

**Chapter 170-300 WAC**  
**FOUNDATIONAL QUALITY STANDARDS FOR EARLY LEARNING PROGRAMS**

NEW SECTION

**WAC 170-300-0005 Definitions.** The following definitions apply to this chapter:

**"Active supervision"** or **"actively supervise"** means focused attention and intentional observation of children at all times. An early learning provider must position themselves to observe all children: Watching, counting, and listening at all times. They also use their knowledge of each child's development and abilities to anticipate what a child may do, and get involved or redirect children if necessary. Infants, toddlers, and preschoolers must be supervised at all times including daily routines such as sleeping, eating, changing diapers, or using the bathroom.

**"Child"** means an individual who is younger than age thirteen, including any infant, toddler, preschool-age child, or school-age child as defined in this chapter.

**"Chromated copper arsenate"** or **"CCA"** is a wood preservative and insecticide that contains roughly twenty-two percent arsenic, a known carcinogen. The United States restricted the use of CCA on residential lumber in 2003, but it can still be found on older decks and playgroup equipment. Information about the health hazards of arsenic can be found at the following DOH web site: <http://www.doh.wa.gov/CommunityandEnvironment/Contaminants/Arsenic>.

**"Department"** or **"DEL"** refers to the Washington state department of early learning.

**"DOH"** refers to the Washington state department of health.

**"Early learning program"** refers to regularly scheduled care for a group of children birth through twelve years of age for periods of less than twenty-four hours, licensed by the department.

**"Early learning program space"** means the licensed indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

**"Early learning program staff"** refers to all persons who work or volunteer in an early learning program during hours when children are or may be present, excluding licensees.

**"Early learning provider"** refers to an early learning licensee or designee who works in an early learning program during hours when children are or may be present. Designees include center directors, assistant director, program supervisors, lead teachers, assistants, instructional aides, aides, and volunteers.

**"Health care provider"** means a person who is licensed, certified, registered, or otherwise authorized by the law of Washington state to provide health care in the ordinary course of business or practice of a profession.

**"Infant"** is a child birth through eleven months of age.

**"Toddler"** means a child twelve months through twenty-nine months of age.

NEW SECTION

**WAC 170-300-0148 Gardens in outdoor early learning program space.** (1) A garden in an early learning program space must:

(a) Have safeguards in place to minimize risk of cross-contamination by animals;

(b) Use soil free from agricultural or industrial contaminants such as lead or arsenic if gardening directly in the ground;

(c) Use new soil that is labeled as organic and obtained from a gardening supply store or other retail store if gardening in raised beds; and

(d) Use water that comes from a private well approved by the local health jurisdiction or from a public water system. An early learning provider must make water for gardens inaccessible to children if the provider uses irrigation water.

(2) Garden beds must be made of materials that will not leach chemicals into the soil including, but not limited to, wood treated with chromated copper arsenate, creosote or pentachlorophenol, reclaimed railroad ties, or tires.

(3) Any herbicide or pesticide must be applied pursuant to the product manufacturer's directions. The product must not be applied during program hours. Children must not apply the product, or have access to the garden during the manufacturer's prescribed waiting period following application.

(4) Commonplace toxic plants or plants with poisonous leaves (for example: Tomato, potato, or rhubarb) may be grown in the garden. An early learning provider must actively supervise children who are able to access a garden where commonplace toxic plants or plants with poisonous leaves are growing.

NEW SECTION

**WAC 170-300-0235 Safe water sources.** (1) Hot and cold running water shall be supplied to early learning program premises.

(2) An early learning provider must use a Washington state certified water laboratory accredited by the department of ecology to analyze drinking water to test the program water supply for lead and copper within six months of the date this section becomes effective. All fixtures used to obtain water for preparing food or infant formula, drinking, or cooking must be tested prior to licensing and at least once every six years. Testing must be done pursuant to current environmental protection agency standards. A copy of the water testing results must be kept on the licensed premises. If the test results are at or above the current EPA action level, an early learning provider must immediately:

(a) Close the early learning program to prevent children from using or consuming water, or supply bottled or packaged water to meet the requirements of this chapter;

(b) Consult with the department of health for technical assistance;

(c) Contact and advise the department of the water test results and steps taken to protect enrolled children;

(d) Notify all parents and guardians of the test results; and

(e) Notify the department once lead and copper levels are below the current EPA action level.

(3) If an early learning program space receives water from a private well, the well must comply with chapter 173-160 WAC, Minimum standards for construction and maintenance of wells.

(a) Well water must be tested at least once every twelve months for coliform bacteria and nitrates by a Washington state certified laboratory accredited by the department of ecology to analyze drinking water. To achieve desirable results the test must indicate:

(i) No presence of coliform bacteria; and

(ii) The presence of less than ten parts per million (ppm) for nitrates. If test results for nitrates are greater than five but less than ten ppm, the water must be retested within six months.

(b) If well water tests positive for coliform bacteria, or greater than ten ppm for nitrates, the early learning provider must:

(i) Immediately stop using the well water in the child care premises; and

(ii) Immediately inform the local health jurisdiction or the department of health and the department of the positive test results.

(c) If directed by the department, an early learning provider must discontinue child care operations until repairs are made to the water system and water tests indicate desirable results pursuant to (b) of this subsection.

(d) If the department determines that child care operations may continue while an unsafe water system is being repaired or installs treatment, an early learning provider must:

(i) Provide an alternate source of water, approved by the department; and

(ii) Repair the well or install treatment as required and retest until the water meets the water quality standards pursuant to (b) of this subsection.

(4) An early learning provider must immediately notify the department when the water connection to an early learning program space is interrupted for more than one hour, or the water source becomes contaminated:

(a) The department may require the early learning provider to temporarily close until the water connection is restored or the water source is no longer contaminated; or

(b) The early learning provider must obtain an alternative source of potable water such as bottled or packaged water. The amount of the alternative source of potable water must be sufficient to ensure compliance with the requirements of this chapter for safe drinking water, handwashing, sanitizing, dishwashing, and cooking.

#### NEW SECTION

**WAC 170-300-0400 Application materials.** (1) After completing a department orientation an applicant must submit a complete license application packet, pursuant to chapter 43.215 RCW. This requirement also applies to a change of ownership. A complete license application packet includes:

(a) Professional and background information about the applicant:

(i) A completed department application form for the type of license being applied for (center or family home);

- (ii) A copy of the applicant's certificate from an orientation completed within twelve months of the application;
  - (iii) A Washington state business license or a tribal, county, or city business or occupation license, if applicable;
  - (iv) Liability insurance, if applicable;
  - (v) Certificate of incorporation, partnership agreement, or similar business organization document, if applicable;
  - (vi) The license fee;
  - (vii) A copy of current government issued photo identification;
  - (viii) A copy of Social Security card or sworn declaration stating that the applicant does not have one;
  - (ix) Employer identification number (EIN) if applicant plans to hire staff; and
  - (x) Employment or education verification. For example, diploma, transcripts, or a sworn declaration stating that the applicant cannot verify education requirements.
- (b) Information about the facility to be licensed:
- (i) A floor plan, including use of proposed licensed and unlicensed space, with identified emergency exits and emergency exit pathways;
  - (ii) Certificate of occupancy, if applicable;
  - (iii) An on-site septic system inspection report within six months of the inspection, if applicable;
  - (iv) Well water coliform and nitrate testing results within six months of license application, if applicable;
  - (v) A lead or arsenic evaluation agreement, only for sites located in the Tacoma smelter plume (counties of King, Pierce, and Thurston); and
  - (vi) Lead and copper test results for drinking water.
- (c) Program hours of operation, including closure dates and holiday observances;
- (d) Information about early learning program staff:
- (i) List of applicant, staff persons, volunteers, and household members, if applicable, required to complete the background check process as outlined in chapter 170-06 WAC;
  - (ii) Resume for applicant, center director, assistant director, program supervisor, and family home lead teacher, if applicable; and
  - (iii) Three letters of professional reference for applicant, director, assistant director, program supervisor, and family home lead teacher.
- (2) An applicant must include the following policy documents with the application, which will be reviewed by the department and returned to the applicant:
- (a) Parent and program policies;
  - (b) Staff policies;
  - (c) An emergency preparedness plan;
  - (d) Health policies; and
  - (e) A plan to prevent exposure to blood and body fluids.
- (3) An applicant must submit the completed application packet at least ninety calendar days prior to the planned opening of the early learning program. The department will inspect the early learning program space and approve all application submissions required in this chapter prior to issuing a license:
- (a) The ninety calendar days begins when the department receives a complete application packet.
  - (b) Incomplete application packets will be returned to the applicant for completion.

(c) An applicant who is unable to successfully complete the application and licensing process within ninety days may withdraw the application and reapply when the applicant is able to meet the licensing requirements.

(d) An applicant who is unable to meet the application requirements and has not withdrawn his or her application will be denied a license, pursuant to RCW 43.215.300.

#### NEW SECTION

**WAC 170-300-0410 License and program location.** (1) An applicant for a license under this chapter must be at least eighteen years old.

(2) A licensee refers to the individual or organization:

(a) Whose name appears on a license issued by the department;

(b) Responsible for complying with the standards in this chapter, chapter 43.215 RCW including, but not limited to, liability insurance requirements pursuant to RCW 43.215.535, chapter 170-06 WAC, DEL background check rules, and other applicable laws or rules; and

(c) Responsible for training early learning program staff on the foundational quality standards in this chapter.

(3) An early learning provider must comply with and implement all requirements in this chapter unless another code or ordinance is more restrictive (for example: A local municipal, building, or health authority code).

(4) An early learning provider must have the character, suitability, and competence pursuant to chapter 170-06 WAC to meet the needs of children in care.

(5) Early learning program space must be located:

(a) On a site free from environmental hazards;

(b) In an area where nonemergency services and utilities can serve the early learning program space; and

(c) In an area served by emergency fire, medical, and police during the hours the early learning provider provides care to children.

(6) An early learning provider must prevent child exposure to the following within and around the licensed premises:

(a) Lead based paint;

(b) Plumbing and fixtures containing lead or lead solders;

(c) Asbestos;

(d) Arsenic, lead, or copper in the soil or drinking water;

(e) Toxic mold; and

(f) Other identified toxins or hazards.

(7) An early learning provider must place address numbers on the outside of the house or building containing the early learning program space, and the numbers must be legible and plainly visible from the street or road serving the premises.

(8) A license applicant planning to open an early learning program in the designated Tacoma smelter plume (counties of King, Pierce, and Thurston) must contact the state department of ecology (DOE) and complete and sign an access agreement with DOE to evaluate the applicant's property for possible arsenic and lead soil contamination.

NEW SECTION

**WAC 170-300-0465 Retaining facility and program records.** (1) An early learning provider must keep all records required in this chapter for a minimum of five years unless otherwise indicated.

(2) All records from the previous twelve months must be kept in the licensed space and be immediately available for the department or other state agency's review. Immediately accessible records include:

- (a) Child records;
- (b) Staff records; and
- (c) Attendance records.

(3) Records older than twelve months must be provided within two weeks of a written request by the department.

(4) An early learning provider must keep other required and applicable records available for department review according to each record's specific retention schedule. These records include:

- (a) A nondiscrimination policy;
- (b) Strengthening Families Program Assessment or a department-approved equivalent;
- (c) Furniture, sleep, and play equipment forms and specifications;
- (d) Chromated copper arsenate test results, if applicable;
- (e) Annual fire inspection by qualified fire professional;
- (f) Annual inspection of chimney, wood stove, and fireplace;
- (g) Monthly inspection to identify fire hazards and elimination of such hazards;
- (h) Monthly testing of smoke and carbon monoxide detectors;
- (i) Monthly fire extinguisher inspection and annual maintenance;
- (j) Menus (six months) per CACFP;
- (k) Food temperature logs per CACFP;
- (l) Child incident and illness logs;
- (m) Medication administration logs;
- (n) Vaccination records for pets or animals housed at the early learning provider program;
- (o) Private well and septic systems inspection and testing results;
- (p) Lead and copper testing results;
- (q) Center or family home cleaning schedule;
- (r) Alternative cleaning, sanitizing, and disinfecting products approval from department health specialist;
- (s) Cleaning log for large area rugs or carpets;
- (t) Pesticide use (seven years);
- (u) Monthly site visit from nurse consultant, if applicable;
- (v) Tacoma smelter inspection results;
- (w) Restraint and expulsion policy;
- (x) Daily schedule;
- (y) Curriculum planning time;
- (z) Parent or guardian handbook;
- (aa) Documents from any department visits (inspections, monitoring, compliance agreements, safety plans);
- (bb) Waivers or variances from department rules, if applicable;
- (cc) Written emergency preparedness plan and drills;
- (dd) Transportation policy;
- (ee) Car insurance policy;
- (ff) Termination of services policy;
- (gg) Continuity of care policy; and

(hh) Health policy.

AMENDATORY SECTION (Amending WSR 11-23-068, filed 11/14/11, effective 3/31/12)

**WAC 170-296A-7575 Drinking water.** The licensee must supply safe drinking water for the children in care. Drinking water must be served in a safe and sanitary manner and be available throughout the day. See WAC ((~~170-296A-1400~~)) 170-300-0235 for water testing requirements for a family home child care that receives its drinking water from a private well ((and)) or public water system.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 170-296A-1360     Lead and arsenic hazards—Tacoma smelter plume.



REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 170-295-5070      How do I make sure my water is safe?