

Department of Early Learning Negotiated Rule Making Team Meeting
Notes
March 7, 2009, Renton, Washington

The following agenda guided our discussion:

Overall Goal:

The purpose of this Negotiated Rule Making Team (NRMT) is to develop a set of recommendations about the rules and issues that affect the health, safety, learning and quality of environment for children that is supported by parents, early care providers, health/safety experts and interested stakeholders. The NRMT's recommended rules will then move on to the legal and legislative proceedings (and formal public comment period) before they can be formally adopted.

Today's Meeting Objectives:

- Hear an update on the NRMT Communication/ Outreach efforts
- Hear an update from the Rule Writing & the Rule Review Committees
- Complete discussion on **Program (West Side Story)**, addressing Diversity
- Continue to hear recommendations about **Outdoor Environment (A Team)**
- If time permits, hear recommendations about **Record Keeping, Reporting & Posting (Team C)**
- Discuss and determine what elements should be incorporated into our work moving forward
- Determine next steps.

Pre-Work Given at January 31, 2009 Meeting:

- ◆ The **West Side Story** (Karen Hart is Lead) will:
 - Continue work on the topic of **Program**, with recommendations about diversity
 - Make sure to cite Dr. Deborah Sullivan of the Praxis Institute and other research resources in your matrix.=
- ◆ The **A-Team** (Debbie Knighten is Lead) will continue presenting recommendations about **Outdoor Environment**:
 - Make sure to cite research resources in your matrix.
- ◆ **Team C** (Martha Standley is Lead) will come prepared to begin the topic of **Recordkeeping/Reporting/Posting** in case time allows to start that topic.

<i>Time</i>	<i>Topic</i>
9:00	Welcome, Agenda Review, Check In
9:20	Updates <ul style="list-style-type: none">• Communication / Outreach• Rule Writing• Rule Review• Parent Involvement Plan
9:45	Discussion & Recommendation about Program - Diversity (West Side

	<i>Story)</i>
10:45	Discussion & Recommendations about <i>Outdoor Environment (A Team)</i>
12:00	Break for Lunch
12:30	Continue <i>Outdoor Environment</i>
1:30	Break
1:40	If time permits, begin <i>Recordkeeping, Reporting & Posting (Team C)</i>
2:15	Next Meeting Agenda, Assignments, Project Schedule Adjustments
2:30	Adjourn

Voting Members Present

Karen Hart – SEIU
Jean Orton-Elders – DEL
Laura Giddings – Resource & Referral Net.
Debbie Knighten – Provider/SEIU
Angela Taylor – Provider/SEIU
Cassandra Clemans – Care for Providers
Sue Paskiewitz – Provider/SEIU
Dora Herrera – Provider/SEIU
Cynthia Hendsch – DEL

Martha Standley – DEL
Katherine Yasi – Provider/SEIU
Sherry Schleufer – SEIU

LaVonne Counley – WSFCCA Alternate
Mary Kay Quinlan – DEL
Mary Ruch-Brown – DEL

Laura Dallison – DEL
Sandra Van Doren - EWFCCA
Stu Jacobson – WA Parents for Safe Child Care

Judy Jaramillo – DEL

Public, Guests and Other Non-Voting

Donna Horne - Resource & Referral Network
Gail McDonald – Provider
Anabel Ramos – Provider
Maria Isabel Ramos - Provider
Andy Fernando - NRMT Coordinator

Kathleen Hardee, Care for Providers (Alternate)
Martha Moreno – Provider
Zoila Mejia - Provider
Guadalupe Eszamilla, Provider
Debbie Rough-Mack - Facilitator

Welcome, Check in

We briefly discussed that a new DEL director – Dr. Bette Hyde – was appointed by Governor Gregoire in February. Dr. Hyde is currently superintendent of the Bremerton

School District, and is very active in *Thrive by Five Washington*, a project dedicated to ensuring that every child from birth to age five has a chance to be involved in positive early learning settings. DEL Assistant Director Larry Horne was on vacation this week, so at our next meeting we will check in with Larry about any potential impact the new director will have on the NRMT process.

Sue Winn, WSFCCA's (Washington State Family Child Care Association) representative on the NRMT, suffered an injury and did not attend today's meeting. The group welcomed WSFCCA's new alternate, LaVonne Counley, and later everyone signed an impromptu "card" wishing Sue a speedy recovery.

Throughout the day NRMT also welcomed several family home child care providers as guests, including Martha Moreno, Anabel Ramos, Zoila Mejia, Maria Isabel Ramos, Gail McDonald, and Guadalupe Eszamilla.

DEL requested that a discussion on the subtopic "unlicensed space" in *Outdoor Environments* be postponed until the March 28 meeting.

Updates

Communications / Outreach Efforts

- Nancy Gerber was at the Eastern Washington Family Child Care Association (EWFCCA) conference in Spokane today. She was presenting a session on the NRMT process, and providing the team's standard handouts. We hope to hear from her next time how that went.
- Sherry Schleufer & Martha Standley will have a table together at the Olympia Peninsula Association for the Education of Young Children (OPAEOYC) on March 14 – Martha requested 100 copies of the NRMT handout materials, and Andy will take care of this.
- Sue Winn and Sandra Van Doren are scheduled to make a presentation at the WSFCCA conference on April 24-26 at the SeaTac Marriott. Their presentation will be on Friday night April 24, from 7:00 to 9:00 pm. DEL needs to arrange for a department representative for this presentation.
- Laura Giddings wrote an article for the Child Care Resource and Referral Network newsletter about the NRMT process, in both English and Spanish. If you'd like to see it, contact Laura at laura@childcarenet.org.
- Andy submitted a conference proposal for a panel of team members to talk about the NRMT process at the Washington Association for the Education of Young Children (WAEYC) annual conference in October.

Informal outreach is helpful and encouraged; please remember to set context. Also, though it couldn't be worked out with Nancy's presentation today in Spokane, it is our intent that *when presentations are made there is a unified presence* (e.g., a DEL and a SEIU/Provider representative) to model the essence of our work together.

Rule Writers and Rule Review Committee

NRMT Rule Writers & Review Committee reported that they have so far finished writing and reviewing rules on *Food/Nutrition*, *Staff Qualifications*, and almost all of *Infant Care*. The writers are reworking the definition of Family Home Child Care and describing care that is exempt from licensing. There was also one one section remaining for *Licensing Process* that was missed last summer – Compliance with local codes and ordinances – that Team C this week drafted recommendations on that subtopic and will present on this subtopic at our March 28 meeting.

Parent Involvement Plan

There was a thorough discussion of ideas for getting the draft rules out to parents, provider, licensors and others for preliminary input.

- When sending out the preliminary draft rules, we want to be clear that input is being *collected*, but not immediately answered or addressed through this process. Be clear about intentions:
 - “Our purpose is to collect your feedback on the draft rules
 - “This is what will we will do with your input (e.g. “Your input will be read, categorized, and our rule writers will see what changes need to be made and/or what issues need to be brought back to the NRMT for further discussion).
 - “The next stage of the rule process and/or opportunity for you to see the revised rules is _____, noting that there will more opportunities to see the rules and comment before they are finalized.”
- After some discussion, it was determined that the rules on the topics of Staff Qualifications, Food & Nutrition and Infant Care will be ready by April 4, 2009 so that SEIU can share these with SEIU coordinators. DEL licensors will also have an advance look. The draft of the first three topics would go out for public feedback in April. There was some concern about publishing these before Licensing Process is completed, but the group ultimately decided that it was fine to release only these three sections for comment. The materials will be clearly marked as DRAFT and will have contact information printed on them.

Vote 18 in favor, 0 undecided, 0 opposed

- There is a continuing concern about materials being available to non-English speaking providers and parents (particularly Spanish-speaking, but other languages). Andy will check with DEL management and get word back to the group.
- Andy will also look into logistics of holding public forums statewide on the first wave of draft rules, to give the public a chance to get some firsthand information about the NRMT, to learn about the rule making process and upcoming steps, and to ask questions or make suggestions.

Rule Topic Discussions and Recommendations

What follows are the highlights and decisions reflecting “agreements in concept” resulting from the discussion. For more complete information refer to the matrices from the meeting.

Program; West Side Story Presenters: Judy Jaramillo and Mary Ruch-Brown

Subtopic: Diversity

There were lots of complicating factors noted, as this is essentially a qualitative, potentially sensitive topic. The intention is that the requirement will move away from providers needing to have a certain “adequate quantity” of diversity materials, as in the current rule, to requiring a dialog between the provider and licensor, and between the provider and the families of kids in care. Ultimately, the NRMT voted to recommend the following wording:

(The licensee or prospective licensee must)

- *“Be prepared to discuss with the licensor and families how the environment reflects the daily life, family culture, and language of enrolled children;*
- *“Be prepared to discuss with the licensor how the program reflects the diversity found in society -- including gender, age, language, and abilities -- while being respectful of the cultural traditions, values, and beliefs of enrolled families.”*

Vote 18 in favor; 0 undecided; 0 opposed.

Provider and licensor guidebooks should include suggested ways to start the discussion and subjects that the provider and licensor might discuss, and resources that the provider may use. Religious activities in the program – if any - will be reflected in the Parent Handbook prepared by the licensee (this should be reflected in the “Posting” subtopic in *Recordkeeping, Reporting and Posting* coming up for discussion at the next meeting).

Outdoor Environment; A Team; Presenters: Debbie Knighten & Laura Dallison

Our agreed intent for this Topic is:

- To create a safe, healthy and natural environment for children to play outdoors that allows for reasonable risk.
- To create an outdoor play area that supports cognitive, social-emotional and physical development where children can play, learn, explore and discover.

Subtopic: Enclosure / Fencing (continued from the January 31, 2009 meeting)

The group discussed whether the wording adopted at the January 31 meeting (*Routinely used licensed outside play areas must have a securely enclosed space with a barrier...*) clearly meant a fence, or whether this language could include plant borders, such as a hedge. It was agreed that the intent of this rule is a barrier that kids can’t get through. We decided

that the word “*barrier*” was acceptable, provided it was defined, with examples of what is OK and what is not OK (e.g., not a hedge).

Vote 18 in favor, 0 undecided, 0 opposed

Subtopic: Visibility / Supervision

There was significant discussion and the group is concerned that these rules contradicted previous rules we had agreed upon (e.g. – supervision in other areas). Eventually, we chose to vote so we could move on, but we were not unanimous, and we will ask the Writing Team to help align the intent here with previous rule recommendations. The group voted to recommend the following:

- “*Preschool aged children:*
 - “*Must be within hearing and sight of a primary staff member (and) must be kept within ratio on the premises.*
 - “*A second staff member may engage in other childcare activities temporarily as long as he or she is in hearing or visual range.*
 - “*Staff must be available to intervene if the need arises for the safety of the children.*”
- “*School aged children:*
 - “*Must be within hearing or sight of the primary staff member.*
 - “*Staff must be available to intervene if the need arises for the safety of the children.*”

Vote 14 in favor; 5 undecided; 0 opposed (one additional voting member joined the meeting during this topic discussion).

Concerns from undecided members:

- Cited example of leaving a 14-year-old assistant alone, even momentarily, with school-age kids. There was confusion whether the staff person left outside is “qualified.” It was noted that the person left outside with kids must be a *primary staff person* as defined earlier in ***Staff Qualifications*** (minimum age 18 and meeting qualifications to be left alone with children).
- Ratio sentence is confusing (the intent is that supervision allows the provider to stay within the licensed staff/child ratio).

Subtopic: Playground Equipment

The discussion focused on the what is a “hard surface” under playground equipment, what kinds of bouncing equipment is or is not OK, and keeping the outside play area free from hazards to children. For Guidebook: What can playground equipment be placed on? Include examples of what’s OK and what’s not OK. Also include examples of playground “hazards” and possible referral to “reasonable risk” as listed in the *Intent* statement for this topic. The group voted to recommend the following:

- “*Children must not use climbing equipment placed on concrete or other “hard” surface [clarify].*

- “The playground area (must be) arranged to promote a variety of physical activity and be free of hazards.
- “Bouncing equipment (trampolines, rebounders and inflatable equipment) must not be allowed.
- “Equipment should be maintained in safe working condition.
- “Equipment should be arranged so that it doesn’t interfere with other play equipment.”

Vote 19 in favor; 0 undecided; 0 opposed

For Guidebook: Clarify what surfaces playground equipment can be placed on. Include examples of what’s OK and what’s not OK. Also include examples of playground “hazards” and possible referral to “reasonable risk” as listed in intent. Beach balls or “bouncy balls” are not considered “bouncing equipment.”

Subtopic: Bodies of Water

Once again this topic generated a lot of discussion. Concern was noted about differing recommendations for fence heights around swimming pools between *Caring for Our Children* (5 feet) and the Consumer Products Safety Commission (4 feet). A general note for all sub-teams: the “research” column in each topic and subtopic matrix needs to show when other jurisdictions or research resources have differing recommendations. We achieved agreement in concept on the recommendation below. However, the topic is not yet complete. Next time we will discuss:

- Swimming pools when in use
- Lifeguard issue (required?). A straw poll found that the group was almost evenly split on this subject.
- Maintenance of pool
- Licensed vs. unlicensed area

After an initial vote, several concerns were raised, including the fence height, qualified staff required to be present when kids are around water, and locking a fence gates when a swimming pool is not in use. The group also reviewed *Caring for Our Children standard 5.198 – Enclosures around bodies of water*. After revising wording to address the concerns raised, the group voted to recommend the following:

- “Children (must) always be directly supervised by a primary staff person around water.
- “ Portable swimming pools/wading pools need to be emptied and sanitized daily, at a minimum.
- “Hot tubs must be kept inaccessible through hot tub covers and locking device(s).
- “Swimming pools must have a minimum of a 5 ft fence, or higher if local ordinance requires. When not in use, entrance and exit points must be locked, and have an unlocking device readily available to staff.”

Vote 19 in favor; 0 undecided; 0 opposed..

The A-Team has been tasked with thinking about how this topic area might be broken out (e.g., defining and setting separate requirements for swimming pools and wading pools)

Next Steps, Action Items

The next NRMT meeting will be March 28, 2009 at the Puget Sound Educational Service District 121 (ESD 121) conference center in Renton. Agenda items will likely include:

- Continue with ***Outdoor Environment*** (A Team)
- Communication Plan overview
- Fire Marshal presentation on Fire safety and rescue
- Hear recommendations on Compliance with local codes and ordinances, which was a left over subtopic from ***Licensing Process*** (Team C)
- Begin discussion of ***Record Keeping / Reporting & Posting*** (Team C)

Upcoming NRMT Meetings (all at the ESD 121 conference center in Renton)

- Saturday, April 11 -- this is an already confirmed meeting date
- Saturday, May 2 – this is an added meeting date
- Saturday, May 16 – this is an already confirmed meeting date
- Saturday, June 20 – this was rescheduled from June 13

Note the revised topic schedule (attached), which moves ***Corrective and Adverse Action*** up so that the group doesn't end on that topic. We may have an additional session in July, depending on how our progress goes.

Pre-Work for the Small Groups:

- ◆ The West Side Story (Karen Hart is Lead) will continue work on ***Capacity/ Ratio/ Supervision***
- ◆ The A-Team (Debbie Knighten is Lead) will continue working on recommendations about ***Outdoor Environment***, specifically:
 - Swimming pools when in use
 - Lifeguard issue (required?)
 - Maintenance of pool
 - Licensed vs. unlicensed areas
 - Think about how this topic might be broken out (e.g. segment swimming pools & wading pools)

A-Team will also continue its work on ***Indoor Environments*** for possible presentation in April.

- ◆ The C & C Team (Martha Standley is Lead) will come prepared to begin presenting on the topics of:
 - **Licensing Process** – Compliance with local codes and ordinance, and
 - **Record Keeping, Reporting and Posting** as time allows.

Team C has also begun working on **Emergency Preparedness** and **Nurture & Guidance**.

(Attachment – NMRT 2009 meeting schedule and topic list.)

2009 NRMT Meeting Schedule, Topics and Presentations
Updated March 9, 2009 and subject to change

NRMT Meeting Date	Topics and Presentations	Presenter
December 13, 2008	Cancelled for weather (meetings added in 2009 and topics shifted to make up this date)	-
January 31, 2009	<ul style="list-style-type: none"> - Diversity Panel / Discussion - Outdoor Environment 	<ul style="list-style-type: none"> - Dr. D. Sullivan - A-Team
March 7, 2009	<ul style="list-style-type: none"> - Program (Diversity) - Outdoor Environment 	<ul style="list-style-type: none"> - Westside Story - A-Team
March 28, 2009	<ul style="list-style-type: none"> - Fire Safety and Rescue Presentation - Complete Outdoor Environment - Licensing Process: Compliance with local codes and ordinances - Recordkeeping/Reporting/Posting 	<ul style="list-style-type: none"> - State Fire Marshal - A Team - Team C - Team C
April 11, 2009	<ul style="list-style-type: none"> - Emergency Preparedness Presentation - Recordkeeping/Reporting/Posting - Indoor Environment 	<ul style="list-style-type: none"> - Sea-King Pub. Health - Team C - A Team
May 2, 2009	<ul style="list-style-type: none"> - Emergency Preparedness - Supervision/Capacity/Ratios - Corrective/Adverse Action - Legal Status 	<ul style="list-style-type: none"> - Team C - Westside Story - A Team - DEL
May 16, 2009	<ul style="list-style-type: none"> - Immunization Presentation? - Supervision/Capacity/Ratios - Minimum Education 	<ul style="list-style-type: none"> - Public Health - Westside Story - DEL
June 13, 2009	<ul style="list-style-type: none"> - Nurture & Guidance - Health - Pre-service Training 	<ul style="list-style-type: none"> - Team C - Westside Story - DEL
July ?	Only if needed.	