

CCEC Administrative Rule Briefing

Program Name/OAR #: Central Background Registry 414-061-0000 through 414-061-0120

Date: August 10, 2017

Staff/Office: Dawn Woods, Child Care Director, Early Learning Division/Office of Child Care

Statutory Authority: ORS 329A

Temporary Rule New Rule Amend Existing Rule Repeal Rule
Prompted by: State law changes Federal law changes Other

Last Revised: February 2015

Action Requested: Review of current rules.

Adoption of Temporary Rule

Adoption of Final Rule

Program Summary:

The Office of Child Care conducts criminal records checks and child protective services records checks on subject individuals, as defined in OAR 414-061-0030, for enrollment of subject individuals in the Central Background Registry.

These rules provide guidelines on how OCC obtains criminal records and child protective services records on subject individuals, applies such information to its determination about the suitability of the subject individual, and enrolls approved subject individuals in the Central Background Registry.

Population Affected:

Oregon children and families, certified child care centers, certified family child care homes and registered family child care homes.

Stakeholders Impacted:

Partners: Oregon Department of Human Services (DHS).

Licensing: OCC licensing specialists, OCC central office staff, certified center staff, certified family child care providers, and registered family child care providers.

Requesting Agencies: Individuals employed by contracting agencies.

Consumers and other external stakeholders: parents of child care children, child care children.

Stakeholders Consulted:

Specific approaches and tools have been developed to facilitate engagement and a summary of the input will be provided to the committee to inform the recommendations.

List of Other Interested Parties:

The general public.

Need for Rule:

Oregon Administrative Rules 414-061-0000 through 414-061-0120 are the Office of Child Care's requirements for conducting background checks and enrolling adults in the Central Background Registry. The purpose of these rules is to establish regulations to protect the health, safety, and well-being of children when cared for outside their own homes. Recent changes in federal law and the adoption of HB 2259 during the 2017 legislative session requires amendment of administrative rules.

Policy Matters or Questions to be Addressed:

Under HB 2259 the legislature has removed the two year enrollment period for the central background registry and granted authority for the Office of Child Care to consider enrollment of an individual in the Central Background Registry(CBR) if the person has completed a background check through DHS for the purposes of providing child care. Legislation further allows the council to adopt rules expanding the population of subject individuals who may be enrolled in the CBR.

- OCC proposes adoption of a five year enrollment period in the CBR, with a mid-point check of child abuse and neglect records at the 30 month point.
- OCC proposes allowing subject individual to use their FBI fingerprint and criminal records check conducted for a DHS child care background investigation for enrollment in the CBR, provided:
 - The DHS investigation was completed within the previous 24 months, and
 - The Subject Individual has lived only within Oregon for time period since completion of their DHS background check and
 - All other requirements of OCC are met
- OCC proposes allowing agreements with related private agencies or organizations for use of OCC background checks and enrollment in the CBR.
- OCC proposes rules outlining the use of foster care and adult protective services information
- OCC proposes defining the databases and registries used for the background check

Under the Child Care Development Fund act of 2014, states are required to adopt criteria related to enrollment of Subject Individuals within their background registries. Suitability criteria for CBR enrollment, currently defined in OAR 414-060-0050 will need to be aligned with these new Federal requirements.

Fiscal Impact (to stakeholders impacted, to small business (defined as a business that is independently owned and operated with 50 or fewer employees) or to local government):

Fiscal impact to providers and other stakeholders will be evaluated as determinations are made on specific rules that may be amended, repealed or added.

Equity Analysis:

- **Who are the racial/ethnic and underserved groups affected?**

Those affected are the underserved communities where disparity exists in Oregon. Strength-based approaches and asset-based mindsets will support efforts to operationalize equity.
- **Do the proposed rules ignore or worsen existing disparities or produce other unintended consequences?**

Specific rule language will be assessed to ensure that no barriers or unintended consequences are present or created.
- **What is the impact of the rules on eliminating the opportunity gap?**

The rules are being updated in order to increase consistency of regulation enforcement across the state and among all demographics avoiding perpetuating systemic bias. Specific rule language will be assessed to ensure that no barriers or unintended consequences are present which could create opportunity gaps for child care providers and children in care.
- **What are the barriers to more equitable outcomes (e.g. mandated, political, emotional, financial, programmatic or managerial)?**

Barriers to more equitable outcomes may include funding, increased workload requirements of staff.
- **How have you intentionally involved stakeholders who are also members of the communities affected?**

We have developed a stakeholder engagement process that considers all potential persons and entities that may be positively or negatively impacted by any rule revisions. Part of the process is determining the most beneficial methods of engagement for each stakeholder group so that input can be gathered in a timely, mutually constructive fashion.
- **How will you modify or enhance strategies and rules to ensure each learner and communities' individual and cultural needs are met?**

We will increase the training and guidance opportunities for Office of Child Care licensing staff to gain knowledge, tools and resources to better monitor and support the communities they serve.