

Board Action Summary

AGENDA ITEM

Summary of Recommended Board Action

ACTION: No Action Required: Briefing only

ISSUE: Overview of Needed changes to Central Background Registry Rules

The Early Learning Council is being asked to amend Central Background Registry rules to allow OCC to conduct FBI fingerprint checks in all circumstances required by law.

Rule changes are necessary as OCC can no longer access criminal information from other states without having fingerprint identification for all applicants. Oregon State Police (OSP) removed access to the multisource offender flag because a federal audit found that for OSP to be in compliance, any noncriminal justice agency having access to that flag, must provide a fingerprint card for the individual applying. The purpose of fingerprinting is that it provides a more certain identification.

Additionally, the new federal rules require us to conduct fingerprints on all applicants as a condition for receiving federal CCDBG funds.

Other Revisions based on statutory authority:

- ELD's current suitability factors for background checks no longer match OSP's suitability factors found in ORS 181A.195 as they were revised as a result of HB 3168. The intent of HB 3168 was to streamline background checks for residents. ORS 329A.030 (3) requires ELD to conduct checks under ORS 181A.195. The proposed language will bring the suitability factors back into alignment with the OSP suitability factors.
- Remove rule language flagged by Legislative Counsel to ensure that we are meeting statutory requirements related to information reviewed prior to enrolling individuals in the Central Background Registry. The current statute limits the history that ELD may consider for enrollment in the CBR to a criminal records check under ORS 181A.195 and an Oregon child welfare check. Legislative counsel advised that rule is overly broad, vague and in their opinion exceeds ELD's statutory authority. For example, the rules authorize ELD to consider any adult and disabled individuals abuse history. Legislative counsel has advised that this information is beyond ELD's current statutory authority, and cannot be enforced without a statutory change.

BACKGROUND: The Early Learning Division, Office of Child Care (OCC) administers the Central Background Registry (CBR) pursuant to ORS 329A.030. OCC conducts background checks on individuals associated with child care facilities. Subject individuals (defined below) may submit an application for enrollment in the CBR to OCC. OCC then conducts a criminal and child welfare (child abuse and neglect) background check on the applicant and determines whether the applicant is suitable for enrollment in the CBR. The enrollment period is two years at which time the individual must apply for renewal of their enrollment. OCC conducts a quarterly LEDS (Law Enforcement Data System) check of all enrollees in the CBR.

ACTION PRECEDING RECOMMENDED BOARD ADOPTION: The Child Care and Education Committee (CCEC), serving as the Council's Rules Advisory Committee, was briefed on needed rule language at its September 13 meeting.

Issues arising from the discussion included:

- Standardization of fingerprint capture services statewide
 - Access to fingerprinting capture services locations
 - Implications for culturally diverse communities and communities of color
 - Impact on out of state providers (for border cities)
- Costs to providers to meet fingerprint requirements

The CCEC will continue discussion of these and other issues and develop final rule recommendations for the Council.

BOARD MEMBER PRESENTING REPORT FOR ADOPTION: Bobbie Weber

CONTACT: Dawn Woods, Director, Office of Child Care, Kathleen Hynes, Legal Administrator