



Washington State Department of

Early Learning

Negotiated Rule Making

July 2017



Agenda



Washington State Department of
Early Learning

- Proposed Protocol Updates
 - Roles
 - Process Flow
 - Time Management
 - Calls to Action
- Negotiation Process
- Code of Conduct
- Guiding Principles
- Interest-based Negotiation: Orange
- Measuring Consensus
- Cultural Competency
- Negotiation Language
- Public Comment Summary

Roles: Mediation & Facilitation

NRM Mediator: DEL

Ensure process is implemented with fidelity per RCW, OFM guidelines, and NRM Protocol.

Facilitators: PCG

Ensure flow of the NRM process is meeting the participant groups' needs and the NRM timeline.

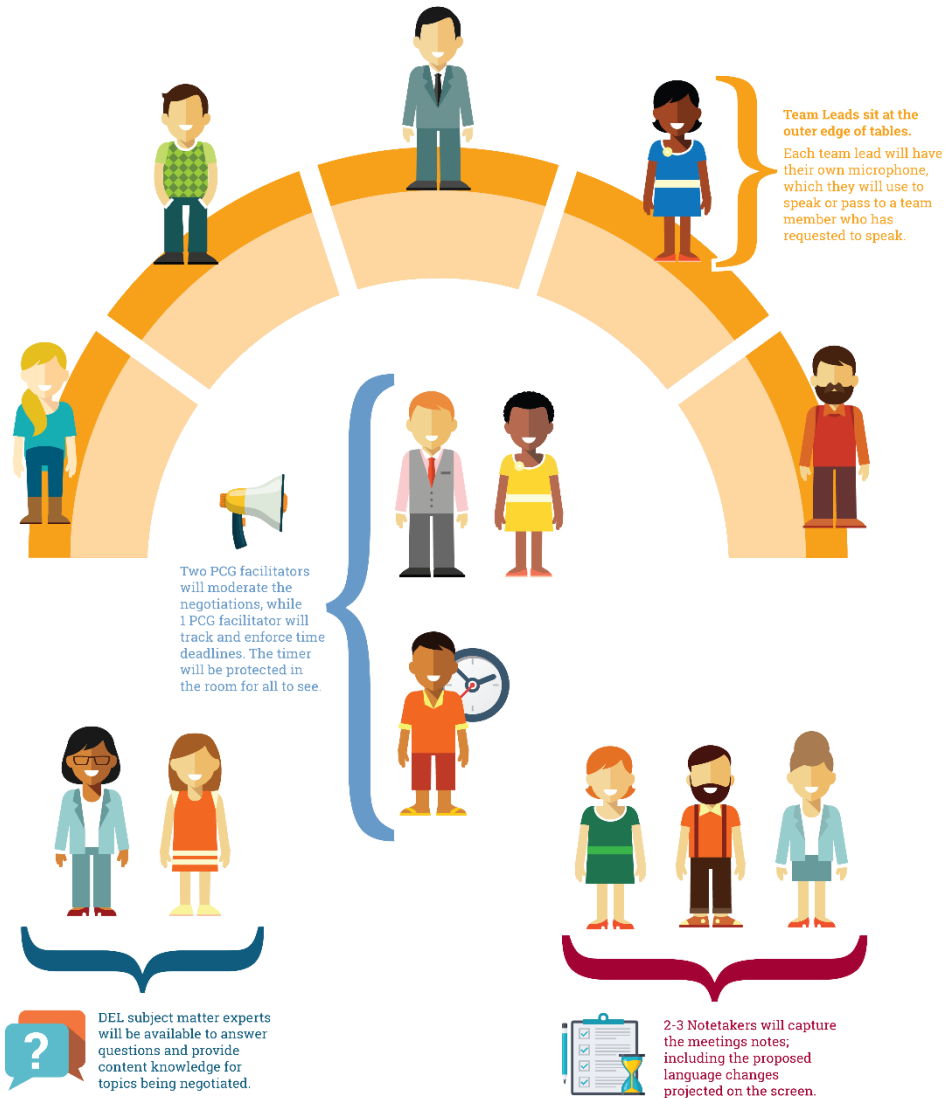
Notetakers: DEL

Ensure all meeting notes are recorded. Provide notes to PCG for reporting and to DEL for final rules drafting.

Content Expert(s): DEL

Advise regarding the negotiated content, answers questions, and presents content briefing/webinar

Negotiation Process



Process Flow



- Content briefings/Expert presentations moved to webinar and posted online to allow teams to prepare and boost negotiation time.
- Regulation, with WAC #, is read aloud prior to negotiation as requested.
- Proposed changes are read aloud before consensus taking.



- Team leads will each have their own microphone.
- They will use it to speak, or pass to a team member who has indicated they'd like to speak- via pinwheel.
- Note: The microphone and pinwheels are exceptionally beneficial for the recording.



- Consensus is taken using the Fist to Five method.
- Protocol states, "A majority of each Participant Group in attendance, excluding individuals who are meeting with Resolution or Technical Assistance Subgroups, need to be present for measuring consensus." p.

Updated Protocol for Timing



Teams and Facilitators have the ability to make a call to action at any time during the 25 minute negotiation period. After 25 minutes, a call to action must be made.

After the 25 minute negotiation period, if a facilitator makes a call to action and the team leads choose not to follow the call to action, an additional 5 minutes will begin.

Updated Protocol for Timing

Because of limited timing, we propose the following time protocols:

Action	Time
Reading of Regulations/Section	Untimed
Negotiation of section	25 minutes
Negotiation Extension	Once per section Standard: 5 minutes Foundational: Up to 25 minutes
TA/Resolution Group	Untimed
Team Caucus	1-3 minutes, as requested



Call to Action

During the 25 minute negotiation period

All teams, including the facilitation team, may make the following “Calls to Action” during negotiations:

- Send regulations/sections to TA/Resolution Team
- Show of consensus
- Tabling of regulations/sections (*with request of duration*)
- Team Caucus (*with request of time limit 1-3 minutes*)
- DEL Technical Assistance

During the 25 minute negotiation period

If the following calls to action is made, team leads must agree by consensus to proceed:

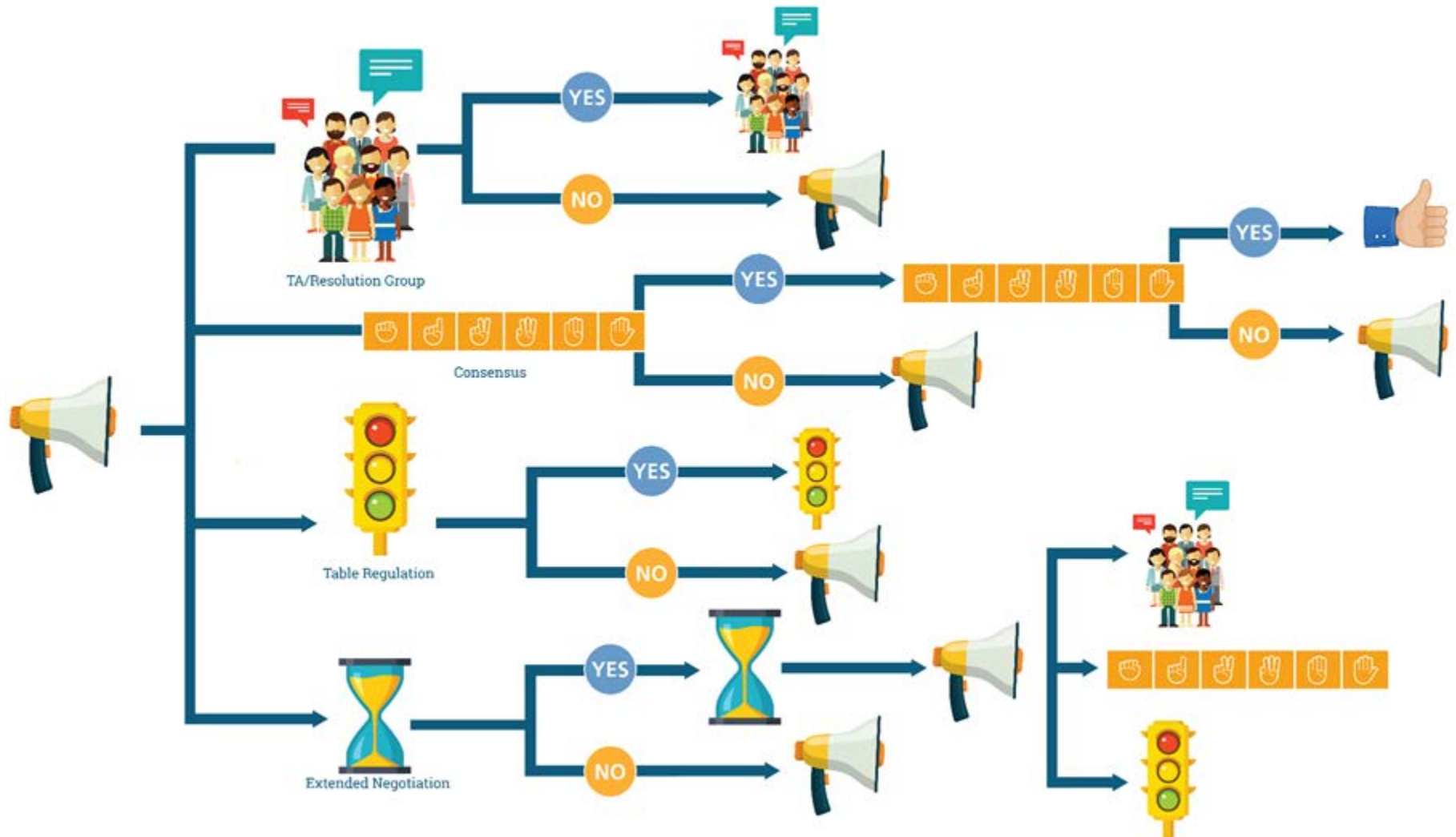
- Send regulations/sections to TA/Resolution Team
- Show of consensus
- Tabling of regulations/sections

At the end of the 25 minute negotiation period

One of the following calls to action must be made:

- Send regulations/sections to TA/Resolution Team
- Show of consensus
- Tabling of regulations/sections (*with request of duration*)
- Negotiation Extension (*once per section. Standard 5 minutes, Foundational up to 25 minutes*)

Call to Action after 25 minute Negotiation



Acceptance or modification of
proposed protocol

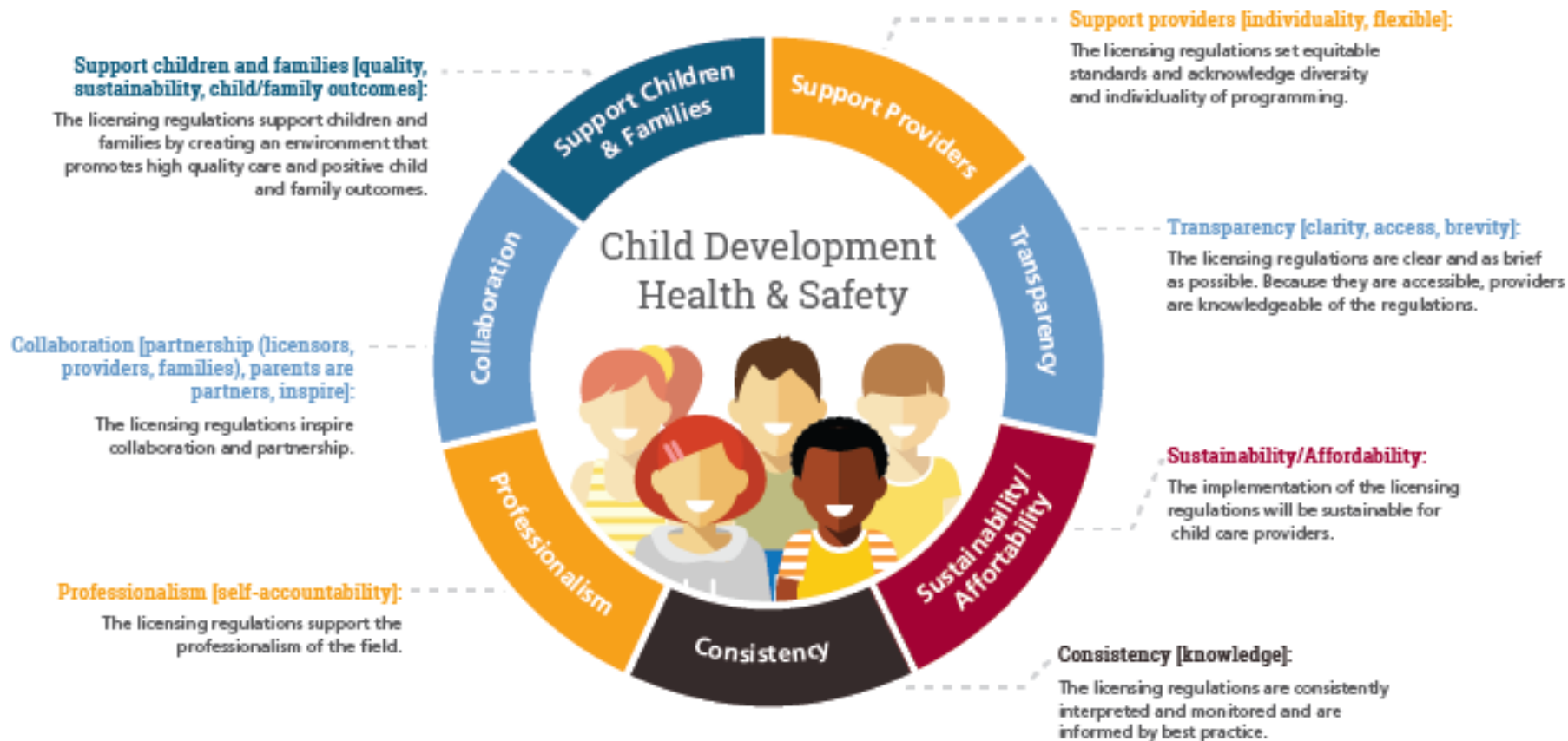


Code of Conduct

- Negotiate in good faith with fidelity to the process
- Work to find common ground through negotiation
- Encourage and support an inclusive, public negotiation process
- Be truthful
- Respect each other and each other's opinions
- Limit side conversations
- Tolerate dissent
- Be courageous
- Be accountable
- Attend scheduled meetings and be punctual
- Prepare for scheduled meetings by reading the draft rules to be discussed before the start of the meeting
- Turn off cellphones and other distractions during meetings
- Follow the protocols



NRM Guiding Principles and Core Values



Look for **WIN-WIN** Opportunities!



Measuring Consensus

How it works:

When asked by the facilitator, each person responds by holding up a fist to five fingers that corresponds to their level of support. Anyone who holds up three fingers or less must state objections.

Consensus:

Consensus means everyone holds up three or more fingers.

					
Closed Fist No. I am blocking consensus.	1 Finger I have major concerns.	2 Fingers I would like to discuss some minor issues.	3 Fingers I am not in total agreement, but I feel comfortable enough to let the language pass with further discussion.	4 Fingers I think the language is good.	5 Fingers I think the language is great.





Cultural Competency

The Standards Alignment process is operating with a principle of consistent application of racial equity and cultural humility principles.

- Is this regulation biased for or against any one population?
- Does the regulation consider the cultural or linguistic background of the provider or population they are serving?
- Is the language in this regulation or edits I am proposing thoughtful and deliberately inclusive?
- Do I need to seek information from individuals, families, or other communities to assist me in understanding the needs and preferences of culturally and ethnically diverse groups in Washington who will be effected by these regulations?

Negotiated Language

Proposed draft language changes resulting from negotiations may be edited by technical writers to be legally binding based on their intent.

Example of proposed draft language change from NRM group:
Volunteers cannot be left alone with children.

Example of technical writer interpretation:
Volunteers may not be unsupervised with children in an early learning program.



Public Comment Overview

Environment

292 Comments

- 62 Substantive Changes
- 11 “Other” (ie. Questions for DEL)
- 219 Commentary

Concerns Regarding:

- How do I implement this? Is it reasonable to implement? (ie. Tooth brushing, vacuuming, homemade art supplies)
- Weights- “Remove Weights”

Program Administration and Oversight: Enforcement Sections

Concern regarding:

- Objectivity vs. Subjectivity of licensors using the scoring system
- Fines and impact on business
- Justification of medium/high weights on regulations related to documentation

Questions regarding:

- Can scores be contested?
- How are collected fines spent?

Analysis of Non-consensus and Priority

Subcategory	Section	Observations	
Space and Furnishings	0130		
	0135		
	0140		
	0145		
	0146		
	0147		
	0148		
Activities	0150		
	0155		
	0160		
Safety	0165		
	0166	P	
	0170	P	
	0175		

Subcategory	Section	Observations		
Food and Nutrition	0180			
	0185	P		
	0186	P		
	0190			
	0195			
	0196			
	0197			
	0198			
	Health Practices	0200		
		0205		
0210				
0211		P		
0215				
0220				
0221				
0225		P		
0230				
0235				
0236				

Subcategory	Section	Observations	
Cleaning and Sanitation	0240		
	0241		
	0245		
	0250	P	
	0255		
Sleep and Rest	0260		
	0265		
Infant and Toddler	0270		
	0275		
	0280		
	0281		
	0285	P	
	0290		
	0291		
	0295		
	0296		

	Regulations with the highest combined "High" and "Medium" priorities (3 and 4); and the most combined non-consensus (3, 4 and 5)
	Regulation with most combined non-consensus (3, 4 and 5), but no overlap with highest combined "High"/"Medium" priority (3+ medium)
P	Prep Team Phone Call Negotiation
	Some Consensus



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