

Department of Early Learning
Negotiated Rule Making Team Meeting Notes
November 14, 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 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 and 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 Rule Writing & Rule Review progress and Communication/ Outreach;
2. Hear recommendations about revisited issues (Food as reward; Minimum temperature in home);
3. Review and vote on pre-submitted recommendations about **Supervision**;
4. Begin discussing **Emergency Preparedness** (Team C)
5. Begin discussing **Nurture and Guidance** (Team C)
6. Discuss and determine what elements should be incorporated into our work moving forward; and
7. Determine next steps.

Pre-Work Given at October 24, 2009 Meeting:

The West Side Story (Judy Jaramillo is Lead) will:

- Continue developing recommendations about **Health**

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

- Work on a **Celebration** component for the December meeting

Team C (Martha Standley is Lead) will:

- Continue working on **Emergency Preparedness**
- Continue working on **Nurturing & Guidance**

<i>Time</i>	<i>Topic</i>	<i>Design Notes</i>
9:00	Welcome, Agenda, Introductions, Check In	
9:20	Updates <ul style="list-style-type: none">◆ Rule Writing & Review◆ Communication/ Outreach	
9:40	Revisited Issues <ul style="list-style-type: none">◆ Food as Reward	

	◆ Minimum Temperature in home	
10:00	<i>Supervision</i> - pre-submitted proposals	
11:00	<i>Emergency Preparedness</i> (Team C)	
12:00	Lunch	
12:30	<i>Emergency Preparedness - continued</i>	
1:30	Break	
1:45	<i>Nurture and Guidance</i> (Team C)	
3:15	Next Meeting Agenda, Assignments, Schedule Adjustments	Final meeting for closure, continuance, celebration in Renton December 5, 2009
3:30	Adjourn	

Voting Members Present:

Mary Ruch-Brown, DEL
Cassandra Clemans, Provider Advocate
Debbie Knighten, SEIU/Provider
Kathy Yasi, SEIU/Provider
Sandra VanDoren, EWFCCA/Provider
Jean Orton-Elders, DEL
Sylvia Mierau, SEIU/Provider
Laura Giddings, WSCCR&R Network
Martha Standley, DEL

Angela Taylor, SEIU/Provider
Nancy Gerber, SEIU/Provider
Dora Herrera, SEIU/Provider
Sherry Schleufer, SEIU Staff
Sue Winn, WSFCCA/Provider
Judy Jaramillo, DEL
Lisa Beaulaurier, SEIU Staff
MaryKay Quinlan, DEL

Public, Guests, Other Non-Voting:

Laura Tanzy, SEIU/Provider
Kathleen Hardee, Provider Adoc. (Alternate)
Hawa Ibrahim, SEIU/Provider
Roxanne Pera, SWWFCCA/Provider
Debbie Rough-Mack, Independent Facilitator

Joan Aarts, WSFCCA/Provider (Alternate)
Carol Gibbs, EKCFCCA/Provider
Fatima Ali, SEIU/Provider
Marianne Kilgore, SWWFCCA/Provider
Andy Fernando, DEL NRMT Coordinator

Abbreviations/Acronyms:

EKCFCCA = Eastern King County Family Child Care Association
EWFCCA = Eastern Washington Family Child Care Association
SWWFCCA = Southwest Washington Family Child Care Association
WSFCCA = Washington State Family Child Care Association
WSCCR&R = Washington State Child Care Resource and Referral (Network)
SEIU = Service Employees International Union Local 925
DEL = Department of Early Learning

Updates

Rule Writing & Rule Review Committees

Sandra and Judy are meeting twice a week. The three draft sections are done (Licensing Process, Outdoor Environment, Program) but there has been difficulty getting them posted on the DEL web site, as it is being redesigned. It should be available within a few days. Even though the large group meetings will end after December 5th, Judy and Sandra will continue to meet and work on promulgating draft rules, until they have completed each section.

Communications, Outreach & Parent Involvement

A helpful hint for handouts when giving presentations: color-code the draft sections so it's easier for people to follow along!

The following sessions occurred recently, where NRM progress was discussed:

- ◆ November 7 – North King County Child Care Association meeting (Judy Jaramillo and Betty Hyde)
- ◆ November 7 – KCTS conference (Betty Hyde)
- ◆ November 9 – Tri Cities Child Care Association meeting (Debbie Knighten), 50-60 providers
- ◆ November 10 – Bellevue area Child Care Association meeting (Mary Ruch-Brown, Sue Winn), 30 providers

Recurring issue:

Ease of accessing the DEL website and finding Negotiated Rule Making information continues to be a concern. Can we send out a url (direct link) so that interested parties can be sent to a specific place?

Revisited or “Orphan” Issues

- ◆ Feedback from some of the draft rules in the *Infant Care* section identified an NRMT recommendation that food not be allowed to be used as a reward (e.g. in potty training). This was mistakenly inserted by the Rule Review Committee, is not an NRMT recommendation, and so it has been removed from the draft.
- ◆ In the *Indoor Environment* section, there was an effort to identify a research source for recommending a minimum indoor temperature. That recommendation is 65 degrees, and the research source is *Caring for our Children, 2nd edition*.
- ◆ Though the list of recommended items for First Aid kits (*Emergency Preparedness*) is not yet complete, there was a proposal that *Syrup of Ipecac* not be required because of concerns about poison danger, and because it has been in very short supply (some pharmacies don't stock it).
Vote 12 in favor, 4 undecided, 1 opposed
Concern: research is divided on this; Why remove the option?; Tough to comply with having it if you can't get syrup of ipecac.

Supervision

There had been lengthy discussions on this topic at previous meetings with the most recent vote taken on August 8, 2009. Negative reactions from providers (to that voted-on recommendation) led NRMT members to resurface the topic at the last two meetings. Considerable discussion followed without resolution. There were two primary issues: (1) When should a licensee be required to inform a licensor of absences? (2) How should a licensee be required -- or should they -- to demonstrate that they are present and providing care most of time?

The group decided that solutions/proposals could be submitted to Andy by November 9th for one final consideration at this meeting. Limited discussion and voting time would be allocated (maximum one hour), in view of the time already devoted to this topic.

There was one proposal submitted by DEL, which involved amending the August 8th proposal to define a regular absence as being "...more than 4 hours in duration."

Discussion of this proposal sparked a need to review previously approved recommendations in the *Staff Qualifications* section about providers documenting the presence or absence of staff. The review of this section eased concerns, as the rule writers had adapted the intent of the NRMT recommendation, which was for providers to demonstrate that they had maintained the appropriate ratio of provider to child when the number of children in attendance fluctuated. The language used in the recommendation allowed for providers to document either attendance *or* absence to prove appropriate ratios were kept. The group voted to revise only this part of the recommended language adopted at the August 8, 2009 NRMT meeting (see strikeout and underlined changes):

"(The) licensee must notify licensor in writing of regular ~~repetitive~~ 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.

"[Note: safety/care plan may be a standard plan on file]"

Vote 16 in favor, 1 undecided, 0 opposed

Concern: Providers may have absences that reoccur but are not necessarily plan, and documentation may be difficult.

Reporting, Recordkeeping and Posting - Subtopic: Licensee Responsibility

The group revisited the recommendation on the licensee documenting their attendance [May 2, 2009 recommendation: *"(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."*]

A discussion around language developed by the Rule Review Committee on documenting that the provider at all times has qualified staff (including the licensee) that meet capacity/ratio requirements produced the following revision of the August 8, 2009 recommendation:

"(The) Licensee must have documentation of staff being counted in capacity to meet the staffing requirements for the children in care."

Vote 16 in favor, 1 undecided, 0 opposed

Concern: Documentation could be difficult for some providers; “Real life” unexpected situations; Reminder that if the licensee has a plan for absences in your handbook then you’re covered.

Topic: Emergency Preparedness - Presenters Team C

Due to time constraints and this being the next to last full NRMT meeting, the group moved fairly quickly through this topic.

Subtopic: Emergency Preparedness

◆ Disaster Planning

See Matrix for specifics. Votes were by section:

1. Landline Telephone – covered in *Indoor Environment* with the same recommendation:

“You must maintain a working land line telephone that plugs directly into a phone jack (and not a voice over internet service or answering machine).”

2. Emergency Contact

This recommendation was based on the presentation by Seattle-King County Public Health Emergency Management folks. The “in favor” vote was just over half of the team to recommend:

“You must designate an emergency contact out of the area (outside Washington, Oregon, Idaho, or British Columbia).”

Vote 9 in favor, 6 undecided, 2 opposed

Concerns: Not everyone knows somebody out of state and may not be able to comply; Non-English speaking providers may have more trouble finding out-of-area contacts, Good idea but should not be required, out of compliance concerns – put it in Guidebook.

3. Disaster Plan

“You must have a written disaster plan. The plan must be reviewed annually and updated if needed. The plan must cover at minimum the following:

“Evacuation of the children from the building in which care takes place, including : a. what to take with you, (including at a minimum having ready those items required for field trips, outings or transportation: First Aid kit, child medication records, etc - see Program recommendation); b. where you will go, and c. how you will ensure all children are evacuated, especially those who cannot walk.

“Lockdown of facility or shelter-in-place, including a. how doors and windows will be secured if needed, b. where children will stay safely inside the facility, and c. how you will maintain three days of food, water, and medications required by individual children.

“Earthquake procedures, including what you will do during an earthquake and what you will do afterwards.

“Other probable potential disaster(s) for your area.”

Vote 17 in favor, 0 undecided, 0 opposed

4. Drills

The public health-emergency management speakers and state fire marshal told the group that having a plan isn't enough – it must be practiced regularly so everyone knows what to do. The group voted to accept Team C's recommendation

“(The) Licensee and staff must practice evacuation, earthquake and lockdown/shelter-in-place procedures according to the following schedule:

- Evacuation drill– once each calendar month*
- Earthquake drill – once every three calendar months*
- Lockdown/shelter-in-place drill– once annually”*

Vote 16 in favor, 1 undecided, 0 opposed

Concerns: Earthquake/disaster training is difficult to practice; Descriptions are needed in the Guidebook of various drills and where to get training.

5. Recordkeeping

Team C noted the public health/emergency management recommendation that providers schedule drills so that all kids get to practice, too, and that parents know what role they play. The group voted to recommend:

“(The) Licensee must keep records that show you reviewed your disaster/evacuation plan(s) annually and that parents have received them upon enrollment.

“Licensee must keep records of drills performed. Records must include:

- i. The date and time that the drill took place;*
- ii. Staff who participated;*
- iii. Number of children who participated;*
- iv. Length of drill; and*
- v. Notes about how the drill went – what you learned and what you might do differently next time.”*

Vote 15 in favor, 1 undecided, 1 opposed

Concerns: too much paperwork; not meaningful information

6. ***Fire Evacuation***

There was general agreement that there should be a fire evacuation plan. The group voted to recommend:

“(The) Licensee must develop a written fire evacuation plan. The evacuation plan must include:

- (1) an evacuation floor plan, identifying exit doors and windows, and must be posted at a place clearly visible to the staff and parents. Plans must include the:*
- (2) Method(s) to be used for sounding an alarm; and*
- (3) Actions to be taken:*
 - (a) By the person discovering a fire;*
 - (b) For evacuating the building and assuring accountability of the children; and*

- (c) Pending arrival of the fire department/emergency response
- (d) Informing parents and arranging pick up of children if needed.”

Vote 16 in favor, 0 undecided, 0 opposed

◆ **Facility Preparedness**

See Matrix for specifics. Votes were by section:

1. Smoke Detectors – previously covered in *Indoor Environment*. But there was discussion on putting information in the Guidebook on Radon and Carbon Monoxide detectors.
2. Alarm (other than smoke detectors)
The group had full consensus to recommend:

“In addition to working smoke detectors, the home must have an additional method to sound an alarm that is used only in emergency situations or drills”

Vote 17 in favor, 0 undecided, 0 opposed

3. Fire Extinguishers
See similar language from related sections in *Indoor Environment & Recordkeeping* (maintenance), which is much like the current WAC. The group voted to recommend:

“(The) Licensee must have at least one 2A:10 BC type fire extinguisher on each floor level occupied for child care use. Documentation of annual fire extinguisher maintenance or proof of purchase annually must be on file.”

Vote 17 in favor, 0 undecided, 0 opposed

4. Training
There is other required staff training in Staff Qualifications and other areas. The writers will need to sort out any duplications. Include in the Guidebook a method for using extinguishers. The group decided to add staff responsibilities where needed, as in the recommendation on use of fire extinguishers:

“(The) Licensee and staff must be able to demonstrate:
- *The use of fire extinguishers (staff must be able to demonstrate or describe how to use a fire extinguisher) [put maintenance info in the Guidebook]*
- *Testing and operation of smoke detectors and other alternate alarm device;*
- *Conducting inspections of the home to identify fire hazards and how to correct identified hazards”*

Vote 17 in favor, 0 undecided, 0 opposed

5. Emergency Supplies
This would mainly be if the licensee had to shelter-in-place when cut off by a flood, earthquake or other emergency where the children needed to stay with the licensee until parents could arrive. The group voted to recommend:

“(The) Licensee must have enough food, and water and medication on the premise(s), in an accessible area, and request medication of parents, to be able to care for children in an emergency for up to three days.”

Vote 17 in favor, 0 undecided, 0 opposed

Subtopic: Fire Safety

Again, this subtopic was dispatched very quickly. Portions of this topic had been covered before by the “A Team” in the **Indoor Environment** topic, but there wasn’t time to get together and figure out over laps. Team C prefaced all of its recommendations with “if not (already) covered in *Indoor Environment*.” Votes by section:

1. **Building/Fire Codes**

“Any home used for child care purposes for fewer than thirteen children is considered to be a Group R, Division 3 occupancy by the state building code (cite appropriate WAC).”

(No vote on this language recorded.)

2. **Fire Department Visit/Furnace-HVAC (heating, ventilation, air conditioning)**

“To prevent fire in the home, the licensee must:

“(a) Inspection: Request the local fire department to visit the home to become familiar with the facility and to assist in planning evacuation or emergency procedures. If the local fire department does not provide this service, the licensee must document that you made the request.

“(b) Furnace/HVAC: Keep furnace rooms free of lint, grease and rubbish accumulations and other combustibles (within distance per Fire Marshal – Judy J. to check). The furnace must be suitably isolated, enclosed or protected. Licensee must allow licensors access to unlicensed space for the purpose of verifying compliance with this provision.”

“Put in the Guidebook: description of combustibles”

Vote 15 in favor, 1 undecided, 1 opposed

Concern: Unlicensed space inspection issue if the furnace isn’t in the license space; Some fire departments don’t have time/funding to inspect a provider’s home (no fire inspection standards for homes).

3. **Flammable Materials**

“Store flammable or combustible materials, and items labeled “flammable,” away from exits and in areas that are not accessible to children. Licensee must not allow combustible rubbish to accumulate; so it must be removed from the building or stored in closed metal containers.”

Vote 17 in favor, 0 undecided, 0 opposed

Concerns: Need more clarity on “combustibles;” What kinds of things are “flammable” (including clothing or toys)? For Guidebook: plastic wastebasket should be okay for art project trash.

4. Waste Disposal

This subtopic generated a good bit of discussion about early language that included keeping the home “neat and clean,” which some thought was subjective. Eventually, the group decided to put forward:

“All waste generated in the child care space must be removed from the building daily and disposed of in a safe manner outside the living space in containers designed for that purpose, with close fitting lids.”

Vote 17 in favor, 0 undecided, 0 opposed

5. Electric Motors

“(The licensee must) Keep electrical motors free from accumulated dust.”

Vote 17 in favor, 0 undecided, 0 opposed

6. Open Flame Devices

*“Do not leave on open-flame devices capable of igniting clothing unattended or allowed to be used in a way that could result in an accidental ignition of children’s clothing.
“Licensee must not use, or allow the use of candles during operating hours.”*

Vote 14 in favor, 4 undecided, 0 opposed

Concern: Birthdays candles not allowed? (cultural relevance)

7. Emergency Light

“Keep a working flashlight available for use as an emergency light source.”

Vote 17 in favor, 0 undecided, 0 opposed

8. Electrical Circuits/ Cords

See also ***Indoor Environment***

“(The Licensee must) Properly maintain all electrical circuits, devices and appliances. Circuits must not be overloaded.”

Vote 17 in favor, 0 undecided, 0 opposed

9. Portable Heaters/ Generators

“(The licensee) Not use portable heaters or electric generators of any kind in any area inside of the child care home or building during child care hours. (Indoor-heating also

covered portable heaters) Licensee must allow licensors access to unlicensed space for the purpose of verifying compliance with this provision.”

Vote 10 in favor, 2 undecided, 5 opposed

Concern: DEL licensors going in to unlicensed space without “cause;” How best to heat the home in an emergency or power/gas outage.

10. House Numbers

“(The licensee must) Use numbers or addresses on the child care home, and in the driveway to the house when the house is not visible from the road. Place the numbers or address in a position where it is plainly visible and legible from the street or road fronting the property. The numbers must contrast with their background.”

Vote 17 in favor, 0 undecided, 0 opposed

Guidebook: Size recommended – at least 4 inches high by 1 inch wide.

11. Fireplaces, Woodstoves

“If the home has a fireplace, woodstove or similar device in use, it must be inspected by a qualified specialist annually, and maintained as required by the inspection. The licensee may provide a written statement if the fireplace, woodstove or similar device will not be used at any time. Where a fireplace, woodstove or similar device includes open flames or hot surface devices, licensee must erect approved barriers to make the device inaccessible to children.”

Vote 11 in favor, 4 undecided, 2 opposed

Concerns: Not ready to vote (need more time); considerable cost associated with annual inspection – would manufacturers say they are necessary; Old WAC required initial inspection, this WAC would require annual inspection; Wouldn’t be able to use it on personal time or as back up heat; The number of times used and type of use might have effect; Emergency use; Stringency recommended here is greater than fire code; cost is greater or rural providers; Should fireplace not in use require inspection.

12. Matches /Lighters

“(The licensee must) Keep matches, and lighters, etc. inaccessible to children.”

Vote 17 in favor, 0 undecided, 0 opposed

This completed the ***Emergency Preparedness*** topic recommendations.

Topic: Nurture and Guidance – Presenters: Team C

Although there wasn’t much time left in the day, the group decided to get a little done rather than none all, considering this was our next to last full group meeting.

Subtopic: Adult/ Child Interaction

There was some discussion on how to define obscene or profane language – this may differ by culture or social norms – and whether it’s always possible to speak to a child on his or her eye level (“when possible and appropriate” was added to Team C suggested wording). The team finally decided to recommend:

“Provider, staff and volunteers must:

- *Demonstrate positive and respectful interactions when children are present.*
- *Interact with children through respectful listening and responding to what the children have to say.*
- *Engage in regular two-way communication with each child.*
- *Treat each child with consideration and respect, and with equal opportunities to take part in all developmentally appropriate activities;*
- *Appropriately hold, touch and smile at children;*
- *Speak clearly to children at their eye level when possible and appropriate;*
- *Be available and responsive to children, encouraging them to share experiences, ideas and feelings;*
- *Sit with children during meals when possible (Check Food section for duplication).*
- *Attend to children when they cry;*
- *Perform age or developmentally-appropriate nurturing activities including diapering, toileting, feeding, dressing and resting, taking into consideration of the parent's own nurturing practices, when the practices are developmentally appropriate and when the practices would not constitute a violation of these regulations. These activities must be performed in a relaxed, reassuring and individualized manner, which is developmentally appropriate and promotes the child's learning self-help and social skills;*
- *Not use profanity or obscene language.”*

Vote 16 in favor, 1 undecided, 0 opposed

Concern: Not all of the behaviors listed are measurable by the language here.

Subtopic: Discipline

Team C’s recommendation was regarding the licensee’s (“provider” means “licensee”) responsibility to provide guidance and discipline. But there was discussion on who else should or shouldn’t be okay to discipline a child, and what happens when another staff person disciplines a child. After several additions, the group voted to recommend:

- *“The provider is responsible for setting standards for guidance and discipline children of children in your care.*
- *“(The) Provider must train staff and volunteers in the expected guidance and discipline standards and actions.*
- *“Providers are responsible for the discipline actions that occur in the child care.*
- *“Only staff and volunteers who are trained in expected standards may discipline children in care.”*

Vote 16 in favor, 1 undecided, 0 opposed

Concern: About the licensors liability for staff acting differently than how they’ve been trained.

Unfinished Work

The group was not able to complete review and discussion of the *Nurture & Guidance* topic, so NRMT members were invited to review the matrix and email concerns and considerations to Andy before the December 5, 2009 meeting. He is particularly interested in receiving suggestions about language. The proposal for continuance is that the Rule Writers and Rule Review team (a subset of the NRMT) will continue the process of discussion and recommendations of any unfinished topic matrices after December, until all topics have been reviewed.

Next Meeting

The initial plan was for the last large group session to focus on NRMT evaluation and lessons learned, plans for continuance and celebration. While recognizing the importance of these elements, several in the group wanted to spend at least part of the December 5 meeting on the topic matrixes. The group decided to devote an hour and a half to the topic of *Health*, which is the last major topic are that has not yet been reviewed as a large group. West Side Story (Judy Jaramillo is Lead) will present. The remainder of the day will be spent as planned.

Our final large group meeting will be December 5, 2009 in Renton.