



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: November 20, 2024
TIME: 8:57 AM

WSR 24-23-100

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 24-08-010 ; 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 is amending:

- WAC 110-301-0331 Prohibited behavior, discipline, and physical removal of children.
- WAC 110-302-0331 Prohibited behavior, discipline, and physical removal of children.

Hearing location(s):

Date:	Time:	Location: (be specific)	Comment:
December 24, 2024	N/A	Telephonic	Comments can be made by calling (360) 972-5385 and leaving a voicemail that includes the comment, emailing Rules Coordinator, or mailing comments DCYFs physical mailing address. All comments must be received by the date and time listed below.

Date of intended adoption: December 25, 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) December 4, 2024, 8:00 AM
 By (date and time) December 24, 2024 at 11:59 PM

Assistance for persons with disabilities:

Contact DCYF Rules Coordinator
 Phone (360) 522-3691
 Fax
 TTY
 Email dcyf.rulescoordinator@dcyf.wa.gov
 Other
 By (date) December 20, 2024

Purpose of the proposal and its anticipated effects, including any changes in existing rules:

DCYF is refiling the following proposed draft rules in WSR 24-22-108 as additional changes are being made in:

- WACs 110-301-0331, and WAC 110-302-0331: Informing providers how to prevent harm to children.
- WAC 110-301-0331, and WAC 110-302-0331: Mirror section 1 proposed language to match WAC 110-300-0331

The substantial changes being made from the recently filed proposed rules in WSR 24-22-108 include revising section 1 to state a "provider is prohibited from using the following behaviors" instead of "must take steps to prevent, and once aware of, must not tolerate"

Reasons supporting proposal:

For WACs 110-301-0331, and 110-302-0331: The language of the WACs do not clearly forbid child care providers from harming children. This rule requires an immediate and permanent change to the WAC chapters to protect children from harm.

Statutory authority for adoption: Chapter 42.56 RCW, RCW 43.215.070, RCW 43.215.201, RCW 43.216.055, RCW 43.216.065 and RCW 43.216.742.

Statute being implemented: Chapter 42.56 RCW, RCW 43.215.070, RCW 43.215.201, RCW 43.216.055,

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: N/A

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

Name of agency personnel responsible for:

	Name	Office Location	Phone
Drafting	Ann Radcliffe		253-341-2325
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: November 19, 2024

Name: Brenda Villarreal

Title: DCYF Rules Coordinator

Signature:



WAC 110-301-0331 Prohibited behavior(~~(r)~~) and discipline, and physical (~~(removal)~~) separation of children. (1) A school-age provider (~~(must take steps to prevent and, once aware of, must not tolerate)~~) is prohibited from using the following behaviors and discipline of children:

(a) Profanity, obscene language, "put downs," or cultural or racial slurs;

(b) Angry or hostile interactions;

(c) Threats of physical harm or inappropriate discipline such as, but not limited to, spanking, biting, jerking, kicking, hitting, slapping, grabbing, shaking, pulling hair, pushing, shoving, throwing a child, or inflicting pain or humiliation as a punishment;

(d) Intimidation, gestures, or verbal abuse including sarcasm, name calling, shaming, humiliation, teasing, derogatory remarks about a child or the child's family;

(e) Emotional abuse including victimizing, bullying, rejecting, terrorizing, extensive ignoring, or corrupting a child;

(f) (~~(Prevent)~~) Sexual abuse, pursuant to RCW 26.44.020;

(g) Preventing a child from or (~~(punish)~~) punishing a child for exercising religious rights; (~~(or~~

~~(g) Anyone to:~~

~~(i) Restrict))~~ (h) Restricting a child's breathing;

~~((ii) Bind or restrict))~~ (i) Binding or restricting a child's movement unless permitted under WAC 110-301-0335;

~~((iii) Tape))~~ (j) Taping a child's nose, mouth, or other body part;

~~((iv) Deprive))~~ (k) Depriving a child of sleep, food, clothing, shelter, physical activity, first aid, or regular or emergency medical or dental care;

~~((v) Force))~~ (l) Forcing a child to ingest something as punishment such as hot sauce or soap;

~~((vi) Interfere))~~ (m) Interfering with a child's ability to take care of their own hygiene and toileting needs;

~~((vii) Withhold))~~ (n) Withholding hygiene care, toileting care, or diaper changing from any child unable to provide such care for themselves;

~~((viii) Expose))~~ (o) Exposing a child to extreme temperatures as punishment;

~~((ix) Demand))~~ (p) Demanding excessive physical exercise or strenuous postures. Excessive physical exercise includes, but is not limited to, running laps around the yard until overly tired, an extensive number of push-ups, standing on one foot for an uncomfortable amount of time, or holding out one's arms until tired or painful;

~~((x) Place))~~ (q) Placing the separated child in a closet, bathroom, locked room, outside, or in an unlicensed space; and

~~((xi) Use))~~ (r) Using a confining space or equipment to punish a child or restrict movement.

(2) A school-age provider must supervise to protect children from the harmful acts of other children. A provider must immediately intervene when they become aware that a child or children are teasing, fighting, bullying, intimidating, or becoming physically or sexually aggressive.

(3) A school-age provider may separate a child from other children when that child needs to regain control of themselves.

(a) During separation time, the child must remain under the appropriate level of supervision of a licensee, program director, site director, lead teacher or an assistant teacher.

(b) Separation time should be minimized and appropriate to the needs of the individual child.

(4) If a child is separated from other children, a school-age provider must:

(a) Consider the child's developmental level, language skills, individual and special needs, and ability to understand the consequences of their actions; and

(b) Communicate to the child the reason for being separated from the other children.

(5) If a school-age provider follows all strategies in this section, and a child continues to behave in an unsafe manner, only a licensee, program director, site director, lead teacher, or an assistant teacher may (~~physically remove~~) separate the child to a less stimulating environment. Staff must remain calm and use a calm voice when directing or removing the child.

WAC 110-302-0331 Prohibited behavior(~~(r)~~) and discipline, and physical (~~(removal)~~) separation of children. (1) ONB providers (~~(must take steps to prevent and, once aware of, must not tolerate)~~) are prohibited from using the following behaviors and discipline of children:

(a) Profanity, obscene language, "put downs," or cultural or racial slurs;

(b) Angry or hostile interactions;

(c) Threats of physical harm or inappropriate discipline such as, but not limited to, spanking, biting, jerking, kicking, hitting, slapping, grabbing, shaking, pulling hair, pushing, shoving, throwing a child, or inflicting pain or humiliation as a punishment;

(d) Intimidation, gestures, or verbal abuse including sarcasm, name calling, shaming, humiliation, teasing, derogatory remarks about a child or the child's family;

(e) Emotional abuse including victimizing, bullying, rejecting, terrorizing, extensive ignoring, or corrupting a child;

(f) (~~(Prevent)~~) Sexual abuse, pursuant to RCW 26.44.020;

(g) Preventing a child from or (~~(punish)~~) punishing a child for exercising religious rights; (~~(or~~

~~(g) Anyone to:~~

~~(i) Restrict))~~ (h) Restricting a child's breathing;

~~((ii) Bind or restrict))~~ (i) Binding or restricting a child's movement unless permitted under WAC 110-302-0335;

~~((iii) Tape))~~ (j) Taping a child's nose, mouth, or other body part;

~~((iv) Deprive))~~ (k) Depriving a child of sleep, food, clothing, shelter, physical activity, first aid, or regular or emergency medical or dental care;

~~((v) Force))~~ (l) Forcing a child to ingest something as punishment such as hot sauce or soap;

~~((vi) Interfere))~~ (m) Interfering with a child's ability to take care of their own hygiene and toileting needs;

~~((vii) Use))~~ (n) Using toilet learning or training methods that punish, demean, or humiliate a child;

~~((viii) Withhold))~~ (o) Withholding hygiene care, toileting care, or diaper changing from any child unable to provide such care for themselves;

~~((ix) Expose))~~ (p) Exposing a child to extreme temperatures as punishment;

~~((x) Demand))~~ (q) Demanding excessive physical exercise or strenuous postures. Excessive physical exercise includes, but is not limited to, running laps around the yard until overly tired, an extensive number of push-ups, having a child rest more than the child's development requires, standing on one foot for an uncomfortable amount of time, or holding out one's arms until tired or painful;

~~((xi) Place))~~ (r) Placing the separated child in a closet, bathroom, locked room, out of visual range in an approved tent, cabin, yurt or other structure; or in an unlicensed space; and

~~((xii) Use))~~ (s) Using confining space or equipment to punish a child or restrict movement.

(2) ONB providers must supervise to protect children from the harmful acts of other children. ONB providers must immediately intervene when they become aware that a child or children are teasing,

fighting, bullying, intimidating, or becoming physically or sexually aggressive.

(3) ONB providers may separate a child from other children when that child needs to regain control of themselves.

(a) During separation time, the child must remain under the appropriate level of supervision of a licensee, director, program director, assistant director, site director, program supervisor, lead teacher or an assistant teacher.

(b) Separation time should be minimized and appropriate to the needs of the individual child.

(4) If a child is separated from other children, ONB providers must:

(a) Consider the child's developmental level, language skills, individual and special needs, and ability to understand the consequences of their actions; and

(b) Communicate to the child the reason for being separated from the other children.

(5) If ONB providers follow all strategies in this section, and a child continues to behave in an unsafe manner, only a licensee, director, program director, assistant director, site director, program supervisor, lead teacher, or an assistant teacher may physically remove the child to a less stimulating environment. Staff must remain calm and use a calm voice when directing or removing the child. Physical (~~removal~~) separation of a child is determined by that child's ability to walk:

(a) If the child is willing and able to walk, staff may hold the child's hand and walk them away from the situation.

(b) If the child is not willing or able to walk, staff may pick the child up and (~~remove~~) separate them to a quiet place where the child cannot hurt themselves or others.