and play equipment intended to be climbed must be covered by a shock absorbing material. Grass alone is not an acceptable ground cover material under swings or play equipment intended to be climbed. (3) A six-foot fall zone must surround all equipment that has a platform over forty-eight inches tall that is intended to be climbed. (4) The fall zone area must extend at least six feet beyond the perimeter of the play equipment. For swings, ~~the area must extend six feet from the furthest arc of the swing.~~ the fall zone area must be a distance to the front and rear of the swing-set equal to or greater than twice the height of the top bar from which the swing is suspended. (5) ~~Swings~~ Swing-sets must be positioned further away from structures to the front and rear of the swing-set. The distance to the front and rear of the swing-set from any playground equipment or other structures must be a distance equal to or greater than twice the height of the top bar from which the swing is suspended. ~~so that the furthest arc of the swing is at least ten feet from a fence, building or other play equipment.~~

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WAC 170-296A-5075 Ground cover--Fall zones. - I have two swings suspended from a secured overhead deck. I won't be able to have swings if this rule is enacted. The children love the swings and it's a great vestibular activity. Most new construction homes do not have large backyards to have a stand-alone swing set.. 6/13/2011	The proposed rule was not changed as a result of this comment. Unless ground cover may be placed under this swing to the distances required, it is possible that this swing may need to be moved or taken out of service during child care hours to provide a safety zone as required in the rule.
DEL should not have looked for additional research over what was given to the negotiated rule making team. The team was told (by an outdoor play advisor) that grass is an adequate ground cover under swings.	The proposed rule was not changed as a result of this comment. The department is obligated to do its own research on requirements in the rules, as well as considering research cited by the NRMT. The Consumer Products Safety Commission's "Outdoor Home Playground Safety Handbook – CPSC Publication 324" notes that grass is not considered adequate shock absorbing material under swings. CPSC's 2001 study of child injuries from home play equipment also notes that: "*Overall more injuries occurred where a grass surface was present* (under or around play equipment) *than any other type of surfacing… Grass was the most common surfacing associated with the home use equipment-related injuries (45 percent)*." Source: 2002, Special Study: Injuries and Deaths Involving Children Under Age 2 Associated with Playground Equipment. U.S. Consumer Product Safety Commission Directorate o f Epidemiology. Grass cover, if not planted in adequate soils, properly watered, and allowed to erode to bare ground, can quickly become packed or dry, providing little or no shock absorbing value.
WAC 170-296A-5075: I chose family in-home daycare over daycare centers for the low ratios and personal care. One of the deciding factors of my particular center was the amazing outdoor play area. If the fall zone is increased to 10 feet, my child care will need to take their swings down. My daughter loves the swings and with adult supervision the 6 foot drop zone works. The swings have given her amazing balance, far beyond what I have seen in other toddlers. I have had no accidents involving my swings for the twenty years or so that I've had them (Remember, we are required to supervise the children). I have no ground cover, only grass, and the kids don't manage to hit the fence behind	The proposed rule was not changed as a result of this comment. The department recognizes that swings may provide an attractive play opportunity. However the department must also require adequate placement of swings and other play equipment to reduce the risk to children from fall injury or from injury caused by swings being too close to buildings, fences or other play equipment. The CPSC Handbook provides an objective national standard for fall zones in front and back of swings that takes into account variations in the height of swing equipment. The revised rules reflect the CPSC Handbook standards.

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them even though it's not ten feet away. I will have to take them out because the cost would be too much (I will be retiring soon and can't put that much money into something that I will not be using after retirement). They are a favorite with my kids and they will be upset to see them go, but with this new rule I will have no choice. Seems excessive for small preschool swings. Providers will need to get rid of swing sets and children will lose an important, developmentally appropriate activity.	
The 6 feet seems reasonable. On my personal swings that would be almost 30 feet of the pea gravel area devoted just to 3 swings. The swing set directions don't even require that distance. We set ours to their directions…of which at the time was suitable to be on grass…(Ours have always been on pea gravel) Swings are so wonderful for gross motor muscles and exercise. I find this 30 feet area excessive and please know this comes from a Provider that has had swings for 30 years and has NEVER had any one fall off. Our accidents are when little people walk in front of someone swinging…and even that's rare because we are supervising the children. Two and 3 year olds hold on. With any outdoor activity there is an element of jeopardy….even in just plain running. It sounds like a good idea to keep children in helmets for all outdoor activities. We all want the children safe but do you really think changing the 6' to 10 'will add safety , or will it just get rid of swings? Skating, running , skipping, going down the slide head 1st etc etc……What gets banned next?…because I feel like the 30 feet will basically get rid of swings in the childcare setting. I also read I was to keep all directions to toys and equipment.	The proposed rules has been revised to require a fall zone for swings front and back that is two times the height of the bar from which the swings are suspended. For a swing seven feet high, the fall zone would be fourteen feet measured from the bar front or back, or a total of twenty-eight feet. This total would vary depending on the height of the bar from which the swings are suspended. The fall zone difference accounts not only for children falling or jumping from a swing seat, but for room needed for children to pass around the swing when it is in use and for a safe space from other play equipment. The CPSC's 2001 study notes that many swing injuries occur from children being hit by a swing seat, and that one-third of playground injuries for children under two occur on or around swings. (The cited CPSC study included public and home outdoor playground equipment. However, one third of the 8,250 reported playground injuries that resulted in an emergency room visit in 2001 were from home outdoor play equipment injuries.)
Issues raised in public comments on proposed WAC 170-296A-5125 Daily outdoor activity:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-5125 Daily outdoor activity The	The proposed WAC 170-296A-5125 was not changed as a result

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licensee or staff must provide outdoor activities at least thirty minutes each day unless conditions pose a health and safety risk to the children. Conditions that may pose a health and safety risk include, but are not limited to: (1) Heat in excess of one hundred degrees Fahrenheit; (2) Cold less than twenty degrees Fahrenheit; Concerns: (1) There are infants and toddlers who are not able to safely regulate their inner thermostats to handle outside heat in the 90's, especially if it is humid. (2) If there is a chill factor, temperatures in the 20's can be excessive and dangerous for infants and toddlers. Rain can be torrential a times and hail can be painful. This decision should be left to the good judgment of the child care provider and/or the parents of the children in care. Suggested Changes: Change and combine (1) and (2) to read: (1) Excessive heat or cold temperatures or other unsafe weather conditions. This is simply an insult to any decent provider!!!!	of these comments. Without a requirement in the rules, the Department has concern that some providers would not provide daily opportunities for outdoor activity for children in care. The list of exceptions in the rule was recommended by the Negotiated Rule Making Team, and provides reasonable exceptions to the requirement.
Suggested changes: ○ Need minimum times within a day for outdoor play. Add: (a) 60-90 minutes daily for toddlers; (b) 90-120 minutes per day for preschoolers; (c) at least 20 minutes for 3 hours of care for school age children. This includes both teacher led and free play for children. WAC 170-296A-6575 and that there is a provision for indoor physical activity for times when conditions pose health and safety risk for children to play outdoors. WAC 170-296A-5125 ○ The licensee must have an outdoor play area that promotes a variety of age and developmentally appropriate physical activities. Add: that allow for active play (such as running, jumping, skipping and hopping).	The proposed rule was not changed as a result of this comment. The content of the rule is the result of extensive discussion with licensed family home child care providers and others on a negotiated rule making process. The proposed rule assures that children have a minimum amount to outdoor play daily, without prescribing specific amounts of play by age. To adopt the suggested change would likely require re-opening discussion with licensees and their union under RCW 43.215.350. The department will consider including this recommendation in guidance, and consider this recommendation for discussion at the next revision of chapter 170-296A.

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WAC 170-296-1220	
Issues raised in public comments on proposed WAC 170-296A-5150 Water activity – supervision:	**Was the proposed rule changed as a result of this comment?**
# 5150(2) four-inch deep water – must be lifeguard on duty or additional staff member. This will limit activities providers may offer. Too restrictive as far as depth when it is private property of someone else and not used by children.	The proposed WAC 170-296A-5150 was changed as a result of these comments, with modifications. The revised rule is limited to when children in care are attending a swimming or water play activity. A new subsection (3) is added with specific supervision requirements for infants and toddlers. See the revised rule below.
Suggestion: **WAC 170-296A-5150 Water activity--Supervision** (1) Unless attending a swimming or water play activity, when outside the licensed premises the licensee must keep children from having access to bodies of water that pose a drowning hazard. (2) When the licensee takes children near a body of water outside the licensed premises that is accessible and more than four inches deep, there must be: (a) ~~A certified lifeguard on duty; or~~ ~~(b)(i)~~ One additional staff member more than the required staff-to-child ratio as provided in WAC 170-296A-5700 to help with the children; and (~~ii~~b) At least one staff person in attendance must be able to swim. (3) When attending a swimming or water play activity outside the licensed premises: (a) Obtain written permission from each child's parent or guardian to allow the child to participate in the swimming or water play activity; (b)There must be a certified lifeguard on duty, or: (i) when water depth is 24 inches or less, the licensee must keep infants and toddlers within reach of the licensee or staff (ii) when water depth is greater than 24 inches, provide a one-to-one staff-to-child ratio for infants or toddlers participating in the swimming or water play activity. Staff must hold or be in	The proposed WAC 170-296A-5150 was changed as a result of these comments, with modifications as follows: ***WAC 170-296A-5150 Water activity--Supervision.*** *When children in care are attending a swimming or water play activity outside the licensed premises:* *(1) The licensee must have a written permission from each child's parent or guardian;* *(2) There must be a certified lifeguard on duty, and;* *(3) When infants or toddlers are in water depth that is:* *(a) Twenty-four inches or less, the licensee or staff must stay with reach of infants or toddlers.* *(b) Greater than twenty-four inches, the licensee must provide a one-to-one staff-to-child ratio for infants or toddlers. Staff must hold or be in constant touch contact with each infant or toddler.* Other content if proposed WAC 170-296A-5150 (1) and (2) is moved to WAC 170-296A-5250.

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constant touch contact with infants or toddlers. **Justification** The suggested additional language are the protections that are currently provided in WAC 170-296A-5175 and WAC 170-296A-5200 regarding children participating in swimming or water play activity at locations other than the licensed premises.	
Issues raised in public comments on proposed WAC 170-296A-5175 Wading pools – Defined – Supervision:	**Was the proposed rule changed as a result of this comment?**
Suggestion: (1) A wading pool: (a) Is an enclosed pool with water depth of two feet or less measured without children in the pool; and (b) Can be emptied and moved. (2) When a wading pool on the premises is intended for use by the children, the licensee must: (a) Directly supervise or have a primary staff person directly supervise the children; (b) Obtain written permission from each child's parent or guardian to allow the child to use a wading pool; (c) Maintain staff-to-child ratios when children are in a wading pool; (d) Keep infants or toddlers in the wading pool within reach of the licensee or staff; (e) Use a door alarm ~~or bell~~that meets the alarm standard required by WAC 51-51-003 International Residential Code, 2009, Appendix G-Swimming Pools, Spas and Hot Tubs to warn staff that children are entering the outdoor area when pool water could be accessed, or keep the wading pool empty when not in use; and (f) Empty, clean and sanitize the pool daily or immediately if the pool is soiled with urine, feces, vomit, or blood: (i) If a bleach solution is used to sanitize, the solution must be one teaspoon of bleach to one gallon of cool water;	The proposed WAC 170-296A-5175 was not changed as a result of these comments. The proposed rule was developed following discussion with child care licensees and others on the negotiated rule making team. Proposed and adopted subsection (2)(e) allows greater variety of ways for meeting the requirement than the alarm type required in WAC 51-51-003 Appendix G. *Appendix G-Swimming Pools, Spas and Hot Tubs, AG105.2* *9.2. Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed and labeled in accordance with UL 2017. The deactivation switch(es) shall be located at least 54 inches (1372 mm) above the threshold of the door;* The proposed and adopted rule are consistent with the recommendation of the Negotiated Rule Making Team.

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(ii) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. **Justification** The suggested text establishes a standard for the door alarm that is consistent with the state building code requirements and the national residential swimming pool standards. This will help assure that effective alarms are installed and used. Ineffective alarms may go unheeded, resulting in unsupervised children gaining access to the wading pool.	
Portable wading pools should not be permitted.	The proposed rule was not changed as a result of this comment. The proposed rule was developed in conjunction with and following extensive discussion with licensed family home child care providers on the Negotiated Rule Making Team regarding water related activities both on and off the child care premises. Although the rule differs from the "no portable wading pool" recommendations of Caring for Our Children, the rules contain what the Department believes are adequate provisions to safeguard the health, safety and wellbeing of children in care while using a portable wading pool.
Issues raised in public comments on proposed WAC 170-296A-5200 Swimming pools defined; Barriers and supervision:	**Was the proposed rule changed as a result of this comment?**
Comments/suggestions: **WAC 170-296A-5200 Swimming pools defined--Barriers and supervision** (1) A swimming pool is a pool that has a water depth greater than two feet. (2) When there is a swimming pool on the premises the licensee must: (a) Have barriers, gates, locks and entry alarms that meet the standards required by WAC 51-51-003 International Residential Code, 2009,	The proposed WAC 170-296A-5200 was not changed as a result of these comments. WAC 51-51-0003, Appendix G-Swimming Pools, Spas and Hot Tubs, Appendix AG105.2 requires only a four foot high fence around swimming pool areas. The proposed rule requires a five foot fence, and is consistent with the recommendation of the Negotiated Rule Making Team comprised of FHCC licensees, SEIU, advocates, and DEL staff. The rule provides more options for alarms on doors leading from the home to a swimming pool area than are referenced in Appendix AG105.2.

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Appendix G-Swimming Pools, Spas and Hot Tubs ~~a five-foot high fence that blocks access to the swimming pool;~~ (b) ~~Lock the entrance and exit points to the swimming pool;~~ ~~(c) Have an unlocking device that is inaccessible to children but readily available to the licensee or staff; (d) Maintain the swimming pool according to manufacturer's specifications; and~~ ~~(c)~~ Clean and sanitize the swimming pool using the manufacturer's specifications. (c) Maintain a continuous disinfection level of 1.0-1.5 parts per million of free chlorine in the water. (d) Require children in diapers or of toilet training age to wear swim pants to lower the risk of contaminating pool water. (3) When the swimming pool on the premises is used by the children the licensee must: (a) Obtain written permission from each child's parent or guardian to allow the child to use the swimming pool; (b) Have one person present at the swimming pool with lifeguard training; (c) Provide a one-to-one staff-to-child ratio for infants or toddlers in the swimming pool. Staff must hold or be in constant touch contact with infants or toddlers in the swimming pool; and (d) Provide one additional staff person more than the required staff-to-child ratio as provided in WAC 170-296A-5700 to help supervise children other than infants or toddlers. **Justification** (2)(a): The suggested text establishes standards for safety barriers consistent with the state building code requirements and the national residential swimming pool standards. (2)(b) - (d): The suggested text addresses the highly predictable potential for fecal contamination of the pool by this age group of children.	The proposed rule requires that the licensee follow the manufacturer's specifications for swimming pool maintenance, which would include methods of cleaning and sanitizing the pool and chlorine levels. The adopted rule was revised to require that children in diapers or of toilet training age were swim pants when in a swimming pool as suggested in these comment.

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Issues raised in public comments on proposed WAC 170-296A-5225 Bodies of water or water hazards on the licensed premises:	**Was the proposed rule changed as a result of this comment?**
# 5225 2" deep water – rain puddles or bird baths not a body of water – why not up to 4" same as above?	The proposed WAC 170-296A-5225 was changed as a result of these comments. The rule more clearly defines the types of water hazards that must be made inaccessible, as follows: *WAC 170-296A-5225 Bodies of water or water hazards on the licensed premises. (1)(a) As used in WAC 170-296A-5150 through 170-296A-5250, a "body of water" is a natural area or man-made area or device that contains or holds more than two inches of water.* *(b) "Body of water" does not include a wading pool as defined in WAC 170-296A-5175, a water activity table, small bird baths or rain puddles with a water depth of two inches or less.* *(2) When children are in care the licensee must:* *(a) Make any body of water in the licensed space inaccessible with a physical barrier (not to include a hedge or vegetation barrier) or fence that is at least five feet tall, except as provided in subsection (c) of this section. When a fence has slats or open grids, openings must not be wider than three and one-half inches;* *(b) Directly supervise or have a primary staff person directly supervise children, with the staff-to-child ratios observed, whenever children play in any area with a body of water;* *(c) Make hot tubs, spas, or jet tubs inaccessible with a tub cover that is locked; and* *(d) Not use five gallon buckets or similar containers for infant or toddler water play.*
WAC 170-296A-5225 Bodies of water or water Concerns: There is no provision for decorative rock formation fountains that do not include an open body of water but cycle water through rocks. There are also decorative water fountains in front of residential homes that are not in the actual licensed space that should not have to be removed. Suggested Changes: Include decorative fountains to (b) "Body of water" does not include	A fountain or rock waterfall feature that does not form a pool would not likely need to be made inaccessible under the adopted rule. However, each water feature should be evaluated individually to determine if it presents a credible potential injury hazard from children having access to it.

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a wading pool as defined in WAC 170-296A-5175, a water activity table, small bird baths, decorative fountains and rain puddles with an exposed water depth of two inches or less.	
Subsection 1b, Water depth should be at least four inches. Received by e-mail 6+-24-11	The rule was not changed as a result of this comment. Water as shallow as two inches has been found to be a potential drowning hazard, especially to very young children .
(1)(a) As used in WAC 170-296A-5150 through 170-296A-5250, a "body of water" is a natural area or man-made area or device that contains or holds more than two inches of water. (b) "Body of water" does not include a wading pool as defined in WAC 170-296A-5175, a water activity table, small bird baths or rain puddles with a water depth of two inches or less. (2) When children are in care the licensee must: (a) Make any body of water in the licensed space inaccessible with a fence or a physical barrier that meets the standards required by WAC 51-51-003 International Residential Code, 2009, Appendix G-Swimming Pools, Spas and Hot Tubs ~~is at least five feet tall~~, except as provided in subsection (c) of this section; (b) Directly supervise or have a primary staff person directly supervise children, with the staff-to-child ratios observed, whenever children play in any area with a body of water; (c) Make hot tubs, spas, or jet tubs inaccessible with a tub cover that is locked; and (d) Not use five gallon buckets or similar containers for infant or toddler water play. **Justification** The suggested text establishes standards for safety barriers consistent with the state building code requirements and the national residential swimming pool standards.	The rule was not changed as a result of this comment. The proposed rule requires a higher fence (5 feet) than is required under WAC 51-51-003 Appendix G. (4 feet). The proposed and adopted rule was developed consistent with the recommendation from Negotiated Rule Making Team comprised of licensees, SEIU, advocates, and DEL staff.
Issues raised in public comments on proposed WAC 170-296A-5400 Infant-toddler only license (Birth to two years old):	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-5400 Infant-toddler only license (birth to two years old). (Reserved.) Concerns: If	The proposed WAC 170-296A-5400 was not changed as a result of these comments.

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this specialized license is considered, it should include an increased capacity for children under age two should the licensee only care for that age group. A licensee with this license needs to be able to care for enough children in this age group to make it financially feasible. And/or, include the ability to have dual licenses that would allow being licensed for specialized licenses in the birth to two years old group as well as the two through five year old group. Provider of 22 years.	This section will be "reserved" for possible future rule development. In child care licensing standards, Child safety must take precedence over the licensee's financial earning capacity. The maximum licensed capacity and staff/child ratios for infants/toddlers would still be based on how many children the licensee and staff could safely care for, particularly when children must be evacuated from the home in a fire or other emergency.
Issues raised in public comments on proposed WAC 170-296A-5550 Birth through twelve years license:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-5550 Birth through twelve years license. - Why has the age limit gone up to 12 years old? Washington state does not have any laws stating what age a child could be latchkey. It is suggested that a child of the age of 10 years old and is mature could be a latchkey.	The proposed WAC 170-296A-5550 was not changed as a result of these comments. This age limit change was made on the recommendation of the Negotiated Rule Making Team to make the maximum age the same as for DEL child care subsidies (through 12 years of age). Many child care waivers (now "exceptions to rule") in past years were requested for children who have reached age twelve, but the parent wished to continue their child in licensed care. The rule does not require any parent /guardian to place children of any age into child care.
Issues raised in public comments on proposed WAC 170-296A-5700 Capacity and ratio table – Birth to twelve year license:	**Was the proposed rule changed as a result of this comment?**
The proposed rule is "difficult to understand [the] new 18 month age grouping" in the capacity and ratio table contained in proposed WAC 170-296A-5700. The capacity and ratio table needs "clarification".	The proposed WAC 170-296A-5700 was not changed as a result of these comments. The comment is difficult to understand or interpret, since no specifics are offered. The Negotiated Rule Making Team spent several months considering the elements of the "Capacity and Ratio" requirements by ages of the children in care and the licensee's experience and staffing levels. The proposed and adopted rule is consistent with the NRMT's recommendations, with an almost unanimous vote. The Department respectfully denies the request for the Department to modify this rule. The adopted rule was revised to clarify the experience level of licensees regarding annual hours of ongoing training.

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WAC 170-296A-5700 Capacity & Ratio Graph Table-under (b)Licensee working alone 1:8ratio, limiting a provider to only 4 children under two years old would make it very hard to fill openings. It would also decrease licensed openings for two year olds and more would end up going to unlicensed care along with the under two children that are already being forced into unlicensed care due to a lack of openings in my area.	The proposed WAC 170-296A-5700 was not changed as a result of this comment. The maximum capacities, age groupings and ratio are based on the number of children a licensee may safely supervise, and importantly, the numbers and ages of children the licensee may safely evacuate in a fire or similar emergency. To increase the number of children under age two – walking or not – cared for by the licensee alone could put children at risk of injury or death if the licensee is unable to evacuate all children in care safely.
WAC 170-296A-5700 Capacity & ratio graph table Concerns: Maximum number of children by Age Group is confusing and appears to limit the number of children under the age of 4. For example: (d) Licensee working with primary staff or assistant (2 staff total) for age range of birth through 12 years of age has a maximum capacity of 9 but the maximum number of children by age group allows 2 children under 18 months of age, 1 child 18 months to 2 years of age and walking independently, and 4 children 2 -3 years of age for a total of 7 children unless the licensee takes older children. Some providers specialize in children under the age of 4 and are licensed for 9 in that age group. This new wording takes away that capacity and age group. Suggested Changes: Don't put limits on numbers of children age two and older as that will be covered in the maximum capacity column.	The proposed WAC 170-296A-5700 was not changed as a result of this comment. The maximum capacities, age groupings and ratio are based on the number of children a licensee may safely supervise, and importantly , the numbers and ages of children the licensee may safely evacuate in a fire or similar emergency. The table describing when the licensee with at least one year of experience and one primary staff person does not restrict how many children age three through twelve a licensee working alone may care for (up to the maximum capacity stated in the table). The limits in this section are to note the maximum number of children under 18 months of age, age 18 to two years old and walking independently, and children ages two to three years old. The licensee may have fewer infants or toddlers actually in care than the stated maximum for infants and toddlers, and the fill their remaining maximum capacity with preschool age or older children. This would be true for each category in the table. However, in any category on the table, the licensee may not fill unfilled capacity by enrolling more infants or toddlers than the maximums stated in the table.
WAC 170-296A-5700 Capacity and ratio table--Birth through twelve year license. The state of Washington does not have a designated latch-key age. The provider's children should be counted after the age of 11.	The proposed rule was not changed as a result of these comments. Counting children through age twelve in capacity – including the licensee's children - was recommended by the Negotiated Rule Making Team and supported by licensees on the team to make the rules consistent with child care subsidy WACs. Many waivers requested under the current WAC 170-296 (now called exceptions to rule) are to care for a child who has turned twelve.

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	The licensee's twelve year old when home is assumed to need the same care and supervision that any other twelve year old in care requires, and so licensee's own children up through age twelve falls under the licensee's supervision and licensed capacity. The licensee could not argue one child age twelve should be supervised as provided in the rules but another child of the same age does not require equal supervision, provided that neither of the children has a special care need. The rule does not require any parent/guardian to place their child age 12 or even younger in care. The rule provides the opportunity for the licensee to continue receiving state child care subsidy payment for a child in their care who has reached age 12, consistent with DEL subsidy rules in WAC chapter 170-290.
Issues raised in public comments on proposed WAC 170-296A-5750 Supervision of staff:	**Was the proposed rule changed as a result of this comment?**
See comments regarding WAC 170-296A-4975 and 170-296A-7050 regarding supervision of children in care.	The proposed rule was revised as a result of several comments. Proposed WAC 170-296A-4975 and 170-296A-7050 have been withdrawn, and their content moved and incorporated into WAC 170-296A-5750, as follows: ***WAC 170-296A-5750 Supervision.*** ***Supervising children.*** *(1) The licensee must provide required staffing levels, staff-to-child ratios and supervision for the number of children in attendance.* *(2) The licensee or primary staff person must be aware of what the children are doing at all times and be available and able to promptly assist or redirect activities when necessary. If unable to see the children, the licensee or primary staff person must frequently go to the area where the children are located to check on them. For the purposes in this section frequently is defined as on many occasions with little time between them.* *(3) The licensee must consider the following when deciding how closely to supervise the children:* *(a) Ages of the children;* *(b) Individual differences and abilities;* *(c) Layout of the indoor and outdoor licensed space and play area;* *(d) The risk associated with the activities children are engaged in; and* *(e) Any nearby hazards including those in the licensed or unlicensed space.* *(4) A baby monitor or video monitor must not be used in*

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	place of direct supervision of the children. ***Additional requirements when the children are indoors.*** *(5) The licensee or primary staff person must be within sight or hearing range when children are indoors and be available and able to respond if the need arises for the safety of the children.* *(6) When children are present on more than one level (floor) of the home, the licensee or primary staff person must be supervising the children on each level and maintain required staff-to-child ratios. Each level of the home used by the children must be licensed space.* ***Additional requirements when children are outdoors.*** *(7) The licensee or primary staff person must be within sight and hearing range when children preschool age or younger are using the licensed outdoor space and be available and able to respond if the need arises for the safety of the children.* *(8) The licensee or primary staff person must be within sight or hearing range of school age children when in the licensed outdoor space and be available and able to respond if the need arises for the safety of the children.* *(9) The required staff-to-child ratio must be maintained when the children are in the licensed outdoor space, except as provided in subsection (10) of this section.* *(10) Except when children in care are using a wading pool or swimming pool, a second staff person or assistant may engage in other child care activities temporarily as long as he or she is in sight or hearing range and is available and able to respond if the need arises for the safety of the children.* *(11) See:* *(a) WAC 170-296A-5150 for additional supervision requirements when children are engaged in an off-site waterplay or swimming activity;* *(b) WAC 170-296A-5175 for additional supervision requirements when children are using a wading pool; and* *(c) WAC 170-296A-5200 for additional supervision requirements when children are using a swimming pool.* ***Supervising staff.*** *(12) When the licensee or primary staff person is supervising staff, he or she must be:* *(a) Aware of what staff are doing; and*

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	(b) Available and able to respond if the need arises to protect the health and safety of children in care. *(13) See WAC 170-296A-1925 for additional supervision requirements for assistants and volunteers.*
Issues raised in public comments on proposed WAC 170-296A-5775 Licensee absence:	**Was the proposed rule changed as a result of this comment?**
(1) How does proposed WAC 170-296A-5775 improve the health and safety of children; and (2) Why does the licensor need to know? Licensee absence – expected outside work schedule – must inform DEL before employment. This does not impact child safety, and it is not the States business. This is between the provider and the parents and should not be regulated by DEL.	The proposed WAC 170-296A-5775 was not changed as a result of these comments. Under RCW 43.215.005 (4)(d) and (g): "The purpose of this chapter is: … (d) To provide tools to promote the hiring of suitable providers of child care by: (i) Providing parents with access to information regarding child care providers… (g) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities". Proposed WAC 170-296A-5775 supports and promotes the purposes cited above. The licensee is the individual responsible for all aspects of child care within his or her agency (as defined in RCW 43.215.010 [1][2]), including when the licensee is unavailable or away from the day care facility during operating hours. The parents and Department should know that when the licensee is unavailable, an informed and qualified staff person is in charge that is familiar with and understands the rules and policies associated with the day care facility. The policy requirements contained in proposed WAC 170-296A-5775 provide written guidance to both the licensee and staff person(s). These requirements may prevent a child care accident or injury, and/or a communication break down between the licensee, staff, parents or Department. Meeting the entry-level requirements for a staff person does not necessarily guarantee the staff person understands who to call or what to do during an emergency. The requirements contained in proposed WAC 170-296A-5775 help to ensure the staff person will know what to do if the licensee is absent from the day care and there is an emergency.

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	On August 8, 2009 and November 14, 2009, the NRMT made various recommendations consistent with the content of proposed WAC 170-296A-5775. The Department respectfully denies the request to modify or withdraw proposed WAC 170-296A-5775.
Issues raised in public comments on proposed WAC 170-296A-5850 Licensee notice of absences:	**Was the proposed rule changed as a result of this comment?**
"Providers would be on phone with DEL staff endlessly & providers would require a crystal ball to address potential absences. This is way too invasive and nosy as small business owners. If Providers are meeting staff qualifications, ratios, and following their policies and procedures, that's all DEL should be requiring."	The proposed WAC 170-296A-5850 was not changed as a result of these comments. The proposed rule is consistent with the August 8, 2009 (revised November 14, 2009) NRMT recommendation: [The] "Licensee must notify licensor in writing of regular absences occurring more than 7 days in a month. A "regular absence" is one that is planned and re-occurring and is more than four hours duration. A plan that meets all applicable WAC for the situation is required. All required notifications and safety/care plans for non-emergency absences must be completed prior to absence." Proposed WAC 170-296A-5850 also supports and promotes the stated purpose of chapter 43.215 RCW. See RCW 43.215.005(4). The state and parents have an interest in knowing that the individuals charged with care of children when the licensee is absent for employment have not only the entry-level qualifications, but also knowledge comparable to the licensee's about the rules and specific requirements that the staff must continue to meet in the licensee's absence. The purpose of this rule is that the license provide a clear plan that explains to all staff what their duties are to meet both the licensee's expectations but the requirements under these rules when the licensee is away for regular absences. The Department respectfully denies the request to withdraw proposed WAC 170-296A-5850. However, based on the NRMT recommendation, the Department has revised the adopted WAC 170-296A-5850 to

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	include a definition of "regular absence" consistent with the NRMT recommendation. In addition, proposed WAC 170-296A-5850 has been renumbered as adopted WAC 170-296A-5810 for more logical order, and proposed WAC 170-296A-5850 is withdrawn.
WAC 170-296A-5850 Providers would be constantly calling DEL with every little thing. DEL staff does not have the time for this and neither do providers. We are running our own small businesses. We do not work for DEL.	The proposed rule was not changed as a result of this comment. The rules established the criteria for which absences that must be reported. It does not include occasional absences, transporting children in care, or unforeseen absences.
Issues raised in public comments on proposed WAC 170-296A-5875 Notifying parents of closures, absences, staff changes:	**Was the proposed rule changed as a result of this comment?**
Providers would be on phone with DEL staff endlessly & providers would require a crystal ball to address potential absences. This is way too invasive and nosy as small business owners. If Providers are meeting staff qualifications, ratios, and following their policies and procedures, that's all DEL should be requiring." This rule does not take emergencies into consideration or the fact that if I don't communicate with the childrens parents they will find another provider. This is NOT Department of Early learning's issue.	The proposed WAC 170-296A-5875 was not changed as a result of these comments. However, proposed WAC 170-296A-5875 is similar to proposed WAC 170-296A-5775(1)(b). For purposes of clarity the Department has withdrawn proposed WAC 170-296A-5875 and incorporate the proposed rule into proposed WAC 170-296A-5775(1)(b) to say the following: "(1) The licensee must have a written policy and procedure for staff to follow any time the licensee is absent from the child care. The policy and procedure must include, but is not limited to: *…(b) How parents will be notified in writing of the licensee's absence described in WAC 170-296A-5810(1), closures, or staffing changes;…"* This change limits the required reporting to parents the licensee's absences during child care hours for outside employment, vacation or other absence of more than seven days, or other regularly scheduled absences of four hours or more. Not all licensees communicate these types of absences to parents/guardians of children in their care. A parent/guardian has a right to know when staff other than the licensee will be

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	left in charge of their children, and that staff left in charge are fully qualified and understand their responsibilities in the licensee's absence.
Issues raised in public comments on proposed WAC 170-296A-5900 Notifying the licensor regarding the licensee's absence:	**Was the proposed rule changed as a result of this comment?**
"Providers would be on phone with DEL staff endlessly & providers would require a crystal ball to address potential absences. This is way too invasive and nosy as small business owners. If Providers are meeting staff qualifications, ratios, and following their policies and procedures, that's all DEL should be requiring." Regarding WAC 170-296A-5900: (1) I read this to mean that if I wake up vomiting and close for the day, that I must notify my licensor that I took an emergency absence? This is too vague and does not accomplish the intent, which I assume you mean "will take an extended emergency absence of longer than __ hours". It needs to be spelled out as number of hours of emergency absence or days of absence.	The proposed WAC 170-296A-5900 was not changed as a result of these comments. Proposed WAC 170-296A-5900 is consistent with the August 8, 2009 NRMT recommendation that the *"(The) licensee or another person must notify licensor as soon as possible and not later than 24 hours of emergency absence when the physical and/or mental health of the provider prevents them from meeting minimum licensing requirements to provide direct care. A plan that meets all applicable WAC for the situation is required."* Proposed WAC 170-296A-5900 also supports and promotes the stated purpose of chapter 43.215 RCW. See RCW 43.215.005(4) and footnote 11 above. However, for purposes of clarity the Department has withdrawn proposed WAC 170-296A-5900 and incorporated its content into adopted WAC 170-296A-2275(2)(a) to say the following: "(2) The licensee <u>or another person</u> must report to the department within twenty-four hours: (a) <u>The licensee's emergency absence,</u> serious illness or incapacity of the licensee, staff or member of household, if the licensee…"
Issues raised in public comments on proposed WAC 170-296A-6050 Guidance and discipline:	**Was the proposed rule changed as a result of this comment?**
Subsection 2 -What would this need to look like? The guide book is needed.	The proposed WAC 170-296A-6050 was not changed as a result of these comments. The proposed rules provide the basic elements of what a guidance and discipline policy may include.

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	For example: WAC 170-296A-6050(1) requires that only the licensee or trained primary staff person may discipline a child in care – this requirement could be restated as part of a guidance and discipline policy to be communicated to parents, child care staff, volunteers and household members as to who is allowed discipline a child while in care.
Issues raised in public comments on proposed WAC 170-296A-6100 Separating a child from the group:	**Was the proposed rule changed as a result of this comment?**
WAC 6100 #1 Age limited to three years and older is not developmentally appropriate. Moving a child to another area besides where the other children are is appropriate to redirect or distract their behavior at any age.	The proposed WAC 170-296A-6100 was not changed as a result of these comments. The rule allows moving a child away from others for a short time to allow the child to regain control, provided that the child remains under direct supervision of the licensee or primary staff person
Issues raised in public comments on proposed WAC 170-296A-6125 Preventing harmful or aggressive acts:	**Was the proposed rule changed as a result of this comment?**
Prevent harmful or aggressive acts by other children or immediately intervene? Sometimes things happen so quickly that a provider only has a reactive time to intervene and children can still be hurt. This is unreasonable. Ever see two toddlers who want the same toy or who bite…. We do our best, but we can't prevent every act of aggression.	The proposed WAC 170-296A-6125 title was changed as a result of these comments. As presently worded, proposed WAC 170-296A-6125(1)(2) takes into account the fact that the licensee may not be able to prevent *all* "harmful acts of other children". The proposed rule does require a provider to take appropriate measures to monitor interactions among children. The Department has revised the title only of adopted WAC 170-296A-6125 from "Preventing harmful or aggressive acts" to "Harmful or aggressive acts of children". `However, the Department respectfully denies the request for the Department to withdraw or revise the content of WAC 170-296A-6125.
Issues raised in public comments on proposed WAC 170-296A-6150 Prohibited actions:	**Was the proposed rule changed as a result of this comment?**
WAC 6150 Should only include licensee and staff. Household members should not be included when they are not in charge of the care and well being of the daycare children.	The proposed WAC 170-296A-6150 was changed, although not as suggested. The licensee is responsible for maintaining a safe and nurturing child care environment. This includes directing anyone to not behave in a manner with children in care that would be inappropriate for the licensee or staff.

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	Subsection (1) of the adopted rule is revised to require that the licensee or staff must also not allow others not to take any of the prohibited actions in WAC 170-296A-6150.
Add a new subsection (5) "Withhold physical activity or food as punishment or use as a reward."	The proposed WAC 170-296A-6150 was changed in part as a result of these comments. The department will add "or physical activity" to subsection (2)(a). Depriving a child of "food" is already included in subsection (2)(a). The department discussed using food a reward with licensed providers during the negotiated rule making process, and determined that there may be situations were using food as mild inducement (e.g. toilet training) may be appropriate. "…as a reward" will not be added to the adopted rule.
Issues raised in public comments on proposed WAC 170-296A-6250 Notice and documenting use of physical restraint:	**Was the proposed rule changed as a result of this comment?**
Add that if staff finds it necessary to restrain a child 1 time then the following must ensue: a. an individual behavior plan to address the child's difficulties, support the child in developing self -control (written and signed by parents and all teachers) b. It is optimal if staff do not restrain a child when they are alone with the child(not always possible in family homes) c. documentation including a full account of before, during and after the restraint took place d. using outside consultant to help develop the plan and if restraint use is frequent outside referral for the child necessary.	The proposed WAC 170-296A-6250 was changed as a result of these comments, in part. Suggestion C has been added to subsection (3) of proposed WAC, with minor wording changes. • The proposed rule provides for a safety plan if needed for the safety of the child and to assure that the licensee or staff use physical restraint only when no other option is available. The plan would include working with the child's parents on the child's behavioral issues if appropriate, and could include seeking services of an outside professional. Not all incidents of physical restraint may require these steps. • The suggested language in (b) is not likely enforceable, and may not be possible in family home where the licensee is the only caregiver.
Issues raised in public comments on proposed WAC 170-296A-6275 Abuse and neglect – Protection and training:	**Was the proposed rule changed as a result of this comment?**
Staff and family members should not have to complete training on child abuse and neglect	The proposed WAC 170-296A-6275 was not changed as a result of these comments.

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prevention and mandatory reporting (WAC 170-296A-6275) WAC 6275 Household members that are not staff or volunteers should not be required to have training on abuse, neglect, and reporting. They are not in charge of the well being of the children in care.	All individuals involved in the care of children are "mandatory reporters" of suspected child abuse or neglect under RCW 26.44.030, even if on an occasional basis and regardless of whether they are paid or not.
Issues raised in public comments on proposed WAC 170-296A-6400 Off site activities – Parent or guardian permission :	**Was the proposed rule changed as a result of this comment?**
The proposed WAC 170-296A-6400(3) takes the spontaneity out of a child's day. Parents should be informed of planned off site activities, but 24 hours is not always necessary or feasible. Too restrictive. Providers shouldn't have to get parent permissions for every daily walk they take off-site. Anything other than walks should have a separate permission form. Suggested Changes: Revise to read (1) Gain written permission from parent or guardian at least 24 hours prior to the child engaging in any off-site activities other than walks (that are already approved on the Parent Authorization Form and/or listed in the Parent Handbook). The written permission must be kept in the child's file. Remove items (2) and (3).	The proposed WAC 170-296A-6400 was changed as a result of these comments. The Department agrees to revise WAC 170-296A-6400(2) (previously (3)) to say: "(3) *For scheduled or unscheduled off-site activities that may occur more than once a month, the licensee must:* *(a) Have a signed parent permission on file for each child; and* *(b) Inform the parents on how to contact the licensee when the children are on an off-site activity.*" This modification balances the need for flexibility for the child licensee, and the need to keep the parents/guardians informed of where their child is and what he or she is doing. The proposed rule and revision also supports the purpose of chapter 43.215 RCW. See RCW 43.215.005 (4).
Issues raised in public comments on proposed WAC 170-296A-6450 Off site activity – Emergency information and supplies:	**Was the proposed rule changed as a result of this comment?**
A small business economic impact statement has not been prepared or submitted for proposed WAC 170-296A-6450(2). The provider should not have to be required to have a cell phone or other device. It is costly for providers. Some areas may not have cell service.	The proposed WAC 170-296A-6450 was changed as a result of these comments. The Department has deleted proposed subsection (2) from adopted WAC 170-296A-6450. Licensees will not be required to have a cell phone or other communication device while on an off-site activity. Any licensee should develop a plan for offsite activities for how they will contact emergency services (or parents/guardians) if needed. This could include having someone carry a cell phone, having spare change for a phone booth, or finding out where

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	the nearest emergency phone may be (for example, when taking children to a beach). However, this recommendation would be in contained in Guidance on the rules.
Suggestions: WAC 170-296A-6450 Off-site activity--Emergency information and supplies. When on an off-site activity, the licensee must have available: (1) An emergency consent form for each child that includes: (a) Emergency contact information; (b) Permission to obtain medical treatment for the child in the event of a medical emergency; (c) A list of the child's allergies, if applicable; and (d) Permission to administer medications, if applicable. (2) A working cellular phone or other telecommunication device, and inform parents how to contact the licensee or staff; and (3) Emergency supplies, including: (a) A first aid kit; and (b) Each child's required medication or emergency medicine, if applicable. Concerns: Licensee should not have to carry all of these items for a simple neighborhood walk. Also, the child's registration form has most of these items listed. Suggested Changes: When on an off-site activity (other than a three block radius walk), The licensee must have available: (1) a current copy of each child's completed Child Care Registration Form (2) A working cellular phone or other telecommunication device, and inform parents how to contact the licensee or staff; and (3) Emergency supplies, including: (a) A first aid kit; and (b) Each child's required medication or emergency medicine, if applicable.	The rule is intended primarily for offsite activities where the licensee would may not be able to return to the licensed home quickly to retrieve a child's medication form or other documentation required to obtain emergency care for the child or provide first aid. Some licensee's have the required items in a "grab and go" bag or kit so they are prepared for offsite trips, (even for impromptu trips) or emergency evacuation. Licensees may contact their local or statewide Family Child Care Association for tips on how to meet these requirements efficiently. The proposed and adopted rule is consistent with recommendations of the Negotiated Rule Making Team regarding off-site activities. The NRMT was comprised of FHCC licensees, SEIU, advocates and DEL staff.
Issues raised in public comments on proposed WAC 170-296A-6475 Transportation:	**Was the proposed rule changed as a result of this comment?**

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a. Summarized Comments received on the proposed new WAC 170-296A	**b. Department response, including whether the proposed rule was changed as a result of the comment(s).**
Suggestions: When transporting children the licensee, staff, and volunteers must: (1) Follow RCW 46.61.687 and other applicable law regarding child restraints and car seats; (2) Carry in the vehicle all items required under WAC 170-296A-6450 and a current copy of each child's completed enrollment form; (3) Maintain the vehicle in safe operating condition; (4) Have a valid driver's license; (5) Have a current insurance policy that covers the driver, the vehicle, and all occupants; (6) Take attendance each time children are getting in or getting out of the vehicle; (7) Never leave children unattended in the vehicle; and (8) Maintain required staff-to-child ratio and capacity. (9) Never leave engines idling in parking or drop-off areas. **Justification** The proposed new language addresses a safety and air quality issue. A vehicle left idling produces air pollution that contributes to air pollution and can harm the health of children. Recent studies have shown a direct link between many respiratory diseases and the pollutants found in vehicle exhaust. Children are especially at risk because they breathe faster than adults. For more information see: http://www.ecy.wa.gov/pubs/0402011.pdf	The proposed WAC 170-296A-6475 was not changed as a result of these comments. The suggested change would be very difficult to enforce and not be appropriate for very hot or very cold days when a vehicle must be running to also run the air conditioner or heater to keep children cooled or warmed while in a vehicle.
Issues raised in public comments on proposed WAC 170-296A-6500 Using public transportation:	The proposed WAC 170-296A-6500 -changed as a result of these comments.
# 6500 Using public transportation forbidden without supervision, even at parent request within small community with private agency & authorized?	The proposed WAC 170-296A-6500 was not changed as a result of these comments. A parent cannot waive the licensee's responsibility to supervise

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	the parent's child while under the licensee's care. The licensee cannot transfer his or her supervision responsibility to a public bus or train driver – the driver is not bound by these rules to supervise the child nor to assure that the child at his destination arrives safely. Parents often authorize that their child be picked up for school and dropped off by a school district bus. A school bus is not public transportation in the same manner as a public transit bus, and the school bus driver is responsible for the safety of children while in transit.
Issues raised in public comments on proposed WAC 170-296A-6550 Developmental activities:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-6550 Developmental activities. (1) The licensee must have and post a typical daily schedule that includes program activities. (2) The typical daily schedule must include: (a) Hours of operation; (b) Types of activities, including screen time; (c) General timelines for activities; (d) Routine transportation times; (e) Meal service; (f) Rest periods; (g) Outdoor times; and (h) If applicable, overnight care. (3) Evidence of daily activities may be shared or demonstrated through: (a) Display; (b) Writing; or (c) A checklist. Concerns: All items listed under (2) should be in a licensee's parent handbook. Too many displayed items will create a clutter and distract from the necessary safety postings. Suggested Changes: Change (1) The licensee must have and post a list of each day's activities. Remove all of (2) and keep (3) Evidence of daily activities may be shared or demonstrated through: (a) – (c). The changes you want to make just don't make sense to home daycare providers or to the parents we service. Look at the Policy we must give to parents its gotten so large they don't even read it. I have my parent sign the bottom and date every page but they don't read it, The papers you want posted I need a whole wall and the parents don't even look at it. Plus I have to	The proposed WAC 170-296A-6550 was not changed as a result of these comments. The content of WAC 170-296A-6550 is consistent with the recommendation of the Negotiated Rule Making Team comprised of FHCC licensees, SEIU advocates and DEL staff. The NRMT recommended that the licensee be required to post the "typical" daily activities in the child care so as not burden licensee with posting a daily schedule, and so that parents may see the typical activities.

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post this mess of papers in my home! Yes I run a small business in my home, it was to be a place where Parents could bring there children and have them raised in a loving home environment not a structured center. Parents want to make a choice and the State is no longer allowing that. They are making us all Centers and structured.	
Issues raised in public comments on proposed WAC 170-296A-6575 Activities to promote child growth and development:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-6575 Activities to promote child growth and development The licensee must provide activities that support each child's growth and development including: (5) Spatial concepts (for example: size, position); and (6) Numeracy (counting and numbers) Concerns: Some of these activities are not appropriate for infants and some toddlers. The definition of "child" is necessary to apply these concepts and activities. Suggested Changes: Define "child" or the age associated with these activities or eliminate (5) and (6)	The proposed WAC 170-296A-6575 was not changed as a result of these comments. Infants begin learning spatial relationships at early stages (close or far; one item larger or smaller than another) and toddlers begin learning numeracy concepts before they are able to express them in words (breaking one cookie in half makes two pieces).
Add: Active play cannot be withheld from children as punishment. WAC 170-296A-6575	The suggested requirement has been added to adopted WAC 170-296A-6150(2)(a). It is not necessary to repeat the requirement in this section.
Issues raised in public comments on proposed WAC 170-296A-6600 Toys and play materials :	**Was the proposed rule changed as a result of this comment?**
WAC 6600 #3 Eliminates fine motor development if providers can't have any small toys.	The proposed WAC 170-296A-6600 was not changed as a result of these comments. There are toys that can help children develop fine motor skills, without having small parts that could be a choking or injury hazard, such as blocks or other toys that the child may fit into one another. Infants and toddlers need protection from toys with small parts that may be swallowed or injury the eyes or ears. The rule does not prevent an infant or toddler from using or playing with smaller toys provided that the toy or its parts would not present a choking or injury hazard.
Suggestion: The licensee must provide toys, objects, and other play materials that are: (1) Washable and clean;	The proposed WAC 170-296A-6600 was changed as a result of these comments, with minor revisions, as follows:

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a. Summarized Comments received on the proposed new WAC 170-296A	**b. Department response, including whether the proposed rule was changed as a result of the comment(s).**
(2) free of nontoxic materials; and (3) Large enough to avoid swallowing or choking for infants and toddlers, or children at those developmental levels.	*WAC 170-296A-6600 Toys and play materials. The licensee must provide toys, objects, and other play materials that are:* *(1) Washable and clean;* *(2) Nonpoisonous or free of toxins; and* *(3) For infants, toddlers, or children at those developmental levels, large enough to avoid swallowing or choking.*
Issues raised in public comments on proposed WAC 170-296A-6625 Art materials:	**Was the proposed rule changed as a result of this comment?**
SUGGESTION: Strike (1) and (2) and substitute with the following wording in red below: ~~(1) All art materials used by children under the age of three must be labeled nontoxic.~~ ~~(2) Art materials without a nontoxic designation may be used by children age three years or older, and must be used under direct supervision and according to the manufacturer's label.~~ "Children in grade six and lower must use non-hazardous art materials that indicate they conform to ASTM D-4236." Rationale: The way (2) reads it sounds like children ages 3+ may use art materials without a nontoxic designation. This contradicts ALL of the following recommendations: • The US Consumer Product Safety Commission states: "Elementary school children should use non-hazardous art materials that indicate they conform to ASTM D-4236." (see http://www.cpsc.gov/cpscpub/pubs/5016.html) • The Art & *Creative* Materials Institute, Inc. says: "Children in grade six and lower and adults who may not be able to read and understand safety labeling should use only non-toxic materials." http://www.acminet.org/Safety.htm#one . Since 1940, ACMI has sponsored a certification program for children's art	The proposed WAC 170-296A-6625 was changed as a result of these comments, with modifications. The suggested change would be appropriate for prepackaged art and craft materials, but may not apply for art and craft materials the licensee may make from food, such as pasta or homemade "play dough,' bulk paper, etc, or items such as leaves, sea shells, or similar natural materials. The adopted is revised as follows: *WAC 170-296A-6625 Art materials.* *(1) All prepackaged art materials used in the child care must be labeled "nontoxic" and as conforming to or meeting "ASTM D-4236." This does not apply to food items used as art materials, bulk paper, or items from the natural environment.* *(2) Infants, toddlers, and preschool age children must be closely supervised when using art materials.*

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materials, certifying that these products are non-toxic and meet voluntary standards of quality and performance. ACMI's certification program has received the endorsement of experts in the field of toxicology and is one of the finest industry programs in existence. • California Education Code Section 32064 prohibits schools from ordering or purchasing any product that contains toxic or carcinogenic substances for use in grades K-6. • California's GUIDELINES FOR THE SAFE USE OF ART AND CRAFT MATERIALS (updated October, 2009) http://www.oehha.org/education/art/artguide.html also states the following: "Purchasing Safe Products for Grades K-6: In purchasing products for a particular application, alternative or substitute products should always be considered and preference given to the least-toxic product."	
Issues raised in public comments on proposed WAC 170-296A-6650 Screen Time:	**Was the proposed rule changed as a result of this comment?**
Reduce licensor's load of paperwork to....hm..... allow more sporatic visits on the field...ha-ha-ha...to make sure the 'screen' isn't on, or even warm	The proposed WAC 170-296A-6650 was not changed as a result of these comments. The proposed rule is consistent with the recommendation of the Negotiated Rule Making Team comprised of FHCC licensees, SEIU, advocates and DEL staff. The NRMT considered options ranging from prohibiting televisions from child care altogether, to having no restrictions on what children or family members may watch during operating hours. Caring for Our Children, 2nd edition, did not have recommendations on screen time. However, the 3rd edition, released after these rules were proposed, does contain recommended screen time limits. The proposed and adopted rules are based on what was considered to be a reasonable standard by the NRMT based on the information available at the time. Future revisions of these

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	rules would undoubtedly consider new information on screen time and its affect on children in child care.
Screen time should specify that learning toys aren't included like a kids play lap top,leap pad, or other education toy with t.v. or led screen 6/23/2011	The proposed WAC 170-296A-6650 was changed as a result of these comments, in part, as follows: *WAC 170-296A-6650 Screen time. If the licensee or staff provide screen time for children in care, the screen time must:* *(1) Be educational, and developmentally and age appropriate;* *(2) Have child-appropriate content; and* *(3) Not have violent or adult content.*
Issues raised in public comments on proposed WAC 170-296A-6675 Screen time – Limitations:	**Was the proposed rule changed as a result of this comment?**
What if the TV is not on? This would cut down on alternate activity space. Other commenters: The rules should: ○ Limit screen time for children over the age of two years of age to no more than 30 minutes per week. ○ Ensure that children's use of computers is limited to periods of 15 minutes or less except for school age children completing homework assignments. ○ Ensure that children do not watch screens during meal or snack time. WAC 170-296A-6675	The proposed WAC 170-296A-6675 was not changed as a result of these comments. "Screen time" is defined in WAC 170-296A-0010 as "watching, using or playing…" television and other devices. The rule is not intended to cover periods when the television, computer or other screen device is turned off. At the time this rule was discussed with child care licensees and advocates in a negotiated rule making process, there were no screen time standards or recommendations in *Caring for Our Children, 2nd Edition*. The group discussed screen time at length, with options ranging from no regulation to not allowing televisions in licensed family home child care, before arriving at a group recommendation that is consistent with the proposed rule. The proposed rule was considered appropriate for family home configurations were the licensee working alone where to meet supervision requirements children of various ages from birth through 12 may be in an area together. The rule also takes into consideration that other family members not involved in providing child care may be watching television or using other screen time devices in space near where child care activities occur. The rule sets reasonable limits on the on-screen content so that the content is appropriate for the children in care.

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Issues raised in public comments on proposed WAC 170-296A-6700 Limiting screen time for children under two:	**Was the proposed rule changed as a result of this comment?**
• Require that children under age 2 are not exposed to screen time (WAC 170-296A-6700) WAC 6700 #2,3, If area is small how would this be reasonably achieved.	The proposed WAC 170-296A-6700 was not changed as a result of these comments. The department is aware that the licensee may have children of different ages birth through 12 in common space at the same time, and that in those instances it may not be possible to move the children under age two completely away from the television area and maintain supervision requirements. Although under the rule, the young child may still be able to hear the television or other screen devices, the rule requires the licensee to minimize the child's exposure to content on the screen.
Eliminate all screen time for those under two years of age. There should be no screen time for children under two: the licensee or staff should not permit children under two years of age to view TV's, DVD's or use computers.	The proposed WAC 170-296A-6700 was not changed as a result of these comments. At the time this rule was discussed with child care licensees and advocates in a negotiated rule making process, there were no screen time standards or recommendations in *Caring for Our Children, 2nd Edition*. The group discussed screen time at length, with options ranging from no regulation to not allowing televisions in licensed family home child care, before arriving at a group recommendation that is consistent with the proposed rule. The proposed rule was considered appropriate for family home configurations were the licensee working alone where to meet supervision requirements children of various ages from birth through 12 may be in an area together. The rule also takes into consideration that other family members not involved in providing care may be watching television in space near where child care activities occur. The rule directs the licensee to take steps to limit screen time exposure to infants and toddlers while still allowing older children or other household member access to screen time. Rules need to accommodate a wide variety of home environments, including those where infants and toddlers are cared for in the same space as preschool and school-age children. A licensee working alone would not be able to completely segregate infants/toddlers and maintain required

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	supervision of all children in care. The Department will take these suggestions into consideration for the next review of these rules.
Issues raised in public comments on proposed WAC 170-296A-6725 Special needs accommodations:	**Was the proposed rule changed as a result of this comment?**
Below are a couple examples of wording in the regulations of other states: Special Needs: The Special or unique, out-of-the-ordinary concerns created by a person's medical, physical, mental, or developmental condition or disability. Additional services are usually needed to help a person in one or more of the following areas, among others, thinking, communication, movement, getting along with others, and taking care of self. Emergency Plans The agency shall have written individualized emergency plans for each child with a disability (as defined above) who requires more assistance in emergencies than other children of the same age or in the same group. AK – Describe in detail the procedures that will be followed for the complete evacuation of the entity, including specific procedures for (C) adults or children who otherwise may need assistance in an emergency, including an adult or child who is mentally, visually, or hearing impaired. 6/1/2011	The proposed WAC 170-296A-6725 was not changed as a result of these comments. However, this section has been renumbered as WAC 170-296A-0050 for final adoption. The proposed rule is consistent with NRMT recommendations and DEL subsidy care rules in WAC 170-290. Many FHCC licensees provide care for children that is paid through state child care subsidies under DEL WAC 170-290. Consistency is needed between WAC chapters 170-296A and 170-290 so that licensees and parents do not have conflicting requirements regarding special needs care for the same child. In other sections, the licensee's fire and evacuation plans and drills must consider how the licensee and staff will help children who cannot walk evacuate the home. This would include any child with a disability who needs assistance to safely evacuate the home in an emergency.
The provisions of this section apply to any requirement in this chapter. (1) The department may approve accommodations to requirements in these rules for the special needs of an individual child when: (a) The licensee submits to the department a written plan <u>of care</u>, signed by the parent or guardian, that describes how the child's needs will be met in the licensed child care; and (b) The licensee has supporting documentation of the child's special needs <u>and plan of care</u> provided by a licensed or certified: (i) Physician or physician's assistant; (ii) Mental health professional; (iii) Education professional; (iv) Social worker with a bachelors degree or	The proposed WAC was not changed as a result of this comment. The rules require the licensee to provide a written plan of how the child's special needs will be met. The plan must be consistent with the child's IEP, IHP, etc.

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higher degree with a specialization in the individual child's needs; or (v) Registered nurse or advanced registered nurse practitioner. (2) The documentation described in subsection (2) of this section must be in the form of an: (a) Individual education plan (IEP); (b) Individual health plan (IHP); or (c) Individual family plan (IFP). (3) The licensee's written plan and all documentation required under this section must be kept in the child's file and a copy submitted to the department. (4) See WAC 170-296A-5650 regarding supervision, capacity, and staff-to-child ratios for children with documented special needs.	
Issues raised in public comments on proposed WAC 170-296A-6775 Diversity:	**Was the proposed rule changed as a result of this comment?**
WAC 6775 Need guide book for this. Hard to understand what is needed to be written/demonstrated.	The proposed WAC 170-296A-6775 was not changed as a result of these comments. The proposed rule is consistent with recommendations of the Negotiated Rule Making Team comprised of licensees, SEIU staff, advocates and DEL staff. Rather than require specific types or numbers of materials to provide diversity in the child care, the proposed and adopted rule are intended to encourages a discussion between the licensee and the DEL licensor on how the child care reflects the diversity in the community. DEL is developing licensee and licensor training on how this section should be followed and monitored.
Issues raised in public comments on proposed WAC 170-296A-6800 Rest periods:	**Was the proposed rule changed as a result of this comment?**
(2)(c) A minimum of 30 minutes but not more than two hours unless under 24 months old? You are supposed to wake the children up? It is developmentally not appropriate to wake up a child. Abuse-neglect to deny them sleep when they need it.	The proposed WAC 170-296A-6800 was changed as a result of these comments. The adopted is revised to remove the specified minimum and maximum time for rest periods in subsection (2)(c). Further information on rest periods would be more appropriate for Guidance.
Issues raised in public comments on proposed WAC 170-296A-7025 Infant sleeping position:	**Was the proposed rule changed as a result of this comment?**
Infants need the least restrictive environment, including a minimum daily amount of "tummy	The proposed WAC 170-296A-7025 was changed as a result of these comments, in part, as follows:

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time" – add 3—5 minute periods throughout the day. WAC 170-296A-7025 and limited "container" time – add 15 minutes per day. WAC 170-296A-7025 (Revise to) provide a least restrictive environment throughout the day to allow for healthy growth and development. Allow each infant at least 3, 5 minute periods of tummy time throughout the day. Restrictive equipment such as, stationary activity centers, exer-saucers, infant seats, bouncers, molded seats, swings, if used, are used no longer than 15 minutes a day.	*WAC 170-296A-7025 Infant "tummy time" positioning. When infants are awake, the licensee or staff must allow each infant supervised tummy time at least three times daily. As used in this section, "tummy time" means placing the infant in a nonrestrictive prone position, lying on his or her stomach, when not in sleeping equipment.* Other suggested changes, including minimum tummy time periods were not adopted. "Provide a least restrictive environment" may be difficult to define, monitor and enforce without more prescriptive language. The rules are written in recognition that family home child care environments differ from home to home. Additional Information on tummy time period and more information on allowing less restrictive environments would be appropriate for Guidance.
Issues raised in public comments on proposed WAC 170-296A-7050 Infant and toddler supervision:	**Was the proposed rule changed as a result of this comment?**
Revise this section to: "(1) The licensee or a primary staff person must be within sight and hearing of infants and toddlers in the licensed ~~indoor or~~ outdoor space, or during any off-site activity when infants or toddlers in care are present." The crossed-out text should be deleted. Other comments: With the way my indoor space is situated I would not be able to provide infants an undisturbed rest time if I napped them in the main play area. Tell me how I can do any of these things and have my eyes and ears on the children at all times? This would work at a center where there are other to help, but not in a home with 6 children to one adult. Even 4 children it would not work. I can see it now all 6 of my children sitting criss	Upon further consideration and discussion with SEIU, proposed WAC 170-296A-7050 was changed as a result of these comments. The Department has withdrawn proposed WAC 170-296A-7050, and the content of this section is incorporated into adopted WAC 170-296A-5750 Supervision, as follows: ***WAC 170-296A-5750 Supervision.*** ***Supervising children.*** *(1) The licensee must provide required staffing levels, staff to child ratios and supervision for the number of children in attendance.* *(2) The licensee or primary staff person must be aware of what the children are doing at all times and be available and able to promptly assist or redirect activities when necessary. If unable to see the children the licensee or primary staff person must frequently go to the area where the children are located to check on them. For the purposes in this section frequently is defined as on many occasions with little time between them.* *(3) The licensee must consider the following when deciding how closely to supervise the children:* *(a) Ages of the children;* *(b) Individual differences and abilities;* *(c) Layout of the indoor and outdoor licensed space and*

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cross on my kitchen floor while I prepare there meal for lunch or in the Bathroom when little suzy has to have me help with toilet issues, Or when were all outside in my play area and I need to change a diaper or fix a scraped knee. Even with a fulltime assistant I would find the WAC challenging in a family home setting. Obviously I am speaking of the older toddlers not a 13 month old. I saw the WAC gave the lone provider a small moment for a bathroom break without having to take all 6 children in the bathroom with her. I have been a home childcare provider for 30 plus years and a strong advocate for children and providers for all of those years serving as a Board member of the County Childcare Assoc. through the WSFCCA for 24 years. I have been through the CDA program and currently Accredited through the NAFCC. With that said…. This proposed WAC calls for continual visual AND auditory supervision of infants AND toddlers up to 2 1/2 Years/ By definition I feel a Family Home Childcare is as stated….a Home…..not just a small center setting. Many home childcares are a one room basement rec. room setting, but, there are still many childcares that are selected by families because of their 'homey' setting and multi age care. I am personally licensed for 6 rooms on my main floor……..plus the childcares bathroom and halls and entry hall. As a parent, I'm concerned if providers and assistants have to be within sight and hearing at all times, that dictates that bedrooms may not be used. I wanted to voice my concern over these new policies. Sleep is vital for babies and young children, whose brains and bodies are developing at an extraordinary rate — but nighttime rest isn't enough. Regular naps help them get the sleep they need.* Putting infants that require two to three naps a day to sleep out in the main play area when the big kids are playing just means	*play area;* *(d) The risk associated with the activities children are engaged in; and* *(e) Any nearby hazards including those in the licensed or unlicensed space.* *(4) A baby monitor or video monitor must not be used in place of direct supervision of the children.* ***Additional requirements when the children are indoors*** *(5) Indoor Supervision. The licensee or primary staff person must be within sight or hearing range when children are indoors and be available and able to respond if the need arises for the safety of the children.* *(6) When children are present on more than one level (floor) of the home, the licensee or primary staff person must be supervising the children on each level and maintain required staff to child ratios. Each level of the home used by the children must be licensed space.* ***Additional requirements when children are outdoors*** *(7) The licensee or primary staff person must be within sight and hearing range when children preschool age or younger are using the licensed outdoor space and be available and able to respond if the need arises for the safety of the children.* *(8) The licensee or primary staff person must be within sight or hearing range of school age children when in the licensed outdoor space and be available and able to respond if the need arises for the safety of the children.* *(9) The required staff-to-child ratio must be maintained when the children are in the licensed outdoor space, except as provided in subsection (10) of this section.* *(10) Except when children in care are using a wading pool or swimming pool, a second staff person or assistant may engage in other child care activities temporarily as long as he or she is in sight or hearing range and is available and able to respond if the need arises for the safety of the children.* *(11) See:* *(a) WAC 170-296A-5150 for additional supervision requirements when children are engaged in an offsite waterplay or swimming activity;* *(b) WAC 170-296A-5175 for additional supervision requirements when children are using a wading pool; and*

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those infants won't get the required sleep that all pediatricians and experts say they need. Not sight and sound, not when it is one person with more than one child. It makes no sense that children need to be so regulated. Baby monitors and video monitor are tools I say use them. Children need to watched and providers need to be aware but saying sight and sound means tents and bushes need to be removed. It is simply over regulating common sense. I feel that there is no way to have children in sight and hearing. What if you are the only one there working and you your self need to us the restroom. Do you then bring all the children with you? I think not. Also a lot of child care providers do most of their cleaning during nap time, how would this be possible when you have to have children in sight and hearing. I think that who ever makes up these rules should think about them self as parents, would you always have your children in sight and hearing? It needs to be changed to sight OR hearing. You also should not have to call in every time you have leaving the daycare or when a staff change has happen. People get sick or have to tend to a family emery or have appointments. People chose to have their children in a home daycare because its homey for the children and they can feel welcomed and relax. You add and changes all the rules they children will be impacted in feel not in a good way.	*(c) WAC 170-296A-5200 for additional supervision requirements when children are using a swimming pool.* ***Supervising staff.*** *(12) When the licensee or primary staff person are supervising staff, they must be:* *(a) Aware of what staff are doing; and* *(b) Available and able to to respond if the need arises promptly assist to protect the health and safety of children in care.* *(13) See WAC 170-296A-1925 for additional supervision requirements for assistants and volunteers.* Different levels of child safety awareness can be associated with whether the caregiver is in sight or hearing range of the child. To ensure an infant's or toddler's safety and well-being, the caregiver should be, as much as possible, within both sight and hearing range of the child. A caregiver's focus and attention is not necessarily directed towards the child's safety and well-being when the caregiver is frequently within hearing distance but not within sight. The adopted rule does make allowances for brief periods while the licensee or primary staff person may be in hearing range but not be in sight of the children. In these instances the licensee or primary staff person must frequently go to where the children are to monitor the children. The rule does not require the licensee or staff person to be in sight <u>and</u> hearing at all times, except when children younger than preschool age are in the outdoor licensed space, or engages in a water play or swimming activity. The Department's adopted rule is consistent with the *goal* contained in RCW 43.215.005(3)(c): "to safeguard and promote the health, safety and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care".
"The licensee or primary staff person **~~may~~ must continue to** be in sight or hearing range for brief periods of time while the licensee or primary staff person attends to toileting, medical, or other	The proposed rule was not changed as a result of this comment. The rule as adopted in WAC 170-296A-5750 requires the licensee or primary to be in either sight or hearing of children at all times – the suggested change would have the

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personal needs on the premises	same effect. The rule provides for the licensee or staff to check on children frequently if the children are not sight. When children are outdoors, the licensee or staff must keep younger children in sight and hearing range.
Is WAC 170-296A-7050 intended to protect against SIDS? If so, keeping a child under sight and hearing won't protect against a SIDS death.	170-296A-7050 was intended to require consistent supervision of infants and toddlers whether asleep or awake, indoors or outdoors, to assure that children are safe in any setting during the licensee's child care operating hours. But the proposed rule was not necessarily intended to protect against SIDS. The requirements in WAC 170-296A-7100 are intended to reduce the risk of SIDS when infants are being prepared for sleep.
Issues raised in public comments on proposed WAC 170-296A-7075 Infant sleeping or napping:	**Was the proposed rule changed as a result of this comment?**
The proposed WAC 170-296A-7075 should be modified by removing the following phrase: "Infants must be in the licensed area approved for infants".	The proposed WAC 170-296A-7075 was not changed as a result of these comments. The phrase, *"Infants must be in the licensed area approved for infants"* or similar text, is currently not in proposed or adopted WAC 170-296A-7075 nor anywhere in the proposed chapter. At a January 7, 2011 meeting with the SEIU and child care licensees, licensees voiced concerns about the quoted phrase and the Department agreed to remove the concerning phrase before filing the proposed rule in April 2011 (WSR 11-09-081) . Accordingly, the Department respectfully denies the request to modify or withdraw proposed WAC 170-296A-7075.
170-296A-7075 (e)this WAC is unclear as to when provider must remove sleeping infants from car seats. When infant arrives at child care asleep in the car seat and parent wants infant to nap, does this WAC require provider to move infant immediately?	The proposed WAC 170-296A-7075 was not changed as a result of these comments. The licensee or staff must remove a sleeping child from a car seat as soon as the child arrives at the child care, and move the child to a crib or other sleeping equipment appropriate to the child's age or developmental level.
Suggestions: WAC 170-296A-7075 Infant sleeping or napping. (1) The licensee must: ~~(a)~~ Provide and use a ~~single level~~ crib~~, toddler bed, playpen or other sleeping equipment~~ for each infant or toddler in care that ~~is safe and not subject to tipping~~. ~~The equipment must be of a design approved for infants or toddlers~~ meets the standards and guidelines approved by the US Consumer Product Safety Commission and ASTM. ~~by the U.S. Consumer~~	The proposed WAC was changed, in part, as a result of these comments: (1) (a)The recommended language would prohibit the use of "pack n plays" other appropriate portable sleep equipment or toddler beds, and is not adopted. Crib standards under federal CPSC rules are covered 170-296A-7080. (previously proposed as 170-296A-3760). (1)(c) The subsection already contains the phrase *"(c) Provide*

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~~Product Safety Commission~~ (see WAC 170-296A-3760 regarding approved cribs ~~(b) Provide sleeping or napping equipment with clean, firm, and snug-fitting mattresses that are clean, firm and snug-fitting and are not do not have tears or holes or is torn or repaired with tape.~~ (c) Provide mattresses covered-with waterproof material that is easily cleaned. (ii) If another sanitizer product is used, it must be approved by the Department of Early Learning and used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. ~~(d) Arrange sleeping equipment t~~o allow staff access to children; (e) Arrange mats or cots so that children are placed head to toe or toe to toe; (f) Remove sleeping children from car seats, swings or similar equipment and place on their backs in crib; (covered for infants in -7100) (f) Consult with a child's parent or guardian before the child is transitioned from infant sleeping equipment to other approved sleeping equipment. (2) Children that may climb out of their sleeping equipment must be transitioned to an alternate sleeping surface. (3) ~~If a crib with vertical slats is used, the slats must be spaced not more than two and three-eighths inches apart.~~ Refer to WAC 170-296A-3760 New CPSC standards include opening widths. (4) Infants are allowed to follow individual sleep patterns. Recommendation for clarity and organization. Have two separate WACs, one for Sleeping Equipment and one for Infant Sleeping/Napping.	*mattresses covered with waterproof material that is easily cleaned and sanitized…."* (1) (c)(ii) DEL has decided not to approve individual household cleaning/sanitizing products. The licensee must use alternate products as required by the product label, and demonstrate to the licensor that they know to use the product. See WAC 170-296A-0010 and references throughout the chapter to "sanitize." Suggested arrangement for sleeping head-to-toe may be appropriate for centers, but homes need more flexibility. This suggested change is not adopted. Placement of infants on their backs for sleeping is covered under WAC 170-296A-7100. Subsection (1)(f) applies to toddlers who may be asleep in a car set, as well as infants. (1)(f) The rules as proposed would also cover infants, toddlers, and preschoolers who may be in car seat. The additional language is not needed for toddlers or preschoolers and is not adopted. The licensee and staff are already directed in WAC 170-296A-7100 on how to place an infant in a crib to reduce the risk of SIDS. (3) The Department's proposed wording is redundant and is eliminated in the final rule as suggested.
Issues raised in public comments on proposed WAC 170-296A-7100 Infant supervision;	**Was the proposed rule changed as a result of this comment?**

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Procedures to reduce the risk of sudden infant death syndrome (SIDS):	
1) Place an infant to sleep on his or her back. If the infant has turned over while sleeping, **and is developmentally able to roll proficiently from front to back and back to front then it is not necessary for the infant to be returned to his or her back during sleep.** ~~**the infant does not need to be returned to his or her back**~~ (2) Place an infant in ~~**sleeping equipment**~~ **on a firm sleep surface, such as a safety-approved crib mattress,** that has a snug-fitting mattress and a tight-fitting sheet; (3) Not allow soft fluffy bedding, stuffed toys, pillows, crib bumpers and similar items in the infant ~~**sleeping equipment,**~~ **crib** (4**)** ~~**Not cover an infant's head and face during sleep**~~**; If a blanket is used then the infant will be placed with feet near the foot of the crib and the blanket will be light-weight, firmly tucked along the sides and bottom of the mattress, and placed no higher than the infant's chest with arms free. (5)** ~~**Take steps so**~~ **Dress infants for sleep to avoid over-heating** ~~**do not get too warm during sleep;**~~ **(6) If the infant is to be placed in a sleeping position other than on their backs or if a sleep positioning device is to be used a written directive or medical order from the infant's health care provider is required. This directive or medical order must be in the infant's file**. **(7) Swaddling is not permitted**.	The proposed WAC 170-296A-7100 was changed as a result of these comments, in part. Suggestion 1): If an infant rolls over after being placed on his or her back the infant is presumed to be able to roll over proficiently. The suggested change in subsection (1) is not adopted. Suggestion 2): The department will add "firm sleep surface" in subsection (2), but the additional language is not adopted. Suggestion 3): The suggested change to subsection (3) is not adopted. The licensee may use a crib or other approved sleeping equipment. Suggestion 5): The suggestion change to subsection (4) is not adopted – the proposed subsection is consistent with SIDS guidance. Suggestion 6): The words "If a blanket is used it must be lightweight and placed no higher than the infant's chest with arms free" is added to adopted subsection (5). The other suggested changes would be offered as Guidance.
Issues raised in public comments on proposed WAC 170-296A-7125 Infant bottles:	**Was the proposed rule changed as a result of this comment?**
The licensee must: (1) If heating a bottle, heat the bottle in warm water that is not warmer than one hundred twenty degrees Fahrenheit; (2) Not use a microwave oven to warm the contents of a bottle; (3) Clean ~~and sanitize~~ bottles and nipples <u>with warm soapy water and a bottlebrush or in the dishwasher</u> before each use; (4) Keep bottle nipples covered if bottles are	The proposed WAC 170-296A-7125 (3), (now subsection (4)), was changed as a result of these comments, with minor revision for clarity. *(4) "Clean bottles and nipples before each use, only with warm soapy water and a bottlebrush, or in a dishwasher;"*

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prepared ahead, and label the bottle with the date it was prepared; (5) Not allow infants to share bottles or infant cups; (6) Have a method to identify the individual child's bottle or cup; (7) Keep the contents of a child's bottle inaccessible to other children; and (8) Throw away milk (except breast milk) or formula if it has been sitting at room temperature for more than one hour. **Justification** "Sanitize" in the definitions section means using bleach or another chemical sanitizer, which would contaminate bottles and nipples. For more information, see: http://www.webmd.com/parenting/baby/should-you-sterilize-your-babys-bottles	
Add: Not use or allow infant bottles that contain the chemical bisphenol- A or phthalates. Use glass bottles or plastic bottles labeled with a #1, 2, 4, 5.	The proposed WAC 170-296A-7125 (1) was changed as a result of these comments, with minor revisions, as follows: *"(1) Use glass bottles or use plastic bottles labeled with "1," "2," "4," or "5" on the bottle. A plastic bottle must not contain the chemical bisphenol-A or phthalates."*
WAC 170-296A-7125 Infant bottles. The licensee must: (1) If heating a bottle, heat the bottle in warm water that is not warmer than one hundred twenty degrees Fahrenheit; (2) Not use a microwave oven to warm the contents of a bottle; (3) Clean and sanitize bottles and nipples before each use by washing in a dishwasher or wash, rinse and boil for one minute; (4) Keep bottle nipples covered if bottles are prepared ahead, and label the bottle with the date it was prepared and the child's full name; (5) Not allow infants to share bottles or infant cups;	The proposed WAC 170-296A-7125 was changed as a result of these comments, in part. Subsection (3) was revised per this comment and other comments, with minor changes – see the change noted above. Subsection (4) and (6) were not changed per these comments. The proposed rule is consistent with Negotiated Rule Making Team recommendations for differentiating or identify each child's bottle or cup. Licensee of staff could use different colors or other effective methods to identify a child's bottle or cup. Suggested changes to subsection (8) (now subsection(9)) is adopted with minor revision: *"Throw away milk, breast milk, or formula if it has been sitting*

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(6) ~~Have a method to identify~~ Label the individual child's ~~bottle or~~ cup with full name; (see # 4) (7) Keep the contents of a child's bottle inaccessible to other children; and (8) Throw away ~~milk (except breast milk) or formula~~ contents of bottle if it has been sitting at room temperature for more than one hour. (9) If preparing bottles on site, prepare the bottles in clean food preparation area and use water from an approved source. Water from the hot water tap is not used due to risk of lead contamination. (10) Avoid using bottles that contain the chemical bisphenol-A.	*at room temperature for more than one hour."* The suggested new subsection (9) was not adopted. It would require filtration of tap water or for the licensee to purchase water, and so may require a rules small business economic impact statement prior to adoption and possible require further discussion with licensees and the union under RCW 43.215.350. The suggested change would be appropriate for guidance. The suggested new subsection (10) is not adopted. The word "avoid" or similar wording would not be enforceable. Subsection (1) was revised to prohibit the use of bottles containing bisphenol-A or phthalates.
216. Issues raised in public comments on proposed WAC 170-296A-7150 Breast milk:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-7150 Breast milk. When breast milk is provided for a child, the licensee must: (1) Label the contents with the child's **full** name and date **the breast** milk was brought to the child care; (2) Store frozen breast milk at ten degrees Fahrenheit or less **for no more than 2 weeks;** (3) Thaw breast milk in the refrigerator, under warm running water, or in warm water that is not warmer than one hundred twenty degrees Fahrenheit; (4) Never thaw or heat breast milk in a microwave oven or on the stove; (5) ~~Keep frozen breast milk for no more than two weeks; and~~ (6) ~~Use frozen breast milk within twenty-four hours after thawing; and~~ **Return unused thawed breast milk to family at end of day.** (7) Throw away breast milk if it has been sitting at room temperature for more than ~~two~~ **one** hour	The proposed WAC 170-296A-7150 was changed in part as a result of these comments. Subsection (1) is not revised as suggested. The proposed and adopted rule is consistent with the recommendation of the Negotiated Rule Making Team regarding labeling containers of breast milk. Suggested changes to subsections (3) and (5) have the same effect as the proposed rule and are not adopted. Subsection 6 was not revised. Unless the breast milk was thawed prior the child care opening hours, the licensee should be able to use the thawed (and refrigerated) breast milk within 24 hours. The suggested change to subsection (7) is adopted in WAC 170-296A-7125(9): "Throw away milk, breast milk, or formula if it has been sitting at room temperature for more than one hour."
Issues raised in public comments on proposed WAC 170-296A-7175 Feeding infants:	**Was the proposed rule changed as a result of this comment?**
Recommended changes: **WAC 170-296A-7175 Bottle feeding infants.** (1) When bottle feeding, the licensee or staff must: (a) Test the bottle contents before feeding, to	The proposed WAC 170-296A-7175 was changed as a result of these comments, in part. The recommended change to (1) (e) and (g) was added to the

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avoid scalding or burning the infant's mouth; (b) Hold infants when bottle feeding; (c) Not prop bottles when feeding an infant; ~~and~~ (d) Not give a bottle or cup to an infant who is lying down; **(e) Feed infant's on demand based on infant's cues of hunger and fullness;** **(f) Feed only breast milk or iron-fortified infant formula until one year old;** **(g) Not add medication, cereal, supplements or sweetener to the bottle unless prescribed by health care provider. Added.** (2) **When an infant begins to use a cup**, the licensee or staff must: LEAVE TO WHEN CHILD USING OWN BOTTLE (a) **Either hold the infant** or place the infant in a ~~semi-**reclining**~~ **high-chair** or upright **sitting** position during feeding; and (b) Be in the same room within visual range of the infant during feeding. (3) The licensee or staff must take the **cup**/bottle from the infant when the child finishes feeding.	rule, with revisions for "plain talk". *" (e) Feed infants on demand or based on the parent or guardian's recommended feeding schedule;* *(f) Stop feeding the infant when he or she shows signs of fullness; and* *(g) Not add medication, cereal, supplements, or sweeteners to the contents of the bottle unless prescribed by a health care provider."* The suggested change to (1)(f) was not made – generally the parents provide the type and brand of formula they wish the licensee to use. Suggested changes to subsection (2) were made, with revisions: *"(2) When an infant can hold his or her own bottle, the licensee or staff:* *(a) May hold the infant or place the infant in a semi-reclining or upright position during bottle feeding; and* *(b) Must be in the same room within visual range of the infant during feeding."*
Issues raised in public comments on proposed WAC 170-296A-7200 Feeding solid food to infants:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-7200 Feeding solid food to infants. (1) The licensee must consult with and have approval from an infant's parent or guardian before introducing solid food to the infant. (2) When serving infants solid food the licensee or staff must: (a) ~~Sit the infant in a semi-reclining~~ Hold the infant or place in a high chair or upright sitting position; (b) Not allow infants to share the same dish or utensil; (c) Stir and test for safe temperature after heating food and before serving; (d) Throw away any uneaten food from the serving container; (e) Serve solid food by utensil or let the child feed themselves; and (f) Feed the infant on demand ~~unless the parent~~	The proposed WAC 170-296A-7200 was changed as a result of these comments, in part. The suggested change to subsection (2)(a) "hold or" was added to the rule rather than replacing the proposed wording. The suggested change to (1)(f) was made with revisions for "plain talk." The suggested additions of subsections (3) and (4) were not added, but are recommended for inclusion in Guidance.

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~~or guardian gives written instructions for an alternative feeding schedule.~~ based on child's feeding cues of hunger and fullness. Infants are fed when hungry (hunger cues) and are allowed to stop feeding when they show signs of fullness (satiety cues). (3) Egg whites and honey are not served to infants less than one year old. (4) Foods that are served do not pose a risk of choking, such as nuts, raw vegetables, hotdogs, grapes. Recommend inclusion of Center WAC guideline 170-295-4020 How do I Meet the Nutritional Needs of the Infants in My Care? Feeding solid food to infants. Add: (f) Infants are fed when hungry (hunger cues) and are allowed to stop feeding when they show signs of fullness (satiety cues). WAC 170-296A-7200	
WAC 170-296A-7200 Feeding solid food to infants. (1) The licensee must consult with and have approval from an infant's parent or guardian before introducing solid food to the infant. Concerns: This would require yet another signed form to document compliance. Suggested Changes: (1) The licensee must consult with and have verbal approval from an infant's parent or guardian before introducing solid food to the infant. Upon introduction of solids, the parent may provide a list of approved initial foods to the licensee for clarification. Keep (2)	The proposed rule was not changed as a result of this comment. The rule does not require the licensee to document the consultation with parent/guardian about introducing solid foods, but assures that the parent/guardian have the opportunity to direct how this change is made.
Issues raised in public comments on proposed WAC 170-296A-7225 High chairs:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-7225 High chairs. (3) The licensee or staff must clean and sanitize high chairs after each use. (a) If a bleach solution is used to sanitize, the solution must be **one tablespoon of bleach to gallon** of cool water. ¾ tsp. (b) If another sanitizer product is used, it must **be approved** by the **Department of Early Learning** and used strictly according to manufacturer's	The proposed WAC 170-296A-7225 was changed as a result of these comments, in part. The recommended change to (3)(a) was made, but at a bleach amount appropriate to making one-quart of sanitizing water The recommended change to (3)(b) was not made. The department does not plan to approve specific sanitizing or disinfecting products. The licensee must follow the directions

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label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product	for the product used, and be able to demonstrate to a DEL licensor that the product is applied according to the directions.
220. Issues raised in public comments on proposed WAC 170-296A-7250 Diapering and toileting:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-7250 Diapering ~~and toileting~~. (1) The licensee must provide a diaper changing area that is separate from any area where food is stored, prepared or served. (2) The diaper changing area must: (a) Have a sink with hot and cold running water ~~close~~ **adjacent** to the diaper changing area. The sink must not be used for food preparation and clean up; (b) **Have ~~a sturdy~~, an intact (not torn or repaired with tape), easily cleanable mat that is moisture-impervious and is ~~with a surface~~** large enough to prevent the area underneath from being contaminated with bodily fluids; and (c) Be cleaned and sanitized between each use: Okay with modifications (i) If a bleach solution is used to sanitize, the solution must be one tablespoon of bleach to one quart of cool water; (ii) If another sanitizer product is used, it must be **approved by the Dept. and** used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. (~~3) A nonabsorbent, disposable covering that is discarded after each use may be used on the diaper changing mat~~. **(4) Diaper changing area is used only for diapering and is free of all other items such as toys, pacifiers, food utensils, etc.** **(5) DOH Recommended Steps for Changing Diapers is posted in the area.**	The proposed WAC 170-296A-7250 was changed as a result of these comments, in part. The wording of subsection (2) (a) was developed with family home child care licensees in recognition that diaper change care are may not be in a bathroom , due to space limitations of some homes. The suggested change to (2)(b) was added to the rule, with minor wording changes. The suggested change to subsection (2)(c)(ii) was not made – the Department does not plan to approve specific sanitizer products. The change to subsection (3) was not made; the rule allows licensees to use disposable changing table covers that must be disposed of after one use. Recommendation new subsection (4) was added with minor changes. Recommended subsection (5) was not added, in recognition that the licensee may not have space in a home bathroom for this poster. The rules recognize that spaces used for licensed child care revert to their use a private residence during non-child care hours – licensees may take down any required posted material during non-child care hours. DEL licensors do make the DOH diaper changing poster available to licensees.
Issues raised in public comments on proposed WAC 170-296A-7300 Diaper changing:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-7300 Diaper changing. (c) Reusable cloth diapers supplied by the child's	The adopted WAC 170-296A-7300 was changed as a result of these comments. The recommended change was made to

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
family. (3) When cloth diapers are used a washable, waterproof barrier must be used between the diaper and the child's clothes.	subsection (3).
WAC 170-296A-7300 Diaper changing (4) The licensee or staff must wash their hands and the child's hands immediately after diapering a child. Concerns: There needs to be further clarification added for care of infants and toddlers. Suggested Changes: (4) The licensee or staff must wash their hands and the child's hands. Baby wipes may be used to clean infant's and toddler's hands.	The adopted WAC 170-296A-7300(4) was changed as a result of these comments with minor rewording. *"(4) The licensee or staff must wash their hands before and after diapering, and wash the child's hands immediately after diapering the child. Baby wipes may be used to wash the child's hands."* See also comments on WAC 170-296A-3675 When handwashing is required.
224. Issues raised in public comments on proposed WAC 170-296A-7375 Potty chairs or modified toilet seats:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-7375 Potty chairs or modified toilet seats. (1) When potty chairs are used, the licensee or staff must immediately after each use: (a) Empty the potty chair into the toilet; and (b) Clean and sanitize the potty chair. (c) Clean and sanitize disinfect the sink used for cleaning potty chair. (2) The floor under the potty chairs must be made of a material that is resistant to moisture. (3) When a modified toilet seat is used, it must be cleaned and disinfect daily or more often when soiled. (4)If a bleach solution is used to sanitize, the solution must ½- ¾ cup of bleach + 1 gallon of cool water changing to disinfecting solution. (or 1 to 3 tablespoons of bleach + 1 quart of cool water) (b) If another sanitizer product is used, it must be approved by the Department of Early Learning and used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.	The proposed WAC 170-296A-7375 was changed as a result of these comments, in part. The suggested change to subsection (1)(c) was made for both potty chairs and modified toilet seats, and requires the licensee to disinfect the surfaces after cleaning rather than sanitize. A disinfecting bleach solution is of higher bleach concentration than a sanitizing solution. The suggested change to subsection (4) was made regarding the recommended bleach/water solution. However, the department does not plan to approve specific disinfectant products. The license must be able to demonstrate that he or she is aware of and follows the label instructions if another disinfecting product is used.
225. Issues raised in public comments on proposed WAC 170-296A-7500 Food must meet USDA guidelines:	**Was the proposed rule changed as a result of this comment?**
Received by e-mail 6-2-11: In commenting	The adopted rule was changed as a result of this comment to

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
specifically on the proposed WACs for licensed family day care homes: The reference at WAC 170-296A-7500 to the March 2007 edition of Washington's creditable food guide is of concern since we anticipate revising this document in the next few years, reflecting changes in the regulations for the CACFP. Perhaps instead of specifying an edition, reference should be made to the most current creditable food guide.	require compliance with the "current" CACFP.
• NUTRITION ○ Include meal pattern and portion size from USDA's Child and Adult Care Food Program (CACFP) directly in the regulations. WAC 170-296A-7500 ○ Include specific nutrition requirements regarding milk, juice, sugar-sweetened beverage, fat, and sodium. Add: (1) Serve only whole milk to children between 12-14 months of age. (2) Serve 1% or nonfat milk to children over 2 years of age. (3) Limit 100% juice to no more than 2 times per week. (4) Do not serve sugar sweetened beverages. (5) Offer a fruit or vegetable at each afternoon snack. (6) Serve breakfast to all school aged children who do not get breakfast at home or at school. (7) Limit foods that are high fat, high sugar and high sodium to no more than once per week (examples: processed meats such as hot dogs, corn dogs, sausage, bologna, cakes, cookies, donuts, Danish and snack foods) (8) Prepare, date and post menus one week or more in advance (9) Provide 2 weeks or more of meal and snack variety before repeating the menu. WAC 170-296A-7500 Provide supplemental food if parent/guardian	The Department applauds goals to increase physical activity levels for children and reduce intake of fats and sugars in children's diets. The proposed and adopted rules provide new or upgraded requirements to support both goals. However, the proposed rule was not changed as a result of these comments. The current CACFP does requires the child care provider to serve milk to children older than infant age, but does not require low fat, nonfat milk, or to limit servings of fruit juice – these recommendations appear as a footnote suggestions rather than as requirements. The Department would continue to encourage such dietary improvements through Guidance. If the CACFP is revised to require low fat/fat free milk or to limit the servings of juice, the Department would review the changes in the meal and snack plans and determine if the rules may need to be revised. After extensive discussion, the Negotiated Rule Making Team recommended that posting menus was not necessary, nor was a requirement to not repeat a meal or snack menu. The proposed and adopted rule reflect this recommendation. The recommended change regarding parent-provided foods is already in WAC 170-296A-7525.

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
food is inadequate Add: (2) If the food provided by the parent or guardian does not meet the USDA guidelines then the licensee must supplement the meal or snack. USDA is planning to issue new guidance regarding fluid milk. It also addresses the non-milk substitutes. It is 1% milk or non-fat that will be required for children over the age of 2. For children under 2, whole milk will remain the requirement. Providing the non-milk substitutes will be an option unless the child has a disability and a physician indicates the substitute is needed. We will be very specific as to the brand of soy beverages. Currently, there are 2 soy milks available in Washington that meet the USDA nutrition requirements. Both WIC and the National School Lunch Program also limit soy milk to those 2 choices. Because there are so many changes in the regulations anticipated, it will probably be several years before we have a new Creditable Food Guide completed. Once a newer edition is available, can the law be changed to site the newer edition? As currently written, the licensing rules include the link to the document on our website.	
Issues raised in public comments on proposed WAC 170-296A-7525 Parent or guardian-provided food:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-7525 Parent or guardian-provided food. (1) A parent or guardian may provide alternative food for their child if a written food plan is completed and signed by the parent or guardian and the licensee. This written food plan includes accommodations for: (a) The child's medical needs; (b) Special diets; (c) Religious or cultural preference; or (d) Family preference. (2) The licensee must supplement the food provided by the parent or guardian with foods listed in the USDA creditable food guide foods if the food provided by the parent or guardian does not meet the nutritional needs of the child. Concerns:	The proposed WAC 170-296A-7525 was changed as a result of these comments, in part. A new subsection (2) is added to the adopted rule to read, *"A written food plan is not required for infant formula, breast milk or baby food supplied by the parent or guardian."*

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
This WAC needs to clarify that this will not apply to infant formula, breast milk or baby food supplied by the parent. Suggested Changes: (1) A parent or guardian may provide alternative food for their child if a written food plan is completed and signed by the parent or guardian and the licensee – this does not apply to infant formula, breast milk or baby food supplied by the parent for their infant.	
Add more specifics on the meal and snack schedule: The number of meals and snacks that must be served is: (a) If open 9 hours or less you must serve at least: Two snacks and one meal or one snack and two meals. (b) If open 9 hours or more you must serve at least: Two snacks and two meals or three snacks and one meal.	The rule was not changed as a result of this comment. The rule sets the required interval of meals or snacks. The department will consider this recommendation for Guidance.
Issues raised in public comments on proposed WAC 170-296A-7600 Serving milk:	**Was the proposed rule changed as a result of this comment?**
Importance of breastfeeding. Add: (1) Breast milk or formula to children from birth to twelve months of age.	The proposed WAC 170-296A-7600 was not changed as a result of these comments. The suggested change to subsection (1) is already in the proposed rule.
230. Issues raised in public comments on proposed WAC 170-296A-7625 Meal and snack schedule:	**Was the proposed rule changed as a result of this comment?**
○ More specifics on the meal and snack schedule. Add: The number of meals and snacks that must be served is: (a) If open 9 hours or less you must serve at least: Two snacks and one meal or one snack and two meals. (b) If open 9 hours or more you must serve at least: Two snacks and two meals or three snacks and one meal. WAC 170-296A-7625 ○ Any juice discouraged (we can safely assume that they will access juice in other venues) but certainly no more than	The proposed WAC 170-296A-7625 was not changed as a result of these comments. The rule sets the required interval of meals or snacks. The department will consider this recommendation for Guidance. The use of the word "discouraged" or similar wording in a rule would not be unenforceable. The licensee is required to follow CACFP meal plans that permit serving juice. The department will consider this recommendation for Guidance.

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
two times per week	
231. Issues raised in public comments on proposed WAC 170-296A-7650 Serving foods:	**Was the proposed rule changed as a result of this comment?**
New -- Add: (a) Serve each child individually following meal pattern guidelines for age (b) Serve family style to encourage choice rather than serving full plates of food. (f) Sit with children during meal and snacks and eat with them when possible. (g) Do not use food as a reward or punishment. WAC 170-296A-7650	The proposed WAC 170-296A-7650 was not changed as a result of these comments. The suggest change to subsection (1)(a) is already covered in the requirement to follow the USDA CACFP. Suggested changes to (1)(b) would be appropriate for guidance. The licensee may need to be able to serve and regulate how much children are served to avoid costly wastage. The Negotiated Rule Making Team discussed the use of food as reward at length, and determined that there are times when a healthy treat may be appropriate as an incentive, but that it was not necessary to require or prohibit it in rule.
232. Issues raised in public comments on proposed WAC 170-296A-7675 Food handler permits:	**Was the proposed rule changed as a result of this comment?**
Wac 170-296a-7675 food handler permits. (1) new license applicants must obtain a current state food handler permit prior to being licensed. (2) by (one year after the effective date of this section) every licensee must obtain and maintain a current state food handler permit. We don't need a permit to cook for our families, we are running a business as a family home. Costing us money again, have not had to have one in the last 30 yrs	The proposed WAC 170-296A-7675 was not changed as a result of these comments. When the licensee is operating the home as a licensed family home child care, the licensee is held to a higher standard of than if they were providing care or food for their own families. Not all licensees or their staff know how to prepare, cook or serve food at home safely. The rule is consistent with the legislature's finding in RCW 43.215.005(4)(c), which states: *"(4) The purpose of this chapter (43.215) is:* *…(c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care;"* Requiring all licensees to obtain a food handler permit helps to assure that these providers have at least the knowledge of safe food storage, handling and serving needed to pass the state's

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
	food handler permit test. The permit costs $10 for the first two-year permit, and the later permits are $10 for three years. By the third year, the annualized cost of a permit drops to $3.33 per year.
(1) New license applicants must obtain a current state food handler permit prior to being licensed. (2) By (one year after the effective date of this section) every licensee and every person that serves or prepares food must obtain and maintain a current state food handler permit. ~~(3) When the licensee is not present, one staff person with a current state food handler permit must be present whenever food is prepared or served to children in care.~~ (3) The licensee must keep a copy of each individual's food handler permit on file. **Justification** It is critical that all persons prepare or serve food to children not just the licensee have the food safety knowledge, they can get by obtaining a food handler permit. All employees in retail food establishments are required to have food handler permits under RCW 69.06.010. Infants and children are particularly vulnerable to food borne illness. It seems reasonable their clients should receive the same protection as restaurant patrons.	The proposed rule was changed in part as a result of this comment, in part. The proposed rule is consistent with requirements for licensed child care centers. The Department has however, revised the adopted rule to require that the individual with a food handler permit must supervise others preparing food, as follows: *"4) The licensee or staff person with a current state food handler permit must prepare or supervise preparation of all food served to children in care."*
233. Issues raised in public comments on proposed WAC 170-296A-7680 Safe food handling:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-7680 Safe food handling. (1) The licensee and staff must follow the safe food storage, preparation, cooking, holding proper temperature, and serving guidelines in the current edition of the food workers manual prepared by the state department of health. Concerns: Is the current edition of the food workers manual prepared by the state department of health available online? Suggested	The proposed WAC 170-296A-7680 was not changed as a result of these comments. Yes. The current DOH Food and Beverage Workers' Manual is available online at http://www.doh.wa.gov/ehp/food/workermanual.pdf and is available in several languages. Many local health jurisdictions provide the manual as requested.

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a. Summarized Comments received on the proposed new WAC 170-296A	**b. Department response, including whether the proposed rule was changed as a result of the comment(s).**
Changes: (1) The licensee and staff must follow the safe food storage, preparation, cooking, holding proper temperature, and serving guidelines in the current edition of the food workers manual prepared by the state department of health as available online (or if not online, available through the DEL).	Specifying its contents in the rule is not needed.
Comment/suggestion: (1) The licensee and staff must follow the safe food storage, preparation, cooking, holding proper temperature, and serving guidelines in the current edition of the food workers manual prepared by the state department of health. (2) The licensee and staff must: (a) Wash their hands prior to preparing food, after using the restroom, after otherwise contaminating their hands and after handling raw meats, poultry, or fish; ~~and~~ (b) Not prepare food when ill with vomiting or diarrhea; and (c) Not handle ready-to-eat foods with bare hands. **Justification** There are three important public health practices related to food employee health: not preparing food when ill; proper hand washing; and not handling food with bare hands.	The proposed rule was not changed as a result of this comment. However, the adopted rule was revised to refer to WAC 170-296A-3675, which has a more comprehensive list of situations requiring the licensee or staff to wash their hands. The suggestion regarding use of gloves will be considered for Guidance.
Issues raised in public comments on proposed WAC 170-296A-7700 Washing dishes:	**Was the proposed rule changed as a result of this comment?**
The licensee or staff must wash dishes thoroughly after each use by one of the following methods: (1) Automatic dishwasher with a sanitizing cycle(2) Handwashing method, by emersion in hot soapy water, rinse, sanitize and air dry: (a) If a bleach solution is used to sanitize, the solution must be one teaspoon of chlorine bleach to one gallon of cool water; (b) If another sanitizer product is used, it must be **an approved no-rinse sanitizer for food contact surfaces** used strictly according to manufacturer's label instructions including, but not limited to,	The proposed WAC was changed as a result of this comment, with minor revisions, as follows: *WAC 170-296A-7700 Washing dishes. The licensee or staff must wash dishes thoroughly after each use by one of the following methods:* *(1) Automatic dishwasher, using the sanitizing cycle if available; or* *(2) Handwashing method, by emersion in hot soapy water, rinse, sanitize and air dry:* *(a) If a bleach solution is used to sanitize, the solution must be three-quarters teaspoon of chlorine bleach to one*

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
quantity used, time the product must be left in place, and adequate time to allow the product to dry.; or (2) Handwashing method, by emersion in hot soapy water, rinse, sanitize and air dry: (a) If a bleach solution is used to sanitize, the solution must be one teaspoon of bleach to one gallon of cool water; (b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.	*gallon of cool water;* *(b) If another sanitizer product is used, it must be labeled as approved for food contact surfaces and be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.*
Issues raised in public comments on proposed WAC 170-296A-7725 Food containers and utensils:	**Was the proposed rule changed as a result of this comment?**
Comments/suggestion: (1) The licensee must not use or allow ~~plastic~~ cookware containers to be used to cook or reheat food in a microwave oven, unless the container is ~~certified~~ labeled microwave oven use by the manufacturer. ~~as made without the chemical bisphenol-A.~~ (2) The licensee may use disposable serving containers, dishes and utensils that are sturdy, used only once and thrown away after use. (3) The licensee must keep sharp utensils and other utensils that may cause serious injury or a choking hazard inaccessible to children ~~when the utensils are not in use~~. (4) The licensee must not serve food to infants or toddlers using polystyrene foam ~~(Styrofoam)~~ cups, bowls and plates. (5) Use of plates, bowls, cups, and cooking equipment containing lead are prohibited. **Justification** Under proposed (4), it would be acceptable to use polystyrene for preschoolers and older children. School districts and others are phasing out the use of polystyrene in favor of more environmentally friendly reusable trays. This product has been identified as a problem in landfills in King and Snohomish Counties.	The proposed WAC 170-296A-7725 was changed as a result of these comments, in part. Subsection (1) was revised consistent with the suggested change, with some rewording: *"(1) The licensee must not use or allow cookware containers to be used to cook or reheat food in a microwave oven, unless the container is labeled by the manufacturer as "for microwave use," "microwave safe," or similar labeling."* The suggested change to subsection (3) was not adopted – licensees commented on the draft rules that some utensils need to be available for use for cooking or food activities. On the suggested new subsection (5), not all individual dishes or utensils are labeled as to whether they contain lead, and many licensees report buying used kitchen ware. The licensee would need to test each dish, serving ware or utensil. The Department will take this suggestion under advisement for discussion with stakeholders at the next rule revision.

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
Over the last few years, the commercial market has been flooded with colorful and inexpensive ceramic plates, cups and other cookware. Many or most of these products contain lead. Lead leaches into the food cooked or served in these items. O'Malley (as cited by Mitchell, 2011, p. 1) found, "Lead poisoning is especially harmful to young children because it affects their developing central nervous system and can cause serious problems like learning difficulties, developmental delays, brain damage or even death."	
Issues raised in public comments on proposed WAC 170-296A-7750 Food preparation area:	**Was the proposed rule changed as a result of this comment?**
(1) The licensee or staff must clean and sanitize food preparation and eating surfaces before and after use. The licensee's food preparation surface must: (a) be smooth and easily cleanable and free of cracks and crevices; and (b) Have a floor area made of a material that is resistant to moisture. (2) The licensee must not allow pets in the food preparation area while food is being prepared or served. (3) The licensee may use the kitchen for other child care activities provided there is continual supervision of the children. (4)(a) If a chlorine bleach solution is used to sanitize surfaces, the solution must be one teaspoon of chlorine bleach to one gallon of cool water; (b) If another sanitizer product is used, it must be **approved for use on food contact surfaces** used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.	The proposed WAC 170-296A-7750 was changed as a result of these comments, in part. Suggested changes to subsections (1) and (4) were adopted with minor changes as follows: *WAC 170-296A-7750 Food preparation area. (1) The licensee or staff must clean and sanitize food preparation and eating surfaces before and after use. The licensee's food preparation area must:* *(a) Have surfaces that are free of cracks and crevices; and* *(b) Have a floor area made of a material that is resistant to moisture.* *…(4)(a) If a bleach solution is used to sanitize surfaces, the solution must be one tablespoon of chlorine bleach to one gallon of cool water;* *(b) If another sanitizer product is used, it must be labeled as approved for food contact surfaces and be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.* Suggested changes to subsection (1)(a) was not adopted. This wording would eliminate using kitchen counters made of granite or similar artificial surfaces that may have small pits, and would likely trigger a rule economic analysis and reopening discussion with stakeholders prior to proposing such a change.
Issues raised in public comments on proposed	**Was the proposed rule changed as a result of this comment?**

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
WAC 170-296A-8000 Facility licensing compliance agreements:	
WAC 170-296A-8000 Facility licensing compliance agreements. Concerns: "At the department's discretion" is too broad and open to misuse. Also, "when a licensee is in violation of this chapter or chapter 43.215 RCW, a facility licensing compliance agreement may be issued in lieu of the department taking enforcement action" is another way of saying that a licensee must accept a FLCA if the department or licensor deems them in violation. What if the licensee disagrees with the department or licensor? Also, (4) A facility license compliance agreement is not subject to appeal under chapter 170-03 WAC? A licensee should have the right to disagree with a licensor's observation, noncompliance description/summary, the WAC cited and/or the plan of correction/action and should not be forced to sign a FLCA or accept a probationary license until they have a chance to review the rules, their rights and consult advice from an advocate. Once a licensee signs a FLCA, they are agreeing that they were in violation of the cited WAC. A FLCA is a legal binding agreement and can be used against a licensee creating a history of noncompliance – even if they disagree. The licensee should not be penalized with enforcement actions if they disagree or wish to dispute a FLCA. There must be a provision whereby a licensee has an opportunity to overturn a licensor's opinion or FLCA without the cost of an attorney. Suggested Changes: This WAC should be rewritten to include a hearing process for the licensee to defend themselves, with legal counsel if necessary, before any enforcement actions take place, including signing a FLCA.	The proposed WAC 170-296A-8000 was not changed as a result of these comments. "At the department's discretion" is needed to determine whether the violation is of a the nature that may be corrected with a compliance agreement, or whether the violation poses an imminent risk to the health and safety of children in care that would require more immediate Department action. The licensee has the right to disagree with imposing a FLCA or to request supervisor review prior to the FLCA being implemented. An FLCA is an agreement and not an enforcement action. However, if the licensee remains unwilling to correct an observed violation of the rule, the Department may be faced with taking enforcement action. The licensee may then appeal the enforcement action, and to request a stay pending outcome of the appeal. This was acknowledged by the Negotiated Rule Making Team, and the proposed rule is consistent with the Team's recommendation for the proposed WAC 170-296A-8000.
238. Issues raised in public comments on proposed WAC 170-296A-8010 Nonreferral status:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-8010 Nonreferral status. In addition to or in lieu of an enforcement action	The proposed WAC 170-296A-8010 was not changed as a result of these comments.

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
under this chapter, the department may place a family home child care on nonreferral status as provided in RCW 43.215.300(4). Concerns: Will the licensee have any chance to disagree with citations issued or a supervisory review prior to being placed on a nonreferral status? Licensors can make mistakes too and/or be overly zealous in their performance. A licensee must be given a fair chance to state a disagreement with citations issued to cause a nonreferral status to be placed as well as have access to a supervisory review. Suggested Changes: In addition to or in lieu of an enforcement action under this chapter, the department may place a family home child care on nonreferral status, as provided in RCW 43.215.300(4), after the licensee has been given an opportunity to have access to a supervisory review, hearing or otherwise defend themselves if they disagree with a licensor's opinion.	The proposed and final rule is consistent with the statute. The licensee has the ability to request supervisory review of a compliance agreement, or to contest an enforcement action by requesting a hearing.
Issues raised in public comments on proposed WAC 170-296A-8050 Civil monetary penalties (fines):	**Was the proposed rule changed as a result of this comment?**
The proposed WAC 170-296A-8050 be should modified to allow the licensee an opportunity to correct a rule violation, before the imposition of a fine, if the rule violation is a first time violation.	For the reasons stated below, the Department respectfully denies the to modify proposed WAC 170-296A-8050. Normally, if the Department determines there has been a rule violation, the Department will typically issue a Facility Licensing Compliance Agreement to give the licensee an appropriate amount of time to address and correct the violation. However, due to the egregious nature of some violations, the Department must have enforcement tools (civil fines, suspension or even revocation) to compel immediate compliance. For example: should the Department have the ability to take immediate action if a licensee is found to be allowing a registered sex offender unsupervised access to children in care and then refuses to correct the situation? Such examples are not hypothetical, and in fact have occurred. The Department has considered the appropriateness of imposing a civil fine for a first time rule violation and has addressed this concern in other proposed rules. For example, see proposed WAC 170-296A-8000 (Facility licensing compliance agreements), proposed WAC 170-296A-8025 (Time period for correcting a violation), and proposed WAC 170-296A-

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
	8060 (When fines are levied).
Issues raised in public comments on proposed WAC 170-296A-8060 When fines are levied:	**Was the proposed rule changed as a result of this comment?**
"Repeatedly" needs to be in the definitions WAC 170-296A-0010.	The proposed WAC 170-296A-8060 was not changed as a result of these comments. The term "repeatedly" is defined in WAC 170-296A-8060 and applies only to this section. This method of defining a term limited to a particular section or subsection is appropriate construction for drafting a WAC. See the code reviser's Bill Drafting Guide 2011 used for drafting RCWs and rules.
Issues raised in public comments on proposed WAC 170-296A-8075 Fines - Payment period:	**Was the proposed rule changed as a result of this comment?**
Civil penalty must be paid within 28 days unless DEL approves payment plan or requesting a hearing – language changes.	The proposed WAC 170-296A-8075 was not changed as a result of these comments. The proposed rule is consistent with RCW 43.215.307 and provides more time for the individual to pay the fine. The previous WAC 170-296-0410 provided only ten days to pay a fine or face further penalties.
Issues raised in public comments on proposed WAC 170-296A-8100 Notice of fine – Posting:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-8100 Notice of fine--Posting. The licensee must post the department letter notifying the licensee of a final notice of a civil penalty: (1) Immediately upon receipt; (2) In the licensed space where it is clearly visible to parents and guardians; and (3) For two weeks or until the violation causing the fine is corrected, whichever is longer. Concerns: A licensee should not have to post a department letter notifying the licensee of a final notice of a civil penalty unless the final notice is after the licensee has had an opportunity for a hearing as provided in RCW 43.215.307(3) Suggested Changes: The licensee must post the department letter notifying the licensee of a final notice of a civil penalty: (1) following the opportunity for a hearing, as provided in RCW 43.215.307(3) with the results showing the licensee did commit the violation. (2) & (3) remain Portions received orally at the 6-11 public hearing, and by e-mail	The proposed WAC 170-296A-8100 was not changed as a result of these comments. The proposed rule is consistent with RCW 43.215.525(1)(c) regarding what must be posted and for how long.

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a. Summarized Comments received on the proposed new WAC 170-296A	**b. Department response, including whether the proposed rule was changed as a result of the comment(s).**
Issues raised in public comments on proposed WAC 170-296A-8125 Failure to pay a fine – Department action:	**Was the proposed rule changed as a result of this comment?**
Failure to pay penalty may result in suspension, revocation or non-renewal of license – language change from 10 days to 28 days but still a problem for large fine.	The proposed WAC 170-296A-8125 was not changed as a result of these comments. The proposed and adopted rule are consistent with RCW 43.215.307. The licensee may appeal the fine and request a stay. A fine may also be waived or reduced if the licensee comes into compliance before the payment deadline – See WAC 170-296A-8050(4).
Issues raised in public comments on proposed WAC 170-296A-8150 Denial, suspension, revocation or modification of a license:	**Was the proposed rule changed as a result of this comment?**
We believe the current WAC 170-296-0360(1) is clearer." (1) "If you fail to follow the rules, we notify you of the violation in writing and unless the health, safety or welfare of children in care is threatened, we provide you with an opportunity to come into compliance before we take adverse licensing action. Suggested Changes: A license may be denied, suspended, modified or revoked when the licensee repeatedly fails or refuses to comply with the requirements in this chapter or any provisions of chapter 43.215 RCW.	The proposed WAC 170-296A-8150 was not changed as a result of these comments. The requirements contained in WAC 170-296-0360(1) are re-codified in proposed WAC 170-296A-8000. Also, proposed WAC 170-296A-8150 is consistent with RCW 43.215.200(5) and RCW 43.215.300(1). RCW 43.215.200(5) requires the Department to issue, revoke, or deny licenses pursuant to chapter 43.215 RCW. RCW 43.215.300(1) requires that a license be denied, suspended, revoked, modified or not renewed "upon proof that … the agency has failed or refused to comply with the provisions of this chapter or the requirements adopted pursuant to this chapter…." Accordingly, the Department respectfully denies the request for the Department to modify proposed WAC 170-296A-8150. However, the Department will modify proposed WAC 170-296A-8150 to be consistent with the recent passage of Senate Bill 5625. Revised proposed WAC 170-296A-8150 will appear as follows: *WAC 170-296A-8150* ***Denial, suspension, revocation, ~~or~~ modification, <u>or non-continuation</u> of a license.*** *A license may be denied, suspended, modified, ~~or~~ revoked, <u>or not continued</u> when the licensee fails to comply with the requirements in this chapter or any provisions of chapter 43.215 RCW.*
Issues raised in public comments on proposed	**Was the proposed rule changed as a result of this comment?**

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WAC 170-296A-8175 Violations that will result in enforcement action:	
The proposed WAC 170-296A-8175 be modified or withdrawn because the proposed WAC 170-296A-8175(1) is more restrictive than what's allowed under chapter 43.215 RCW. WAC 170-296A-8175 More restrictive than RCW 42.215.300(1) Should only read we "MAY" deny, revoke or suspend 6/18/2011 There needs to be a neutral due process system or an oversight committee in place to make the determination.	The proposed rule was changed as a result of these comments: The Department respectfully denies request to withdraw section 1 from proposed WAC 170-296A-8175. However, the Department agrees to modify proposed WAC 170-296A-8175 by inserting "may" in place of "will" in the first sentence of this section. The proposed rule will be amended to say the following: *"The department ~~will~~ may deny, suspend or revoke a license when:* *(1) The licensee is …."* This amendment is consistent with the NRMT's recommendation dated October 24, 2009. Taking into consideration this change, the Department will also combine the content contained in proposed WAC 170-296A-8175 with proposed WAC 170-296A-8200 and withdraw WAC 170-296A-8200. The ability to deny, suspend or revoke a license under proposed WAC 170-296A-8175(1) is authorized under chapter 43.215 RCW. Under RCW 43.215.200 (2), the Department must "adopt and publish minimum requirements for licensing". Thus, as a general matter, the statute authorizes requirements for licensing. Adopting licensing criteria is further contemplated by the requirement in RCW 43.215.260 that a license can only be granted if the applicant meets the minimum requirements set forth in chapter 43.215 RCW *and department rules enacted pursuant to chapter 43.215 RCW*. Similarly, RCW 43.215.200(5) requires the Department to issue, revoke, or deny licenses pursuant to chapter 43.215 RCW, and RCW 43.215.200 (7) requires the Department to inspect daycare providers to determine whether they are in compliance with chapter 43.215 RCW *and the rules* adopted by the Department. The language contained in proposed WAC 170-296A-8175(1) is consistent with the statutory delegation of authority described above, and in particular RCW 43.215.205(2): "Applications for licensure shall require, at a minimum the following information: … The character, suitability, and competence of an agency and other persons associated with an

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	agency directly responsible for the care of children". That is, to be authorized to be directly responsible for the care of children, the licensee must be of suitable *character* and *competence*. See RCW 43.215.205 (2). Similarly, proposed WAC 170-296A-8175(1) requires that the licensee be able to provide the required care for the children in a way that promotes their health, safety and well-being. Proposed WAC 170-296A-8175 (1) requirements are also very closely related to the purpose of chapter 43.215 RCW. Under RCW 43.215.005 (4) (c)(g), the purpose of chapter 43.215 RCW is: "(4) The purpose of this chapter is: (c) To safeguard and *promote the health, safety, and well-being of children receiving child care* and early learning assistance, which is paramount over the right of any person to provide care … and (g) To license agencies and to assure the users of such agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities."
Issues raised in public comments on proposed WAC 170-296A-8200 Violations that may result in enforcement action:	**Was the proposed rule changed as a result of this comment?**
170-296A-8200 Should say proof not allegation as there are crazy parents who can make allegations because they are mad or don't like something! Concerns: We believe that there should be more that the allegation should be evidence based before a provider loses her entire livelihood. There needs to be a neutral due process system or an oversight committee in place to make the determination. Proof of abuse or neglect should be reason for enforcement action not an allegation. Staff should be able to be fired and licensee not lose their license. #12 If household member is disqualified the provider should be able to not	WAC 170-296A-8200 has been withdrawn and its content incorporated into adopted WAC 170-296A-8175. Notwithstanding, the Department does not routinely take licensing action based only on an allegation of child abuse or neglect. If however, upon DSHS-CPS investigation or Department inspection following an allegation the Department finds proof that there may be an imminent or likely risk to the safety, health or welfare of a child or children in care, the Department may take appropriate action, up to and including denial, suspension, revocation , or non-continuation of the license. If the Department takes enforcement action, the licensee has the right to appeal the action, and to request that the administrative law judge stay of the action pending the

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
have household member on the premises during daycare hours	outcome of the appeal. The Department has the ability to place a condition on the license requiring a household member be barred from the child care. But when such conditions are violated, DEL must have enforcement tools to compel compliance.
Issues raised in public comments on proposed WAC 170-296A-8225 Notice of license denial, suspension or revocation:	**Was the proposed rule changed as a result of this comment?**
Concerns: There should be no license denial, suspension, revocation, or modification notice delivered until after the licensee has been found to have committed a violation of the WAC, proven by way of due process of a hearing as listed in RCW 43.215. Suggested Changes: (1) When the department has proven the licensee was found to have committed a violation of the WAC 170-296A following a hearing as provided in RCW 43.215, the department notifies the licensee of the denial, suspension, revocation, or modification of the license by sending a certified letter or by personal service.	The proposed WAC 170-296A-8225 was not changed as a result of these comments. When continued operation of the child care poses an immediate or imminent threat to safety, health or wellbeing of the children in care, it is appropriate for the Department to have enforcement tools to promptly stop a licensee by suspension or revocation. In such situation to delay action pending a hearing could put children in care at risk. The proposed and adopted rule is consistent with RCW 43.215.305. The licensee has the right to file an appeal to the Office of Administrative Hearings. The licensee also has the right to request a stay of any enforcement action pending the outcome of the appeal. An approved stay would allow the licensee to continue operation during the hearing process. There is no cost to for the licensee file an appeal or to request a stay, unless the licensee chooses to hire an attorney or advocate.
Issues raised in public comments on proposed WAC 170-296A-8250 Probationary license:	**Was the proposed rule changed as a result of this comment?**
WAC 170-296A-8250 Probationary license. A probationary license as provided in RCW 43.215.290 may be issued as part of a corrective action plan. Concerns: A probationary license should not be the starting point of a corrective action plan. A licensee must be given a fair chance to state a disagreement with citations issued and have access to a supervisory review or hearing at a minimum prior to issuance of a probationary license. There must be a provision whereby a licensee has an opportunity to overturn a licensor's opinion or FLCA without the	The proposed WAC 170-296A-8250 was not changed as a result of these comments. Under RCW 43.215.290, a probationary license is appropriate *"…to a licensee who has had a license but is temporarily unable to comply with a rule or has been the subject of multiple complaints or concerns about noncompliance "* The licensee has the right to refuse a probationary license, but that may leave the Department no other options than taking further enforcement action.

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cost of an attorney. Suggested Changes: A probationary license as provided in RCW 43.215.290 may be issued as part of a corrective action plan only after the licensee has been given an opportunity to have access to a supervisory review, hearing or otherwise defend themselves if they disagree with a licensor's opinion. Portions received orally at the 6-11 public hearing, and by e-mail Concerns: A department decision to issue a probationary license should be based on a history of noncompliance with licensing rules – meaning 2 or more cites for the same issue. The licensee must agree to and have signed a Facility Licensing Compliance Agreement at least 2 times for the same rule and have been found to be out of compliance if a supervisory review is requested by the licensee.	The adopted rule was revised consistent with 2011 Senate Bill 5625, as follows: *"WAC 170-296A-8250 Probationary license. A probationary license may be issued to a licensee operating under a nonexpiring full license as part of a corrective action plan. The department refers the licensee to technical assistance as provided in RCW 43.215.290 prior to issuing a probationary license."*
Issues raised in public comments on proposed WAC 170-296A-8275 Probationary license – Cause:	**Was the proposed rule changed as a result of this comment?**
The language contained in proposed WAC 170-296A-8275(4) "Other factors relevant to the specific situation" is too broad. We all agree that the safety of the children, physical and emotion, is our goal. We need to focus on that and keep the bureaucracy simple. If there are providers with valid complaints, then licensing should work with them. We should not be increase the difficulty of operating a FCC. Children need quality people involved in this field; they do not need more bureaucracy. Suggested Changes: Revise this WAC to read: (1) A history of negligent or intentional noncompliance with the licensing rules substantiated by 2 or more proven noncompliance cites for the same rule. Remove 2, 3, and 4.	The proposed WAC 170-296A-8275 was changed as a result of these comments. The Department agrees that "factors relevant to the specific situation" must be consistent with the intent or purpose of chapter 43.215 RCW. In order to provide more clarity, the Department agrees to modify proposed WAC 170-296A-8275(4) to say: *"(4) Any other factors relevant to the specific situation and consistent with the intent or purpose of chapter 43.215 RCW."* However, the Department denies the request to revise subsections (1) through (3). The rule is consistent with RCW 43.215.290,
Issues raised in public comments on proposed WAC 170-296A-8325 Refusing a FLCA or	**Was the proposed rule changed as a result of this comment?**

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probationary license:	
Concerns: A licensee should have the right to disagree with a licensor's observation, noncompliance description/summary, the WAC cited and/or the plan of correction/action and should not be forced to sign a FLCA or accept a probationary license until they have a chance to review the rules, their rights and consult advice from an advocate. Once a licensee signs a FLCA, they are agreeing that they were in violation of the cited WAC. A FLCA is a legal binding agreement and can be used against a licensee creating a history of noncompliance – even if they disagree. The licensee should not be penalized with these enforcement actions (listed in a,b,c,d) if they disagree or wish to dispute a FLCA. There must be a provision whereby a licensee has an opportunity to overturn a licensor's opinion or FLCA without the cost of an attorney. Accepting a probationary license, under these proposed rules means the licensee will have to notify all current and incoming parents of the probationary status and post a notice for all to see. In a small community where rumors spread like wildfire, this type of notice could ruin a provider's business and possibly cause them to close. This is a serious disciplinary action and a licensee needs to be given the opportunity to a supervisory review or hearing prior to enactment. Suggested Changes: This WAC should be rewritten to include a hearing process for the licensee to defend themselves, with legal counsel if necessary, before any of the enforcement actions take place as listed in a,b,c,d. Portions received orally at the 6-11 public hearing, and by e-mail	The proposed WAC 170-296A-8325 was not changed as a result of these comments. The licensee has the right to disagree or request supervisory review of a pending FLCA. But if the Department observes a violation of the rules or of RCW 43.215 and the licensee refuses to agree to correct the violation, the Department is left with few options other than issuing an enforcement action. The content of WAC 170-296A-8325 is nearly verbatim to the recommendation of the Negotiated Rule Making Team.
Issues raised in public comments on proposed WAC 170-296A-8350 Providing unlicensed care – Notice:	**Was the proposed rule changed as a result of this comment?**
DEL or whomever came up with this oppressive law would make that stay at home mom a criminal for helping a single parent? This is ludicrous and not American…..put the kids back in the hands of the parent.	The proposed WAC 170-296A-8350 was not changed as a result of these comments. The rule is consistent with RCW 43.215.340 and Senate Bill 5504 adopted by the 2011 Legislature. RCW 43.215.010(1) determines who must be licensed to provide child care in

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	Washington State. The 2011 legislature strengthened penalties for providing unlicensed child care by enacting Senate Bill 5504.
Issues raised in public comments on proposed WAC 170-296A-8375 Unlicensed care – Fines and other penalties:	**Was the proposed rule changed as a result of this comment?**
The proposed rule says "the dollar amount provided by law…" What is the maximum fine allowed?	The adopted rule is updated to reflect the new fine rate approved by the 2011 Senate Bill 5504 of $150 per day for a violation.
Issues raised in public comments on proposed WAC 170-296A-8400 Hearing process:	**Was the proposed rule changed as a result of this comment?**
Concerns: The department needs to give information about and provide an opportunity for a licensee to request an adjudicative proceeding (hearing) before any enforcement action takes place. An individual or licensee is innocent until proven guilty and should not have any enforcement action taken that will jeopardize the licensee's livelihood until a hearing process finds them in violation of the WAC. Suggested Changes: (1) Department notice of an enforcement action shall take place after a licensee has been found in violation of the WAC through the hearing process as governed by chapter 34.05 RCW Administrative Procedure Act, applicable sections of chapter 43.215 RCW department of early learning, and chapter 170-03 WAC, DEL hearing rules	The proposed WAC 170-296A-8400 -changed as a result of these comments. The proposed rule is consistent with RCW 43.215.305 and 34.05.422. The right to file an appeal occurs upon a formal department enforcement action, not before . The licensee would have nothing to appeal until receiving notice of the DEL enforcement action or pending action. Unless the enforcement action must be made effective immediately to prevent an imminent threat to a child's health, safety or well being, the licensee has the right to appeal the action before it takes effect. The licensee also may ask the administrative law judge for a stay of the enforcement action pending the outcome of the appeal – if approved by the judge the licensee may continue providing child care during while the hearing proceeds.
General comments not related to a particular rule	
I AM JUST VENTING AND THESE ARE NO FACTS. " Higher level communication".???....inquiring minds need to read your parent/licensee documentations? More paperwork for us? Why not? Any more paperwork a provider has to do is simply taking time away from children. I can't afford an assistant so any paperwork I do is taking away from the kids in care. While I can try to do it during nap or evenings, I have a family and a home to take care of, too. I know the rules	The proposed rules were not changed as a result of these comments. The rules reduce some paperwork, such as eliminating the license renewal application, and provide for a streamlined annual declaration to maintain a non-expiring license. Generally the written plans and policies required by the rules are not new, but the rules provide more detail on what must be in such plans and policies. Documentation of the licensee's absence – and a staffing plan for such absences – was generally recommended by the

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are trying to ensure the safety and early learning of children, but ultimatly the parents are the ones who have the most realistic look at how a child care is run, and a parent should be allowed to choose who cares for their child and how. If a parent wants a stay at home mom they should be able to choose that. While we may or may not agree with that choice, it should be their choice. Just like it is their choice to nurse or feed formula.	Negotiated Rule Making Team comprised FHCC licensees, SEIU, advocates and DEL staff. The licensee has greater flexibility to be away from the child care under these rules, provided that parents, staff and the department know that qualified staff are left in charge and that the staff understand their responsibilities to comply with the rules in the licensee's absence.
I cannot, as a taxpayer, understand how it is our responsibility to make sure that the FHCC facility is up to state standards. Why is it that it is not the facilities responsibility to make sure that the owner/staff are educated, have safety features that meet state standard, etc. What next? We provide them with state vehicles to transport the children? What if they need to shop for snacks? Could they use the car then too? Are we to pay for the snacks as well? If these LHCC want the money the state pays, they should count this as the cost of doing business, like ANY other business in this state does.	The proposed rules were not changed as a result of these comments. The licensee is responsible for being in compliance with the law and these rules. However, history bears out and the law acknowledges that not every licensee will be in compliance or operate a safe child care. So, the law mandates that DEL must monitor and inspect child care agencies to verify that the licensee is operating a safety and healthy child care. The law also provides means for DEL to compel compliance if necessary. Rules are necessary to provide a clear basis for a DEL enforcement action – if a "violation" is not covered in the RCW or a DEL WAC adopted as required by law, the department may not be able to compel the licensee to correct the situation.
Under state law the Director must engage in negotiated rule making with SEIU. Throughout the NRMT process, there was a process defined as research based, rules based on research. DEL has not followed this process. DEL added rules after the NRMT process, and so has violated state law by not negotiating the changes. Why did they break the rules at the very end?	The DEL Director met with the NRMT on March 27, 2010 to give her personal response to the team's in-concept recommended draft rules. The Director noted that in 90 percent of the recommendations, she could adopt the recommendation with little or no change. But in about 10 percent of the rules, which she listed to the group, DEL would need to adopt more robust requirements than the NRMT recommended to provide a more safe, healthy and nurturing child care environment. Under RCW 43.215.200 the DEL Director has the sole responsibility to adopt minimum requirements for child care agencies licensed under chapter 43.215 RCW. The NRMT provided recommendations, but the Director must decide the content of rules proposed and adopted by DEL. Most of the proposed and adopted rules are consistent with the in-concept NRMT recommendations. The group understood that it was not writing the actual WAC – that

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	responsibility rested with DEL. The group also acknowledged that the NRMT recommendation needed to undergo a legal review to assure that the eventual rule would be consistent with applicable law and DEL's duties and obligations. DEL also reviewed additional research on topics such as fire safety, child injuries, play ground equipment and other topics before drafting the proposed rules. Finally, other interested stakeholder and agencies reviewed the rules and provided input which DEL evaluated before determining the final WAC content.
I work for the families I provide care for.. NOT THE DEL. I agree with having standards of operation as a bare minimum, but it boils down to the parents have daily contact with the provider and the facilities. They above anyone else have a vested interest and the best judge of the care their children are recieving. DEL is a joke! Department of Early Learning? Yeah right. What gives a DEL employee better judgement than someone who is doing the job 50 hrs a week? If the parents are happy, leave us alone!	The proposed rules were not changed as a result of these comments. Rules are necessary to provide a clear basis for a DEL inspection, monitoring and enforcement action – if a "violation" is not covered in the RCW or a DEL WAC adopted as required by law, the department may not be able to compel the licensee to correct the situation. By the same token, a rule also protects the licensee from enforcement of unwritten standards. As provided in RCW 43.215.005(4), the Legislature noted that the state's interest to "*safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care…*" The Legislature delegated to the DEL Director the duty and responsibility to set minimum standards for child care licensure, to investigate the backgrounds determine the suitability of individuals licensed or authorized to provide care of children, and to inspect licensed child care agencies to determine if they are in compliance with the law and rules adopted under the law. See RCW 43.215.200, 43.215.205, other sections of chapter 43.215 RCW, and RCW 43.43.832(6). Adoption of these rules is consistent with the duties and responsibilities delegated by the Legislature.
I'm writing in response to the new WAC rules. I've been a Lic Family Daycare Home for over 20 years, I've always followed the WAC's. I've watched the WAC's change over the years some have been good changes and others are very hard	The proposed rules were not changed as a result of these comments. Most of the proposed and adopted rules are consistent and in some cases nearly verbatim to recommendations of the

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for one person in a home to follow. I can now see the State wants to push out all family Daycare's in favor of Center Based Daycares. The Changes in this WAC is where it really stands out.I'm not sure who is writing these changes but they haven't worked in a Family Daycare Home. Most Home Daycares are one adult to maybe 6 children, we do it to stay at home with our own children then like me we stay in it to nuture other Parents children. We Love our Kids and only want the Best for them. The new Wacs will not work for a in Home Daycare.	Negotiated Rule Making Team comprised of licensees, SEIU, advocates, DEL staff and others. Where the rules differ from the NRMT recommendations are where DEL determined that a more robust standard was needed to protect the safety, health and well being of children in care or to promote a richer early learning environment. DEL believes the rules are consistent with the legislative findings in RCW 43.215.0005(4): *"(4) The purpose of this chapter (43.215 RCW) is:* *(a) To establish the department of early learning;* *(b) To coordinate and consolidate state activities relating to child care and early learning programs;* *(c) To safeguard and promote the health, safety, and well-being of children receiving child care and early learning assistance, which is paramount over the right of any person to provide care;* *(d) To provide tools to promote the hiring of suitable providers of child care by:* *(i) Providing parents with access to information regarding child care providers;* *(ii) Providing parents with child care licensing action histories regarding child care providers; and* *(iii) Requiring background checks of applicants for employment in any child care facility licensed or regulated under current law;* *(e) To promote linkages and alignment between early learning programs and elementary schools and support the transition of children and families from prekindergarten environments to kindergarten;* *(f) To promote the development of a sufficient number and variety of adequate child care and early learning facilities, both public and private; and* *(g) To license agencies and to assure the users of such*

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	agencies, their parents, the community at large and the agencies themselves that adequate minimum standards are maintained by all child care and early learning facilities."
WAC 170-296a Licensed Family Home Child Care Standards. I am pleased to see in the proposed changes details on limited screen time for children and describing positive disciplinary action (as well as prohibited behaviors by staff). On the whole, a very well thought out document. Toys and art materials are described, but there is no mention of any requirement to have books available to the children in care. Since they can be borrowed from the library, requiring books in the center should not have to be a financial hardship, and they are critical in developing literacy skills (one of the proposed requirements includes literacy activities, which is great). Please add a requirement that developmentally appropriate books be part of the child care environment. Thank you.	The proposed rules, including WAC 170-296A-6575-Activities to promote child growth and development, were drafted to limit prescribed items or resources (such as the number of books or toys) to encourage licensees to use a variety of resources to encourage and promote each child's developmental growth, which may include books, art, educational toys, electronic aids and a variety of other possibilities. Each licensee and each home may reflect different ways of meeting these goals. Licensees and DEL licensors involved in developing these rules said the style of the adopted rules was intended to encourage a dialog among parents, the licensee and the DEL licensor.
Wac:170-290 cc i strongly disagree with the rule changes the Del have made. They should really think about what the providers and parents really think about the new rules. i believe that the rules were good the way they were before. I disagree with all of these rule changes. All you are doing is trying to make it even more difficult for the home day care to operate. Home day cares are an important option to have for those of us that don't wish to send our children to a center that has 20-30 kids that get no attention at all and spend their whole day in a warehouse. Leave the current rules unchanged and spend more time enforcing them instead of trying to put home day cares out of business with your ridiculous set of changes. You can't honestly think an at home day care provider can keep every child in eye sight and hearing range at all times. Infants need naps and toddlers need to burn off energy.	The proposed rule was not changed as a result of these comments. The previous rules were the subject of 138 rule making petitions from FHCC licensees and SEIU seeking to repeal or amend sections of WAC chapter 170-296. At the beginning of the Negotiated Rule Making Process, consensus was reached that the entire WAC chapter should be revised. At each meeting of the NRMT, licensees formed the majority of individuals voting on the team's recommendations. The adopted rules reflect most of the NRMT in-concept recommendations, and in some cases are nearly verbatim to the team's suggested changes.
DEL is charged with regulating Washington	The proposed rule was not changed as a result of these

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State's licensed child care providers. They are not charged with owning and/or operating childcare facilities. Our legislators must clearly define the parameters that DEL can regulate. A family home by definition is a home where a family lives. DEL should not be given the authority to impose licensing regulations on that family or that family home beyond the scope of the license. A licensee who opens his or her home to provide care for working families' children Monday through Friday between the hours of 6 am and 6 pm should not be regulated by DEL in the evenings or on the weekends. Family members should not be subjected to evaluations by DEL as a condition of licensure. A licensee should not be required to "call in" a planned closure. My opinion regarding DEL's abuse of power is not new. The proposed WACs if codified as written will increase DEL's potential to ruin lives….all in the name of protecting children. Whose children? Parents partner with providers; not DEL. DEL continues to write rules which eliminate parents from childcare. I testified tonight via Vancouver's forum to a selection of the WACs I find to be particularly overreaching. As I was preparing to write my comment on those WACs, I realized that it is not the licensee which needs additional regulation it is DEL which needs to be regulated.	comments. The Department believes that that the adopted rules are consistent with chapter 43.215 RCW and the legislature's findings and intent stated in RCW 43.215.005. The rules do not regulate what occurs in the home outside of the licensee's stated child care operating hours. RCW 43.215.215 and 43.43.832(6) require DEL to evaluate the background of household members age sixteen or older who may have unsupervised access to children in care. The requirements for reporting the licensee's absence or planned closure were recommended by a vote of the Negotiated Rule Making Team comprised mostly of licensees, SEIU staff and licensee advocates. Rather than eliminate parents from participating in their child's care, the rules more clearly require that the licensee consult with the child's parent or guardian about key aspects of their child's growth and development.
General Comment: This draft document is 92 pages long. It needs to be much more concise (and therefore clearer) and items that duplicate each other or are redundant need to be combined. In addition, there should be a mini-license for Family Child Care homes (with a capacity of 6 or fewer children) governed by a 5-page WAC covering basic health & safety. These are totally unreasonable and make operating a childcare impossible!I would like to see how many licensors and politicions hold themselves this accountable with their own kids and could follow these rules themselves!!!	The proposed rule was not changed as a result of these comments. The proposed and adopted rules, when printed in the same type and size, are actually comparable to the number of pages in previous WAC 170-296 being repealed. The adopted rules are written in what the Department believes is a more readable style, without the question and answer format and with more logical organization, as requested by licensees and the Negotiated Rule Making Team. Most of the adopted rules are consistent with the recommendations of the Negotiated Rule Making Team comprised of licensee, SEIU, advocates, DEL staff and other stakeholders. Where the rules differ are rules that DEL has

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well??? I have problem for the rules from the WACs and it difficult for as a child care under the Washington state law and we need to change the rules because it is not beneficial to our business and for supporting out families. The pretense of making people who worked on the negotiated rule making team believe that they were really having any input on the rules and then disregarding their work is incredibly inconsiderate. You have made people mistrust you even more than they did before.	determined need to provide more robust protection of the safety, health and well being of the children in care, consistent with RCW 43.215.005(4)(c) and duties delegated to the DEL Director under chapter 43.215 RCW and 43.43.832(6).
I LOVE that the WAC codes are listed under headings and NOT in the form of a question. I just detested the question thing. It was so hard to find a specific WAC. This new format looks much more professional and is easier to use as a quick resource to find an answer. With exceptions noted (*in the appropriate WAC sections above)*, I do feel that the WAC rewrite for the most was a wonderful improvement over the past ones. I also think that it was remarkable to see DEL, the Union and Providers work together. I was a guest at many of the meetings and was truly amazed at the amount of respect and understanding on both sides. Thank you for your time	The proposed rule was not changed as a result of these comments. The heading style of the adopted rules was almost unanimously recommended by the Negotiated Rule Making Team to replace the previous question and answer format.
It seems that the situations of Family Home Child Cares are not addressed well. I have been doing licensed child care for 15 years very successfully but some of these new WAC would be impossible to implement in my setting. I love my job and hope to continue in child care. Please take note of my objections and help me to continue to serve my families.	The proposed rule was not changed as a result of these comments. The commenter does not suggest which rules should be changed.
The guide book is necessary for the understanding and compliance with the wac's for both provider and licensors. This is a must! Providers should have a time frame to come into compliance for the new wac's. The costs assosociated with the wac's as written will be	The proposed rule was not changed as a result of these comments. The state's current strained budget climate has affected the Department's ability to development a comprehensive Guidebook to accompany the adopted rules. DEL plans to

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huge! In order to comply, we need time to come up with this money before being out of compliance. I urge you to give providers time in this bad economy, to earn the new monies needed. Some may have to get grants, loans etc, which takes time.	continue seeking cost-effective methods of developing guidance to support these rules. With the exception of required ground cover under swings and fall zones around swings, the rules provide additional time for current licensees to come into compliance with new requirements. Current licensees have until March 2017 to meet minimum education requirements, and have until March 2013 to obtain a state food handler's permit. New crib standards – adopted by the federal Consumer Product Safety Commission and implemented in these rules – give the licensee until December 28, 2012 to remove cribs that to do comply.
OTHER GENERAL COMMENTS:	
The Washington Dental Service Foundation (WDSF) would like to provide comment on the rules for licensed family home child care in WAC chapter 170-296. Attached is our specific feedback regarding the family home child care proposed rules. While DEL has clearly improved some elements of the standards in these draft rules, stronger standards are needed in particular areas, which are called out in the attachment. We also strongly encourage DEL to provide a system that ensures training and technical assistance services for family home child care providers to support and promote successful adoption of the new WACs. In June 2011, the White House and First Lady Michelle Obama set into motion the Let's Move Child Care campaign, which reinforces the importance of the topic areas discussed in our feedback. We hope that the Department of Early Learning will seriously consider these recommendations, continuing Washington's role as a leader in ensuring our children are guaranteed a high-quality early learning environment that supports their healthy growth and development.	The proposed rule was not changed as a result of these comments. The Department is developing training for FHCC licensees and DEL licensors to help both understand and implement the new rules. These trainings are being offered in the weeks following final adoption of chapter 170-296A WAC. DEL is also developing forms and templates that will help licensees comply with the new rules, and we will continue to seek other resources such as evacuation and disaster plan templates developed by fire, emergency services and public health agencies. DEL is also reviewing the pre-service training and on-going training course offerings to improve quality and applicability to providing a safe, healthy and nurturing child care environment in a family home setting. DEL applauds efforts to encourage children and adults to be more active and eat healthier diets. Where appropriate the Department has adopted suggested changes, but we will rely on guidance and encouragement rather than prescriptive requirements in rule.
Recommendation: create a new WAC section	The proposed WAC 170-296A-3050 was not changed as a result

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Child Care Health Consultation The licensee must hire a child care health consultant who will make regular visits to the Family Child Care Home and provide as needed technical assistance and training. The Child Care Health Consultant can review immunizations, helping to increase the number of immunized children in the state. The child care health consultant can help to provide early identification of children with special health care needs, so they can receive screening and assistance and be more prepared for school. The child care health consultant can help the licensee understanding cleaning and sanitizing thereby decreasing the number of infectious diseases that circulate and thereby keeping the child in care and the parent at work. The child care health consultant provides ongoing eyes and ears in a family child care home and can help to improve the health, safety and quality of care. See Caring for Our Children, 3rd edition, standard 1.6.0.1	of these comments. This recommendation would be appropriate for guidance under the current rules, or for discussion with family home child care licensees at the next revision of the rules. The cost to licensees of including this recommendation would require revising the proposed rules, revising the small business economic impact statement, and soliciting additional public comment under RCW 34.05.340.
I am a home daycare provider of 22 years. I have spent over 25 hours of personal time (evenings/weekends) to provide comments because of the level of concern I have for how unworkable these proposed rules will be for home daycare providers. I also attended and made comments at the first public meeting held in Everett on Saturday, June 11, 2011. (1) There is concern that not enough notice was given to the public in a variety of public communication methods to allow all providers, concerned parents and interested parties an opportunity to comment on the proposed new rules, as revised under WAC 170-296A. How were notices posted/sent to reach all providers, parents and interested parties (such as the mass mailings and multiple notices of the new window blind rules)? When were these notices posted to allow enough time for interested parties to read through all the verbiage and return comments? The Negotiated Rule Making Team had much more time to form	The proposed rules were not changed as a result of these comments. The adopted rules are the culmination of five years of review discussion, and considerable public input about rules setting licensed family home child care standards. The Negotiated Rule Making (NRM) process started with public forums in early 2007 jointly sponsored by DEL and SEIU. More than 29 large group meetings of the NRM Team were held on Saturdays in several locations around the state to be more accessible to the public. Throughout the NRM process, SEIU kept licensees apprised of meeting dates and issues, while DEL posted NRM team meeting notes on the department's website. In 2009, as portions of the NRM team's draft recommendations were adopted, nearly 40 licensee and public forum were held, most sponsored by SEIU or the statewide and local Family Child Care Associations. Several of these forums were attended by DEL staff and others on the NRM Team to help give different perspectives on the rule review process. In April 2010, after the NRM Team finished its recommendation

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these rules with relatively little time given to the public for comment/action on the final proposed rule revisions before the planned adoption date of the proposed rules within a two month period – August 1, 2011. Why are these revisions being rushed/pushed through that will affect the livelihood of providers and the desired daycare options of parents? (2) Please don't micromanage providers through a myriad of detailed rules and regulations. Providers are already overwhelmed with current rules that require more time to accomplish, comply with and provide documentation for than working with the children. Please respect our intelligence, and especially our experience, and allow us to make some decisions regarding child care unless there are important health and safety aspects that should always take precedence. Please don't try to turn home daycares into centers. Please don't create an overabundance of rules in order to remove the legal responsibility from the DEL and place it squarely on our already overburdened shoulders. And please remind your licensors to write in a few good comments about a provider on a FLCA to balance out the violations they will try to find – and that it is ok to not find anything wrong occasionally ? (3) The WAC should be revised to include the researched and verified statistics and/or reasons upon which each WAC rule is based. These reasons should be able to stand the test of a legal challenge. Daycare providers want to provide the best nurturing environment for children based on proven health, safety and learning practices and if the WAC rules have a clear and undeniable reasons given to validate the purpose of the rule, dedicated daycare providers will uphold and want to comply and enforce them in their home daycare environments. (4) All WAC rules need to have vague language removed that can be misunderstood or left open to incorrect interpretation by both provider and DEL alike. An example of this would be use of the word "reasonable" as in the licensee must grant	on nearly the entire WAC chapter, DEL held nine forums statewide to take input on the NRM Team's work. The Department also received about 300 pages of written comments on the NRMT's work. DEL was prepared to file proposed rules in October 2010 and begin taking formal public comment on the rules. However, SEIU and the FCC Associations asked for more time to discuss changes made since the NRM Team recommendations. Further discussions were held in late 2010 and early 2011, with DEL agreeing to make some of the changes requested by SEIU and licensees. When proposed rules were filed on April 20, 2011, DEL held seven formal public hearings statewide in June 2011 to take comments (the law, RCW 34.05.325, requires one public hearing). These hearing dates and locations were posted on the DEL website, and SEIU provided information to its member licensees about the hearings. Though held in the evening and weekend dates, most of these hearings were sparsely attended. DEL scheduled an additional public hearing in Seattle that was more widely attended. The public had more than two months to send written comments about the rules by e-mail, postal mail, fax and on the DEL website. Following the public comment period ending July 11, 2011, DEL carefully considered the comments summarized in this Concise Explanatory Statement. Where appropriate DEL did more research or sought additional information, and made many of the changes suggested by commenters in the final rules. DEL management met with SEIU representatives again in October 2011 to discuss the rules, and DEL agreed to make additional changes for final adoption. The Department believes that its process in adopting new chapter 170-296A WAC was deliberative, inclusive and evidence based.

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reasonable access to the department licensor during the licensee's hours of operation….what it reasonable to the licensor may not be reasonable to the licensee. Something like this needs to be written to specify what would be agreeable to both. (5) When a licensee is directed to provide written health care or safety policies and procedures such as cleaning and disinfecting procedures, food handling procedures, use of sanitizing chemicals, disaster plans, etc. the DEL should provide written descriptions and directives of best practice of these procedures as expected by DEL. This will ensure uniformity of best practice used by all licensees. As part of the Negotiated Rule Making Team I'm a little disappointed how these rules ended up. There were good changes and I do realize that DEL has final say. I'm not sure how or why some of these changes were made which is concerning. Trying to write a WAC that protects every move a child makes was not the decision that was made. We had made a decision that the intent of the Family Child Care WAC is to: Promote the health and safety of children, while allowing children to take reasonable risks, appropriate to childhood. Reasonable judgment and recognition of the home environment are essential. Increase quality of child care, by being research-based and data driven. Providers will be allowed options for being in compliance. Professional growth will increase, through mentoring and monitoring, training, and pro-active, and voluntary compliance. Encourage the nurturing and guidance of children, allowing for growth in all developmental domains. The WAC should allow for culturally relevant care. Increase availability of licensed family home child care, by being inclusive of anyone, meeting the minimum licensing requirements, to provide child care. The WAC should be inclusive of all children (i.e. special needs). The WAC should encourage licensed care. Be transparent about expectations and compliance, by being an understandable,	

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clear, and user-friendly resource, where child care providers, licensors, and parents know what to expect from licensed care. Provide a legal base to protect children and providers, while allowing flexibility for unexpected situations. Unfortunately I feel we lost something along the way and it's just a matter of a few simple words. We need family child care; parents want family child care. I am glad to see the following proposed changes: 1.30 hours of Training in a 3 year period. This more accurately reflects the wide variety of classes available and encourages and enables providers to choose classes based on areas of interest and professional development. 2. Raising the age to include 12 year olds. This is great, but it still doesn't address the needs of some 13 year olds. Every year I have requests from parents of 13 year olds to have their children continue to come to my home. The WACS are supposed to reflect the HRW that states that parents are their children's first and most important teachers and decision makers. Placing an age limit denies parents this right, forces children into latch-key situations before they are ready and denies them access to a safe environment and enriching activities. The detriment of this policy to families is far reaching and impacts child custody issues, employment options, and access to school transportation and after school activities. Please make a category to accommodate these children. There are a few areas that don't conform to the stated goal of being less prescriptive regarding how the licensee meets standards. The WACS should only address minimum standards for Health and Safety and not govern what used to be called best practice. Some of the WACS attempt to micromanage family Home Child Cares and turn them into centers. Making Family Home Child Care homogenous denies parents the choice of which type of environment best suits the needs of their child and reflects their family values and lifestyle. A free market is always the	

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best impetus for competition and innovation. Recent news stories have pointed out that some of the highest achievers and innovators in Apple and Microsoft have a Montessori type learning background where they were encouraged to learn about things that interest them. Family Home Child Care can be a place where enriching activities can foster a love of learning that is different from the classroom setting.	
At Public Health – Seattle & King County, we have a long history and interest in promoting health of children in child care programs. We consult with many programs in our county every year and share our model health policy with them. As we work with providers, we continue to be concerned about the health and safety of these critical early childhood environments. King County has one of the highest rates of health inequities in the nation. Education, and school readiness, are key ways to address closing the gap on these disparities. Physical health and development play a significant role in academic success. Therefore, in the final family child care home licensing regulations, we urge you to address physical health and development in a more comprehensive way and as an integral part of successful early learning. Public Health – Seattle & King County is particularly concerned about the increase of chronic disease in our community, driven by tobacco use and consumption of unhealthy foods. We are also concerned about injuries caused by medication errors. Children in child care are impacted directly by these issues. National surveys show that 33% of children between the ages of 2 and 19 are overweight. We know that in Washington, one-third of children ages 2-5 on WIC are either obese or overweight and that by eighth grade that number has grown to nearly 30% of all children . Because overweight status, as well as poor nutrition, insufficient physical activity and excessive screen time can contribute not only to poor health but also to problems in academic performance, we support strengthened licensing	The proposed rules were not changed as a result of these summary comments. Comments from Public Health-Seattle/King County are inserted in column a. regarding the appropriate proposed WAC sections above, and are responded to accordingly. Several Public Health-Seattle & King County suggestions were incorporated into the adopted rules, in particular suggestions that helped the Department revise its proposed rule on bloodborne pathogens training.

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standards. Providing nutritious foods, adequate physical activity, and limiting screen time are essential to a healthy child care program. The proposed draft regulations do not meet clear national best-practices in these areas, and we urge you to meet 'the minimum the best practice'. [WAC- SPECIFIC COMMENTS INSERTED IN THE APPROPRIATE WAC SECTIONS] As you consider comments on the proposed regulations, we encourage you to make significant revisions to these sections – and also to address medication administration and management by aligning the rules for medication administration with national best practices -- which are currently reflected in the center WACs. Ensuring safe medication helps to protect family home providers from liability and comply with the Americans with Disabilities Act. We will be providing detailed comments in writing. Child care providers play an important role in shaping early childhood development, and Public Health – Seattle & King County will continue to support them through training, model policy development, facilitation of enrollment in the child and adult food care program, and clinical support to reduce tobacco use and improve nutrition and physical health.	
I am a husband of a FHCC provider and a psychologist. I would think there would be some embarrassment that the issues raised about these rules have to be raised. I have stayed reasonably current with child development, child education literature for the better part of 40 years, I do not see a correspondence between the WAC and the best that is known in the professional literature about child development. I submit that if you were to assemble a panel of child experts on child safety, you would have them draw up a set of recommendations, there would be very little correspondence between what they would come up with and the WACs. The WACs are not fundamentally based on child safety and child well being, which is the claim. We have physicians children in my wife's care, and they are regularly amazed at what is	The proposed rules were not changed as a result of this comment. The proposed rules were a result of nearly three years of negotiation with licensees, SEIU and other stakeholders. The NRMT reviewed child development, safety and health research, but the research could not always be considered exhaustive. The NRMT debated whether to follow the available research in making its recommendations to DEL. In some case, the NRMT recommended meeting recommended standards, in some cases exceeding standards, and in other cases making recommendations that were below evidenced based standards. It is agreed that the proposed and adopted rules may have been different if the NRMT recommended adopting the best national standards for every rule. But as required by law, the NRMT process was a negotiation, which by its very nature produces an outcome that is a collaboration in some respects,

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a. Summarized Comments received on the proposed new WAC 170-296A	b. Department response, including whether the proposed rule was changed as a result of the comment(s).
required, because it doesn't square with what they know about child safety. I heard 53 changes requested, and they weren't nit-picky changes, and I regret that to ask for the language to changed rather than eliminated. The 2004 WACs were oppressive and abusive – the very language was demeaning of providers. The whole basis was anti-respect to the people who they applied to. When the NRMT began to work on it, there was a hope the rules would be in a form than could be worked with. I saw very positive direction in the beginning. What a liberating notion about having "best practices" instead of the detailed WAC. I want to know what happened to the NRMT recommendations, if they were taken seriously. If so, why are there 53 issues raised. I would think DEL would be embarrassed to put out anything similar to the past WAC.	and a compromise in others. Where compromise was necessary, the Department strove to arrive at a proposed rule that protected the safety, health and wellbeing of the children in care consistent with duties and responsibilities delegated to DEL under chapter 43.215 RCW. In other areas, the DEL Director personally informed the NRMT in March 2010 that for certain rules and subject matter, the Department could not accept certain NRMT compromise recommendations, and that DEL would need to propose and adopt more robust rule than recommended by the NRMT to provide greater protection of safety, health and wellbeing of the children in care, or to provide a richer early learning environment.
DEL is a predatory regulatory and abuses its power.	The proposed rules were not changed as a result of this comment. It is not clear how the comment relates to content in the proposed rules.
I would like to ask that every WAC identified as "reserved" be removed – they are placeholders.	The proposed rules were not changed as a result of this comment. Placeholder rules are allowed in WAC.

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Section III. Differences between the text of the proposed rules and text of the rule as adopted, other than editing:

The following table notes the changes DEL made from chapter 170-296A as proposed in WSR 11-09-081 to the final rule as adopted, except minor edits. In general, changes were made as a result of comments received on the proposed rules, or to clarify the proposed rule.

Table A. The following adopted rules were revised to incorporate provisions or requirements of new laws passed by the 2011 Washington State Legislature. The proposed rules in WSR 11-09-081 noted that certain 2011 legislative changes, pending at the time the rules were proposed, could affect the adopted content of the rules. See Table C below for the content of each revision:Describe any changes other than editing from (the) proposed to adopted version:

2011 Laws affecting the proposed rules:	Proposed sections revised as a result:
House Bill 1087 (chapter 50, Laws of 2011, 1st Special Session), the 2011-2013 state operating appropriations Act, section 617 (2). This subsection directed DEL to raise annual license fees for all licensed family home child cares and child care centers.	The new fee amount under HB 1087 is in 170-296A-1325(1). Proposed WAC 170-296A-1350 – Licensee fee amount, is withdrawn.
House Bill 1903, (chapter 293, Laws of 2011). This bill creates a system of portable background checks for child care workers, and sets new fees and requirements for obtaining a background checks.	WAC 170-296A-1200 (2)(b) and (3), 170-296A-1325(4), and related cross references to these rules in other sections.
SB 5005 (chapter 299, Laws of 2011). This bill changed how a child's exemption from state immunization requirements are documented.	WAC 170-296A-3300.
Senate Bill 5504 (chapter 296, Laws of 2011). This bill raised the maximum civil fine that may be levied to a family home child care licensee who violates these rules or provisions of chapter 43.215 RCW, and changes how DEL must give notice to an individual suspected of providing child care without a license, including notice of a potential civil fine.	WAC 170-296A-8050(1), 170-296A-8350, 170-296A-8375.
Senate Bill 5625, (chapter 297, Laws of 2011). SB 5625 establishes the requirements for a child care facility to obtain and maintain a non-expiring license from DEL.	WAC 170-296A-1200(5), 170-296A-1250, 170-296A-1430, 170-296A-1450 and related cross references.

Table B. The following sections of chapter 170-296A WAC proposed in WSR 11-09-081 have been withdrawn. Where appropriate, the table shows where the content of the withdrawn section was incorporated. Certain other proposed WAC sections have been renumbered, with or without changing the section content - see table C for details of sections withdrawn and sections renumbered:

Proposed WAC section withdrawn:	**Content of the withdrawn section moved to, if applicable:**
170-296A-1350 License fee - amount	170-296A-1325 Fees – When due. Subsection (1)
170-296A-1500 Moving without submitting an application	170-296A-1475 Moves. Subsection (2)
170-296A-1550 Renewal application	Not applicable. This section was made obsolete by passage of 2011 Senate Bill 5625.
170-296A-1575 Failure to submit a renewal application	Not applicable. This section was made obsolete by passage of 2011 Senate Bill 5625.
170-296A-3350 Childs emergency rescue medications	170-296A-3325(2)
170-296A-3400 Medication management	170-296A-3315
170-296A-3975 Poisons	170-296A-4100 Poisons, chemicals and other substances. See new subsection (1).
170-296A-4975 Outdoor supervision	170-296A-5750 Supervision. This section also incorporates content from WAC 170-296A-7050
170-296A-5850 Notifying parents of closures, absences, staff changes	170-296A-5775 License absence
170-296A-5900 Notifying the licensor regarding the licensee's absence.	170-296A-2275 Other incident reporting to the department
170-296A-7050 Infant and toddler supervision	170-296A-5750 Supervision

Table C. The following table notes the changes DEL made from the sections as proposed in WSR 11-09-081 to the final rule as adopted, except minor edits. In general, changes were made as a result of comments received on the proposed rules, or to clarify the proposed rule. See section II of this Concise Explanatory Statement to review issues raised in comments on the proposed rules, and the Department's response to these issues, noting where the proposed rule was changed as a result of the comments. This table notes only adopted WAC sections that were changed from the proposed version filed as WSR 11-09-081. If a proposed WAC section does not appear in the first column, it was not changed at final adoption.

Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-0010 Definitions. The following definitions apply throughout this chapter unless the context clearly indicates otherwise: "Accessible to children" means areas of the facility and materials that the children can easily get to on their own. "Agency" as used in this chapter, has the same meaning as in RCW 43.215.010 (1) and (1)(c). "Available" means accessible and ready for use or service. "Capacity" means the maximum number of children the licensee is authorized by the department to have in care at any given time. "Child abuse or neglect" has the same meaning as "abuse or neglect" under RCW 26.44.020 and chapter 388-15 WAC. "Child care" means providing temporary custody, supervision, feeding, guidance, early learning program and activities of children, including transporting children in care. "Clean" means to remove dirt and debris (such as soil, food, blood, urine, or feces) by scrubbing and washing with a soap or detergent solution and rinsing with water. "Confidential" means the protection of personal information, such as the child's records, from persons who are not authorized to see or hear it. "Department" or "DEL" means the Washington state department of early learning. "Developmentally appropriate" means curriculum, materials or activities provided at a level that is consistent with the abilities or learning skills of the child. "Discipline" means a method used to redirect a child in order to achieve a desired behavior. "DOH" means the Washington state department of health. "DSHS" means the Washington state department of social and health services. "Enforcement action" means a department issued: (a) Denial, suspension, revocation or modification of a license; (b) Probationary license; (c) Civil monetary penalty (fine); or (d) Disqualification from having unsupervised access to children in care. "Family home child care" means an individual licensed by the department to provide direct care, supervision, and early learning opportunities for twelve or fewer children in the home where the licensee resides as provided in RCW 43.215.010 (1)(c). "Fine" has the same meaning as "civil monetary penalty," "civil fines," or "monetary penalty" under chapter 43.215 RCW.	**WAC 170-296A-0010 Definitions.** The following definitions apply throughout this chapter unless the context clearly indicates otherwise. Certain definitions appear in the section the term is used if the definition applies only to a specific section or sections: **"Accessible to children"** means areas of the facility and materials that the children can easily get to on their own. **"Agency"** as used in this chapter, has the same meaning as in RCW 43.215.010 (1) and (1)(c). **"Available"** means accessible and ready for use or service. **"Bathroom"** means any room containing a built-in flush-type toilet. *[definition added for clarity]* **"Capacity"** means the maximum number of children the licensee is authorized by the department to have in care at any given time. **"Child"** means an individual who is younger than age thirteen, including any infant, toddler, preschool-age child, or school-age child as defined in this chapter. *[definition added per comment on the proposed rule]* **"Child abuse or neglect"** has the same meaning as "abuse or neglect" under RCW 26.44.020 and chapter 388-15 WAC. **"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 the child's home for periods of less than twenty-four hours a day. **"Clean"** or **"cleaning"** means to remove dirt and debris (such as soil, food, blood, urine, or feces) by scrubbing and washing with a soap or detergent solution and rinsing with water. Cleaning is the first step in the process of sanitizing or disinfecting a surface or item. **"Confidential"** means the protection of personal information, such as the child's records, from persons who are not authorized to see or hear it. **"Denial of a license"** means an action by the department to not issue a child care license to an applicant for an initial license, or to a licensee operating under an initial license seeking a nonexpiring full license, based on the applicant's or initial licensee's inability or failure to meet the requirements of chapter 43.215 RCW or requirements adopted by the department pursuant to chapter 43.215 RCW. *[definition added per comment on the proposed rule]* **"Department"** or **"DEL"** means the Washington state department of early learning. **"Developmentally appropriate"** means curriculum, materials or activities provided at a level that is consistent with the abilities or learning skills of the child. **"Discipline"** means a method used to redirect a child in order to achieve a desired behavior.

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
"Inaccessible to children" means an effective method or barrier that reasonably prevents a child's ability to reach, enter, or use items or areas. "Infant" means a child age birth through eleven months of age. "Licensed space" means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care. "Licensee" for the purposes of this chapter, means the individual listed on a family home child care license issued by the department of early learning authorizing that individual to provide child care under the requirements of this chapter and chapter 43.215 RCW. "Licensor" means an individual employed by the department and designated by the director to inspect and monitor an agency as defined in RCW 43.215.010(1) or child care facility for compliance with the requirements of this chapter and chapter 43.215 RCW. "MERIT" means the managed education registry information tool. "Modification of a license" means department action to change the conditions identified on a current license. "Nonprescription medication" means any of the following: (a) Nonaspirin and aspirin fever reducers or pain relievers; (b) Nonnarcotic cough suppressants; (c) Ointments or lotions specially intended to relieve itching; (d) Diaper ointments and talc free powders specially used in the diaper area of children; (e) Sun screen; (f) Hand sanitizer gels; or (g) Hand wipes with alcohol. "One year of experience" means at least twelve months of early learning experience as demonstrated by a resume and references: (a) In a supervisory role in a child care setting where the individual was responsible for supervising staff and complying with licensing standards; or (b) As a Washington state: (i) Child care center or school age center director, program supervisor, or lead teacher as defined in chapters 170-151 and 170-295 WAC; or (ii) Family home child care licensee or qualified primary staff person. "Physical restraint" means the practice of rendering a child helpless or keeping a child in captivity. "Poison" for the purposes of this chapter includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such	**"Disinfect"** or **"disinfecting"** means to eliminate virtually all germs on a surface by the process of cleaning and rinsing, followed by: (a) A chlorine bleach and water solution of appropriate concentration; or (b) Other disinfectant product if used strictly according to the manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled safe for food contact surfaces. *[definition added per comment on the proposed rule]* **"DOH"** means the Washington state department of health. **"DSHS"** means the Washington state department of social and health services. **"Enforcement action"** means a department issued: (a) Denial, suspension, revocation or modification of a license; (b) Probationary license; (c) Civil monetary penalty (fine); or (d) Disqualification from having unsupervised access to children in care. **"Family home child care"** means a facility licensed by the department where child care is provided for twelve or fewer children in the family living quarters where the licensee resides as provided in RCW 43.215.010 (1)(c). **"Family living quarters"** means a licensee's or license applicant's residence and other spaces or buildings on the premises that meet the facility requirements of this chapter and are approved by the department for child care. *[definition moved from proposed WAC 170-296A-1050]* **"Fine"** has the same meaning as "civil monetary penalty," "civil fines," or "monetary penalty" under chapter 43.215 RCW. **"Inaccessible to children"** means an effective method or barrier that reasonably prevents a child's ability to reach, enter, or use items or areas. **"Infant"** means a child age birth through eleven months of age. **"Licensed space"** means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care. **"Licensee"** for the purposes of this chapter, means the individual listed on a family home child care license issued by the department of early learning authorizing that individual to provide child care under the requirements of this chapter and chapter 43.215 RCW. **"Licensor"** means an individual employed by the department and designated by the director to inspect and

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
as water or salt), or similar items, that even in small quantities are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes. "Premises" means the licensed or unlicensed space including, but not limited to, buildings, land and residences at the licensed address. "Preschool age child" means a child age thirty months through five years of age who is not attending kindergarten or elementary school. "Primary staff person" means a staff person other than the licensee who has been authorized by the department to care for and have unsupervised access to children in care. "RCW" means Revised Code of Washington. "Sanitize" means to reduce the number of microorganisms on a surface by the process of using: (a) A bleach and water solution; (b) Other sanitizer product if used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry; or (c) For laundry and dishwasher use only, a bleach and water solution or temperature control. "School age child" means a child not less than five years of age through twelve years of age who is attending kindergarten or school. "Screen time" means watching, using or playing television, computers, video games, video or DVD players, mobile communication devices, and similar devices. "Sleeping equipment" means (reserved). "Staff" unless referring specifically to a "primary staff person," means any primary staff person, assistant, or volunteer helping to provide child care, or a household member acting in the capacity of a primary staff person, assistant or volunteer, whether compensated or not compensated. "STARS" means the state training and registry system. "Toddler" means a child age twelve months through twenty-nine months of age. "Unlicensed space" means the indoor and outdoor areas of the premises, not approved as licensed space by DEL, that the licensee must make inaccessible to the children during child care hours. "Unsupervised access" has the same meaning as "unsupervised access" in WAC 170-06-0020. "WAC" means the Washington Administrative Code. "Weapons" means an instrument or device of any kind that is designed to be used to inflict harm including, but not limited to, rifles, handguns, shotguns, antique firearms,	monitor an agency or other child care facility for compliance with the requirements of this chapter and chapter 43.215 RCW. **"MERIT"** means the managed education registry information tool used to track professional development for early learning professionals. See also "STARS." *[definition modified for clarity]* **"Modification of a license"** means department action to change the conditions identified on a current license. *[definition added per comment on the proposed rule]* **"Nonexpiring full license"** or **"nonexpiring license"** means a full license that is issued to a licensee following the initial licensing period as provided in WAC 170-296A-1450. [*new definition to implement 2011 Senate Bill 5625]* **"Nonprescription medication"** means any of the following: (a) Nonaspirin and aspirin fever reducers or pain relievers; (b) Nonnarcotic cough suppressants; (c) Cold or flu medications; (d) Antihistamines or decongestants; (e) Teething pain reducers; (f) Vitamins; (g) Ointments or lotions specially intended to relieve itching; (h) Diaper ointments and talc free powders specially used in the diaper area of children; (i) Sun screen; (j) Hand sanitizer gels; or (k) Hand wipes with alcohol. **"One year of experience"** means at least twelve months of early learning experience as demonstrated by a resume and references: (a) In a supervisory role in a child care setting where the individual was responsible for supervising staff and complying with licensing standards; or (b) As a Washington state: (i) Child care center or school age center director, program supervisor, or lead teacher as defined in chapters 170-151 and 170-295 WAC; or (ii) Family home child care licensee or qualified primary staff person. **"Overnight care"** means child care provided for a child anytime between the hours of eight o'clock at night and six o'clock in the morning that includes a sleep period for the child. **"Personal needs"** means an individual's hygiene, toileting, medication, cleansing, eating or clothing needs. "Personal needs" does not mean smoking or use of tobacco products, illegal drug use or misuse of prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unattended. *[definition clarified per comment on the proposed rule and moved from*

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun guns, or fighting implements.	*WAC 170-296A-1925]* **"Physical restraint"** means the practice of rendering a child helpless or keeping a child in captivity. **"Poison"** for the purposes of this chapter includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such as water or salt), or similar items, that even in small quantities are likely to cause injury or illness if it is swallowed or comes into contact with a child's skin, eyes, mouth, or mucus membranes. **"Premises"** means the licensed or unlicensed space at the licensed address including, but not limited to, buildings, land and residences. **"Preschool age child"** means a child age thirty months through five years of age who is not attending kindergarten or elementary school. **"Primary staff person"** means a staff person other than the licensee who has been authorized by the department to care for and have unsupervised access to children in care. **"RCW"** means Revised Code of Washington. **"Revocation"** or **"revoke"** means the formal action by the department to close a child care business and take the license due to the licensee's failure to comply with chapter 43.215 RCW or requirements adopted pursuant to chapter 43.215 RCW. *[definition added per comment on the proposed rule]* **"Sanitize"** means to reduce the number of microorganisms on a surface by the process of: (a) Cleaning and rinsing, followed by using: (i) A chlorine bleach and water solution of appropriate concentration; or (ii) Another sanitizer product if used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as safe for food contact surfaces; or (b) For laundry and dishwasher use only, "sanitize" means use of a bleach and water solution or temperature control. *[definition revised per comment on the proposed rule]* **"School age child"** means a child not less than five years of age through twelve years of age who is attending kindergarten or school. **"Screen time"** means watching, using or playing television, computers, video games, video or DVD players, mobile communication devices, and similar devices. **"Sleeping equipment"** includes a bed, cot, mattress, mat, crib, bassinet, play yard or "pack and play." "Sleeping equipment" does not include any car seat or infant swing. *[definition added for clarity]*

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
	"Staff" unless referring specifically to a "primary staff person," means any primary staff person, assistant, or volunteer helping to provide child care, or a household member acting in the capacity of a primary staff person, assistant or volunteer, whether compensated or not compensated. **"STARS"** means the state training and registry system. *[definition added per comment on the proposed rule]* **"Suspension of a license"** means a formal department action to stop a license pending a department decision regarding further enforcement action. *[definition added per comment on the proposed rule]* **"Toddler"** means a child age twelve months through twenty-nine months of age. **"Unlicensed space"** means the indoor and outdoor areas of the premises, not approved as licensed space by DEL, that the licensee must make inaccessible to the children during child care hours. **"Unsupervised access"** has the same meaning as "unsupervised access" in WAC 170-06-0020. **"WAC"** means the Washington Administrative Code. **"Weapons"** means an instrument or device of any kind that is used or designed to be used to inflict harm including, but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.
	[definition added per comment on the proposed rule and for clarity]
	WAC 170-296A-0050 Special needs accommodations. *[The entire content of this section was moved from 170-296A-6725 without change]*
WAC 170-296A-1025 Who must be licensed. An individual must be licensed to care for children if any of the following apply: (1) Care is provided in the individual's home for one or more children not related to the licensee, outside the child's home on a regular and ongoing basis, not to exceed twelve children as provided by statute; or (2) Care is provided in the individual's home for preschool age children for more than four hours a day.	**WAC 170-296A-1025 Who must be licensed.** An individual must be licensed to care for children if any of the following apply: (1) Care is provided in the individual's home and outside the child's home on a regular and ongoing basis for one or more children not related to the licensee. As used in this section, "not related" means not any of the relatives listed in RCW 43.215.010 (2)(a); or (2) Care is provided in the individual's home for preschool age children for more than four hours a day. See WAC 170-296A-8350 regarding providing child care without a license. *[This section was revised for clarity and to be consistent with RCW 43.215.010]*
WAC 170-296A-1050 The licensee. (1) The licensee is the individual or individuals: (a) Who resides in the home licensed for family home child care under this chapter; (b) Whose name appears on the license issued by the department;	**WAC 170-296A-1050 The licensee.** (1) The licensee is the individual or individuals: (a) Who resides in the home licensed for family home child care under this chapter; (b) Whose name appears on the license issued by the department;

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
(c) Licensed by the department to provide child care and early learning services for not more than twelve children in the licensee's home in the family living quarters. As used in this section, "family living quarters" may include: (i) The licensee's or license applicant's residence; and (ii) Other spaces and buildings on the premises that meet the facility requirements of this chapter and are approved by the department for child care; (d) Responsible for the overall management of the licensed family child care home; (e) Responsible for complying with the standards in this chapter, chapter 43.215 RCW, chapter 170-06 WAC DEL background check rules, and other applicable laws or rules; and (f) Responsible for training staff on the licensing standards in this chapter.	(c) Licensed by the department to provide child care and early learning services for not more than twelve children in the licensee's home in the family living quarters; (d) Responsible for the overall management of the licensed family child care home; (e) Responsible for complying with the standards in this chapter, chapter 43.215 RCW, chapter 170-06 WAC DEL background check rules, and other applicable laws or rules; and (f) Responsible for training staff on the licensing standards in this chapter.
(2) The licensee must comply with all requirements in this chapter, unless another code or ordinance is more restrictive. Local officials are responsible for enforcing city or county ordinances and codes, such as zoning, building or environmental health regulations. (3) The licensee may hold only one current family home child care license.	(2) The licensee must comply with all requirements in this chapter, unless another code or ordinance is more restrictive. Local officials are responsible for enforcing city or county ordinances and codes, such as zoning, building or environmental health regulations. (3) The licensee may hold only one current family home child care license.
	[the definition of "family living quarters' was moved to WAC 170-296A-010 for clarity]
WAC 170-296A-1175 STARS basic twenty-hour training. A license applicant must complete the basic twenty-hour STARS training prior to an initial license being granted by the department.	**WAC 170-296A-1175 Basic twenty-hour STARS training.** A license applicant must complete the basic twenty-hour STARS training prior to an initial license being granted by the department.
	[The title of this section revised as a result of comments on the proposed rules]

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-1200 Background checks.[7] (1) The license applicant or licensee must submit a completed background check form and obtain an authorization letter from the department consistent with the requirements of chapter 170-06 WAC for each of the following: (a) Any license applicant; (b) The licensee; (c) Each staff person or volunteer age sixteen or older; and (d) Each individual age sixteen or older who resides in the home. (2) Any individual who must undergo a background check under chapter 170-06 WAC and who has resided in Washington state for less than three years must complete the department fingerprint process. See WAC 170-06-0040(1) and RCW 43.215.215. (3) The licensee must keep background check authorization letters from the department on file for each individual listed in this section. (4) A completed background check form and department authorization is required for each new staff or volunteer age sixteen or older, any person residing in the home who becomes sixteen years old, or for any person age sixteen or older who moves into the home. See WAC 170-06-0040. (5) The licensee must not allow any individual who has not obtained a background check authorization letter from the department to have unsupervised access to the children at any time.	**WAC 170-296A-1200 Background checks.** (1) The license applicant or licensee must submit a completed background check form and obtain an authorization (clearance) from the department consistent with the requirements of chapter 170-06 WAC for each of the following: (a) The license applicant; (b) The licensee; (c) Each new staff person or volunteer age sixteen or older; (d) Each individual age sixteen or older residing in the home; (e) Each individual age sixteen or older who moves into the home; and (f) Any individual age sixteen or older who may have unsupervised access to children in care. (2)(a) Effective through June 30, 2012, any individual who must undergo a background check under chapter 170-06 WAC and who has resided in Washington state for less than three years must complete the department fingerprint process. (b) Effective July 1, 2012, each individual seeking a first time DEL background check must undergo a fingerprint-based FBI background check. See RCW 43.215.215. (3) The licensee must keep background check authorization letters from the department on file for each individual listed in this section. Effective July 1, 2012, a licensee must keep a copy of the department authorization or certification for each primary staff person, assistant, or volunteer who works in the licensed home. (4) The licensee must not allow any individual who has not been authorized by the department to have unsupervised access to the children in care at any time. (5) The licensee must verify annually that each individual who is required to have a background check under this section has either obtained a department clearance or has applied for a department background check. The verification must be submitted with the licensee's annual license fee and declarations required under WAC 170-296A-1450.
	[Subsection (1)(f) is added to be consistent with RCW 43.43.832(6). Proposed subsections (2) and (3) [now (4)] are revised consistent with 2011 House Bill 1903. New subsection (6) is added consistent with 2011 Senate Bill 5625.]

[7] This section may be revised at the final rule due to 2011 legislative action.

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-1225 Noncriminal background checks for individuals thirteen to sixteen years of age. (1) Each volunteer or assistant in the licensed family home child care age fourteen to sixteen years old, and each individual residing in the licensee's home age thirteen to sixteen years old, must undergo a noncriminal background check. (2) The licensee must submit a signed and dated noncriminal background check application on a form approved by the department: (a) Within seven days after the volunteer or assistant age fourteen to sixteen starts work in the licensed child care; and (b) For each individual residing in the home age thirteen to sixteen: (i) With the licensee's initial license application or renewal application; (ii) Within seven days after an individual residing in the home reaches age thirteen; and (iii) Within seven days after an individual age thirteen to sixteen moves into the home. (3) The department conducts a noncriminal background check, and authorizes or disqualifies an individual age thirteen to sixteen as described in chapter 170-06 WAC, except that the department does not: (a) Review convictions or pending charges for disqualifying crimes under WAC 170-06-0050(1), unless the conviction was the result of prosecution of the juvenile as an adult; and (b) Disqualify an individual for a conviction under WAC 170-06-0070 (1) and (2), unless the conviction was the result of prosecution of the juvenile as an adult. (4) An individual who is disqualified from providing child care or having access to children in care following a noncriminal background check as described in this section has the right to appeal the department's decision under WAC 170-06-0090. (5) The licensee must keep authorization letters from the department on file for each individual listed in this section.	**WAC 170-296A-1225 Noncriminal background checks for individuals thirteen to sixteen years of age.** (1) Each volunteer or assistant in the licensed family home child care age fourteen to sixteen years old, and each individual residing in the licensee's home age thirteen to sixteen years old, must undergo a noncriminal background check. (2) The licensee must submit a signed and dated noncriminal background check application on a form approved by the department: (a) Within seven days after the volunteer or assistant age fourteen to sixteen starts work in the licensed child care; and (b) For each individual residing in the home age thirteen to sixteen: (i) With the licensee's initial license application or annual nonexpiring license declaration under WAC 170-296A-1450; (ii) Within seven days after an individual residing in the home reaches age thirteen; and (iii) Within seven days after an individual age thirteen to sixteen moves into the home. (3) The department conducts a noncriminal background check, and authorizes or disqualifies an individual age thirteen to sixteen as described in chapter 170-06 WAC, except that the department does not: (a) Review convictions or pending charges for disqualifying crimes under WAC 170-06-0050(1), unless the conviction was the result of prosecution of the juvenile as an adult; and (b) Disqualify an individual for a conviction under WAC 170-06-0070 (1) and (2), unless the conviction was the result of prosecution of the juvenile as an adult. (4) An individual who is disqualified from providing child care or having access to children in care following a noncriminal background check as described in this section has the right to appeal the department's decision under WAC 170-06-0090. (5) The licensee must keep authorization letters from the department on file for each individual listed in this section.
	[Subsection (2)(b)(i) was added consistent with requirements for the licensee to obtain or continue a non-expiring child care license under Senate Bill 5625]

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-1250 License application packet--Contents. (1) The individual seeking a license under this chapter is the license applicant. (2) A license applicant must submit a license application packet that includes: (a) A completed department application form and copy of the applicant's orientation certificate; (b) Copy of license applicant's current government issued photo identification; (c) Documentation of the licensee's high school diploma or equivalent education under WAC 170-296A-1725; (d) Resume for the license applicant; (e) References from three individuals not related to the license applicant; (f)(i) Copy of license applicant's Social Security card pursuant to 42 U.S.C. 666(a)(13) and RCW 26.23.150 regarding child support; (ii) If the license applicant does not have a Social Security card, the applicant must provide a sworn declaration stating that he or she does not have a Social Security card; (g) Copy of the federal Internal Revenue Service letter showing the applicant's employer identification number (EIN) if the applicant plans to employ staff; (h) Tuberculosis test results for the license applicant, each staff person, and household members sixteen years old or older. See WAC 170-296A-1750; (i) Copy of first-aid/CPR/bloodborne pathogens training certificates for the license applicant and each staff person as described in WAC 170-296A-1825; (j) Copy of the license applicant's state food handler permit as described in WAC 170-296A-7675; (k) Completed background clearance forms for the license applicant and each staff person, household members sixteen years old and older, and anyone sixteen years and older who may have unsupervised access to the children in care; (l) A completed noncriminal background check application form for each assistant and volunteer fourteen to sixteen years of age, and each individual age thirteen to sixteen residing in the home; (m) Parent, staff and operation policies (handbooks). See WAC 170-296A-2350, 170-296A-2375, 170-296A-2400, and 170-296A-2425; (n) Floor plan, including proposed licensed and unlicensed space; (o) Septic system inspection report if applicable under WAC 170-296A-1375; (p) Well water testing report if applicable under WAC 170-296A-1400; (q) Lead or arsenic evaluation agreement, only for a site located in the Tacoma smelter plume under WAC 170-	**WAC 170-296A-1250 Initial license application packet--Contents.** (1) The individual seeking an initial license under this chapter is the license applicant. (2) A license applicant must submit a license application packet that includes: (a) A completed department application form and copy of the applicant's orientation certificate; (b) Copy of license applicant's current government issued photo identification; (c) Documentation of the license applicant's high school diploma or equivalent education under WAC 170-296A-1725; (d) Resume for the license applicant; (e) References from three individuals not related to the license applicant; (f)(i) Copy of license applicant's Social Security card pursuant to 42 U.S.C. 666(a)(13) and RCW 26.23.150 regarding child support. (ii) If the license applicant does not have a Social Security card, the applicant must provide a sworn declaration stating that he or she does not have a Social Security card.;. (g) Copy of the federal Internal Revenue Service letter showing the applicant's employer identification number (EIN) if the applicant plans to employ staff; (h) Tuberculosis test results or required documentation for the license applicant, each staff person, and household members sixteen years old or older. See WAC 170-296A-1750; (i) Copy of first-aid/CPR training and HIV/AIDS training certificates for the license applicant and each staff person required to complete such training as described in WAC 170-296A-1825 and 170-296A-1850; (j) Copy of the license applicant's state food handler permit as described in WAC 170-296A-7675; (k) Completed background clearance forms for the license applicant and each staff person, household members sixteen years old and older, and anyone sixteen years and older who may have unsupervised access to the children in care; (l) A completed noncriminal background check application form for each assistant and volunteer fourteen to sixteen years of age, and each individual age thirteen to sixteen residing in the home; (m) Parent, staff and operation policies (handbooks). See WAC 170-296A-2350, 170-296A-2375, 170-296A-2400, and 170-296A-2425; (n) Floor plan, including proposed: (i) Licensed space; (ii) Licensed space usage; (iii) Evacuation routes and emergency exits; (iv) Unlicensed space; (v) Licensed space used specifically for sleeping infants, if applicable; and (vi) Licensed space used for sleeping children for

Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
296A-1360; and (r) The license fees under WAC 170-296A-1325 and 170-296A-1350.[8] (3) If there will be more than one individual whose name will appear on the license, each individual license applicant must provide information required in subsection (2)(b) through (f) and (2)(h) through (k) of this section.	overnight care, if applicable. (o) Septic system inspection report if applicable under WAC 170-296A-1375; (p) Well water testing report if applicable under WAC 170-296A-1400; (q) Lead or arsenic evaluation agreement, only if the home is located in the Tacoma smelter plume under WAC 170-296A-1360; and (r) The license fees and other fees under WAC 170-296A-1325. (3) If there will be more than one individual whose name will appear on the license, each individual license applicant must provide information required in subsection (2)(b) through (f) and (2)(h) through (k) of this section.
	[Subsection (2)(i) is revised to be consistent with changes to WAC 170-296A-1850. Subsection (2)(n) is revised to clarify the required contents of a floor plan]
WAC 170-296A-1275 Application processing. (1) The department may take up to ninety days to complete the licensing process. The ninety days begins when the license applicant's signed and dated application packet, fees and background check forms have been received by the department. (2) If an incomplete application packet is submitted the department will inform the license applicant of the deficiencies and provided a time frame in which to provide the required information. If an application remains incomplete after ninety days the department may deny the license.	**WAC 170-296A-1275 Initial license application processing.** (1) The department may take up to ninety days to process an initial license application. The ninety days begins when the license applicant's signed and dated license application packet, fees and background check forms have been received by the department. (2) If an incomplete application packet is submitted, the department will inform the license applicant of the deficiencies and provide a time frame for the applicant to provide the required information. If an application remains incomplete after ninety days the department may deny the license.
	[This section is revised for clarity]
WAC 170-296A-1325 License fee--When due. (1) A license applicant must pay a nonrefundable license fee with the license application. (2) After a license is issued, the licensee must pay the license fee annually. The fee is due on or before the anniversary date of the license. (3) Payment must be in the form of a check or money order. **WAC 170-296A-1350 License fee amount**. The license fee is twenty-four dollars, or as otherwise set by the legislature.	**WAC 170-296A-1325 Fees--When due.** **License fees.** (1) The annual family home child care license fee is thirty dollars, or as otherwise set by the legislature; (2) The license fee is nonrefundable and is due: (a) With the license applicant's initial license application packet; and (b) Annually thereafter, thirty days prior to the anniversary date of the license. (3) Payment must be in the form of a check or money order. **Background check fees.** (4) Effective July 1, 2012: (a) Each individual required to obtain a department background check must pay the fee established under chapter 170-06 WAC. The fee must be submitted with the individual's completed and signed background check application form. (b) Each individual applying for a first-time license application or each individual applying for the first time for a

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
	department background check clearance must be fingerprinted and pay the processing fee.
	[Proposed WAC 170-296A-1350 was deleted and its content moved to WAC 170-296A-1325(1). The annual license fee amount was revised consistent with House Bill 1087 raising annual fees for all licensed child care.
WAC 170-296A-1375 Private septic system--Inspection and maintenance. (1) If the licensed premises is served by a private septic system (not connected to a sewer system) the septic system must be maintained in a manner acceptable to the local public health authority. (2) The licensee must follow the local public health authority's requirements for periodic septic system inspection and maintenance. (3) If there are no local public health requirements for periodic septic system inspections the licensee must: (a) Have the system inspected by a septic system inspector certified by the local public health authority: (i) Within six months prior to submitting a license application under WAC 170-296A-1250; and (ii) Every three years after a license is issued under this chapter. (b) Maintain the septic system as required by the inspection report. (4) Septic system inspection and maintenance records must be kept on the premises and made available to the department upon request.	**WAC 170-296A-1375 Private septic system--Inspection and maintenance.** (1) If the licensed premises is served by a private septic system (not connected to a sewer system) the septic system must be maintained in a manner acceptable to the local public health jurisdiction. (2) The licensee must follow the local health jurisdiction's requirements for periodic septic system inspection and maintenance. (3) If there are no local health jurisdiction's requirements for periodic septic system inspections the licensee must: (a) Have the system inspected by a septic system inspector certified by the local health jurisdiction: (i) Within six months prior to submitting a license application under WAC 170-296A-1250; and (ii) Every three years after initial license is issued to the license applicant under this chapter; and (b) Maintain the septic system as required by the inspection report. (4) Septic system inspection and maintenance records must be kept on the premises and made available to the department upon request.
	[This section revised per comments on the proposed rule]

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-1400 Private well and water system. (1) If the licensed family home child care gets water from a private well on the premises, the licensee must follow the local public health authority's requirements for periodic water testing. (2) If there are no local public health requirements for periodic water testing, the licensee must have the water tested for coliform bacteria and nitrates by the local public health authority or qualified private testing laboratory: (a) Within six months prior to submitting a license application under WAC 170-296A-1250; and (b) Every three years after a license is issued under this chapter. The test must indicate no presence of coliform bacteria, and "safe" levels of nitrates as defined by the state department of health (DOH). (3) If test results indicate the presence of coliform bacteria or unsafe nitrate levels as defined by DOH, the licensee must: (a) Immediately stop using the well water in the child care and inform the local public health authority and the department; (b) Take steps required by the local public health authority to repair the well or water system; and (c) Test the water as often as required by the local public health authority until tests indicate no presence of coliform bacteria and safe levels of nitrates. (4)(a) If directed by the local public health authority or the department, the licensee must suspend child care operations until repairs are made; or (b) If the local public health authority and the department determine that child care operations may continue with an alternate source of safe water, provide the safe water as directed. (5) Water testing and system repair records must be kept on the premises and made available to the department upon request.	**WAC 170-296A-1400 Private well and water system.** (1) If the licensed family home child care gets water from a private well on the premises, the licensee must follow the local health jurisdiction's requirements for periodic water testing. (2) If there are no local health jurisdiction requirements for periodic water testing, the licensee must have the water tested for coliform bacteria and nitrates by the local public health authority or private testing laboratory certified to analyze drinking water samples under chapter 173-50 WAC: (a) Within six months prior to submitting an initial license application under WAC 170-296A-1250; and (b) Every three years after the first initial license is issued to the license applicant under this chapter. The test results must indicate no presence of coliform bacteria, and must not exceed ten parts per million (ppm) for nitrate. (3) If test results indicate the presence of coliform bacteria or nitrate greater than ten ppm the licensee must: (a) Immediately retest the water; (b) If the retest indicates the presence of coliform bacteria or nitrate greater than ten ppm, immediately stop using the well water in the child care and inform the local health jurisdiction and the department; (c) Take steps required by the local health jurisdiction to repair the well or water system; and (d) Test the water as often as required by the local health jurisdiction until tests indicate no presence of coliform bacteria and nitrate levels not exceeding ten ppm. (4)(a) If directed by the local health jurisdiction or the department, the licensee must suspend child care operations until repairs are made; or (b) If the local health jurisdiction and the department determine that child care operations may continue with an alternate source of safe water, provide the alternate safe water as directed. (5) Water testing and system repair records must be kept on the premises and made available to the department upon request.
	[This section revised per comments on the proposed rule]

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-1430 Initial license. An applicant who demonstrates compliance with health and safety requirements of this chapter, but may not be in full compliance with all requirements, may be issued an initial license. (1) An initial license is valid for six months from the date issued. (2) At the department's discretion, an initial license may be extended for up to three additional six month periods. (3) The department may limit the number of children or ages of children that the licensee may care for (capacity) under an initial license based on the licensee's child care experience.	**WAC 170-296A-1430 Initial license.** An applicant who demonstrates compliance with health and safety requirements of this chapter, but may not be in full compliance with all requirements, may be issued an initial license. (1) An initial license is valid for six months from the date issued. (2) At the department's discretion, an initial license may be extended for up to three additional six-month periods not to exceed a total of two years. (3) The department may limit the number of children or ages of children that the licensee may care for (capacity) under an initial license based on the licensee's child care experience. (4) The department must evaluate the licensee's ability to follow all of the rules contained in this chapter during the initial license period. (5) The department may issue a nonexpiring full license to a licensee operating under an initial license who: (a) Demonstrates full compliance with the health and safety requirements of this chapter at any time during the period of initial licensure; (b) Demonstrates substantial compliance with other requirements of this chapter at any time; and (c) Meets the requirements for a nonexpiring full license as provided in WAC 170-296A-1450(1). (6) The department must deny a nonexpiring full license to a licensee operating under an initial license who does not demonstrate the ability to comply with all the rules contained in this chapter during the period of initial licensure.
	[Subsection (4) is added for clarity consistent with RCW 43.215.280. New subsections (5) and (6) are added consistent with 2011 Senate Bill 5625]

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-1450 Full license--License issued for three years.[9] A licensee operating under an initial license who demonstrates full or substantial compliance with the requirements of this chapter may be issued a full license. The full license is valid for three years from the date a first initial license was issued, unless otherwise suspended or revoked, or the department issues a probationary license.	**WAC 170-296A-1450 Nonexpiring full license.** (1) To qualify for a nonexpiring full license, a licensee must submit the following to the department on an annual basis, at least thirty calendar days prior to the anniversary date of the license. The anniversary date is the date the licensee's first initial license is issued: (a) The annual nonrefundable license fee as provided in WAC 170-296A-1325(1); (b) A declaration to the department on a department-approved form indicating: (i) The licensee's intent to continue operating a licensed family home child care; or (ii) The licensee's intent to cease operation on a date certain. (c) A declaration on a department-approved form that the licensee is in compliance with all department licensing rules; and (d) Documentation of completed background check applications as determined by the department established schedule as provided in RCW 43.215.215 (2)(f). For each individual required to have a background check clearance, the licensee must verify a current background check clearance or submit a background check application at least thirty days prior to the license anniversary date. (2) The requirements of subsection (1) of this section must be met: (a) Before a licensee operating under an initial license is issued a nonexpiring full license; and (b) Every twelve months after issuance of a nonexpiring full license. (3) If the licensee fails to meet the requirements in subsection (1) of this section for continuation of a nonexpiring full license, the license expires and the licensee must submit a new application for licensure. (4) Nothing about the nonexpiring license process in this section may interfere with the department's established monitoring practice. (5) A licensee has no right to an adjudicated proceeding (hearing) to appeal the expiration, nonrenewal, or noncontinuation of a nonexpiring full license as a result of the licensee's failure to comply with the requirements of this section.
	[This section completely revised to be consistent with 2011 Senate Bill 5625. The bill made the three-year license renewal requirement obsolete. SB 5625 was supported by family home child care licensees and licensee advocates.]

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-1475 Moves. If the licensee moves the child care to a different residence than currently licensed, even if located on the same premises, the department must inspect the new location and must approve that it meets the requirements of this chapter. The licensee must: (1) Notify the department of the proposed move and the date the licensee plans to move; (2) Submit an application as soon as the licensee plans to move and has an identified address, but not more than ninety days before moving; (3) Submit the application before the move; and (4) Not operate more than two weeks following the move as provided by statute without a department inspection of the new location.	**WAC 170-296A-1475 Moves.** If the licensee moves the child care to a different residence than currently licensed, even if located on the same premises, the department must inspect the new location and must approve that it meets the requirements of this chapter. (1) The licensee must: (a) Notify the department of a proposed move and the date the licensee plans to move; (b) Submit an application before the move, as soon as the licensee plans to move and has an identified address, but not more than ninety days before moving; and (c) Not operate more than two weeks following the move as provided by statute without a department inspection of the new location. (2) If the licensee moves and does not notify the department, or submits an application after a move, the license becomes invalid and is closed by the department effective on the date of the move. If the license is closed, the licensee must submit a new application for licensure under WAC 170-296A-1250 to reinstate the license. *[This section was revised to clarify subsections (1) through (4). Subsection (5) incorporates and clarifies the content of withdrawn WAC 170-296A-1500]*
WAC 170-296A-1500 Moving without submitting application. If the licensee moves, and does not notify the department and submit an application prior to the move, the license becomes invalid and is closed by the department as of the date of the move.	*WAC 170-296A-1500 is withdrawn and its content is revised and moved to WAC 170-296A-1475(5).*
WAC 170-296A-1525 Change in circumstances. (1) The licensee must report the following changes in the licensee's circumstances to the department within twenty-four hours, including: (a) The facility; (b) Household members; or (c) The child care operation. (2) The licensee must report to the department within twenty-four hours after the licensee, staff, or a household member is: (a) Charged or convicted with a disqualifying crime under WAC 170-06-0120; or (b) Alleged to have committed, or received a finding of abuse or neglect of a child or vulnerable adult.	**WAC 170-296A-1525 Change in circumstances.** (1) The licensee must report the following changes in the licensee's circumstances to the department within twenty-four hours, including: (a) Household members, including individuals age sixteen or older moving into or out of the home; (b) Fire or other structural damage to the licensed child care space or other parts of the premises; or (c) Prior to making structural changes to the licensed space or changing licensed space usage. An updated floor plan must be submitted and approved by the department. (2) Within twenty-four hours after a licensee becomes aware of a charge or conviction involving (a) the licensee; (b) a staff person; or (c) a household member, and the charge or conviction is a disqualifying crime under WAC 170-06-0120, the licensee must report to the department the fact that there is a charge or conviction involving a disqualifying crime against the licensee, staff person, or a household member. (3) Within twenty-four hours after a licensee becomes aware of an allegation or finding made against (a) the licensee; (b) a staff person; or (c) a household member involving the abuse or neglect of a child or vulnerable adult, the licensee must

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	report to the department the fact that there is an allegation of abuse or neglect of a child or vulnerable adult made against the licensee, staff person or household member.
	[This section revised for clarity as a result of comments on the proposed rule]
WAC 170-296A-1550 Renewal application. The licensee who wishes to continue providing licensed child care must submit a completed renewal application packet every three years. The renewal application packet must be received by the department at least ninety days prior to the license expiration date. The packet must include all of the following required documentation: (1) Renewal application, on a form provided by the department; (2) New background clearance forms for the licensee, staff, household members sixteen years old and older, and anyone sixteen years old and older having unsupervised access to the children in care as described in WAC 170-06-0040; (3) Completed noncriminal background check application forms for each volunteer and assistant age fourteen to sixteen; and each individual age thirteen to sixteen residing on the premises as described in WAC 170-296A-1225; (4) Copies of licensee and staff's current first aid and CPR certificates required under WAC 170-296A-1825; (5) Copy of the licensee's current state food handler permit required under WAC 170-296A-7675; (6) Copy of licensee's current government issued picture identification; (7) Current parent handbook as described in WAC 170-296A-2375; (8) Revised floor plan if applicable; (9) Septic inspection report if applicable under WAC 170-296A-1375; (10) Water test report if applicable under WAC 170-296A-1400; and (11) If applicable, any other changes to the program.	*[WAC 170-296A-1550 was made obsolete by 2011 Senate Bill 5625. This proposed rule has been withdrawn.]*
WAC 170-296A-1575 Failure to submit a renewal application. If the department does not receive a completed renewal application at least ninety days prior to the license expiration date, the license may lapse or renewal may be denied. A new license application must be submitted under WAC 170-296A-1250 if the license lapses or renewal is denied.	*WAC 170-296A-1575 was made obsolete by 2011 Senate Bill 5625. This proposed rule has been withdrawn.]*

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WAC 170-296A-1625 Exception to rule. (1) The department cannot waive a requirement in state or federal law. (2) The department may approve an exception to a rule in this chapter. (3) An exception to rule request must be: (a) In writing on a department form; (b) Submitted by the licensor; and (c) Approved by the director or director's designee. (4) The department may approve an exception only for a specific purpose or child. (5) An exception is time limited and may not exceed the specific time approved or the expiration date of the license. (6) If the exception request is approved, the licensee must post notice of an approved exception with other notices that must be posted for parent and public view, unless the exception is for a specific child. (7) The department's denial of an exception request is not subject to appeal under chapter 170-03 WAC.	**WAC 170-296A-1625 Exception to rule.** (1) The department cannot waive a requirement in state or federal law. (2) The department may approve an exception to a rule in this chapter. (3) An exception to rule request must be: (a) In writing on a department form; (b) Submitted by the licensor; and (c) Approved by the director or director's designee. (4) The department may approve an exception only for a specific purpose or child. (5) An exception is time limited and may not exceed the specific time period approved by the department. (6) If the exception request is approved, the licensee must post notice of the approved exception with other notices that must be posted for parent and public view, unless the exception is for a specific child. (7) The department's denial of an exception request is not subject to appeal under chapter 170-03 WAC. *[Proposed subsection (4) was revised consistent with 2011 Senate Bill 5625]*
WAC 170-296A-1725 Licensee minimum education. (1) As of (the effective date of this section), an applicant for a family home child care license must have a high school diploma. (2) If the applicant does not have a high school diploma, he or she must submit written evidence of equivalent education. As used in this section, "equivalent education" means: (a) Passing the general educational development (GED) tests; (b) Completion of twelve years of elementary and secondary education; or (c) Completion of forty-five credits of post secondary education.	**WAC 170-296A-1725 License applicant minimum education.** (1) For any initial family home child care license issued on or after March 31, 2012, the applicant must have a high school diploma. (2) If the applicant does not have a high school diploma, he or she must submit written evidence of equivalent education. As used in this section, "equivalent education" means: (a) Passing the general educational development (GED) tests; (b) Completion of twelve years of elementary and secondary education; (c) Possessing a current child development associate (CDA) credential as approved through the council for professional recognition; or (d) Completion of forty-five credits of post secondary education. *[Subsection (1) was revised to specify the effective date of this requirement. Subsection (2)(c) was added per comments on the proposed rule]*
WAC 170-296A-1735 Minimum education--Individuals licensed prior to (the effective date of this section). Effective (five years from the effective date of this section), every family home child care licensee, including individuals licensed prior to (the effective date of this section), must meet the minimum education requirements of WAC 170-296A-1725.	**WAC 170-296A-1735 Minimum education--Licensees licensed prior to March 31, 2012.** Effective March 31, 2017, every family home child care licensee, including licensees licensed prior to March 31, 2012, must meet the minimum education requirements of WAC 170-296A-1725. *[This section revised to specify the effect date of this requirement]*
WAC 170-296A-1750 Tuberculosis. The applicant, and each staff person fourteen years old and older, and each household member sixteen years old and older, must provide documentation of tuberculosis (TB) testing or treatment	**WAC 170-296A-1750 Tuberculosis.** The applicant, and each staff person fourteen years old and older, and each household member sixteen years old and older, must provide documentation signed by a licensed health care professional of

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consisting of: (1) A negative Mantoux test (also known as a tuberculin skin test (TST)) or negative interferon gamma release assay (IGRA) completed within twelve months before license application or employment; or (2) A previous or current positive TST or positive IGRA with: (a) Proof of treatment or negative chest X ray; (b) Certification from a medical professional that the individual does not have an active TB infection; or (c) Medication therapy to treat TB.	tuberculosis (TB) testing or treatment consisting of: (1) A negative Mantoux test (also known as a tuberculin skin test (TST)) or negative interferon gamma release assay (IGRA) completed within twelve months before license application or employment; or (2) A previous or current positive TST or positive IGRA with documentation within the previous twelve months: (a) Of a chest X ray with negative results; or (b) Showing that the individual is receiving or has received therapy for active or latent TB disease and is cleared to safely work in a child care setting. As used in this section, "latent TB" means when a person is infected with the TB germ but has not developed active TB disease. *[This section revised as a result of comments on the proposed rule, and to clarify the requirements]*
WAC 170-296A-1800 Ongoing training. (1) The licensee and each primary staff person must complete thirty hours of department approved ongoing training every three years. The training may include: (a) Licensee's or primary staff person's choice; and (b) Department directed training. (2) The licensee must complete the ongoing training requirement prior to obtaining a license renewal. (3) A primary staff person must complete the ongoing training requirement every three years beginning from the date of initial employment.	**WAC 170-296A-1800 Ongoing training.** (1) The licensee and each primary staff person must complete ten hours of department approved ongoing training each year. The training may include: (a) Licensee's or primary staff person's choice; and (b) Department directed training. (2) The licensee must complete the ongoing training requirement each year prior to continuing a nonexpiring full license. (3) A primary staff person must complete the ongoing training requirement each year beginning from the date of initial employment. (4) A licensee who exceeds the ten-hour ongoing training requirement in any year may carry over up to five hours of ongoing training toward meeting the next year's requirement. *[This section revised as a result of Senate Bill 5625 and per comments on the proposed rule]*
WAC 170-296A-1850 Bloodborne pathogens training. The licensee and each staff person must have written proof of attending a U.S. Occupational Safety and Health Administration (OSHA) certified or comparable bloodborne pathogens training.	**WAC 170-296A-1850 HIV/AIDS training--Bloodborne pathogens plan.** (1) The licensee, each staff, and each household member who is responsible for the care of children must complete one time the state department of health training under chapter 70.24 RCW on the prevention and transmission of HIV/AIDS (human immunodeficiency virus/acquired immunodeficiency syndrome). (2) The licensee must have a written bloodborne pathogens plan that includes: (a) A list of the staff, volunteers and household members providing child care who may be exposed to bloodborne pathogens; and (b) Procedures for cleaning up bodily fluid spills (blood, feces, nasal or eye discharge, saliva, urine or vomit), including the use of gloves, proper cleaning and disinfecting of contaminated items, disposal of waste materials, and handwashing.

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	[This section revised per comments on the proposed rule – the adopted rule retains the requirement in repealed WAC 170-296-0240]
WAC 170-296A-1925 Assistants and volunteers--Supervision. (1) Assistants and volunteers are the individuals who help in the licensed child care but are supervised by the licensee or primary staff at all times. (2) The licensee or primary staff person must be within visual or auditory range of an assistant or volunteer sixteen years old or older, and must be available and able to respond. (3) The licensee or primary staff member must be within visual and auditory range of an assistant or volunteer fourteen years to sixteen years old, and must be available and able to respond. When the licensee or primary staff person is the only supervisor, the assistant or volunteer may be in visual or auditory range for brief periods of time while the licensee or primary staff person attends to their toileting, medical, or other personal needs on the premises.	**WAC 170-296A-1925 Assistants and volunteers--Supervision.** (1) Assistants and volunteers are the individuals who help in the licensed child care but are supervised by the licensee or primary staff person at all times. (2) The licensee or primary staff person must be within visual or auditory range of an assistant or volunteer sixteen years old or older, and must be available and able to respond. (3) The licensee or primary staff person must be within visual and auditory range of an assistant or volunteer fourteen years to sixteen years old, and must be available and able to respond. When the licensee or primary staff person is the only supervisor, the assistant or volunteer may be in visual or auditory range for brief periods of time while the licensee or primary staff person attends to their personal needs on the premises.
	[This section revised per comments on the proposed rule. A revised definition of "personal needs" is moved to WAC 170-296A-0010 - Definitions]
WAC 170-296A-1975 Licensee/staff qualifications and requirements table	**WAC 170-296A-1975** *[See end of document for revisions to the table. This table is revised as a result of comments on the proposed rule.]*
WAC 170-296A-2000 Recordkeeping--Records available to the department. The licensee must: (1) Keep all records for a minimum of five years. (2) Keep all current records (from the previous twelve months) in the licensed space as defined in WAC 170-296A-0010. (3) Provide to the department upon request any records twelve months to five years old within two weeks of the date of the department's written request.	**WAC 170-296A-2000 Recordkeeping--Records available to the department.** The licensee must keep all records required in this chapter for a minimum of five years: (1) Current records, including records from the previous twelve months, must be kept in the licensed space as defined in WAC 170-296A-0010 and be available for the department's review. (2) Records older than twelve months to five years old must be provided to the department within two weeks of the date of the department's written request.
	[This section revised for clarity and to be consistent with content recommended by the Negotiated Rule Making Team]
WAC 170-296A-2025 Child records--Confidentiality. (1) The licensee must maintain records for all children in a confidential manner. (2) Each enrolled child's health record must be available to staff when needed for medical administration or emergencies.	**WAC 170-296A-2025 Child records--Confidentiality.** (1) The licensee must maintain records for all children in a confidential manner. (2) Each enrolled child's health record must be available to staff when needed for medical administration or emergencies. (3) A child's parent or guardian must be allowed access to all records for their child.
	[This section revised per comment on the proposed rules]

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WAC 170-296A-2050 Child records--Contents. (1) The licensee must have an enrollment record for every child who is enrolled and counted in capacity. Each child's enrollment record must include the following: (a) Beginning enrollment date; (b) End of enrollment date for children no longer in the licensee's care; (c) The child's birth date; (d) The child's current immunization record, on a DOH child immunization status form or comparable form completed by a health care professional; (e) The child's known allergies; (f) Names of persons authorized to pick up the child; (g) Emergency contacts. If no emergency contact is available, a written emergency contact plan may be accepted; (h) Parent or guardian information including name, phone numbers, address, and contact information for reaching the family while the child is in care; (i) Medical and dental care provider names and contact information, if the child has providers. If the child has no medical or dental provider, the licensee and parent or guardian must have a written plan for medical or dental injury or incident; and (j) Consent to seek medical care and treatment of minor child in the event of injury or illness, signed by the child's parent or guardian. (2) If applicable, a child's records must include: (a) Injury/incident reports (see WAC 170-296A-3575 and 170-296A-3600); (b) Medication authorization and administration log (see WAC 170-296A-3375); (c) Plan for special or individual needs of the child (see WAC 170-296A-6725); or (d) Documentation of use of physical restraint (see WAC 170-296A-6250). (3) The child's records must include signed parent permissions (see WAC 170-296A-6400) as applicable for: (a) Field trips; (b) Picture taking; (c) Transportation; and (d) Visiting health professionals.	**WAC 170-296A-2050 Child records--Contents.** (1) The licensee must have an enrollment record for every child who is enrolled and counted in capacity. Each child's enrollment record must include the following: (a) Beginning enrollment date; (b) End of enrollment date for children no longer in the licensee's care; (c) The child's birth date; (d)(i) The child's current immunization record, on a DOH child immunization status form or comparable form completed by a health care professional; or (ii) A medical exemption form signed by a health care professional; or (iii) A religious, philosophical, or personal exemption form or similar statement signed by the child's parent or guardian. (e) The child's known allergies; (f) Names of persons authorized to pick up the child; (g) Emergency contacts. If no emergency contact is available, a written emergency contact plan may be accepted; (h) Parent or guardian information including name, phone numbers, home address, and other contact information for reaching the family while the child is in care; (i) Medical and dental care provider names and contact information, if the child has providers. If the child has no medical or dental provider, the licensee and parent or guardian must have a written plan for medical or dental injury or incident; and (j) Consent to seek medical care and treatment of minor child in the event of injury or illness, signed by the child's parent or guardian. (2) If applicable, a child's records must include: (a) Injury/incident reports (see WAC 170-296A-3575 and 170-296A-3600); (b) Medication authorization and administration log (see WAC 170-296A-3375); (c) Plan for special or individual needs of the child (see WAC 170-296A-0050); or (d) Documentation of use of physical restraint (see WAC 170-296A-6250). (3) The child's records must include signed parent permissions (see WAC 170-296A-6400) as applicable for: (a) Field trips; (b) Picture taking; (c) Transportation; and (d) Visiting health professionals providing services to the child at the family home child care. *[Subsection (1)(d) is revised consistent with 2011 Senate Bill 5504. Subsection (3)(d) is revised per comment on the proposed rules. Other changes are for clarity]*

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WAC 170-296A-2075 Licensee and staff records. Records for the licensee and each staff person must include documentation of: (1) Current first aid and infant, child and adult CPR training certification; (2) Bloodborne pathogens training certification; (3) TB test results or documentation as required under WAC 170-296A-1750; (4) Current state food handler permit for the licensee, and for other staff if required under WAC 170-296A-7675(3); (5) Completed background check form, or noncriminal background check form if applicable under WAC 170-296A-1225, and copy of the department-issued authorization letter; (6) Copy of a current government issued picture identification; (7) Emergency contact information; (8) Completed application form or resume for staff when hired; (9) Documentation of the licensee's and primary staff only: (a) Twenty-hour basic STARS training; and (b) Ongoing training completed; (10) Record of training provided by the licensee to staff and volunteers; and (11) Resume for the licensee only.	**WAC 170-296A-2075 Licensee and staff records.** Records on file for the licensee and each staff person must include documentation of: (1) Current first aid and infant, child and adult CPR training certification; (2) HIV/AIDS training certification; (3) TB test results or documentation as required under WAC 170-296A-1750; (4) Current state food handler permit for the licensee, and for other staff if required under WAC 170-296A-7675(3); (5) Completed background check form, or noncriminal background check form if applicable under WAC 170-296A-1225, and copy of the department-issued authorization; (6) Copy of a current government issued picture identification; (7) Emergency contact information; (8) Completed application form or resume for staff when hired; (9) Documentation for the licensee's and primary staff person only of: (a) Basic twenty hour STARS training; (b) Ongoing training completed; and (c) Registration in MERIT. (10) Record of training provided by the licensee to staff and volunteers; and (11) Resume for the licensee only. *[Subsection (3) is revised per comment on the proposed rule and to be consistent with current law. Subsection (5) is revised consistent with changes to WAC 170-296A-1200]*
WAC 170-296A-2100 Required records for household members. The licensee must keep the following records for household members: (1) Completed background check form and the department-issued clearance letter under chapter 170-06 WAC for each individual sixteen years old and older; (2) The department-issued clearance letter for household members age thirteen to sixteen years old and any assistant or volunteer fourteen to sixteen years old under WAC 170-296A-1225; and (3) TB test results under WAC 170-296A-1750 for: (a) Household members sixteen years old or older; and (b) Any household member fourteen to sixteen years old who is an assistant or volunteer.	**WAC 170-296A-2100 Required records for household members.** The licensee must keep the following records for household members: (1) Completed background check form and the department-issued clearance under chapter 170-06 WAC for each individual sixteen years old and older; (2) The department-issued clearance for household members age thirteen to sixteen years old under WAC 170-296A-1225; and (3) TB test results or documentation under WAC 170-296A-1750 for: (a) Household members sixteen years old or older; and (b) Any household member fourteen to sixteen years old who is an assistant or volunteer. *[This section revised for clarity, and to be consistent with changes to WAC 170-296A-1200 implementing House Bill 1903]*

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WAC 170-296A-2150 Facility records. The licensee must keep the following facility records: (1) Monthly fire inspections required under WAC 170-296A-3050; (2) Fire extinguisher maintenance or receipts indicating annual purchase of new fire extinguisher(s), under WAC 170-296A-3000; (3) Septic system inspection and maintenance, if required under WAC 170-296A-1375; (4) Water testing results if required under WAC 170-296A-1400; (5) Installation or assembly instructions for play equipment under WAC 170-296A-5000(3); (6) Emergency preparedness evacuation drills under WAC 170-296A-2925; (7) Documents from any department visits, inspections or monitoring checklists; and (8) As applicable, compliance agreements or safety plans between the licensee and the department.	**WAC 170-296A-2150 Facility records.** The licensee must keep the following facility records: (1) Monthly fire inspections required under WAC 170-296A-3050; (2) Fire extinguisher annual maintenance or receipts indicating annual purchase of new fire extinguisher(s), under WAC 170-296A-3000; (3) Septic system inspection and maintenance, if required under WAC 170-296A-1375; (4) Water testing results, if required under WAC 170-296A-1400; (5) Installation or assembly instructions for new play equipment under WAC 170-296A-5000(3). This requirement does not apply to used or "hand-made" play equipment built or installed by the licensee or homeowner, or to play equipment purchased prior to March 31, 2012; (6) Emergency preparedness evacuation drills under WAC 170-296A-2925; (7) Documents from any department visits, inspections or monitoring checklists; and (8) As applicable, compliance agreements or safety plans between the licensee and the department.
	[This section revised per comments on the proposed rule]
WAC 170-296A-2175 Materials that must be posted. The following must be posted in the licensed space during operating hours and clearly visible to the parents, guardians and staff: (1) A statement of the licensee's philosophy of child development; (2) Emergency information: (a) 911 or emergency services number; (b) Name of the licensee, telephone number(s), address, and directions from the nearest major arterial street or nearest cross street to the licensed home; (c) Washington poison center toll-free phone number; and (d) DSHS children's administration intake (child protective services) toll-free telephone number. (3) Emergency preparedness plan and drills with the following information: (a) Dates and times of previous drills; (b) Procedure for sounding alarm; (c) Monthly smoke detector check; (d) Annual fire extinguisher check; (e) Floor plan with escape routes and emergency exits identified; (f) Emergency medical information or explanation of where that information can be found; and (g) Emergency contact information for the licensee; (4) Child care licensing information:	**WAC 170-296A-2175 Materials that must be posted.** The following must be posted in the licensed space during operating hours and clearly visible to the parents, guardians and staff: (1) A statement of the licensee's philosophy of child development; (2) Emergency information, including: (a) 911 or emergency services number; (b) Name of the licensee, telephone number(s), emergency contact information, address, and directions from the nearest major arterial street or nearest cross street to the licensed home; (c) Washington poison center toll-free phone number; and (d) DSHS children's administration intake (child protective services) toll-free telephone number; (3) Emergency preparedness plan and drills with the following information: (a) Dates and times of previous drills; (b) Procedure for sounding alarm; (c) Monthly smoke detector check, and carbon monoxide detector check if carbon monoxide detectors are required under WAC 170-296A-2950; (d) Floor plan with escape routes and emergency exits identified; and (e) Emergency medical information or explanation of where that information can be found; (4) Child care licensing information including:

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(a) The current department-issued child care license; (b) If applicable, a copy of current department-approved exceptions to the rules; (5) If applicable, notice of any current or pending department enforcement action. Notice must be posted: (a) Immediately upon receipt; and (b) For at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer. (6) A notice stating that additional information about the child care license is available upon request to the licensee. This information includes: (a) Copies of department monitoring checklists; (b) If applicable, any facility licensing compliance agreements (FLCA); (c) If applicable, copy of any enforcement action taken by the department for the previous three years; and (d) If applicable, notice that the licensee does not have liability insurance coverage, or that the coverage has lapsed or been terminated. See RCW 43.215.535; (7) A statement on how the licensee will communicate with the parent or guardian on their child's development and parenting support; and (8) A typical daily schedule as described in WAC 170-296A-6550.	(a) The current department-issued child care license; (b) If applicable, a copy of current department-approved exceptions to the rules; (5) If applicable, notice of any current or pending department enforcement action. Notice must be posted: (a) Immediately upon receipt; and (b) For at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer; (6) A notice stating that additional information about the child care license is available upon request to the licensee. This information includes: (a) Copies of department monitoring checklists; (b) If applicable, any facility licensing compliance agreements (FLCA); (c) If applicable, copy of any enforcement action taken by the department for the previous three years; and (d) If applicable, notice that the licensee does not have liability insurance coverage, or that the coverage has lapsed or been terminated. See RCW 43.215.535; (7) A statement on how the licensee will communicate with the parent or guardian on their child's development and parenting support; and (8) A typical daily schedule as described in WAC 170-296A-6550. [Subsection (3)(c) is revised per comments on the proposed rule. Other changes are for clarity]
WAC 170-296A-2200 Reporting incidents to 911 (emergency services). The licensee or primary staff person must report to 911 emergency services the following: (1) A child missing from care, as soon as the licensee or staff realizes the child is missing; (2) Medical emergency (injury or illness) that requires immediate professional medical care; (3) Incorrect administration of any medication, except nonprescription topical creams or ointments; (4) Overdose of any oral, inhaled or injected medication; (5) Fire and other emergencies; (6) Poisoning or suspected poisoning; or (7) Other incidents requiring emergency response.	**WAC 170-296A-2200 Reporting incidents to 911 (emergency services).** The licensee or primary staff person must call 911 and report to emergency services the following: (1) A child missing from care, as soon as the licensee or staff realizes the child is missing; (2) Medical emergency (injury or illness) that requires immediate professional medical care; (3) Giving a child too much of any oral, inhaled or injected medication, or a child taking or receiving another child's medication; (4) Fire and other emergencies; (5) Poisoning or suspected poisoning; or (6) Other incidents requiring emergency response. *[Subsection (3) is revised per comments on the proposed rules]*
WAC 170-296A-2225 Reporting incidents to Washington poison center. The licensee or primary staff person must report to the Washington poison center, after calling 911, and follow any instructions of the poison center: (1) Any poisoning or suspected poisoning; (2) Incorrect administration of any medication, except nonprescription topical creams or ointments; (3) Overdose of any oral, inhaled or injected medication.	**WAC 170-296A-2225 Reporting incidents to Washington poison center.** The licensee or primary staff person must report to the Washington poison center, after calling 911, and follow any instructions of the poison center: (1) Any poisoning or suspected poisoning; (2) A child receiving too much of any oral, inhaled or injected medication; or (3) A child taking or receiving another child's medication.

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	[Subsections (2) and (3) are revised per comments on the proposed rules]
WAC 170-296A-2250 Reporting incidents to a child's parent or guardian and the department. The licensee must report to a child's parent or guardian and the department: (1) Immediately: (a) Any incident reported under WAC 170-296A-2200, after calling 911; (b) Any incident reported under WAC 170-296A-2225, after calling 911 and Washington poison center; (c) A child's demonstrated acts, gestures or behaviors that may cause serious intentional harm to self, others or property; or (d) Use of physical restraint with a child. (2) Within twenty-four hours: (a) Injury or other health concerns to a child that does not require professional medical treatment (report to parent only); (b) Change in child care staff, including serious illness or incapacity of the licensee that may impact child care staffing; (c) Additions to the household of persons sixteen years old or older; (d) The licensee's plans to move, including the date of the move; (e) Change in the licensee's phone number or e-mail;	**WAC 170-296A-2250 Reporting incidents to a child's parent or guardian and the department.** The licensee must report to a child's parent or guardian and the department: (1) Immediately: (a) Any incident reported under WAC 170-296A-2200, after calling 911; (b) Any incident reported under WAC 170-296A-2225, after calling 911 and Washington poison center; (c) A child's demonstrated acts, gestures or behaviors that may cause serious intentional harm to self, others or property; or (d) Use of physical restraint with a child. (2) Within twenty-four hours: (a) Their child's injury or other health concern that does not require professional medical treatment (report to parent only); (b) Change in child care staff, including serious illness or incapacity of the licensee that may impact child care staffing; (c) Additions to the household of persons sixteen years old or older; (d) Change in the licensee's phone number or e-mail; or (e) Their child's exposure to a communicable disease from the list in WAC 170-296A-3210; and (3) The licensee's plans to move, as soon as the licensee plans to move. See WAC 170-296A-1475.
(f) Child's exposure to a reportable communicable disease from the list in WAC 246-110-010(4); or (g) Updates to the parent handbook.	*[This section is revised for clarity and to be consistent with related changes to WAC 170-296A-3210]*
WAC 170-296A-2275 Other incident reporting to the department. (1) The licensee must report to the department any incidents or changes as required under WAC 170-296A-2200, or 170-296A-2225, 170-296A-2250, 170-296A-2300, and 170-296A-2325. (2) The licensee must report to the department within twenty-four hours: (a) Serious illness or incapacity of the licensee, staff or member of household, if the licensee: (i) Has a reasonable expectation that the illness or incapacity will affect the licensee's ability to provide care; and (ii) Is going to continue to provide care. (b) For the licensee, staff, volunteer or household member age fourteen or older, any: (i) Charge or conviction for a crime listed in WAC 170-06-0120; (ii) Allegation or finding of child abuse or neglect under chapter 26.44 or 74.15 RCW; (iii) Allegation or finding of abuse or neglect of a	**WAC 170-296A-2275 Other incident reporting to the department.** (1) The licensee must report to the department any incidents or changes as required under WAC 170-296A-2200, or 170-296A-2225, 170-296A-2250, 170-296A-2300, and 170-296A-2325. (2) The licensee or another person must report to the department within twenty-four hours: (a) The licensee's emergency absence, serious illness or incapacity of the licensee, staff or member of household, if the licensee: (i) Has a reasonable expectation that the absence, illness, or incapacity will affect the licensee's ability to provide care; and (ii) Is going to continue to provide care. (b) For the licensee, staff, volunteer or household member age fourteen or older, any: (i) Pending charge or conviction for a crime listed in WAC 170-06-0120; (ii) Allegation or finding of child abuse or neglect under chapter 26.44 RCW or chapter 388-15 WAC;

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vulnerable adult under chapter 74.34 RCW; or (iv) Other charge or conviction for a crime that could be reasonably related to the individual's suitability to provide care for or have unsupervised access to children in care; (c) Fire that results in damage to the license space or other parts of the premises; (d) Structural damage to the licensed child care space or other parts of the premises; (e) Prior to making structural changes to the licensed space; or (f) Change in the required licensee policies.	(iii) Allegation or finding of abuse or neglect of a vulnerable adult under chapter 74.34 RCW; or (iv) Pending charge, conviction, or negative action from outside Washington state consistent with or the same crime listed in WAC 170-06-0120, or "negative action" as defined in RCW 43.215.010. *[This section is revised per comments on the proposed rule]*
WAC 170-296A-2300 Reporting to DSHS children's administration intake. The licensee and each staff person are required to report the following to DSHS children's administration intake-child protective services (CPS) or law enforcement as required under RCW 26.44.030, and to the licensor: (1) Any suspected child abuse or neglect; (2) A child's disclosure of sexual or physical abuse; (3) Sexual contact between two or more children; (4) A child's attempted suicide or talk about attempting suicide; or (5) Death of a child while in the licensee's care or from injury or illness that may have occurred while the child was in the licensee's care.	**WAC 170-296A-2300 Reporting to DSHS children's administration intake.** (1) The licensee and each staff person are required to report the following to DSHS children's administration intake-child protective services (CPS) or law enforcement within forty-eight hours as required under RCW 26.44.030, and to the department: (a) Any suspected child abuse or neglect; (b) A child's disclosure of sexual or physical abuse; (c) Inappropriate sexual contact between two or more children; or (d) A child's attempted suicide or talk about attempting suicide. (2) The licensee or primary staff person must immediately report to CPS or law enforcement and the department the death of a child while in the licensee's care or from injury or illness that may have occurred while the child was in the licensee's care. *[This section is revised for clarity]*
WAC 170-296A-2325 Reporting notifiable condition to health department. The licensee must report a child diagnosed with a notifiable condition as defined in chapter 246-105 WAC to the local public health jurisdiction or the state department of health. Contact the local public health jurisdiction for the list of notifiable conditions and reporting requirements.	**WAC 170-296A-2325 Reporting notifiable condition to health department.** The licensee must report a child in care diagnosed with a notifiable condition as defined in chapter 246-101 WAC to the local health jurisdiction or the state department of health. Contact the local health jurisdiction for the list of notifiable conditions and reporting requirements. *[Subsection (3) is revised per comments on the proposed rules]*
WAC 170-296A-2350 Policies. (1) The licensee must have written policies for: (a) Parents and guardians, also known as the parent handbook; (b) Program and staff. (2) The licensee must submit all policies to the department.	**WAC 170-296A-2350 Policies.** (1) The licensee must have written policies for: (a) Parents and guardians, also known as the parent handbook; (b) Program and staff. (2) The licensee must submit all policies and revisions of policies to the department. *[This section is revised per comments on the proposed rules]*

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WAC 170-296A-2375 Parent/guardian policies (handbook). The licensee's written parent/guardian policies (handbook) must include: (1) Hours of operation including closures and vacations; (2) Information on how children's records are kept current, including immunization records; (3) Enrollment and disenrollment process; (4) Access to children during child care hours; (5) Program philosophy (the licensee's view of child learning and development); (6) Typical daily schedule, including food and rest periods; (7) Communication plan with parents/guardians including: (a) How the parent or guardian may contact the licensee with questions or concerns; and (b) How the licensee will communicate the child's progress with the parent or guardian at least twice a year; (c) How the licensee will support parents regarding parenting; (8) Written plan for any child's specific needs if applicable; (9) Fee and payment plans; (10) Religious activities and how families' specific religious preferences are addressed; (11) How holidays are recognized in the program; (12) Confidentiality policy including when information may be shared. See WAC 170-296A-2025; (13) Items that the licensee requires the parent or guardian to provide; (14) Guidance and discipline policy. See WAC 170-296A-6050; (15) If applicable, infant/toddler care including SIDS prevention, feeding, diapering and toilet training; (16) Reporting suspected child abuse or neglect; (17) Food service practices; (18) Off-site field trips requirements. See WAC 170-296A-2450; (19) Transportation requirements. See WAC 170-296A-6475; (20) Staffing plan; (21) Access to licensee's and staff training and professional development records; (22) Pet policies. See WAC 170-296A-4800; (23) Health care and emergency preparedness policies including: (a) Emergency preparedness and evacuation plans. See WAC 170-296A-2825; (b) Injury or medical emergency response and reporting;	**WAC 170-296A-2375 Parent/guardian policies (handbook).** The licensee's written parent/guardian policies (handbook) must include: (1) Hours of operation including closures and vacations; (2) Information on how children's records are kept current, including immunization records; (3) Enrollment and disenrollment process; (4) Parent/guardian access to their child during child care hours; (5) Program philosophy (the licensee's view of child learning and development); (6) Typical daily schedule, including food and rest periods. See WAC 170-296A-6550; (7) Communication plan with parents/guardians including: (a) How the parent or guardian may contact the licensee with questions or concerns; and (b) How the licensee will communicate the child's progress with the parent or guardian at least twice a year; (c) How the licensee will support parents regarding parenting; (8) Written plan for any child's specific needs if applicable. See WAC 170-296A-0050; (9) Fees and payment plans; (10) Religious activities and how the parent's or guardian's specific religious preferences are addressed; (11) How holidays are recognized in the program; (12) Confidentiality policy including when information may be shared. See WAC 170-296A-2025; (13) Items that the licensee requires the parent or guardian to provide; (14) Guidance and discipline policy. See WAC 170-296A-6050; (15) If applicable, infant/toddler care including SIDS prevention, feeding, diapering and toilet training; (16) Reporting suspected child abuse or neglect. See WAC 170-296A-6275; (17) Food service practices. See WAC 170-296A-7125 through 170-296A-7200, and 170-296A-7500 through 170-296A-7650; (18) Off-site field trips requirements. See WAC 170-296A-2450; (19) Transportation requirements. See WAC 170-296A-6475; (20) Staffing plan. See WAC 170-296A-5600 and 170-296A-5775; (21) Access to licensee's and staff training and professional development records; (22) Pet policies. See WAC 170-296A-4800; (23) Health care and emergency preparedness policies including:

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(c) Medication management including storage and dispensing. See WAC 170-296A-3325; (d) Exclusion/removal policy of ill persons. See WAC 170-296A-3225; (e) Reporting of notifiable conditions to public health; (f) Immunization tracking. See WAC 170-296A-3250; and (g) Infection control methods, including: (i) Handwashing (WAC 170-296A-3625) and, if applicable, hand sanitizers (WAC 170-296A-3650); and (ii) Cleaning and sanitizing procedures including the sanitizing method and products used. See WAC 170-296A-3850 through 170-296A-3925; (24) Napping/sleeping; (25) No smoking policy. See WAC 170-296A-4050; (26) Drug and alcohol policy. See WAC 170-296A-4025; (27) If applicable, guns and weapons storage. See WAC 170-296A-4725; and (28) If applicable, overnight care requirements. See WAC 170-296A-6850.	(a) Emergency preparedness and evacuation plans. See WAC 170-296A-2825; (b) Injury or medical emergency response and reporting. See WAC 170-296A-3575, 170-296A-3600, and 170-296A-2275; (c) Medication management including storage and giving medications. See WAC 170-296A-3325; (d) Exclusion/removal policy of ill persons. See WAC 170-296A-3210; (e) Reporting of notifiable conditions to public health; (f) Immunization tracking. See WAC 170-296A-3250; and (g) Infection control methods, including: (i) Handwashing (WAC 170-296A-3625) and, if applicable, hand sanitizers (WAC 170-296A-3650); and (ii) Cleaning and sanitizing, or cleaning and disinfecting procedures including the methods and products used. See WAC 170-296A-3850 through 170-296A-3925 and definitions in WAC 170-296A-0010; (24) Napping/sleeping; (25) No smoking policy consistent with WAC 170-296A-4050; (26) Drug and alcohol policy consistent with WAC 170-296A-4025; (27) If applicable, guns and weapons storage. See WAC 170-296A-4725; and (28) If applicable, overnight care requirements. See WAC 170-296A-6850.
	[This section revised per comments on the proposed rules, for clarity, and to update cross references related to changes in other sections]

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WAC 170-296A-2400 Program/operations policies. The licensee must have written program/operations policies that include: (1) All information in the parent/guardian handbook under WAC 170-296A-2375; (2) Plans to keep required program/staff records current; (3) Child supervision requirements; (4) Mandatory reporting requirement of suspected child abuse and neglect and other incidents under WAC 170-296A-2300; (5) Plan for off-site field trips; (6) Plan for transporting children; (7) Plans for restricting children's access to unlicensed space; (8) Medical emergency, fire, disaster and evacuation responsibilities; (9) Guidance and discipline responsibilities; (10) Overnight care, if applicable; and (11) Plan for staff (when applicable) to include: (a) Staff responsibilities; (b) Staff training; (c) Staff expectations; and (d) Professional development.	**WAC 170-296A-2400 Program/operations policies.** In addition to parent policies and procedures required under WAC 170-296A-2375, the licensee must have written program/operations policies that include: (1) Plans to keep required program/staff records current; (2) Child supervision requirements; (3) Mandatory reporting requirement of suspected child abuse and neglect and other incidents under WAC 170-296A-2300; (4) Plan for off-site field trips; (5) Plan for transporting children; (6) Plans for preventing children's access to unlicensed space; (7) Medical emergency, fire, disaster and evacuation responsibilities; (8) Guidance and discipline responsibilities; (9) Overnight care, if applicable; and (10) Plan for staff (when applicable) to include: (a) Staff responsibilities; (b) Staff training; (c) Staff expectations; and (d) Professional development. *[This section revised per comments on the proposed rules and for clarity]*
WAC 170-296A-2425 Staff policies. If the licensee hires staff or uses volunteers, the licensee must have written staff policies and provide training on the policies to all staff and volunteers. Staff policies must include: (1) All the information in the parent/guardian handbook under WAC 170-296A-2375, except fees; (2) Plan for keeping staff records current including: (a) Completed background check forms and department clearance letters; (b) First aid and CPR certification; (c) TB test results; (d) Required training and professional development for primary staff persons; and (e) Training that the licensee must provide to staff; (3) Job description; (4) Staff responsibilities for: (a) Child supervision requirements; (b) Guidance/discipline techniques; (c) Food service practices; (d) Off-site field trips; (e) Transporting children; (f) Restricting children's access to unlicensed space; (g) Health, safety and sanitization procedures; (h) Medical emergencies, fire, disaster and evacuations;	**WAC 170-296A-2425 Staff policies.** If the licensee hires staff or uses volunteers, the licensee must have written staff policies and provide training on the policies to all staff and volunteers. Staff policies must include: (1) All the information in the parent/guardian handbook under WAC 170-296A-2375, except fees; (2) Plan for keeping staff records current including: (a) Completed background check forms and department clearances; (b) First aid and CPR certification; (c) TB test results; (d) Required training and professional development for primary staff persons; and (e) Training that the licensee must provide to staff; (3) Job description; (4) Staff responsibilities for: (a) Child supervision requirements; (b) Guidance/discipline techniques; (c) Food service practices; (d) Off-site field trips; (e) Transporting children; (f) Preventing children's access to unlicensed space; (g) Health, safety and sanitization procedures; (h) Medical emergencies, fire, disaster and evacuations; (i) Mandatory reporting of suspected child abuse and

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(i) Mandatory reporting of suspected child abuse and neglect; and (j) Overnight care, if applicable.	neglect; (j) Overnight care, if applicable; and (k) Staff responsibilities if the licensee is absent from the child care operation. (5) The licensee must keep documentation of all staff training on policies. *[This section revised for clarity and to be consistent with changes in other revised sections]*
WAC 170-296A-2525 Building codes. A single-family residence used for licensed family home child care is considered a group R (residential), division 3 occupancy structure by the state building code.	**WAC 170-296A-2525 Building codes.** A single-family residence used for licensed family home child care is considered a group R (residential), division 3 occupancy structure by the state building code adoption of the international residential code. *[This section is revised for clarity]*
WAC 170-296A-2575 Flammable materials. (1) The licensee must not allow combustible materials (including, but not limited to, lint, grease, oils, or solvent soaked rags) or rubbish to accumulate; those items must be removed from the building or stored in closed metal containers. (2) The licensee must store items labeled "flammable," in areas that are inaccessible to children and away from exits.	**WAC 170-296A-2575 Combustible and flammable materials.** (1) The licensee must not allow combustible materials (including, but not limited to, lint, or rags soaked in grease, oils, or solvent) to accumulate; those items must be removed from the building or stored in a closed metal container. (2) The licensee must store items labeled "flammable," in areas that are inaccessible to children and away from exits. *[This section is revised due to comments on the proposed rule and to clarify its requirements]*
WAC 170-296A-2600 Furnaces. (1) The licensee must keep paper, rubbish, or combustible materials at least three feet away from any furnace. (2) The furnace must be inaccessible to the children, isolated, enclosed or protected.	**WAC 170-296A-2600 Furnaces and other heating devices.** (1) The licensee must keep paper, rubbish, or combustible materials at least three feet away from any furnace, fireplace, or other heating device. (2) A furnace must be inaccessible to the children, isolated, enclosed or protected. (3) Any appliance or heating device that has a hot surface capable of burning a child must be made inaccessible to the children in care during operating hours when the appliance or device is in use or is still hot after use. *[This section revised per comments on the proposed rule]*
WAC 170-296A-2650 Fireplaces, wood stoves, similar heating devices. (1) If the home has a fireplace, wood stove or similar heating device that will be in use, the licensee must: (a) Have the device inspected annually by a qualified fireplace, wood stove or chimney specialist; and (b) Maintain the heating device as required by the	**WAC 170-296A-2650 Inspection of fireplaces, wood stoves, or similar wood-burning heating devices.** Any chimney, fireplace, wood stove or similar wood-burning device in use in the licensed home must be inspected yearly unless the licensee provides a written statement that the chimney, fireplace, wood stove or similar wood-burning device will not be used at any time.

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inspection. (2) The fireplace, wood stove or similar heating device must be inaccessible to the children during operating hours. (3) The licensee may provide a written statement if the fireplace, wood stove or similar heating device will not be used at any time.	*[This section is revised per comments on the proposed rules]*
WAC 170-296A-2700 Emergency flashlight. The licensee must have a working flashlight available for use as an emergency light source.	**WAC 170-296A-2700 Emergency flashlight.** The licensee must have a working flashlight available for use as an emergency light source and extra batteries if the flashlight is powered by batteries. *[This section is revised for clarity]*
WAC 170-296A-2725 Portable heaters and generators. The licensee must not use or allow the use of portable heaters or fuel powered generators in any area inside of the family home child care or building during operating hours.	**WAC 170-296A-2725 Portable heaters and generators.** (1) The licensee must not use or allow the use of portable heaters or fuel powered generators in any area inside of the family home child care or building during operating hours. (2) When a portable fuel-powered generator is in use: (a) The generator must be placed at least fifteen feet from buildings, windows, doors, ventilation intakes, or other places where exhaust fumes may be vented into the home; and (b) Appliances must be plugged directly into the generator or to a heavy duty outdoor-rated extension cord that is plugged into the generator. *[This section is revised per comments on the proposed rule]*
WAC 170-296A-2775 Telephone. (1) The licensee must have a working telephone in the licensed space. (2) The licensee must have a landline telephone readily available that does not require electricity. Voice over internet telephone or cable telephone service are not acceptable substitutes for a landline telephone.	**WAC 170-296A-2775 Telephone.** (1) The licensee must have a working telephone in the licensed space. (2) The licensee must have a telephone readily available with sufficient backup power to function for at least five hours in the event of an electrical power outage. *[This section is revised per comments on the proposed rule]*
WAC 170-296A-2825 Fire evacuation plan. (1) The licensee must develop a written fire evacuation plan and post it at a place that is clearly visible to the staff, parents and guardians. The evacuation plan must be evaluated annually and updated as needed. (2) The evacuation plan must include: (a) An evacuation floor plan that identifies emergency exit pathways, doors, and windows; (b) Method(s) to be used for sounding an alarm; (c)(i) Calling 911; and (ii) Actions to be taken by the person discovering the fire; (d) How the licensee and staff will evacuate all children, especially children who cannot walk; (e) How the licensee and staff will account for all of the children in attendance; (f) Where children and staff will gather away from the building pending arrival of the fire department or emergency response; and (g) How the licensee will inform parents or	**WAC 170-296A-2825 Fire evacuation plan.** (1) If there is a fire in the home during child care operating hours, the licensee's and staff's first responsibility is to evacuate the children in care to a safe place outside the home. (2) The licensee must develop a written fire evacuation plan and post it at a place that is clearly visible to the staff, parents and guardians. The evacuation plan must be evaluated annually and updated as needed. (3) The evacuation plan must include: (a) An evacuation floor plan that identifies emergency exit pathways, emergency exit doors, and emergency exit windows; (b) Method(s) to be used for sounding an alarm; (c) Actions to be taken by the person discovering the fire; (d) How the licensee and staff will evacuate all children, especially children who cannot walk; (e) Calling 911 after evacuating the children; (f) How the licensee and staff will account for all of the children in attendance;

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guardians and arrange pick up of children if needed.	(g) Where children and staff will gather away from the building pending arrival of the fire department or emergency response; and (h) How the licensee will inform parents or guardians and arrange pick up of children if needed. *[This section is revised in response to comments on the proposed rule and to clarify its requirements]*
WAC 170-296A-2850 Disaster plan. (1) The licensee must have a written disaster plan for emergencies other than fire. The plan must be reviewed annually and updated as needed. (2) The written disaster plan must cover at minimum the following: (a) For disasters that require evacuation: (i) How the licensee and staff will evacuate all children, especially those who cannot walk. (ii) What to take when evacuating the children, including: (A) First aid kit; (B) Child medication records; and (C) If applicable, individual children's medication; (iii) Where to go; and (iv) How the licensee and staff will account for all of the children in attendance. (b) Earthquake procedures including: (i) What the licensee and staff will do during an earthquake; (ii) How the licensee and staff will account for all of the children in attendance; and (iii) After an earthquake, how the licensee will assess whether the licensed space is safe for the children; (c) Lockdown of the facility or shelter-in-place, including: (i) How doors and windows will be secured if needed; and (ii) Where children will stay safely inside the facility; and (d) How parents and guardians will be contacted after the emergency situation is over. (3) The licensee must keep on the premises a three-day supply of food, water, and medications required by individual children for use in a disaster, lockdown, or shelter-in-place incident.	**WAC 170-296A-2850 Disaster plan.** (1) The licensee must have a written disaster plan for emergencies other than fire. The plan must be reviewed annually and updated as needed. (2) The written disaster plan must cover at minimum the following: (a) For disasters that may require evacuation: (i) How the licensee and staff will evacuate all children, especially those who cannot walk. (ii) What to take when evacuating the children, including: (A) First aid kit; (B) Child medication records; and (C) If applicable, individual children's medication; (iii) Where to go; and (iv) How the licensee and staff will account for all of the children in attendance. (b) Earthquake procedures including: (i) What the licensee and staff will do during an earthquake; (ii) How the licensee and staff will account for all of the children in attendance; and (iii) After an earthquake, how the licensee will assess whether the licensed space is safe for the children; (c) Lockdown of the facility or shelter-in-place, including: (i) How doors and windows will be secured if needed; and (ii) Where children will stay safely inside the facility; and (d) How parents and guardians will be contacted after the emergency situation is over. (3) The licensee must keep on the premises a three-day supply of food, water, and medications required by individual children for use in a disaster, lockdown, or shelter-in-place incident. (4) As used in this section, "lockdown" or "shelter-in-place" means to remain inside the family home child care when police or an official emergency response agency notifies the

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	licensee or primary staff person in charge that it is unsafe to leave the facility or be outdoors during an emergency situation.
	[This section is revised for clarity, to provide a definition of "lockdown" and "shelter-in-place"]
WAC 170-296A-2875 Fire, disaster training for staff and volunteers. (1) The licensee must provide fire, evacuation and disaster training for all staff and volunteers. The training must include: (a) All elements of the fire, evacuation and disaster plans; (b) Operation of the fire extinguishers; (c) How to test the smoke detectors and replace smoke detector batteries; and (d) Staff responsibilities in the event of a fire or disaster. (2) The training must be documented in the staff's or volunteer's personnel file.	**WAC 170-296A-2875 Fire, disaster training for staff and volunteers.** (1) The licensee must provide fire, evacuation and disaster training for all staff and volunteers when the individual is first employed and at least once each calendar year. The training must include: (a) All elements of the fire, evacuation and disaster plans; (b) Operation of the fire extinguishers; (c) How to test the smoke detectors and, if required, test carbon monoxide detectors and replace detector batteries; and (d) Staff responsibilities in the event of a fire or disaster. (2) The training must be documented in the staff's or volunteer's personnel file.
	[This section is revised for clarity and per comments on the proposed rules]
WAC 170-296A-2925 Record of emergency drills. The licensee must keep records of emergency drills performed, and post the records as required in WAC 170-296A-2175. Records must include: (1) The date and time the drill took place; (2) Staff who participated; (3) Number of children who participated; (4) Length of drill; and (5) Notes about how the drill went including: (a) What the licensee learned; and (b) What the licensee thinks should be done differently at the next drill.	**WAC 170-296A-2925 Record of emergency drills.** The licensee must keep records of emergency drills performed, and post the records as required in WAC 170-296A-2175. Records must include: (1) The date and time the drill took place; (2) Staff who participated; (3) Number of children who participated; (4) Length of drill; and (5) Notes about how the drill went and improvements, if any, that need to be made.
	[This section is revised per comments on the proposed rules]
WAC 170-296A-2950 Smoke detectors. (1) The licensee must have and maintain working smoke detectors in the home. (2) At least one smoke detector must be located: (a) In each licensed sleeping area; (b) On each level of the home; and (c) In the kitchen area.	**WAC 170-296A-2950 Smoke and carbon monoxide detectors.** (1)(a) The licensee must have and maintain working smoke detectors in the home. (b) At least one smoke detector must be located: (i) In each licensed sleeping area; and (ii) On each level of the home. (c) Smoke detectors must be placed on the ceiling or

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(3) Smoke detectors must be placed on the ceiling or wall, but not on the wall above any door. (4) One extra battery for each smoke detector must be kept on the premises.	wall, but not on the wall above any door. (2) To comply with RCW 19.27.530 and WAC 51-51-0315, if the licensee's home was built on or after July 1, 2010, a working carbon monoxide detector must be installed in each area licensed for sleeping or napping. The licensee may use combination smoke/carbon monoxide detectors. (3) One extra battery for each smoke detector and each carbon monoxide detector must be kept on the premises.
	[This section is revised per comments on the proposed rules to be consistent with current law]
WAC 170-296A-3025 Fire extinguisher, smoke detector use and testing. The licensee and staff must demonstrate to the licensor how to: (1) Use fire extinguishers; (2) Test and operate the smoke detectors; and (3) Test alternate alarm device(s).	**WAC 170-296A-3025 Fire extinguisher, smoke/carbon monoxide detector use and testing.** The licensee and staff must demonstrate to the licensor how to: (1) Use fire extinguishers; (2) Test and operate the smoke detectors; (3) Test and operate carbon monoxide detectors if required under WAC 170-296A-2950; and (4) Test alternate alarm device(s).
	[This section is revised per comments received, consistent with changes to WAC 170-296A-2950]
WAC 170-296A-3200 Health plan. The licensee must have a written health plan. The health plan must include: (1) Communicable disease notification under WAC 170-296A-3210; (2) Exclusion of ill person under WAC 170-296A-3225; (3) Immunization tracking under WAC 170-296A-3250 through 170-296A-3300; (4) Medication management under WAC 170-296A-3325 through 170-296A-3550; (5) Medication storage; (6) Injury treatment under WAC 170-296A-3375 through 170-296A-3600; and (7) Handwashing and hand sanitizers under WAC 170-296A-3625 through 170-296A-3675.	**WAC 170-296A-3200 Health plan.** The licensee must have a written health plan. The health plan must include: (1) Communicable disease procedures and exclusion of ill persons under WAC 170-296A-3210; (2) Immunization tracking under WAC 170-296A-3250 through 170-296A-3300; (3) Medication management under WAC 170-296A-3315 through 170-296A-3550; (4) Injury treatment under WAC 170-296A-3575 through 170-296A-3600; (5) Handwashing and hand sanitizers under WAC 170-296A-3625 through 170-296A-3675; (6) Caring for children with special health needs under WAC 170-296A-0050; (7) Cleaning, sanitizing, and disinfecting procedures; (8) A bloodborne pathogens plan under WAC 170-296A-1850; and (9) Notifying the health department when a child is diagnosed with a notifiable condition as required under WAC 170-296A-2325.
	[This section is revised for clarity and to be consistent with related changes in other adopted sections]
WAC 170-296A-3210 Communicable disease--Notice and procedure. When the licensee becomes aware that he or she, a household member, staff person or child in care has been diagnosed with a communicable disease as described in DOH WAC 246-110-010(4), the licensee must: (1) Notify: (a) The local public health jurisdiction or DOH; (b) DEL within twenty-four hours from time the	**WAC 170-296A-3210 Communicable disease--Notice and procedure.** *[See the revised content following table 3, including a new table in this section. This section is revised per comments on the proposed rules and for clarity. It also incorporates the content of withdrawn WAC 170-296A-3225 to clarify that the requirements of these sections are related]*

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licensee receives notification of the diagnosis; (c) Parents and guardians of all the children in care; and (2) Follow the health plan before providing care or before readmitting the household member, staff person or child into the child care.	
WAC 170-296A-3225 Exclusion of ill persons. The licensee's health plan includes provisions for excluding or separating a child, staff person, or household member with communicable disease as described in WAC 246-110-010(4) or any of the following: (1) Fever of one hundred one degrees Fahrenheit or higher; (2) Vomiting that occurs two or more times in a twenty-four-hour period; (3) Diarrhea with three or more watery stools in a twenty-four-hour period; (4) Rash not associated with heat, diapering or an allergic reaction; or (5) Drainage of thick mucus and pus from the eye.	*[WAC 170-296A-3225 is withdrawn and its content merged into WAC 170-296A-3210]*
WAC 170-296A-3250 Immunization tracking. The licensee is required to track each child's immunization status. The licensee must: (1) Except as provided in WAC 170-296A-3200 or 170-296A-3275, have a complete current certificate of immunization status (CIS) form or similar form supplied by a health care professional for each child, submitted on or before the child's first day of child care; (2) Develop a system to update and keep individual immunization records current to include when immunizations are received; and (3) Have the CIS or similar forms for each currently enrolled child available in licensed space for review by the licensor.	**WAC 170-296A-3250 Immunization tracking.** The licensee is required to track each child's immunization status. The licensee must: (1) Except as provided in WAC 170-296A-3275 or 170-296A-3300, have a complete current certificate of immunization status (CIS) form or similar form supplied by a health care professional for each child, submitted on or before the child's first day of child care; (2) Develop a system to update and keep individual immunization records current to include when immunizations are received; and (3) Have the CIS or similar forms for each currently enrolled child available in the licensed space for review by the licensor. *[An incorrect cross references in subsection (1) is corrected for clarity]*
WAC 170-296A-3300 Immunizations--Exemption. The licensee may accept a child without any immunizations if the parent or guardian: (1) Signs a statement expressing a religious, philosophical or personal objection to immunization. (2) Provides a DOH certificate of exemption form or similar statement.	**WAC 170-296A-3300 Immunizations--Exemption.** The licensee may accept a child without any immunizations if the parent or guardian provides: (1) A DOH medical exemption form signed by a health care professional; or (2) A DOH form or similar statement signed by the child's parent or guardian expressing a religious, philosophical or personal objection to immunization. *[This section revised consistent with 2011 Senate Bill 5504]*
(See proposed WAC 170-296A-3400)	*[This section consolidates content in withdrawn WAC 170-296A-3400 and content added as a result of comments on the proposed rules]* **WAC 170-296A-3315 Medication management.** (1) The licensee's medication management policy must include:

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	(a) Safe medication storage, including the licensee's family medications; and (b) Whether the licensee chooses to give medications to children in care. (2) If the licensee chooses to give medications to children in care, the licensee's policy must include: (a) How giving medications will be documented (medication log), including documenting when a medication is given or not given as prescribed or as indicated on the permission form; (b) Permission to give medications to a child signed by the child's parent or guardian, and by a licensed medical professional when appropriate; and (c) That only the licensee or primary staff person may give medication or observe a child taking his or her own medication as described in WAC 170-296A-3550. (3) If the licensee chooses not to give any medications to children in care, the licensee must inform parents in the parent/guardian handbook. (4) If the licensee or primary staff person decides not to give a specific medication to a child after having received written permission by the child's parent or guardian, the licensee or primary staff person must immediately notify the parent or guardian of the decision to not give the medication. (5) The licensee must make reasonable accommodations and give medication if a child has a condition where the Americans with Disabilities Act (ADA) would apply.
WAC 170-296A-3325 Medication storage. The licensee must store all medications (except rescue medications under WAC 170-296A-3350 and topical nonprescription medications described in WAC 170-296A-4100), vitamins, herbal remedies, dietary supplements and pet medications in a locked cabinet or locked container.	**WAC 170-296A-3325** *[See the revised content at the end of table 3, including an added table regarding medicine storage. This section is revised for clarity. It incorporates the content of withdrawn WAC 170-296A-3325 and the medication storage table moved from WAC 170-296A-4100, with revisions for clarity and as a result of comments on the proposed rules]*
WAC 170-296A-3350 Child's emergency rescue medications. The licensee must keep emergency rescue medications inaccessible but available for emergency use to meet a child's emergency medical needs.	*[WAC 170-296A-3350 is withdrawn and its content is merged into WAC 170-296A-3325]*

Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-3375 Medication permission. (1) The licensee must have written permission from a child's parent or guardian to give a child any medication. The permission must include: (a) Child's name; (b) Name of the medication and condition being treated; (c) Dose to be given; (d) Start and stop date for administering medication not to exceed thirty calendar days, except as provided in subsection (2) of this section; (e) Parent or guardian signature; and (f) Date of signature. (2) A parent or guardian may give the licensee ninety calendar days permission for use of the following: (a) Diaper ointments and talc free powders intended specifically for use in the diaper area of children; (b) Sun screen; (c) Hand sanitizers; or (d) Hand wipes with alcohol. (3) The licensee must keep a written record of medication administration (medication log) that includes the: (a) Child's name; (b) Name of medication; (c) Dose given; (d) Dates and time of each medication given; and (e) Name and signature of the person administering the medication. (4) The licensee must allow the parent or guardian to review their own child's written medication administration records. (5) The licensee must return any unused medication to the child's parent or guardian. (6) Medication permission forms must be kept confidential. (7) Medication permission forms and medication logs for the previous twelve months must be kept in the licensed space and be available for review by the licensor.	**WAC 170-296A-3375 Medication permission.** (1) The licensee must have written permission from a child's parent or guardian to give a child any medication. The permission must include: (a) Child's name; (b) Name of the medication and condition being treated; (c) Dose and frequency to be given; (d) Instructions for any specialized equipment or procedures for giving the child's medication; (e) Start and stop date for administering medication not to exceed thirty calendar days, except as provided in subsection (2) of this section; (f) Parent or guardian signature; and (g) Date of signature. (2) A parent or guardian may give the licensee ninety calendar days permission for use of the following: (a) Diaper ointments and talc free powders used as needed that are intended specifically for use in the diaper area of children; (b) Sun screen; (c) Hand sanitizers; or (d) Hand wipes with alcohol. (3) The licensee must keep a written record of medication administration (medication log) that includes the: (a) Child's name; (b) Name of medication; (c) Dose given; (d) Dates and time of each medication given; and (e) Name and signature of the person giving the medication. (4) The licensee must return any unused medication to the child's parent or guardian. (5) Medication permission forms and medication logs must be kept confidential. The licensee must allow a child's parent or guardian to review their own child's medication administration records. (6) Medication permission forms and medication logs for the previous twelve months must be kept in the licensed space and be available for review by the licensor. *[This section is revised as a result of comments on the proposed rules]*
WAC 170-296A-3400 Administering medications. (1) Only the licensee or primary staff person may administer medication, or observe a child administering their own medication as described in WAC 170-296A-3550. (2) The licensee or primary staff person must not administer or allow administration of an expired medication.	*[WAC 170-296A-3400 is withdrawn and its content is merged into WAC 170-296A-3315]*

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-3425 Medication requirements. The licensee or primary staff person must follow the medication directions for managing and administering prescription and nonprescription medication for the individual children in care.	**WAC 170-296A-3425 Medication requirements.** The licensee or primary staff person must follow the medication directions for managing and administering prescription and nonprescription medication for the individual children in care. The licensee or primary staff person must not give or allow giving of an expired medication. *[This section revised per comments on the proposed rules]*
WAC 170-296A-3450 Sedating a child prohibited. The licensee or primary staff person must not administer or allow administration of any medication for the purpose of sedating a child unless the medication has been prescribed for that purpose by a qualified health care professional.	**WAC 170-296A-3450 Sedating a child prohibited.** The licensee or primary staff person must not give or allow giving of any medication for the purpose of sedating a child unless the medication has been prescribed for that purpose by a qualified health care professional and prescribed for the child receiving the medication. *[This section is revised per comments on the proposed rule]*
WAC 170-296A-3475 Administering prescription medication. The licensee or primary staff must administer a prescribed medication only: (1) To the child that the medication is prescribed for; (2) In amount and frequency prescribed by a health care professional with prescription authority; (3) For the purpose or condition that the medication is prescribed to treat; (4) When the medication: (a) Is in the original container; (b) Is labeled with the child's first and last name; (c) Has a nonexpired expiration date; (5) If the parent or guardian provides information from the pharmacy about: (a) Medication storage; (b) Potential adverse reactions or side effects; and (6) If the medication is stored at the proper temperature noted on the container label or pharmacy instructions.	**WAC 170-296A-3475 Prescription medication.** The licensee or primary staff person may give a prescribed medication to a child only if the following conditions are met: (1) The medication is prescribed only for the child the medication is being given to; (2) The parent or guardian has provided written permission as described in WAC 170-296A-3375; (3) The prescribed medication is given in the amount and frequency prescribed by the child's health care professional with prescription authority; (4) The prescribed medication must only be given for the purpose or condition that the medication is prescribed to treat; (5) The medication must: (a) Be in the original container; (b) Be labeled with the child's first and last name; (c) Have a nonexpired expiration date; (6) The container must have or the parent or guardian must provide information from the pharmacy about: (a) Medication storage; (b) Potential adverse reactions or side effects; and (7) The medication has been stored at the proper temperature noted on the container label or pharmacy instructions. *[This section is revised as a result of comments on the proposed rules]*
WAC 170-296A-3525 Nonprescription medications. The licensee or primary staff may administer nonprescription medications, as defined in this chapter, only when: (1) The nonprescription medication is: (a) Given to or used with a child only in the dosage and as directed on the manufacturer's label; (b) Given in accordance to the age or weight of the child needing the medication; (c) Given only for the purpose or condition that the medication is intended to treat;	**WAC 170-296A-3525 Nonprescription medications.** The licensee or primary staff person may give nonprescription medications, as defined in this chapter, only when the following conditions are met: (1) The parent or guardian has given signed written permission as provided in WAC 170-296A-3375. (2) The nonprescription medication is: (a) Given to or used with a child only in the dosage, frequency and as directed on the manufacturer's label; (b) Given in accordance to the age or weight of the

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(d) Is in the original container; and (e) Has a nonexpired expiration date, if applicable. (2) The container includes, or the parent or guardian provides information about: (a) Medication storage; (b) Potential adverse reactions or side effects. (3) The medication is stored at the proper temperature noted on the container label or pharmacy instructions.	child needing the medication; (c) Given only for the purpose or condition that the medication is intended to treat; (d) Is in the original container; and (e) Has a nonexpired expiration date, if applicable. (3) The medication container or packaging includes, or the parent or guardian provides information about: (a) Medication storage; (b) Potential adverse reactions or side effects. (4) The medication has been stored at the proper temperature noted on the container label or instructions. *[This section is revised as a result of comments on the proposed rules]*
WAC 170-296A-3575 Injuries requiring first aid only. When a child has an injury that requires first aid only, a written or verbal notice must be given to the parent or guardian and keep a record of the notice on file.	**WAC 170-296A-3575 Injuries requiring first aid only.** When a child has an injury that requires first aid only, the licensee must give a written or verbal notice to the child's parent or guardian and keep a record of the notice on file. *[This section is revised for clarity]*
WAC 170-296A-3650 Hand sanitizers. (1) If the licensee has a written and signed parent or guardian permission as described in WAC 170-296A-3375(2), the licensee may use hand sanitizer products only with children over twelve months old. Hand sanitizer products may be used: (a) When handwashing facilities are not available, such as an outing, emergency, or disaster; or (b) After proper handwashing. (2) Hand sanitizer gels must not be used in place of proper handwashing if handwashing facilities are available.	**WAC 170-296A-3650 Hand sanitizers.** (1) If the licensee has a written and signed parent or guardian permission as described in WAC 170-296A-3375(2), the licensee may use hand sanitizer products only with children over twenty-four months old. Hand sanitizer products may be used: (a) When handwashing facilities are not available, such as an outing, emergency, or disaster; or (b) After proper handwashing. (2) Hand sanitizer gels must not be used in place of proper handwashing if handwashing facilities are available. *[This section is revised as a result of comments on the proposed rule]*
WAC 170-296A-3670 Cribs. In order to meet federal requirements, a licensee who uses a crib with children in care must comply with this section. (1) Effective December 28, 2012, each crib in use in licensed child care must meet U.S. Consumer Product Safety Commission (CPSC) requirements for full size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or non-full size cribs as defined in 16 CFR 1220. (2) A crib meets the requirements of this section if the crib is labeled by the manufacturer as made on or after June 28, 2011. (3) A crib labeled as made from July 1, 2010 through June 27, 2011 may meet the requirements of this section if the licensee has obtained a certificate of compliance from the crib manufacturer or importer, or the licensee has other documentation from the manufacturer that the crib is certified as meeting the CPSC regulations. (4) Any crib that does not meet the requirements of subsection (2) or (3) of this section must be removed from the child care facility not later than December 28, 2012.	*[Proposed WAC 170-296A-3670 in its entirely is renumbered as WAC 170-296A-7085 for more logical order]*

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(5) The licensee must keep in the licensed space a log documenting that each crib in use meets the requirements of this section.	
WAC 170-296A-3675 When handwashing is required. The licensee, staff and children must wash their hands and follow proper handwashing techniques: (1) After using the toilet; (2) After diapering a child; (3) After outdoor play; (4) After playing with animals; (5) After touching an animal's toys; (6) After touching body fluids; (7) Before and after the child eats or participates in food activities; or (8) As needed.	**WAC 170-296A-3675 When handwashing is required.** (1) The licensee and staff must wash their hands and follow proper handwashing techniques: (a) Before and after preparing foods, eating, or feeding a child; (b) After handling raw or undercooked meat, poultry or fish; (c) After using the toilet or helping a child with toileting; (d) Before and after diapering a child. If needed during diapering, a disposable hand wipe cloth may be used; (e) After touching bodily fluids as described in the licensee's bloodborne pathogens plan; (f) After being outdoors with the children; (g) After handling animals or cleaning up animal waste; (h) After handling garbage and garbage receptacles; (i) Before and after giving medication or applying topical ointment; or (j) As needed. (2) The licensee and staff must direct children to wash their hands or assist children with handwashing: (a) Before and after the eating or participating in food activities; (b) After toileting or diapering (the licensee may use a diaper wipe to clean hands of a child age zero to six months); (c) After touching bodily fluids, including after sneezing, coughing; (d) After outdoor play; (e) After playing with animals or handling animal toys; or (f) As needed. *[This section is revised as a result of comments on the proposed rule and to clarify the requirements for the licensee and staff]*
WAC 170-296A-3700 Carpets. The licensee must clean installed carpet in the licensed space at least once each calendar year or more often when soiled.	**WAC 170-296A-3700 Carpets.** The licensee must clean installed carpet in the licensed space at least once each calendar year or more often when soiled, using a carpet shampoo machine, steam cleaner, or dry carpet cleaner. *[This section is revised for clarity and as a result of comments on the proposed rules]*
WAC 170-296A-3725 Sleeping. (1) The licensee must provide mats, cots, or other sleeping equipment long enough and wide enough for the size of the child. (2) The licensee must never place the children directly on the floor to sleep. (3) When children are sleeping there must be enough space between children to give staff access to each child.	**WAC 170-296A-3725 Where children may sleep.** (1) The licensee must provide mats, cots, or other sleeping equipment long enough and wide enough for the size of the child. (2) The licensee must never place the children directly on the floor to sleep. (3) When children are sleeping there must be enough space between children to give staff access to each child. *[The title of this section is revised for clarity]*

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-3750 Mats, cots and other sleeping equipment. (1) The licensee must provide mats, cots, or other approved sleeping equipment that are made of material that can be cleaned and sanitized. (2) Mats, cots or other sleeping equipment must be cleaned, sanitized, and air dried: (a) At least once a week or as needed if used by one child; or (b) Between each use if used by different children. (3)(a) If a bleach solution is used to sanitize, the solution must be one-quarter teaspoon of bleach to one quart of cool water; (b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. (4) Mats, cots, and other sleeping equipment must be stored so that the sleeping surfaces are not touching each other, unless they are cleaned and sanitized after each use.	**WAC 170-296A-3750 Mats, cots and other sleeping equipment.** (1) The licensee must provide mats, cots, or other approved sleeping equipment that are made of material that can be cleaned and sanitized. (2) Mats, cots, or other sleeping equipment must be in good repair, not torn or with holes or repaired with tape. (3) A sleeping mat must be at least one inch thick. (4) Mats, cots, or other sleeping equipment must be cleaned, sanitized, and air dried: (a) At least once a week or as needed if used by one child; or (b) Between each use if used by different children. (5)(a) If a bleach solution is used to sanitize, the solution must be one-quarter teaspoon of bleach to one quart of cool water; (b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. (6) When in use, mats, cots, or other sleeping equipment must be arranged to allow the licensee or staff to access the children. (7) Mats, cots, and other sleeping equipment must be stored so that the sleeping surfaces are not touching each other, unless they are cleaned and sanitized after each use. *[This section is revised as a result of comments on the proposed rules, and for clarity]*
WAC 170-296A-3760 Cribs. In order to meet federal requirements, a licensee who uses a crib with children in care must comply with this section. (1) Effective December 28, 2012, each crib in use in licensed child care must meet U.S. Consumer Product Safety Commission (CPSC) requirements for full-size cribs as defined in 16 Code of Federal Regulations (CFR) 1219, or nonfull-size cribs as defined in 16 CFR 1220. (2) A crib meets the requirements of this section if the crib is labeled by the manufacturer as made on or after June 28, 2011. (3) A crib labeled as made from July 1, 2010 through June 27, 2011 may meet the requirements of this section if the licensee has obtained a certificate of compliance from the crib manufacturer or importer, or the licensee has other documentation from the manufacturer that the crib is certified as meeting the CPSC regulations. (4) A crib that does not meet the requirements of subsection (2) or (3) of this section must be removed from the child care facility not later than December 28, 2012. (5) The licensee must keep in the licensed space a log documenting that each crib in use meets the requirements of this section.	**WAC 170-296A-3760 Moved to 7085**

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-3850 Cleaning laundry. The licensee must wash child care laundry using: (1) Laundry soap or detergent; and (2)(a) Temperature control (warm or hot cycle); or (b) Bleach.	**WAC 170-296A-3850 Cleaning laundry.** The licensee must wash child care laundry using: (1) Laundry soap or detergent; and (2)(a) Temperature control (warm or hot cycle); or (b) Chlorine bleach. *[This section revised per comments on the proposed rules]*
WAC 170-296A-3875 Cleaning and sanitizing toys. (1) The licensee must clean and sanitize toys: (a) After they have been in a child's mouth; (b) After being contaminated with body fluids or visibly soiled; or (c) Not less than weekly when the toys have been used by the children. (2)(a) If a bleach solution is used to sanitize, the solution must be one-quarter teaspoon of bleach to one quart of cool water; (b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.	**WAC 170-296A-3875 Cleaning and sanitizing toys.** (1) The licensee must clean and sanitize toys: (a) Before a child plays with a toy that has come into contact with another child's mouth or bodily fluids; (b) After being contaminated with bodily fluids or visibly soiled; or (c) Not less than weekly when the toys have been used by the children. (2)(a) If a bleach solution is used to sanitize, the solution must be three-quarter teaspoon of bleach to one quart of cool water; (b) If another sanitizer product is used, it must be labeled as approved for food contact surfaces, used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry, and rinsed if required by the product instructions. *[This section revised per comments on the proposed rules]*
WAC 170-296A-3925 Cleaning and sanitizing table. The following table describes the minimum frequency for cleaning or sanitizing items in the licensed space.	**WAC 170-296A-3925 Cleaning, sanitizing, and disinfecting table.** *[See the table following table 3 for revisions to this section, which is revised as a result of comments on the proposed rules and to clarify its content]*
WAC 170-296-3950 Pest Control. When pests are present in the licensed space, the licensee must: (1) Take action to remove or eliminate pests; and (2)(a) Use the least poisonous method possible; or (b) If chemical pesticides are used, post a notice visible to parents, guardians and any other interested party forty-eight hours in advance of the application of pesticides.	**WAC 170-296-3950 Pest control.** When pests are present in the licensed space, the licensee must: (1) Take action to remove or eliminate pests; and (2)(a) Where possible, use nonchemical methods of control instead of chemical controls; or (b) If chemical pesticides are used, the licensee must: (i) Not spray pesticides when children are present. Wipe down surfaces that have been sprayed and air out rooms before allowing children to use sprayed areas; (ii) Place and store rodent poison or insect baits inaccessible to children; and (iii) Post a notice visible to parents and guardians of children in care forty-eight hours in advance of the application of pesticides, except when pesticides must be used to control pests that may pose an immediate risk to children's health or safety. *[This section revised per comments on the proposed rules]*
WAC 170-296A-3975 Poisons. The licensee must:	*[This section is withdrawn, the proposed rule content moved to*

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
(1) Store poisons inaccessible to children and away from food. (2) Label the containers when poisons are not in their original containers.	*new subsection (1) of WAC 170-296A-4100, and the content revised per comment on the propose rule.]*
WAC 170-296A-4000 Lead, asbestos and arsenic. The licensee must take action to prevent child exposure when the licensee becomes aware that any of the following are present in the indoor or outdoor licensed space: (1) Lead based paint; (2) Plumbing containing lead or lead solders; (3) Asbestos; or (4) Arsenic or lead in the soil.	**WAC 170-296A-4000 Lead, asbestos, arsenic and other hazards.** The licensee must take action to prevent child exposure when the licensee becomes aware that any of the following are present in the indoor or outdoor licensed space: (1) Lead based paint; (2) Plumbing containing lead or lead solders; (3) Asbestos; or (4) Arsenic or lead in the soil or drinking water; (5) Toxic mold; or (6) Other identified toxins or hazards. *[This section revised per comments on the proposed rules]*
WAC 170-296A-4025 Drugs and alcohol. (1) The licensee staff, volunteers, or household members must not: (a) Have or use illegal drugs on the premises; (b) Consume alcohol during operating hours; or (c) Be under the influence of alcohol, illegal drugs or misused prescription drugs when working with or in the presence of children in care. (2) The licensee must keep and store all alcohol, including closed and open containers, inaccessible to children.	**WAC 170-296A-4025 Drugs and alcohol.** (1) The licensee, staff, volunteers, or household members must not, or allow others to: (a) Have or use illegal drugs on the premises; (b) Consume alcohol during operating hours; or (c) Be under the influence of alcohol, illegal drugs or misused prescription drugs when working with or in the presence of children in care. (2) The licensee must keep and store all alcohol, including closed and open containers, inaccessible to children. *[This section revised per comments on the proposed rules]*
WAC 170-296A-4075 First aid kit. (1) The licensee must have a complete first aid kit at all times: (a) In the licensed space; (b) On any off-site trip; and (c) In any vehicle used to transport children in care. (2) A complete first aid kit must include clean: (a) Disposable nonporous protective gloves; (b) Adhesive bandages of various sizes; (c) Small scissors; (d) Tweezers; (e) An elastic wrapping bandage; (f) Sterile gauze pads; (g) Ice pack; (h) Mercury free thermometer for taking a child's temperature; (i) Large triangular bandage, for use as a sling; (j) Adhesive tape; and (k) One-way CPR barrier or mask. (3) The first aid kit must include a current first aid manual.	**WAC 170-296A-4075 First aid kit.** (1) The licensee must have a complete first aid kit at all times: (a) In the licensed space; (b) On any off-site trip; and (c) In any vehicle used to transport children in care. (2) A complete first aid kit must include clean: (a) Disposable nonporous protective gloves; (b) Adhesive bandages of various sizes; (c) Small scissors; (d) Tweezers; (e) An elastic wrapping bandage; (f) Sterile gauze pads; (g) Ice packs; (h)(i) Mercury free thermometer that is: (A) Used with a disposable sleeve; or (B) Cleaned and sanitized after each use; or (ii) A single-use thermometer that is disposed of after a single use; (i) A sling, or a large triangular bandage; and (j) Adhesive tape. (3) The first aid kit must include a current first aid manual. *[This section revised per comments on the proposed rules]*

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WAC 170-296A-4100 Storage of medications, chemicals and other substances. The following table describes medications, chemicals and other substances that must be: (1) Stored in a locked container or cabinet until use; or (2) Stored inaccessible to children. Rescue medications described in subsection (3) of the table must be available for the licensee or primary staff to administer to a child if needed.	**WAC 170-296A-4100 Poisons, chemicals and other substances.** (1) The licensee must: (a) Store poisons inaccessible to children and where poisons will not contaminate food. (b) If poisons are not in the original container, clearly label the container with the name of the product and the words "poison" or "toxic." (2) The following describes chemicals and other substances that must be stored inaccessible to children: (a) Nail polish remover; (b) Sanitizers and disinfectants; (c) Household cleaners and detergents; (d) Toxic plants; (e) Plant fertilizer; (f) Ice melt products; (g) Pool chemicals; (h) Pesticides or insecticides; (i) Fuels, oil, lighter fluid, or solvents; (j) Matches or lighters; (k) Air freshener or aerosols; (l) Personal grooming products including, but not limited to: (i) Lotions, creams, toothpaste, or diaper creams when not in use; (ii) Liquid, powder, or cream personal hygiene products; (iii) Shampoo, conditioners, hair gels or hair sprays; (iv) Bubble bath or bath additives; (v) Makeup or cosmetics. (m) Dish soap, dishwasher soap or additives; (n) Tobacco products, including cigarette/cigar butts and contents of ashtrays; or (o) Alcohol, open or unopened. *[This section is revised as a result of comments received on the proposed rule and for clarity. Portions of rule regarding - medication storage is moved to WAC 170-296A-3325]*
WAC 170-296A-4200 Removing recalled items. The licensee must maintain equipment, toys or other items in the child care in good and safe working condition. The licensee must maintain awareness of equipment, toys or other items used in child care listed for recall by the U.S. Consumer Product Safety Commission.	**WAC 170-296A-4200 Toys, equipment, and recalled items.** The licensee must maintain equipment, toys or other items in the child care in good and safe working condition. The licensee must remove a recalled item as soon as the licensee becomes aware that the item used in the licensee's child care operation has been recalled. *[This section revised per comments on the proposed rules]*
WAC 170-296A-4325 Stairs. (1) If there are stairs in the licensed space, the licensee must: (a) Keep the stairway well lit; (b) Keep the stairway free of clutter; and (c) Have a handrail or vertical slats on one side of the stairs that children can reach. (2) The licensee must keep the stairs inaccessible to the children when not in use with a:	**WAC 170-296A-4325 Stairs.** (1) If there are stairs in the licensed space, the licensee must: (a) Keep the stairway well lit; (b) Keep the stairway free of clutter; and (c) Have a handrail not higher than thirty inches high or sturdy slats on one side of the stairs. (2) The licensee must provide a pressure gate, safety gate, or a door to keep the stairs inaccessible to infants and

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(a) Barrier; (b) Nonpressure gate; or (c) Door.	toddlers when not in use. (3) Openings between slats or on pressure gates or safety gates must not be larger than three and one-half inches wide.
	[This section revised per comments on the proposed rules]
WAC 170-296A-4375 Lighting safety. (1) When ceiling-mounted light fixtures are in the play space, the licensee must provide one or more of the following: (a) Shatter-resistant covers; (b) Shatter-resistant light bulbs; or (c) Otherwise make the light fixtures safe. (2) The licensee must not: (a) Allow bare light bulbs in any play space; or (b) Use lights or light fixtures indoors that are intended or recommended for outdoor use; or (c) Use halogen lamps in any area accessible to children during operating hours.	**WAC 170-296A-4375 Lighting safety.** (1) When ceiling-mounted light fixtures are in the licensed space accessible to children, the licensee must provide one or more of the following: (a) Shatter-resistant covers; (b) Shatter-resistant light bulbs; or (c) Otherwise make the light fixtures safe. (2) The licensee must not: (a) Allow bare light bulbs in any play space; (b) Use lights or light fixtures indoors that are intended or recommended for outdoor use; or (c) Use halogen lamps in any area accessible to children during operating hours.
	[This section revised per comments on the proposed rules]
WAC 170-296A-4450 Interior door locks. An interior door is any door that does not exit to the exterior of the home. Any interior door that locks must be able to be unlocked from either side. An unlocking device must be readily available for staff to unlock any interior door when a child is locked in.	**WAC 170-296A-4450 Interior door and locks.** An interior door is any door that does not exit to the exterior of the home. Any interior door in the licensed space that locks must be able to be unlocked from either side. An unlocking device must be readily available for staff to unlock any interior door when a child is locked in.
	[This section revised per comments on the proposed rules]
WAC 170-296A-4500 Emergency exits--General. (1) Each floor used for licensed child care space must have at least two emergency exits that open directly to the exterior of the home. (a) The emergency exits on each floor must be remotely located from each other, at opposite ends of the building or as widely spaced as possible. (b) One exit must be an emergency exit door as defined in WAC 170-296A-4525 and the other exit may be a door or an emergency window as defined in WAC 170-296A-4550. (2) Every room used for child care, except bathrooms, must have: (a) A door leading to two separate emergency exit pathways; or (b) An emergency exit door leading directly to the exterior of the building. See WAC 170-296A-4575 for additional requirements for rooms used for sleeping or napping. (3) If child care is provided in a basement or floor level accessed by an interior stairway, the stairway must have a self closing door at the top or bottom. (4) Any basement approved for licensed child care must have two means of emergency exit, which may be one	**WAC 170-296A-4500 Emergency exits--General.** (1) Each level of the home (floor) used for licensed child care space must have at least two emergency exits that open directly to the exterior of the home. (a) The emergency exits on each floor must be remotely located from each other, at opposite ends of the building or as widely spaced as possible. (b) One exit must be an emergency exit door as defined in WAC 170-296A-4525 and the other exit may be a door or an emergency window as defined in WAC 170-296A-4550. (2) Every room used for child care, except bathrooms, must have two separate ways to exit that must be: (a) An emergency exit door and emergency exit window leading directly to the exterior of the building; (b) An emergency exit door or emergency exit window and an interior door or doorway leading to an emergency exit pathway; or (c) Two separate doors or doorways leading to two separate emergency exit pathways. See WAC 170-296A-4575 for additional requirements for rooms used for sleeping or napping. (3) If child care is provided in a basement or level of the home accessed by an interior stairway, the stairway must have a self closing door at the top or bottom. As used in this section

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of the following: (a) Two emergency exit doors that exit directly to the exterior of the home without entering the first floor; or (b) One of the two emergency exits is an emergency exit window or emergency exit door, and the other exit is an interior stairway that leads to an emergency exit.	"basement" means the portion of the home that is partly or completely below grade. (4) Any basement approved for licensed child care must have two means of emergency exit, which may be one of the following: (a) Two emergency exit doors that exit directly to the exterior of the home without entering the first floor; or (b) One of the two emergency exits is an emergency exit window or emergency exit door, and the other exit is an interior stairway that leads to an emergency exit. *[This section revised as a result of comments on the proposed rules and to clarify its requirements]*
WAC 170-296A-4525 Emergency exit doors. (1) An emergency exit door must open to the exterior of the home. (2) Any door used as an emergency exit door must: (a) Remain unlocked during operating hours; (b) Be designed to open from the inside without the use of keys, tools, or special knowledge and automatically unlocks when the door knob or handle is turned; and (c) Be easy to open to the full open position. (3) If the emergency exit door opens to a landing that is four feet (forty-eight inches) or more above grade, the landing must lead to a stairway or ramp to get to ground level.	**WAC 170-296A-4525 Emergency exit doors.** (1) An emergency exit door must open to the exterior of the home. (2) Any door used as an emergency exit door must: (a) Remain unlocked from the inside during operating hours; and (b) Be easy to open to the full open position. (3) If the emergency exit door opens to a landing that is four feet (forty-eight inches) or more above grade, the landing must lead to a stairway or ramp to get to ground level. *[This section revised as a result of comments on the proposed rules and to clarify its requirements]*
WAC 170-296A-4550 Emergency exit windows. (1) Any window used as an emergency exit window must: (a) Remain unlocked during operating hours, except a manufacturer-installed latch may be latched; (b) Be designed to open from the inside of the room without the use of keys, tools or special knowledge; and (c) Be easy to open to the full open position. (2) An emergency exit window must be at least five point seven square feet in area, except emergency exit windows on the ground floor may be five square feet in area. When open, the window opening must be at least: (a) Twenty inches wide; and (b) Twenty-four inches tall. (3) An emergency exit window must have an interior sill height of forty-four inches or less above the interior floor. If the interior sill height is more than forty-four inches above the interior floor, a sturdy platform (which may be a table or other device) may be used to make the distance forty-four inches or less to the interior window sill. The platform must be in place below the window sill at all times during operating hours. (4) An emergency exit window must have a place to land outside that is forty-eight inches or less below the window which may be either: (a) The ground; or (b) A deck, landing or platform constructed and	**WAC 170-296A-4550 Emergency exit windows.** (1) Any window used as an emergency exit window must: (a) Remain unlocked during operating hours, except a manufacturer-installed latch may be latched; (b) Be designed to open from the inside of the room without the use of keys, tools or special knowledge; and (c) Be easy to open to the full open position. (2) An emergency exit window must be at least five point seven square feet of opened area, except emergency exit windows on the ground floor may be five square feet of opened area. When open, the window opening must be at least: (a) Twenty inches wide; and (b) Twenty-four inches tall. (3) An emergency exit window must have an interior sill height of forty-four inches or less above the interior floor. If the interior sill height is more than forty-four inches above the interior floor, a sturdy platform (which may be a table or other device) may be used to make the distance forty-four inches or less to the interior window sill. The platform must be in place below the window sill at all times during operating hours. (4) An emergency exit window must have a place to land outside that is forty-eight inches or less below the window which may be either: (a) The ground; or (b) A deck, landing or platform constructed to meet current building codes.

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inspected by local building officials as meeting current building codes.	*[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-4575 Emergency exits from sleeping/napping areas. Each room used for sleeping or napping must have: (1) Interior doors leading to two separate emergency exit pathways; or (2) An emergency exit door leading directly to the exterior of the building; or (3) An interior door leading to an emergency exit pathway and an emergency exit window exiting to the exterior of the building. The emergency exit window must meet the requirements stated in WAC 170-296A-4550(3).	**WAC 170-296A-4575 Emergency exits from areas used only for sleeping/napping areas.** Each room used for sleeping or napping must have two ways to exit: (1) One exit must be an emergency exit door or emergency exit window leading directly to the exterior of the building; (2) The other exit may be an interior door leading to an emergency exit pathway. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-4650 Bathroom floors. (1) Floors in a bathroom or toileting area must have a washable surface and be resistant to moisture. The floor must be cleaned and sanitized daily or more often if needed. (a) If a bleach solution is used to sanitize, the solution must be one teaspoon of bleach to one gallon of cool water; (b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions, including but not limited to quantity used, time the product must be left in place, and adequate time to allow the product to dry. (2) Removable rugs may be used in the bathroom. The rugs must be washed when soiled or at least weekly.	**WAC 170-296A-4650 Bathroom floors.** (1) Floors in a bathroom or toileting area must have a washable surface and be resistant to moisture. The floor must be cleaned and disinfected daily or more often if needed. (a) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one gallon of cool water; (b) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions, including but not limited to quantity used, time the product must be left in place, and adequate time to allow the product to dry. (2) Removable rugs may be used in the bathroom. The rugs must be laundered and sanitized at least weekly or more often if needed. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-4675 Bathroom sinks. A sink used for handwashing must be located in or next to bathrooms or other areas used for toileting. The sink must: (1) Have warm running water; and (2) Be of appropriate height and size for children, or have a platform for the children to use that is safe, easily cleanable and resistant to moisture.	**WAC 170-296A-4675 Bathroom sinks.** A sink used for handwashing must be located in or next to bathrooms. The sink must: (1) Have warm running water; and (2) Be of appropriate height and size for children, or have a platform for the children to use that is safe, easily cleanable and resistant to moisture. *[This section revised as a result of comments on the proposed rules]*
PETS	**PETS AND OTHER ANIMALS**
WAC 170-296A-4800 Pet policy. A licensee who has a pet or pets must: (1) Inform children's parents and guardians that the licensee has a pet; and (2) Have a pet policy in the parent handbook that includes: (a) How children will have access to pets; (b) How children will be kept safe around pets; (c) Pet immunizations; and	**WAC 170-296A-4800 Pet and animal policy.** A licensee who has a pet or other animals on the premises must: (1) Inform children's parents and guardians that the licensee has a pet or other animals; and (2) Have a pet/animal policy in the parent handbook that includes: (a) How children will have access to pets or other animals; (b) How children will be kept safe around pets or other

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(d) Handling of pet waste.	animals; (c) Pet or animal immunizations; and (d) Handling of pet or animal waste. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-4850 Pet health and safety. (1) Pets that have contact with children must: (a) Have current immunizations for communicable diseases; (b) Show no signs of disease, worms or parasites; and (c) Be nonaggressive. (2) Children and staff must wash their hands as required under WAC 170-296A-3625 after interacting with pets or handling pet toys or equipment.	**WAC 170-296A-4850 Pet/animal health and safety.** Pets or other animals that have contact with children must: (1) Have current immunizations for communicable diseases if applicable; (2) Show no signs of disease, worms or parasites; and (3) Be nonaggressive. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-4875 Pets interacting with children. The licensee: (1) Must have a written plan to keep a pet inaccessible to the children if the pet is known to be dangerous or aggressive. (2) Must directly supervise, or instruct staff to directly supervise, children preschool age and younger when the children are interacting with pets. (3) Must make reptiles and amphibians inaccessible to the children due to the risk of Salmonella.	**WAC 170-296A-4875 Pets or other animals interacting with children.** The licensee: (1) Or primary staff person must directly supervise, or instruct staff to directly supervise, children preschool age and younger when the children are interacting with pets or other animals. (2) Must have children and staff wash their hands as required under WAC 170-296A-3625 after interacting with pets or other animals, or after handling an animal's toys, bedding, litter or equipment. (3) Must have a written plan to keep a pet or other animal inaccessible to the children if the pet or animal is known to be dangerous or aggressive. (4) Must make reptiles and amphibians inaccessible to the children due to the risk of Salmonella. *[This section revised as a result of comments on the proposed rules and to clarify its requirements]*
WAC 170-296A-4900 Pet wastes. The licensee must: (1) Keep litter boxes inaccessible to the children. (2) Have a designated area outside the fenced licensed outdoor space for pets to relieve themselves. (3) Remove feces right away if an animal relieves itself in the outdoor licensed space. (4) Pet feces, urine, blood, or vomit when found in the indoor licensed space must be cleaned up immediately and the area sanitized.	**WAC 170-296A-4900 Pet wastes.** The licensee must: (1) Keep litter boxes inaccessible to the children. (2) For pets that do not have an indoor litter area, have a designated area outside for pets to relieve themselves that is inaccessible to children in care. This area may not be counted in the licensed outdoor square footage under WAC 170-296A-4925. (3) Remove feces right away if an animal relieves itself in the outdoor licensed space. (4) Clean and disinfect the area immediately when a pet leaves feces, urine, blood, or vomit in the indoor licensed space. *[This section revised as a result of comments on the proposed rules]*

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WAC 170-296A-4925 Licensed outdoor space. (1) The licensee must provide a safe outdoor play area on the premises. (a) The outdoor play space must contain seventy-five square feet of usable space per child for the number of children stated on the license. (b) If the premises does not have seventy-five square feet of available outdoor space per child, the licensee may provide an alternative plan, approved by the department, to meet the requirement for children to have daily outdoor play opportunities. (2) The licensed outdoor play space must be securely enclosed with a fence of a minimum height of four feet. When a fence has slats, openings between the slats must be no wider than three and one-half inches. (3) When the licensed outdoor play space is not adjacent to the home the licensee must: (a) Identify and use a safe route to and from licensed outdoor space that is approved by the department; and (b) Supervise the children at all times when passing between the licensed outdoor space and the home. (4) The licensee must provide a written plan, approved by the department, to make roadways and other dangers adjacent to the licensed outdoor play space inaccessible to children.	**WAC 170-296A-4925 Licensed outdoor space.** (1) The licensee must provide a safe outdoor play area on the premises. (a) The outdoor play space must contain seventy-five square feet of usable space per child for the number of children stated on the license. (b) If the premises does not have seventy-five square feet of available outdoor space per child, the licensee may provide an alternative plan, approved by the department, to meet the requirement for all children in care to have daily opportunities for active outdoor play. (2) The licensed outdoor play space must be securely enclosed with a fence of a minimum height of four feet. When a fence has slats, openings between the slats must be no wider than three and one-half inches. (3) When the licensed outdoor play space is not adjacent to the home the licensee must: (a) Identify and use a safe route to and from the licensed outdoor space that is approved by the department; and (b) Supervise the children at all times when passing between the licensed outdoor space and the home. (4) The licensee must provide a written plan, approved by the department, to make roadways and other dangers adjacent to the licensed outdoor play space inaccessible to children. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-4950 Rails on platforms, decks, and stairs. (1) Platforms or decks (not including play equipment) used at any time for child care activities with a drop zone of more than eighteen inches must have guardrails in any area where there are no steps. (2) Outdoor stairs with four or more steps must have vertical slats (balusters) or a hand rail on at least one side. Openings between the slats must be no wider than three and one-half inches. This requirement does not apply to outdoor play equipment with stairs.	**WAC 170-296A-4950 Rails on platforms, decks, and stairs.** (1) Platforms or decks (not including play equipment) used at any time for child care activities with a drop zone of more than eighteen inches must have guardrails in any area where there are no steps. (2) Outdoor stairs with four or more steps must have slats (balusters) or a hand rail not higher than thirty inches high on at least one side. Openings between the slats must be no wider than three and one-half inches. This requirement does not apply to outdoor play equipment with stairs. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-4975 Outdoor supervision. (1) The licensee or primary staff person must be within sight and hearing range when children preschool age or younger are using the licensed outdoor space and be available and able to respond if the need arises for the safety of the children. (2) The licensee or primary assistant must be within sight or hearing range of school age children when in the licensed outdoor space and be available and able to respond if the need arises for the safety of the children. (3) The required staff-to-child ratio must be maintained when the children are in the licensed outdoor space, except as provided in subsection (4) of this section.	*[WAC 170-296A-4975 is withdrawn and its content incorporated into WAC170-296A-5750]*

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(4) A second staff person or assistant may engage in other child care activities temporarily as long as he or she is in sight or hearing range and is available and able to respond if the need arises for the safety of the children.	
WAC 170-296A-5000 Play equipment. (1) The licensee must have play equipment that is developmentally appropriate and maintained in a safe working condition. Unsafe equipment must be repaired immediately or must be made inaccessible to children until repairs are made. (2) Play equipment must be arranged so that it does not interfere with other play equipment when in use. (3) The licensee must install or assemble play equipment according to manufacturer specifications, and keep specifications on file for review by the licensor.	**WAC 170-296A-5000 Play equipment.** (1) The licensee must have play equipment that is developmentally appropriate and maintained in a safe working condition. The licensee must inspect play equipment at least weekly for injury hazards, broken parts, or damage. Unsafe equipment must be repaired immediately or must be made inaccessible to children until repairs are made. (2) Play equipment must be arranged so that it does not interfere with other play equipment when in use. (3) The licensee must install or assemble new play equipment acquired after March 31, 2012, according to manufacturer specifications, and keep specifications on file for review by the licensor. (4) For used or "hand-made" play equipment, or for play equipment acquired and installed prior to March 31, 2012, the licensee must assemble the equipment in a manner that provides a safe play experience for the children. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-5025 Outdoor physical activities. The licensee must have an outdoor play area that promotes a variety of age and developmentally appropriate physical activities for the children in care.	**WAC 170-296A-5025 Outdoor physical activities.** The licensee must have an outdoor play area that promotes a variety of age and developmentally appropriate active play for the children in care. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-5050 Bouncing equipment prohibited. The licensee must not use or allow the use of bouncing equipment including, but not limited to, trampolines, rebounders and inflatable equipment. This requirement does not apply to bounce balls with handles for use by individual children.	**WAC 170-296A-5050 Bouncing equipment prohibited.** The licensee must not use or allow the use of bouncing equipment including, but not limited to, trampolines, rebounders and inflatable equipment. This requirement does not apply to bounce balls with or without handles for use by individual children. *[This section revised for clarity]*
WAC 170-296A-5075 Ground cover--Fall zones. (1) The licensee must not place climbing play equipment on concrete, asphalt, packed soil, lumber, or similar hard surfaces when being used by children. (2) The ground under play equipment intended to be climbed must be covered by a shock absorbing material. Grass alone is not an acceptable ground cover material under swings or play equipment intended to be climbed. (3) A six-foot fall zone must surround all equipment that has a platform over forty-eight inches tall that is intended to be climbed. (4) The fall zone area must extend at least six feet beyond the perimeter of the equipment. For swings, the area must extend six feet from the furthest arc of the swing.	**WAC 170-296A-5075 Playground equipment--Ground cover--Fall zones.** (1) The licensee must not place climbing play equipment on concrete, asphalt, packed soil, lumber, or similar hard surfaces when being used by children. (2) The ground under swings and play equipment intended to be climbed must be covered by a shock absorbing material. Grass alone is not an acceptable ground cover material under swings or play equipment intended to be climbed. Acceptable ground cover includes: (a) Pea gravel - At least nine inches deep; (b) Playground wood chips - At least nine inches deep; (c) Shredded recycled rubber - At least six inches deep; or (d) Other department approved material.

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(5) Swings must be positioned so that the furthest arc of the swing is at least ten feet from a fence, building or other play equipment.	(3) A six-foot fall zone must surround all equipment that has a platform over forty-eight inches tall that is intended to be climbed. (4) The fall zone area must extend at least six feet beyond the perimeter of the play equipment. For swings, the fall zone must be the distance to the front and rear of the swing set equal to or greater than twice the height of the top bar from which the swing is suspended. (5) Swing sets must be positioned further away from structures to the front and rear of the swing set. The distance to the front and rear of the swing set from any playground equipment or other structure must be the distance equal to or greater than twice the height of the top bar from which the swing is suspended.
	[This section revised as a result of comments on the proposed rules]
	WATER SAFETY
WAC 170-296A-5150 Water activity--Supervision. (1) Unless attending a swimming or water play activity, when outside the licensed premises the licensee must keep children from having access to bodies of water that pose a drowning hazard. (2) When the licensee takes children near a body of water outside the licensed premises that is accessible and more than four inches deep, there must be: (a) A certified lifeguard on duty; or (b)(i) One additional staff member more than the required staff-to-child ratio as provided in WAC 170-296A-5700 to help with the children; and (ii) At least one staff person in attendance must be able to swim.	**WAC 170-296A-5150 Water activity--Supervision.** When children in care are attending a swimming or water play activity outside the licensed premises: (1) The licensee must have written permission from each child's parent or guardian; (2) There must be a certified lifeguard on duty; and (3) When infants or toddlers are in water depth that is: (a) Twenty-four inches or less, the licensee or staff must stay within reach of infants or toddlers; or (b) Greater than twenty-four inches, the licensee must provide one-to-one staff-to-child ratio for each infant or toddler. Staff must hold or be in constant touch contact with each infant or toddler.
	[This section revised as a result of comments on the proposed rules]

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WAC 170-296A-5175 Wading pools--Defined--Supervision. (1) A wading pool: (a) Is an enclosed pool with water depth of two feet or less measured without children in the pool; and (b) Can be emptied and moved. (2) When a wading pool on the premises is intended for use by the children, the licensee must: (a) Directly supervise or have a primary staff person directly supervise the children; (b) Obtain written permission from each child's parent or guardian to allow the child to use a wading pool; (c) Maintain staff-to-child ratios when children are in a wading pool; (d) Keep infants or toddlers in the wading pool within reach of the licensee or staff; (e) Use a door alarm or bell to warn staff that children are entering the outdoor area when pool water could be accessed, or keep the wading pool empty when not in use; and (f) Empty, clean and sanitize the pool daily or immediately if the pool is soiled with urine, feces, vomit, or blood: (i) If a bleach solution is used to sanitize, the solution must be one teaspoon of bleach to one gallon of cool water; (ii) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.	**WAC 170-296A-5175 Wading pools--Defined--Supervision.** (1) A wading pool: (a) Is an enclosed pool with water depth of two feet or less measured without children in the pool; and (b) Can be emptied and moved. (2) When a wading pool on the premises is intended for use by the children, the licensee must: (a) Directly supervise or have a primary staff person directly supervise the children; (b) Obtain written permission from each child's parent or guardian to allow the child to use a wading pool; (c) Maintain staff-to-child ratios when children are in a wading pool; (d) Keep infants or toddlers in the wading pool within reach of the licensee or staff; (e) Use a door alarm or bell to warn staff that children are entering the outdoor area when pool water could be accessed, or keep the wading pool empty when not in use; (f) Empty the pool daily; and (g) Clean and disinfect the pool daily or immediately if the pool is soiled with urine, feces, vomit, or blood: (i) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one gallon of cool water; (ii) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-5200 Swimming pools defined--Barriers and supervision. (1) A swimming pool is a pool that has a water depth greater than two feet. (2) When there is a swimming pool on the premises the licensee must: (a) Have a five-foot high fence that blocks access to the swimming pool; (b) Lock the entrance and exit points to the swimming pool; (c) Have an unlocking device that is inaccessible to children but readily available to the licensee or staff; (d) Maintain the swimming pool according to manufacturer's specifications; and (e) Clean and sanitize the swimming pool using the manufacturer's specifications. (3) When the swimming pool on the premises is used by the children the licensee must: (a) Obtain written permission from each child's parent or guardian to allow the child to use the swimming	**WAC 170-296A-5200 Swimming pools defined--Barriers and supervision.** (1) A swimming pool is a pool that has a water depth greater than two feet. (2) When there is a swimming pool on the premises the licensee must provide: (a) A door alarm or bell on each door opening to the pool area to warn staff when the door is opened; (b) A five-foot high fence that blocks access to the swimming pool. When the fence has slats the openings between slats must not be wider than three and one-half inches wide; (c) Gates with a self-latching device at entrance and exit points to the swimming pool and lock each gate; and (d) An unlocking device that is inaccessible to children but readily available to the licensee or staff. (3) The licensee must maintain the swimming pool according to manufacturer's specifications, including cleaning and sanitizing. (4) When the swimming pool on the premises is used by

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pool; (b) Have one person present at the swimming pool with lifeguard training; (c) Provide a one-to-one staff-to-child ratio for infants or toddlers in the swimming pool. Staff must hold or be in constant touch contact with infants or toddlers in the swimming pool; and (d) Provide one additional staff person more than the required staff-to-child ratio as provided in WAC 170-296A-5700 to help supervise children other than infants or toddlers.	the children: (a) The licensee must obtain written permission from the parent or guardian of each child using the swimming pool; (b) One person present at the swimming pool must have lifeguard training; (c) The licensee must provide: (i) One additional staff person more than the required staff-to-child ratio than provided in WAC 170-296A-5700 to help supervise children preschool age and older; (ii) A one-to-one staff-to-child ratio for infants or toddlers in the swimming pool; (d) Staff must hold or be in constant touch contact with infants or toddlers in the swimming pool; and (e) Children in diapers or toilet training must wear swim pants to lower the risk of contaminating the water. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-5225 Bodies of water or water hazards on the licensed premises. (1)(a) As used in WAC 170-296A-5150 through 170-296A-5250, a "body of water" is a natural area or man-made area or device that contains or holds more than two inches of water. (b) "Body of water" does not include a wading pool as defined in WAC 170-296A-5175, a water activity table, small bird baths or rain puddles with a water depth of two inches or less. (2) When children are in care the licensee must: (a) Make any body of water in the licensed space inaccessible with a fence or a physical barrier that is at least five feet tall, except as provided in subsection (c) of this section; (b) Directly supervise or have a primary staff person directly supervise children, with the staff-to-child ratios observed, whenever children play in any area with a body of water; (c) Make hot tubs, spas, or jet tubs inaccessible with a tub cover that is locked; and (d) Not use five gallon buckets or similar containers for infant or toddler water play.	**WAC 170-296A-5225 Bodies of water or water hazards on the licensed premises.** (1)(a) As used in WAC 170-296A-5150 through 170-296A-5250, a "body of water" is a natural area or man-made area or device that contains or holds more than two inches of water. (b) "Body of water" does not include a wading pool as defined in WAC 170-296A-5175, a water activity table, small bird baths or rain puddles with a water depth of two inches or less. (2) When children are in care the licensee must: (a) Make any body of water in the licensed space inaccessible with a physical barrier (not to include a hedge or vegetation barrier) or fence that is at least five feet tall, except as provided in subsection (c) of this section. When a fence has slats or open grids, openings must not be wider than three and one-half inches; (b) Directly supervise or have a primary staff person directly supervise children, with the staff-to-child ratios observed, whenever children play in any area with a body of water; (c) Make hot tubs, spas, or jet tubs inaccessible with a tub cover that is locked; and (d) Not use five gallon buckets or similar containers for infant or toddler water play. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-5250 Safety plan for bodies of water outside and near licensed space. The licensee must make the following bodies of water inaccessible to children in care, and have a written safety plan approved by the department for: (1) Bodies of water, including ditches, located outside and near (in close proximity to) the licensed space, regardless of whether the body of water is on or off the	**WAC 170-296A-5250 Bodies of water outside and near licensed space.** (1) The licensee must make the following bodies of water inaccessible to children in care, and have a written safety plan approved by the department for: (a) Ponds, lakes, storm retention ponds, ditches, fountains, fish ponds, landscape pools or similar bodies of water located outside and near (in close proximity to) the licensed space, regardless of whether the body of water is on or off the

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premises; or (2) Any uncovered well, septic tank, below grade storage tank; farm manure pond or similar hazards that are on the premises.	premises; or (b) Any uncovered well, septic tank, below grade storage tank; farm manure pond or similar hazards that are on the premises. (2) Unless attending a swimming or water play activity, when outside the licensed premises the licensee or staff must keep children from having access to bodies of water that pose a drowning hazard. (3) When the licensee or primary staff person takes children near a body of water outside the licensed premises and children have access to a body of water that is more than four inches deep, there must be: (a) One additional staff person more than the required staff-to-child ratio provided in WAC 170-296A-5700 to help with the children; and (b) At least one staff person in attendance must be able to swim.
	[This section revised as a result of comments on the proposed rules]
WAC 170-296A-5550 Birth through twelve years license. (1) The department issues a full license for the licensee to care for not more than twelve children birth through twelve years of age. (2) The department may issue a full licensee for fewer than twelve children if the total square footage of licensed indoor or outdoor space is less than the minimum square footage required to care for twelve children. (3) If the licensee has less than one year of child care experience, the department may issue an initial license limited to: (a) Caring for not more than six children; or (b) Caring for children older than eighteen months of age and walking independently. (4) See the table in WAC 170-296A-5700 for the number and ages of children a licensee may care for and the staff-to-child ratios required based on the licensee's experience and staffing levels.	**WAC 170-296A-5550 Birth through twelve years license.** (1) The department issues an initial license or nonexpiring full license for the licensee to care for not more than twelve children birth through twelve years of age. (2) The department may issue an initial license or nonexpiring full license for fewer than twelve children if the total square footage of licensed indoor or outdoor space is less than the minimum square footage required to care for twelve children. (3) If the licensee has less than one year of child care experience, the department may issue an initial license limited to: (a) Caring for not more than six children; or (b) Caring for children older than eighteen months of age and walking independently. (4) See the table in WAC 170-296A-5700 for the number and ages of children a licensee may care for and the staff-to-child ratios required based on the licensee's experience and staffing levels.
	[This section revised as a result of comments on the proposed rules]

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WAC 170-296A-5625 Capacity. The licensee must not exceed the total number or ages of children in care (capacity) stated on the child care license.	**WAC 170-296A-5625 Capacity and ratio.** (1) The licensee must not exceed the total number or ages of children in care (capacity) stated on the child care license. (2) All children in care through twelve years of age in attendance on the premises or being transported by the licensee or staff or a household member are counted in capacity. (3) Any child within the age range on the license count in ratio, including the licensee's own children, children of staff, or visiting children who are not accompanied by an adult. (4) The licensee must receive department approval to care for a child with special needs as documented in WAC 170-296A-0050 if the child is older than the maximum age identified on the license. A child with documented special needs may be in care up to age nineteen and must be counted in ratio. (5) If an individual child with special needs requires individualized supervision, a staff member providing individualized supervision for that child does not count in the staff-to-child ratio for the other children in care.
	[This section incorporates content from withdrawn WAC 170-296A-5650, and is revised as a result of comments on the proposed rules]
WAC 170-296A-5650 Children counted in ratio and capacity. (1) Children enrolled in the child care program count in ratio through twelve years of age. (2) All children through twelve years of age in attendance on the premises or being transported by the licensee or staff are counted in the total number of children in the licensee's care. (3) Any child within the age range on the license count in ratio, including licensee's own children, staff's own children or visiting children who are not accompanied by an adult. (4) The licensee must receive department approval to care for a child with special needs as documented in WAC 170-296A-6725 if the child is older than the maximum age identified on the license. A child with documented special needs may be in care up to age nineteen and must be counted in ratio. (5) If an individual child with special needs requires individualized supervision, a staff member providing individualized supervision for that child does not count in the staff-to-child ratio for the other children in care.	*[Proposed WAC 170-296A-5650 is withdrawn and its content moved to WAC 170-296A- 5625]*
WAC 170-296A-5700 Capacity and ratio table – Birth through twelve year old license.	**WAC 170-296A-5700** [The table in this section revised for clarity – see changes following table 3]

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WAC 170-296A-5750 Supervising staff. When the licensee or primary staff are supervising staff, they must be: (1) Aware of what staff are doing; and (2) Available and able to promptly assist to protect the health and safety of children in care.	**WAC 170-296A-5750 Supervision.** **Supervising children.** (1) The licensee must provide required staffing levels, staff-to-child ratios and supervision for the number of children in attendance. (2) The licensee or primary staff person must be aware of what the children are doing at all times and be available and able to promptly assist or redirect activities when necessary. If unable to see the children, the licensee or primary staff person must frequently go to the area where the children are located to check on them. For the purposes in this section frequently is defined as on many occasions with little time between them. (3) The licensee must consider the following when deciding how closely to supervise the children: (a) Ages of the children; (b) Individual differences and abilities; (c) Layout of the indoor and outdoor licensed space and play area; (d) The risk associated with the activities children are engaged in; and (e) Any nearby hazards including those in the licensed or unlicensed space. (4) A baby monitor or video monitor must not be used in place of direct supervision of the children. **Additional requirements when the children are indoors.** (5) The licensee or primary staff person must be within sight or hearing range when children are indoors and be available and able to respond if the need arises for the safety of the children. (6) When children are present on more than one level (floor) of the home, the licensee or primary staff person must be supervising the children on each level and maintain required staff-to-child ratios. Each level of the home used by the children must be licensed space. **Additional requirements when children are outdoors.** (7) The licensee or primary staff person must be within sight and hearing range when children preschool age or younger are using the licensed outdoor space and be available and able to respond if the need arises for the safety of the children. (8) The licensee or primary staff person must be within sight or hearing range of school age children when in the licensed outdoor space and be available and able to respond if the need arises for the safety of the children. (9) The required staff-to-child ratio must be maintained when the children are in the licensed outdoor space, except as provided in subsection (10) of this section. (10) Except when children in care are using a wading pool or swimming pool, a second staff person or assistant may engage in other child care activities temporarily as long as he or she is in sight or hearing range and is available and able to

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	respond if the need arises for the safety of the children. (11) See: (a) WAC 170-296A-5150 for additional supervision requirements when children are engaged in an off-site waterplay or swimming activity; (b) WAC 170-296A-5175 for additional supervision requirements when children are using a wading pool; and (c) WAC 170-296A-5200 for additional supervision requirements when children are using a swimming pool. **Supervising staff.** (12) When the licensee or primary staff person is supervising staff, he or she must be: (a) Aware of what staff are doing; and (b) Available and able to respond if the need arises to protect the health and safety of children in care. (13) See WAC 170-296A-1925 for additional supervision requirements for assistants and volunteers.
	[This section revised as a result of comments on the proposed rules and to consolidate supervision requirements in several proposed sections for clarity]
WAC 170-296A-5775 Licensee absence. (1) The licensee must have a written policy and procedure for staff to follow any time the licensee is absent from the child care. The policy and procedure must include, but is not limited to: (a) A staffing plan to include: (i) That qualified primary staff will be present and in charge at all times during the licensee's absence; (ii) Staff roles and responsibilities; (iii) How staff-to-child ratios will be met; and (iv) How staff will meet the individual needs of children in care; (b) How parents will be notified in writing of the licensee's absence; (c) Responsibility for meeting the requirements of this chapter and chapter 43.215 RCW; (d) Emergency contact information for the licensee; and (e) Licensee's expected outside work schedule if applicable. (2) The department must approve the licensee's plan. The department may require modifications to the proposed plan if it does not meet licensing requirements. (3) Prior to engaging in employment or ongoing activities outside of the child care home during child care hours the licensee must inform the department in writing.	**WAC 170-296A-5775 Licensee absence.** (1) The licensee must have a written policy and procedure for staff to follow any time the licensee is absent from the child care. The policy and procedure must include, but is not limited to: (a) A staffing plan to include: (i) That a qualified primary staff person will be present and in charge at all times during the licensee's absence; (ii) Staff roles and responsibilities; (iii) How staff-to-child ratios will be met; and (iv) How staff will meet the individual needs of children in care; (b) How parents will be notified in writing of the licensee's absence described in WAC 170-296A-5810(1), closures, or staffing changes; (c) Responsibility for meeting the requirements of this chapter and chapter 43.215 RCW; (d) Emergency contact information for the licensee; and (e) Licensee's expected outside work schedule if applicable. (2) Prior to engaging in outside employment or ongoing activities outside the child care during operating hours, the licensee must inform the department in writing. (3) The department must approve the licensee's policy and procedure for licensee absence. The department may require modifications to the proposed policy and procedure if it does not meet licensing requirements.
	[This section revised as a result of comments on the proposed rules and incorporates content from withdrawn WAC 170-296A-5900]

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WAC 170-296A-5800 Orientation for staff. The licensee must provide an orientation to all staff on licensing standards in this chapter, including the licensee's policies and procedures, and document when the training occurred and identify staff that received the training.	*The content of proposed WAC 170-296A-5800 merged with 5825.*
WAC 170-296A-5825 Licensee absence--Retraining for staff if standards are violated. If the department issues a facility license compliance agreement as a result of staff not following the licensing standards of this chapter in the licensee's absence, the licensee must: (1) Retrain the staff on the licensing standards in this chapter; and (2) Document that the retraining occurred.	**WAC 170-296A-5825 Licensee absence--Retraining for staff if standards are violated.** (1) The licensee must provide an orientation to all staff on licensing standards in this chapter, including the licensee's policies and procedures, and document when the training occurred and identify staff that received the training. (2) If the department issues a facility license compliance agreement as a result of staff not following the licensing standards of this chapter in the licensee's absence, the licensee must: (a) Retrain the staff on the licensing standards in this chapter; and (b) Document that the retraining occurred. *[This section revised to incorporate content from withdrawn WAC 170-296A-5800 for clarity]*
WAC 170-296A-5850 Licensee notice of absences. (1) The licensee must notify the department forty-eight hours prior to the following absences during child care hours: (a) Outside employment; (b) Vacation or absence exceeding seven consecutive days when the child care will remain open; or (c) Regularly scheduled absences during child care hours. (2) The licensee must inform the department of the following regarding the licensee's absence: (a) Time period of the absence; (b) Written plan including who will be left in charge of the child care; (c) Contact information for licensee; and (d) How parents will be informed prior to the absence.	**WAC 170-296A-5810 Licensee notice of absences.** (1) The licensee must notify the department forty-eight hours prior to the following absences when the absence is during child care hours: (a) Outside employment; (b) Vacation or absence exceeding seven consecutive days when the child care will remain open; or (c) Regular absences scheduled during child care hours. As used in this section, "regular absence" is an absence that is planned and reoccurring, and is more than four hours duration. (2) The licensee must inform the department of the following regarding the licensee's absence: (a) Time period of the absence; (b) Written plan including who will be left in charge of the child care. See WAC 170-296A-5775; (c) Contact information for licensee; and (d) How parents will be informed prior to the absence. *[This section renumbered as WAC 170-296A-5810 for more logical order. The definition of "regular absence" was added as a result of comments on the proposed rule. This definition was recommended by the negotiated rule making team]*
WAC 170-296A-5875 Notifying parents of closures, absences, staff changes. The licensee must notify parents in writing of: (1) Closures; (2) Licensee's potential absences; and (3) Staffing changes.	*[Proposed WAC 170-296A-5875 is withdrawn and its content incorporated into WAC 170-296A-5775]*
WAC 170-296A-5900 Notifying the licensor regarding the licensee's absence. The licensee or another person must notify the licensor:	*[Proposed WAC 170-296A-5900 is withdrawn and its content incorporated into WAC 170-296A-2275]*

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(1) Of the licensee's emergency absence, as soon as possible and not later than twenty-four hours after the start of the emergency absence; or (2) When the licensee's physical or mental health prevents the licensee from providing direct care as required by this chapter.	
WAC 170-296A-6000 Interactions with children. The licensee and staff members must: (1) Demonstrate positive interactions when children are present; (2) Interact with children through listening and responding to what the children have to say; (3) Be in frequent verbal communication with children in a positive, reinforcing, cheerful and soothing way. Explain actions, even to very young babies; (4) Treat each child with consideration and respect; (5) Appropriately hold, touch and smile at children; (6) Speak to the children at their eye level when possible and appropriate; (7) Be responsive to children, encouraging them to share experiences, ideas and feelings; (8) Respond to and investigate cries or other signs of distress immediately; (9) Perform age or developmentally appropriate nurturing activities that: (a) Take into consideration the parent's own nurturing practices; (b) Promote each child's learning self-help and social skills; and (c) Stimulate the child's development. (10) Provide each child opportunities for vocal expression. Adult voices must not always dominate the overall sound of the group.	**WAC 170-296A-6000 Interactions with children.** The licensee and staff members must: (1) Demonstrate positive interactions with children and other adults when children are present; (2) Interact with children through listening and responding to what the children have to say; (3) Be in frequent verbal communication with children in a positive, reinforcing, cheerful and soothing way. Explain actions, even to very young babies; (4) Treat each child with consideration and respect; (5) Appropriately hold, touch and smile at children; (6) Speak to the children at their eye level when possible and appropriate; (7) Be responsive to children, encouraging them to share experiences, ideas and feelings; (8) Respond to and investigate cries or other signs of distress immediately; (9) Perform age or developmentally appropriate nurturing activities that: (a) Take into consideration the parent's own nurturing practices; (b) Promote each child's learning self-help and social skills; and (c) Stimulate the child's development. (10) Provide each child opportunities for vocal expression; and (11) Adult voices must not always dominate the overall sound of the group. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-6025 Prohibited interactions. In the presence of the children in care the licensee and staff must not: (1) Use profanity, obscene language, "put downs," or cultural or racial slurs; (2) Have angry or hostile interactions; (3) Use name calling or make derogatory, shaming or humiliating remarks; or (4) Use or threaten to use any form of physical harm or inappropriate discipline, such as, but not limited to: (a) Spanking children; (b) Biting, jerking, kicking, hitting, or shaking; (c) Pulling hair; (d) Pushing, shoving or throwing a child; or	**WAC 170-296A-6025 Prohibited interactions.** In the presence of the children in care the licensee and staff must not or allow others to: (1) Use profanity, obscene language, "put downs," or cultural or racial slurs; (2) Have angry or hostile interactions; (3) Use name calling or make derogatory, shaming or humiliating remarks; or (4) Use or threaten to use any form of physical harm or inappropriate discipline, such as, but not limited to: (a) Spanking children; (b) Biting, jerking, kicking, hitting, or shaking; (c) Pulling hair; (d) Pushing, shoving or throwing a child; or

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(e) Inflicting pain or humiliation as a punishment.	(e) Inflicting pain or humiliation as a punishment.
	[This section revised as a result of comments on the proposed rules]
WAC 170-296A-6125 Preventing harmful or aggressive acts. The licensee and staff must: (1) Take steps to protect children from the harmful acts of other children; and (2) Immediately intervene when a child becomes physically aggressive.	**WAC 170-296A-6125 Harmful or aggressive acts of children.** The licensee and staff must: (1) Take steps to protect children from the harmful acts of other children; and (2) Immediately intervene when a child becomes physically aggressive.
	[The title of this section revised as a result of comments on the proposed rules]
WAC 170-296A-6150 Prohibited actions. The licensee, staff or a household member must not: (1) Restrict a child's breathing; (2) Deprive a child of: (a) Sleep, food, clothing or shelter; (b) Needed first aid; or (c) Required or emergency medical or dental care; (3) Interfere with a child's ability to take care of his or her own hygiene and toileting needs; or (4) Withhold hygiene care, toileting care or diaper changing to any child unable to provide such care for him or herself.	**WAC 170-296A-6150 Prohibited actions.** The licensee or staff must not or allow others to: (1) Restrict a child's breathing; (2) Deprive a child of: (a) Sleep, food, clothing, shelter, or physical activity; (b) Needed first aid; or (c) Required or emergency medical or dental care; (3) Interfere with a child's ability to take care of his or her own hygiene and toileting needs; or (4) Withhold hygiene care, toileting care or diaper changing to any child unable to provide such care for him or herself.
	[This section revised as a result of comments on the proposed rules]
WAC 170-296A-6250 Notice and documenting use of physical restraint. If physical restraint is used the licensee must: (1) Report use of physical restraint to the child's parent or guardian and the department as required under WAC 170-296A-2250; (2) Assess any incident of physical restraint to determine if the decision to use physical restraint and its application were appropriate; (3) Document the incident in the child's file; and (4) Develop a safety plan with the licensor if	**WAC 170-296A-6250 Notice and documenting use of physical restraint.** (1)If physical restraint is used the licensee must, within twenty four hours: (a) Report the use of physical restraint to the child's parent or guardian and the department as required under WAC 170-296A-2250; (b) Assess any incident of physical restraint to determine if the decision to use physical restraint and its application were appropriate; and (c) Document the incident in the child's file, including what happened before, during and after the child was

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required by the department.	restrained. (2) The licensee must develop a safety plan with the licensor if required by the department. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-6400 Off-site activities--Parent or guardian permission. The licensee must: (1) Have written permission from the parent or guardian prior to the child engaging in off-site activities. The written permission must be kept in the child's file. (2) Have a separate permission for activities that occur less often than once per calendar month. (3) Inform parents of planned off-site activities at least twenty-four hours before the activity.	**WAC 170-296A-6400 Off-site activities--Parent or guardian permission.** (1) The licensee must: (a) Have written permission from the parent or guardian prior to the child engaging in off-site activities. The written permission must be kept in the child's file. (b) Have a separate permission for activities that occur less often than once per calendar month. (2) For scheduled or unscheduled off-site activities that may occur more than once a month, the licensee must: (a) Have a signed parent or guardian permission on file for each child; and (b) Inform parents and guardians about how to contact the licensee when children are on an off-site activity. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-6450 Off-site activity--Emergency information and supplies. When on an off-site activity, the licensee must have available: (1) An emergency consent form for each child that includes: (a) Emergency contact information; (b) Permission to obtain medical treatment for the child in the event of a medical emergency; (c) A list of the child's allergies, if applicable; and (d) Permission to administer medications, if applicable. (2) A working cellular phone or other telecommunication device, and inform parents how to contact the licensee or staff; and (3) Emergency supplies, including: (a) A first aid kit; and (b) Each child's required medication or emergency medicine, if applicable	**WAC 170-296A-6450 Off-site activity--Emergency information and supplies.** When on an off-site activity, the licensee must have available: (1) An emergency consent form for each child that includes: (a) Emergency contact information; (b) Permission to obtain medical treatment for the child in the event of a medical emergency; (c) A list of the child's allergies, if applicable; (d) Permission to administer medications, if applicable; and (2) Emergency supplies, including: (a) A first aid kit; and (b) Each child's required medication or emergency medicine, if applicable. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-6575 Activities to promote child growth and development. The licensee must provide activities that support each child's growth and development including: (1) Social, emotional and self development; (2) Positive self concepts; (3) Language and literacy; (4) Physical development, including daily opportunities to develop the child's small and large muscles;	**WAC 170-296A-6575 Activities to promote child growth and development.** The licensee must provide activities that support each child's developmental stage including: (1) Social, emotional and self development; (2) Positive self concepts; (3) Language and literacy; (4) Physical development, including daily opportunities to develop the child's small and large muscles;

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(5) Spatial concepts (for example: size, position); and (6) Numeracy (counting and numbers).	(5) Spatial concepts (including but not limited to size or position); and (6) Numeracy (counting and numbers). *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-6600 Toys and play materials. The licensee must provide toys, objects, and other play materials that are: (1) Washable and clean; (2) Nonpoisonous; and (3) Large enough to avoid swallowing or choking for infants and toddlers, or children at those developmental levels.	**WAC 170-296A-6600 Toys and play materials.** The licensee must provide toys, objects, and other play materials that are: (1) Washable and clean; (2) Nonpoisonous or free of toxins; and (3) For infants, toddlers, or children at those developmental levels, large enough to avoid swallowing or choking. *[This section revised for clarity]*
WAC 170-296A-6625 Art materials. (1) All art materials used by children under the age of three must be labeled nontoxic. (2) Art materials without a nontoxic designation may be used by children age three years or older, and must be used under direct supervision and according to the manufacturer's label.	**WAC 170-296A-6625 Art materials.** (1) All prepackaged art materials used in the family home child care must be labeled "nontoxic" and as conforming to or meeting "ASTM D-4236." This does not apply to food items used as art materials, bulk paper, or items from the natural environment. (2) Infants, toddlers, and preschool age children must be closely supervised when using art materials. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-6650 Screen time. If the licensee or staff provide screen time for children in care, the screen time must: (1) Be developmentally and age appropriate; (2) Have child-appropriate content; and (3) Not have violent or adult content.	**WAC 170-296A-6650 Screen time.** If the licensee or staff provide screen time for children in care, the screen time must: (1) Be educational, and developmentally and age appropriate; (2) Have child-appropriate content; and (3) Not have violent or adult content. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-6725 Special needs accommodations. The provisions of this section apply to any requirement in this chapter. (1) The department may approve accommodations to requirements in these standards for the special needs of an individual child when: (a) The licensee submits to the department a written plan, signed by the parent or guardian, that describes how the child's needs will be met in the licensed child care; and (b) The licensee has supporting documentation of the child's special needs provided by a licensed or certified: (i) Physician or physician's assistant; (ii) Mental health professional; (iii) Education professional; (iv) Social worker with a bachelor's degree or higher degree with a specialization in the individual child's needs; or (v) Registered nurse or advanced registered nurse practitioner.	*[The entire content of this section was moved to 170-296A-0050 without change]*

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
(2) The documentation described in subsection (1) of this section must be in the form of an: (a) Individual education plan (IEP); (b) Individual health plan (IHP); or (c) Individual family plan (IFP). (3) The licensee's written plan and all documentation required under this section must be kept in the child's file and a copy submitted to the department. (4) See WAC 170-296A-5625 regarding supervision, capacity, and staff-to-child ratios for children with documented special needs.	
WAC 170-296A-6775 Diversity. The licensee must: (1) Provide an environment that reflects each child's daily life, family culture and language. (2) Describe or demonstrate to the licensor, or have a written plan for how: (a) The licensee will discuss with parents how the child care reflects that child's daily life and family's culture or language; and (b) The child care environment reflects the diversity in society.	**WAC 170-296A-6775 Diversity.** The licensee must: (1) Provide an environment that reflects each child's daily life, family culture and language, and the diversity in society. (2) Describe or demonstrate to the licensor, or have a written plan for how: (a) The licensee will discuss with parents how the child care reflects that child's daily life and family's culture or language; and (b) The child care environment reflects the diversity in society. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-6800 Rest periods. (1) The licensee must offer a daily supervised rest period for children. (2) The supervised rest period must be: (a) Offered to all children five years of age and younger who remain in care more than six hours; (b) Offered to any child who shows a need for rest; and (c) A minimum of thirty minutes but not more than two hours, unless the child is under twenty-four months old. (3) The licensee must: (a) Not force a child to sleep; (b) Provide quiet activities for the children who do not require rest. These activities must be offered with a minimum of disruption to sleeping children; and (c) Communicate with the parent or guardian about the child's sleep needs and patterns. (4) See WAC 170-296A-3725 through 170-296A-3825 regarding sleeping equipment and bedding requirements.	**WAC 170-296A-6800 Rest periods.** (1) The licensee must offer a daily supervised rest period for children. (2) The supervised rest period must be: (a) Offered to all children five years of age and younger who remain in care more than six hours per day; and (b) Offered to any child who shows a need for rest. (3) The licensee must: (a) Not force a child to sleep; (b) Provide quiet activities for the children who do not require rest. These activities must be offered with a minimum of disruption to sleeping children; (c) Communicate with the parent or guardian about the child's sleep needs and patterns; and (d) Allow infants and toddlers to follow individual sleep patterns. (4) See WAC 170-296A-3725 through 170-296A-3825 regarding sleeping equipment and bedding requirements. *[This section revised as a result of comments on the proposed rules]*

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-6850 Overnight care. If the licensee provides overnight child care: (1) The licensee or primary staff person must be awake until all children in care are asleep; (2) The licensee or a primary staff person must be on the same level of the home as the children in care; (3) The licensee or primary staff person must maintain required staff-to-child ratios; and (4) The daily schedule under WAC 170-296A-6550 must include evening or overnight care. See WAC 170-296A-3725 through 170-296A-3825 regarding sleeping equipment and bedding requirements. See WAC 170-296A-4400 and 170-296A-4425 regarding door alarms, night latches, deadbolts, and security chains.	**WAC 170-296A-6850 Overnight care.** The licensee must be approved by the department to provide overnight care. If the licensee provides overnight child care: (1) The licensee or primary staff person must be awake until all children in care are asleep; (2) The licensee or a primary staff person must be on the same level of the home as the children in care; (3) The licensee or primary staff person must maintain required staff-to-child ratios; and (4) The daily schedule under WAC 170-296A-6550 must include evening or overnight care. See WAC 170-296A-3725 through 170-296A-3825 regarding sleeping equipment and bedding requirements. See WAC 170-296A-4400 and 170-296A-4425 regarding door alarms, night latches, deadbolts, and security chains. *[This section is revised for clarity, adding cross references to related content]*
WAC 170-296A-7025 Infant "tummy time" positioning. When infants are awake, the licensee or staff must allow each infant tummy time daily. As used in this section, "tummy time" means placing the infant in a prone position, lying on his or her stomach.	**WAC 170-296A-7025 Infant "tummy time" positioning.** When infants are awake, the licensee or staff must allow each infant supervised tummy time at least three times daily. As used in this section, "tummy time" means placing the infant in a nonrestrictive prone position, lying on his or her stomach, when not in sleeping equipment *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-7050 Infant and toddler supervision. (1) The licensee or a primary staff person must be within sight and hearing of infants and toddlers in the licensed indoor or outdoor space, or during any off-site activity when infants or toddlers in care are present. (2) When infants or toddlers are indoors, the licensee or primary staff person must be within sight and hearing. The licensee or primary staff person may be in sight or hearing range for brief periods of time while the licensee or primary staff person attends to toileting, medical, or other personal needs on the premises. (3) A baby monitor or video monitor must not be used in place of direct supervision of children.	*[Proposed WAC 170-296A-7050 is withdrawn and its content incorporated into WAC170-296A-5750]*
WAC 170-296A-7075 Infant sleeping or napping. (1) The licensee must: (a) Provide and use a single level crib, toddler bed, playpen or other sleeping equipment for each infant or toddler in care that is safe and not subject to tipping. The equipment must be of a design approved for infants or toddlers by the U.S. Consumer Product Safety Commission (see WAC 170-296A-3760 regarding approved cribs). (b) Provide sleeping or napping equipment with clean, firm, and snug-fitting mattresses that do not have tears or holes or is repaired with tape.	**WAC 170-296A-7075 Infant and toddler sleeping or napping equipment.** (1) The licensee must: (a) Provide and use a single level crib, toddler bed, playpen or other sleeping equipment for each infant or toddler in care that is safe and not subject to tipping. The equipment must be of a design approved for infants or toddlers by the U.S. Consumer Product Safety Commission (see WAC 170-296A-7085 regarding approved cribs). (b) Provide sleeping or napping equipment with clean, firm, and snug-fitting mattresses that do not have tears or holes or is repaired with tape.

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
(c) Provide mattresses covered with waterproof material that is easily cleaned and sanitized. (i) If a bleach solution is used to sanitize, the solution must be one-quarter teaspoon of bleach to one quart of cool water. (ii) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. (d) Arrange sleeping equipment to allow staff access to children; (e) Remove sleeping children from car seats, swings or similar equipment; and (f) Consult with a child's parent or guardian before the child is transitioned from infant sleeping equipment to other approved sleeping equipment. (2) Children that may climb out of their sleeping equipment must be transitioned to an alternate sleeping surface. (3) If a crib with vertical slats is used, the slats must be spaced not more than two and three-eighths inches apart.	(c) Provide mattresses covered with waterproof material that is easily cleaned and sanitized. (i) If a bleach solution is used to sanitize, the solution must be three-quarters teaspoon of chlorine bleach to one quart of cool water. (ii) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. (d) Arrange sleeping equipment to allow staff access to children; (e) Remove sleeping children from car seats, swings or similar equipment; and (f) Consult with a child's parent or guardian before the child is transitioned from infant sleeping equipment to other approved sleeping equipment. (2) Children able to climb out of their sleeping equipment must be transitioned to an alternate sleeping surface. *[This section revised as a result of comments on the proposed rules]*
[Proposed WAC 170-296A-3670 is moved in its entirety to become WAC170-296A-7085, as described in the next column]	**WAC 170-296A-7085 Cribs.** In order to meet federal requirements, a licensee who uses a crib with children in care must comply with this section. (1) Effective December 28, 2012, each crib in use in licensed child care must meet U.S. Consumer Product Safety Commission (CPSC) requirements for full size cribs as defined in 16 Code of Federal Regulations (C.F.R.) 1219, or nonfull size cribs as defined in 16 C.F.R. 1220. (2) A crib meets the requirements of this section if the crib is labeled by the manufacturer as made on or after June 28, 2011. (3) A crib labeled as made from July 1, 2010, through June 27, 2011, may meet the requirements of this section if the licensee has obtained a certificate of compliance from the crib manufacturer or importer, or the licensee has other documentation from the manufacturer that the crib is certified as meeting the CPSC regulations. (4) Any crib that does not meet the requirements of subsection (2) or (3) of this section must be removed from the child care facility not later than December 28, 2012. (5) The licensee must keep in the licensed space a log documenting that each crib in use meets the requirements of this section.

Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-7100 Infant supervision--Procedures to reduce the risk of sudden infant death syndrome (SIDS). To reduce the risk of sudden infant death syndrome (SIDS), the licensee or staff must: (1) Place an infant to sleep on his or her back. If the infant has turned over while sleeping, the infant does not need to be returned to his or her back; (2) Place an infant in sleeping equipment that has a snug-fitting mattress and a tight-fitting sheet; (3) Not allow soft fluffy bedding, stuffed toys, pillows, crib bumpers and similar items in the infant sleeping equipment; (4) Not cover an infant's head and face during sleep; (5) Take steps so infants do not get too warm during sleep; and (6) Place the infant in another sleeping position other than on their backs if required by a written directive or medical order from the infant's health care provider. This directive or medical order must be in the infant's file.	**WAC 170-296A-7100 Infant care--Procedures to reduce the risk of sudden infant death syndrome (SIDS).** To reduce the risk of sudden infant death syndrome (SIDS), the licensee or staff must: (1) Place an infant to sleep on his or her back. If the infant has turned over while sleeping, the infant does not need to be returned to his or her back; (2) Place an infant in sleeping equipment that has a clean, firm, and snug-fitting mattress and a tight-fitting sheet; (3) Not allow soft fluffy bedding, stuffed toys, pillows, crib bumpers and similar items in the infant sleeping equipment, or allow a blanket to cover or drape over the sleeping equipment; (4) Not cover an infant's head and face during sleep; (5) Take steps so infants do not get too warm during sleep. If a blanket is used, it must be lightweight and be placed no higher than the infant's chest with the infant's arms free; and (6) Not place the infant in another sleeping position other than on their backs, or use a sleep positioning device unless required by a written directive or medical order from the infant's health care provider. This directive or medical order must be in the infant's file. *[This section revised as a result of comments on the proposed rule]*
WAC 170-296A-7125 Infant bottles. The licensee must: (1) If heating a bottle, heat the bottle in warm water that is not warmer than one hundred twenty degrees Fahrenheit; (2) Not use a microwave oven to warm the contents of a bottle; (3) Clean and sanitize bottles and nipples before each use; (4) Keep bottle nipples covered if bottles are prepared ahead, and label the bottle with the date it was prepared; (5) Not allow infants to share bottles or infant cups; (6) Have a method to identify the individual child's bottle or cup; (7) Keep the contents of a child's bottle inaccessible to other children; and (8) Throw away milk (except breast milk) or formula if it has been sitting at room temperature for more than one hour.	**WAC 170-296A-7125 Infant bottles.** The licensee must: (1) Use glass bottles or use plastic bottles labeled with "1," "2," "4," or "5" on the bottle. A plastic bottle must not contain the chemical bisphenol-A or phthalates. (2) If heating a bottle, heat the bottle in warm water that is not more than one hundred twenty degrees Fahrenheit; (3) Not use a microwave oven to warm the contents of a bottle; (4) Clean bottles and nipples before each use, only with warm soapy water and a bottlebrush, or in a dishwasher; (5) Keep bottle nipples covered if bottles are prepared ahead, and label the bottle with the date it was prepared; (6) Not allow infants to share bottles or infant cups; (7) Have a method to identify the individual child's bottle or cup; (8) Keep the contents of a child's bottle inaccessible to other children; and (9) Throw away milk, breast milk, or formula if it has been sitting at room temperature for more than one hour. *[This section revised as a result of comments on the proposed rule]*

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-7150 Breast milk. When breast milk is provided for a child, the licensee must: (1) Label the contents with the child's name and date the milk was brought to the child care; (2) Store frozen breast milk at ten degrees Fahrenheit or less; (3) Thaw breast milk in the refrigerator, under warm running water, or in warm water that is not warmer than one hundred twenty degrees Fahrenheit; (4) Never thaw or heat breast mild in a microwave oven or on the stove; (5) Keep frozen breast milk for no more than two weeks; and (6) Use frozen breast milk within twenty-four hours after thawing; and (7) Throw away breast milk if it has been sitting at room temperature for more than two hours.	**WAC 170-296A-7150 Breast milk.** When breast milk is provided for a child, the licensee must: (1) For breast milk to be used on the day received, refrigerate and label the breast milk container; (2) If the breast milk is to be frozen, label the container with the child's name and date the milk was brought to the child care. The licensee must: (a) Store frozen breast milk at ten degrees Fahrenheit or less; (b) Keep frozen breast milk not more than two weeks; (c) Use frozen breast milk within twenty-four hours after thawing; (d) Thaw breast milk in the refrigerator, under warm running water, or in a container with warm water that is not more than one hundred twenty degrees Fahrenheit; and (e) Never thaw or heat breast milk in a microwave oven or on the stove. *[This section revised as a result of comments on the proposed rule]*
WAC 170-296A-7175 Bottle feeding infants. (1) When bottle feeding, the licensee or staff must: (a) Test the bottle contents before feeding, to avoid scalding or burning the infant's mouth; (b) Hold infants when bottle feeding; (c) Not prop bottles when feeding an infant; and (d) Not give a bottle or cup to an infant who is lying down. (2) When an infant can hold his or her own bottle, the licensee or staff must: (a) Place the infant in a semi-reclining or upright position during bottle feeding; and (b) Be in the same room within visual range of the infant during feeding. (3) The licensee or staff must take the bottle from the infant when the child finishes feeding.	**WAC 170-296A-7175 Bottle feeding infants.** (1) When bottle feeding, the licensee or staff must: (a) Test the bottle contents before feeding, to avoid scalding or burning the infant's mouth; (b) Hold infants when the infant is unable to hold his or her bottle; (c) Not prop bottles when feeding an infant; (d) Not give a bottle or cup to an infant who is lying down; (e) Feed infants on demand or based on the parent or guardian's recommended feeding schedule; (f) Stop feeding the infant when he or she shows signs of fullness; and (g) Not add medication, cereal, supplements, or sweeteners to the contents of the bottle unless prescribed by a health care provider. (2) When an infant can hold his or her own bottle, the licensee or staff: (a) May hold the infant or place the infant in a semi-reclining or upright position during bottle feeding; and (b) Must be in the same room within visual range of the infant during feeding. (3) The licensee or staff must take the bottle from the infant when the child finishes feeding. *[This section revised as a result of comments on the proposed rule]*

Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-7200 Feeding solid food to infants. (1) The licensee must consult with and have approval from an infant's parent or guardian before introducing solid food to the infant. (2) When serving infants solid food the licensee or staff must: (a) Sit the infant in a semi-reclining or upright position; (b) Not allow infants to share the same dish or utensil; (c) Stir and test for safe temperature after heating food and before serving; (d) Throw away any uneaten food from the serving container; (e) Serve solid food by utensil or let the child feed themselves; and (f) Feed the infant on demand unless the parent or guardian gives written instructions for an alternative feeding schedule.	**WAC 170-296A-7200 Feeding solid food to infants.** (1) The licensee must consult with and have approval from an infant's parent or guardian before introducing solid food to an infant. (2) When serving infants solid food the licensee or staff must: (a) Hold or sit the infant in a semi-reclining or upright position; (b) Not allow infants to share the same dish or utensil; (c) Stir and test for safe temperature after heating food and before serving; (d) Throw away any uneaten food from the serving container; (e) Serve solid food by utensil or let the child feed themselves; and (f) Feed the infant when hungry unless the parent or guardian gives written instructions for an alternative feeding schedule, and stop feeding when the infant shows signs of fullness. *[This section revised as a result of comments on the proposed rule]*
WAC 170-296A-7250 Diapering and toileting. (1) The licensee must provide a diaper changing area that is separate from any area where food is stored, prepared or served. (2) The diaper changing area must: (a) Have a sink with hot and cold running water close to the diaper changing area. The sink must not be used for food preparation and clean up; (b) Have a sturdy, easily cleanable mat with a surface large enough to prevent the area underneath from being contaminated with bodily fluids; and (c) Be cleaned and sanitized between each use: (i) If a bleach solution is used to sanitize, the solution must be one tablespoon of bleach to one quart of cool water; (ii) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. (3) A nonabsorbent, disposable covering that is discarded after each use may be used on the diaper changing mat.	**WAC 170-296A-7250 Diapering and toileting.** (1) The licensee must provide a diaper changing area that is separate from any area where food is stored, prepared or served. (2) The diaper changing area must: (a) Have a sink with hot and cold running water close to the diaper changing area. The sink must not be used for food preparation and clean up; (b) Have a sturdy surface or mat that is: (i) Not torn or repaired with tape; (ii) Easily cleanable; (iii) Waterproof; and (iv) Large enough to prevent the area underneath from being contaminated with bodily fluids. (3) The diapering area must be cleaned and disinfected between each use. (a) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one quart of cool water. (b) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. (4) A nonabsorbent, disposable covering that is discarded after each use may be used on the diaper changing mat. (5) The diaper changing surface must be free of all other items not used in diapering the child. *[This section revised as a result of comments on the proposed rule]*

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-7275 Diaper disposal. (1) The licensee must provide a container specifically for diaper disposal that is not used for other household trash. The diaper disposal container must: (a) Have a tight cover; (b) Be lined with a disposable plastic trash bag; and (c) Be within arm's reach of the diaper changing area. (2) If disposable diapers are used, the diaper disposal container must be emptied to the outside garbage can or container daily. (3) If cloth diapers are used, the diapers must be: (a) Kept in the diaper disposal container until picked up by the diaper service; or (b) Placed in a securely closed plastic bag and sent home with the child daily.	**WAC 170-296A-7275 Diaper disposal.** (1) The licensee must provide a container specifically for diaper and diapering supply disposal that is not used for other household trash. The diaper disposal container must: (a) Have a tight cover; (b) Be lined with a disposable plastic trash bag; and (c) Be within arm's reach of the diaper changing area. (2) If disposable diapers are used, the diaper disposal container must be emptied to the outside garbage can or container daily. (3) If cloth diapers are used, the diapers must: (a) Not be rinsed; and (b)(i) Be kept in the diaper disposal container until picked up by the diaper service; or (ii) Placed in a securely closed plastic bag and sent home with the child daily. (4) If soiled diapers are sent home they must be kept in a separate closed container used only for diapers and not placed with the child's other belongings. *[This section revised as a result of comments on the proposed rule]*
WAC 170-296A-7300 Diaper changing. (1) The licensee or staff must: (a) Check diapers at least every two hours; (b) Change the diaper when necessary, or whenever the child indicates discomfort; (c) Attend to the child at all times when diapering a child; (d) Not rinse soiled diapers; and (e) Place soiled diapers directly into a diaper waste container. (2) Diapers used must be: (a) Disposable; or (b) Cloth diapers supplied by a commercial diaper service; or (c) Reusable cloth diapers supplied by the child's family. (3) When cloth diapers are used a washable barrier must be used between the diaper and the child's clothes. (4) The licensee or staff must wash their hands and the child's hands immediately after diapering a child.	**WAC 170-296A-7300 Diaper changing.** (1) The licensee or staff must: (a) Check diapers at least every two hours; (b) Change the diaper when necessary, or whenever the child indicates discomfort; (c) Attend to the child at all times when diapering a child; (d) Not rinse soiled diapers; and (e) Place soiled diapers directly into a diaper waste container. (2) Diapers used must be: (a) Disposable; or (b) Cloth diapers supplied by a commercial diaper service; or (c) Reusable cloth diapers supplied by the child's family. (3) When cloth diapers are used, a waterproof, washable barrier must be used between the diaper and the child's clothes. (4) The licensee or staff must wash their hands before and after diapering, and wash the child's hands immediately after diapering the child. Baby wipes may be used to wash the child's hands. *[This section revised as a result of comments on the proposed rule]*

Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-7375 Potty chairs or modified toilet seats. (1) When potty chairs are used, the licensee or staff must immediately after each use: (a) Empty the potty chair into the toilet; and (b) Clean and sanitize the potty chair. (2) The floor under the potty chairs must be made of a material that is resistant to moisture. (3) When a modified toilet seat is used, it must be cleaned and sanitized daily or more often when soiled. (4)(a) If a bleach solution is used to sanitize, the solution must be one tablespoon of bleach to one quart of cool water; (b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.	**WAC 170-296A-7375 Potty chairs or modified toilet seats.** (1) When potty chairs are used, the licensee or staff must immediately after each use: (a) Empty the potty chair into the toilet; and (b) Clean and disinfect the potty chair. (2) The floor under the potty chairs must be made of a material that is resistant to moisture. (3) When a modified toilet seat is used, it must be cleaned and disinfected daily or more often when soiled. (4)(a) If a bleach solution is used to disinfect, the solution must be one tablespoon of chlorine bleach to one quart of cool water; (b) If another disinfectant product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. (5) If a sink or basin is used to clean a potty chair or modified toilet seat, the sink or basin must be cleaned and disinfected afterwards. *[This section revised as a result of comments on the proposed rule]*
WAC 170-296A-7500 Food must meet USDA guidelines. The licensee must provide meals and snack foods to children in care according to the March 2007 edition of the U.S. Department of Agriculture (USDA) - creditable food guide, child and adult care food program charts for the ages of children in the licensee's care. The food program charts are available on-line at http://www.k12.wa.us/ChildNutrition/pubdocs/CreditableFoodsGuideMAR2007FINAL.pdf.	**WAC 170-296A-7500 Food must meet USDA guidelines.** The licensee must provide meals and snack foods to children in care according to the current edition of the U.S. Department of Agriculture (USDA) - Child and adult care food program (CACFP) charts for the ages of children in the licensee's care. *[This section revised as a result of comments on the proposed rule]*
WAC 170-296A-7525 Parent or guardian-provided food. (1) A parent or guardian may provide alternative food for their child if a written food plan is completed and signed by the parent or guardian and the licensee. This written food plan includes accommodations for: (a) The child's medical needs; (b) Special diets; (c) Religious or cultural preference; or (d) Family preference. (2) The licensee must supplement the food provided by the parent or guardian with foods listed in the USDA creditable food guide foods if the food provided by the parent or guardian does not meet the nutritional needs of the child.	**WAC 170-296A-7525 Parent or guardian-provided food.** (1) A parent or guardian may provide alternative food for their child if a written food plan is completed and signed by the parent or guardian and the licensee. (2) A written food plan is not required for infant formula, breast milk or baby food supplied by the child's parent or guardian. (3) A written food plan may include accommodations for: (a) The child's medical needs; (b) Special diets; (c) Religious or cultural preference; or (d) Family preference. (4) The licensee must supplement the food provided by the parent or guardian with foods listed in the USDA CACFP requirements if the food provided by the parent or guardian does not meet the nutritional needs of the child. *[This section revised as a result of comments on the proposed rule]*

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Rule proposed as WSR 11-09-081 on April 20, 2011	Final rule as adopted
WAC 170-296A-7600 Serving milk. The licensee must serve milk according to the ages of the children in care. The licensee is responsible to serve: (1) Breast milk or formula to children from birth to twelve months old, or until the parent or guardian is ready for their child to be served whole pasteurized milk. (2) Whole pasteurized milk to children from twelve months through twenty-four months old if the child is ready to be served whole milk. (3) Pasteurized milk or pasteurized milk product to children over twenty-four months old.	**WAC 170-296A-7600 Serving milk.** (1) The licensee must serve milk according to the ages of the children in care. The licensee is responsible to serve: (a) Breast milk or formula to children from birth to twelve months old. The parent or guardian may request breast milk or formula be served to their child after the child turns twelve months of age. (b) Whole pasteurized milk to children from twelve months through twenty-four months old if the child is ready to be served whole milk. (c) Pasteurized milk or pasteurized milk product to children over twenty-four months old. (2) Variations of subsection (1)(a), (b), or (c) of this section require a written statement from the child's health provider. *[This section revised as a result of comments on the proposed rule]*
WAC 170-296A-7625 Meal and snack schedule. The licensee must offer meals and snacks to the children at intervals of at least two hours apart and no more than three hours unless the child is asleep.	**WAC 170-296A-7625 Meal and snack schedule.** (1) The licensee must offer meals and snacks to the children in care at intervals of at least two hours apart and no more than three hours unless the child is asleep. (2) The licensee must offer a snack to children arriving from school. *[This section revised as a result of comments on the proposed rule]*
WAC 170-296A-7650 Serving foods. (1) The licensee or staff may: (a) Serve each child individually; or (b) Serve family style in serving containers that allow each child the opportunity to serve themselves. (2) The licensee or staff must: (a) Stir and test for safe temperature any heated food before serving; (b) Closely supervise all children when eating; (c) Not force or shame a child to eat or try any food; (d) Not punish a child for refusing to try or eat foods; (e) Serve meals in a safe and sanitary manner and be respectful of each child's cultural food practices; and (f) Sit with children during meals when possible.	**WAC 170-296A-7650 Serving foods.** (1) The licensee or staff may: (a) Serve each child individually; or (b) Serve family style in serving containers that allow each child the opportunity to serve themselves. (2) The licensee or staff must: (a) Stir and test for safe temperature any heated food before serving; (b) Closely supervise all children when eating; (c) Not force or shame a child to eat or try any food; (d) Not punish a child for refusing to try or eat foods; (e) Serve meals in a safe and sanitary manner; (f) Be respectful of each child's cultural food practices; and (g) Sit with children during meals when possible. *[This section revised as a result of comments on the proposed rule]*
WAC 170-296A-7675 Food handler permits. (1) New license applicants must obtain a current state food handler permit prior to being licensed. (2) By (one year after the effective date of this section) every licensee must obtain and maintain a current state food handler permit. (3) When the licensee is not present, one staff person with a current state food handler permit must be	**WAC 170-296A-7675 Food handler permits.** (1) New license applicants must obtain a current state food handler permit prior to being licensed. (2) By March 31, 2013, every licensee must obtain and maintain a current state food handler permit. (3) When the licensee is not present, one staff person with a current state food handler permit must be present whenever food is prepared or served to children in care.

Note: In many instances, the Department received several similar or identical comments on particular WAC sections or topics. As allowed under RCW 34.05.325, this response combines or summarizes similar input where appropriate. The verbatim written comments and public hearing testimony on the proposed rules are on file at DEL as part of the official rule making file.

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present whenever food is prepared or served to children in care. (4) The licensee must keep a copy of each individual's food handler permit on file.	(4) The licensee or staff person with a current state food handler permit must prepare or supervise preparation of all food served to children in care. (5) The licensee must keep a copy of each individual's food handler permit on file. *[This section revised as a result of comments on the proposed rule, and to establish a date for existing licensees to obtain a food handler's permit]*
WAC 170-296A-7680 Safe food handling. (1) The licensee and staff must follow the safe food storage, preparation, cooking, holding proper temperature, and serving guidelines in the current edition of the food workers manual prepared by the state department of health. (2) The licensee and staff must: (a) Wash their hands prior to preparing food and after handling raw meats, poultry, or fish; and (b) Not prepare food when ill with vomiting or diarrhea.	**WAC 170-296A-7680 Safe food handling.** (1) The licensee and staff must follow the safe food storage, preparation, cooking, holding proper temperature, and serving guidelines in the current edition of the food workers manual prepared by the state department of health. (2) The licensee and staff must: (a) Wash their hands as required under WAC 170-296A-3675; and (b) Not prepare food when ill with vomiting or diarrhea. *[This section revised as a result of comments on the proposed rule and for clarity]*
WAC 170-296A-7700 Washing dishes. The licensee or staff must wash dishes thoroughly after each use by one of the following methods: (1) Automatic dishwasher; or (2) Handwashing method, by emersion in hot soapy water, rinse, sanitize and air dry: (a) If a bleach solution is used to sanitize, the solution must be one teaspoon of bleach to one gallon of cool water; (b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.	**WAC 170-296A-7700 Washing dishes.** The licensee or staff must wash dishes thoroughly after each use by one of the following methods: (1) Automatic dishwasher, using the sanitizing cycle if available; or (2) Handwashing method, by emersion in hot soapy water, rinse, sanitize and air dry: (a) If a bleach solution is used to sanitize, the solution must be three-quarters teaspoon of chlorine bleach to one gallon of cool water; (b) If another sanitizer product is used, it must be labeled as approved for food contact surfaces and be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. *[This section revised as a result of comments on the proposed rule]*
WAC 170-296A-7725 Food containers and utensils. (1) The licensee must not use or allow plastic containers to be used to cook or reheat food in a microwave oven, unless the container is certified by the manufacturer as made without the chemical bisphenol-A. (2) The licensee may use disposable serving containers, dishes and utensils that are sturdy, used only once and thrown away after use. (3) The licensee must keep sharp utensils and other utensils that may cause serious injury or a choking hazard inaccessible to children when the utensils are not in use. (4) The licensee must not serve food to infants or toddlers using polystyrene (styrofoam) cups, bowls and plates.	**WAC 170-296A-7725 Food containers and utensils.** (1) The licensee must not use or allow cookware containers to be used to cook or reheat food in a microwave oven, unless the container is labeled by the manufacturer as "for microwave use," "microwave safe," or similar labeling. (2) The licensee may use disposable serving containers, dishes and utensils that are sturdy, used only once and thrown away after use. (3) The licensee must keep sharp utensils and other utensils that may cause serious injury or a choking hazard inaccessible to children when the utensils are not in use. (4) The licensee must not serve food to infants or toddlers using polystyrene foam (commonly known as styrofoam) cups, bowls and plates.

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	[This section revised as a result of comments on the proposed rule]
WAC 170-296A-7750 Food preparation area. (1) The licensee or staff must clean and sanitize food preparation and eating surfaces before and after use. The licensee's food preparation area must: (a) Have surfaces that are free of cracks and crevices; and (b) Have a floor area made of a material that is resistant to moisture. (2) The licensee must not allow pets in the food preparation area while food is being prepared or served. (3) The licensee may use the kitchen for other child care activities provided there is continual supervision of the children. (4)(a) If a bleach solution is used to sanitize surfaces, the solution must be one teaspoon of bleach to one gallon of cool water; (b) If another sanitizer product is used, it must be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry.	**WAC 170-296A-7750 Food preparation area.** (1) The licensee or staff must clean and sanitize food preparation and eating surfaces before and after use. The licensee's food preparation area must: (a) Have surfaces that are free of cracks and crevices; and (b) Have a floor area made of a material that is resistant to moisture. (2) The licensee must not allow pets in the food preparation area while food is being prepared or served. (3) The licensee may use the kitchen for other child care activities provided there is continual supervision of the children. (4)(a) If a bleach solution is used to sanitize surfaces, the solution must be one tablespoon of chlorine bleach to one gallon of cool water; (b) If another sanitizer product is used, it must be labeled as approved for food contact surfaces and be used strictly according to manufacturer's label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry. *[This section revised as a result of comments on the proposed rule]*
WAC 170-296A-8050 Civil monetary penalties (fines). A civil monetary penalty (fine) may be imposed when the licensee violates a rule in this chapter or a requirement in chapter 43.215 RCW. (1) A fine of seventy-five dollars per day may be imposed for each violation. (2) The fine may be assessed and collected with interest for each day a violation occurs. (3) A fine may be imposed in addition to other action taken against the license including probation, suspension, revocation or denial of a license renewal. (4) At the department's discretion, the fine may be withdrawn or reduced if the licensee comes into compliance during the notification period in WAC 170-296A-8075. (5) When a fine is assessed the licensee has the right to a hearing under chapter 170-03 WAC. The fine notice will include information about the licensee's hearing rights and how to request a hearing.	**WAC 170-296A-8050 Civil monetary penalties (fines).** A civil monetary penalty (fine) may be imposed when the licensee violates a rule in this chapter or a requirement in chapter 43.215 RCW. (1) A fine of one hundred fifty dollars per day may be imposed for each violation. (2) The fine may be assessed and collected with interest for each day a violation occurs. (3) A fine may be imposed in addition to other action taken against the license including probation, suspension, revocation or denial of a license renewal. (4) At the department's discretion, a fine may be withdrawn or reduced if the licensee comes into compliance during the notification period in WAC 170-296A-8075. (5) When a fine is assessed the licensee has the right to a hearing under chapter 170-03 WAC. The fine notice will include information about the licensee's hearing rights and how to request a hearing. *[This section revised consistent with 2011 Senate Bill 5504]*
WAC 170-296A-8125 Failure to pay a fine--Department action. If the licensee fails to pay a fine within twenty-eight calendar days after the fine assessment becomes final the department may suspend, revoke or not renew the license.	**WAC 170-296A-8125 Failure to pay a fine--Department action.** If the licensee fails to pay a fine within twenty-eight calendar days after the fine assessment becomes final the department may suspend, revoke or not continue the license. *[This section revised consistent with other changes in the rules to implement 2011 Senate Bill 5625]*

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WAC 170-296A-8150 Denial, suspension, revocation or modification of a license. A license may be denied, suspended, modified or revoked when the licensee fails to comply with the requirements in this chapter or any provisions of chapter 43.215 RCW.	**WAC 170-296A-8150 Denial, suspension, revocation, modification, or noncontinuation of a license.** A license may be denied, suspended, modified, revoked, or not continued when the licensee fails to comply with the requirements in this chapter or any provisions of chapter 43.215 RCW. *[This section revised consistent with other changes in the rules to implement 2011 Senate Bill 5625]*
WAC 170-296A-8175 Violations that will result in enforcement action. The department will deny, suspend or revoke a license when: (1) The licensee is unable to provide the required care for the children in a way that promotes their health, safety and well-being; (2) The licensee is disqualified under chapter 170-06 WAC (DEL background check rules); (3) The licensee or household member has been found to have committed child abuse or child neglect; (4) The licensee has been found to allow staff or household members to commit child abuse or child neglect; or (5) The licensee has a current charge or conviction for a disqualifying crime under WAC 170-06-0120.	**WAC 170-296A-8175 Violations--Enforcement action.** The department may deny, suspend, revoke, or not continue a license when: (1) The licensee is unable to provide the required care for the children in a way that promotes their health, safety and well-being; (2) The licensee is disqualified under chapter 170-06 WAC (DEL background check rules); (3) The licensee or household member has been found to have committed child abuse or child neglect; (4) The licensee has been found to allow staff or household members to commit child abuse or child neglect; (5) The licensee has a current charge or conviction for a disqualifying crime under WAC 170-06-0120; (6) There is an allegation of child abuse or neglect against the licensee, staff, or household member; (7) The licensee fails to report to DSHS children's administration intake or law enforcement any instances of alleged child abuse or child neglect; (8) The licensee tries to obtain or keep a license by deceitful means, such as making false statements or leaving out important information on the application; (9) The licensee commits, permits or assists in an illegal act at the child care premises; (10) The licensee uses illegal drugs or alcohol in excess, or abuses prescription drugs; (11) The licensee knowingly allowed a staff or household member to make false statements on employment or background check application related to their suitability or competence to provide care; (12) The licensee fails to provide the required level of supervision for the children in care; (13) The licensee cares for more children than the maximum number stated on the license; (14) The licensee refuses to allow department authorized staff access during child care operating hours to: (a) Requested information; (b) The licensed space; (c) Child, staff, or program files; or (d) Staff or children in care. (15) The licensee is unable to manage the property, fiscal responsibilities or staff in the facility; (16) The licensee cares for children outside the ages

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	stated on the license; (17) A staff person or a household member residing in the licensed home is disqualified under chapter 170-06 WAC (DEL background check rules); (18) The licensee, staff person, or household member residing in the licensed home has a current charge or conviction for a crime described in WAC 170-06-0120; (19) A household member residing in the licensed home had a license to care for children or vulnerable adults denied or revoked; (20) The licensee does not provide the required number of qualified staff to care for the children in attendance; or (21) The department is in receipt of information that the licensee has failed to comply with any requirement described in WAC 170-296A-1420.
	[This section revised to incorporate the content of withdrawn - WAC 170-296A-8200]
WAC 170-296A-8200 Violations or conditions that may result in enforcement action. The department may deny, suspend or revoke a license when: (1) There is an allegation of child abuse or neglect against the licensee, staff, or household member; (2) The licensee fails to report to DSHS children's administration intake or law enforcement any instances of alleged child abuse or child neglect; (3) The licensee tries to obtain or keep a license by deceitful means, such as making false statements or leaving out important information on the application; (4) The licensee commits, permits or assists in an illegal act at the child care premises; (5) The licensee uses illegal drugs, alcohol in excess, or abuses prescription drugs; (6) The licensee knowingly allowed a staff or household member to make false statements on employment or background check application related to their suitability or competence to provide care; (7) The licensee fails to provide the required level of supervision for the children in care; (8) The licensee cares for more children than the maximum number stated on the license; (9) The licensee refuses to allow department authorized staff access during child care operating hours to: (a) Requested information; (b) The licensed space; (c) Child, staff, or program files; or (d) Staff and children in care. (10) The licensee is unable to manage the property, fiscal responsibilities or staff in the facility; (11) The licensee cares for children outside the ages stated on the license;	*[Proposed WAC 170-296A-8200 is withdrawn and it content incorporated, with revisions for clarity, into WAC 170-2961A-8175]*

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(12) A staff person or a household member residing in the licensed home is disqualified under chapter 170-06 WAC (DEL background check rules); (13) The licensee, staff person, or household member residing in the licensed home has a current charge or conviction for a crime described in WAC 170-06-0120; (14) A household member residing in the licensed home had a license to care for children or vulnerable adults denied or revoked; (15) The licensee does not provide the required number of qualified staff to care for the children in attendance; or (16) The department is in receipt of information that the licensee has failed to comply with any requirement described in WAC 170-296A-1420.	
WAC 170-296A-8250 Probationary license. A probationary license as provided in RCW 43.215.290 may be issued as part of a corrective action plan.	**WAC 170-296A-8250 Probationary license.** A probationary license may be issued to a licensee operating under a nonexpiring full license as part of a corrective action plan. The department refers the licensee for technical assistance as provided in RCW 43.215.290 prior to issuing a probationary license. *[This section is revised consistent with 2011 Senate Bill 5625]*
WAC 170-296A-8275 Probationary license--Cause. A department decision to issue a probationary license must be based on the following: (1) Negligent or intentional noncompliance with the licensing rules; (2) A history of noncompliance with the licensing rules; (3) Current noncompliance with the licensing rules; or (4) Any other factors relevant to the specific situation.	**WAC 170-296A-8275 Probationary license--Cause.** A department decision to issue a probationary license must be based on the following: (1) Negligent or intentional noncompliance with the licensing rules; (2) A history of noncompliance with the licensing rules; (3) Current noncompliance with the licensing rules; or (4) Any other factors relevant to the specific situation and consistent with the intent or purpose of chapter 43.215 RCW. *[This section revised as a result of comments on the proposed rules]*
WAC 170-296A-8300 Issuing a probationary license. When the department issues a probationary license, the licensee must: (1) Provide the parents and guardians of enrolled children notice of the probationary license in a department approved format within five working days of the licensee receiving the probationary license; (2) Provide documentation to the department that parents or guardians of enrolled children have been notified; (3) Inform new parent or guardians of the probationary status before enrolling new children; (4) Post documentation of the approved written probationary license as required by RCW 43.215.525; and (5) Return the licensee's full license to the	**WAC 170-296A-8300 Issuing a probationary license.** When the department issues a probationary license, the licensee must: (1) Provide the parents and guardians of enrolled children notice of the probationary license in a department approved format within five working days of the licensee receiving the probationary license; (2) Provide documentation to the department that parents or guardians of enrolled children have been notified; (3) Inform new parents or guardians about the probationary status before enrolling new children; (4) Post documentation of the approved written probationary license as required by RCW 43.215.525; and (5) Return the licensee's nonexpiring full license to the department.

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department.	*[Subsection (5) is revised consistent with related changes in other rules implementing 2011 Senate Bill 5625]*
WAC 170-296A-8325 Refusing a FLCA or probationary license. (1) The licensee has the right to: (a) Refuse or refuse to sign a facility licensing compliance agreement; or (b) Refuse to agree to a probationary license. (2) Refusing a facility license compliance agreement or probationary license may result in one of the following enforcement actions: (a) Modification of the license; (b) Denial of a renewal license; (c) Suspension of the license; or (d) Revocation of the license.	**WAC 170-296A-8325 Refusing a FLCA or probationary license.** (1) The licensee has the right to: (a) Refuse or refuse to sign a facility licensing compliance agreement; or (b) Refuse to agree to a probationary license. (2) Refusing a facility license compliance agreement or probationary license may result in one of the following enforcement actions: (a) Modification of the license; (b) Noncontinuation of a nonexpiring full license; (c) Suspension of the license; or (d) Revocation of the license. *[Subsection (2)(b) is revised consistent with related changes in other rules implementing 2011 Senate Bill 5625]*
WAC 170-296A-8350 Providing unlicensed care--Notice. (1) If the department determines that an individual is providing unlicensed child care in his or her home, the department will send the individual written notice within ten calendar days to explain: (a) Why the department suspects that the individual is providing child care without a license; (b) That a license is required and why; (c) That the individual must immediately stop providing child care; (d) That if the individual wishes to obtain a license, within thirty calendar days from the date of the department's notice in this subsection (1) the individual must submit a written agreement, on a department form, stating that he or she agrees to: (i) Attend the next available department child care licensing orientation; and (ii) Submit a child care licensing application after completing orientation; and (e) That the department has the authority to issue a fine of (the dollar amount provided in law) per day for each day that the individual continues to provide child care without a license. (2) The department's written notice in subsection (1) of this section must inform the individual providing unlicensed child care: (a) How to respond to the department; (b) How to apply for a license; (c) How a fine, if issued, may be suspended or withdrawn if the individual applies for a license; (d) That the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and (e) How to ask for a hearing. (3) If an individual providing unlicensed child care	**WAC 170-296A-8350 Providing unlicensed care--Notice.** (1) If the department determines that an individual is providing unlicensed child care in his or her home, the department will send the individual written notice within ten calendar days to explain: (a) Why the department suspects that the individual is providing child care without a license; (b) That a license is required and why; (c) That the individual must immediately stop providing child care; (d) That if the individual wishes to obtain a license, within thirty calendar days from the date of the department's notice in this subsection (1) the individual must submit a written agreement, on a department form, stating that he or she agrees to: (i) Attend the next available department child care licensing orientation; and (ii) Submit a child care licensing application after completing orientation; and (e) That the department has the authority to issue a fine of one hundred fifty dollars per day for each day that the individual continues to provide child care without a license. (2) The department's written notice in subsection (1) of this section must inform the individual providing unlicensed child care: (a) How to respond to the department; (b) How to apply for a license; (c) How a fine, if issued, may be suspended or withdrawn if the individual applies for a license; (d) That the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and (e) How to ask for a hearing. (3) If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in

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does not submit an agreement to obtain a license as provided in subsection (1)(d) of this section within thirty calendar days from the date of the department's written notice, the department will post information on its web site that the individual is providing child care without a license.	subsection (1)(d) of this section within thirty calendar days from the date of the department's written notice, the department will post information on its web site that the individual is providing child care without a license.
	[The fine amount in subsection (1)(e) was updated consistent with 2011 Senate Bill 5504]
WAC 170-296A-8375 Unlicensed care--Fines and other penalties. A person providing unlicensed child care may be: (1) Assessed a fine of (the dollar amount provided by law) a day for each day unlicensed child care is provided; (2) Guilty of a misdemeanor; or (3) Subject to an injunction.	**WAC 170-296A-8375 Unlicensed care--Fines and other penalties.** A person providing unlicensed child care may be: (1) Assessed a fine of one hundred fifty dollars a day for each day unlicensed child care is provided; (2) Guilty of a misdemeanor; or (3) Subject to an injunction.
	[The fine amount in subsection (1) is updated consistent with 2011 Senate Bill 5504]

See below for changes as adopted to tables within proposed chapter 170-296A WAC. Underlined content is added, and content lined-through was deleted:

WAC 170-296A-1975 Licensee/staff qualifications and requirements table. The following table summarizes the licensee and staff qualifications and requirements found in WAC 170-296A-1700 through 170-296A-1950, and 170-296A-7675. An "X" indicates a requirement.

Licensee and Staff Qualifications Table

Position	Minimum age	High school diploma or equivalent	Back-ground check	TB test	DEL orientation	Basic 20-hour STARS	Ongoing training 10-hours per year	Fire safety training	First aid/ CPR	~~Bloodborne pathogens~~ HIV/AIDS	Food handler permit

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Licensee	18	X	X	X	X	X	X	X	X	X	X
Primary staff person	18		X	X		X	X	X	X	X	*See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit
Assistant/ volunteer ~~(cannot be left alone with children)~~	14		X Noncriminal background check only age 14-15	X				X	X	X	*See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit

~~*See WAC 170-296A-7675(3) regarding when other staff must have a food handler permit~~

[This section revised as a result of comments on the proposed rules]

WAC 170-296A-3210 Communicable disease procedure. When the licensee becomes aware that he or she, a household member, staff person or child in care has been diagnosed with any of the following communicable diseases:

Disease:	**Also known as:**
Chickenpox	Varicella
Conjunctivitis (bacterial)	Pink eye
Diptheria	
E. coli infection	
Giardiasis	
Hepatitis A virus	
Invasive haemophilus influenza disease (except otitis media)	
Measles	
Meningitis (bacterial)	Meningococcal meningitis
Mumps	
Pertusis	Whooping cough
Rubella	German measles
Salmonellosis	Salmonella or "food poisoning"
Shigellosis	Shigella
Tuberculosis (active)	TB

the licensee must, within twenty four hours notify:

(a) The local health jurisdiction or DOH, except notice is not required for a diagnosis of chickenpox, conjunctivitis, or invasive haemophilus influenza;

(b) The department; and

(c) Parents or guardians of each of the children in care; and

(2) Follow the health plan before providing care or before readmitting the household member, staff person or child into the child care.

(3) The licensee's health plan must include provisions for excluding or separating a child, staff person, or household member with communicable disease as described in subsection (1) or any of the following:

(a) Fever of one hundred one degrees Fahrenheit or higher measured orally, or one hundred degrees Fahrenheit or higher measured under the armpit (axially), if the individual also has;

(i) Earache;

(ii) Headache;

(iii) Sore throat;

(iv) Rash; or

(v) Fatigue that prevents the individual from participating in regular activities;

(b) Vomiting that occurs two or more times in a twenty-four hour period;

(c) Diarrhea with three or more watery stools, or one bloody stool, in a twenty-four hour period;

(d) Rash not associated with heat, diapering or an allergic reaction; or

(e) Drainage of thick mucus or pus from the eye.

[This section revised as a result of comments on the proposed rules. The rule also incorporates the content of withdrawn WAC 170-296A-3225]

WAC 170-296A-3325 Medication storage. The licensee must store all medications, as well as vitamins, herbal remedies, dietary supplements and pet medications as described in the following table.

(1) In a locked container or cabinet until used; or

(2) Inaccessible to children. The licensee must keep emergency rescue medications listed in subsection (3)(a) inaccessible but available for emergency use to meet the individual's emergency medical needs:

Medication Storage Table		
This list is not inclusive of all possible items in each category. Medications must be maintained as directed on the medication label, including refrigeration is applicable.		
(3) If the medication is a (an):	The medication must be stored in a locked container or cabinet	The medication must be stored inaccessible to children
(a) Individual's emergency rescue medications:		
(i) Any medication used to treat an allergic reaction;		X
(ii) Nebulizer medication		X
(iii) Inhaler		X
(iv) Bee sting kit		X
(v) Seizure medication		X
(vi) Other medication needed for emergencies		X
(b) Nonprescription medications, including herbal or natural:		
(i) Pain reliever, cough syrup, cold or flu medication	X	
(ii) Vitamins, all types including natural	X	
(iii) Topical nonprescription medication		X
(iv) Hand sanitizer, when not in use		X
(c) Prescription medication		

(i)	Intended use - topical	X	
(ii)	Intended use – ingestible, inhaled or by injection	X	
(d)	Pet medications (all types)	X	

[This section revised as a result of comments on the proposed rules and to incorporate content moved from proposed WAC 170-296A-4100]

WAC 170-296A-3925 Cleaning, sanitizing, and disinfecting table. The following table describes the minimum frequency for cleaning, sanitizing, or disinfecting items in the licensed space.

CLEANING, SANITIZING, AND DISINFECTING TABLE				
		"X" means CLEAN	**And SANITIZE or DISINFECT**	**FREQUENCY**
(1)	Kitchen countertops/tabletops, floors, doorknobs, and cabinet handles.	X	Sanitize	Daily or more often when soiled.
(2)	Food preparation/surfaces.	X	Sanitize	Before/after contact with food activity; between preparation of raw and cooked foods.
(3)	Carpets and large area rugs/small rugs.	X		(a) Vacuum daily. (b) Installed carpet - Clean yearly or more often when soiled. (c) Small rugs - Shake outdoors or vacuum daily. Launder weekly or more often when soiled.
		X	Sanitize	(d) Removable rugs - May be used in the bathroom. They must be easily removable and able to be washed when needed. Launder and sanitize weekly or more often when soiled.
(4)	Utensils, surfaces/toys that go in the mouth or have been in contact with other body fluids.	X	Sanitize	After each child's use; may use disposable, one-time utensils.
(5)	Toys that are not contaminated with body fluids and machine-washable cloth toys. Dress-up clothes (not worn on the head or come into contact with the head while dressing). Combs/hairbrushes, (none of these items should be shared among children).	X	Sanitize	Weekly or more often when visibly soiled.
(6)	Bedding, blankets, sleeping bags, individual sheets, pillowcases (if used).	X	Sanitize	Weekly or more often when soiled. Items that are put in the washing machine must be cleaned by using laundry detergent and sanitized by temperature (hot or warm water cycle) or chlorine bleach.
(7)	Wash cloths or single use towels.	X	Sanitize	After each use.
(8)	Hats and helmets.	X		After each child's use or use disposable hats that only one child wears.

Note: In many instances, the Department received several similar or identical comments on particular WAC sections or topics. As allowed under RCW 34.05.325, this response combines or summarizes similar input where appropriate. The verbatim written comments and public hearing testimony on the proposed rules are on file at DEL as part of the official rule making file.

(9)	Cribs and crib mattresses.	X	Sanitize	Weekly, before use by different child, and more often whenever soiled or wet.
(10)	Handwashing sinks, faucets, surrounding counters, soap dispensers, doorknobs.	X	Disinfect	Daily or more often when soiled.
(11)	Toilet seats, toilet training rings, toilet handles, doorknobs or cubicle handles, floors.	X	Disinfect	Daily or immediately if visibly soiled.
(12)	Toilet bowls.	X	Disinfect	Daily or more often as needed (e.g., child vomits or has explosive diarrhea, etc.).
(13)	Changing tables, potty chairs (use of potty chairs in child care is discouraged because of high risk of contamination).	X	Disinfect	After each child's use.
(14)	Waste receptacles.	X		Daily or more often as needed.

[This section revised as a result of comments on the proposed rule and for clarity]

WAC 170-296A-5700 Capacity and ratio table--Birth through twelve year license. The table in this section describes the required staff-to-child ratio, age composition of children in care, and maximum licensed capacity permitted in a licensed family home child care depending on the:

(1) Licensee's years of experience;

(2) Number and qualifications of staff providing care;

(3) Capacity and ratio table:

Staff	Licensee Minimum Experience and Requirements	Staff-Child Ratio	Age Range	Maximum Number of Children by Age Group:	Maximum Capacity
(a) Licensee working alone	Less than one year of experience	1:6	Birth through 12 years of age	Under 18 months of age 2 or	6
				Under two years of age (One must be walking independently) 3	Maximum of 2 children under the age of two not walking independently

(b)	Licensee working alone	At least one year of experience	1:8	18 months through 12 years of age	18 months to 2 years (Must be walking independently) 2 or	8
					Under three years of age (Not more than two under two years of age and must be walking independently) 4	All children must be walking independently
(c)	Licensee working alone	At least two years of experience and 10 hours of annual ongoing early childhood education equivalent STARS training	1:10	Three years through 12 years of age	Not Applicable	10
(d)	Licensee working with primary staff person or assistant (2 persons total)	Licensee has at least one year of experience	2:9	Birth through 12 years of age	Under 18 months of age 2 and	9
					18 months to two years of age and walking independently 1 and	
					Two years to three years of age 4	
					Under 18 months of age 4	

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					and	
(e)	Licensee working with primary staff or assistant (2 staff persons total)	Licensee has two or more years child care experience and 10 hours of annual ongoing early childhood education equivalent STARS training	2:12	Birth through 12 years of age	18 months to two years of age and walking independently 2 and	12 Maximum four children not walking independently
					Two years to three years of age 4	
(f)	Licensee working with primary staff or assistant (2 persons total)	Licensee has two or more years child care experience and 10 hours of annual ongoing early childhood education equivalent STARS training	2:12	Two years of age through 12 years of age	Not Applicable	12

(4) As used in this section, "walking independently" means being able to stand and move about easily without the aid or assistance of or holding on to an object, wall, equipment or other person.

[This section revised as a result of comments on the proposed rules and for clarity]

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