



STATE OF WASHINGTON
DEPARTMENT OF CHILDREN, YOUTH, AND FAMILIES

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Nov. 1, 2020

Child Care and Early Learning – Licensing Innovation and Program Updates

Introduction

House Bill [2619](#) § 6 (laws of 2020) requires the Washington State Department of Children, Youth, and Families (DCYF) to “provide the appropriate committees of the legislature with a list of recommended child care licensing innovations designed to improve access to care in rural areas of the state.” Along with the list of innovations, this section of the bill also requires DCYF to include “estimated costs for each item and any statutory changes necessary for implementation.”

Accordingly, this memorandum outlines seven ways to innovate licensing laws, rules and practices to improve access to child care in rural areas:

- (1) Making permanent outdoor preschool and school-age licensing authority.
- (2) Family Home child care in multifamily buildings.
- (3) Licensing detached accessory dwelling units (DADUs) as early learning spaces.
- (4) Allowing the Family Home “Hub” model.
- (5) Streamlining the fire inspection process.
- (6) Making permanent emergency strategies adopted pursuant to the COVID-19 pandemic.
- (7) Reimagining DCYF’s approach to enforcing licensing laws and rules.

Lastly, this memo provides updates on DCYF Licensing Division projects mandated by HB 2619 — the ability for child care license holders to transfer their license and the dual foster care/child care license pilot project.

Licensing Innovations

Outdoor Preschool and School-Age Programs

In 2017, the Legislature established a four-year pilot project “to license outdoor preschools in order to expand access to affordable, high quality early learning programs, and further investigate the benefits of outdoor, nature-based classrooms for Washington’s children and families.”¹ DCYF conducted this pilot project throughout the state, specifically for preschool-age children.²

As this pilot project wraps up, DCYF has determined that outdoor preschool offers many benefits including the ability for child care providers to expand service to their community. In the agency request legislation that DCYF will submit in the 2021 session, DCYF requests the

¹ RCW [43.216.740](#).

² WAC [110-300-0005](#) (“Preschool-age children” means children thirty months through six years of age not attending kindergarten or elementary school).

Legislature to make outdoor preschool programming permanent in Washington State and to expand such programming to school-age children.³

Central to the intent of the pilot project, once these programs are allowed to have a permanent license, they can begin to participate in the state's Working Connections Child Care subsidy program. Because land is more plentiful, parks are larger and startup costs are lower than traditional child care programming, outdoor-nature based programs can dramatically improve access to affordable child care in rural areas. A list of Revised Code of Washington (RCW) which need to be amended to make this possible and a summary of our planned amendments can be found in Appendix A. Detailed information about the pilot project can be found on [DCYF's website](#).

Status: DCYF agency request legislation for the 2021 session
Cost: FY18: \$317,000 General Fund State Proviso
FY19: \$317,000 General Fund State Proviso
FY20: \$317,000 General Fund State Proviso
FY21: \$317,000 General Fund State Proviso

Family Home Programs in Multifamily Buildings

For at least the last five years, DCYF has explored ways to permit licensed family home child care and early learning in multifamily dwelling units, specifically apartment buildings. DCYF has collaborated on this issue with the City of Seattle, the King County Housing Authority, the City of Spokane and other statewide jurisdictions, as well as community stakeholders. To date, family home child care programs have been exclusively sited in single-family dwelling units. While nothing in the state laws that govern licensed child care (chapter 43.216 RCW) specifically prohibits a family home program from operating in an apartment building, the reality is that local zoning, certificates of occupancy, overall building fire inspection and emergency services regulations make such programs unworkable. To find a solution, DCYF has been or plans to be in contact with local governments, fire authorities and the state building code council to develop standards that permit child care programs in apartment settings.

Status: This innovation requires changes to the state building code laws and rules and the ordinances of local governments. DCYF has been studying this issue and having conversations with local governments since at least 2015 and hopes to develop a solution in the immediate future.
Cost: Currently DCYF has sufficient resources to complete this work and is not requesting additional funding.

Detached Accessory Dwelling Units (DADUs) as Early Learning Space

How DCYF defines and uses the terms "licensee," "premises," "licensed space," "family home early learning program" and "family living quarters" throughout licensing rules impacts how DCYF allows the use of space in child care and early learning settings. To provide more desirable options and necessary flexibility for interested providers wishing to open a family home child care, DCYF is developing a path forward to license Detached Accessory Dwelling

³ WAC [110-300-0005](#) ("School-age children" means a child not less than 5 years of age through 12 years of age who is attending kindergarten or elementary school).

Units (DADUs). These can be defined as a legally permitted, standalone unit on a residential property (but not within the home), also known as backyard cottages, detached garages or mother-in-law units. As many cities across the state are legalizing these for infill development,⁴ DCYF wants to ensure that, where appropriate, these structures may provide an option for meeting the licensing standards of a family home child care.

- Status: This innovation requires changes to DCYF’s licensing rules. DCYF has been discussing this approach with stakeholders since summer 2019 and began studying revisions to licensing rules in early 2020.
- Cost: Currently DCYF has sufficient resources to complete this work and is not requesting additional funding.

Streamlining the Child Care Fire Inspection Process

Many child care and early learning providers have raised concerns with DCYF about the fire inspection process. DCYF, the Washington State Patrol Fire Marshal’s Office (“FMO”) and local governments all play a role with fire inspection and oversight. The law requires the FMO to consult with DCYF to develop standards necessary to protect child care occupants from fire hazards, to adopt minimum licensing standards for before- and after-school child care programs and to inspect and investigate child care programs as the FMO deems necessary.⁵ In addition to these FMO inspections for child care licensing, local governments often require their own fire inspections before issuing a certificate of occupancy for child care centers.

During the 2020 Legislative session, DCYF proposed a legislative solution to streamline fire inspections for child care centers. This proposal granted the authority to inspect child care centers to local fire jurisdictions to standards established by the FMO. However, if a local fire authority could not inspect a certain location, then they would be required to request an inspection from the FMO. While this language did not pass into law, DCYF continues to communicate with both the FMO, local fire jurisdictions and local governments to develop procedures and practices that will eliminate duplicative fire inspections and streamline the child care licensing process.

- Status: This innovation may require changes to the state fire marshal’s laws and rules and/or those of local governments. DCYF began conversations with state and local fire jurisdictions in early 2020.
- Cost: Currently DCYF has sufficient resources to complete this work and is not requesting additional funding.

Emergency COVID-19 Operations for Licensed Child Care

On Feb. 29, 2020, the Governor proclaimed a state of emergency in Washington State in response to the first case of COVID-19.⁶ As of March 11, 2020, the World Health Organization classified COVID-19 as a global pandemic⁷ that spreads easily and rapidly from person-to-

⁴ [Master Builders Association - Accessory Dwelling Unit Ordinances](#)
[Sightline Institute - Tacoma Adopts Exemplary Reform for In-Law Apartments](#)
[Sightline Institute - Two Cascadian Cities Extend Greater Welcome to ADUs](#)

⁵ See RCW [43.216.265](#)(1), (2) and (3).

⁶ See proclamation by the Governor No. [20-05](#).

⁷ See proclamation by the Governor No. [20-08](#).

person and may result in serious illness or death.⁸ On March 25, DCYF developed emergency child care rules to help licensed child care and early learning providers cope with the pandemic.

DCYF adopted rules that both allowed licensed providers to waive or vary from historical licensing rules if such variance was needed to slow the spread of COVID-19 and protect the health and safety of their staff and children in care. To date, only a small handful of providers have taken advantage of this option. DCYF has placed great emphasis on supporting existing licensed providers to remain open or re-open, offering waivers or variances where necessary to help maintain consistent and safe operations.

Because the emergency rules process has been useful, DCYF decided that permanent emergency procedures should be codified. In 2021, DCYF will adopt rules to permanently establish an emergency licensing program that can be used to quickly issue emergency licenses in any future state or local crisis. This will allow for an efficient and rapid-response approach to child care needs during all future emergencies such as new pandemics or natural disasters.

In addition to the emergency rule process, and to address the need to reduce the spread of COVID-19, DCYF has developed a process to conduct monitoring inspections using virtual platforms (Zoom, FaceTime, etc.). This allows licensing staff to "see" that the provider is maintaining compliance with Washington Administrative Code (WAC) and provide technical assistance as needed. If a high-risk rule is found out of compliance, licensing staff will assure a health and safety recheck is completed either virtually or in-person if necessary. DCYF is exploring ways to incorporate virtual monitoring into its permanent licensing processes so that it is an available tool where appropriate, even after the pandemic ends.

<u>Status:</u>	DCYF established emergency rules and procedures beginning March 25, 2020. As of the time of writing this memo, these rules and procedures are still in place.
<u>Cost:</u>	Currently DCYF has sufficient resources to complete this work and is not requesting additional funding.

Reimagining Licensing Enforcement in Child Care

Starting in 2017, DCYF began to reimagine how to ensure compliance with licensing rules. DCYF became aware that some providers felt that DCYF took a punitive approach to enforce licensing regulations. In response to this, DCYF began developing a new approach that focused on partnering with providers to provide ongoing technical assistance to scaffold best practices on the part of providers while still overseeing compliance to ensure high-quality care and strict adherence to health and safety standards. DCYF is now fully implementing a "differentiation approach" to oversee providers' compliance with licensing rules (see Appendix B for details).

Using the guidance provided by HB 1661 (2017), DCYF analyzed all licensing rules for family home providers and child care providers. DCYF then classified the rules based on the risk to a child's health and safety – long-term, short-term and immediate concern. By classifying the licensing rules by risk level, DCYF was able to identify when different licensing tools would be most effective. When a rule of immediate concern is found to be out of compliance, DCYF first

⁸ See proclamation by the Governor No. [20-16](#).

provides technical assistance, but may also use one of several compliance actions. Depending on the action taken, the provider's license may be impacted (e.g., suspension or revocation) or the provider may be required to pay a civil penalty.

Alternatively, when rules of "long-term" or "short-term" concern are out of compliance, DCYF can tailor improvement responses accordingly. For each of these compliance issues, DCYF can assess the situation and provide technical assistance or training to the provider. This approach helps the provider come back into high-quality services and reduces the risk of out of compliance for the same licensing rule in the future. This also allows providers to be supported without having their finances or license impacted negatively. DCYF continues to develop the differentiated licensing approach, most recently by adding a fourth category to the risk levels: "serious," slotted between "long-term" and "immediate."

Because DCYF began implementing this new approach to child care licensing mere months before the COVID-19 pandemic struck, there is little data yet on the application of this approach. During the pandemic, licensors have conducted virtual monitoring and have primarily limited in-person visits to instances where an "immediate" concern is identified. As the DCYF child care licensing team works with providers to transition back to normal licensing procedures, this updated compliance process will be more fully incorporated into daily procedures.

Status: DCYF began implementing this innovation on Aug. 1, 2019.
Cost: Currently DCYF has sufficient resources to complete this work and is not requesting additional funding.

Additional Child Care Licensing Updates

HB 2619 directed DCYF to alter licensing practices in two additional ways. First, this bill made child care licenses transferable.⁹ Second, this bill directed DCYF to establish a pilot project that allows individuals to receive a dual foster care and child care license.¹⁰

License Transfer Process

DCYF has drafted and proposed administrative rules to govern the license transfer process for family home child care providers, center providers and school-age providers.¹¹ These rules will provide the public insight on what criteria DCYF reviews when considering a request to transfer a child care license as well as the rights a provider has if their request is denied. The new rules went into effect on November 8, 2020, and can be found here:

- Birth to age 5 child care - <https://apps.leg.wa.gov/wac/default.aspx?cite=110-300-0011>
- School age child care - <https://apps.leg.wa.gov/wac/default.aspx?cite=110-305-1001>

Status: These rules will be going into effect at the end of September 2020, but DCYF has already given parties the application paperwork and will begin to process license transfer requests as soon as it receives them.
Cost: Currently DCYF has sufficient resources to complete this work and is not requesting additional funding.

⁹ See HB [2619](#) § 5, laws of 2020.

¹⁰ See HB [2619](#) § 7, laws of 2020.

¹¹ See [Proposed Rulemaking](#) for WAC 110-300-0011 and WAC 110-305-1001.

Dual Licensing Pilot Project

The Legislature directed DCYF to undertake this pilot project to develop a dual foster care and child care license option. Further, this pilot project will allow DCYF to assess current licensing rules for each type of license and determine if any rules or requirements can be reduced or eliminated to allow for more child care and foster care services throughout the state. To date, the project manager position has been filled, and DCYF is recruiting internal and external stakeholders and partners to participate in the pilot project planning, beginning in September 2020. This group will establish the project rules and structure collaboratively. Once this is accomplished, DCYF will recruit volunteer participants in December 2020, and begin the process to pilot a dual child care and foster care license beginning January 2021.

Status: The dual licensing pilot project began on July 1, 2020.
Cost: \$150,000 was appropriated by the Legislature in 2020 for DCYF to conduct this pilot project. This funding is allocated for one FTE to manage the project.

Appendix A

Proposed RCW Changes for Permanently Authorizing Outdoor Nature-Based Child Care

Impacted RCW Sections
43.216.010 Definitions <ul style="list-style-type: none"> • Defines “Outdoor nature-based child care”
43.216.015 DCYF agency responsibilities <ul style="list-style-type: none"> • Adds outdoor nature-based child care to metric for increasing supply of licensed child care
43.216.020 DCYF agency duties in Early Learning <ul style="list-style-type: none"> • Adds outdoor nature-based child care to the market rate survey report
43.216.085 Regulations for Early Achievers <ul style="list-style-type: none"> • Adds outdoor nature-based child care to Early Achievers-applicable child care types, makes it mandatory that outdoor nature-based child care’s receiving state subsidy participate in Early Achievers
43.216.087 Early achievers, participation of culturally diverse and low-income center and family home child care providers <ul style="list-style-type: none"> • Adds outdoor nature-based child care
43.216.089 Reporting on Early Achievers and ECEAP <ul style="list-style-type: none"> • Adds outdoor nature-based child care to reporting requirements (includes all the replacements for the ESA annual report)
43.216.250 DCYF Secretary’s duties with regards to licensing child care <ul style="list-style-type: none"> • Adds outdoor nature-based child care locations to Secretary’s authority to license
43.216.255 Mandating aligned licensing standards <ul style="list-style-type: none"> • Adds outdoor nature-based child care providers
43.216.260 Minimum requirement for licensing <ul style="list-style-type: none"> • Adds outdoor nature-based child care to licensing applications
43.216.271 Portable background check clearance registry <ul style="list-style-type: none"> • Adds outdoor nature-based child care to PBC requirement
43.216.280 Pesticide use <ul style="list-style-type: none"> • Adds outdoor nature-based child care to pesticide use notification requirement
43.216.325 Licenses, Denial, suspension, revocation, modification, nonrenewal, Proceedings, Penalties <ul style="list-style-type: none"> • Adds outdoor nature-based child care to civil monetary penalties and nonreferral status regulations
43.216.340 Licensure pending compliance with state building code <ul style="list-style-type: none"> • Adds outdoor nature-based child care
43.216.360 Unlicensed child care providers <ul style="list-style-type: none"> • Adds outdoor nature-based child care programs to penalties from unlicensed child care
43.216.515 ECEAP provider eligibility, funding, and requirements <ul style="list-style-type: none"> • Adds outdoor nature-based child care to the list of ECEAP provider types and the rules around changing facilities/outdoor locations
43.216.530 ECEAP applications <ul style="list-style-type: none"> • Adds outdoor nature-based child care in the list of models for DCYF to consider
43.216.650 Child fatality reviews <ul style="list-style-type: none"> • Adds outdoor nature-based child cares to types of early learning programs for which DCYF would conduct a child fatality review if a fatality occurred

43.216.660 Child care services—Declaration of policy
<ul style="list-style-type: none">• Adds outdoor nature-based child cares to types of early learning settings that the state must include in its promotion of a variety of culturally and developmentally appropriate settings
43.216.685 Toll-free information number
<ul style="list-style-type: none">• Adds outdoor nature-based child care to types of child care that families can learn about via the hotline and Child Care Check
43.216.687 and 43.216.689 Data to post on Child Care Check
<ul style="list-style-type: none">• Adds outdoor nature-based child care to the requirement for posting on Child Care Check
43.216.690 Immunization
<ul style="list-style-type: none">• Adds outdoor nature-based child care to immunization requirements
43.216.700 Insurance
<ul style="list-style-type: none">• Adds outdoor nature-based child care to requirements around “day care insurance”

Appendix B

Enforcement of Aligned Child Care Licensing Rules (Chapter 110-300 WAC)

Background & Overview

On Aug. 1, 2019, the Department of Children, Youth & Families (DCYF) implemented new [family home and center licensing standards](#), chapter 110-300 of the Washington Administrative Code (WAC). With the new WAC, DCYF is improving the way it partners with providers to protect children, support families and improve the quality of care in licensed care.

Levels of Risk

DCYF analyzed the entire chapter of licensing rules and per the 1661 guidance identified three levels of risk protection: immediate risk, short-term risk and long-term risk. Addressing the rules this way allows DCYF to better protect children against physical, emotional and mental injury or harm.

- These allow licensors to efficiently focus on the immediate risk of injury or harm to children but also protect against short-term and long-term injury or harm.
- Importantly, a vast majority of the rules in the licensing chapter are not new.
- The new approach coincides with the rollout of chapter 110-300 WAC.

Assuming Compliance Approach

DCYF emphasizes partnering with and educating providers on the requirements of the licensing rules. Staff partner with providers to achieve compliance using a strength-based approach.

- DCYF licensors provide Technical Assistance on all rules.
- Technical Assistance is provided in many ways — online, webinars, training sessions, over the phone, in-person site visit, as part of a licensing visit, etc.
- “Immediate risk” rules are the cornerstone for a safe early learning environment and children’s health (e.g., supervision, safe sleep, safe premises, etc.) and are cited if found out of compliance.
- “Short and long term risk” rules are not cited for out of compliance if it is a first-time violation and the issue can be corrected that same day.

How Licensors Provide Technical Assistance in Year One of Implementation



Flexibility

DCYF works with providers to comply with the requirements of the new rules.

- Some rules have built-in compliance periods (e.g., five years for Professional Development requirements and six months for some physical premises upgrades).
- Time-limited waivers and variances may be available on a case-by-case basis for certain improvements (e.g., installing new fences and gates).

Chapter 110-300 WAC Resources

- WAC Q&A email address: wacqanda@dcyf.wa.gov
- [Standards Alignment](#) | [Learning Opportunities](#)
- [Needs-Based Grants](#)