



PROPOSED RULE MAKING

CR-102 (July 2022) (Implements RCW 34.05.320) Do NOT use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: April 01, 2024

TIME: 5:01 PM

WSR 24-08-066

Agency: Washington State Department of Children, Youth, and Families (DCYF)

- Original Notice**
- Supplemental Notice to WSR** _____
- Continuance of WSR** _____

- Preproposal Statement of Inquiry was filed as WSR 24-04-096 ; or**
- Expedited Rule Making--Proposed notice was filed as WSR _____; or**
- Proposal is exempt under RCW 34.05.310(4) or 34.05.330(1); or**
- Proposal is exempt under RCW _____.**

Title of rule and other identifying information: (describe subject) WAC 110-425-0030 Definitions

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
May 7, 2024	N/A	Telephonic	Make oral comments by calling 360-972-5385 and leaving a voicemail that includes the comment and an email address or physical mailing address where DCYF will send its response. Comments received through and including May 7, 2024 will be considered.

Date of intended adoption: May 8, 2024 (Note: This is **NOT** the effective date)

Submit written comments to:

Name: DCYF Rules Coordinator
 Address:
 Email: dcyf.rulescoordinator@dcyf.wa.gov
 Fax:
 Other: <https://dcyf.wa.gov/practice/policy-laws-rules/rule-making/participate/online>
 By (date) May 7, 2024

Assistance for persons with disabilities:

Contact DCYF Rules Coordinator
 Phone: (360) 522-3691
 Fax:
 TTY:
 Email: dcyf.rulescoordinator@dcyf.wa.gov
 Other:
 By (date) April 30, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules: The Early Learning Division of DCYF is amending WAC 110-425-0030 Definitions because the Fair Start for Kids Act (Engrossed Second Substitute Senate Bill 5237) directs DCYF to establish a definition of an Indian child that will be used for Early Childhood Education and Assistance Program (ECEAP) enrollment. The definition will include federally recognized Tribal members and increase clarity around which children are eligible for enrollment as an Indian child into ECEAP programming. The definition needs to be in rule by July 1, 2024.

Reasons supporting proposal: See Purpose

Statutory authority for adoption: RCW 43.216.505, RCW 43.216.512, RCW 43.216.5052, and Engrossed Second Substitute Senate Bill 5237, Chapter 199, 2021 Laws.

Statute being implemented: RCW 43.216.505, RCW 43.216.512, RCW 43.216.5052, and Engrossed Second Substitute Senate Bill 5237, Chapter 199, 2021 Laws.

Is rule necessary because of a:

- Federal Law? Yes No
- Federal Court Decision? Yes No
- State Court Decision? Yes No

If yes, CITATION:

Agency comments or recommendations, if any, as to statutory language, implementation, enforcement, and fiscal matters:

Type of proponent: Private Public Governmental

Name of proponent: (person or organization) DCYF

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting:	Nicole Parker	Olympia	360-338-5162
Implementation:	DCYF	Statewide	
Enforcement:	DCYF	Statewide	

Is a school district fiscal impact statement required under [RCW 28A.305.135](#)? Yes No

If yes, insert statement here:

The public may obtain a copy of the school district fiscal impact statement by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

Is a cost-benefit analysis required under [RCW 34.05.328](#)?

Yes: A preliminary cost-benefit analysis may be obtained by contacting:

Name:

Address:

Phone:

Fax:

TTY:

Email:

Other:

No: Please explain: A cost benefit analysis is not required under RCW 34.05.328. DCYF is not among the agencies listed as required to comply with RCW 34.05.328(5)(i). Further, DCYF does not voluntarily make that section applicable to the adoption of this rule.

Regulatory Fairness Act and Small Business Economic Impact Statement

Note: The [Governor's Office for Regulatory Innovation and Assistance \(ORIA\)](#) provides support in completing this part.

(1) Identification of exemptions:

This rule proposal, or portions of the proposal, **may be exempt** from requirements of the Regulatory Fairness Act (see [chapter 19.85 RCW](#)). For additional information on exemptions, consult the [exemption guide published by ORIA](#). Please check the box for any applicable exemption(s):

This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.061](#) because this rule making is being adopted solely to conform and/or comply with federal statute or regulations. Please cite the specific federal statute or regulation this rule is being adopted to conform or comply with, and describe the consequences to the state if the rule is not adopted.

Citation and description:

This rule proposal, or portions of the proposal, is exempt because the agency has completed the pilot rule process defined by [RCW 34.05.313](#) before filing the notice of this proposed rule.

This rule proposal, or portions of the proposal, is exempt under the provisions of [RCW 15.65.570\(2\)](#) because it was adopted by a referendum.

- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(3\)](#). Check all that apply:
- | | |
|---|--|
| <input type="checkbox"/> RCW 34.05.310 (4)(b)
(Internal government operations) | <input checked="" type="checkbox"/> RCW 34.05.310 (4)(e)
(Dictated by statute) |
| <input type="checkbox"/> RCW 34.05.310 (4)(c)
(Incorporation by reference) | <input type="checkbox"/> RCW 34.05.310 (4)(f)
(Set or adjust fees) |
| <input type="checkbox"/> RCW 34.05.310 (4)(d)
(Correct or clarify language) | <input type="checkbox"/> RCW 34.05.310 (4)(g)
((i) Relating to agency hearings; or (ii) process requirements for applying to an agency for a license or permit) |
- This rule proposal, or portions of the proposal, is exempt under [RCW 19.85.025\(4\)](#) (does not affect small businesses).
- This rule proposal, or portions of the proposal, is exempt under RCW _____.

Explanation of how the above exemption(s) applies to the proposed rule:

(2) Scope of exemptions: *Check one.*

- The rule proposal is fully exempt (*skip section 3*). Exemptions identified above apply to all portions of the rule proposal.
- The rule proposal is partially exempt (*complete section 3*). The exemptions identified above apply to portions of the rule proposal, but less than the entire rule proposal. Provide details here (consider using [this template from ORIA](#)):
- The rule proposal is not exempt (*complete section 3*). No exemptions were identified above.

(3) Small business economic impact statement: *Complete this section if any portion is not exempt.*

If any portion of the proposed rule is **not exempt**, does it impose more-than-minor costs (as defined by RCW 19.85.020(2)) on businesses?

- No Briefly summarize the agency's minor cost analysis and how the agency determined the proposed rule did not impose more-than-minor costs. _____
- Yes Calculations show the rule proposal likely imposes more-than-minor cost to businesses and a small business economic impact statement is required. Insert the required small business economic impact statement here:

The public may obtain a copy of the small business economic impact statement or the detailed cost calculations by contacting:

Name:
Address:
Phone:
Fax:
TTY:
Email:
Other:

Date: April 1, 2024

Name: Brenda Villarreal

Title: DCYF Rules Coordinator

Signature:

WAC 110-425-0030 Definitions. "Child allowed for enrollment" means a child that DCYF may permit to be enrolled in ECEAP under RCW 43.216.512, but who is not in the group that will be entitled to ECEAP beginning in the ((2022-23)) 2026-27 school year under RCW 43.216.556.

"Child eligible for enrollment" means a child who is eligible for ECEAP under RCW 43.216.505(4). This child is in the group that will be entitled to ECEAP beginning in the ((2022-23)) 2026-27 school year under RCW 43.216.556. Under RCW 43.216.514, a child eligible for enrollment must be given enrollment priority over a child allowed for enrollment. "Eligible child" has the same meaning as "child eligible for enrollment."

"Contractor" means a public or private organization that contracts with the department of children, youth, and families to provide local ECEAP services.

"Department" means the department of children, youth, and families.

"ECEAP" means the early childhood education and assistance program.

"Eligible organization" means public or private organizations including, but not limited to, school districts, educational service districts, community and technical colleges, local governments, non-profit organizations, and for-profit organizations provided that their proposed ECEAP is free from religious instruction, activities, or symbolism.

"Federal poverty level" or "FPL" means the measure of income in relation to family size issued by the federal U.S. Department of Health and Human Services and used to calculate ECEAP income eligibility.

"Indian child" means for:

(a) ECEAP sites run by sovereign tribal nations: Indian child as defined by the tribe and submitted to the department.

(b) Nontribal providers serving tribal children, including tribal nonprofit providers: Indian child as defined in WAC 110-110-0010.

"Performance standards" means the most current release of the ECEAP performance standards as incorporated into the ECEAP contract, which are accessible at <https://www.dcyf.wa.gov/services/early-learning-providers/eceap/contractors>.