

OREGON DEPARTMENT OF EDUCATION
EARLY LEARNING DIVISION

DIVISION 175

REGULATED SUBSIDY FAMILY CHILD CARE HOMES

PROPOSED

414-175-0005

Purpose

Oregon Administrative Rules (OAR) 414-175-0005 through 414-175-0100 are the Early Learning Division's minimum health and safety requirements for license exempt child care providers who accept federal child care subsidy payments through the state. The purpose of these rules is to protect the health, safety, and well-being of children in care. These rules apply to home based child care providers who accept federal child care subsidies from the Oregon Department of Human Services or the Early Learning Division Child Care and are exempt from child care licensing as outlined in ORS 329A.250.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329A.505

414-175-0010

Definitions

The following definitions apply to Oregon Administrative Rules 414-175-0015 through 414-175-0100.

- (1) "Caregiver" means any person, including the provider, who cares for the children in Regulated Subsidy child care and works directly with the children, providing care, supervision and guidance.
- (2) "Child Care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, legal guardian or custodian, during a part of the 24 hours of the day, with or without compensation.
- (3) "Child Care Child" means a child at least six weeks of age and under 13 years of age, or a child under 18 years of age with special needs. The provider has supervisory responsibility for the child in the temporary absence of the parent.
- (4) "Child with Special Needs" means a child under 18 years of age who requires a level of care over and above the norm for their age due to a physical, developmental, behavioral, mental or medical disability.
- (5) "Communicable Disease" means an illness caused by an infectious agent or its toxins.
- (6) "Disinfecting" means using a process for destroying or irreversibly inactivating harmful organisms, including bacteria, viruses, germs and fungi.

(7) "Family" means a group of individuals related by blood, marriage or adoption, or individuals whose functional relationships are similar to those found in such associations.

(8) "Infant" means a child who is at least six weeks of age up to 12 months of age.

(9) "OCC" means the Office of Child Care, Early Learning Division of the Department of Education.

(10) "Outbreak of Communicable Disease" means two cases from separate households associated with a suspected common source.

(11) "Premises" means the structure where child care is conducted that is identified on the application or listed with the Department of Human Services, including indoors and outdoors and space not directly used for child care.

(12) "Preschool-Age Child" means a child who is 36 months of age up to eligible to attend kindergarten in a public school.

(13) "Provider" means the person or facility who is responsible for the children in care; is the children's primary caregiver; and who is listed with the Department of Human Services as the provider.

(14) "Regulated Subsidy Child Care" means care that is provided to children whose families who access federal child care subsidy funds through the state.

(15) "Restrictable Disease" means an illness or infection that would prohibit the child from attending child care.

(16) "Sanitizing" means using a treatment that provides enough heat or concentration of chemicals for enough time to reduce the bacterial count, including disease producing organisms, to a safe level on utensils, equipment and toys.

(17) "Substitute Provider" means a person who acts as the child's primary caregiver in the temporary absence of the provider.

(18) "Toddler" means a child who is at least 12 months of age but is not preschool-age.

(19) "Useable Exit" means an unobstructed door or window through which the provider and the children can evacuate the home in case of a fire or emergency. Doors must be able to be opened from the inside without a key.

(a) For homes built before July 1, 2010, window openings must be at least 20 inches wide and at least 22 inches in height, with a net clear opening of five square feet (at least 720 square inches) and a sill no more than 48 inches above the floor.

(b) For homes built after July 1, 2010, window openings must be at least 20 inches wide and at least 24 inches in height, with a net clear opening of five square feet (at least 720 square inches) and a sill no more than 44 inches above the floor.

414-175-0015

Health

- (1) The child care home must be a healthy environment for children.
- (2) There must be at least one flush toilet and one hand-washing sink available to children.
- (3) The provider must comply with local, state and federal laws related to immunizations, child care restrictable diseases, child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans with Disabilities Act.
- (4) Infants shall have a crib, portable crib or playpen with a clean, non-absorbent mattress. All cribs must comply with current Consumer Product Safety Commission (CPSC) standards. There shall be no items in the crib with the infant (e.g. toys, pillows or stuffed animals).
- (5) If the parent(s) so request, siblings may share the same bed.
- (6) The upper level of bunk beds shall not be used for children under ten years of age.
- (7) If an infant uses a blanket, the blanket may not cover the infant's head or face.
- (8) Infants must be laid on their backs on a flat surface for sleeping.
- (9) Children shall not be laid down with a bottle for sleeping.
- (10) First aid supplies and a chart or handbook of first aid instructions shall be maintained in one identified place and kept out of reach of children.
- (11) The first aid supplies shall include: band aids, adhesive tape, sterile gauze pads, soap or sealed antiseptic towelettes or solution to be used as a wound cleaning agent, a solution for disinfecting after a blood spill, a sanitary temperature taking device.
- (12) Illness:
 - (a) Except for mild cold symptoms that do not impair a child's daily functioning, sick children shall not be in care.
 - (b) A provider shall not admit or retain in care, except with the written approval of the local health office, a child who:
 - (A) Is diagnosed as having or being a carrier of a child care restrictable disease, as defined in Oregon Health Authority administrative rule; or
 - (B) Has one of the following symptoms or combination of symptoms or illness;

- (i) Fever over 100°F, taken under the arm;
 - (ii) Diarrhea (more than one abnormally loose, runny, watery or bloody stool);
 - (iii) Vomiting;
 - (iv) Nausea;
 - (v) Severe cough;
 - (vi) Unusual yellow color to skin or eyes;
 - (vii) Skin or eye lesions or rashes that are severe, weeping, or pus-filled;
 - (viii) Stiff neck and headache with one or more of the symptoms listed above;
 - (ix) Difficult breathing or abnormal wheezing; or
 - (x) Complaints of severe pain.
- (c) A child who, after being admitted into child care, shows signs of illness, as defined in this rule, whenever possible will be separated from the other children, and the parent(s) notified and asked to remove the child from the provider's home as soon as possible.
- (d) If a child has mild cold symptoms that do not impair his/her normal functioning, the child may remain in the provider's home and the parent(s) notified when they pick up their child.
- (13) 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.
- (14) Parents must be notified if their child is exposed to an outbreak of a communicable disease.
- (15) No person shall smoke or carry any lighted smoking instrument, including an e-cigarette or vaporizer in the child care home or within ten feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area, during child care hours or when child care children are present.
- (16) No person shall use smokeless tobacco in the child care home during child care hours or when child care children are present.
- (17) No person shall smoke, carry any lighted smoking instrument, including an e-cigarette, or vaporizer or use smokeless tobacco in motor vehicles while child care children are passengers.
- (18) No one shall consume alcohol on the child care home premises during child care hours or when child care children are present.

(19) No one shall be under the influence of alcohol on the child care home premises during child care hours or when child care children are present.

(20) No one shall possess, use or store illegal controlled substances on the child care home premises. No one shall be under the influence of illegal controlled substances on the child care home premises.

(21) No one shall grow or distribute marijuana on the premises of the child care home. No adults shall use marijuana on the child care home premises during child care hours or when child care children are present.

(22) Child care providers and any individual supervising, transporting, preparing meals, or otherwise working in the proximity of child care children and those completing daily attendance and billing records shall not be under the influence.

(23) "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

(24) All marijuana, marijuana derivatives and associated paraphernalia must be stored under child safety lock.

(25) Any animal at the provider's home shall be in good health and be a friendly companion for the children in care.

(26) Dogs and cats must be vaccinated according to a licensed veterinarian's recommendations.

(27) Dogs and cats shall be kept free of fleas, ticks and worms.

(28) Animal litter boxes shall not be located in areas accessible to children or areas used for food storage or preparation.

(29) Exotic animals, including, but not limited to: reptiles (e.g. lizards, turtles, snakes) amphibians, monkeys, hook-beaked birds, baby chicks and ferrets are prohibited unless they are housed in and remain in a tank or other container which precludes any direct contact by children. Educational programs that include prohibited animals and are run by zoos, museums and other professional animal handlers are permitted.

(30) Prescription and non-prescription medication shall only be given to a child if the provider has written authorization from the parent.

(31) Prescription and non-prescription medications must be properly labeled and stored.

- (32) Non-prescription medications or topical substances must be labeled with the child's name.
- (33) Prescription medications must be in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, and the physician's name.
- (34) Medication requiring refrigeration must be kept in a separate, tightly covered container, marked "medication," in the refrigerator.
- (35) Parents must be informed daily of any medications given to their child or any injuries their child has had.
- (36) Sunscreen may be used with written parental authorization.
- (a) In instances where parent has provided written permission to use sunscreen, providers must reapply sunscreen every two hours while the child care children are exposed to the sun.
- (b) Providers shall use a sunscreen with an SPF of 15 or higher and must be labeled as "Broad Spectrum".
- (c) Providers shall not use aerosol sunscreens on child care children.
- (d) Sunscreen shall not be used on child care children younger than six months.
- (37) Parents must be given the telephone number so they can contact the provider if needed.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329A.505

414-175-0020
Sanitation

- (1) Pre-mixed sanitizers and disinfectants that are EPA registered and meet Oregon Health Authority criteria may be used in all areas of the home per manufacturer instructions.
- (2) All caregivers and children must wash their hands with soap and warm, running water:
- (a) Before handling food;
- (b) Before assisting with feeding;
- (c) Before and after eating;
- (d) After diapering;
- (e) After using the toilet;
- (f) After assisting someone with toileting;

(g) After nose wiping;

(h) After playing outside; and

(i) After touching an animal or handling pet toys.

(3) Hand sanitizers shall not replace hand washing. If hand sanitizers are present in the home, they shall be kept out of children's reach and shall not be used on children.

(4) Clean toys, equipment and furniture used by children when soiled.

(5) Diaper changing surfaces must be either:

(a) Non-absorbent and easily disinfected;

(b) Disposed of after each use; or

(c) Laundered after each use.

(6) The building, grounds, any toy, equipment, and furniture are maintained in a clean, sanitary, and hazard free condition.

(7) All garbage, solid waste, and refuse must be disposed of regularly, in a safe and sanitary manner.

(8) The home has safe drinking water.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329A.505

414-175-0025

Safety

(1) The room temperature must be at least 68°F during the hours which child care children are in care.

(2) Rooms child care children are predominantly occupying must have a combination of natural and artificial lighting.

(3) Floors must be free of splinters, large unsealed cracks, sliding rugs and other hazards.

(4) Potentially aggressive animals must not be in the same physical space as the children.

(5) Children shall be protected from fire and safety hazards. Providers must have the following protections in place:

(a) All exposed electrical outlets in rooms used by preschool or younger children must have hard-to-remove protective caps or safety devices installed when the outlet is not in use.

(b) Extension cords shall not be used as permanent wiring;

- (c) All appliance cords must be in good condition;
 - (d) Multiple connectors for cords shall not be used;
 - (e) A grounded power strip outlet with a built-in over-current protection may be used;
 - (f) A stable barrier shall be installed to prevent children from falling into hazards, including, but not limited to: fireplaces, heaters and woodstoves that are in use when child care children are present;
 - (g) A secure barrier shall be placed at the top and/or bottom of all stairways accessible to infants and toddlers;
- (6) The home has a working smoke detector on each floor level and in any area where a child naps.
- (7) Cleaning supplies, paints, matches, lighters, and any plastic bags large enough to fit over a child's head kept under child-safety lock.
- (8) Other potentially dangerous items, such as medicine, drugs, sharp knives and poisonous and toxic materials kept under child-safety lock.
- (9) Firearms, BB guns, pellet guns and ammunition kept under lock, with ammunition stored and locked separately. Firearms, BB guns and pellet guns must remain unloaded;
- (10) If any preschool age or younger children are in care, poisonous plants must be kept out of the reach of children;
- (11) All clear glass panels in doors clearly marked at child level.
- (12) Each provider must:
- (a) Ensure that the home where care is provided meets all of the following standards:
 - (A) Each floor level used by a child has two useable exits to the outdoors (a sliding door or window that can be used to evacuate a child is considered a useable exit). If a second floor is used for child care, the provider must have a written plan for evacuating occupants in the event of an emergency.
 - (B) The home has a working telephone or telephone service in operating condition.
 - (C) Emergency telephone numbers for fire, ambulance, police and poison control and the home address must be posted in a visible location.
 - (D) The building, grounds, water supply, and toys, equipment and furniture used by children must be maintained in a hazard-free condition.
 - (E) Broken toys, furniture and equipment must be removed from areas accessible to children.
- (13) Wading pools are prohibited for wading. Child care children may engage in water play through the use of hoses and sprinklers. Wading pools are allowed for use as sand boxes.

(14) The provider is responsible for the children in care. At all times the provider must:

- (a) Be within sight or sound of all children;
- (b) Be aware of what each child is doing;
- (c) Be near enough to children to respond when needed.

(15) The provider must have a written plan for evacuating and removing children to a safe location in an emergency. The plan must be posted in the child care home, familiar to the children and the caregivers, and practiced at least every other month and must include:

- (a) Procedures for notifying parents or other adults responsible for the children, of the relocation;
- (b) Procedures to address the needs of individual children, including those with special needs; and
- (c) An acceptable method to ensure that all children in attendance are accounted for.

(16) If a caregiver is transporting children, the caregiver must have a valid driver's license and proof of appropriate insurance.

(17) The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle.

(18) Car seats are to be used for transportation only. Children who arrive at and brought into the provider's home asleep in a car seat may remain in the car seat until the child awakens.

(19) The provider must take precautions to protect children from vehicular traffic.

(20) If a passenger van is used to transport child care children it must meet Federal Motor Vehicle Safety Standards for transporting children in education settings.

(21) The provider must have a written statement from the parent(s) regarding whether or not the provider is authorized to:

- (a) Take a child on a field trip or other activity outside the child care home or participate in any water activity; and
- (b) Transport a child to or from school or allow a child to bus or walk to or from school or child care home.

(22) 15-passenger vans shall not be used to transport child care children.

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329A.505

414-175-0030
Guidance and Discipline

(1) The following behaviors by caregivers are prohibited:

(a) Using any form of corporal punishment, including, but not limited to: hitting, spanking, slapping, beating, shaking, pinching or other measures that produce physical pain, or threatening to use any form of corporal punishment.

(b) Parental request or permission to use any form of behavior listed in subsection (a) of this section, does not give the provider or substitute provider permission to do so.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329A.505

414-175-0035

Nutrition

(1) Meals and snacks must be based on the guidelines of the USDA Child and Adult Care Food Program.

(2) Foods must be stored and maintained at the proper temperature.

(3) Infants must be held or sitting up for bottle feeding. Propping bottles is prohibited.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329A.505

414-175-0040

Access to Physical Activity

(1) Providers must make available activities, materials, and equipment for both indoor and outdoor play that provide a variety of experiences geared to the ages and abilities of the child(ren) with a balance of active and quiet play.

(2) Child care children shall not be exposed to more than two hours of screen time per day. All media exposure must be developmentally and age appropriate. Screen time is defined as time spent using a device such as a computer, television, or games console.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329A.505

414-175-0045

Record Keeping

(1) The following records must be kept by the provider for at least one year and must be available at all times to OCC:

(a) Information from the parent(s) for each child at the time of admission:

- (A) Name and birth date of the child;
- (B) Any chronic health problem(s), including allergies, the child has;
- (C) Date child entered care;
- (D) Names, work and home telephone numbers and addresses, and the work hours of the parent(s) or legal guardian(s);
- (E) Name and telephone number of person(s) to contact in an emergency;
- (F) Name and telephone number of person(s) to whom the child may be released;
- (G) Health history of any problems that could affect the child's participation in child care.
- (b) Daily attendance records, including dates each child attended and arrival and departure times for each day. Times shall be recorded as the child care children arrive and depart.
- (c) Medications administered, including the child's name, and the date and time of dosage and the dosage amount.
- (d) Injuries to a child.
- (2) Injuries to a child which require attention from a licensed health care professional, such as a physician, EMT or nurse, must be reported to OCC within seven days.
- (3) The provider must have a written statement from the parent(s) regarding whether or not the provider is authorized to obtain emergency medical treatment for a child.

414-175-0050

General Requirements

- (1) OCC records are open to the public on request. However, information protected by state or federal law will not be disclosed.
- (2) The name and status of providers is public information.

~~(3) If an applicant or a provider wishes to provide child foster care, the provider must receive approval from OCC and DHS, prior to placement of the foster child(ren) or the child care children.~~

Stat. Auth.: ORS 326.425(7)
Stats. Implemented: ORS 329A.505

414-175-0055

Enforcement of Regulatory Requirements

(1) The provider shall allow an inspection of all areas of the child care home that are accessible to child care children, and a health and safety review of other areas of the child care home to ensure the health and safety of child care children.

(2) The provider or substitute must allow a representative from the Office of Child Care access to the child care home any time child care children are present.

(3) The provider must allow parents or legal guardians of child care children access to the child care home during the hours their child(ren) are in care.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329A.505

414-175-0055

Compliance with Child Abuse Reporting Requirements

Any caregiver who has reason to believe that any child has suffered or is currently suffering from abuse (physical injury, mental injury, neglect that leads to physical harm, sexual abuse and/or exploitation, or threat of harm) must report the information to the Department of Human Services Child Welfare (DHS) or to a law enforcement agency. By statute, this requirement applies 24 hours per day.

Stat. Auth.: ORS 326.425(7)

Stats. Implemented: ORS 329A.505

414-175-0100

Exceptions to Rules

(1) A provider may request an exception to a rule.

(2) An exception must be requested on a form provided by OCC.

(3) The provider must provide a justification for the requested exception and an explanation of how the provider will ensure, through safeguards or other conditions, the health, safety and well-being of the children.

(4) The provider must be in compliance with the rule as written until the provider has received approval for the exception from OCC.

(5) No exception to a rule shall be granted unless the health, safety, and well-being of the children are ensured.

(6) An exception is valid only for the specified dates for which it is issued.

(7) The granting of an exception to a rule shall not set a precedent, and each request shall be evaluated on its own merits.

Stat. Auth.: ORS 326.425(7)

Complaints

~~New applicants will be given a copy of OCC's complaint procedures at the time of the on-site health and safety review. The complaint procedures are also available upon request.~~

Grievance Review and Sanctions

~~A provider has the right to a review of any finding made by OCC. Provider will be given a copy of OCC's findings review procedures at the time of the on-site inspection. Information on the OCC findings review process will be in complaint letters. The OCC findings review procedures are also available upon request.~~

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