

Department of Early Learning
Negotiated Rule Making Team Meeting Notes
December 5, 2009, Renton, Washington

This was the final meeting of the Negotiated Rule Making process. 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. Begin discussing **Health** topic (West Side Story presenting).
2. Reflect on the history of the project and the lessons learned;
3. Review documents describing accomplishments and the status for NRM completion
4. Discuss and provide input on plans for future work that supports the spirit of negotiated rule making and our recommended rules;
5. Acknowledge personal contributions to the effectiveness of the process;
6. Celebrate!

<i>Time</i>	<i>Topic</i>
9:00	Welcome, Agenda, Introductions, Check In
9:10	Hello from Bob Hamilton, Deputy Director of DEL
9:20	Health (West Side Story)
10:50	NRMT History and Timeline
12:00	Lunch
12:30	Celebration Activity
1:00	Closure for the NRMT Project – Sharing Documents <ul style="list-style-type: none">• Wheel & Topics, Statistics (Judy)• Completion of Remaining Tasks, Topics (Judy)• Guidebook (Judy)• One-pager on “professionalizing child care” (Andy) Keeping the Flame – Hopes for Next Steps <ul style="list-style-type: none">• Training for Licensors (Bob)• Training for Providers (Bob)

	<ul style="list-style-type: none"> • Continued Involvement (Lisa/ Nancy) • Quarterly Update & preview of recommended rules to NRMT (Andy) • Pre-update Quarterly Resource Group meeting (Bob) • WAC Weighting & Challenges we face (Bob)
1:50	Break
2:00	Personal Acknowledgement – Small Groups
3:15	Closing
3:30	Adjourn

Voting Members Present:

Judy Bunkelman, DEL
 Angela Taylor, SEIU/Provider
 Lola Kling, SEIU/Provider
 Mary Ruch-Brown, DEL
 Debbie Knighten, SEIU/Provider
 Cassandra Clemans, Provider Advocate
 Vicky Lujan-Bell, DEL
 MaryKay Quinlan, DEL
 Sue Paskiewitz, SEIU/Provider
 Nancy Gerber, SEIU/Provider
 Sandra VanDoren, EWFCCA

Jean Orton-Elders, DEL
 Sue Winn, WSFCCA/Provider
 Judy Jaramillo, DEL
 Martha Standley, DEL
 Laura Giddings, WSCCR&R Network
 Lisa Beaulaurier, SEIU Staff
 Dora Herrera, SEIU/Provider
 Kathy Yasi, SEIU/Provider
 Cynthia Hendsch, DEL
 Sherry Schleufer, SEIU Staff
 Donna Horne, VOA/CCR&R

Public, Guests, Other Non-Voting:

Kathleen Hardee, Provider Adoc. (Alternate)
 Karen Hart, SEIU Staff
 Robert Hamilton, DEL Deputy Director
 Debbie Rough-Mack, Independent Facilitator

Joan Aarts, WSFCCA/Provider
 Carol Wilson, WSFCCA/Provider
 Robert McLellan, DEL NW Svc. Area Mngr.
 Andy Fernando, DEL-NRMT Coordinator

Abbreviations/Acronyms:

EWFCCA = Eastern Washington Family Child Care Association
 WSFCCA = Washington State Family Child Care Association
 VOA/CCR&R = Volunteers of America/Child Care Resource and Referral
 WSCCR&R = Washington State Child Care Resource and Referral Network
 SEIU = Service Employees International Union Local 925
 DEL = Department of Early Learning

A few words offered by Bob Hamilton, DEL Deputy Director

Mr. Hamilton joined the first portion of the meeting. He expressed appreciation for the NRMT's efforts, and assured the group that DEL Director Bette Hyde would be personally reviewing the

draft recommendations. He said Dr. Hyde would be meeting with the NRMT after the complete set of rule recommendations is finished to give direct feedback.

Mr. Hamilton stayed for the *Health* topic discussion to get an appreciation of how the group worked through some tough issues toward an eventual consensus.

Topic: Health (West Side Story presenting)

At the November 14 meeting, the group committed to working on the Health topic matrix to get as much work done as possible before the group disbands. Since we moved through this topic quickly, the Rule Writers were directed to look to the concerns and comments to resolve any wording issues during the drafting. There wasn't time for the usual wordsmithing.

Subtopic: Healthy Practices

The sub-team's suggested recommendation was similar to the current WAC 170-296-0860. The full team voted to recommend:

“Known reportable communicable diseases. You (the licensee) must:

- *Remove infected individual from the environment*
- *Notify the local health authority*
- *Notify DEL within 24 hours from time you have been notified of child's diagnosis*
- *Follow your written health plan for re-admittance*

“All other illnesses the licensee must follow written procedures (in health plan) for child exclusion”

Vote 21 in favor, 0 undecided, 0 opposed

Concern: What about “suspected” illnesses, and How does the provider identify what the illness is?

Subtopic: Immunizations

The group voted to keep the structure the same as in the current immunization WAC, with “The licensee” replacing “you:”

“(1) You are required to track each child's immunization status. To be sure children have the required immunizations for their age, you must:

(a) Ensure the child has a completed, current, certificate of immunization status form (CIS) submitted on or before the first day of child care;

(b) Develop a system to audit and update, as scheduled, the information on the CIS form;

(c) Meet any requirement of the state board of health WAC 246-100-166; and

(d) Have available in your licensed space the CIS forms for review by the licensor.

(2) You may accept a child who is not current with immunizations on a conditional basis if immunizations are:

(a) Initiated before or on enrollment; and

(b) Completed as rapidly as medically possible.

(3) You may exempt the immunization requirement for the child if the parent or guardian:

(a) Signs a statement expressing a religious, philosophical or personal objection; or

(b) Furnishes a physician's statement of a valid medical reason for the exemption.

Meet any requirement of the state board of health WAC 246-100-166”

(The wording should) “reflect how the *Recordkeeping* matrix states it”.

Vote 21 in favor, 0 undecided, 0 opposed

Subtopic: Medication management and record keeping

The key changes was on sunscreen, diaper ointments or hand sanitizers, not having the provider document each time they use them with children. Otherwise, the group voted to recommend:

“ The Permission form is kept confidential.

“The licensee must meet specific requirements for managing prescription and nonprescription medication for children in care.

“Only licensee or primary staff person may perform the functions described in this section.

“You must:

- *Have written permission from of the child's parent or legal guardian to give the child any medication.*
- *Have approval not to exceed thirty days.*
- *Keep a written record of all medications given to a child;*
- *Return any unused medication to the parent or legal guardian of the child;*

“The following classifications of nonprescription medications must:

- *Be given only with the dose and directions on the manufacturer's label*
- *Be given for the age or weight of the child needing the medication*

“These non-prescribed medications include but are not limited to:

- (i) Non-aspirin, fever reducers or pain relievers;*
- (ii) Non-narcotic cough suppressants;*
- (iii) Decongestants;*
- (iv) Anti-itching ointments or lotions intended specifically to relieve itching;*

“[new] 90 day permission and no documentation is needed for the following:

- *Diaper ointments and talc free powders intended specifically for use in the diaper area of children*
- *Sun screen*
- *Hand sanitizer*
- *Hand wipes with alcohol*

“(3) You must not administer any non prescribed medication for the purpose of sedating a child;

“You must administer all prescribed medication:

- *in amount and frequency prescribed by health care professional with prescription rights*
- *For the purpose that it is being prescribed for*
- *To only the child that it is prescribed for*
- *Is in the original container*
- *Labeled with child's first and last name*
- *Date the prescription was filled*

“Licensee must not administer expired medication.

“The prescription medication must have legible instructions that include:

- *Expiration date*
- *How to give the medication*
- *How often to give the medication and*
- *Proper temperature to store the medication*

“Licensee may permit children to take their own medicine if:

- *They are physically and mentally capable of properly taking the medicine*
- *The child's parent or legal guardian approves in writing.*

- *Keep the medication and medical supplies locked and inaccessible to other children and unauthorized persons.*
- *Licensee or primary staff observe and document that the medication was taken*
- *Keep the written approval by the child's parent or legal guardian in your records.”*

Vote 21 in favor, 0 undecided, 0 opposed,

Subtopic: Handled/supported ill/injured – to stay home

Some of this is already covered in Reporting subtopic finished several months earlier. Some were concerned how the provider didn't know that an injury required professional treatment – the phrase when “*if licensee becomes aware that*” was added, and the group voted to recommend:

*“1. First aid notification must be given to the parent/guardian when a child has a minor injury
“2. When the licensee becomes aware that a child’s injury requires professional medical treatment, the licensee must:*

- *Call 911, when applicable, or to the level of current first aid training*
- *Call parent/guardian*
- *Call DEL licensor*
- *Submit an incident report to (the) DEL licensor”*

Vote 21 in favor, 0 undecided, 0 opposed

Subtopic: Washing Hands

There was much discussion on how often the rules require staff or children to wash their hands – some said in a day that could be more than 50 times. Some questioned why cloth towels couldn't be used or shared, and why a cloth towel must be laundered after one use. Statements were added that: the licensee and staff must teach children how to wash their hands properly; and that (electronic) hand dryers should be allowed. After discussing alternative language, the group finally decided to recommend:

“(The) Licensee/staff must follow and teach children proper hand washing procedures, which includes - Hand washing procedure must be:

- *Wet hands*
- *Add soap to hands*
- *Wash hands*
- *Rinse hands*
- *Dry hands*
- *Turn off water with paper towel or single use cloth towel*
- *Paper towel must be disposed of after single use*
- *Cloth towel must be washed and sanitized after single use*
- *Hand dryers (conform to Indoor matrix) with paper towel to turn off or open door.”*

Vote 21 in favor, 0 undecided, 0 opposed

◆ ***Hand Sanitizer***

The only addition was to allow using hand sanitizers after hand washing, but not to replace hand washing. The group voted to put forward:

“Hand sanitizer may be used for children only with the following conditions:

- *After proper handwashing*
- *With written parent permission*
- *when hand washing facilities are not available when on an outing or in a disaster*
- *Not to be used with children 12 months or younger (add to Infants rules as well)”*

Vote 21 in favor, 0 undecided, 0 opposed

◆ ***When Hands Need to be Washed***

There was a lengthy discussion about whether it is necessary to wash hands **after** eating, as recommended in Caring for our Children (CFOC), and arguments offered pro and con. The vote was somewhat split, with more than a third “undecided” on the final recommendation:

“The licensee or staff must ensure that children thoroughly wash their hands or assist children with thoroughly washing their hands with soap and warm running water after:

- *Using the toilet;*
- *The child is diapered;*
- *Outdoor play;*
- *Playing with animals;*
- *Touching body fluids (define in writing – see CFOC def) such as blood or after nose blowing or sneezing);*
- *Before and after the child eats or participates in food activities; and*
- *As needed.*

Vote 12 in favor, 8 undecided, 1 opposed

Concerns: Washing after a child eats is unnecessary, “After eating if needed” is better; “Bodily fluids” listed here should be the same as those listed in CFOC.

Subtopic: Children’s Personal Belongings

This was recommended for the Guidebook instead of in rule. Making a child’s belongings “inaccessible” was considered by some impractical; Communication to parents about medications being transferred via backpacks is vital. The Rule Writers should address this in “Policies,” but safe storage of belongings should be described in Guidebook.

Vote 20 in favor, 1 undecided, 0 opposed

Concern: Accessibility to a child’s medications via diaper bags presents a risk.

Subtopic: Clean and Sanitary/ Healthy Environment

Discussed centered around whether cleaning carpets once a year is enough. The group voted to recommend:

“Installed carpet must be washed yearly or when soiled”

Vote 20 in favor, 1 undecided, 0 opposed

Concern: Not enough research on hazards of carpet soil and carpet cleaners.

Subtopic: Sanitizing Nap Equipment

The group wanted to be sure cross references with related sections in *Indoor Environment* are covered. Concerns included: Adding slumber bags as an option; What about alternatives to bleach; What about cleaning frequency of slumber bags/ sleeping bags?; and Do nap mats need to be stored separately? In the end, the group decided to keep the basic requirements in WAC 170-296-1040, with minor revisions:

“(1) You must ensure the mat or cot is long enough and wide enough for the size of the child. A mat must be at least one inch thick to provide comfort for the child to nap.

“(2) The surface of mats and cots must be of a material that can be cleaned and sanitized (one-fourth teaspoon chlorine bleach per quart of cool water) or approved alternative and allowed to air dry.

“(3) You must clean the child's nap equipment once a week or as needed and between use by different children.

“(4) You must allow enough space between children to give staff access to children when napping.

“(5) You must ensure the child's bedding,:

(a) Consists of a clean sheet or blanket to cover the sleeping surface and a clean, suitable cover for the child (children must not nap directly on the waterproof covering or the floor);

(b) Is laundered as needed (such as when soiled, used by different children); and

(c) Is stored separately from bedding used by another child.

“Include language on sleeping bags and slumber bags and when cleaned. Need more research to determine how often.

“Clarify storing/sanitizing mats – see Indoor Environment.”

Vote 21 in favor, 0 undecided, 0 opposed

The group skipped the subtopics: Sanitizing toys; Protect(ing) from sun, heat and cold; Access to dangerous chemicals/toxins; Protection from pest, vermin and animals; Hot water temperature; Relatively stress free environment; First aid, Emergency vehicle access to the home; Syrup of Ipecac (covered in medication management); Administering CPR and First Aid; Contents of a First aid kit; Health Plan; (Children) learning healthy habits; Child with a disability's right to medication; Basic dental and health care; Support for good mental health; Immediate attention to health issues, Adults who can recognize health issues and flags; Right to stay in care when health issues don't warrant exclusion; Culturally relevant health practices.

The following were discussed to bring out concerns and issues, but no votes were taken on West Side Story's recommendations for:

- Good air quality. Concerns: When portable fans, heaters can be used safely (after earthquakes?)
- Drug and smoke free environment. Concern: “Drugs” should clarify use of illegal drugs or misuse of other drugs

- Toys that do not harm (a child's) health. Concern: Toys that are age appropriate don't pose a choking hazard.

The group was not able to complete review and discussion of this topic in the allotted time, so the Rule Writers and Rule Review Committee (a subset of the NRMT) will continue the process of discussion and recommendations of any unfinished topics, until all have been reviewed.

NRMT History and Timeline

The team was divided into four subgroups and given a period of time of the NRMT's history upon which to reflect. Each subgroup was tasked with:

1. Identifying the significant events that occurred that shaped our process
2. Choosing one word to describe how each member felt on the first day
3. Describing lessons learned during that time period
4. Naming the period as though it was a chapter in a book
5. Identifying the guiding principles/values that emerged from the team and got us through the process.

We shared perceptions of our history, and ultimately concluded the following desirable characteristics/ values emerged from the Negotiated Rule Making process, and are worth trying to sustain. We called these "the flame."

"The Flame"

- ◆ Shared commitment to the rights of children -- our common goal
- ◆ Mutual respect...together
- ◆ Courage
- ◆ We can agree to disagree and/or disagree and still be friends
- ◆ We want evidence-based decisions
- ◆ Communication is truthful, honest, authentic
- ◆ We are committed to our process
- ◆ We have mutual accountability for the outcome
- ◆ We have tried to include the "whole system" that influences children

Closure for the NRMT Project

We reviewed documents that describe the significant accomplishments of the Negotiated Rule Making process.

- ◆ **Wheel & Topics, Gee Whiz Statistics**
- ◆ **Completion of Remaining Tasks, Topics**

Hopes for Next Steps

There was a discussion about what NRMT members hoped would happen now that the group process was over:

- **The Guidebook.** Earlier, before budgets became much tighter, it was thought there would be a new Guidebook written to accompany the new WAC. Some of the NRMT recommendations were made with the idea that the Guidebook would:
 - Help providers understand why particular rules are important
 - Help explain how the rule compares to best child care practice, and
 - Offer examples of different paths a provider might take to meet the requirements [a key reason why examples or “such as” language was suggested for the Guidebook instead of being in the WAC].

Bob McLellan said he has discussed the Guidebook with the DEL Director, and its value to providers and licensors. But producing a Guidebook remains dependent on DEL resources in the current budget climate.

- **Training for Licensees and Licensors.** Bob noted that this is also resource dependent, but essential to help providers and DEL staff understand the changes recommended and eventually adopted as WAC. Several possible methods are possible, including teaming with providers or SEIU, using technology, training in other language. DEL plans to move forward on both as the rules get closer to final adoption, but there is concern about more budget cuts coming.
- **Continued Involvement.** Lisa Beaulaurier and Nancy Gerber talked about forming a Resource Group to continue communication with DEL, to continue the spirit of these NRMT meetings.
- **Weighting the WAC.** This was discussed very early in the NRMT. Bob said that DEL has been doing some research on how other jurisdictions are approaching, but having a completed set of new WAC was the first step toward weighting. It involves risk modeling – measuring the risk to a child if a particular rule is violated – and tracking frequency of violations, another predictor of risk. Moving toward weighting is expected to change the whole system of child care licensing, and possibly revisiting the rules later.
- **How Will the NRMT stay informed of next steps?** DEL will send out quarterly updates as the Department takes the NRMT’s work and proceeds with the next steps in the formal rule making process. Andy Fernando will be responsible for sending these updates.
- **What will happen next?** When a full set of NRMT recommendations and draft rules are ready, DEL Director Bette Hyde says she will review the work and give a response to the team in person. A meeting with the full team will be announced sometime in early 2010.

The rest of this meeting was not recorded, so that NRMT members could offer personal stories of growth, reflection, and community during this process. [DEL learned later that we have recorded video, but no audio from this entire meeting.]

Celebration and Acknowledgement

The final session concluded with members offering acknowledgement to each other for their contributions to this rigorous process. We celebrated the accomplishments and the many strengths of the people involved. Thanks to all for this amazing effort.