

WAC 170-297-0001

170-297-0001. Authority.

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 standards for licensed child care agencies in Washington state, including the authority to adopt rules to implement chapter 43.215 RCW.

WAC 170-297-0005

170-297-0005. Intent.

This chapter reflects the department's commitment to quality early learning experiences for children, and promotes the health, safety, and positive development of children receiving care in a licensed school age setting serving only children five years of age through twelve years of age who are attending kindergarten or school.

WAC 170-297-0010

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170-297-0010. Definitions.

The following definitions apply throughout this chapter unless the context clearly indicates otherwise. Certain definitions appear in the section the term is used if the definition applies only to a specific section or sections:

**'Accessible to children'** means areas of the facility and materials that the children can easily get to on their own.

**'Agency'** as used in this chapter, has the same meaning as in RCW 43.215.010 (1)(c).

**'Available'** means accessible and ready for use or service.

**'Bathroom'** means any room containing a built-in flush-type toilet.

**'Capacity'** means the maximum number of children the licensee is authorized by the department to have in care at any given time.

**'Child'** means a child not less than five years of age through twelve years of age who is attending kindergarten or school.

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**‘Child abuse or neglect’** has the same meaning as ‘abuse or neglect’ under RCW 26.44.020 and chapter 388-15 WAC.

**‘Child care’** means the developmentally appropriate care, protection, and supervision of children that is designed to promote positive growth and educational experiences for children outside the child’s home for periods of less than twenty-four hours a day.

**‘Clean’** or **‘cleaning’** means to remove dirt and debris (such as soil, food, blood, urine, or feces) by scrubbing and washing with a soap or detergent solution and rinsing with water. Cleaning is the first step in the process of sanitizing or disinfecting a surface or item.

**‘Confidential’** means the protection of personal information, such as the child’s records, from persons who are not authorized to see or hear it.

**‘Denial of a license’** means department action to not issue a child care license to an applicant for an initial license, or to a licensee operating under an initial license seeking a nonexpiring full license, based on the applicant’s or initial licensee’s inability or failure to meet the requirements of chapter 43.215 RCW or requirements adopted by the department pursuant to chapter 43.215 RCW.

**‘Department’** or **‘DEL’** means the Washington state department of early learning.

**‘Developmentally appropriate’** means curriculum, materials or activities provided at a level that is consistent with the abilities or learning skills of the child.

**‘Discipline’** means a method used to redirect a child in order to achieve a desired behavior.

**‘Disinfect’** or **‘disinfecting’** means to eliminate virtually all germs on a surface by the process of cleaning and rinsing, followed by:

(a) A chlorine bleach and water solution of one tablespoon of chlorine bleach to one quart of cool water, allowed to stand wet for at least two minutes; or

(b) Other disinfectant product if used strictly according to the manufacturer’s label instructions including, but not limited to, quantity used, time the product must be left in place, adequate time to allow the product to dry or rinsing if applicable, and appropriateness for use on the surface to be disinfected. Any disinfectant used on food contact surfaces or toys must be labeled safe for food contact surfaces.

**‘DOH’** means the Washington state department of health.

**‘DSHS’** means the Washington state department of social and health services.

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**‘Enforcement action’** means a department issued:

- (a) Denial, suspension, revocation or modification of a license;
- (b) Probationary license;
- (c) Civil monetary penalty (fine); or
- (d) Disqualification from having unsupervised access to children in care.

**‘Fine’** has the same meaning as ‘civil monetary penalty,’ ‘civil fines,’ or ‘monetary penalty’ under chapter 43.215 RCW.

**‘Inaccessible to children’** means an effective method or barrier that reasonably prevents a child’s ability to reach, enter, or use items or areas.

**‘Licensed space’** means the indoor and outdoor space on the premises approved by the department for the purpose of providing licensed child care.

**‘Licensee’** for the purposes of this chapter, means the individual listed on a school age child care license issued by the department of early learning authorizing that individual to provide child care under the requirements of this chapter and chapter 43.215 RCW.

**‘Licensor’** means an individual employed by the department and designated by the director to inspect and monitor an agency or other child care facility for compliance with the requirements of this chapter and chapter 43.215 RCW.

**‘MERIT’** means the managed education registry information tool used to track professional development for early learning professionals. See also ‘STARS.’

**‘Modification of a license’** means department action to change the conditions identified on a current license.

**‘Nonexpiring full license’** or **‘nonexpiring license’** means a full license with no expiration date that is issued to a licensee following the initial licensing period as provided in WAC 170-297-1430.

**‘Nonprescription medication’** means any of the following:

- (a) Nonaspirin fever reducers or pain relievers;

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- (b) Nonnarcotic cough suppressants;
- (c) Cold or flu medications;
- (d) Antihistamines or decongestants;
- (e) Vitamins;
- (f) Ointments or lotions specially intended to relieve itching;
- (g) Diaper ointments and talc free powders specially used in the diaper area of children;
- (h) Sun screen;
- (i) Hand sanitizer gels; or
- (j) Hand wipes with alcohol.

**‘Personal needs’** means an individual’s hygiene, toileting, medication, cleansing, eating or clothing needs. Personal needs does not mean smoking or use of tobacco products, illegal drug use or misuse of prescription drugs, conducting business or related activities, sleeping or napping, screen time, or leaving children in care unattended.

**‘Physical restraint’** means the practice of rendering a child helpless or keeping a child in captivity.

**‘Poison’** for the purposes of this chapter includes, but is not limited to, substances, chemicals, chemical compounds (other than naturally occurring compounds such as water or salt), or similar items, that even in small quantities are likely to cause injury or illness if they are swallowed or come into contact with a child’s skin, eyes, mouth, or mucus membranes.

**‘Premises’** means the licensed or unlicensed space at the licensed address including, but not limited to, buildings, land and residences.

**‘RCW’** means Revised Code of Washington.

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**‘Revocation’** or **‘revoke’** means the formal department action to close a child care business and take the license due to the licensee’s failure to comply with chapter 43.215 RCW or requirements adopted pursuant to chapter 43.215 RCW.

**‘Sanitize’** means to reduce the number of microorganisms on a surface by the process of:

(a) Cleaning and rinsing, followed by using:

(i) A chlorine bleach and water solution of three-quarters teaspoon of chlorine bleach to one quart of cool water, allowed to stand wet for at least two minutes; or

(ii) Another sanitizer product if used strictly according to manufacturer’s label instructions including, but not limited to, quantity used, time the product must be left in place, and adequate time to allow the product to dry, and appropriateness for use on the surface to be sanitized. If used on food contact surfaces or toys, a sanitizer product must be labeled as safe for food contact surfaces; or

(b) For laundry and dishwasher use only, ‘sanitize’ means use of a bleach and water solution or temperature control of a minimum 140 degrees Fahrenheit.

**‘Screen time’** means watching, using or playing television, computers, video games, video or DVD players, mobile communication devices, and similar devices.

**‘Staff’** means a person or persons employed by the licensee to provide child care and to supervise children served at the center.

**‘STARS’** means the state training and registry system.

**‘Suspension of a license’** means a formal department action to immediately stop a license pending a department decision regarding further enforcement action.

**‘Unlicensed space’** means the indoor and outdoor areas of the premises not approved as licensed space by DEL that the licensee must make inaccessible to the children during child care hours.

**‘Unsupervised access’** has the same meaning as unsupervised access in WAC 170-06-0020.

**‘WAC’** means the Washington Administrative Code.

**‘Weapons’** means an instrument or device of any kind that is used or designed to be used to inflict harm including,

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but not limited to, rifles, handguns, shotguns, antique firearms, knives, swords, bows and arrows, BB guns, pellet guns, air rifles, electronic or other stun devices, or fighting implements.

**WAC 170-297-0050**

**170-297-0050. Special needs accommodations.**

The provisions of this section apply to any requirement in this chapter.

(1) The department may approve accommodations to requirements in these standards for the special needs of an individual child when:

(a) The licensee or designee submits to the department a written plan, signed by the parent or guardian, that describes how the child's needs will be met in the licensed child care; and

(b) The licensee or designee has supporting documentation of the child's special needs provided by a licensed or certified:

(i) Physician or physician's assistant;

(ii) Mental health professional;

(iii) Education professional;

(iv) Social worker with a bachelor's degree or higher degree with a specialization in the individual child's needs; or

(v) Registered nurse or advanced registered nurse practitioner.

(2) The documentation described in this subsection must be in the form of an:

(a) Individual education plan (IEP);

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(b) Individual health plan (IHP);

(c) 504 plan; or

(d) Individualized family service plan (IFSP).

(3) The licensee or designee's written plan and all documentation required under this section must be kept in the child's file and a copy submitted to the department.

(4) The licensee must keep written documentation on file, signed by the parent or guardian, that a visiting health professional may be providing services to the child at the child care program, if applicable.

(5) The licensee must keep written documentation on file that all staff have been trained on how to implement the plan for the individual child.

(6) The written plan must be updated annually or when there is a change in the child's special needs.

(7) See WAC 170-297-5625 regarding supervision, capacity, and staff-to-child ratios for children with documented special needs.

**WAC 170-297-1000**

**170-297-1000. License required.**

(1) A school-age program that provides child care for children must be licensed by the department unless exempt under RCW 43.215.010(2).

(2) A child care program claiming an exemption must provide to the department proof that they qualify for an exemption using a department approved form.

**WAC 170-297-1035**

**170-297-1035. Fire inspection/certification.**

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(1) The license applicant/licensee must conform to rules adopted by the state fire marshal's office, establishing standards for fire prevention and protection of life and property from fire, under chapter 212-12 WAC.

(2) The department must not issue a license until the state fire marshal's office has certified or inspected and approved the facility.

(3) The licensee must continue to comply with state and local fire code following the state fire marshal inspection.

**WAC 170-297-1050**

**170-297-1050. The licensee.**

(1) The applicant for a license under this chapter must be twenty-one years of age or older.

(2) The licensee is the individual(s) or organization:

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

(b) Responsible for complying with the standards in this chapter, chapter 43.215 RCW, chapter 170-06 WAC DEL background check rules, and other applicable laws or rules; and

(c) Responsible for training staff on the licensing standards in this chapter.

(3) The licensee must comply with all requirements in this chapter unless another code or ordinance is more restrictive. Local officials are responsible for enforcing city or county ordinances and codes such as zoning, building, or environmental health regulations.

(4) The licensee must have the understanding, ability, physical health, emotional stability and good judgment to meet the needs of the children in care.

**WAC 170-297-1075**

**170-297-1075. Child care subsidy.**



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A child care program that receives child care subsidy payments must follow the requirements of the applicable subsidy program. A child care program that receives subsidy payments under the working connections child care or seasonal child care programs must follow the requirements of chapter 170-290 WAC.

**WAC 170-297-1100**

**170-297-1100. Tribal or military regulated or operated child care-Certification for payment.**

**(1) A child care program that is regulated by an Indian tribe or the federal Department of Defense is exempt from licensing.**

(2) A tribe or a child care regulated by the federal Department of Defense may request certification:

(a) For subsidy payment only; or

(b) As meeting licensing standards of this chapter.

(3) A child care program seeking certification under this section must be located on the premises over which the tribe or federal Department of Defense has jurisdiction.

**WAC 170-297-1125**

**170-297-1125. Orientation required.**

(1) A license applicant(s) applying for an initial license must complete an orientation provided by the department within twelve months prior to submitting a license application.

(2) The school age program director and the school age site coordinator of the child care program must attend an orientation provided by the department within six months of employment or assuming the position.

**WAC 170-297-1200**

**170-297-1200. Background checks.**

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(1) The license applicant(s) or licensee(s) must submit a completed background check form and obtain written authorization from the department consistent with the requirements of chapter 170-06 WAC for each of the following:

(a) Any license applicant;

(b) The licensee(s); and

(c) Each staff person or volunteer.

(2) Each individual seeking a first time DEL background check must undergo a fingerprint-based FBI background check. See RCW 43.215.215.

(3) The licensee must keep background check authorization letters from the department on file for the licensee, staff person, or volunteer and must allow the department to inspect the file upon request.

(4) The licensee must not allow any individual who has not been authorized by the department to have unsupervised access to the children in care at any time.

(5) The licensee must verify annually that each individual who is required to have a background check under this section has either obtained a department clearance or has applied for a department background check. The verification must be submitted with the licensee's annual license fee and declarations required under WAC 170-297-1450.

**WAC 170-297-1250**

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**170-297-1250. License application packet-Contents.**

(1) The individual or entity seeking a license under this chapter is the license applicant.

**(2) The license applicant must submit a license application packet that includes:**

(a) A completed department application form;

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- (b) A copy of the applicant's orientation certificate;
- (c) Completed background clearance forms for each staff person or volunteer having unsupervised or regular access to the child in care;
- (d) Parent, staff and operation policies (handbooks). See WAC 170-297-2350, 170-297-2375, 170-297-2400, and 170-297-2425;
- (e) A floor plan, including proposed licensed and unlicensed space with emergency exits and emergency exit pathways identified;
- (f) A Washington state business license, or a tribal, county, or city business or occupation license, as applicable;
- (g) An on-site septic system inspection report if applicable under WAC 170-297-1375;
- (h) Well water testing results if applicable under WAC 170-297-1400;
- (i) A lead or arsenic evaluation agreement, only for a site located in the Tacoma smelter plume under WAC 170-297-1360;
- (j) The license fee under WAC 170-297-1325;
- (k) A federal employer identification number; and
- (l) A staffing plan to include:
  - (i) The number and position types and qualifications of staff to meet the projected capacity of the facility;
  - (ii) How the applicant or licensee will verify that staff hired meet the qualifications as provided in this chapter; and

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(iii) Projected staff training plan for the first year of the program.

(3) In addition to subsection (2)(a) through (l) of this section, if the license applicant is an individual, the following must be submitted with the license application:

(a) A copy of a current government issued photo identification;

(b) A copy of the license applicant's Social Security card under 42 U.S.C. 666(a)(13) and RCW 26.23.150 regarding child support, or, if the license applicant does not have a Social Security card, a sworn declaration stating that he or she does not have a Social Security card.

(4) In addition to subsection (2)(a) through (l) of this section, if the license applicant is an entity, a copy of the certificate of incorporation, partnership agreement or similar business organization document must be submitted with the license application.

(5) The licensee must submit a copy of the federal Internal Revenue Service letter showing the applicant's employer identification number (EIN) if the applicant plans to employ staff.

**WAC 170-297-1275**

**170-297-1275. Application processing.**

(1) The department may take up to ninety days to complete the licensing process. The ninety days begins when the department receives the license applicant's signed and dated application packet, fees, and background check forms.

(2) If an incomplete application packet is submitted, the department will inform the license applicant of the deficiencies and provide a time frame in which to provide the required information. If an application remains incomplete the department may deny the license.

**WAC 170-297-1300**

**170-297-1300. Withdrawing an incomplete application.**

(1) If the license applicant is unable to successfully complete the licensing process within ninety days, the license applicant may withdraw the application and reapply when the applicant is able to meet licensing requirements.

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(2) A license applicant who has not withdrawn his or her incomplete application and is unable to meet the application requirements will be denied a license. See RCW 43.215.300.

**WAC 170-297-1325**

**170-297-1325. Fees-When due.**

**License fees.**

(1) The annual license fee is one hundred twenty-five dollars for the first twelve children, plus twelve dollars for each additional child over twelve, or as otherwise set by the legislature.

(2) The license fee is nonrefundable and is due:

(a) With the license applicant's initial license application packet; and

(b) Annually thereafter, thirty days prior to the anniversary date of the license.

(3) Payment must be in the form of a check or money order.

**Background check fees.**

(4) Each individual required to obtain a department background check must pay the fee established under chapter 170-06 WAC. The fee must be submitted with the individual's completed and signed background check application form.

(5) Each individual submitting a first-time license application and each individual applying for the first time for a department background check clearance must be fingerprinted and pay the processing fee.

**WAC 170-297-1350**

**170-297-1350. Liability insurance coverage.**

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(1) The license applicant or licensee must, at the time of licensure and at any inspection, provide to the department proof of insurance or self-insurance as required under RCW 43.215.535.

(2) The licensee must:

(a) Notify the department when insurance coverage is terminated within thirty days of termination;

(b) Post notice, clearly visible to parents, guardians, volunteers, and staff, when insurance coverage lapses or is terminated; and

(c) Provide written notice to parents when coverage lapses or is terminated within thirty days of lapse or termination.

(3) The department may deny, suspend, revoke, or not continue a license when the licensee fails to comply with the requirements of this section.

**WAC 170-297-1360**

**170-297-1360. Lead and arsenic hazards-Tacoma smelter plume.**

A child care facility in the designated Tacoma smelter plume (counties of King, Pierce, and Thurston) must contact the state department of ecology (DOE) and complete a signed access agreement with DOE for further evaluation of the applicant's property and possible arsenic and lead soil sampling.

**WAC 170-297-1375**

**170-297-1375. Private septic system-Inspection and maintenance.**

(1) If the licensed premises are served by a private septic system (not connected to a sewer system) the septic system must be maintained in a manner acceptable to the local public health authority.

(2) The licensee must follow the local public health authority's requirements for periodic septic system inspection and maintenance, and keep the inspection and maintenance records on the premises.

(3) If there are no local public health requirements for periodic septic system inspections, the licensee must:

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(a) Have the system inspected by a septic system inspector certified by the local health jurisdiction within six months prior to submitting a license application under WAC 170-297-1250 and every three years after a license is issued under this chapter; and

(b) Maintain the septic system as required by the inspection report.

(4) Septic system inspection and maintenance records must be kept on the premises and made available to the department upon request.

WAC 170-297-1400

170-297-1400. Private well and water system.

(1) If the licensed facility gets water from a private well on the premises, the licensee must follow the local public health authority's requirements for periodic water testing, and keep the test records on the premises.

(2) When there are no local public health requirements for periodic water testing, the licensee must:

(a) Test the water for coliform bacteria and nitrates every three years. The test must indicate 'safe' levels of coliform bacteria and nitrates as defined by the state department of health; and

(b) Keep the test results records on the premises.

(3) If test results indicate unsafe levels of coliform bacteria or nitrates as defined by the state department of health, the licensee must:

(a) Immediately stop using the well water in the child care and inform the local public health authority and the department;

(b) Take steps required by the local public health authority to repair the well or water system;

(c)(i) If directed by the local public health authority or the department, discontinue child care operations until

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repairs are made; or

(ii) If the local public health authority and the department determine that child care operations may continue with an alternate source of safe water, provide the safe water as directed; and

(d) Test the water as often as required by the local public health authority until tests indicate safe levels of coliform bacteria and nitrates

WAC 170-297-1410

170-297-1410. Department inspection.

(1) Prior to the department issuing a license, a department licensor must inspect the proposed indoor and outdoor spaces to be used for child care to verify compliance with the requirements of this chapter.

(2) Access must be granted to the department licensor during the child care hours of operation for the purpose of announced or unannounced monitoring visits to inspect the indoor or outdoor licensed space to verify compliance with the requirements of this chapter.

WAC 170-297-1430

170-297-1430. Initial license.

A child care facility that demonstrates compliance with health and safety requirements of this chapter but may not be in full compliance with all requirements may be issued an initial license.

(1) An initial license is valid for six months from the date issued.

(2) 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.

(3) The department must evaluate the program staff's ability to follow all of the rules contained in this chapter during the initial license period.

(4) The department may issue a nonexpiring full license to a licensee operating under an initial license who:



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(a) Demonstrates full compliance with the health and safety requirements of this chapter at any time during the period of initial licensure;

(b) Demonstrates substantial compliance with other requirements of this chapter at any time; and

(c) Meets the requirements for a nonexpiring full license as provided in WAC 170-297-1450(1).

(5) The department must deny a nonexpiring full license to a licensee operating under an initial license when the licensee does not demonstrate the ability to comply with all the rules contained in this chapter during the initial licensing period.

**WAC 170-297-1450**

**170-297-1450. Nonexpiring license.**

(1) To qualify for a nonexpiring full license, a licensee must submit the following to the department on an annual basis, at least thirty calendar days prior to the anniversary date (the date the first license is issued) of the license:

(a) The annual nonrefundable license fee as provided in WAC 170-297-1325(1);

(b) A declaration to the department on a department-approved form indicating:

(i) The licensee's intent to continue operating a licensed child care program; or

(ii) The licensee's intent to cease operation on a date certain;

(c) A declaration on a department-approved form that the licensee is in compliance with all department licensing rules; and

(d) Documentation of completed background check applications as determined by the department established schedule as provided in RCW 43.215.215 (2)(f). For each individual required to have a background check clearance, the licensee must verify a current background check clearance or submit a background check

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application at least thirty days prior to the license anniversary date.

(2) The requirements of subsection (1) of this section must be met:

(a) Before a licensee operating under an initial license is issued a nonexpiring full license; and

(b) Every twelve months after issuance of a nonexpiring full license.

(3) If the licensee fails to meet the requirements in subsection (1) of this section for continuation of a nonexpiring full license, the license expires and the licensee must submit a new application for licensure.

(4) Nothing about the nonexpiring license process in this section may interfere with the department's established monitoring practice.

(5) A licensee has no right to an adjudicated proceeding (hearing) to appeal the expiration, nonrenewal, or noncontinuation of a nonexpiring full license as a result of the licensee's failure to comply with the requirements of this section.

**WAC 170-297-1525**

**170-297-1525. Change in circumstances.**

(1) The licensee must report the following changes in the licensee's circumstances to the department within twenty-four hours:

(a) Fire or other structural damage to the licensed child care space or other parts of the premises;

(b) When the licensee becomes aware of a charge or conviction against the licensee or a staff person and the charge or conviction is a disqualifying crime under WAC 170-06-0120;

(c) When the licensee becomes aware of an allegation or finding of abuse or neglect of a child or vulnerable adult made against the licensee or a staff person. The licensee must also report the change in circumstances to the department of social and health services children's administration within twenty-four hours;

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- (d) Resignation or termination of the program director or site coordinator.
- (2) The licensee must notify the department ninety days prior to the following:
- (a) Making structural changes to the licensed space;
  - (b) Changing licensed space usage; and
  - (c) Requesting a change of capacity.
- (3) The licensee must notify the department when liability insurance coverage is terminated within thirty days of termination.
- (4) An updated floor plan must be submitted and approved by the department.
- (5) A fire marshal visit is required for change of circumstances listed in subsections (1)(a) and (2) of this section.

**WAC 170-297-1625**

**170-297-1625. Exception to rule.**

- (1) The department cannot waive a requirement in state or federal law.
- (2) The department may approve an exception to a rule in this chapter.
- (3) An exception to rule request must be:
  - (a) In writing on a department form;
  - (b) Submitted to the licensor; and

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- (c) Approved by the director or director's designee.
  
- (4) The department may approve an exception only for a specific purpose or child.
  
- (5) An exception is time limited and may not exceed the specific time period approved by the department.
  
- (6) If the exception request is approved, the notice of the approved exception must be posted with other notices for parent and public view, unless the exception is for a specific child.
  
- (7) The department may approve an alternate method of achieving a specific requirement's intent as an exception to rule.
  - (a) The alternate method must not jeopardize the health, safety or welfare of the children in care.
  
  - (b) A copy of the department approved exception must be posted on the premises for parent and public view.
  
- (8) The department's denial of an exception request is not subject to appeal under chapter 170-03 WAC.