

Department of Early Learning  
Negotiated Rule Making Team - Meeting Notes  
May 2, 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 proposed 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:**

*The May 2 meeting is mainly a continuation of issues and topics from the March 28 and April 11, 2009, meetings. The NRMT has added meeting dates to help the group meet its own project targets. See the end of the Agenda for upcoming NRMT meeting dates.*

1. Hear updates from on the NRMT Communication Plan / Outreach efforts; Rule Writing & the Rule Review Committees; the Parent Involvement Plan and a workgroup on legal issues around Licensed-Unlicensed space;
2. Finish hearing recommendations about **Outdoor Environment** from the **A Team** (with the exception of issues related to Licensed or Unlicensed Space);
3. Begin hearing recommendations from **Team C** about **Record Keeping, Reporting & Posting**;
4. If time allows, begin a discussion on *weighting* the WACs;
5. Discuss and determine what elements should be incorporated into our work moving forward; and
6. Determine next steps.

**Pre-Work Given at April 11, 2009 Meeting:**

- ◆ 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**.
- ◆ Team C (Martha Standley is Lead) will come prepared to begin the topic of **Record Keeping/ Reporting/Posting**. They also are working on **Emergency Preparedness** and on **Nurture & Guidance**.

<i>Time</i>	<i>Topic</i>
<b>9:00</b>	<b>Welcome, Agenda Review, Check In</b>
<b>9:15</b>	<b>Updates</b> <ul style="list-style-type: none"><li>• Communication Plan/ Outreach</li><li>• Rule Writing &amp; Rule Review</li><li>• Parent Involvement Plan</li><li>• Licensed vs. Unlicensed Space</li></ul>

<b>9:45</b>	<b>Continue &amp; complete recommendations around Outdoor Environment (A Team)</b>
<b>12:00</b>	<b>Lunch</b>
<b>12:30</b>	<b>Begin discussion and recommendations on Recordkeeping, Reporting and Posting (C Team)</b>
<b>1:45</b>	<b>Break</b>
<b>2:00</b>	<b>Resume Recordkeeping, Reporting and Posting</b>
<b>3:00</b>	<b>Brief discussion on Weighting Rules, if time permits</b>
<b>3:10</b>	<b>Project Schedule Adjustments</b>
<b>3:20</b>	<b>Next Meeting Agenda, Assignments</b>
<b>3:30</b>	<b>Adjourn</b>

***Voting Members Present:***

Sandra Van Doren, EWFCCA  
Judy Jaramillo, DEL  
Judy Bunkelman, DEL  
Sylvia Mierau, SEIU/Provider  
Mary Ruch-Brown, DEL  
Katherine Yasi, SEIU/Provider  
Sherry Schleufer, SEIU Staff  
Cynthia Hendsch, DEL  
Mary Kay Quinlen, DEL  
Angela Taylor, SEIU/Provider  
Nancy Gerber, SEIU/Provider

Vicki Lujan-Bell, DEL  
Debbie Knighten, SEIU/Provider  
Cassandra Clemans, Care for Providers  
Martha Standley, DEL  
Sue Paskiewitz, SEIU/Provider  
Dora Herrera, SEIU/Provider  
Nancy Gerber, SEIU/Provider  
Laura Giddings, WSCCR&R  
Jean Orton-Elders, DEL  
Sue Winn, WSFCCA  
Laura Dallison, DEL

***Public, Guest, Other Non-Voting:***

Carol Wilson, Provider  
Kathleen Hardee, Care for Providers (Alternate)  
Debbie Rough-Mack, Independent Facilitator

Donna Horne, WSCCR&R  
Joan Aarts, WSFCCA (Alternate)  
Andy Fernando, DEL –NRMT Coordinator

EWFCCA = Eastern Washington Family Child Care Association  
SEIU = Service Employees International Union 925  
WSFCCA = Washington State Family Child Care Association  
WSCCR&R = Washington State Child Care Resource and Referral Network.

***Welcome, Check in, Overall Project Timeline***

The NRMT Coordinating Committee (Larry Horne, Karen Hart, Debbie Rough-Mack, Judy Jaramillo and Andy Fernando) will be meeting with the new DEL Director on May 7 to bring her up to speed on our progress. After that meeting we will know more about financial support for additional, as-yet-unscheduled meetings to finish up the NRMT work. The Legislature adopted a budget that includes funding for NRMT through December 31, 2009. However, it has been the group's intention to finish its recommendations before December, after which DEL would complete the rest of the rule making process required by law.

## ***Updates***

### **Communications, Outreach & Parent Involvement**

- ◆ Judy Jaramillo, Sandra Van Doren and Sue Winn presented a session about the NRMT April 24 at the WSFCCA conference to about 75 people. Most were quite receptive; there were some concerns about the implications of the new rules.
- ◆ Kathy Yasi, Sue Winn, Judy Jaramillo and Lola Kling presented at an SEIU training session, which attracted large contingent of Somali-speaking providers. The sessions went well.
- ◆ Sherry Schleufer and Nancy Gerber handed out information about the NRMT at a child care food program conference.

There were some questions about how people could provide feedback to NRMT. Andy will make a form available and send it out. The form directs people to send their comments to Andy first. Andy will then organize the comments and send them on to the rule writers for consideration/ incorporation.

Laura Giddings mentioned that if you go to the DEL Web site and click on CCDF (Child Care Development Fund) plan you can see how DEL spends their money and provide feedback (in support of the NRMT).

### **Rule Writing & Rule Review Committees**

Judy J. and Sandra Van Doren are almost caught up to the large group's progress and are working on compiling a list of terms that need to be defined. The Rule Review Group (Sue Winn, Mary Ruch-Brown, Angela Taylor, Judy Bunkelman, Laura Giddings and Andy) is also almost caught up with Judy and Sandra. The group's conference calls are scheduled every other Monday night.

### **Licensed Space, Unlicensed Space & Access**

Since neither Larry for DEL nor Karen for SEIU was present and the group has not yet met we did not hear from the small group who will be considering the legal advice related to licensed space, unlicensed space and access. The group is expected to convene and advise the NRMT about recommendations at the May 16 meeting. The focus question is: "*Under what circumstances can the State access and influence what happens in unlicensed space?*" The group consists of Larry (Lead), Karen, Laura Giddings, Sue Winn, and Sandi Clemans.

***Outdoor Environment, A Team: Presenters: Laura Dallison, Nancy Gerber, Debbie Knighten, Judy Bunkelman***

We continued discussion and recommendations proposed by the A-Team on this topic. Specific recommendations and detailed research, questions and concerns are in the matrix for each topic and subtopic.

**Subtopic: Play Activities**

The group recommended the following;

- *“Outdoor gross motor play activity is required a least once a day (except in extreme weather). (The licensee must) write, show or demonstrate a plan for outdoor play.”*

***Vote 20 in favor, 0 undecided, 0 opposed***

On further discussion, the group recommended that the writers consider using parallel language to indoor play (in **Program**), and making sure that we reflect the intent (i.e. not only “gross motor” activity, but also cognitive, social physical, etc.). There was also some discussion about creating a standard form for the outdoor play plan, but the group decided that providers should have some latitude in how they show or demonstrate their plans. See the discussion later on outdoor climate conditions.

**Subtopic: Animal Waste** (changed from Pet Waste to Animal Waste)

The group had an extensive discussion around animal wastes, including a variety of house pets and other animals (deer, rabbits, raccoons, etc.) that may leave feces in the child care yard area. It was decided that the rule language should be inclusive. The group ultimately decided to recommend:

- *“There must be a designated area outside the children’s play area for pets to relieve themselves (this does not need to be fenced). Feces must be removed when they occur or are discovered if any animal relieves themselves in the children’s play area.*

***Vote 19 in favor, 1 undecided, 0 opposed***

Concerns raised: There was some confusion in the shift from pets to wild animals. Others thought that the Guidebook should also recommend that licensee should survey the play area for animal wastes or hazards every day before letting kids use it.

**Subtopic: General Pet**

The A-Team did quite a bit of research on diseases transmitted by pets to humans. Ultimately, the group voted to recommend the following:

- *“Children must wash hands after playing with a pet.*
- *“Child care providers with pets should let parents know they have pets and should write a plan to keep play areas clear of pet waste. This information should be in the parent handbook.*
- *“Pets that have contact with children must be in good health (current for immunization of communicable diseases), show no signs of communicable disease and be nonaggressive . The*

*licensee must follow state, county and local requirements for their particular type of pet, including immunizations.*

- *Pre-school and younger children need to be directly supervised when interacting with pets.*
- *If pet is known to be dangerous to children, the provider must create a plan to make that pet inaccessible.”*

Also, the group recommended that there be information in the guidebook about various types of “house pets,” about pet immunization requirements, and where provider may find information county or city pet requirements.

***Vote 18 in favor, 2 undecided, 0 opposed***

It was left to the rule writers to change any confusing language and to include farm animals.

**Subtopic: Fall Zones/ Ground Cover**

These were two separate subtopics, but have been merged into one because they are so closely linked in child care. Since of the appropriate depth of ground cover needed to reduce injury varies with the types of ground cover used, the rule writers may develop a table in the WAC to show the minimum amount needed. The group eventually recommended to require:

- *“Six foot fall zones must be around equipment that is intended to be climbed – or the portion of the equipment that is intended to be climbed. (“Fall zone” should be defined.)*
- *“Adequate ground cover per foot of (equipment) height over 4 feet is required to reduce risk of injury on things intended to be climbed (based on the type of ground cover).*
- *“No climbing equipment may be on a hard surface when being used by children*
- *“No ground cover (is) required for play equipment under 4 ft of height from the portion of the platform intended to be climbed. (There) must be a clearance zone (defined) under such equipment.”*

A-Team will develop a recommendation for fall zones and required ground cover under swings.

***Vote 17 in favor, 2 undecided, 1 opposed***

Concerns: “adequate” ground cover may be subjective and not definable (see the plan to use a matrix). There was concern about following or not following a manufacturer’s instructions to be included to limit liability. Some thought that manufacturer require ground cover for low height equipment out of concern for the company’s liability. While others were concerned that not following the manufacturer’s recommended ground cover may open the provider and the state to liability if a child is injured.

**Subtopic: Stairs**

Agreement was reached relatively quickly, with the group voting to recommend:

*“Stairs with 4 or more steps must have balusters or a hand rail (that children can reach) on at least one side when children less than five years of age are present. This does not include play equipment with stairs.*

*“Stairs with 4 or more steps will have a barrier to prevent infants and toddlers from having access to stairs when not directly supervised”*

***Vote 20 in favor, 0 undecided, 0 opposed***

**Subtopic: Natural Environment**

The presentation by Laurie Cornelius of Clark College and the PBS video “Where do the children play” helped shaped this recommendation:

*“(The provider may) write about, show or demonstrate how they incorporate the natural environment in their program.”*

***Vote 20 in favor, 0 undecided, 0 opposed***

**Subtopic: Outdoor Climate Conditions** (change from Outdoor Temperature)

Providers have been concerned that the current WAC 170-296-1220 appears to require them to take children outdoors every day, even during extreme weather conditions and regardless of whether the provider has a covered play area. Ultimately, the group decided to borrow wording from the child care center WAC 170-295-2120, and recommended that the provider must:

- *“Ensure the program affords the child daily opportunities for small and large muscle activities, and outdoor play; and*
- *“Not take children outdoors during extremes temperatures that put children at risk for physical harm.”*

The group decided that the Guidebook should include recommendations about weather conditions, but the intention of the group is to otherwise encourage daily outdoor play opportunities.

***Vote 20 in favor, 0 undecided, 0 opposed***

This completed most of Outdoor Environment, except those subtopics closely related to Licensed and “Unlicensed” Space. A smaller workgroup has been assigned to work on these issues.

***Recordkeeping, Reporting & Posting; Team C Presenters: Jean Orton-Elders & Angela Taylor***

It was agreed during this discussion that as recommendations on other topic matrixes present a need to add a Reporting, Recordkeeping or Posting requirement, that the following subtopics and draft rules would be updated.

**Subtopic: Postings**

It was decided to vote on this entire subtopic together. The group recommended the following:

1. *“ Posting location. All postings must be in the licensed space where they are easily accessible and regularly seen by clients (parents).*
2. *“Emergency contacts. Licensee must post the:*
  - *911 or emergency services phone numbers;*
  - *Name of Licensee, phone number, address, and directions from the nearest arterial (in case a staff person needs to direct emergency service to the home child care);*
  - *Washington Poison Center phone number; and*
  - *Children’s Administration Intake (child protective services) phone numbers, both local and the statewide toll-free number.*
3. *“Fire safety and evacuation plan. Licensee must post:*
  - *The procedure for sounding the alarm;*
  - *A smoke detector check (form);*
  - *A fire extinguisher check (form);*
  - *Emergency medical information for children and staff, or where that information may be found; and*
  - *Emergency contact information for the provider (including who to call if the provider isn’t there or is incapacitated).*
4. *“Child care licensing information. Licensee must post:*
  - *Child Care License number;*
  - *(DEL) Licensing Child Care Information System toll-free number;*
  - *‘Notice of Availability’ of additional information about the Licensee, covering:*
    - ✓ *Most recent checklist for licensing and/or licensing renewal;*
    - ✓ *Facility Licensing Compliance Agreement (if applicable);*
    - ✓ *Notice that enforcement actions for the previous three years are available from the licensee and DEL;*
    - ✓ *Notice of an approved Exception to Rule (previously “waiver”).”*
  - *“Notice of any pending enforcement action (need to define “enforcement action” not including Compliance Agreements). Notice must be posted immediately upon receipt. The notice must be posted for at least two weeks or until the violation causing the enforcement action is corrected, whichever is longer.”*

***Vote 19 in favor, 1 undecided, 0 opposed***

Concern: One person wanted to see the current licensor contact information added, but after discussion it was decided not to name the DEL licensor in case the licensor is reassigned or otherwise leaves licensing during the license period. The undecided voter then changed her vote to “in favor.”

**Subtopic: Recordkeeping**

Team C recommended three categories of records be required: Child records, Licensee-Staff records, and Facility records.

◆ **General Recordkeeping Requirements**

DEL may need to identify when specific forms are required by DEL or other agencies (such as a DEL license application, or a Department of Health (DOH) immunization record form) and what forms the provider may create. After discussion about where current and past records should be stored, the group was split, but the majority were in favor of following Team C's recommendation, or voted "sideways" indicating they still had concerns but could "live with" the recommendation:

- *"Records for current children must be kept in the licensed childcare space,*
- *"Records for current provider/staff and the facility must be kept in a designated location readily available for review.*
- *"All records must be kept for a minimum of 5 years (except as noted) and made available to DEL licensing within 2 weeks of the date of a written request.*
- *"Certain forms are required. If a specific form is not required, providers may use a DEL-created form or create their own forms."*

**Vote 10 in favor, 7 undecided, 3 opposed**

Concerns raised: Some thought that five years should be three years for consistency with other retention requirements in the Collective Bargaining Agreement, while others noted that IRS requires 7-year retention for business tax records. What if staff person has to leave children unattended or under-attended to go and retrieve records? What does "available" mean in this context?

◆ **Child Records**

It was acknowledged that the list of required child records may be incomplete and may need to be added to. But the group recommended the following:

*"The licensee must use a form or record that includes for each child:*

- *A current child immunization record (DOH form);*
- *Persons authorized to pick the child, if any;*
- *Emergency contacts. If no emergency contact, a written emergency contact plan may be accepted;*
- *Parent and/or guardian information including name, phone number(s), addresses, contact information for reaching the family while the child is in care;*
- *Medical information including health problems, allergies, medications, healthcare provider name and contact information;*
- *Dental care provider including name and contact information;*
- *If no medical or dental provider, develop a written plan for dealing with a medical or dental injury or incident;*
- *Plan for the special or individual needs if the child, if appropriate;*
- *Consent to medical care or treatment of minor child;*

- *Injury or incident reporting form;*
- *Recording or reporting (e.g., child protective services, injury, etc.);*
- *Medication authorization log;*
- *Documented use of physical restraint;*
- *Signed permission slips for:*
  - o *Field trips;*
  - o *Picture taking;*
  - o *Transportation;*
  - o *Visiting health professionals if applicable.*”

***Vote 19 in favor, 1 undecided, 0 opposed***

Concern: About the lack of enrollment and disenrollment dates from the list, or date of birth, and concern that every child or staff person needs an emergency contact. But some said that people new to the area or in crisis shelters may not have a local person that the parent knows well enough to list.

◆ ***Licensee & Staff Records***

There was some discussion in this area about requiring the licensee to keep his or her resume on hand, since it would already be in DEL’s files. Ultimately, the group recommended the following:

*“Provider, Staff and Volunteer - The licensee must keep on file for each person as required (see Staff Qualifications):*

- *Current CPR/First Aid card;*
- *HIV/AIDS and blood borne pathogens training;*
- *TB tests or documentation of meeting the requirement;*
- *Background check clearance;*
- *Training records or certificates;*
- *Exception to rule (waivers) related to the provider/licensee. (See below for waivers regarding the facility);*
- *Resume of related qualifications (for staff only) and photo*
- *Emergency contact information*
- *Documentation of training that the licensee provided to staff or volunteers”*

***Vote 20 in favor, 0 undecided, 0 opposed***

◆ ***Facility Records***

The group decided to recommend the following records be kept by Licensees, acknowledging that this list may be added to later:

- *Child sign-in/out record;*
- *Exceptions to rule (waivers) related to the facility;*
- *Approved plans or agreements between the licensee and DEL (such as, safety plans, modifications, multiple licenses);*
- *Household member background check and TB tests;*
- *Emergency preparedness practice records;*

- *Most recent monitoring checklist from a DEL visit;*
- *Water and sewer testing records, as applicable;”*

***Vote 20 in favor, 0 undecided, 0 opposed***

Records of food or menus served will go into the Guidebook as a suggested best practice, and not as a WAC requirement.

◆ ***Documentation of Dates/ Hours of Licensee/ Staff Work***

Some providers were concerned about adding to the current paperwork load, while some said documenting the licensee’s and staff time in an out of the child care home could be helpful for a variety of reasons, including taxes, audits, and liability when something occurs when the provider was out. Licensors generally felt it would help show that the Licensee is providing care the majority of the time, that the home always maintained the required staff/child ratio, and that if the licensee was away there was always a qualified staff member caring for the children. There was general agreement about this concept, and a desire for practical implementation. The group decided to recommend the following:

- *“(The licensee must) document attendance or absence of the provider and staff who are being counted in capacity and ratio while children are in care.”*

***Vote 12 in favor, 6 undecided, 1 opposed***

Concerns: Some wanted this requirement to be more research-based (few states require providers to record their attendance); the lack of clarity may lead to misinterpretation of what is required and what is enforced

This was the last section of the ***Recordkeeping*** subtopic. The group plans to start and complete ***Reporting*** at the May 16 NRMT meeting.

***Weighting the WACs***

There was a very brief discussion about this -- in general the group expressed concern about adding a complication to our already very compressed timeline. This is also a topic that child care centers, and DEL staff noted that they would need to be involved in this discussion. We decided to put this topic aside at this time.

***Project Schedule Adjustments***

Andy showed a table (attached) indicating our progress toward completing the family home child care WAC recommendations. Due to a variety of factors, the team won’t make its self-imposed June 2009 deadline. Andy noted that full NRMT meetings in July, August and possibly September may be needed, but that we couldn’t ask the group to keep up the current accelerated meeting schedule every two to three weeks through the summer months. Team members were asked to bring their appointment calendars to the May 16 NRMT meeting to plan future meeting dates.

***Upcoming Meetings***

- ◆ Next meeting will be May 16, 2009 in Renton. Agenda items will likely include:
  - Complete **Outdoor Environment** subtopic of ground cover under swings (A Team)
  - Complete Reporting portion of **Recordkeeping, Reporting & Posting** (Team C)
  - Licensed vs. Unlicensed Space, Accessibility – recommendations from small group (Laura Giddings)
  - Review draft con **Staff Qualifications** (West Side Story), to be sure that issues related to provider absences and qualified staff from WAC 170-296-1420 are addressed; also staff roles and amount of time the Licensee is present
  - If time permits, begin discussion of **Capacity/Ratio/Supervision** (West Side Story)
- ◆ Saturday, June 20 – this was rescheduled from June 13, also in Renton at the Puget Sound Educational Service District 121.

### ***Pre-Work for the Small Groups:***

- ◆ West Side Story (Karen Hart is Lead) will:
  - Review **Staff Qualifications** (West Side Story), to be sure that issues from **WAC 170-296-1420** are addressed; also staff roles and amount of time provider is present;
  - Be prepared to begin presenting on **Capacity/ Ratio/ Supervision** on May 16.
- ◆ The A-Team (Debbie Knighten is Lead) will:
  - Come prepared to complete **Outdoor Environment** subtopic of Swings (Debbie K, A Team); and
  - Continue work on recommendations for **Indoor Environment**.
- ◆ Team C (Martha Standley is Lead) will:
  - Come prepared to complete **Recordkeeping, Recording & Posting**
  - Continue working on **Emergency Preparedness** and on **Nurture and Guidance**

Attachment A – NRMT 2009 Topic Schedule (draft update May 2, 2009)

<b>NRMT Meeting Date</b>	<b>Topics and Presentations</b>	<b>NRMT Sub-Team* or Presenter</b>
<b>January 31, 2009</b>	- Diversity Panel / Discussion - Outdoor Environment	- Dr. D. Sullivan - A-Team
<b>March 7, 2009</b>	- Program (Diversity) - Outdoor Environment - Licensing Process (local codes/ordinances, water & sewer testing)	- Westside - A-Team - Team C
<b>March 28, 2009</b>	- Fire Safety and Rescue Presentation - Outdoor Environment - Licensed Space	- State Fire Marshal - Team C - Full Team
<b>April 11, 2009</b>	- Emergency Preparedness Present. - Outdoor Environment - Licensed Space	- Sea-King Pub. Health - A Team - Full Team
<b>May 2, 2009</b>	- Outdoor Environment - Reporting/Recordkeeping/Posting	- A Team - Team C
<b>May 16, 2009</b>	- Finish Reporting/Recordkeeping/Posting - Start Supervision/Capacity/Ratio	- Team C - Westside
<b>June 20, 2009</b>	- Supervision/Capacity/Ratio - Indoor Environment - Corrective/Adverse Actions	- Westside - A-Team - Westside Story
<b>July ?</b>	- Indoor Environment - Emergency Preparedness	- A-Team - Team C
<b>August ?</b>	- Health - Nurture & Guidance - Straggler subtopics	- Westside Story - Team C - As needed
<b>Fall?</b>	- “Licensed Space” - Legal Status - Minimum Education - Pre-Service Training	- Full Team? - DEL - DEL - DEL

\* NRMT Sub-Teams:

- A Team = Eastern Washington
- Team C = Southwest Washington, Olympic Peninsula and Pierce County
- Westside Story = Puget Sound

See the sub-team members at this link

<http://www.del.wa.gov/publications/licensing/docs/NRMTRosterBySubTeam.pdf>