
HOUSE BILL 2069

State of Washington 65th Legislature 2017 Regular Session

By Representatives Dent, Pettigrew, and Manweller

1 AN ACT Relating to suspending certain rule-making activities of
2 the department of early learning; amending RCW 43.215.020,
3 43.215.060, 43.215.070, 43.215.135, 43.215.255, 43.215.340,
4 43.215.425, 43.215.455, and 43.215.545; adding a new section to
5 chapter 43.215 RCW; providing an expiration date; and declaring an
6 emergency.

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

8 NEW SECTION. **Sec. 1.** A new section is added to chapter 43.215
9 RCW to read as follows:

10 The department may not adopt or amend rules until July 1, 2019,
11 unless the rule is necessary to:

12 (1) Implement a state law or federal law or rule enacted after
13 January 1, 2017;

14 (2) Comply with a collective bargaining agreement adopted under
15 chapter 41.80 RCW or an employment contract entered into by the
16 department; or

17 (3) Preserve the immediate health or safety of children receiving
18 care, services, or early learning assistance under this chapter and
19 is adopted in accordance with RCW 34.05.350.

1 **Sec. 2.** RCW 43.215.020 and 2016 c 57 s 5 are each amended to
2 read as follows:

3 (1) The department of early learning is created as an executive
4 branch agency. The department is vested with all powers and duties
5 transferred to it under this chapter and such other powers and duties
6 as may be authorized by law.

7 (2) The primary duties of the department are to implement state
8 early learning policy and to coordinate, consolidate, and integrate
9 child care and early learning programs in order to administer
10 programs and funding as efficiently as possible. The department's
11 duties include, but are not limited to, the following:

12 (a) To support both public and private sectors toward a
13 comprehensive and collaborative system of early learning that serves
14 parents, children, and providers and to encourage best practices in
15 child care and early learning programs;

16 (b) To make early learning resources available to parents and
17 caregivers;

18 (c) To carry out activities, including providing clear and easily
19 accessible information about quality and improving the quality of
20 early learning opportunities for young children, in cooperation with
21 the nongovernmental private-public partnership;

22 (d) To administer child care and early learning programs;

23 (e) To apply data already collected comparing the following
24 factors and make biennial recommendations to the legislature
25 regarding working connections subsidy and state-funded preschool
26 rates and compensation models that would attract and retain high
27 quality early learning professionals:

28 (i) State-funded early learning subsidy rates and market rates of
29 licensed early learning homes and centers;

30 (ii) Compensation of early learning educators in licensed centers
31 and homes and early learning teachers at state higher education
32 institutions;

33 (iii) State-funded preschool program compensation rates and
34 Washington state head start program compensation rates; and

35 (iv) State-funded preschool program compensation to compensation
36 in similar comprehensive programs in other states;

37 (f) To serve as the state lead agency for Part C of the federal
38 individuals with disabilities education act (IDEA) and to develop and
39 adopt rules that establish minimum requirements for the services
40 offered through Part C programs, including allowable allocations and

1 expenditures for transition into Part B of the federal individuals
2 with disabilities education act (IDEA);

3 (g) To standardize internal financial audits, oversight visits,
4 performance benchmarks, and licensing criteria, so that programs can
5 function in an integrated fashion;

6 (h) To support the implementation of the nongovernmental private-
7 public partnership and cooperate with that partnership in pursuing
8 its goals including providing data and support necessary for the
9 successful work of the partnership;

10 (i) To work cooperatively and in coordination with the early
11 learning council;

12 (j) To collaborate with the K-12 school system at the state and
13 local levels to ensure appropriate connections and smooth transitions
14 between early learning and K-12 programs;

15 (k) To develop and adopt rules for administration of the program
16 of early learning established in RCW 43.215.455;

17 (l) To develop a comprehensive birth-to-three plan to provide
18 education and support through a continuum of options including, but
19 not limited to, services such as: Home visiting; quality incentives
20 for infant and toddler child care subsidies; quality improvements for
21 family home and center-based child care programs serving infants and
22 toddlers; professional development; early literacy programs; and
23 informal supports for family, friend, and neighbor caregivers; and

24 (m) Upon the development of an early learning information system,
25 to make available to parents timely inspection and licensing action
26 information and provider comments through the internet and other
27 means.

28 (3) When additional funds are appropriated for the specific
29 purpose of home visiting and parent and caregiver support, the
30 department must reserve at least eighty percent for home visiting
31 services to be deposited into the home visiting services account and
32 up to twenty percent of the new funds for other parent or caregiver
33 support.

34 (4) Home visiting services must include programs that serve
35 families involved in the child welfare system.

36 (5) Subject to the availability of amounts appropriated for this
37 specific purpose, the legislature shall fund the expansion in the
38 Washington state preschool program pursuant to RCW 43.215.456 in
39 fiscal year 2014.

1 (6) The department's programs shall be designed in a way that
2 respects and preserves the ability of parents and legal guardians to
3 direct the education, development, and upbringing of their children,
4 and that recognizes and honors cultural and linguistic diversity. The
5 department shall include parents and legal guardians in the
6 development of policies and program decisions affecting their
7 children.

8 (7) Until July 1, 2019, the provisions of this section are
9 subject to section 1 of this act.

10 **Sec. 3.** RCW 43.215.060 and 2006 c 265 s 107 are each amended to
11 read as follows:

12 (1) In furtherance of the policy of the state to cooperate with
13 the federal government in all of the programs under the jurisdiction
14 of the department, such rules as may become necessary to entitle the
15 state to participate in federal funds may be adopted, unless
16 expressly prohibited by law. Any internal reorganization carried out
17 under the terms of this chapter shall meet federal requirements that
18 are a necessary condition to state receipt of federal funds. Any
19 section or provision of law dealing with the department that may be
20 susceptible to more than one construction shall be interpreted in
21 favor of the construction most likely to comply with federal laws
22 entitling this state to receive federal funds for the various
23 programs of the department.

24 (2) Until July 1, 2019, the provisions of this section are
25 subject to section 1 of this act.

26 **Sec. 4.** RCW 43.215.070 and 2006 c 265 s 108 are each amended to
27 read as follows:

28 (1) In addition to other duties under this chapter, the director
29 shall actively participate in a nongovernmental private-public
30 partnership focused on supporting government's investments in early
31 learning and ensuring that every child in the state is prepared to
32 succeed in school and in life. Except for licensing as required by
33 Washington state law and to the extent permitted by federal law, the
34 director of the department of early learning shall grant waivers from
35 the rules of state agencies for the operation of early learning
36 programs requested by the nongovernmental private-public partnership
37 to allow for flexibility to pursue market-based approaches to
38 achieving the best outcomes for children and families.

1 (2) In addition to other powers granted to the director, the
2 director may:

3 (a) Enter into contracts on behalf of the department to carry out
4 the purposes of this chapter;

5 (b) Accept gifts, grants, or other funds for the purposes of this
6 chapter; and

7 (c) Adopt, in accordance with chapter 34.05 RCW, rules necessary
8 to implement this chapter, including rules governing child day care
9 and early learning programs under this chapter. This section does not
10 expand the rule-making authority of the director beyond that
11 necessary to implement and administer programs and services existing
12 July 1, 2006, as transferred to the department of early learning
13 under section 501, chapter 265, Laws of 2006. The rule-making
14 authority does not include any authority to set mandatory curriculum
15 or establish what must be taught in child day care centers or by
16 family day care providers.

17 (3) Until July 1, 2019, the provisions of this section are
18 subject to section 1 of this act.

19 **Sec. 5.** RCW 43.215.135 and 2015 3rd sp.s. c 7 s 6 are each
20 amended to read as follows:

21 (1) The department shall establish and implement policies in the
22 working connections child care program to promote stability and
23 quality of care for children from low-income households. These
24 policies shall focus on supporting school readiness for young
25 learners. Policies for the expenditure of funds constituting the
26 working connections child care program must be consistent with the
27 outcome measures defined in RCW 74.08A.410 and the standards
28 established in this section intended to promote stability, quality,
29 and continuity of early care and education programming.

30 (2) As recommended by Public Law 113-186, authorizations for the
31 working connections child care subsidy shall be effective for twelve
32 months beginning July 1, 2016, unless an earlier date is provided in
33 the omnibus appropriations act.

34 (3) Existing child care providers serving nonschool-age children
35 and receiving state subsidy payments must complete the following
36 requirements to be eligible for a state subsidy under this section:

37 (a) Enroll in the early achievers program by August 1, 2016;

38 (b) Complete level 2 activities in the early achievers program by
39 August 1, 2017; and

1 (c) Rate at a level 3 or higher in the early achievers program by
2 December 31, 2019. If a child care provider rates below a level 3 by
3 December 31, 2019, the provider must complete remedial activities
4 with the department, and rate at a level 3 or higher no later than
5 June 30, 2020.

6 (4) Effective July 1, 2016, a new child care provider serving
7 nonschool-age children and receiving state subsidy payments must
8 complete the following activities to be eligible to receive a state
9 subsidy under this section:

10 (a) Enroll in the early achievers program within thirty days of
11 receiving the initial state subsidy payment;

12 (b) Complete level 2 activities in the early achievers program
13 within twelve months of enrollment; and

14 (c) Rate at a level 3 or higher in the early achievers program
15 within thirty months of enrollment. If a child care provider rates
16 below a level 3 within thirty months from enrollment into the early
17 achievers program, the provider must complete remedial activities
18 with the department, and rate at a level 3 or higher within six
19 months of beginning remedial activities.

20 (5) If a child care provider does not rate at a level 3 or higher
21 following the remedial period, the provider is no longer eligible to
22 receive state subsidy under this section.

23 (6) If a child care provider serving nonschool-age children and
24 receiving state subsidy payments has successfully completed all level
25 2 activities and is waiting to be rated by the deadline provided in
26 this section, the provider may continue to receive a state subsidy
27 pending the successful completion of the level 3 rating activity.

28 (7) The department shall implement tiered reimbursement for early
29 achievers program participants in the working connections child care
30 program rating at level 3, 4, or 5.

31 (8) The department shall account for a child care copayment
32 collected by the provider from the family for each contracted slot
33 and establish the copayment fee by rule.

34 (9) Until July 1, 2019, the provisions of this section are
35 subject to section 1 of this act.

36 **Sec. 6.** RCW 43.215.255 and 2007 c 17 s 1 are each amended to
37 read as follows:

38 (1) The director shall charge fees to the licensee for obtaining
39 a license. The director may waive the fees when, in the discretion of

1 the director, the fees would not be in the best interest of public
2 health and safety, or when the fees would be to the financial
3 disadvantage of the state.

4 (2) Fees charged shall be based on, but shall not exceed, the
5 cost to the department for the licensure of the activity or class of
6 activities and may include costs of necessary inspection.

7 (3) The director shall establish the fees charged by rule.

8 (4) Until July 1, 2019, the provisions of this section are
9 subject to section 1 of this act.

10 **Sec. 7.** RCW 43.215.340 and 2006 c 265 s 315 are each amended to
11 read as follows:

12 (1) Any agency operating without a license shall be guilty of a
13 misdemeanor. This section shall not be enforceable against an agency
14 until sixty days after the effective date of new rules, applicable to
15 such agency, have been adopted under this chapter.

16 (2) Until July 1, 2019, the provisions of this section are
17 subject to section 1 of this act.

18 **Sec. 8.** RCW 43.215.425 and 2015 3rd sp.s. c 7 s 8 are each
19 amended to read as follows:

20 (1) The department shall adopt rules under chapter 34.05 RCW for
21 the administration of the early childhood education and assistance
22 program. Approved early childhood education and assistance programs
23 shall conduct needs assessments of their service area and identify
24 any targeted groups of children, to include but not be limited to
25 children of seasonal and migrant farmworkers and native American
26 populations living either on or off reservation. Approved early
27 childhood education and assistance programs shall provide to the
28 department a service delivery plan, to the extent practicable, that
29 addresses these targeted populations.

30 (2) The department, in developing rules for the early childhood
31 education and assistance program, shall consult with the early
32 learning advisory council, and shall consider such factors as
33 coordination with existing head start and other early childhood
34 programs, the preparation necessary for instructors, qualifications
35 of instructors, adequate space and equipment, and special
36 transportation needs. The rules shall specifically require the early
37 childhood programs to provide for parental involvement in
38 participation with their child's program, in local program policy

1 decisions, in development and revision of service delivery systems,
2 and in parent education and training.

3 (3) By January 1, 2016, the department shall adopt rules
4 requiring early childhood education and assistance program employees
5 who have access to children to submit to a fingerprint background
6 check. Fingerprint background check procedures for the early
7 childhood education and assistance program shall be the same as the
8 background check procedures in RCW 43.215.215.

9 (4) Until July 1, 2019, the provisions of this section are
10 subject to section 1 of this act.

11 **Sec. 9.** RCW 43.215.455 and 2015 3rd sp.s. c 7 s 11 are each
12 amended to read as follows:

13 (1) Beginning September 1, 2011, an early learning program to
14 provide voluntary preschool opportunities for children three and four
15 years of age shall be implemented according to the funding and
16 implementation plan in RCW 43.215.456. The program must offer a
17 comprehensive program of early childhood education and family
18 support, including parental involvement and health information,
19 screening, and referral services, based on family need. Participation
20 in the program is voluntary. On a space available basis, the program
21 may allow enrollment of children who are not otherwise eligible by
22 assessing a fee.

23 (2) The program shall be implemented by utilizing the program
24 standards and eligibility criteria in the early childhood education
25 and assistance program in RCW 43.215.400 through 43.215.450.

26 (3)(a) Beginning in the 2015-16 school year, the program
27 implementation in this section shall prioritize early childhood
28 education and assistance programs located in low-income neighborhoods
29 within high-need geographical areas.

30 (b) Following the priority in (a) of this subsection, preference
31 shall be given to programs meeting at least one of the following
32 characteristics:

33 (i) Programs offering an extended day program for early care and
34 education;

35 (ii) Programs offering services to children diagnosed with a
36 special need; or

37 (iii) Programs offering services to children involved in the
38 child welfare system.

1 (4) The director shall adopt rules for the following program
2 components, as appropriate and necessary during the phased
3 implementation of the program, consistent with early achievers
4 program standards established in RCW 43.215.100:

5 (a) Minimum program standards;

6 (b) Approval of program providers; and

7 (c) Accountability and adherence to performance standards.

8 (5) The department has administrative responsibility for:

9 (a) Approving and contracting with providers according to rules
10 developed by the director under this section;

11 (b) In partnership with school districts, monitoring program
12 quality and assuring the program is responsive to the needs of
13 eligible children;

14 (c) Assuring that program providers work cooperatively with
15 school districts to coordinate the transition from preschool to
16 kindergarten so that children and their families are well-prepared
17 and supported; and

18 (d) Providing technical assistance to contracted providers.

19 (5) Until July 1, 2019, the provisions of this section are
20 subject to section 1 of this act.

21 **Sec. 10.** RCW 43.215.545 and 2013 c 323 s 8 are each amended to
22 read as follows:

23 The department of early learning shall:

24 (1) Work in conjunction with the statewide child care resource
25 and referral network as well as local governments, nonprofit
26 organizations, businesses, and community child care advocates to
27 create local child care resource and referral organizations. These
28 organizations may carry out needs assessments, resource development,
29 provider training, technical assistance, and parent information and
30 training;

31 (2) Actively seek public and private money for distribution as
32 grants to the statewide child care resource and referral network and
33 to existing or potential local child care resource and referral
34 organizations;

35 (3) Adopt rules regarding the application for and distribution of
36 grants to local child care resource and referral organizations. The
37 rules shall, at a minimum, require an applicant to submit a plan for
38 achieving the following objectives:

- 1 (a) Provide parents with information about child care resources,
2 including location of services and subsidies;
- 3 (b) Carry out child care provider recruitment and training
4 programs, including training under RCW 74.25.040;
- 5 (c) Offer support services, such as parent and provider seminars,
6 toy-lending libraries, and substitute banks;
- 7 (d) Provide information for businesses regarding child care
8 supply and demand;
- 9 (e) Advocate for increased public and private sector resources
10 devoted to child care;
- 11 (f) Provide technical assistance to employers regarding employee
12 child care services; and
- 13 (g) Serve recipients of temporary assistance for needy families
14 and working parents with incomes at or below household incomes of two
15 hundred percent of the federal poverty line;
- 16 (4) Provide staff support and technical assistance to the
17 statewide child care resource and referral network and local child
18 care resource and referral organizations;
- 19 (5) Maintain a statewide child care licensing data bank and work
20 with department licensors to provide information to local child care
21 resource and referral organizations about licensed child care
22 providers in the state;
- 23 (6) Through the statewide child care resource and referral
24 network and local resource and referral organizations, compile data
25 about local child care needs and availability for future planning and
26 development;
- 27 (7) Coordinate with the statewide child care resource and
28 referral network and local child care resource and referral
29 organizations for the provision of training and technical assistance
30 to child care providers;
- 31 (8) Collect and assemble information regarding the availability
32 of insurance and of federal and other child care funding to assist
33 state and local agencies, businesses, and other child care providers
34 in offering child care services;
- 35 (9) Subject to the availability of amounts appropriated for this
36 specific purpose, beginning September 1, 2013, increase the base rate
37 for all child care providers by ten percent;
- 38 (10) Subject to the availability of amounts appropriated for this
39 specific purpose, provide tiered subsidy rate enhancements to child
40 care providers if the provider meets the following requirements:

1 (a) The provider enrolls in quality rating and improvement system
2 levels 2, 3, 4, or 5;

3 (b) The provider is actively participating in the early achievers
4 program;

5 (c) The provider continues to advance towards level 5 of the
6 early achievers program; and

7 (d) The provider must complete level 2 within thirty months or
8 the reimbursement rate returns the level 1 rate; ((and))

9 (11) Require exempt providers to participate in continuing
10 education, if adequate funding is available; and

11 (12) Until July 1, 2019, the provisions of this section are
12 subject to section 1 of this act.

13 NEW SECTION. **Sec. 11.** This act expires July 1, 2019.

14 NEW SECTION. **Sec. 12.** This act is necessary for the immediate
15 preservation of the public peace, health, or safety, or support of
16 the state government and its existing public institutions, and takes
17 effect immediately.

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