

September 20, 2018

TO: Interested Persons

FROM: Judy Jaramillo, License Exempt Services Administrator

SUBJECT: CONCISE EXPLANATORY STATEMENT (*RCW 34.05.325*)

For rules proposed under notice filed as WSR 18-15-095 on July 18, 2018: WACs 110-16-0001 Purpose and authority; 110-16-0005 Definitions; 110-16-0010 Provider approval; 110-16-0015 Provider responsibilities; 110-16-0025 Health and safety training; 110-16-0030 Health and safety activities; 110-16-Health and safety practices; and 110-16-0040 Compliance.

REASON FOR ADOPTION: The Department of Children, Youth, and Families, the lead agency for administering the federal child care development fund (CCDF), which is a child care subsidy program governed by 42 U.S.C. 9858 et seq. These rules are adopted to comply with the CCDF requirement to establish, implement, and enforce requirements to protect the health and safety of children in license-exempt child care.

CHANGES MADE SINCE THE RULE WAS PROPOSED:

- The text being adopted does not differ from the text of the proposed rule.
- The text being adopted contains only editorial changes from the proposed rule.
- The text of the adopted rule varies from the text of the proposed rule. The changes, other than non-substantive edits are:
- WAC 110-16-0005: Inserted definition for “subsidy payment begin date.”
  - WAC 110-16-0010(1)(ii): Inserted clarification that a variety of documents could be used to prove legal employment eligibility.
  - WAC 110-16-0025: Training completion date changed to “within 90 calendar days of the subsidy payment begin date.” Removed current child development associate credential (CDA) and an associates’ degree of applied science or higher with an early child education major from accepted training equivalencies.
  - WAC 110-16-0030(3)(c): Inserted clarification that 1) written information and local resources about child development and 2) regional contact information for FFN child care services and resources will be provided during technical assistance visits.
  - WAC 110-16-0030(4): Removed parent’s requirement to ensure provider has necessary training to administer medication and respond to allergic reactions.

- WAC 110-16-0035: Removed details of health and safety practices and inserted clarification that health and safety practices covered in required training must be followed. Removed requirement to keep dangerous substances apart from food and food prep areas.

The changes were made because:

| SUMMARY OF COMMENTS RECEIVED  | THE DEPARTMENT CONSIDERED ALL THE COMMENTS. THE ACTIONS TAKEN IN RESPONSE TO THE COMMENTS, OR THE REASONS NO ACTIONS WERE TAKEN, FOLLOW.   |
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| <p>The proposed rules focus on regulatory compliance instead of strengths-based, family support approaches that are proven to be most effective in achieving positive outcomes for FFN caregivers and the children in their care.</p> <p>I worked as a consultant from 2005-2010 w a coalition of philanthropic and early learning leaders in King County on the initial efforts in Washington State to support FFN caregivers and the children in their care. We consulted national experts and research about benefits of this form of care, its prevalence, and how it meets the needs of many families. The strategies proposed in that early work were definitely strength-based and were informed by organizations serving diverse communities.</p> <p>Some of the resources I suggest you consult include:</p> <p><a href="http://www.nccp.org/publications/pub_835.html">NCCP   Demographics of Family, Friend, and Neighbor Child Care in ...&lt;http://www.nccp.org/publications/pub_835.html&gt;</a><br/> <a href="http://www.nccp.org/publications/pub_835.html">www.nccp.org/publications/pub_835.html</a><br/> 1.<br/> Family, friend, and neighbor (FFN) child care (also referred to as informal care, home-based care, kith and kin care, kin care, relative care, legally unlicensed, ...<br/> Family, Friend &amp; Neighbor Care • ZERO TO THREE&lt;<a href="https://www.zerotothree.org/resources/series/family-friend-neighbor-care">https://www.zerotothree.org/resources/series/family-friend-neighbor-care</a>&gt;<br/> <a href="https://www.zerotothree.org/resources/series/family-friend-neighbor-care">https://www.zerotothree.org/resources/series/family-friend-neighbor-care</a><br/> 1.<br/> Supporting Early Brain<br/> ...&lt;<a href="https://www.zerotothree.org/resources/seri">https://www.zerotothree.org/resources/seri</a></p> | <p>Final rules were revised to emphasize primary intent of providing training and technical assistance to ensure that families and providers are aware of and complying with health and safety requirements. DCYF is not, through the proposed WAC, suggesting that license-exempt specialist staff investigate and observe all areas of a parent's home and surroundings. The on-site visit with parents and non-relative providers is intended to build on the provider training and the parent and provider agreement with technical assistance, information and resource sharing and not over-regulation. It is incumbent upon the parent and provider, however, to have discussions about crucial health and safety issues particular to that home and home culture and to take physical action to either remove or reduce hazards. Providers will have access on several occasions to templates for written permissions, emergency contact information and emergency planning. DCYF staff are committed to ensuring all FFN providers are successful in their endeavors to provide healthy and safe care to eligible children, all the while taking into account this unique care arrangement, family dynamics, and culture and history.</p> |

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| <p> <a href="https://www.zerotothree.org/resources/series/family-friend-neighbor-care#supporting-early-brain-development">es/family-friend-neighbor-care#supporting-early-brain-development</a> · Tuning Into Temperament&lt;<a href="https://www.zerotothree.org/resources/series/family-friend-neighbor-care#tuning-into-temperament">https://www.zerotothree.org/resources/series/family-friend-neighbor-care#tuning-into-temperament</a>&gt; · Encouraging School ...&lt;<a href="https://www.zerotothree.org/resources/series/family-friend-neighbor-care#encouraging-school-readiness-skills">https://www.zerotothree.org/resources/series/family-friend-neighbor-care#encouraging-school-readiness-skills</a>&gt; Strategies for Supporting Family, Friend, and Neighbor Care Providers ...&lt;<a href="https://nwlc.org/resources/strategies-for-supporting-family-friend-and-neighbor-care-providers/">https://nwlc.org/resources/strategies-for-supporting-family-friend-and-neighbor-care-providers/</a>&gt; <a href="https://nwlc.org">https://nwlc.org</a> &gt; Child Care &amp; Early Learning &gt; Child Care &gt; Child Care Workforce 1. Jan 14, 2016 - Millions of families rely on family members, friends, and neighbors to care for their children every day while parents are at work. A number of ... </p> <p>It would be very unfortunate if the new DCYF, with its focus on prevention and early intervention, and an intent to ensure that constituent voices are heard and respected in decision making.</p> |   |
| <p>WAC 110-16-0015 Provider responsibilities. (c) Report a revoked child care license to DCYF within twenty-four hours; Is not clear- How about "If the FFN/In home provider also has a home. center or school age child care license, they will be responsible to report the revocation of a DCYF child care license."</p>   | <p>WAC 110-16-0015(c) removed from final rules. In rare instances, individuals can run a licensed family home and at the same time be approved as a Family, Friend, or Neighbor provider. The individual is likely to be a relative caring for related children during non-licensed hours. If licensing action takes place, the DCYF licensor notifies staff who would assess whether the individual could remain as an FFN provider. DCYF is also exploring an enhancement to the WaCompass system which could automatically alert appropriate staff to licensing actions.</p> |
| <p>WAC 110-16-0015 Provider responsibilities. (2) The provider must bill for no more than six children at one time during the same hours of care. Is there any way to define the total # of children the provider can have on the premises and be solely responsible for when caring for the six children whether they are receiving WCCC.</p>  | <p>DCYF is not proposing on-site visits to all FFN providers, which makes it impossible to observe actual numbers of children in all care situations and to apply this standard equally across all FFN care situations. DCYF is, however, creating multiple opportunities to explore, with all FFN providers, best practice about the number of children to care for at one time.</p>   |
| <p>(2) A provider not related to the child, as described</p>  | <p>Incentives and reimbursements for training are</p>   |

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| <p>in WAC 110-15-0015 (3)(c): (i) Child care basics. The required thirty-hour training to meet the basic STARS training requirements; Should the provider choose the thirty hour training will the department provide a voucher system to pay for this course that typically costs starting \$150.00 and up?</p>   | <p>generally a bargained benefit between DCYF and SEIU 925 on behalf of FFN providers and do not reside within WAC. There is currently funds set aside through contracts with DCYF, which continue through 6/30/2019, to help with training incentives and reimbursements.</p>   |
| <p>(5) Building and physical premises safety, including handling and storage of hazardous materials, identification of and protection from hazards, bodies of water, and vehicular traffic.(a) The provider must visually scan indoor areas to identify potential child safety hazards and discuss removal or reduction of identified hazards with the parent. If it is not possible for the provider to immediately correct or make a hazard completely inaccessible to a child, the provider must supervise the child to avoid injury from such identified hazard. Child safety hazards include, but are not limited to:(ii) Firearms, guns, weapons, and ammunition; <b>THIS IS NOT APPROPRIATE !!! FIREARMS, GUNS WEAPONS AND AMMUNITION NEED TO BE STORED WITH THE SAME STANDARDS AS LICENSED FAMILY HOMES. IN A GUN SAFE OR IN A LOCKED ROOM UNLOADED WITH A TRIGGER LOG ON THE GUN. THE PROVIDER WHETHER CARE OCCURS IN THE RELATIVES HOME OR THE CHILD'S HOME NEEDS TO HAVE A DECLARATION BY THE RELATIVE PROVIDER IF CARE OCCURS IN THE RELATIVES HOME OR BY THE PARENT COMING WEAPONS ARE STORED AS I PROPOSE SEE ABOVE.</b></p> | <p>DCYF concurs that it's imperative to practice comprehensive gun safety when guns are located in a home where children live and are cared for. We are not, however, through the proposed WAC, suggesting that DCYF staff investigate and observe all areas of a parent's home. Our visit with parents and non-relative providers are about technical assistance and not regulation. It is incumbent upon the parent and provider to have discussions about crucial health and safety issues and to take physical action to either remove or reduce hazards.</p>                                |
| <p>WAC 110-16-0035 Health and safety practices. (5) (c) The provider must visually scan outdoor play areas to identify potential child safety hazards and discuss removal or reduction of identified hazards with the parent. If it is not possible for the provider to immediately correct or make a hazard completely inaccessible to a child, the provider must supervise the child to avoid injury (A) Swimming pools when not being used, portable wading pools, hot tubs, spas, and jet tubs; <b>A RELATIVES PREMISES OR THE PARENTS PREMISES SHOULD NOT BE APPROVED TO RECEIVE SUBSIDIES IF A SWIMMING POOL IS NOT FENCED WITH A 5 FT GATE WITH A LOCK OF THE OPENING TO THE SWIMMING POOL WHEN NOT IN USE.EXCLUDING WADING POOLS. HOT TUBS</b></p>   | <p>DCYF concurs that it's imperative to practice comprehensive water safety when any body of water is located in or near a home where children live and are cared for. We are not, however, through the proposed WAC, suggesting that DCYF staff investigate and observe all areas of a parent's home and surroundings. Our visit with parents and providers are about technical assistance and not over-regulation. It is incumbent upon the parent and provider to have discussions about crucial health and safety issues and to take physical action to either remove or reduce hazards.</p> |

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| <p>AND JET TUBS NEED A LOCKING COVER OR IF THE JET TUB IS INDOORS THE ROOM NEEDS TO BE LOCKED WHEN NOT IN USE.</p>   |  |
| <p>WAC 110-16-0035 Health and safety practices. (6) Child development, including the major domains, cognitive, social, emotional, physical development, and approaches to learning. (a)(v) SHOULD HAVE ITS OWN SECTION MAY I SUGGEST SOMETHING LIKE NURTURE AND COGNITION SUPPORT</p>  | <p>DCYF is exploring some minor changes to this section prior to rule adoption. DCYF will also be monitoring the implementation of this rule over the course of the next year and noting needed changes and improvement.</p>   |
| <p>0010- (ii) A legible copy of the individual's valid Social Security, Can the individual provide a EIN instead of a Social Security card.</p>  | <p>If an individual does not have a SSN card, we will look at accepting one of the other “Documents that Establish Employment Authorization” listed on the USCIS I-9 Employment Eligibility Verification form.</p>   |
| <p>oo15-(2) The provider must bill for no more than six children at one time during the same hours of care. Is there any limit to the number of children this person can be caring for that are not subsidy children at the same time they are billing subsidies for six children.</p>   | <p>The health and safety information we’ll be providing to the families and providers will note that best practice is for no more than a total of 6 children to be cared for at one time.</p>  |
| <p>0030- (iii) Proof of vaccination against or acquired immunity for vaccine-preventable diseases for all children in care, only when the provider's children are on-site with the eligible children. This is very hard to understand. Does this mean if the providers children while the provider cares for other children receiving subsidies the providers children will be required to have proof of immunization?</p>   | <p>Thank you for the feedback. The CCDF requires proof of immunization when all the children in care at the same time are unrelated.</p>   |
| <p>WAC 110-16-0035 (2)(a) So let me get this right if the child is cared for at the relatives home there will be no WAC to have the relative follow Safe Sleep guidelines. I assume the result will be a higher incidence of SIDS at the relatives home who are being paid to watch the child with Federal/Taxpayers money. With many blankets, stuffed animals in the where the infant sleeps. But a child cared for in his own home can't be slept according the parents' wishes. A toddler in his own home up to age 29 months cannot have blanket even if the parent has no concerns after reaching twelve months old?</p> | <p>Research shows that, for the most positive results, all caregivers and parents should practice Safe Sleep guidelines for infant and toddlers. DCYF trusts that parents of infants and toddlers are getting Safe Sleep information and guidance from their primary health care providers and are then sharing that information with anyone who might be caring for the children. It's important to not rely on DCYF as the sole enforcement party of these guidelines.</p> |
| <p>This WAC should replace the FFN WAC filed for Safe Sleep. The WAC negotiated during the NRM Aligned WAC process is a MUCH IMPROVED one than suggested in the FFN filed WAC. May I suggest it would be a good idea to have the aligned WAC, FFN and Foster Home WAC in regards to Safe Sleep be consistent. 170-300-0291 Infant safe sleep practices 1) An early learning provider must follow</p>   | <p>DCYF is keenly aware of the multiple WACs in use at this time and the need to align them for consistency of implementation and ease of use. We appreciate the attention to this detail and are exploring how to best ensure consistency as we move forward as a new agency.</p>   |

infant safe sleep practices when infants are napping or sleeping by following the current standard of American Academy of Pediatrics concerning safe sleep practices including SIDS/SUIDS risk reduction, including: (a) Actively supervising infants by visibly checking at least every 15 minutes and being within sight and hearing range, including when an infant goes to sleep, is sleeping, or is waking up; (b) Placing an infant to sleep on his or her back or following the current standard of American Academy of Pediatrics. If an infant turns over while sleeping, the provider must return the infant to his or her back until the infant is able to independently roll from back to front and front to back; (c) Not using a sleep positioning device unless directed to do so by an infant's health care provider. The directive must be in writing and kept in the infant's record; (d) Sufficiently lighting the room in which the infant is sleeping to observe skin color; (e) Monitoring breathing patterns of an infant; (f) Allowing infants to follow their own sleep patterns; (g) Not allowing blankets, stuffed toys, pillows, crib bumpers, or similar items inside a crib, bassinet, or other equipment if occupied by a resting or sleeping infant; (h) Not allowing a blanket or any other item to cover or drape over an occupied crib, bassinet, or other equipment where infants commonly sleep; (i) Not allowing bedding, or clothing to cover any portion of an infant's head or face while sleeping, and readjusting these items when necessary; (j) Visibly check on infants while sleeping and readjust blankets, bedding or clothing as needed; and (k) Preventing infants from getting too warm while sleeping; which may be exhibited by indicators that include, but are not limited to, sweating; flushed, pale, or hot and dry skin, warm to the touch, a sudden rise in temperature, vomiting, refusing to drink, a depressed fontanelle, or irritability. (2) An early learning provider who receives notice of a safe sleep violation must: (a) Post the notice in the licensed space for two weeks or until the violation is corrected, whichever is longer, pursuant to WAC 170-300-0505; and (b) Within five business days of receiving notice of the violation, provide the parents or guardians of enrolled children with: (i) A letter describing the safe sleep violation; and (ii) Written information on safe sleep practices.

May I suggest a chart be made to show what a relative care provider needs in regards to training and

DCYF is exploring different methods for presenting this new information. Thank you for your comment.

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| <p>then a graph for the in home provider so it will be more easy to understand for the parents, caregivers and the employees who monitor this program much like Licensed Home WAC 110-300B-1975 Licensee/staff qualifications and requirements table.</p>  |   |
| <p>I disagree with the infant and Toddler Safe Sleep WAC proposed. Please consider The Foster Home WAC110-148-1470 for Safe Sleep:(9)(b) Cribs, infant beds, bassinets, and playpens must be made of wood, metal, or approved plastic, with secure latching devices and clean, firm, snug-fitting mattresses covered with waterproof material that can easily be disinfected. (10) You must place infants on their backs for sleeping, unless advised differently by the child's licensed health care provider. (11) You must not have loose blankets, pillows, crib bumpers, or stuffed toys with a sleeping infant. (12) You may swaddle infants using one lightweight blanket upon the advice and training of a licensed health care provider. You must keep the blanket loose around the hips and legs when swaddling in order to avoid hip dysplasia. You may swaddle infants under two months of age unless a licensed health care provider directs otherwise. You must not dress a swaddled infant in a manner that allows them to overheat. (13) You must not use wedges and positioners with a sleeping infant unless advised differently by the infant's licensed health care provider. There is no reason to have three separate WAC's within DGYF for Safe Sleep. May I suggest FFN care Foster Homes follow one WAC and licensed facilities follow another Safe Sleep WAC Two instead of three WACs seems more practical.</p> | <p>DCYF is keenly aware of the multiple WACs in use at this time and the need to align them for consistency of implementation and ease of use. We appreciate the attention to this detail and are looking to how we ensure consistency as we move forward as a new and combined agency.</p>   |
| <p>Please define "completely inaccessible as in regards to inaccessible used in the FFN WAC concerning hazards chemicals, personal grooming supplies. household cleaning supplies etc. All WACs in DCFY could benefit from a clear description with examples to the definition "inaccessible" in regards to "locked". So please have a consistent definition in regards to inaccessible. Does that mean locked? It can be deemed out of compliance so differently.</p>   | <p>Thank you for this observation. Those staff writing the FFN chapter will review other WACs for reference. Because of the combination of the ages of children and the safety hazard, it would be unlikely we could narrowly define inaccessible to simply "locked". We are more likely to develop consistent talking points for staff when they discuss "inaccessibility" with parents and providers.</p> |
| <p>For this population of provider please write the WAC in the Form of a question as the past DSHS WAC are written now DCYF WACs in the form of a question will be much easier for parents and providers to understand.</p>  | <p>“User friendly” informational materials that explain the requirements are being developed for families and providers. These materials will be available in multiple languages and they, not the rules, will likely be the primary resource for providers.</p>  |
| <p>WAC 110-16-0035 Health and safety practices. (5)</p>  | <p>DCYF concurs that it's imperative to practice</p>  |

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| <p>Building and physical premises safety, including handling and storage of hazardous materials, identification of and protection from hazards, bodies of water, and vehicular traffic. Providers not related to the child, as described in WAC 110-16-0015 (3)(c), must comply with the following building and physical premises safety requirements: (a) The provider must visually scan indoor areas to identify potential child safety hazards and discuss removal or reduction of identified hazards with the parent. If it is not possible for the provider to immediately correct or make a hazard completely inaccessible to a child, the provider must supervise the child to avoid injury from such identified hazard. Child safety hazards include, but are not limited to (ii) Firearms, guns, weapons, and ammunition; The relative provider should have to sign a annual declaration regarding whether or not firearms, guns, weapons and ammunition are known to be on the premises. If present the declaration should state they agree to store all them in a locked safe or in a locked room with a trigger lock on the firearm. Additionally if a child is cared for in the child's home the parent should have to sign the same type of annual declaration. If this WAc is not changed I question DCYF intent to keep vulnerable children safe.</p> | <p>comprehensive gun safety when guns are located in a home where children live and are cared for. We are not, however, through the proposed WAC, suggesting that DCYF staff investigate and observe all areas of a parent's home. Our visit with parents and non-relative providers are about technical assistance and not over-regulation. It is incumbent upon the parent and provider to have discussions about crucial health and safety issues and to take physical action to either remove or reduce hazards.</p>   |
| <p>WAC 110-16-0035 Health and safety practices: (A) Swimming pools when not being used, portable wading pools, hot tubs, spas, and jet tubs; (B) Ponds, lakes, storm retention ponds, ditches, fountains, fish ponds, landscape pools, or similar bodies of water; and Relative providers or parents if care occurs in the child's home should have to sign a declaration whether or not these drowning dangers are on the premises. If they are on the premises. Wading pools have to be drained immediately after use, Hot tubs should be required to have locking lids, jet tubs should have the door locked in the room they are in. Swimming pools, fountains, fish ponds, landscape pools, or similar bodies of water should be required to be fenced with a 5 ft fence with a locking gate. Drowning is the leading cause of death of children ages 1-4. We need to keep vulnerable children safe. If this WAC is not altered I really question DCYF intent to keep children safe.</p>  | <p>DCYF concurs that it's imperative to practice comprehensive water safety when any body of water is located in or near a home where children live and are cared for. We are not, however, through the proposed WAC, suggesting that DCYF staff investigate and observe all areas of a parent's home and surroundings. Our visit with parents and providers are about technical assistance and not over-regulation. It is incumbent upon the parent and provider to have discussions about crucial health and safety issues and to take physical action to either remove or reduce hazards.</p> |
| <p>These FFN WACs are poorly organized and not clear. WAC 100-16-0035 is so long winded . Please create shorter WACs and group similar topics</p>  | <p>Thank you for this observation. Those staff writing the FFN chapter will review other WACs for reference. DCYF will be monitoring the</p>   |



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| <p>together. Also there needs to be a stand-alone WAC for Safe Sleep it is hidden in 0035. Don't add any more WACs reorganize them more separate WACs. This is not clear or user friendly for staff or the public that will need to use and understand them.</p>   | <p>implementation of these rules over the course of the next year and noting needed changes and improvement.</p>   |
| <p>I want to suggest a three weekend NRM be established and rework this WAC Keep most proposed WACs eliminate a few . Maybe DCYF could have decided What is NOT negotiable and WHAT IS negotiable and we reorganize this WAC and try to write in in a more easily understandable and user friendly style. And make the ability to be on a group actually possible. For the 300 WAC those groups were set and all the interested parties could do was comment on line or have a three minute time frame to comment in person. E mails to the 4 cohorts did not go directly to the groups instead they were batched and forwarded. I think this 14 page WAC could be improved greatly in three weekends.</p> | <p>DCYF will be monitoring the implementation of these rules over the course of the next year and noting needed changes and improvement. We will gather feedback and input from parents, providers and early learning stakeholders.</p>  |
| <p>See attached letters from Child Care Aware, Service Employees International Union, Local 925, and the Northwest Justice Project.</p>  | <p>FFN providers are not licensed and, therefore, do not have hearing rights to determine if they can continue as child care providers. Overpayments are addressed in chapter 110-15 WAC and can be appealed. DCYF recognizes the benefit of consistent care and intends, through technical assistance, to assist families and providers to maintain consistent care as much as possible.</p> <p>DCYF does not agree that background checks should be an option to be exercised by the family when selecting an FFN provider. One of DCYF's primary duties is to protect the safety of children in child care. Background checks are one of the best available resources to assess the suitability of individuals to provide care and have the potential to reveal information about individuals that was not known by family members.</p> <p>DCYF agrees with recommendations to address racial inequities.</p> |
| <p>The following comments as well as those in the appended letters expressed concern about over-regulation and inequity. These comments prompted revisions to the final rules that emphasize DCYF's primary intent of providing training and technical assistance to ensure that families and providers are aware of and complying with health and safety requirements.</p>  |  |
| <p>I am writing to voice my concerns about the new Chapter 110-16 WAC pertaining to Family, Friend</p>   |  |

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| <p>and Neighbor caregivers. The proposed rules focus on regulatory compliance instead of strengths-based, family support approaches that are proven to be most effective in achieving positive outcomes for FFN caregivers and the children in their care. The excessive requirements of the WAC set up huge barriers for families for whom FFN care is the best option and will disproportionately impact families of color, immigrant and refugee families, and English Language Learners. Please see an extension to work with early learning system partners to rewrite the WAC so that it is better suited to FFN care and ensures equitable access to this subsidy for Washington's most vulnerable children. My child care provider was my grandma who did not live with us because I come from a family with a single mother. We also relied heavily on my next door neighbor, Mrs. Shanley, in her home. For example, the proposed rule making my neighbor care for me in my home and do lockdown drills with me would have completely scared me as a young child, making me feel unsafe in my own home. The more regulations you push on families, the more they will turn this down and you lose your connection to these families with young children. Please come from a place of support and not liability and compliance.</p> |  |
| <p>The rules are turning FFN care into licensed care. FFN caregivers are members of the children's extended families, not child care providers. The rules need to recognize and value the reasons that parents choose FFN care as well as the reasons FFN caregivers take care of young children. FFN caregiving is about family helping family, about intergenerational relationships that last a lifetime; about passing along language, culture, values; about the village raising the child. The CCDF gives states liberty to "develop alternate strategies for care provided in the child's home that are appropriate to the setting." The rules should reflect best practices for FFN caregivers</p>   |  |
| <p>Rules should allow equitable resource connections for all families.</p>   |  |
| <p>FFN providers are caregivers, not child care providers. Treating these individuals as providers does a disservice to the individuals and the parents. Parents choose FFNs because they are caregivers. Children learn from them, but not in a formalized structure. The rules are overarching and</p>   |  |

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| <p>overreaching and will prevent quality care by forcing people to go underground. The agency needs to call on FFN caregivers who do the work to assist with drafting language that is not too restrictive and in the best interest of the child.</p>   |  |
| <p>These are families who have temporary, unique circumstances pop up and need to rely on a friend or family member to provide care for a child who has severe needs or provide care while the family has to work the graveyard shift for a few months. If the layers are restrictive, like having to have CPR training or get a background check or complete preservice training before you take on that unique, time-sensitive situation then the providers will just not take the subsidy and then we've lost any ability to try to improve the quality of the care. The U.S. Children's Administration is looking for innovative ideas from states around the guidelines and wants to provide as much flexibility as needed. The last thing they want to do is shove FFN caregivers underground. The exemptions for relative caregivers are appreciated. The rules are headed in the right direction, but need more work to get to the innovative, balanced approach so that the care givers get the support they need and we get the outcomes that the federal law intends</p> |  |
| <p>Director Hunter's goal for 90% of kids being ready for kindergarten cannot be reached without FFN care givers. If restrictive rules make those families invisible to us, we will not be able to provide support. What we really need to do is put our arms around FFN care givers as they are doing this extraordinary work with our children so that we can support families, raise the quality of that care, and work towards Director Hunter's very ambitious goal.</p>   |  |
| <p>The rules need to be more supportive of FFN care givers. We need strength-based ways to support FFN care so that we can learn from FFN care givers what they need for support rather than using a regulatory approach. Child Care Resources' Kaleidoscope Play &amp; Learn program is a model for an evidence-informed promising practices that has grown out of CCR's work to support and inform FFN care givers. The Kaleidoscope program uses trained facilitators who plan and set up fun, culturally- and developmentally-appropriate play activities for children and their FFN caregivers to participate in together. Care givers learn what they can do at home</p>  |  |

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| <p>to support children’s learning and healthy development. These groups are held in a variety of neighborhood locations, such as libraries, community centers, schools, apartment buildings and shopping centers, and in different languages with some being multilingual. Most groups are free, drop in-and open to young children of all ages. CCR measures the care givers’ experience and consistently receives positive results on measures related to care gives’ supporting children’s development and school-readiness, including reading or looking at books together, talking about numbers and shapes; describing things they do and see, and talking with their children about feelings. 91% of participants report feeling more supported as a care giver or parent in their community. They are the result we are looking for, and the methods are offered in a positive rather than punitive way to FFN care givers. These types of models are necessary to provide FFN care givers and parents with information, resources, support and connections to that care givers and parents provide high quality care and healthy development so that all children receive high quality care in safe, nurturing environments and are prepared to succeed in school and in life.</p> |  |
| <p>Rules need to be revised to be more equitable for care givers. FFN care givers are extended family who are able to pass on family traditions and language. FFN care givers are critical for parents who work or have unique situations that take them away from home for a few weeks at a time. Parents trust these individuals and know that their children are receiving good care.</p>  |  |

cc: DCYF Rules Coordinator



## Child Care Aware of Washington's Concern regarding

### Proposed New Chapter 110-16 WAC

#### License-Exempt Care – Family, Friend and Neighbor (FFN) In-Home/Relative Child Care Providers

Child Care Aware of Washington and our six regional CCA partners urge the Department of Children, Youth and Families to **seek an extension to recraft the proposed WACs to reflect best practices in supporting Family, Friend and Neighbor (FFN) caregivers.** Our feedback below supports this request.

FFN care has been described as the invisible backbone of child care. As the most prevalent form of child care, it plays a necessary and invaluable role in helping parents be employed and go to school. Families choose FFN care because they want a caregiver who is part of their extended family and who they know and trust and with whom they share cultural values in raising children. FFN care is rooted in family choice, cultural communities, multi-generational child care, networks of support, and child-centered loving connections. In this framework of care, families and communities work together in the best interest of each child.

We support DCYF in its efforts to assist FFN caregivers receiving subsidies in providing safe, nurturing, child-centered care and to connect them with other resources in their local communities. ***DCYF and the early learning system partners have a unique opportunity to observe and support the quality of these learning environments and to ensure the health, safety and optimal development of the children within them.***

Through CCA's rich experience in developing evidence-based strategies to support FFN caregivers, we have learned that ***strengths-based family support approaches grounded in the Strengthening Families Framework are the most effective*** in achieving positive outcomes for FFN caregivers and the children in their care. This is confirmed by research and evaluation of FFN programs in other parts of the U.S. that FFN caregivers can and do benefit from appropriate support.

#### **Our Concern and Request**

As written, the proposed rules come from a framework of regulation and compliance akin to child care licensing. Given that FFN care is embedded in extended family, FFN caregivers should not be viewed in parallel to licensed child care nor bound by the same requirements. It is critical to keep in mind that the WAC largely applies to ***FFN caregivers that parents have invited into their home to care for their children.***

***The proposed WAC exceeds the intent and letter of the CCDF requirements by focusing on regulatory compliance, and are simply not appropriate for a family's home*** where the FFN caregiver – let alone the parent who may be renting or have limited means – has little to no control over all aspects of the

**Child Care Aware of Washington Concern Regarding Proposed New Chapter 110-16 WAC**

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physical environment. What's more, the WAC requires a long list of written parental permissions and other documentation of evacuation and lock-down drills that are more fitting to a licensed setting than a family home.

Moreover, the Working Connections FFN subsidy provides a nominal hourly subsidy and is not on par with the reimbursement for licensed care. The excessive requirements of the proposed WAC and potential burden they put on parents and caregivers outweigh the small amount of reimbursement to the caregiver. **We believe this will result in a sharp reduction of families participating in WCCC programs, limiting our collective ability to reach and support FFN caregivers in ways that improve the care for some of our most vulnerable children.**

**We urge DCYF to seek an extension to recraft the proposed WACs to reflect best practices in supporting FFN caregivers.**

We are aware of the federal deadlines DCYF faces, but our early learning system needs WACs that will achieve positive outcomes for children, especially those who experience systemic barriers due to race, family income, immigrant status, presence of a special need, and home language.

CCDF recognizes the unique nature of FFN care and allows states discretion to develop *“alternate monitoring strategies for care provided in the child's home that are appropriate to the setting. A child's home may not meet the same standards as other child care facilities, and this provision gives Lead Agencies flexibility in conducting more streamlined and targeted inspections.”*

Slowing down the process will allow DCYF time to:

- Collaborate with CCA of WA and other partners to create rules that draw on best practices in FFN care and that enhance the protective factors for the children in their care
- Develop FFN- and cultural-appropriate resources – such as tool kits, referrals to health and social services, etc. -- that will facilitate implementation of new rules
- Consider alternatives to the training and monitoring visits described in the current WAC, such as facilitated play groups, home visiting, and other family support programs, that may be more effective in achieving DCYF's goals

### **Recommendations if the Department proceeds with their plan for the Proposed New Chapter**

If DCYF is unable or unwilling to seek an extension as outlined above, we offer this feedback:

#### **1. Not require background checks to relative caregivers.**

CCDF does not require background checks for caregivers related to the children in their care and for the members of related caregivers' households. Requiring background checks for all members of the caregiver's household disproportionately excludes caregivers who might have an undocumented person living in their home. It also further perpetuates the systemic racism families of color experience because of the disproportionate numbers of people of color convicted of crimes.

#### **2. Revise the WAC to structure monitoring visits around support, information and referral, and not regulatory, consequence-based oversight.**

This is a golden opportunity for DCYF monitoring staff to spend valuable time during their visits to provide FFN caregivers and parents with information on:

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- the importance of vaccines, good nutrition, well-child visits
- keeping their child safe, including removing access to household hazards, promoting safe sleep, use of car seats, preventing the spread of illness and other items outlined in the CCDF requirements
- child development and easy ways to incorporate early learning into everyday activities
- local programs, services and resources that support children’s healthy development and early learning and that support the caregiver’s and parent’s health and well-being

**3. Review and revise the entire proposed WAC to eliminate barriers for success for FFN caregivers of color, who are English language learners, and/or who may not be literate in any language.**

To more fully engage and to ensure equitable access to all FFN caregivers, parents, and children:

- Provide required training in multiple languages, in-person in addition to online
- Provide all written materials in multiple languages and in alternate forms for people with limited literacy
- Not require written documentation (health and safety plans, home evacuation, etc.), or if required, provide a tool kit of forms in multiple languages
- Allow FFN caregivers to complete CPR and First Aid training within 90 days of starting care. Families using FFN care typically need the care NOW and cannot wait for their caregiver to complete a training
- Consider alternate methods to achieve the goals of training and monitoring visits, including facilitated play groups
- Consult with CCA of WA and other early learning partners to gather feedback and recommendations on addressing barriers due to language and lack of resources

**4. Track utilization of WCCC subsidies for FFN care to assess the impacts implementation of the WAC has on low-income families’ access to child care.**

To insure the proposed WAC does not have a disproportionate, negative impact on families of color and other families who experience systemic barriers due to racism, immigrant status, home language, and rural/urban/suburban living situation, we request that DCYF track and make publicly available:

- the number of FFN caregivers and families using WCCC subsidies as well as their locations, home language, and races of FFN caregivers currently (pre-WAC implementation) and through at least the first 12 months after implementation
- The reasons why families and FFN caregivers discontinue WCCC subsidies when the WAC is implemented

**Our Commitment**

CCA of WA and its six CCA regions share DCYF’s dedication to Washington’s young children and their families and to helping all children grow into happy, healthy, successful adults. As long-time partners in the early learning system, we are committed to working with DCYF to rethink and revise the proposed WAC. We offer you our assistance and expertise in shaping this WAC and other FFN-related policies so that all children – and the extended families that care for them – thrive.

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August 20, 2018

Feedback submitted by SEIU 925 to DCYF

Re: Proposed New Chapter 110-16 WAC: License-Exempt Care – Family, Friend and Neighbor (FFN) In-Home/Relative Child Care Providers



We share the concerns expressed by Childcare Aware in that FFN care is a complimentary mode of delivering childcare, and is critical to supporting families, but it is functionally different from licensed care and should not be bound by the same requirements.

The proposed WAC attempts to treat FFN care as the same as licensed family home care, imposing high levels of regulations and, in SEIU 925's view, exceeding the intent of the CCDF requirements. If the department requires FFN caregivers to follow the same standards, documentation of permissions, evacuation policies, and lock-down drills as a family home, **we will not see safer FFN care – we will simply see less licensed FFN care as even more children exit the licensed care system.**

Additionally, SEIU 925 continues to have critical concerns about the compensation of this work force, which is already low. Adding additional requirements through this WAC, with such low compensation, will again drive more FFN providers away from the licensed workforce, decreasing the available licensed care available to parents.

The kids and families of our state need rules that work, not rules that are rushed through without considering unintended consequences. We stand with Childcare Aware and urge DCYF to slow down the process to allow collaboration with stakeholders, including providers. DCYF should take the approach of supporting and coaching FFN providers through toolkits, trainings, referrals, home-visiting, and other positive interactions, rather than implementing a punitive regulatory approach that will decrease access to care.

### **Specific recommendations:**

#### **1. Establish right to request a hearing on any action triggered by the new WACs**

FFN providers should have the right to request a hearing to dispute any action taken by DCYF as a result of purported violation of the new WACs, in line with the hearing rights provided to WCCC consumers under WAC 110-15-0280. As new regulations are implemented and providers strive to comply with the new regulations, there must be a mechanism to dispute the appropriateness of any action limiting their right or ability to continue providing FFN services.

#### **2. Do not require background checks for relative caregivers, or create a mechanism for families to waive the background check.**

We agree with Childcare Aware in that background checks not universally required by CCDF. To the extent there is any benefit to providing a system for caregivers to go through a background check, it should serve as a service to families who desire such protection. However, when a family invites a relative into the home to provide care for their child(ren), the background check should be optional, not a requirement, for the reasons stated above. Requiring background checks on relative caregivers will have negative impacts particularly among diverse communities and would go against DCYF's stated goals of decreasing racial inequities in outcomes for kids.



Feedback submitted by SEIU 925 to DCYF

Re: Proposed New Chapter 110-16 WAC: License-Exempt Care – Family, Friend and Neighbor (FFN) In-Home/Relative Child Care Providers



**3. Live DCYF’s goals of addressing racial inequities by revising rules that stand in the way of FFN caregivers successfully providing licensed care, including (though not**

**limited to):**

- Providing required training in multiple languages, in-person in addition to online
- Providing all written materials in multiple languages and in alternate forms for people with limited literacy
- Not requiring written documentation (health and safety plans, home evacuation, etc.), or if required, provide a tool kit of forms in multiple languages
- Allowing FFN caregivers to complete CPR and First Aid training **within 90 days** of starting care. Families using FFN care typically need the care NOW and cannot wait for their caregiver to complete a training
- Considering alternate methods to achieve the goals of training and monitoring visits, including facilitated play groups
- Consulting with SEIU 925, providers, and other early learning stakeholders, to gather feedback and recommendations on addressing barriers due to language and lack of resources

In addition, we agree with the concerns raised by Childcare Aware, and support their suggestions regarding tracking utilization of WCCC subsidies, and revising monitoring visits to focus more on support and coaching.



# Northwest Justice Project

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Executive Director

August 22, 2018

Department of Children, Youth, and Families  
DCYF Rules Coordinator  
via Email: [dcyf.rulescoordinator@dcyf.wa.gov](mailto:dcyf.rulescoordinator@dcyf.wa.gov)

**Re:** License-Exempt Care Rules, WSR 18-15-095

Dear DCYF Rules Coordinator:

The Northwest Justice Project would like to offer these comments regarding the proposed rules for license-exempt child care providers.

We appreciate that DCYF is promulgating regulations governing license-exempt child care, as mandated by the federal Child Care and Development Fund, (CCDF) 42 C.F.R. 98. Clear program standards are helpful for families receiving child care subsidies and for their providers. However, we are concerned that the proposed rules impose unnecessarily onerous requirements and do not allow for license-exempt providers to appeal a determination that they have failed to comply with the new requirements.

While health and safety standards and best-practices are an important way of protecting children, the proposed regulations impose significant requirements that go well beyond the requirements of the CCDF. Many requirements seem arbitrary and unrelated to the health and safety of children. See, for example, the 14-degree temperature range for indoor temperature of child care settings where the provider is unrelated to the child. 110-16-0035(5)(a)(xiii)). The lengthy requirements cause us concern regarding adherence with the CCDF's parental choice mandate. 42 C.F.R. section 98.30(f)(2).

Our concern about onerous standards in the 14 pages of regulations is exacerbated by the lack of due process and appeal rights for license-exempt providers. Without an appeal right, license-exempt providers would have no avenue to dispute fact-based determinations of non-compliance that could result in their termination as providers and potentially cause overpayments. WAC 110-16-0040(c), (d). Additionally, termination of a provider not only negatively affects current employment, but also could affect future employment in the event of a contract termination that would trigger an obligation to disclose on the general DSHS Background Check Authorization form (DSHS 09-653).

Furthermore, arbitrary loss of child care providers hurts both children and their families. Children thrive when they receive continuity of care. Parents who lose a child care provider may experience interruptions in employment or job training programs.

Licensed providers have an appeal right in the event of a Department enforcement action. WAC 110-300B-8400. A similar right to appeal should be available for license-exempt providers who have compliance actions taken against them under proposed WAC 110-16-0040. Like WAC 110-300B-8400, the language could be brief, relying on a reference to the DEL hearing rules.

Thank you for considering these comments. We appreciate DCYF's efforts to create fair, equitable rules for license-exempt child care providers.

Sincerely,



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