



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

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

To: Early Learning Council
Child Care and Education Committee

From: Lisa Pinheiro, Early Learning Policy Specialist
Kelli Walker, Child Care Policy Manager

RE: Regulated Subsidy Provider Administrative Rules

Date: June 13, 2016

In May, the Council held its “first reading” of the Regulated Subsidy Provider proposed administrative rules as submitted by the Child Care and Education Committee (CCEC). The CCEC had identified a number of specific issues to bring to the Council for further discussion and direction. The issue areas, Council direction, and recommendations are summarized below.

The overall direction of the Council was the principle that the rules for regulated subsidy providers should not be more restrictive than rules for Registered Family Child Care Providers.

Specific to the areas brought to the Council for direction:

Administration of medication: Council believed the suggested rule language was general enough to allow a parent to provide either specific or generalized authorization to a provider.

Requirements for Providers to have telephone service or working telephone in the family home: Council believed suggested rule language was appropriate.

Whether provider should be required to allow an inspection of all areas of the child care home that are accessible to child care children, and a review of the other areas of the home: Council reflected on extensive conversations of this issue. Council directed language in RS rules to be consistent with rule language adopted by the Council for other providers.

Requirement on providers to base meals and snacks on USDA CACFP guidelines: Council directed staff to retain language as suggested.

Requiring balanced indoor/outdoor, choice and skill-building child activities: Council directed staff to retain language as suggested.

Prohibiting smoking in the child care home regardless of whether child care children are present: Council directed staff to retain language as written and not be more restrictive than rules for Registered Family Child Care Providers.

Swaddling: Council directed staff to continue research into best practices and develop language that conforms to the principle stated above.

Whether child care children can remain sleeping in a car seat: Council directed staff to continue research into best practices and to come back to the Committee and the Council with recommendations.

Compliance with the ADA: Council directed staff to continue research, and return to Committee and Council with recommendations.

At the direction of the Council staff has conducted additional research, staff and stakeholder engagement and submits the following recommendations and information to support the Council's decision-making:

Swaddling and safe sleep:

The health and safety training required of all Regulated Subsidy providers covers safe sleep practices. Technical assistance will be provided to all new providers by Early Learning Division visiting staff using the Safe Sleep for Babies brochure from the Oregon Health Authority and materials from the National Institute of Health's *Safe to Sleep* public education campaign.

There are varying expert opinions on use of swaddling and parents are frequently encouraged to swaddle infants. Recent recommendations by the American Academy of Pediatrics and American Public Health Association advise caretakers against swaddling in child care. Registered Family child care rules require no items in cribs with infants and blankets may not cover the infant's head or restrict movement.

Recommendation: In keeping with the principle that Regulated Subsidy rules should not be more restrictive, a similar rule without mention of swaddling seems appropriate.

The American Academy of Pediatrics recommends a firm sleeping surface. Car seats and other sitting devices are not recommended for routine sleep. Registered Family Child Care rules allow for children who arrive at the provider's home asleep in a car seat to remain until they awaken.

Recommendation: In keeping with the principle that Regulated Subsidy rule should not be more restrictive than Registered Family Child Care rules, a similar rule seems appropriate.

Compliance with the American's with Disabilities Act:

The intent with this language is merely to notify providers that other federal and state laws apply to them. The Office of Child Care does not regulate compliance with ADA. There is no other implication to this rule language. When providers have questions about their obligations under state or federal laws outside of the jurisdiction of the OCC, the OCC, or the Child Care Resource and Referral agency will supply informational resources or contacts for the provider.

Recommendation: Regulated Subsidy child care providers are subject to the ADA. Rules for Registered Family Child Care contains the exact language, therefore consistent rule language seems appropriate.

Additional Findings:

In addition to the issues identified above, since the May Council meeting staff has identified other issues raised by stakeholders or licensing staff.

1) Illness of the Child and when parents must be notified to pick up their child from the child care home:

Proposed rule language brought to the Council in May includes a requirement that a provider contact the parent when a child care child becomes ill while in care and the provider must ask the parent to pick up the child from the child care home.

In instances when a Regulated Subsidy Provider is providing care only to children from the same family, it seems appropriate for the provider to be allowed to continue caring for a child who is ill. This eliminates unnecessary disruption for the child and the working parent.

Recommendation: Add language to read: Section 12 does not apply when the provider is caring only for children from the same family and no other unrelated child care children are present, except that the provider shall notify the parent if a child who, after being admitted into child care, shows signs of illness.

2) Appropriate safety regulations for water play:

Proposed rule language brought to the Council in May prohibits the use of wading pools for wading. This is a basic health and safety issue necessary for protecting children from drowning hazards. The CCEC held considerable discussion on the topic and it was decided that permissive language would be added to the rules to encourage safe water play.

The following language was added by the CCEC:

“Child care children may engage in water play through the use of hoses and sprinklers. Wading pools are allowed for use as sand boxes.”

Comments from licensing staff indicate this permissive language may be difficult for enforcement and confusing to providers. Permissive language is typically not used in administrative rules. If wading pools cannot be used for wading, but are *allowed* for use as sand boxes, does that imply that that is the only allowable use of a wading pool?

Recommendation: Delete “Child care children may engage in water play through the use of hoses and sprinklers. Wading pools are allowed for use as sand boxes.” Technical assistance on play will be provided by Early Learning Division and CCR&R staff.

3) Inclusion of rule language in areas under the jurisdiction of DHS:

Proposed rule language brought to the Council in May also contains regulatory provisions which are under the jurisdiction of the Department of Human Services. These provisions were mistakenly carried over from Registered Family Child Care rules. One is regarding the requirements for a provider if the provider wishes to provide child foster care and the other is the administration of complaints.

Recommendation: Delete this language from the Regulated Subsidy Provider rule language.