



PROPOSED RULE MAKING

CR-102 (June 2024)
(Implements RCW 34.05.320)
Do **NOT** use for expedited rule making

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STATE OF WASHINGTON
FILED

DATE: July 02, 2024

TIME: 4:53 PM

WSR 24-14-136

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** 22-09-054 ; 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)

The Licensing Division (LD) is proposing amendments to the following WACs:
WAC 110-148-1330 May I receive more than one in-home family license?
WAC 110-300-0425 Initial, nonexpiring, dual licenses, and license modification.

LD is also proposing a new WAC 110-300-0430 Authority and requirements to possess more than one license.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
August 6, 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 August 6, 2024 will be considered.

Date of intended adoption: August 7, 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 Beginning (date and time) <u>July 3, 2024, 8:00 am</u> By (date and time) <u>August 6, 2024, 11:59 pm</u>	Assistance for persons with disabilities: Contact DCYF Rules Coordinator Phone (360) 522-3691 Fax _____ TTY _____ Email dcyf.rulescoordinator@dcyf.wa.gov Other _____ By (date) <u>July 30, 2024</u>
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Purpose of the proposal and its anticipated effects, including any changes in existing rules: The proposed rules allow a family home to be licensed for both foster care and child care. The anticipated effects are more child care options within communities and increased placement options for children needing foster care. Furthermore, the proposed rules allow for continuity of care which is expected to create more stable experiences for impacted children.

Reasons supporting proposal: See Purpose.

Statutory authority for adoption: RCW 74.15.030, 43.216.055, 43.216.065, and 43.216.250

Statute being implemented: RCW 74.15.030 and 43.216.250

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:

Name of proponent: (person or organization) DCYF
Type of proponent: Private. Public. Governmental.

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Michelle Giard		(509)312-1302
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 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 checked="" 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: July 2, 2024

Name: Brenda Villarreal

Title: DCYF Rules Coordinator

Signature:



WAC 110-148-1330 May I receive more than one in-home family license and what are the requirements for requesting and holding multiple licenses, certifications, or authorizations? (1) ~~((In rare situations and at our discretion, we may allow a family to be licensed for foster care and another type of in-home family care. The LD senior administrator may grant approval if it appears to be in the best interest of a child.~~

~~(2) If you have more than one in-home family license:~~

~~(a) It must be clear that the health and safety of children is not compromised; and~~

~~(b) The total number of children allowed in your home will not be higher than DYCF's allowed maximum capacity. All licensing agencies must be in agreement.)) The department may approve licensees' request to have more than one department license, certification, or authorization, e.g., child care license and foster care license.~~

~~(2) If providers hold both a child care license and a foster care license, the providers must comply with WAC 110-300-0300 and develop and follow a written individual care plan for every child in care with developmental, health, or behavioral needs.~~

~~(3) To offer overnight child care, licensees who hold both a child care early learning program license authorized under chapter 110-300 WAC, and a foster family home license authorized under this chapter, must comply with:~~

~~(a) WAC 110-300-0270; and~~

~~(b) All other applicable rules under this chapter and chapter 110-300 WAC.~~

~~(4) Applicants must submit a complete licensing application for each license they are seeking:~~

~~(a) The license application must be completed by the applicant pursuant to the laws and rules that govern each license; and~~

~~(b) For applicants who apply for more than one license, the department must conduct an individualized assessment of each complete license application prior to approving or denying an application for any license, certification, or authorization requested by the applicant.~~

~~(5) When requests are received for multiple licenses, the department will determine the capacity limits for each license based on the requirements in:~~

~~(a) Title 110 WAC; and~~

~~(b) The chapter within Title 110 WAC that authorizes the license.~~

~~(6) If the department determines that licensees are not in compliance with all applicable requirements and regulations for any license, certification, or authorization:~~

~~(a) The department and licensees may mutually agree to amend one or more of the licenses, certifications, or authorizations;~~

~~(b) The licensees may voluntarily agree to surrender or relinquish one or more of the licenses, certifications, or authorizations to the department; or~~

~~(c) The department may issue fines or suspend, deny, modify, or revoke one or more of the licenses as outlined in RCW 43.216.325 and 74.15.130.~~

WAC 110-300-0425 Initial(~~(7)~~) and nonexpiring(~~(7-dual)~~) licenses(~~(7-and license)~~)—Reporting—License modification. (1) The department may issue an initial license (~~(when)~~) authorized under RCW 43.216.315 to an early learning program applicant when they demonstrate(~~(s-compliance)) their early learning program will be able to comply with the health and safety requirements (~~(of)~~) described in this chapter (~~(but may not be in)~~).~~ They do not have to demonstrate full compliance with all requirements(~~(7-pursuant to RCW 43.216.315)) that are not related to health and safety for initial license eligibility.~~

(a) An initial license is valid for six months from the date issued(~~(7)~~);

(b) At the department's discretion, an initial license may be extended for up to three additional six-month periods, not to exceed a total of two years(~~(7)~~); and

(c) The department must evaluate the early learning provider's ability to follow requirements contained in this chapter during the initial license period.

(2) The department may issue a nonexpiring license to a licensee operating under an initial license who demonstrates compliance with the requirements of this chapter during the period of initial licensure, pursuant to RCW 43.216.305.

(3) (~~(A licensee)~~) Licensees must submit the following annual compliance documents at least (~~(thirty)) 30~~ calendar days (~~(prior to that provider's)) before their anniversary date(~~(. A provider's anniversary date))~~, which is the date (~~(the)) their first initial license was issued. (~~(Pursuant to RCW 43.216.305,))~~ The required annual compliance documents are:~~~~

(a) The annual nonrefundable license fee;

(b) A declaration on the department's form indicating:

(i) The intent to continue operating a licensed early learning program;

(ii) The intent to cease operation as a licensed early learning program;

(iii) A change in the early learning program's operational hours or dates; and

(iv) The intent to comply with all licensing rules.

(c) Documentation of completed background checks (~~(applications)) for required individuals as determined by the department's established schedule, pursuant to RCW 43.216.270(2) (~~(7-and~~~~

~~(d))~~). For (~~(each)) individuals required to have a background check clearance, the early learning provider must either:~~

(i) Verify current background checks; or

(ii) Require (~~(the)) individuals to submit a background check application at least (~~(thirty)) 30~~ calendar days prior to the anniversary date.~~

(4) If (~~(a)) licensees fail(~~(s)) to meet the requirements for continuing a nonexpiring license by their anniversary date, (~~(the licensee's)) their current license will expire(~~(s. The early learning provider must)) and the licensee will be required to submit a new application for licensure(~~(7-pursuant to RCW 43.216.305(3))~~).~~~~~~~~

(5) ~~((Nothing about))~~ The nonexpiring license process in this section may not interfere with the department's established monitoring practices, ~~((pursuant to))~~ as described in RCW 43.216.305 ~~((4)(a))~~.

(6) ~~((A licensee has no right to an adjudicative proceeding (hearing) to appeal the expiration, nonrenewal, or noncontinuation of a nonexpiring license resulting from a failure to comply with the requirements of this section.))~~ The department may let a license expire, not be renewed, or not be continued when early learning providers fail to comply with the requirements of this section. Providers cannot appeal the department's decision and have no rights to a hearing.

(7) ~~((A licensee must have department approval to hold dual licenses (for example: An early learning program license and another care giving license, certification, or similar authorization).))~~

(8) ~~If the department determines that a licensee is not meeting all applicable requirements and regulations:~~

~~(a) The department and licensee may agree to modify the child care license;~~

~~(b) The licensee may give up one of the licenses, certifications, or authorizations; or~~

~~(c) The department may suspend, deny, or revoke the early learning license, pursuant to RCW 43.216.325.~~

~~(9) An~~) Early learning providers must report the following information within ~~((twenty-four))~~ 24 hours of becoming aware to the:

(a) ~~((To the))~~ Department and local authorities ~~((A))~~ if there has been, or is, a fire or other structural damage to the early learning program space or other parts of the premises ~~((r))~~, including any structural damage caused by a natural disaster.

(b) ~~((To the))~~ Department:

(i) Allegations, a reasonable basis to believe, or findings of abuse or neglect that both:

(A) Are made against the early learning provider, an early learning provider employee or volunteer, or a household member; and

(B) Involve the abuse, neglect, maltreatment, or exploitation of a child, youth, or vulnerable adult;

(ii) A retirement, termination, death, incapacity, or change of the program director, or program supervisor ~~((, or))~~;

(iii) A change of ownership or incorporation of ~~((a provider;~~

~~(ii) When a provider becomes aware of a charge or conviction against themselves, a staff person or, applicable household member, pursuant to WAC 110-06-0043;~~

~~(iii) When a provider becomes aware of an allegation or finding of abuse, neglect, maltreatment, or exploitation of a child or vulnerable adult made against themselves, a staff person, or a household member, if applicable;~~

~~(iv))~~ the early learning provider's business entity that is responsible for providing the early learning program;

(iv) Criminal charges or convictions against:

(A) Themselves;

(B) An early learning program employee or volunteer; or

(C) An early learning provider's household member;

(v) A change in the number of household members living within a family home early learning program space. This includes individuals ~~((fourteen))~~;

(A) Age 14 years old or older that move in or out of the home ~~((or a resignation or termination))~~;

~~(B) Who resign or are terminated, pursuant to RCW 43.216.390 ((A birth or death affecting the number of household members must be reported within twenty-four hours or at first opportunity)); and~~

~~(C) Who are born or who have died; and~~

~~((v)) (vi) Any changes in the early learning program hours of operation ((to include)), including planned closure dates.~~

~~((10)) (8) Prior to increasing capacity of an early learning program, ((the licensee, center director, assistant director, or program supervisor must request and be approved to increase capacity by the department)) early learning providers must make a request to the department for a capacity increase. The department or tribal authority may approve or deny the early learning provider's capacity increase.~~

~~((11) Licensee, center director, assistant director, or program supervisor must have)) (9) The state fire marshal or department ((approval and comply with local building ordinances following a significant change)) must approve any change or modification described under WAC 110-300-0402 (1)(a) through (c) ((, if applicable)). All changes or modifications to the premises must comply with all building codes and ordinances.~~

~~((12)) (10) If the liability insurance described in RCW 43.216.700 is terminated, the licensee, center director, assistant director, or program supervisor must notify the department within ((thirty)) 30 calendar days ((when)) of the date the liability insurance ((coverage under RCW 43.216.700)) has ((lapsed or)) been terminated.~~

NEW SECTION

WAC 110-300-0430 Authority and requirements to possess more than one license. (1) The department may approve licensees' request to possess more than one department license, certification, or authorization, i.e., child care license and foster care license.

(2) In order to offer overnight child care, licensees who have both a child care early learning program license authorized under this chapter, and a foster family home license authorized under chapter 110-148 WAC, must comply with:

(a) WAC 110-300-0270; and

(b) All other applicable rules under this chapter and chapter 110-148 WAC.

(3) Applicants must submit a complete license application for each license they are seeking and:

(a) The license application must be completed by the applicant pursuant to the laws and rules that govern each license; and

(b) For applicants who apply for more than one license, the department must conduct an individualized assessment of each complete license application prior to approving or denying an application for any license, certification, or authorization requested by the applicant.

(4) When requests are received for multiple licenses, the department will determine the capacity for each license based on the requirements in:

(a) Title 110 WAC; and

(b) The chapter within Title 110 WAC that authorizes the license.

(5) If the department determines that licensees are not in compliance with all applicable requirements and regulations for any license, certification, or authorization:

(a) The department and licensees may mutually agree to amend one or more of the licenses, certifications, or authorizations;

(b) The licensees may voluntarily agree to surrender or relinquish one or more of the licenses, certifications, or authorizations to the department; or

(c) The department may issue fines or suspend, deny, modify, or revoke one or more of the licenses as outlined in RCW 43.216.325 and 74.15.130.