



## Early Learning Council

November 16, 2016

9:00am-1:00pm\*

Lincoln Building – Transformation Center

421 SW Oak St

Training Room, Suite 775

Portland, OR 97204

### Agenda

SUE MILLER  
*Early Learning Council  
Chair*

HARRIET ADAIR

MARTHA BROOKS

JANET  
DOUGHERTY- SMITH

KALI THORNE-LADD

DONALDA DODSON

CHARLES McGEE

SHAWNA RODRIGUES

EVA RIPPETEAU

LYNNE SAXTON

TERI THALHOFER

CLYDE SAIKI

BOBBIE WEBER

SALAM NOOR

DAVID MANDELL  
*Acting Early Learning  
System Director*

*Members of the public wanting to give public testimony must sign in.  
Each individual speaker or group spokesperson will have 2 minutes.  
Electronic testimony may be submitted to [Alyssa.Chatterjee@state.or.us](mailto:Alyssa.Chatterjee@state.or.us).*

- I. Board Welcome and Roll Call  
Sue Miller, Chair
- II. Chair's Report  
Sue Miller, Chair
  - a. **Consent Agenda – Action**  
Acknowledge Receipt of Committee Reports
- III. Director's Report  
David Mandell, Acting Early Learning System Director
- IV. Spark Introduction  
Karol Collymore, Public Affairs Director, ELD
- V. QRIS Revision Process  
Dawn Woods, Child Care Director, ELD  
Karol Collymore, Public Affairs Director, ELD  
David Mandell, Acting Early Learning System Director
- VI. Central Background Registry Rules – Final Reading  
Lisa Pinheiro, Early Learning Policy Analyst, ELD  
Bobbie Weber, Child Care and Education Committee Chair
- VII. Hub Monitoring Process  
Denise Swanson, Early Learning Hub Manager, ELD  
Sue Parrish, Hub Partnerships Manager, ELD
- VIII. Strategic Plan Update  
David Mandell, Acting Early Learning System Director  
Sue Miller, Chair
- IX. Public Testimony
- X. Adjournment

*\* Times are approximate. Items may be taken out of order, breaks may be added as needed and meeting may conclude early.*

*All meetings of the Early Learning Council are open to the public and will conform to Oregon public meetings laws. The upcoming meeting schedule and materials from past meetings are posted [online](#). A request for an interpreter for the hearing impaired or for accommodations for people with disabilities should be made to Alyssa Chatterjee at 971-701-1535 or by email at [Alyssa.Chatterjee@state.or.us](mailto:Alyssa.Chatterjee@state.or.us). Requests for accommodation should be made at least 48 hours in advance.*

## **Board Action Summary**

### **AGENDA ITEM: QRIS Revision Process**

#### **Summary of Recommended Board Action**

**ACTION:** No Action – Briefing on the QRIS Revision Process and timeline

#### **ISSUE:**

After completing extensive community engagement on the QRIS over the last two years, an ongoing process evaluation and a validation study of the QRIS standards, the Early Learning Division, under the guidance of the Early Learning Council, is ready to revise the QRIS standards and processes in order to better achieve these five goals:

1. Promote practices that promote positive culturally responsive child development, kindergarten readiness, professional development and strong family engagement
2. Provide guidance, supports and resources to early learning programs to promote positive child development and strong family engagement
3. Provide an opportunity for early learning programs to shine and demonstrate their strengths
4. Provide information to parents about early learning programs
5. Create a common framework for early learning programs that supports public investments in diverse settings and programs

#### **BACKGROUND:**

Oregon launched its Quality Rating and Improvement System (QRIS) for early care and education programs as part of its federal Race to the Top Early Learning Challenge Grant, and is now among forty-nine states that have similar initiatives. QRIS was developed with the above goals in mind.

Close to thirty community engagement sessions were conducted from March through September 2016 to hear from audiences familiar with the Quality Rating and Improvement System (QRIS) to inform the revision process. Questions for audiences focused on standards, supports/incentives, rating/process, monitoring, and consumer education. Target outreach was made to diverse groups of child care providers, early childhood program staff, child care resource and referral staff, child care licensing staff, health partners, and parents. An effort was made to include culturally specific engagement sessions, such as with African-American and Russian-speaking providers.

**BOARD MEMBER PRESENTING REPORT FOR ADOPTION:** David Mandell, Acting Early Learning System Director

**CONTACT:** Dawn Woods, Child Care Director, ELD



Early Learning Division | 775 Summer St NE, Suite 300, Salem, OR 97301

Phone: 503-373-0066 | Fax: 503-947-1955

**To:** Early Learning Council

**From:** Dawn Woods, Child Care Director; Karol Collymore, Public Affairs Director; David Mandell, Acting Early Learning System Director

**RE:** Process and timeline for revising QRIS standards

**Date:** November 10, 2016

## I. Introduction

Oregon launched its Quality Rating and Improvement System (QRIS) for early care and education programs as part of its federal Race to the Top Early Learning Challenge Grant, and is now among forty-nine states that have similar initiatives. QRIS was developed with multiple goals in mind:

1. Promote practices that promote positive culturally responsive child development, kindergarten readiness, professional development and strong family engagement
2. Provide guidance, supports and resources to early learning programs to promote positive child development and strong family engagement
3. Provide an opportunity for early learning programs to shine and demonstrate their strengths
4. Provide information to parents about early learning programs
5. Create a common framework for early learning programs that supports public investments in diverse settings and programs

After completing extensive community engagement on the QRIS over the last two years, an ongoing process evaluation and a validation study of the QRIS standards, the Early Learning Division, under the guidance of the Early Learning Council, is ready to revise the QRIS standards and processes in order to better achieve the five goals listed above. The purpose of this memo is to outline the revision process and timeline for the QRIS standards, including the role of the Early Learning Council in that work. The proposed timeline culminates with the Early Learning Council approving revised standards in June 2017. The memo also provides a brief overview of what was learned from the community engagement and shared with the Council at its July meeting, as well as some of the high-level findings from the validation study, which the Council will have an opportunity to dive into in more detail at its upcoming January meeting.

## II. What we've heard from the field: challenges & opportunities

Close to thirty community engagement sessions were conducted from March through September 2016 to hear from audiences familiar with the Quality Rating and Improvement System (QRIS) to inform the revision process. Questions for audiences focused on standards, supports/incentives, rating/process, monitoring, and consumer education. Target outreach was made to diverse groups of child care providers, early childhood program staff, child care resource and referral staff, child care licensing staff, health

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partners, and parents. An effort was made to include culturally specific engagement sessions, such as with African-American and Russian-speaking providers.

Early Learning Division staff have identified a number of consistent themes and input that will be used to streamline the process, strengthen the supports and revise the standards so they more effectively and efficiently document quality and guide program improvements. Some of the consistent points of feedback on the current standards include:

- Too many standards
- Need for streamlined and simplified language
- Need for more focus on cultural responsiveness throughout domains and standards
- Desire for the ability to get partial credits or points for the quality work
- Challenges in meeting personnel qualifications
- No opportunity to receive credit or points for experience

In addition to receiving feedback on the QRIS standards, the community forums also provided invaluable input on the QRIS application process. This input included:

- Materials ought to be written in plain language and available in more languages
- Quality Improvement Specialist supports are critical
- Provide feedback on the portfolio along the way
- Provide samples of submission
- Shorten the review process

### **III. What we've learned from the validation study**

The revision process will also build upon the information from the recently completed validation study. The Validation Study, conducted by a team of Oregon researchers, looked at a sample of 304 programs and used a validated measure of adult-child interactions in order to answer the following questions:

1. What is the quality of programs in the QRIS Validation Study, as indicated by CLASS scores and QRIS ratings?
2. How highly correlated are the QRIS domains and standards with one another?
3. How well do programs' QRIS ratings differentiate observed quality of adult-child interactions?
4. How do certain QRIS standards & indicators of interest relate to observed quality?
5. How well are other personnel measures associated with observed quality and final QRIS ratings?

The validation study provides information on the effectiveness of the original QRIS in predicting the quality of a program based on a measure of adult-child interactions. The findings were consistent with other national studies of quality rating systems. The study found that overall a QRIS rating is associated with more positive adult-child interactions, but found weaker relationships for individual tiers. Findings revealed links between some specific standards and adult-child interactions, and also identified other standards that were not linked with observed quality on the adult-child interaction measure. This information will be invaluable in honing in on the most meaningful portions of QRIS. While we are committed to revising the personnel qualifications and how they are aggregated across a program, the validation study did show them to be a significant predictor of adult-child interactions.



#### **IV. Preliminary recommendations for standards revision**

As described in more detail later in the memo, staff will be working with the Early Learning Council to revise the QRIS standards over the next eight months. Based on the feedback from the community engagement and the findings from the validation study, staff have identified the following as potential opportunities for revisions:

- a. Greatly reduce the number of standards, focusing on those with the most impact on positive child development and family engagement;
- b. Consider eliminating the Business Administration domain and consolidating Health and Safety under licensing and other domains;
- c. Ensure that cultural responsiveness is more meaningfully reflected across domains and across tiers;
- d. Revise personnel qualifications, streamline process for aggregating them across a program and provide opportunity to document and reward experience;
- e. Allow programs to receive partial or bonus credit by moving to a point or hybrid system (rather than the current “block” system where all standards must be fully met before moving to the next tier);
- f. Provide some differentiation of standards for programs serving different ages (e.g., infant-toddlers, after-school programs).

#### **V. Process & timeline for revising QRIS standards**

Staff will be developing a draft of principles to guide the QRIS revision process and take those to the Early Learning Council. Those principles will be taken to the Equity Implementation Committee and the Child Care Education Committee for input. After that input has been incorporated, the principles will be brought to the Early Learning Council for adoption.

Early Learning Division (ELD) and Western Oregon University (WOU) staff have already begun analyzing the current QRIS standards in light of the community input and identified potential areas for improvement. Based on the principles approved by the Early Learning Council, ELD staff will work directly with the team from WOU to develop draft language for revised standards. The revised standards will then be brought to the Early Learning Council for adoption.

ELD staff proposes the following timeline for the QRIS standards and revisions:

January, 2017	Draft principles for QRIS revision brought to the ELC
February, 2017	Draft principles brought to the Equity Implementation Committee and Child Care and Education Committee
March, 2017	ELC adopts principles for QRIS revision
April, 2017	Staff/WOU work team revise standards in accordance with principles
May, 2017	ELC briefed on revised standards
June, 2017	ELC adopts revised QRIS standards



## VI. QRIS rule-making

In addition to revising the QRIS standards, the Early Learning Council will need to promulgate rules for QRIS. Currently the Division does not have a set of rules covering QRIS. Because the rules need to cover the governance of QRIS, rather than the standards themselves, the rules can be developed concurrently with the revision of the standards. The Child Care and Education Committee, as with all other rule sets, will be advising the ELC on these rules.

Questions that the QRIS rules will address include, but are not limited to:

1. Entity responsible for final determination of QRIS standards
2. Entity responsible for final determination of QRIS rating for a program
3. Process for appealing a QRIS rating
4. Process for revoking a QRIS rating
5. Process for appealing a revocation of a QRIS rating
6. Role of licensing standards in QRIS
7. Process for programs governed by tribal governments to participate in QRIS

ELD staff have proposed the following timeline for the QRIS rule-making:

January, 2017	CCEC briefed on QRIS and need for rules
February, 2017	CCEC rule development work session
March, 2017	CCEC develops recommended rules ELC briefing on need for QRIS rules
April, 2017	CCEC final rule development work session ELC first reading of rules
May, 2017	ELC adopts QRIS rules

Staff will return to the Early Learning Council in January 2017 to begin establishing guiding principles for this revision process.



## **Board Action Summary**

### **AGENDA ITEM: Central Background Registry Rule First Reading**

#### **Summary of Recommended Board Action**

**ACTION:** No Action Required – Final Reading

**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 considered final proposed rule language on October 13, 2016 and recommends adoption of the proposed rule language presented to the Council. The Early Learning Council received a First Reading at the October 27, 2016 meeting.

**BOARD MEMBER PRESENTING REPORT FOR ADOPTION:** Bobbie Weber

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



## Early Learning Council – Administrative Rule Summary

**Title/OAR #:** Central Background Registry/414-061-0000 to 414-061-0120 **Date:** November 16, 2016  
**Staff/Office:** Dawn Woods, Child Care Director; Kathleen Hynes, Legal Administrator

☐ Temporary Rule      ☐ New Rule      ☒ Amend Existing Rule      ☐ Repeal Rule  
**Hearing Date:** \_\_\_\_\_ ☐ Hearings Officer Report Attached  
**Prompted by:** ☒ State law changes      ☒ Federal law changes      ☒ Other

**Action Requested:**

☐ Adoption of Temporary Rule  
☒ Adoption of Final Rule

### PROPOSED/AMENDED RULE RECOMMENDATION OPTIONS:

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.



**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.

#### **TIMELINE OF KEY ACTIVITIES & PUBLIC ENGAGEMENT:**

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.

The CCEC considered final proposed rule language on October 13, 2016 and recommends adoption of the proposed rule language presented to the Council.

Stakeholders were informed of the new fingerprinting requirements during public engagement sessions on development of the CCDF State Plan. Additional informational material, including an FAQ has been developed and distributed to providers.

#### **EQUITY ANALYSIS:**

- WHO ARE THE RACIAL/ETHNIC AND UNDERSERVED GROUPS AFFECTED? Low income child care providers and CBR applicants may not be able to pay the additional costs.
- DO THE PROPOSED RULES IGNORE OR WORSEN EXISTING DISPARITIES OR PRODUCE OTHER UNINTENDED CONSEQUENCES? The rules reflect federal mandates. May have greater financial impact on low income providers and applicants.
- WHAT IS THE IMPACT OF THE RULES ON ELIMINATING THE OPPORTUNITY GAP? No impact.
- WHAT ARE THE BARRIERS TO MORE EQUITABLE OUTCOMES? (E.G., MANDATED, POLITICAL, EMOTIONAL, FINANCIAL, PROGRAMMATIC OR MANAGERIAL). The rules reflect federal mandates.
- HOW HAVE YOU INTENTIONALLY INVOLVED STAKEHOLDERS WHO ARE ALSO MEMBERS OF THE COMMUNITIES AFFECTED? Stakeholders were informed of the new fingerprinting requirements during public engagement sessions on development of the CCDF State Plan. Additional informational material, including an FAQ has been developed and distributed to providers.
- HOW WILL YOU MODIFY OR ENHANCE STRATEGIES AND RULES TO ENSURE EACH LEARNER AND COMMUNITIES' INDIVIDUAL AND CULTURAL NEEDS ARE MET? The rules reflect federal mandates.

#### **ALIGNMENT WITH RULES PRINCIPLES:**

1. Standards and rules aim to ensure that children are in safe environments that promote healthy physical, social, emotional and cognitive development and support high quality interactions among families and providers.
2. Standards and rules support and encourage diversity and equity; promoting equal access, especially for children from targeted populations.



3. Standards and rules are based on research, knowledge of child development, and best practices.
4. Standards and rules provide a foundation for high quality early learning and licensing rules serve as the first step of Oregon's Quality Rating and Improvement System.
5. In conducting its responsibilities for rule promulgation and revision, ELC is moving beyond a culture of compliance to one of continuous improvement.
6. ELC believes parents and children are primary stakeholders for all of its rules and will actively engage families and other impacted persons and organizations in rule promulgation and/or revision to ensure community/cultural norms are taken into consideration/reflected in rule.
7. ELC will aim for consistency across sets of rules over which it has authority, and will align rules with broader state goals and those of related agencies to the extent possible.

#### **ISSUES/CONCERNS THAT SURFACED DURING RULE WORK:**

- 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

#### **FISCAL IMPACT:**

The increased cost of background checks due to the federally mandated fingerprint check will impact applicants and child care facilities. The ELD has identified funds to temporarily mitigate the additional costs to child care providers and facilities. The cost of a background check will increase from \$3.00 to 35.00 for the period January 1, 2017 through June 30, 2017. After that time, the fee may increase to cover the actual cost of the background check.

#### **STAFF RECOMMENDATION:**

- ☐ Adopt Temporary administrative rule
- ☒ Adopt Final administrative rule
- ☐ Repeal Rule
- ☐ No recommendation at this time

Comments:



## Definitions

(1) "Agency Agreement" means the written agreement between the Oregon State Police and the Oregon Office of Child Care.

(2) "Child Protective Services Records" means information on child abuse and neglect cases.

**(3) "Child Protective Services Records Check" means obtaining and reviewing child protective services reports and records as required or permitted by these rules.**

| ~~(34)~~ "Computerized Criminal History (CCH) System" means the on-line computer files of significant criminal offender information maintained by the Oregon State Police (OSP).

| ~~(45)~~ "Conditional Enrollment" means temporary approval to be enrolled in the Central Background Registry following an OSP criminal records check and child protective services records check but prior to receipt by OCC of the results of a required FBI criminal records check.

| ~~(56)~~ "Criminal Records" means information, including fingerprints and photographs, received, compiled, and disseminated by the Oregon State Police for purposes of identifying criminal offenders and alleged offenders and maintained as to such persons' records of arrest, the nature and disposition of criminal charges, sentencing, confinement, and release and includes the OSP Computerized Criminal History System.

**(7) "Criminal Records Check" means obtaining and reviewing criminal records as required or permitted by these rules and includes any or all of the following;**

**(a) A check of Oregon criminal offender information and driving records conducted through use of the Law Enforcement Data System (LEDS) maintained by OSP, in accordance with the rules adopted and procedures established by OSP;**

**(b) A check of Oregon criminal offender information, including through fingerprint identification or other means, conducted by OSP at the authorized agency or district's request; or**

**(c) A nationwide check of federal criminal offender information, including through fingerprint identification, conducted by OSP through the Federal Bureau of Investigation (FBI).**

| ~~(68)~~ "Early Childhood Care and Education Program" means a regulated child care facility, federally-funded Head Start program, Oregon Department of Education funded pre-kindergarten program, parent-as-teacher program, or early childhood special education/early intervention program.

| ~~(79)~~ "Employee" means any individual caring for, overseeing, or who has or may have access to children, who holds a paid position in a requesting agency.

| ~~(810)~~ "Employee of the Early Learning Division" means any individual employed by the Early Learning Division.

| ~~(911)~~ "Enrollment" means approval for a two-year period to be enrolled in the Central Background Registry following an OSP criminal records check, child protective services records check and, if required, an FBI records check.

| ~~(4012)~~ "Fee" means the charges assessed by the subject individual for processing each criminal records check and/or fingerprint-based criminal records check.

| ~~(4413)~~ "FBI" means the Federal Bureau of Investigation.

| ~~(4214)~~ "Fingerprint-Based Criminal Records" means criminal offender information compiled and maintained by the Federal Bureau of Investigation.

| ~~(4315)~~ "Incident" means the commission of a Category I or Category II crime or a child protective services case.

| ~~(4415)~~ "OCC" means the Office of Child Care of the Early Learning Division of the Department of Education.

| ~~(4516)~~ "OSP" means the Oregon State Police.

| ~~(4617)~~ "Reciprocal Agreement Program" includes:

(a) A metropolitan service district organized under ORS chapter 268; and

(b) A private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.

| ~~(4718)~~ "Requesting Agency" means a childhood care and education program or individual providing care to children that is:

(a) Regulated by OCC under ORS 329A.280 or 329A.330; or

(b) An early childhood care and education program.

| ~~(4819)~~ "Unsupervised Contact with Children" means contact with children that provides the person opportunity for personal communication or touch when not under the direct supervision of a child care provider or staff with supervisory authority.

[Publications: Publications referenced are available from the agency.]

414-061-0040

### **Limitations of Inquiries**

(1) Only OCC employees who have been fingerprinted and cleared by the Oregon State Police shall access or have access to criminal records information pursuant to a valid agency agreement, as defined in OAR 414-061-0020(1). All such information shall be handled in compliance with the agency agreement and rules and procedures of the Oregon State Police relating to the criminal records information (OAR 257-015-0000 to 257-015-0100). It is the responsibility of OCC to assure strict compliance with federal and state laws, rules, and procedures regarding, access, dissemination, maintenance, and destruction of criminal records information.

(2) Criminal records information obtained from OSP and/or the FBI will not be used for any purpose other than that for which it was obtained nor given to unauthorized persons or agencies.

(3) Criminal records information, including fingerprint-based criminal records information, and child protective services information shall be obtained by OCC to determine whether a subject individual has criminal [information-history](#) or has child protective services history which is related to enrollment in the Central Background Registry.

(4) If a subject individual has been convicted of a crime which is related to enrollment in the Central Background Registry, the subject individual will be notified by OCC that he or she:

(a) Has a right to inspect and challenge the accuracy of his/her Oregon criminal records by contacting the Oregon State Police;

(b) May challenge the accuracy or completeness of any entry on the subject individual's criminal records provided by the FBI by filing a challenge with the FBI's CJIS Division.; and

~~(c) May inspect his/her own OSP record, but not his/her FBI record, by requesting the opportunity from OCC in writing.~~

414-061-0050

### **History to be Considered**

(1) OCC has determined that serious felonies and misdemeanors involving violence or unauthorized sexual conduct, especially with children or otherwise vulnerable persons, is fundamentally inconsistent with any responsibility for care of children. Conviction of crimes listed in Category I of this rule shall disqualify a subject individual from being enrolled in the Central Background Registry, unless the subject individual provides sufficient evidence of suitability as described in section (10) of this rule.

(a) OCC will consider conviction of the following crimes for 15 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 15 years will run from the date of arrest, citation, charge, or conviction whichever is later.

- (A) 163.165 Assault in the third degree.
- (B) 163.515 Bigamy.
- (C) 164.225 Burglary in the first degree.
- (D) 163.275 Coercion.
- (E) 163.200 Criminal mistreatment in the second degree.
- (F) 163.555 Criminal nonsupport.
- (G) 163.225 Kidnapping in the second degree.
- (H) 166.270 Possession of weapons by certain felons.
- (I) 166.720 Racketeering activity unlawful; penalties.
- (J) 164.405 Robbery in the second degree.
- (K) 164.395 Robbery in the third degree.
- (L) 163.445 Sexual misconduct.
- (M) 163.732 Stalking.
- (N) 162.185 Supplying contraband.
- (O) 166.220 Unlawful use of weapon.
- (P) 163.257 Custodial interference in the first degree.

(b) OCC will consider conviction of the following crimes for 20 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 20 years will run from the date of arrest, citation, charge, or conviction whichever is later.

- (A) 166.087 Abuse of corpse in the first degree.
- (B) 166.085 Abuse of corpse in the second degree.
- (C) 167.262 Use of minor in controlled substance offense.
- (D) 164.325 Arson in the first degree.
- (E) 163.185 Assault in the first degree.



- (F) 163.175 Assault in the second degree.
- (G) 475.908 Causing another person to ingest a controlled substance.
- (H) 167.017 Compelling prostitution.
- (I) 163.205 Criminal mistreatment in the first degree.
- (J) 163.145 Criminally negligent homicide.
- (K) 162.165 Escape in the first degree.
- (L) 163.693 Failure to report child pornography.
- (M) 181.812 Failure to report as sex offender; defense.
- (N) 166.429 Firearms used in felony.
- (O) 163.525 Incest.
- (P) 166.165 Intimidation in the first degree.
- (Q) 166.155 Intimidation in the second degree.
- (R) 163.235 Kidnapping in the first degree.
- (S) 163.118 Manslaughter in the first degree.
- (T) 163.125 Manslaughter in the second degree.
- (U) 166.382 Possession of destructive device prohibited; exceptions.
- (V) 166.275 Possession of weapons by inmates of institutions.
- (W) 167.012 Promoting prostitution.
- (X) 167.090 Publicly displaying nudity or sex for advertising purposes.
- (Y) 163.355 Rape in the third degree.
- (Z) 164.415 Robbery in the first degree.
- (AA) 167.062 Sadomasochistic abuse or sexual conduct in live show.
- (BB) 167.212 Tampering with drug records.
- (CC) 164.075 Theft by extortion.
- (DD) 163.479 Unlawful contact with a child.

- (EE) 166.384 Unlawful manufacture of destructive device.
- (FF) 166.660 Unlawful paramilitary activity.
- (GG) 166.272 Unlawful possession of machine guns, certain short-barreled firearms and firearms silencers.
- (HH) 163.212 Unlawful use of an electrical stun gun, tear gas or mace in the second degree.
- (II) 163.476 Unlawfully being in a location where children regularly congregate.
- (c) OCC will consider the following crimes regardless of the length of time since the conviction.
  - (A) 163.535 Abandonment of a child.
  - (B) 163.095 “Aggravated murder” defined.
  - (C) 163.149 Aggravated vehicular homicide.
  - (D) 163.537 Buying or selling a person under 18 years of age.
  - (E) 163.547 Child neglect in the first degree.
  - (F) 163.545 Child neglect in the second degree.
  - (G) 167.820 Concealing the birth of an infant.
  - (H) 163.435 Contributing to the sexual delinquency of a minor.
  - (I) 163.005 Criminal homicide.
  - (J) 163.452 Custodial sexual misconduct in the first degree.
  - (K) 163.454 Custodial sexual misconduct in the second degree.
  - (L) 167.080 Displaying obscene materials to minors.
  - (M) 163.684 Encouraging child sexual abuse in the first degree.
  - (N) 163.686 Encouraging child sexual abuse in the second degree.
  - (O) 163.687 Encouraging child sexual abuse in the third degree.
  - (P) 163.575 Endangering the welfare of a minor.
  - (Q) 167.075 Exhibiting an obscene performance to a minor.
  - (R) 163.207 Female genital mutilation.

- (S) 167.057 Luring a minor.
- (T) 163.115 Murder; affirmative defense to certain felony murders; sentence of life imprisonment required; minimum term.
- (U) 163.433 Online sexual corruption of a child in the first degree.
- (V) 163.432 Online sexual corruption of a child in the second degree.
- (W) 166.370 Possession of firearm or dangerous weapon in public building or court facility exception; discharging a firearm in a school.
- (X) 163.688 Possession of materials depicting sexually explicit conduct of a child in the first degree.
- (Y) 163.689 Possession of materials depicting sexually explicit conduct of a child in the second degree.
- (Z) 163.375 Rape in the first degree.
- (AA) 163.365 Rape in the second degree.
- (BB) 163.427 Sexual abuse in the first degree.
- (CC) 163.425 Sexual abuse in the second degree.
- (DD) 163.415 Sexual abuse in the third degree.
- (EE) 167.333 Sexual assault of an animal.
- (FF) 163.405 Sodomy in the first degree.
- (GG) 163.395 Sodomy in the second degree.
- (HH) 163.385 Sodomy in the third degree.
- (II) 433.010 Spreading disease prohibited; health certificates to be issued by physicians; rules.
- (JJ) 163.187 Strangulation.
- (KK) 163.264 Subjecting another person to involuntary servitude in the first degree.
- (LL) 163.263 Subjecting another person to involuntary servitude in the second degree.
- (MM) 163.266 Trafficking in persons.
- (NN) 163.670 Using child in display of sexually explicit conduct.
- (OO) 163.411 Unlawful sexual penetration in the first degree.

(PP) 163.408 Unlawful sexual penetration in the second degree.

(QQ) 163.213 Unlawful use of an electrical stun gun, tear gas or mace in the first degree.

(2) OCC has further determined that felonies and misdemeanors involving theft, fraud, or deception, crimes against the state and public justice, and major traffic violations may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual was convicted of a crime listed in Category II of this rule, OCC will seek to obtain and review information on all intervening circumstances and other background information related to criminal activity, subject to section (10) of this rule. OCC will make a determination whether an individual is suitable for enrollment in the Central Background Registry based on all information available.

(a) OCC will consider conviction of the following crimes for 5 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 5 years will run from the date of arrest, citation, charge, or conviction whichever is later.

(A) 162.015 Bribe giving.

(B) 162.025 Bribe receiving.

(C) 162.275 Bribe receiving by a witness.

(D) 162.265 Bribing a witness.

(E) 162.335 Compounding.

(F) 811.182 Criminal driving while suspended or revoked; penalties.

(G) 164.354 Criminal mischief in the second degree.

(H) 192.865 Criminal penalty (192.852 Prohibition on obtaining actual address or telephone number; prohibition on disclosure by employee of public body).

(I) 165.022 Criminal possession of a forged instrument in the first degree.

(J) 165.017 Criminal possession of a forged instrument in the second degree.

(K) 165.032 Criminal possession of a forgery device.

(L) 164.245 Criminal trespass in the second degree.

(M) 166.025 Disorderly conduct in the second degree.

(N) 830.475 Duties of operators and witnesses at accidents (failure to perform the duties of an operator of a boat).

- (O) 162.145 Escape in the third degree.
- (P) 162.205 Failure to appear in the first degree.
- (Q) 162.195 Failure to appear in the second degree.
- (R) 811.705 Failure to perform duties of driver to injured persons; penalty (hit and run, injury).
- (S) 811.700 Failure to perform duties of driver when property is damaged; penalty (hit and run, property).
- (T) 165.007 Forgery in the second degree.
- (U) 418.630 Foster home must be certified as approved.
- (V) 165.570 Improper use of emergency reporting system.
- (W) 162.375 Initiating a false report.
- (X) 165.572 Interference with making a report.
- (Y) 162.257 Interfering with a firefighter or emergency medical services provider.
- (Z) 162.247 Interfering with a peace officer or parole and probation officer.
- (AA) 166.116 Interfering with public transportation.
- (BB) 418.327 Licensing of certain schools and organizations offering residential programs; fees; rules.
- (CC) 166.095 Misconduct with emergency telephone calls.
- (DD) 162.425 Misuse of confidential information.
- (EE) 166.450 Obliteration or change of identification number on firearms.
- (FF) 162.235 Obstructing governmental or judicial administration.
- (GG) 162.415 Official misconduct in the first degree.
- (HH) 162.405 Official misconduct in the second degree.
- (II) 830.325 Operating boat while under the influence of intoxicating liquor or controlled substance.
- (JJ) 167.431 Participation in cockfighting.
- (KK) 167.370 Participation in dogfighting.

(LL) 162.065 Perjury.

(MM) 165.070 Possessing fraudulent communications device.

(NN) 164.235 Possession of a burglary tool or theft device.

(OO) 164.335 Reckless burning.

(PP) 811.140 Reckless driving; penalty.

(QQ) 811.231 Reckless endangerment of highway workers; penalties.

(RR) 830.315 Reckless operation; speed (boat).

(SS) 162.315 Resisting arrest.

(TT) 165.090 Sports bribe receiving.

(UU) 165.085 Sports bribery.

(VV) 411.675 Submitting wrongful claim for payment of public assistance or medical assistance.

(WW) 162.295 Tampering with physical evidence.

(XX) 162.305 Tampering with public records.

(YY) 164.045 Theft in the second degree.

(ZZ) 166.649 Throwing an object off an overpass in the second degree.

(AAA) 033.045 Types of sanctions (Contempt of Court).

(BBB) 162.175 Unauthorized departure.

(CCC) 165.074 Unlawful factoring of payment card transaction.

(DDD) 165.810 Unlawful possession of a personal identification device.

(EEE) 165.813 Unlawful possession of fictitious identification.

(FFF) 411.840 Unlawfully obtaining or disposing of supplemental nutrition assistance.

(GGG) 411.630 Unlawfully obtaining public assistance or medical assistance.

(HHH) 811.060 Vehicular assault of bicyclist or pedestrian; penalty.

(III) 163.750 Violating a court's stalking protective order.

(b) OCC will consider conviction of the following crimes for 7 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 7 years will run from the date of arrest, citation, charge, or conviction whichever is later.

- (A) 163.196 Aggravate driving while suspended or revoked.
- (B) 167.340 Animal abandonment.
- (C) 167.330 Animal neglect in the first degree.
- (D) 167.325 Animal neglect in the second degree.
- (E) 166.240 Carrying of concealed weapons.
- (F) 164.365 Criminal mischief in the first degree.
- (G) 166.023 Disorderly conduct in the first degree.
- (H) 813.010 Driving under the influence of intoxicants; penalty.
- (I) 314.075 Evading requirements of law prohibited (tax evasion).
- (J) 475.918 Falsifying drug test results.
- (K) 811.540 Fleeing or attempting to elude police officer; penalty.
- (L) 166.065 Harassment.
- (M) 609.098 Maintaining dangerous dog.
- (N) 830.325 Operating boat while under influence of intoxicating liquor or controlled substance.
- (O) 163.195 Recklessly endangering another person.
- (P) 162.285 Tampering with a witness.
- (Q) 166.090 Telephonic harassment.
- (R) 166.651 Throwing an object off an overpass in the first degree.
- (S) 164.135 Unauthorized use of a vehicle.
- (T) 166.250 Unlawful possession of firearms.
- (U) 167.808 Unlawful possession of inhalants.
- (V) 133.310 Authority of peace officer to arrest without warrant (Violation of restraining order).

(c) OCC will consider conviction of the following crimes for 10 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 10 years will run from the date of arrest, citation, charge, or conviction whichever is later.

- (A) 165.803 Aggravated identity theft.
- (B) 167.315 Animal abuse in the second degree.
- (C) 164.215 Burglary in the second degree.
- (D) 165.581 Cellular counterfeiting in the first degree.
- (E) 167.428 Cockfighting.
- (F) 164.377 Computer crime.
- (G) 162.365 Criminal impersonation.
- (H) 162.367 Criminal impersonation of peace officer.
- (I) 164.138 Criminal possession of a rented or leased motor vehicle.
- (J) 164.255 Criminal trespass in the first degree.
- (K) 164.265 Criminal trespass while in possession of a firearm.
- (L) 163.245 Custodial interference in the second degree.
- (M) 167.365 Dogfighting.
- (N) 165.013 Forgery in the first degree.
- (O) 165.055 Fraudulent use of a credit card.
- (P) 165.800 Identity theft.
- (Q) 167.355 Involvement in animal fighting.
- (R) 166.470 Limitations and conditions for sales of firearms.
- (S) 164.162 Mail theft or receipt of stolen mail.
- (T) 163.190 Menacing.
- (U) 164.098 Organized retail theft.
- (V) 166.190 Pointing firearm at another; courts having jurisdiction over offense.
- (W) 819.300 Possession of a stolen vehicle; penalty.



- (X) 162.369 Possession of false law enforcement identification card.
- (Y) 163.467 Private indecency.
- (Z) 685.990 Penalties (pertaining to naturopathic medicine).
- (AA) 677.080 Prohibited acts (regarding the practice of medicine).
- (BB) 471.410 Providing liquor to person under 21 or to intoxicated person; allowing consumption by minor on property; mandatory minimum penalties.
- (CC) 689.527 Prohibited practices; rules (pertaining to pharmacy technicians and practitioners).
- (DD) 166.480 Sale or gift of explosives to children.
- (EE) 164.085 Theft by deception.
- (FF) 164.095 Theft by receiving.
- (GG) 164.055 Theft in the first degree.
- (HH) 164.125 Theft of services.
- (II) 164.272 Unlawful entry into a motor vehicle.
- (d) OCC will consider conviction of the following crimes for 15 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 15 years will run from the date of arrest, citation, charge, or conviction whichever is later.
- (A) 167.322 Aggravated animal abuse in the first degree.
- (B) 166.070 Aggravated harassment.
- (C) 164.057 Aggravated theft in the first degree.
- (D) 167.320 Animal abuse in the first degree.
- (E) 164.315 Arson in the second degree.
- (F) 163.160 Assault in the fourth degree.
- (G) 163.208 Assaulting a public safety officer.
- (H) 167.339 Assaulting a law enforcement animal.
- (I) 475.900 Crime category classification; proof of commercial drug offense.
- (J) 475.962 Distribution of equipment, solvent, reagent, or precursor substance with intent to facilitate manufacture of controlled substance.

- (K) 164.172 Engaging in a financial transaction in property derived from unlawful activity.
- (L) 162.155 Escape in the second degree.
- (M) 475.955 Failure to report missing precursor substances.
- (N) 475.950 Failure to report precursor substance transaction.
- (O) 167.222 Frequenting a place where controlled substances are used.
- (P) 162.325 Hindering prosecution.
- (Q) 475.960 Illegally selling drug equipment.
- (R) 167.352 Interfering with an assistance, a search and rescue or a therapy animal.
- (S) 167.337 Interfering with law enforcement animal.
- (T) 163.700 Invasion of personal privacy.
- (U) 164.170 Laundering a monetary instrument.
- (V) 165.117 Metal property transaction records; prohibited conduct; commercial sellers; penalties.
- (W) 166.180 Negligently wounding another.
- (X) 475.967 Possession of precursor substance with intent to manufacture controlled substance.
- (Y) 475.977 Possession or disposing of methamphetamine manufacturing waste.
- (Z) 475.914 Prohibited acts for registrants; penalties.
- (AA) 475.752 Prohibited acts generally; penalties; affirmative defense for certain peyote uses; causing death by Schedule IV substance.
- (BB) 475.916 Prohibited acts involving records and fraud; penalties.
- (CC) 167.007 Prostitution.
- (DD) 475.965 Providing false information on precursor substance report or record.
- (EE) 163.465 Public indecency.
- (FF) 166.015 Riot.
- (GG) 475.525 Sale of drug paraphernalia prohibited; definition of drug paraphernalia; exceptions.

(HH) 166.005 Treason.

(II) 475.870 Unlawful delivery of 3,4-methylenedioxymethamphetamine.

(JJ) 475.880 Unlawful delivery of cocaine.

(KK) 475.850 Unlawful delivery of heroin.

(LL) 475.810 Unlawful delivery of hydrocodone.

(MM) 475.912 Unlawful delivery of imitation controlled substance.

(NN) 475.860 Unlawful delivery of marijuana.

(OO) 475.820 Unlawful delivery of methadone.

(PP) 475.890 Unlawful delivery of methamphetamine.

(QQ) 475.830 Unlawful delivery of oxycodone.

(RR) 475.866 Unlawful manufacture of 3,4-methylenedioxymethamphetamine.

(SS) 475.876 Unlawful manufacture of cocaine.

(TT) 475.846 Unlawful manufacture of heroin.

(UU) 475.806 Unlawful manufacture of hydrocodone.

(VV) 475.856 Unlawful manufacture of marijuana.

(WW) 475.816 Unlawful manufacture of methadone.

(XX) 475.886 Unlawful manufacture of methamphetamine.

(YY) 475.826 Unlawful manufacture of oxycodone.

(ZZ) 475.814 Unlawful possession of hydrocodone.

(AAA) 475.824 Unlawful possession of methadone.

(BBB) 475.834 Unlawful possession of oxycodone.

(CCC) 475.874 Unlawful possession of 3,4-methylenedioxymethamphetamine.

(DDD) 475.971 Unlawful possession of anhydrous ammonia.

(EEE) 475.884 Unlawful possession of cocaine.

(FFF) 475.854 Unlawful possession of heroin.

(GGG) 475.975 Unlawful possession of iodine in its elemental form; recording transfers; unlawful distribution of iodine in its elemental form.

(HHH) 475.976 Unlawful possession of iodine matrix; recording transfers; unlawful distribution of iodine matrix.

(III) 475.979 Unlawful possession of lithium metal or sodium metal.

(JJJ) 475.864 Unlawful possession of marijuana or marijuana product.

(KKK) 475.894 Unlawful possession of methamphetamine.

(LLL) 475.969 Unlawful possession of phosphorus.

(e) OCC will consider conviction of the following crimes for 20 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 20 years will run from the date of arrest, citation, or conviction whichever is later.

(A) 475.910 Application of controlled substance to the body of another person; prohibition.

(B) 475.906 Penalties for unlawful delivery to minors.

(C) 475.744 Providing hypodermic device to minor prohibited; exception.

(D) 463.263 Subjecting another person to involuntary servitude in the second degree.

(E) 475.872 Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school.

(F) 475.882 Unlawful delivery of cocaine within 1,000 feet of school.

(G) 475.852 Unlawful delivery of heroin within 1,000 feet of school.

(H) 475.812 Unlawful delivery of hydrocodone within 1,000 feet of school.

(I) 475.862 Unlawful delivery of marijuana within 1,000 feet of school.

(J) 475.822 Unlawful delivery of methadone within 1,000 feet of school.

(K) 475.892 Unlawful delivery of methamphetamine within 1,000 feet of school.

(L) 475.832 Unlawful delivery of oxycodone within 1,000 feet of school.

(M) 475.868 Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school.

(N) 475.878 Unlawful manufacture of cocaine within 1,000 feet of school.

- (O) 475.848 Unlawful manufacture of heroin within 1,000 feet of school.
  - (P) 475.808 Unlawful manufacture of hydrocodone within 1,000 feet of school.
  - (Q) 475.858 Unlawful manufacture of marijuana within 1,000 feet of school.
  - (R) 475.818 Unlawful manufacture of methadone within 1,000 feet of school.
  - (S) 475.888 Unlawful manufacture of methamphetamine within 1,000 feet of school.
  - (T) 475.828 Unlawful manufacture of oxycodone within 1,000 feet of school.
  - (U) 475.904 Unlawful manufacture or delivery of controlled substance within 1,000 feet of school.
- (3) These rules also apply to:
- (a) A conviction of a crime in another jurisdiction which is the substantial equivalent of a crime listed in Category I and II;
  - (b) An adjudication of guilt by reason of insanity, of an act that is the substantial equivalent of a crime listed in Category I and II;
  - (c) An adjudication by a juvenile court that a youth has committed an act that is the substantial equivalent of a crime listed in Category I and II;
  - (d) Any attempts, conspiracies or solicitations to commit any Felony or Misdemeanor crime listed in Category I and II;
  - (e) A new crime, adopted by the legislature following the most recent amendment of these rules, which is the substantial equivalent of any crimes listed in Category I and II;
  - (f) Any crime that is no longer codified in Oregon, but which is the substantial equivalent of any of the crimes listed in Category I and II;
  - (g) Any felony in Oregon Revised Statutes not listed in Category I and II that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by OCC;
  - (h) Any misdemeanor in Oregon Revised Statutes not listed in Category I and II that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by OCC; and
  - (i) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(4) OCC has determined that a ~~negative history involving a vulnerable population~~ **child protective services history** may substantially jeopardize the safety of children and is inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual has a child protective services history ~~or a negative history involving other populations~~, OCC will seek to obtain and review information related to the history, **including information from the subject individual**, subject to section (10) of this rule. Based on this information, OCC will make a decision whether or not to enroll, suspend or remove the subject individual in or from the Central Background Registry.

~~(5) The OCC has determined that firearm prohibition orders or guilt by the exception of insanity, may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual has an active firearm prohibition order or guilty by the exception of insanity, OCC will seek to obtain and review information related to the case, subject to section (10) of this rule. Based on this information, OCC will make a decision whether or not to enroll, suspend, or remove the subject individual in or from the Central Background Registry.~~

~~(6) If OCC determines a subject individual who has demonstrated behavior that may have a detrimental effect on a child or indicates behavior that may jeopardize the safety of a child, OCC will make a decision whether or not to enroll, suspend, or remove the subject individual in or from the Central Background Registry.~~

(7) If OCC determines a subject individual is a registered sex offender in Oregon or any other jurisdiction, OCC will make a decision whether or not to enroll, suspend, or remove the subject individual in or from the Central Background Registry.

(8) If a subject individual is in a diversion program or similar agreement for any Category I or Category II crime, the subject individual must provide written documentation of compliance with the terms of diversion or similar agreement. Based on all information obtained, OCC will make a decision whether or not to enroll, suspend or remove the subject individual in or from the Central Background Registry.

(9) If OCC determines that additional information is needed to assess a person's suitability to be enrolled or remain enrolled in the Central Background Registry, the subject individual shall provide the requested information within the required timeframes. The additional information may include, but is not limited to, an evaluation or assessment by a physician, counselor or other qualified person, documents to determine positive identification of the subject individual, and court documents.

(10) Factors to be considered in determining suitability, based on information available to OCC and information provided by the subject individual, include:

~~(a) Types and number of incidences;~~ The nature of the child protective services or criminal history;

~~(b) Passage of time since the incident occurred;~~ The facts that support the child protective services or criminal history or that indicate the making of a false statement;

~~(c) Circumstances surrounding the incident;~~ The relevancy of the child protective services history, criminal history, or false statement to the individual's enrollment in the Central Background Registry; and

~~(d) Intervening circumstances since the occurrence of the incident; and~~ Intervening circumstances relevant to the individual's enrollment in the Central Background Registry, including but not limited to:

(i) The passage of time since the child protective services or criminal history;

(ii) The age of the individual at the time of the child protective services or criminal history;

(iii) The likelihood of repetition of the incident or the commission of another crime;

(iv) The existence of subsequent child protective services or criminal history;

(v) The recommendation of an employer, if provided;

(vi) For criminal history, whether the conviction was set aside or overturned and the legal effect of that setting aside or overturning; and

(vii) For child protective services history, whether the subject individual has had an opportunity to contest the abuse finding through the Department of Human Services and, if so, the status of any such challenge.

~~(e) Relationship of the facts under subsections (a) through (d) of this section to the individual's suitability to work with children.~~

(11) OCC will not bar from enrollment in the Central Background Registry any subject individual because of the existence or contents of a juvenile record that has been expunged by the court.

[ED. NOTE: Table referenced are available from the agency.]

**414-061-0100**

**CCD Office of Child Care Denial Procedures**

(1) A subject individual shall be denied enrollment in the Central Background Registry if the individual:

- (a) Has been determined not suitable;
- (b) Has misrepresented information or failed to submit requested information or documentation;
- (c) Has been charged with, arrested for, or a warrant for a Category I or Category II crime with final disposition not yet reached;
- (d) Has an open protective services or law enforcement case with final disposition not yet reached; or
- (e) Is in a diversion program or similar agreement and has failed to provide written documentation of compliance with the terms of diversion or the agreement.

(2) A subject individual may appeal OCC's determination not to enroll the subject individual in the Central Background Registry, pursuant to OAR 414-061-0120.

(3) A subject individual who has been denied enrollment in the Central Background Registry due to a determination of unsuitability shall not be eligible for enrollment in the Registry for 3 years from the date of denial.

#### **414-061-0110**

##### **OCC Removal Procedures**

(1) An individual enrolled in the Central Background Registry shall be removed or suspended from the Registry by OCC if, during the period of enrollment, the individual;

- (a) Has been determined not suitable for enrollment in the Registry;
- (b) Has misrepresented information or failed to submit requested information or documentation;
- ~~(c) Has been charged with, arrested for, or a warrant for a Category I or Category II crime with final disposition not yet reached;~~
- ~~(d) Has a founded protective services case or an open protective services or law enforcement case with final disposition not yet reached; or~~
- (e) Is in a diversion program or similar agreement and has failed to provide written documentation of compliance with the terms of diversion or the agreement.

(2) OCC may immediately, and without prior hearing, remove or suspend a subject individual from the Central Background Registry when, in the opinion of OCC, such action is necessary to



protect children from physical or mental abuse or a substantial threat to health and safety. Such action may be taken before an investigation is completed.

(3) OCC may reinstate a subject individual in the Central Background Registry if the condition(s) that resulted in the suspension is corrected.

(4) When a subject individual is removed or suspended from the Central Background Registry, OCC will notify the subject individual and the requesting agencies which have inquired about the subject individual's enrollment of the removal or suspension.

(5) A subject individual who has been removed from the Central Background Registry and has not subsequently been re-enrolled shall not be eligible for enrollment in the Registry for 3 years from the date of removal.

#### **414-061-0120**

#### **Rights for Review and Contested Case Hearings**

(1) OCC shall afford subject individuals the right to appeal a decision made by OCC that the subject individual is denied, suspended, or removed from enrollment from the Central Background Registry through a contested case hearing pursuant to ORS 183.413 through 183.470. Subject individuals must submit a request for a contested case hearing in writing ~~in a timely manner.~~

(2) ~~OCC has no jurisdiction in a contested case hearing over allegations that the criminal records information received from OSP or the FBI or child protective services information received from the Department of Human Services is inaccurate, incomplete or maintained in violation of any federal or state law. Therefore, a contested case hearing cannot be held by OCC for that purpose. Challenges to the accuracy or completeness of the information provided by the Department of State Police, the FBI and agencies reporting information to OCC must be made through those departments, bureaus or agencies and not through the contested case process.~~ **OCC does not have authority to change decisions, records, or information from other agencies.**

(3) OCC is entitled to rely on the criminal records information **or the child protective services information until notified that the information has been changed or corrected in a manner that would alter the OCC decision.** ~~supplied by OSP or the FBI or child protective services information supplied by the Department of Human Services until OSP, the FBI, or the Department of Human Services notifies OCC that information has been changed or corrected in a manner that would alter the OCC decision. If a subject individual has requested a contested case hearing, OCC will stay the hearing until the subject individual has been afforded a reasonable time to correct or complete the record or has declined to do so.~~

(4) To preserve the confidentiality of the records and the privacy of the subject individual, any contested case hearing will not be open to the public unless requested by the subject individual.

(5) A subject individual who is also an employee of the licensing unit of OCC and who is determined unsuitable for enrollment in the Central Background Registry may appeal the determination through either the contested case process or applicable personnel rules, policies and collective bargaining provisions. A subject individual's decision to appeal a determination through personnel rules, policies and collective bargaining provisions shall constitute an election of remedies as to the rights of the subject individual with respect to the disqualification determination and shall constitute waiver of the contested case process.