

170-300-0001**Intent and authority**

(1) The Department of Early Learning was established under chapter 265, Laws of 2006. Chapter 43.215 RCW establishes the department's responsibility and authority to set and enforce licensing requirements and ECEAP standards, including the authority to adopt rules to implement chapter 43.215 RCW.

(2) Under chapter 7, Laws of 2015 (the Early Start Act), the state legislature directed the department to create a single set of licensing standards for center and family home child care providers.

(3) This chapter reflects the department's commitment to:

- (a) Promoting the health, safety, and well-being of children;
- (b) Expanding access to high quality early learning opportunities to improve outcomes in young children;
- (c) Promoting strong school readiness; and
- (d) Recognizing parents and guardians as a child's primary teacher and advocate.

(4) Pursuant to this chapter, the department will periodically monitor early learning programs that provide child care and early learning services to:

- (a) Determine compliance with health, safety, and foundational quality standards; and
- (b) Assess the quality of early learning programs.

170-300-0010**License required**

(1) An early learning program providing child care and early learning services must be licensed by the department pursuant to RCW 43.215.250, unless exempt under RCW 43.215.010(2). See WAC 170-300-0025.

(2) The department must not license a department employee or a member of their household when the employee is involved directly or in an administrative or supervisory capacity in the:

- (a) Licensing process;
- (b) Placement of a child in a licensed early learning program; or
- (c) Authorization of payment for the child in care.

(3) A license is required when the following applies:

- (a) Care is provided in an individual's home and outside the child's home on a regular and ongoing basis for one to twelve children not related to the licensee. As used in this section, "not related" means not any of the relatives listed in RCW 43.215.010 (2)(a); or
- (b) Care is provided in an individual's home for preschool age children for more than four hours a day.

- (4) The department may license a center located in a private family residence when the portion of the residence accessible to children is:
- (a) Used exclusively for children during the center's operating hours or when children are in care; or
 - (b) Separate from the family living quarters.

170-300-0015
Licensee absence

(1) In a family home early learning program, the Family Child Care Licensee must provide written notification to the department and parents when the licensee plans to be absent but the program remains open for the care of children.

(2) In a center early learning program, the Director must provide written notification to the department and parents when both the Director and Program Supervisor plan to be simultaneously absent but the program remains open for the care of children.

(3) A written notification required by this regulation must be submitted to the department and each child's parent or guardian at least two business days prior to the planned absence from the early learning program. The absences requiring notice are:

- (a) A vacation or travel extending beyond seven calendar days;
- (b) Outside employment during child care hours;
- (c) Regular absences scheduled during child care hours. As used in this section, "regular absence" is an absence that is planned and reoccurring, and is more than four hours duration;
- (d) Schooling or educational goals; and
- (e) Planned medical procedures that will result in absence from the early learning program for more than three business days.

- (4) A written notification must include the following information to the department:
- (a) Time period of the absence, including expected outside work schedule if performing outside work;
 - (b) Emergency contact information for the absent early learning provider(s);
 - (c) A written plan, that the department must approve, for early learning program staff to follow that includes:
 - (i) A staffing plan that will meet child-to staff ratios;
 - (ii) Identification of a fully qualified Lead Teacher to be present and in charge;
 - (iii) Early learning program staff roles and responsibilities;
 - (iv) How individual children's needs will be met;
 - (v) Responsibility for meeting licensing requirements; and
 - (vi) How parents will be informed of the absence and the plan to meet their child's needs.

- (5) Prior to the absence, a Family Child Care Licensee or Center Director must:
- (a) Provide an orientation to all early learning program staff on foundational quality standards contained in this chapter and the policies and procedures for the early learning program; and
 - (b) Document when the orientation occurred and which early learning program staff received the training.
- (6) If a Facility Licensing Compliance Agreement (FLCA) is developed as a result of early learning program staff failing to follow licensing regulations during an absence described in this section, an early learning program must:
- (a) Retrain early learning program staff on the foundational quality standards in this chapter; and
 - (b) Document that the retraining occurred.

170-300-0016

Inactive Programs – voluntary and involuntary closure

- (1) If a center or family home licensee decides to temporarily close their early learning program, the licensee must submit an inactive request form to the department at least two business days prior to closure. All requests to temporarily close an early learning program must include:
- (a) The date the early learning program will cease operating;
 - (b) A reason why the licensee is requesting an inactive status; and
 - (c) A projected date the early learning program will reopen.
- (2) A licensee may not request to be inactive during their first initial licensing period (6 months).
- (3) The licensee or a designee must inform parents they are choosing to temporarily close their program.
- (4) The department may complete a site inspection of an early learning program during the inactive period to monitor health and safety standards, and ensure no children are enrolled and receiving services.
- (5) A licensee or a designee is responsible to update program status including new household members, staff, or other program changes to the department. The program status updates must also be completed in the electronic department approved system.
- (6) The Background Check WAC 170-06 (including allegations of child abuse/neglect) will remain in effect for the duration of the inactive time period (see WAC 170-06-0043).
- (7) If a temporary closure will extend beyond 14 calendar days, the department will:
- (a) Place the license on voluntary inactive status;

- (b) Close the SSPS provider number;
- (c) Inform the licensee that the license is inactive; and
- (d) Notify the following programs of the licensee's voluntary inactive status:
 - (i) Working Connections Child Care subsidy program;
 - (ii) USDA Child and Adult Care Food Program (CACFP); and
 - (iii) Early Achievers, ECEAP, and Child Care Aware of Washington.

(8) When a licensee is ready to reopen their program, they must provide to the department written notification of intent to reopen. The department will conduct a health and safety check of the early learning program within 10 business days of the written notification to reopen. If the early learning program is in compliance with the department's rules and regulations, the department will:

- (a) Activate the license;
- (b) Reactivate the SSPS provider number; and
- (c) Notify the Working Connections Child Care subsidy program, USDA Child and Adult Care Food Program (CACFP), Early Achievers, ECEAP, and Child Care Aware of Washington that the license is active.

(9) During time of closure, the licensee is responsible for maintaining annual compliance requirements.

(10) If the temporary closure exceeds 6 months in duration, the department will close the license and the licensee will need to reapply for licensing under RCW 43.215.260(3).

(11) If the department attempts a number of annual monitoring visits, but a licensee has not been available to permit the visits, the department may place the early learning program under involuntary inactive status. The department will serve written notice to the licensee of being placed under involuntary inactive status. A licensee may appeal administrative action taken under to this section pursuant to 170-03 WAC.

170-300-0020

Unlicensed programs

(1) If the department suspects that an individual is providing unlicensed child care, the department shall follow the requirements of RCW 43.215.335 (unlicensed providers).

(2) If an individual wishes to obtain a license, within 30 calendar days from the date of the department's notice in subsection (1) of this section, the individual must submit a written agreement on a department form stating that he or she agrees to:

- (a) Attend and participate in the next available child care licensing orientation put on by the department; and
- (b) Submit a child care licensing application after completing orientation.

(3) The department's written notice under subsection (1) must inform the individual providing unlicensed child care:

- (a) How to respond to the department;
- (b) How to apply for a license;
- (c) How a fine, if issued, may be suspended or withdrawn if the individual applies for a license;
- (d) That the individual has a right to request an adjudicative proceeding (hearing) if a fine is assessed; and
- (e) How to ask for a hearing, under chapter 34.05 RCW Administrative Procedure Act, chapter 43.215 RCW, and chapter 170-03 WAC.

(4) If an individual providing unlicensed child care does not submit an agreement to obtain a license as provided in subsection (2) of this section within 30 calendar days from the date of the department's written notice, the department will post information on its web site that the individual is providing child care without a license.

(5) A person providing unlicensed child care:

- (a) Shall be guilty of a misdemeanor pursuant to RCW 43.215.340; and
- (b) May be subject to an injunction pursuant to RCW 43.215.330.

170-300-0025

Certified and exempt programs

(1) The department must not license an early learning program that is legally exempt from licensing per RCW 43.215.010(2). However, if the applicant requests it, the department will follow all licensing regulations to certify the early learning program as meeting licensing and other pertinent requirements. In such a case, all licensing requirements and procedures apply equally to certification.

(2) The department may certify an early learning program for payment without further investigation if the program is:

- (a) Licensed by an Indian tribe.
- (b) Certified by the Federal Department of Defense.
- (c) Approved by the Office of Superintendent of Public Instruction (OSPI).

(3) An applicant claiming an exemption must provide to the department proof that he or she qualifies for an exemption using a department approved form ([link here](#)).

(4) The early learning program seeking certification must be located on the premises over which the tribe, federal Department of Defense or OSPI has jurisdiction.

(5) An early learning program regulated by a tribe, the federal Department of Defense or OSPI may request certification:

- (a) For subsidy payment only; or
- (b) As meeting foundational quality standards of this chapter.

(6) The department shall not certify a department employee or a member of their household when the employee is involved directly, or in an administrative or supervisory capacity, in the:

- (a) Certification process;
- (b) Placement of a child in a certified program; or
- (c) Authorization of payment for the child in care.

170-300-0030

Non-discrimination

(1) Center early learning programs are defined by state and federal law as places of public accommodation and must not discriminate in employment practices or client services on the basis of race, creed, color, national origin, marital status, gender, sexual orientation, class, age, religion, or disability.

(2) An early learning program must:

- (a) Have a written non-discrimination policy addressing at least the factors listed in subsection (1) above; and
- (b) Comply with the requirements of the Americans with Disabilities Act <https://www.ada.gov/>.

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