

Department of Early Learning  
Negotiated Rule Making Team - Meeting Notes  
August 8, 2009 - Renton, Washington

**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 in licensed family home child care 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:**

1. Hear updates on Communication/ Outreach; Rule Writing & Rule Review progress;
2. Hear recommendations from small ad hoc group about **Definitions Related to Space and Access**;
3. Finish revised recommendations about **Staff Qualifications** (West Side Story Team);
4. Continue recommendations about **Indoor Environment** (A Team)
5. Time permitting, begin discussion on **Emergency Preparedness** (Team C, delayed to September)
6. Discuss and determine what elements should be incorporated into our work moving forward; and
7. Determine next steps.

[Note: The three ongoing NRMT sub-teams represent the Department of Early Learning service areas in the state: Eastern Washington (A-Team); Southwest Washington/Olympic Peninsula (Team C); and Northwest Washington (West Side Story Team). Each sub-team is comprised of voting members or alternates to the full NRMT – [see this link](#) for a list of sub-team members]

**Pre-Work Given at the July 25, 2009, NRMT Meeting:**

The West Side Story (Karen Hart is Lead) will:

- Finish work on **Staff Qualifications-Licensee's Responsibilities**
- Continue developing recommendations about **Health**.

The A-Team (Debbie Knighten is Lead) will:

- Continue working on **Indoor Environment**

Team C (Martha Standley is Lead) will:

- Continue working on **Emergency Preparedness** and **Nurture & Guidance topics**.

<b>Time</b>	<b>Topic</b>	<b>Design Notes</b>
<b>9:00</b>	<b>Welcome, Agenda, Introductions, Check In</b>	Introductions, Chart Overall Goal, Agenda, Today's Intentions, Changes at DEL?

<b>9:20</b>	<b>Updates</b> <ul style="list-style-type: none"> <li>• Outreach / Parent Involvement</li> <li>• Rule Writing &amp; Rule Review</li> </ul>	
<b>9:40</b>	<i>Definitions Related to Space and Access</i>	Small group reports recommendations for definitions and “Under what circumstances can the State access and influence what happens in unlicensed space?”
<b>11:10</b>	<i>Staff Qualifications</i> (West Side Story)	Issues regarding the licensee’s responsibilities to manage the licensed child care.
<b>12:10</b>	<b>Lunch</b>	
<b>12:40</b>	<b>Continue Recommendations on Indoor Environment</b> (A Team)	
<b>2:00</b>	<b>Break</b>	
<b>2:10</b>	<i>Indoor Environment continued</i>	
<b>3:15</b>	<b>Next Meeting Agenda, Assignments, Schedule Adjustments</b>	Next Meetings: <b>September 19, October 24, November 7, December 5</b> All at ESD 121 in Renton.
<b>3:30</b>	<b>Adjourn</b>	

***Voting Members Present:***

Judy Jaramillo, DEL  
Sandra Van Doren, EWFCCA-Provider  
Judy Bunkelman, DEL  
Sue Paskiewitz, SEIU-Provider  
Lisa Beaulaurier, SEIU  
Cassandra Clemans, Care for Providers  
Sherry Schleufer, SEIU  
Nancy Gerber, SEIU-Provider  
Jean Orton-Elders, DEL  
Laura Giddings, WSCCR&R

Dora Herrera, SEIU-Provider  
Mary Kay Quinlan, DEL  
Sylvia Mierau, SEIU-Provider  
Martha Standley, DEL  
Angela Taylor, SEIU-Provider  
Debbie Knighten, SEIU-Provider  
Cynthia Hendsch, DEL  
Karen Hart, SEIU  
Sue Winn, WSFCCA-Provider

***Public, Guests, Other Non-Voting***

Joan Aarts, WSFCCA (Alternate)-Provider  
Donna Horne, Volunteers of America-Child  
Care Resource & Referral

Carol Wilson, WSFCCA-Provider  
Debbie Rough-Mack, Independent Facilitator  
Andy Fernando, DEL-NRMT Coordinator

Abbreviations:

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

## ***Welcome, Check in Updates***

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

- ◆ Debbie Knighten announced four scheduled meetings during August & September in Eastern Washington for Spanish speaking providers.
- ◆ Sue Winn and Lisa Beaulaurier will be giving an update on NRM progress to providers in Oak Harbor on September 8.
- ◆ Jean Orton-Elders, Dora Herrera and Andy Fernando will be giving a presentation to the Thurston County Family Child Care Association on September 15. Joan Aarts of WSFCCA will pursue inviting the appropriate legislators.
- ◆ Sandi Clemans plans to give a presentation on progress this fall to childcare providers in the Southwest Washington chapters (Longview, Vancouver).
- ◆ Andy, Judy Bunkelman, Judy Jaramillo and Sue Winn and one other SEIU or Provider will be making a presentation at the WAEYC (Washington Association for the Education of Young Children) conference in Bellevue on October 17.
- ◆ Karen Hart said that Rep. Ruth Kagi attended a recent SEIU staff meeting and inquired about how the NRM process was going. Karen said that Rep. Kagi had heard that the rules were being “weakened.” Karen told her that recommendations are for standards to be higher, and offered an example. This prompted a discussion, and ultimately a realization that some examples of rules clarification and strengthening could be useful to help tell the NRMT story.
- ◆ As a result of the above discussion, Andy will be developing a one-page document that cites some examples of how the rules have been clarified and/or strengthened. He will ask indicate the “why” behind our recommendations (i.e. research or reasoning). The group offered some examples:
  - Pre-service training
  - Food heated in plastics (not allowed)
  - Substitutes (new staff category)
  - Pool safety
  - Screen viewing time
  - Emergency preparedness
  - New, license categories
  - Capacity-ratio clarity
  - Cleaning & Disinfecting
  - Guidebook recommendations

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

The Rule Writers are working on *Outdoor Environment* (the last complete matrix). They are also preparing the draft rule tables (comparing current to recommended new wording) on the topic areas of *Licensing Process, Recordkeeping & Posting*, and *Program*. Andy said the

projection is to send out the next four or five subchapters of preliminary draft rules in September or October for more informal public, provider and licensor input.

## ***Rule Topic Presentations and NRMT Recommendations<sup>1</sup>***

### ***Definitions Regarding Space and Access; Presenters - Karen Hart and Andy Fernando***

The terms that this group (Karen, Andy, Larry Horne, Sue Winn, Laura Giddings and Sandi Clemans) have attempted to define are fundamental to understanding, using and enforcing the eventual WAC.

Karen said that many states have wrestled with the dilemma of defining “licensed space” vs. “unlicensed space,” “premises,” “accessible to children” and “inaccessible to children.” Many states use these terms without defining them, while a few –Arizona, Illinois, Massachusetts, Texas and others – define some but not all of the terms.

The definitions presented were not intended do not describe where DEL may inspect or the context in which they may be used – they are only intended to define these terms as used throughout the WAC. The small group recommended that appropriate sections of the WAC discuss where DEL may inspect for compliance with the rules (Example, inspecting a wood stove or central heating appliance for fire hazards, even if located in “unlicensed” space that isn’t used for child care. Some questions and issues that came up during the discussion:

- ◆ What about licensed “unusable” space that is not used for child care, but its use is related to providing care, such as an office for the child care business ora pass-through laundry room)? The group discussed whether an additional definition may be needed for these types of spaces.
- ◆ Should the group refer to DEL “inspections” vs. “regulation” (For example: Inspecting an area around a furnace for fire hazards vs. regulating the condition or installation of the furnace)?

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<sup>1</sup> A Note on Recommendations and Votes:

NRMT recommendations are considered “in concept.” The full team votes on what intended requirement should be, but does not adopt actual WAC wording. A writing team (one DEL staff and one Provider) write the draft rules using the NRMT recommendations, but the actual wording and organization may change. A Rule Review Group comprised of six NRMT members reviews the draft rules for clarity as well for consistency with law and NRMT recommendations. DEL will use the recommended rules to develop the proposed and final WAC.

The NRMT members take a “thumbs” vote one each rule recommendation to assure that all members are counted and accountable. “Thumbs up” means a member agrees with the recommendation and “thumbs down” the member opposes it. “Thumbs sideways” means the member is undecided, but could live with the recommendation if approved by the majority. After each vote, the team hears and discusses concerns from each of the members who votes thumbs down or sideways. Sometimes, this process leads to a revised NRMT recommendation and a re-vote, or a member may announce a change to his or her vote for the record.

- ◆ Many of our scenarios discussed focused on when a provider assumes responsibility (in unlicensed vs. licensed space). We decided that we would need to re-instate a **Supervision** category to our topic matrixes after all. This category was originally eliminated as a separate topic, since the large group reasoned that supervision requirements were woven throughout the new WAC's. Our discussion today helped us recognize that providers may want to look up the supervision requirements in context to a specific topics. Following are some recommended areas that should be considered when West Side Story reconsiders **Supervision**:
  - Before/ after school care, when children go to and from a school bus
  - Parent drop off in unlicensed areas
  - "Unlicensed" front yards
  - Preventing children from entering or using "unlicensed"- areas
  - Pass-through areas and licensee's office if separate from child care areas.
  - When does a provider assume responsibility for a child and when (or if) he/she released?

After making some wording changes, the group voted on all five of the following definitions together:

- ***"Licensed space: The indoor and outdoor space of a premises approved by DEL for the purposed of providing licensed care for children.***
- ***"Unlicensed space: The indoor and outdoor areas of a premises that are not approved by DEL as licensed space, and where children are reasonably prevented from entering during child care hours.***
- ***"Premises: The licensed and unlicensed space at the licensee's address.***
- ***"Accessible to children: Areas and materials that children can reach, enter, or use with little or no difficulty."***
- ***"Inaccessible to children: The use of an effective method or barrier that reasonably prevents a child's ability to reach, enter or use items or areas."***

***.Vote 16 in favor, 3 undecided, 0 opposed***

Concerns:

- Definition of "premises" doesn't cover structures on the property under the licensee's control or not that may have a separate address, such as a "mother-in-law" cottage that kids may have access to.
- "Approved" should be defined.
- Need more time to digest these ideas and how they impact other recommendations already made by NRMT.

- Do we need to revisit the licensee's office and other areas that are used for program but not by children?

The Rule Writers will review the previous recommendations and rules that have already been drafted for consistency with our newly recommended definitions.

### ***Staff Qualifications***

#### **West Side Story, Presenters - Sue Winn and Karen Hart**

##### **Subtopic: Licensee Responsibility**

This subtopic covers the licensee's responsibilities to personally manage the family home child care operation, regardless of whether the licensee is present.

The group discussed changing the timeframe for reporting emergency absences (see k. below) to "as soon as possible or no later than 24 hours after emergency." There was a long discussion about how to balance outside employment or other home-based business while still assuring that children are the foremost consideration for any licensee. (For example: If children are napping, could a provider do employment-related tasks such as making phone calls related to a home-based business or stuffing envelopes. Questions were asked about absences (or preparing materials) to teach child-care related courses mentoring as some providers do, or other provider supportive activities for which a licensee is paid?

Group agreed on the concept of creating a form, somewhat like a "Conflict of Interest statement" or "Agreement for Additional Activities" that explains how a licensee's other employment may impact the child care. Written approval by DEL for those additional activities would be required.

After making some changes, the group decided to adopt the following recommendations. The licensee:

- a. *"Has the ongoing and primary responsibility for the daily operations of the child care and providing the direct care and interactions with the children enrolled.*
- b. *"Must be aware of what staff (employed by the licensee) are doing and able to promptly assist to protect the health and safety of children in care.*
- c. *"Must orient all staff on minimum licensing requirements.*
- d. *"Must retrain all staff if minimum licensing requirements are not being met while in the licensee's absence.*
- e. *"Must submit a written plan approved by DEL to prior to engaging in other employment during the operating hours of the child care.*

- f. *“May hold only one family child care license and only for the home where the licensee resides.”*
- g. *“Must discuss potential absences (of the licensee) with families and it must be written in policies and procedure hand book.”*
- h. *“Must notify parents of closures and current staffing as absences occur.”*
- i. *“Must notify the DEL licensor in writing of dates of absence exceeding seven consecutive days. A plan that meets all applicable WAC for the situation is required. All required notifications and plans for non-emergency absences must be completed prior to absence.”*
- j. *“Must notify the licensor in writing of regular (repetitive) absences occurring more than 7 (seven) days in a month. A regular absence is one that is planned and re-occurring. 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.”*
- k. *“Or another person must notify (the) licensor as soon as possible, and not later than 24 (twenty four) 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.”*

***In-concept Vote 14 in favor, 3 undecided, 1 opposed***

**Concerns:**

- Short-term absences can pile up - Consideration should be given to the length of time the licensee is absent;
- Obtaining licensor permission for absences;
- Concern about clarity, consistency and the requirements being uniformly enforced.

***Indoor Environment;***

***A-Team, Presenters - Sherry Schleufer and Debbie Knighten***

***Subtopic: Access to Exits/ Dangers (Weapons & Access)***

The A-Team reported that the larger group’s earlier recommended definitions related to space fit well with the sub-team recommendations. Regarding safeguarding exits (which must remain unlocked during child care hours for use as fire escapes), Sherry demonstrated a door alarm device that is inexpensive and effective (loud).

There was also considerable discussion about the A-Team’s recommendation on weapons storage (changed from “gun storage), particularly if the licensee stores the weapons in a locked room rather than a safe. Eventually, the group recommended the following:

*“The provider must be able to demonstrate:*

- *How children are prevented from entering unlicensed space. and*
- *How the provider is alerted if an exit door has been opened*

*“Weapons and ammunition must be stored:*

- *In a locked room, and Guns (stored in a locked room) must have a trigger lock; or*
- *In a locked gun safe*

*“‘Weapons’ need to be defined.”*

**Vote 16 in favor, 2 undecided, 0 opposed**

Concerns:

- After clarifying that ammunition must also be stored in a locked room or gun safe, one undecided member change to vote “in favor,” making the final vote **17 in favor, 1 undecided, 0 opposed.**
- Is there research on door alarms (during the meeting the group located research in Caring for Our Children online)? Will this rule be applied uniformly statewide?

**Subtopic: Electrical Outlets**

Concerns were raised about finding four-plug outlet covers that work for older homes, but the sub-team said that safety solutions are available for most types of outlets. The larger group voted to recommend:

*“Electrical outlets must be safe, (and be):*

- *“Safety outlet covers or screw-mounted outlet covers installed to semi-permanently prevent access to the outlet, OR*
- *“Outlets of the ground-fault circuit-interrupter (GFCI) type must be,*
  - *Tamper resistant outlets,*
  - *Entirely cover the outlet, or*
  - *(Located) out of reach of children.”*

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

**Subtopic: Cords/ Surge Protectors**

For this sub-topic, the group referred to recommendations from the State Fire Marshal’s office at our March 28, 2009 meeting and Caring for Our Children. After revising the first and last recommendations, the group voted to support the following:

- *“Cords must not dangle from counter or table top where they can be pulled down or tripped over.*
- *“Cords must be replaced if cracked, worn or hot to the touch, and must be plugged directly into an outlet or surge protector (not to another extension cord).*
- *“No regular (non-surge protected) extension cords may be used except for a brief, temporary purpose.*
- *“Surge protectors may be used when plugged directly into an outlet.”*

**Vote 17 in favor, 1 undecided, 0 opposed**

Concern: The recommendation should say cords should not present a strangulation hazard.”

### **Subtopic: Lighting**

The main concern voiced was protecting children from shattering light bulbs, which lead to revising this recommendation. Eventually the group voted to support that the licensee must:

- *“Provide lighting that for good visibility for the children in your care.*
- *“Use light fixtures with shielding or shatter proof bulbs in food preparation and child areas.”*

Consider when writing the Guidebook, hazards of: standing floor lamps; chandeliers or sconces where shields are unavailable; canned or recessed lights; bathroom lights; uncovered electrical panel boxes and their locations.

### ***Vote in Concept 17 in favor, 1 undecided, 0 opposed***

Concern: Lack of depth of coverage of this topic.

### **Subtopic: Telephones**

There has been a lot of discussion about requiring a “landline phone,” especially as wireless cellular and cable (voice over internet) telephone become the primary home telephones for many families. Both types of service can go down in an earthquake or power outage. The most reliable telephone in these types of emergencies is one that plugs directly into a telephone jack outlet (not through an answering machine or cordless phone base unit that requires electricity to work). Team C is also looking at this issue with regard to the ***Emergency Preparedness*** topic. The group finally voted to recommend:

- *“A working phone is required in the licensed space.*
- *“There must be at least one landline phone that does not require electricity readily available in case of emergency. ‘Land-line phone’ needs to be defined.”*

Guidebook should suggest the providers carry a working cell phone on field trips or outings.

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

### **Subtopic: Bathrooms**

We decided to cover this section at the next meeting.

### **Subtopic: Cleanliness & Sanitizing**

The group recommended that this subtopic be checked for consistency with sanitizing and food preparation section in ***Food and Nutrition***. Specific processes used in the both topics need clear definition, such as what does it mean to “clean” “sanitize” and “disinfect”. Specifics should be addressed in the ***Health*** topic and using charts from Caring for Our Children in the Guidebook. Close dryer venting will be covered in Fire Safety subtopic in September. The group voted to recommend the following on cleanliness and sanitizing:

*“Family child care home, equipment, toys and supplies must be routinely cleaned and sanitized .*

- *“Define:*
  - *Sanitize*

- Clean
- Disinfect.
- “Include bleach and bleach alternatives.

“Providers must clean laundry through temperature control or the use of chemicals (detergent, bleach, etc).”

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

Concern: The old WAC has a reference to being sure the home is “free of hazard and in good repair” – will that be captured somewhere else?

**Subtopic: Pets**

Portions of this subtopic have been covered Outdoor Environment, such as close monitoring of young children around pets, and checking the outdoor play area for animal wastes daily. The group applied some of the definitions agreed earlier in the day regarding “accessibility,” revising two the recommendations. Eventually the group voted to support regarding pets:

- “Children must wash their hands after interacting with pets.
- “Child care providers with pets must let parents know they have a pet and should write a plan that provides for the child’s safety and this information should be in the parent handbook. Pets that have contact with children must show no signs of communicable disease and be non-aggressive .
- “Reptiles and amphibians must be kept inaccessible. (Discuss Salmonella concerns from reptiles in the Guidebook).
- “Pre-school and younger children need to be directly supervised when interacting with pets.
- “If a pet is known to be dangerous to children, the provider must create a plan to make this pet inaccessible.
- “Litter boxes must be inaccessible.”

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

The group will continue and plans to finish **Indoor Environments** at the September 19 meeting.

**Corrective and Adverse Actions**

We discussed the scheduling possibilities, and the likelihood that our large group meetings would come to a close before we would have a chance to give every topic area the same level of discussion and attention that we have thus far. Some NRMT members expressed a strong preference that this topic be discussed through this process. DEL members of the group noted that most of what in the WAC on corrective and adverse actions (denial, suspension, revocation and civil fines) mirrors what is in RCW, so DEL has little or no leeway on what those rules say. The group recommended that a small representative group be formed – much like the one that

took on the topic of **Definitions Regarding Space** – to work through the matrix/discussion process. Mary Kay Quinlan will notify Bob McLellan that he has been asked to lead this small group and report back on progress to the large group. Other small group participants will be: Sandi Clemans, Judy Jaramillo, Sylvia Mireau, Karen Hart, Judy Bunkelman and Mary Ruch-Brown.

### **Next Meeting**

Next meeting will be September 19, 2009, at the Puget Sound Educational Service District 121 conference center in Renton. Agenda items will include:

- ◆ Finish **Indoor Environment** (A Team)
- ◆ Strategy Meeting update on NRM Evaluation, Continuance, & Team Closure
- ◆ If time permits, begin **Emergency Preparedness** (C Team)
- ◆ If ready, review recommendations on **Supervision** (West Side Story)

### **Upcoming NRMT Meetings**, all at ESD 121:

- ◆ September 19
- ◆ October 24
- ◆ November 7
- ◆ December 5

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

The West Side Story (Karen Hart is Lead) will:

- Finish work on **Supervision** and possibly be prepared to present on September 19.
- Continue developing recommendations about **Health** for October or November

The A-Team (Debbie Knighten is Lead) will:

- Complete work on **Indoor Environment** and be prepared to present on Sept. 19.
- Create a table for medications, topical and other household substances need to be locked up or inaccessible to children (shampoos, First Aid kit items, etc.), versus items that need to be inaccessible but readily available to staff (such emergency allergy medications) discussed at the June 20 NRMT meeting.

Team C (Martha Standley is Lead) will:

- Complete **Emergency Preparedness** and be prepared to begin presenting this topic on September 19
- Continue working on **Nurturing & Guidance**.