



Washington State Department of

**Early Learning**

# Negotiated Rule Making

*June 2017*



# Agenda



Washington State Department of  
**Early Learning**

- Code of Conduct
- Guiding Principles
- Negotiation Process
- Interest-based Negotiation: Orange
- Cultural Competency
- Public Comments Overview
- Refinement of WAC
- Why Weighted WAC Overview

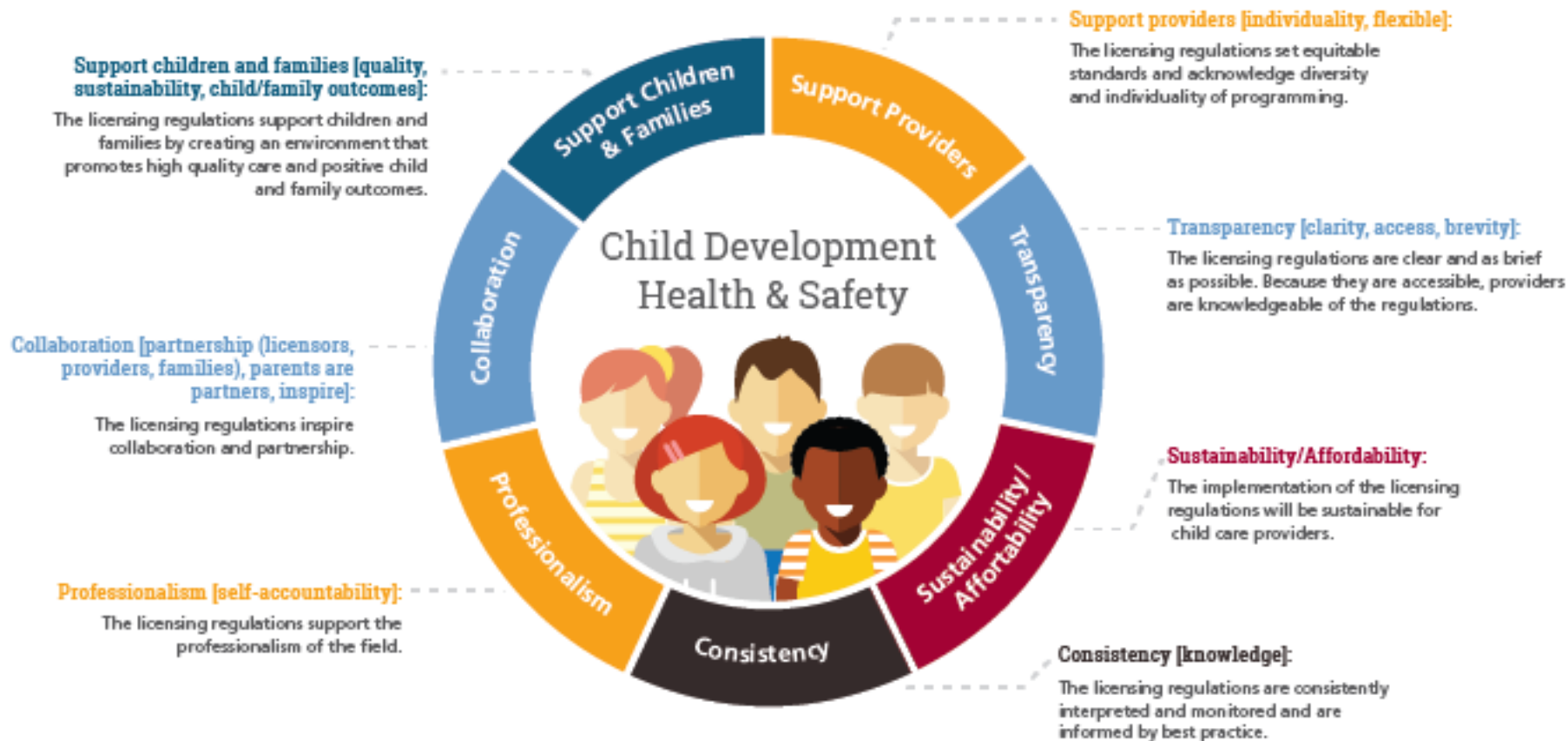


# Code of Conduct

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- 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



# Negotiation Process

Facilitator will present regulations to be negotiated by topic



Facilitator will read regulation to be negotiated



If a regulation needs to be evaluated through the lens of racial equity or cultural humility, teams can send representatives to the TA subgroup

If a team member or expert wants to contribute, they will raise their pinwheel to be called upon.

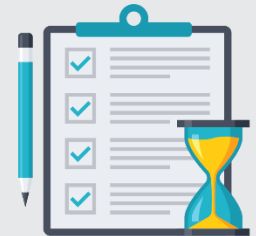


Each Negotiation Team Lead will present their team's position to the Large Group

If a regulation needs editing, clarification, or further negotiation, teams can send representative to the Resolution subgroup.



Negotiations will continue as TA and Resolution subgroups work. When a TA or Resolution subgroup is ready to present to the large group, they will wait until the conclusion of the regulations negotiation taking place.



Consensus is reached when all teams indicate acceptance using Fist to Five.

If consensus cannot be reached and TA or Resolution subgroups are unable to provide acceptable alternatives, the regulation will be tabled for discussion at another time.

# 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 no 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 without 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?



# Public Comment Overview

## Intent and Authority

170-300-0020

- Who monitors unlicensed care?

## Child Outcomes

170-300-0065

- Developmental Milestones and Age of children receiving information

## Family Engagement

170-300-0080

- Purpose and intention

## Professional Development

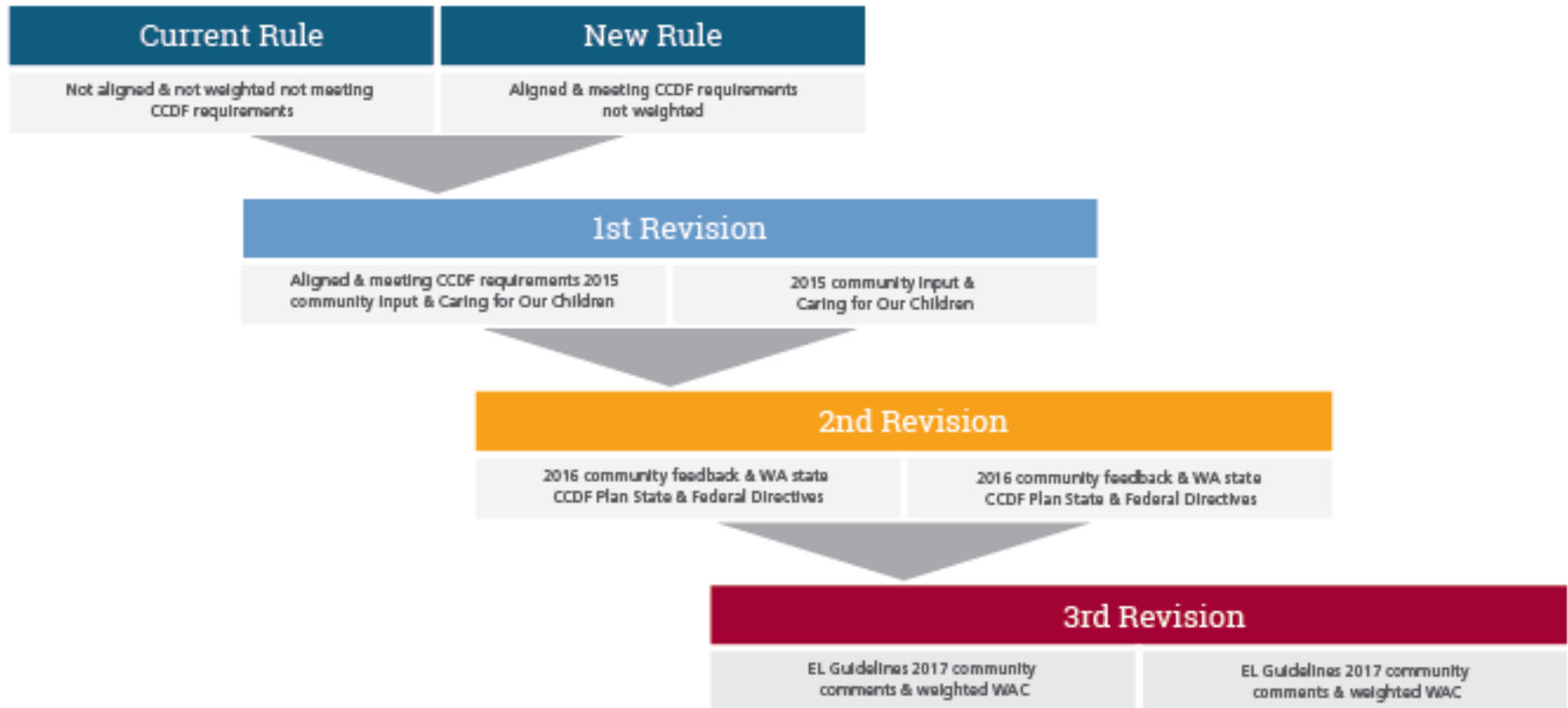
170-300-0100

- Prohibitive requirements
- Timeline of trainings and implementation

170-300-0115

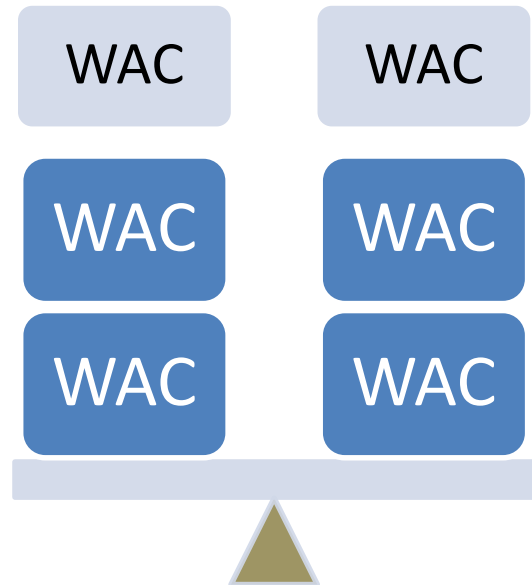
- Necessity of records and confidentiality from DEL

# Refinement of Licensing Rules



# Why Weighted WAC

# WHY Weighted WAC



- 🕒 Weighting/risk assessment are used so each rule does not have an equal weight.
- ⚠️ If you do not weight rules, by default, you have given an equal weight to each rule.
- 📌 The more “weight” = The more likely children will be **harmed** if the rule is not followed.

# Harm Defined

- ❑ **Direct Harm:** Any injury/illness requiring immediate or follow up medical treatment or hospitalization or situations which can immediately negatively affect a child's physical, psychological or emotional well-being
- ⚠ **Indirect Harm:** Situations where non-compliance may not immediately impact children's health/safety; however, may result in harm with repeated non-compliance and/or in combination with other non-compliance

# Goals of Weighted

- 🕒 Protect children from direct and indirect harm
- ⚠️ Establish a common understanding of risk
- 📄 Effectively and efficiently identify and address trends and risks to children more

# Purpose of the Washington Administrative Code

“If a statute is ambiguous, an agency's promulgated rules help our interpretation because they ‘fill in the gaps’ where necessary to the effectuation of a general statutory scheme.”

*Quinault Indian Nation v. City of Hoquiam*

Washington State Supreme Court, January 12, 2017

# Rules and Enforcement for DEL

## Revised Code of Washington

Grants DEL authority, scope

Overarching mission,  
minimal detail



## Washington Administrative Code

DEL's rules that "fill in the gaps"

Must comply with RCWs, guide  
work with structural framework



## DEL Policies and Procedures

Detailed DEL plans and  
action steps

Must comply with WACs,  
minutiae



# ALL WACs Are Important

## Unweighted vs. Weighted

- △ Weighted WAC describe the duties for the provider
- Unweighted WAC describe the duties and definitions for DEL

## ↓ Weights vs. ↑ weights

- ▣ Duration
- Repetition
- △ Combinations

# All Rules are Important

- Progression and Interconnectivity
- Actual Cause and Causational Relationships

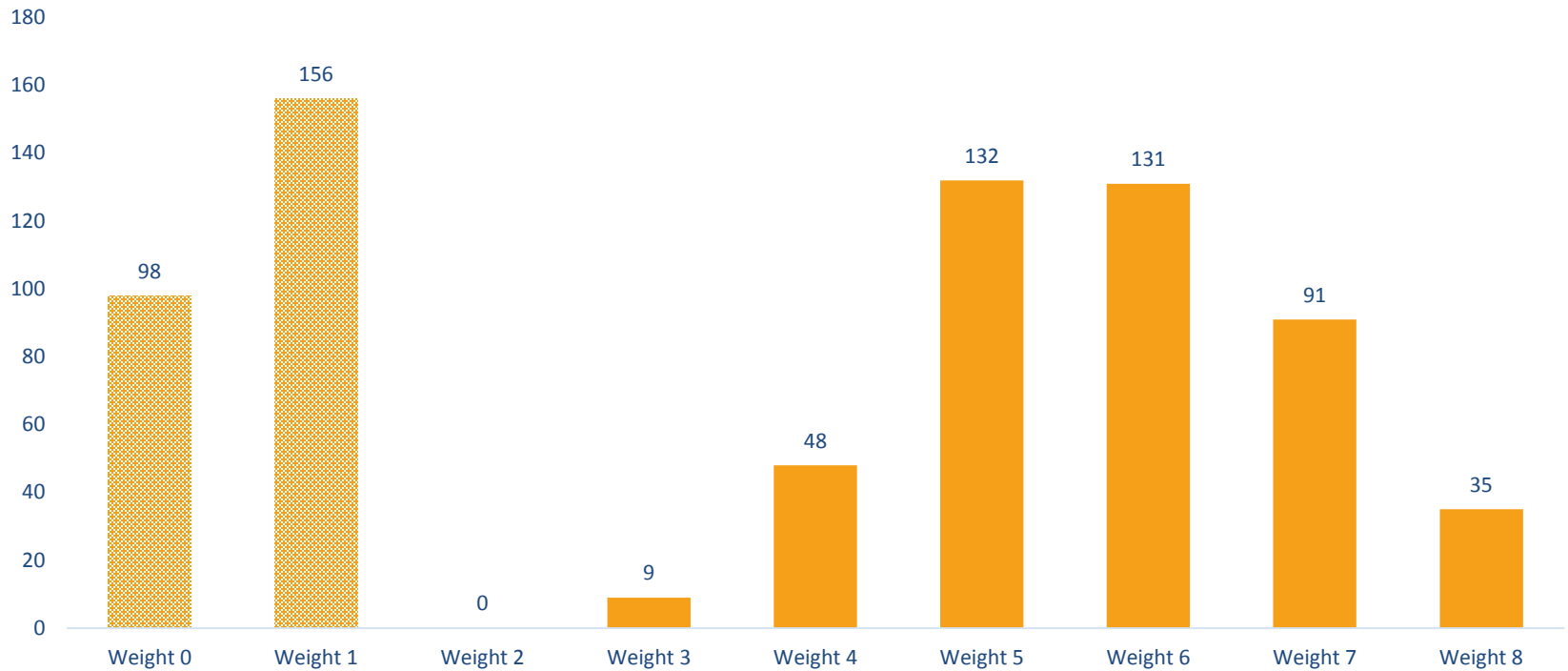
**Weighted 8: DANGER!**  
**Weighted 7: Electrical**  
**Weighted 6: Foundation**  
**Weighted 5: Siding**  
**Weighted 4: Plumbing**  
**Weighted 3: Ventilation**  
**Weighted 2: Flooring**  
**Weighted 1: Paint**



# Weighted Results/Reminder

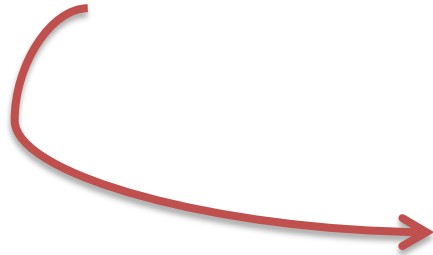


# Distribution of Median Focus Group & Survey



# For Example

**170-300-0145/Outdoor early learning program space.** (4) An early learning program must have shaded areas in outdoor play space provided by trees, buildings, or shade structures.



**2015: A child received 1<sup>st</sup> and 2<sup>nd</sup> degree sunburns while playing on the playground with no shade.**

# Small Group Discussion

1. What are some lower weighted regulations that could harm children, directly or indirectly, when violated over time?
2. What are some lower weighted regulations that could harm children, directly or indirectly, when violated in combination with other lower weighted regulations?



# Questions?



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