

Department of Early Learning NRMT Meeting Notes
April 12, 2008, Yakima, Washington

The following agenda guided our discussion.

Overall Goal:

The purpose of this Negotiated Rule Making Team (NRMT) is to develop a set of rules and recommendations about issues that affect the health, safety, learning and quality of environment for children that is supported by parents, early care providers, health/ safety experts and interested stakeholders. The NRMT's proposed rules will then move on to the legal and legislative proceedings (and formal public comment period) before they can be formally adopted.

Today's Meeting Objectives:

- Ask for signatures expressing commitment to the NRMT protocols from all voting members; understand the role of those previously on the NRMT roster;
- Hear an update from the Rule Writing Review Subgroup (Andy Fernando is Lead);
- Engage in this group's final recommendations discussion for matrix on Staff Qualifications;
- Hear and discuss recommendations about Licensing Process;
- Discuss and determine what elements should be incorporated into our work moving forward; and
- Determine next steps.

Pre-Work Given at March 8, 2008 Meeting:

- ◆ The West Side Story (Karen Hart is Lead) will provide the full Staff Qualifications matrix for the group's final discussion on this topic when they offer their recommendations about:
 - Basic Education
 - Personal Qualities
 - Assistants
 - Volunteers
 - Legal Status
 - Substitutes
 - Smoking, Drug, and Alcohol Use (moved to another topic area per NRMT)
- ◆ The A-Team (Debbie Knighten is Lead) will continue their work on the topics of Infant Care and Indoor Environment.
- ◆ The C & C Group (Marge Johnson is Lead) will continue their work on Licensing Process, specifically:
 - Clarify the *Intent Statement* around each of their recommended subtopics
 - Work on completing the columns in the matrices and
 - Develop more specific recommendations to propose to the large group.

<i>Time</i>	<i>Topic</i>
10:00	Welcome, Agenda Review, Check in
10:20	Protocol Update –

	<ul style="list-style-type: none">◆ NRMT Roster – status of all listed◆ Signatures by Members present
10:40	Update from Rule Writing Process Workgroup
10:50	Work Group Meetings
11:20	Recommendations about Licensing Process – <i>C & C Group</i>
12:00	Break to get Lunch
12:15	Staff Qualifications final review – <i>West Side Story</i>
1:30	Break
1:40	Staff Qualifications – Continued
3:10	Action Items, Next Steps
3:20	Next Meeting Agenda, Assignments, Project Schedule Adjustments
3:30	Adjourn

Voting Members Present (19):

Marge Johnson – DEL
Kathy Yasi – SEIU/Provider
Sandra Van Doren – EWFCCA/Provider
Donna Horne – WSFCCA/Provider
Nancy Gerber – SEIU/Provider
Cassandra Clemans – Provider Advocate
Angela Taylor – SEIU/Provider
Mary Kay Quinlan – DEL
Martha Standley - DEL
Lydia DeLeon - DEL

Lola Kling – SEIU Provider
Mary Ruch-Brown - DEL
Corina Villarreal – Provider
Jody Stanton – WPSCC Alternate
Laura Dallison – DEL
Sylvia Mireau – SEIU/Provider
Lisa Beaulaurier – SEIU
Sue Paskiewitz – SEIU/Provider
Judy Bunkelman - DEL

Public, Guests and Others:

Julia Del Carmen Sanchez - Provider
Larry Horne - DEL
Debbie Rough-Mack - Facilitator

Sue Winn – WSFFCA/Provider Alternate
Bob McLellan – DEL
Andy Fernando – NRMT Coordinator

Welcome, Check in

We bade farewell to Marge Johnson, who is leaving her position with the Department of Early Learning and the NRMT. Thanks for your hard work, Marge, and good luck to you!

Review of NRM Team Protocols

Andy Fernando distributed the final copy of the NRMT protocols, voted on and agreed to last meeting, to team members for signatures. Of course, any member of the public is invited to attend the meetings – these protocols address the expectations of voting members in this process. Andy will be following up with all voting members to ensure there is a clear understanding of the expectations for participating, and to collect the signature pages.

He also will continue to contact other interested parties initially listed on the roster to offer alternative forms of participation in the process.

Andy noted that Laura Giddings will be representing the Child Care Resource and Referral Network starting with the May 17 meeting. Later in the meeting, DEL management representatives Larry Horne and Bob McLellan told the group that they would no longer have voting status on the NRMT, but would continue to take part in NRMT meetings and discussions. DEL will name two new representatives who will participate in sub-teams and full NRMT meetings as voting members.

Rule Writing Process Review – Process Workgroup

Lead Andy Fernando and workgroup members Sue Winn, Angela Taylor and Donna Horne brought a revised Rule Writing Process Flow handout (See Attachment 1) with recommendations for how the rule drafting and NRMT review process would proceed. There was discussion about how and when parents should be involved in the process. The group's desire is to have parents involved on an ongoing basis but it is difficult to get volunteers on a consistent basis, given the time required. Ultimately it was decided that ***Step 4 - Stakeholder Review*** would provide the best forum for parents (and other stakeholders) to give input regarding any draft rules. The NRMT voted to adopt the subgroup's recommended Rule Writing Process Flow.

Vote 18 in favor, 1 undecided, 0 opposed.

Judy Jaramillo and Sandra Van Doren, the NRMT's rule writers, attended a "clear rule writing" class April 7-8 in Olympia and will report to the group about how they plan to proceed.

Andy is coordinating a "clear rule writing" training class, sponsored by DEL, set for August 20-21 in Lacey. The class will be taught by Ginny Redish, a nationally known trainer on clear writing and "plain talk." Andy is the contact if you want additional information.

Licensing Process – C & C Team (Lead: Marge Johnson)

The Licensing Process group distributed a newly developed Intent statement (See Attachment 2). There was some discussion about whether a reference to "other governmental agencies" belonged here. The group decided to approve the Intent as described, with the reminder to review the overall Intent statement for clarity (regarding the referral to other governmental agencies) once the matrix on all of the related subtopics had been completed.

Vote 18 in favor, 1 undecided, 0 opposed.

From the matrix with the subtopic: Child Abuse and Neglect Reporting

Marge said that the subgroup had discussed and completed the matrix on the subtopic of Child Abuse and Neglect Reporting, though once they did so they determined that this section probably belonged under a different Topic heading. They recommended this subtopic be moved to Recordkeeping and Posting, and the group agreed.

Vote 19 in favor, 0 undecided, 0 opposed.

The group will continue to work on additional Licensing Process subtopics and will present their recommendations at the May meeting. They will also be prepared to name their new Lead, following Marge Johnson's departure!

Staff Qualifications – West Side Story (Lead: Donna Horne)

The group has visited this topic several times before. The groundwork and first recommendations were presented by the A-Team in August 2007. There were differences of opinion in the small group, long, spirited discussions and movement was slow when the topic was brought to the large group. The A-Team asked that another subgroup consider the topic. The West Side Story group then took on Staff Qualifications and made some new recommendations. Discussion was again lively, and movement was again slow, though steady.

Mindful that the NRMT's decision making goal is to strive for consensus, yet aware that we were unlikely to achieve consensus with many of the subtopics listed under Staff Qualifications, the NRMT decided to discuss this topic in the matrix/discussion format one last time at this meeting. The following decisions reflect the choice to move ahead even if we were unable to achieve consensus (using majority decisions), knowing that there will be additional opportunities to influence these rules via future steps in the process.

Subtopic: Licensee Qualifications

The NRMT recommends the following definition of Licensee: *"A licensee is the person(s) whose name appears on the license and who is responsible for following the minimum licensing requirements and the overall management of the licensed child care business."*

Vote 16 in favor, 1 undecided, 0 opposed

Minimum Age

This was previously agreed to in January, 2008 (minimum age 18) with full consensus.

Background Clearance

The following language was voted on, with the caveat that the issue of Character, Competence & Suitability be addressed in the Adverse Actions Category and aligned with WAC 170-06:

"Recommend to refer to the background check WAC separate from the Licensing requirements (The licensee must pass a background clearance check. See WAC chapter 170-06 for details.)"

Vote 11 in favor, 5 undecided, 2 opposed

TB Testing

This was previously agreed to in September 2007 (keeping the requirement in the current WAC) with full consensus.

Orientation

This was previously agreed to in September 2007 (keeping the requirement in the current WAC) with full consensus.

Pre-Service Training

This was previously agreed to in September 2007 (recommending required pre-service training provided by DEL as part of the licensing process) with full consensus.

Basic 20-Hour Training

This was previously agreed to in September, 2007 (that the Basic 20-hour training needs to be completed within the first six months after being licensed).

On-going Training

This was previously agreed to in September, 2007 (after the first year after being licensed, the licensee will complete 30 hours of on-going DEL-approved training every three years) with full consensus.

Fire Safety & Evacuation Training (previously Emergency Preparation)

The NRMT recommends that the current WAC requirement in 170-296-0650 remain.

Vote 18 in favor, 1 undecided, 0 opposed

First Aid/CPR/ Training

The Team recommends this language be added to the current WAC requirement: “*The First Aid/CPR class must include a hands-on component in the training.*”

Vote 19 in favor, 0 undecided, 0 opposed

HIV/ AIDS and Blood Borne Pathogens (BBP) Training

This was previously agreed to in September, 2007, (dropping BBP as a separate requirement as long as BBP is included with First Aid/CPR) with full consensus.

Subtopic: Primary Staff Qualifications

Primary Staff Person

The NRMT recommends the following definition: “Primary Staff includes persons who are qualified to be left alone with the children in the licensed child care.”

Vote was 17 in favor, 2 undecided, 0 opposed (DEL staff concern cited about length of time a primary staff person could be left alone with children)

Minimum Age

The NRMT recommends keeping the requirement in the current WAC (minimum age 18).

Vote 18 in favor, 1 undecided, 0 opposed

Background Clearance

The NRMT recommended including a simple sentence about the need to be cleared by a background check before having unsupervised access in a licensed home. Then refer to the specific Background Check WAC chapter 170-06.

Vote 19 in favor, 0 undecided, 0 opposed

TB Test

The NRMT recommends keeping the requirement in the current WAC 170-296-0160.

Vote 19 in favor, 0 undecided, 0 opposed

Initial Training

The NRMT recommends alternative language: “*Primary Staff must have met the 20 hours STARS course requirement within the first 6 months of employment.*”

Vote 13 in favor, 4 undecided, 2 opposed (concern cited about hours of training received/required before being alone with kids. Guidebook should include alternatives for meeting the 20-hour training requirement.)

Fire Safety & Training (previously Emergency Preparation)

The NRMT recommends keeping the requirement in current WAC 170-296-0650 regarding licensee training primary staff on fire safety and evacuation.

Vote 19 in favor, 0 undecided, 0 opposed

First Aid/ CPR/ HIV/ AIDS and Blood Borne Pathogens Training

This was previously agreed to in September 2007 with full consensus (dropping BBP as long as it is provided in First Aid/CPR).

Subtopic: Assistant or Volunteer Qualifications

Assistants and Volunteers

The NRMT recommend the following definition of Assistants and Volunteers: “*Assistants and Volunteers are the people who help in the licensed child care but are supervised by the primary staff or licensee. Volunteers who fulfill the qualifications of the primary staff person can be left alone with children.*”

Vote 18 in favor, 1 undecided, 0 opposed (This vote included a note to make sure there is a definition of “supervision of staff.” There was concern and discussion about how much responsibility is appropriate to give 14-year-olds.)

Minimum Age

The NRMT recommends keeping the current requirement in WAC 170-296-0010 (minimum age 14).

Vote 18 in favor, 1 undecided, 1 opposed. (Significant concerns were raised because of DEL’s inability to get a background check on persons under age 16.)

Background Clearance

The NRMT recommends keeping the current requirement in WAC 170-296-0180, and adding “*sixteen years of age or older.*”

Vote 19 in favor, 0 undecided, 0 opposed

TB Test

The NRMT recommends keeping the current TB testing requirement in WAC 170-296-0160.

Vote 19 in favor, 0 undecided, 0 opposed

Training

The NRMT recommends the following regarding training for assistants and volunteers:

“Assistants and volunteers will have received, from the licensee, training in the child care home regarding safety, health, guidance, and nurturing.”

Vote 18 in favor, 1 undecided, 1 opposed

A concern was raised about what types of minimum training would be required. The Guidebook should include recommended training alternatives for assistants and volunteers.

Fire Safety & Evacuation Training (previously Emergency Preparation)

The NRMT recommended keeping the current requirement in WAC 170-296-0650 regarding fire safety and training for assistants and volunteers.

Vote 19 in favor, 0 undecided, 0 opposed

First Aid/ CPR/ HIV/ AIDS and Blood Borne Pathogens (BBP) Training

This was previously agreed to in September 2007 (removing BBP training as a separate requirement if included with First Aid/CPR) with full consensus.

Subtopic: Substitute Qualifications (new category)

Substitute - Definition

The NRMT recommends the following definition: *“Substitutes temporarily do the job of the licensee in the licensed child care home.”*

Vote 19 in favor, 0 undecided, 0 opposed

Minimum Age

The NRMT recommends that a Substitute’s minimum age be the same as the Licensee (minimum 18 years old).

Vote 19 in favor, 0 undecided, 0 opposed

Background Clearance

The NRMT recommends the following regarding background checks for Substitutes: *“All Substitutes must pass the necessary criminal background checks.”* Refer to the Background Check WAC 170-06.”

Vote 19 in favor, 0 undecided, 0 opposed

TB Test

The NRMT recommends that Substitute meet the same TB testing requirement as the Licensee.

Vote 19 in favor, 0 undecided, 0 opposed

Training

The NRMT recommends the following regarding training for Substitutes: *“The licensee will provide training of all substitutes in the child care home, regarding safety, health, guidance, and nurturing.”*

Vote 19 in favor, 0 undecided, 0 opposed

Use of Substitutes

There was much discussion about the total length of time per month that Substitutes could be used. But there was consensus that Licensees need to be able to leave their child care homes from time to time for medical/dental appointments and the need for flexibility to ensure that children are being cared for by the best possible substitutes. There were two votes on the length of time:

- One vote was taken on “ Substitutes may provide child care in a licensed home for up to 8 hours a month.” **Vote 9 in favor, 4 undecided, 5 opposed.**
- Another vote was taken and adopted as the NRMT recommendation: “Substitutes may provide child care in a licensed home for up to 12 hours a month.” **Vote 14 in favor, 3 undecided, 2 opposed.**

Policy and Procedure Handbook Notification

The NRMT recommended the following: “*The provider shall include a policy regarding notification of usage of substitutes in the child care.*”

Vote 19 in favor, 0 undecided, 0 opposed

Parent/Guardian Notification of Substitute Care

The NRMT recommended the following regarding notifying parents when a substitute would be used: “*The licensee shall provide advance notification to the parents, of any staff who may be in the child care home: assistants, primary staff, volunteers, and substitutes.*”

Vote 19 in favor, 0 undecided, 0 opposed

First Aid/ CPR/ HIV/ AIDS and Blood Borne Pathogens Training

The NRMT recommended that Substitutes must follow the same First Aid/CPR/HIV-AIDS/BBP training requirements as the Licensee.

Vote 19 in favor, 0 undecided, 0 opposed

Next Steps, Action Items

- ◆ The A-Team and West Side Story will both send their Staff Qualifications matrices to Andy, so that he can merge the information collected by both teams into one matrix
- ◆ Anyone interested in the rule writing class, please contact Andy Fernando.
- ◆ Andy will contact voting members from whom he has not yet received signed forms committing to the NRMT protocols.
- ◆ Andy will provide a high-level project schedule at the next meeting, and ask sub-teams to pick future topic areas.
- ◆ The next meeting will be in Seattle on May 17th at the DEL Office. Details will follow.

- ◆ Congratulations! We have now finished the matrix/discussion for **Food** and **Staff Qualifications**, and we're partway through **Licensing Process**. Once again, thanks to all for your continued commitment to the research, discussion and group process.

Pre-Work for the Small Groups:

- ◆ The A-Team (Debbie Knighten is Lead) will come prepared to present their work on the topic of Infant Care. They will also begin work on the topic of Indoor Environment.
- ◆ The West Side Story (Karen Hart is Lead) will begin working on the topic of Program.
- ◆ The C & C Group will continue their work on Licensing Process, working specifically on:
 - Identifying a new Lead
 - Completing the columns in the matrices and
 - Developing specific recommendations to propose to the large group.

ATTACHMENT 1

EXPECTED PROCESS FLOW:

How the Negotiated Rule Making Team's Recommendations can become WAC's

Revised and Adopted by the NRMT April 12, 2008

Replaces previous versions

These steps are not necessarily all inclusive. This flow is intended to capture the role of the NRMT up to the point of the WAC's (hoped-for!) adoption.

- (1) **NRMT** researches, discusses & develops recommendations, focusing on the intent (rather than specific WAC language)
- (2) **WRITING COMMITTEE** (Judy Jaramillo-DEL, and Sandra Van Doren-SEIU/Provider. Andy Fernando provides technical assistance). The Writing Committee takes NRMT recommendations, considers statutory requirements and drafts the rule content.
- (3) **REVIEW COMMITTEE** (comprised of NRMT members: 2 DEL, 2 SEIU/Providers, 1 other Provider, 1 R&R or Parent/Parent Advocate). The Review Committee makes edits, ensures clarity, making special note of considerations for non-English speakers.
- (4) **STAKEHOLDER REVIEW**, as needed and determined by the NRMT. Gather feedback from parents, providers, DEL licensors and others on selected rule topics or issues. DEL may set up stakeholder meetings; create a continuing e-mail focus group; and/or work with SEIU-Providers to distribute information to parents and providers for feedback. DEL will create a special e-mail box for comments.
- (5) **WRITING COMMITTEE** incorporates edits of Review Committee and stakeholders.
- (6) **STAKEHOLDER REVIEW** of the entire draft WAC chapter. The Writing Committee may make minor or technical revisions from the comments. Significant changes are reviewed by the NRMT.
- (7) **NRMT** reviews and approves the proposed WAC (or makes additional edits and sends back to the Writing Committee).
- (8) **PREPARING THE PROPOSAL** is completed by DEL including the official notice form (CR-102), official WAC text formatted by the Code Reviser's Office; and Small Business Impact Statement (SBEIS) if applicable.
- (9) **PROPOSED WAC** process begins with filing the CR-102 and WAC text with the Code Reviser, which includes a formal public comment period and public hearing(s).
- (10) **NRMT** reviews formal public comments and makes recommendations about comments that may result in changes to the proposed rules. (DEL has final say about any WAC filed with the code reviser, though it would be unlikely and undesirable to overrule an NRMT recommendation). DEL prepares an official response to the comments, called a "concise

explanatory statement.” If “substantive” changes are made to the WAC text, a supplemental CR-102 proposed rule and additional public hearings may be required.

- (11) **FINAL WAC is filed with Code Reviser** and is normally effective 31 days after filing, but the effective date can be a longer period. Later effective date(s) may be appropriate to be sure that related guides, training, systems, etc., are ready when the rules take effect. Individual WAC sections may have different effective dates.
- (12) **AN EVALUATION PROCESS** and timeframe should be set to review implementation of the adopted rules and determine if the rules have been effective (clear, understandable, and enforceable), and to recommend revisions if needed.

Typical rule-making process:

- Filed CR-101 (Filed in December 2006)
- Develop rules
- Small Business Impact Statement (if necessary)
- File CR-102 (proposed rule-making notice, rule text and SBEIS)
- Public Comment and Hearing(s)
- Response to Comments
- File CR-103 permanent rule order
- Rule effective in 31 days (or later).

ATTACHMENT 2

Topic: Licensing Process

Adopted by NRMT April 12, 2008:

Intent:

To provide an understandable means to navigate the following licensing processes:

Identification of whether a license is required and the types of licenses that are issued to a family home provider; the process involved in application for a license, renewal of a license or application for a license during a move; identification of other governmental agencies that might have rules that must be followed; and the process to request a safe, sensible variance of a licensing requirement that will ensure the needs of the children are met while addressing specific needs of children, families and the home child care business.

Subtopics:

- Family Child Care Licensing Provisions (discussed at March 8, 2008 meeting)
- Exemptions from Licensing (discussed at March 8, 2008 meeting)
- Application Process
- Renewal Process
- Types of Licenses
- Dual Licenses
- Waivers
- Child Care Subsidy
- Compliance with Other State Laws and Rules and City and County Ordinances
- Child Abuse and Neglect Reporting (Team C recommends that this subtopic move to Reports/Recordkeeping or Nurturing/Guidance – Adopted at April 12, 2008 NRMT meeting)