

CCEC Administrative Rule Briefing

Program Name/OAR #: Relief Nursery Programs/OAR Chapter 414 Division 600

Date: October 6, 2017

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Statutory Authority: ORS 326.425(7), ORS 417.788, Chapter 645, 2017 Laws

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

Last Revised: By Commission on Children and Families: OAR 423-045-0101 to 0185 & 423-010-0024(8)

Action Requested:

Adoption of Temporary Rule Adoption of Final Rule

Program Summary: Relief nurseries are community-based organizations that seek to interrupt the cycle of child abuse and neglect working among and alongside early childhood education, child welfare, behavioral and physical health and social services within private and public sector entities.

Services are offered within a comprehensive and integrated early childhood and family support system, including strength-based, culturally appropriate services designed to achieve appropriate early-childhood benchmarks and healthy family functioning. Parent and child participation in services is voluntary. Statutorily required services include therapeutic early childhood education programs, and parent education and support. ORS 417.788 (2). The statute further requires each relief nursery that receives state funding to have financial support from the community that is at least equal to 25 percent of any state allocation (match requirement). ORS 417.788 (3).

Background:

The Child Care and Education Committee (CCEC), serving as the Council’s Rules Advisory Committee, was briefed on needed rule language at its September 2016 meeting and reviewed and discussed rule language concepts. The Early Learning Council was briefed in March 2017.

Following the September 2016 CCEC meeting, representatives of the Early Learning Council and the Early Learning Division held informal conversations with Relief Nursery representatives to gain a clear understanding of the needs of Relief Nurseries, the Council and the Early Learning Division.

The CCEC reconvened to discuss the Relief Nursery rules on March 9, 2017. In addition to the public comments received, CCEC members discussed the following issues:

- Having an external entity in charge of determining certification for state provided funds.

- Establishing certification process and requirements in rule: Creating bifurcated accountability where certification and fidelity to the Relief Nursery model resides with the Oregon Association of Relief Nurseries (OARN) and accountability for compliance with administrative rule and contract terms resides with the Early Learning Division.
- However, it is the opinion of the Early Learning Division that the certification process of Relief Nurseries is outlined in rule to provide authority for the Division to have a basis for accountability for contract terms and funding.
- Establishing a certification appeals process: As certification by OARN is a prerequisite of state funding an appeals process must be in place for an organization that was refused certification by OARN, and thus was not eligible for state funding.

SB 314

During the 2017 Legislative Session and concurrent with CCEC's deliberations of administrative rule, OARN sought the introduction and passage of SB 314.

On April 18, 2017, the Oregon Association of Relief Nurseries (OARN) submitted a written request the Early Learning Division requesting the suspension of rulemaking while SB 314 was under consideration by the legislature. The Council agreed to temporarily suspend rulemaking based on the importance of addressing the issues raised through SB 314.

On June 1, 2017, a workgroup convened by Representative John Lively, Chair of the House Early Childhood and Family Supports Committee, met and agreed to a variety of amendments. Those amendments were adopted by the Legislature. Ultimately, SB 314:

- Describes service requirements of Relief Nursery programs
- Describes how public funding to support Relief Nursery programs may be used
- Requires the Early Learning Council to adopt rules to administer the program including rules requiring that any public funds received by Relief Nursery programs be used to achieve improved child safety, reduction in foster care placements, progress in healthy child development and improvement in family functioning and support.
- Requires Relief Nursery programs to participate in a statewide independent evaluation conducted by the Oregon Association of Relief Nurseries, to evaluate specific outcomes.
- Excludes state asset forfeiture proceeds distributed to Relief Nursery programs from the calculation of amount required for matching community financial support.

Current Status:

The CCEC will resume consideration of administrative rules governing Relief Nurseries at its October 12, 2017 meeting. The CCEC will review proposed rule language that addresses issues raised at the March meeting. The rule language to be considered by CCEC in October includes language to conform to the requirements of SB 314.

Fiscal Analysis: Analysis of fiscal impact of any proposed rules must be assessed through the rule promulgation process. Analysis includes financial impacts of the rules to stakeholders, to small business (defined as a business that is independently owned and operated with 50 or fewer employees) or to local government.

The Equity Implementation Committee (EIC) reviewed rule conceptual language in March 2017. The areas of interest raised by EIC are outlined below. The italicized text explains how the proposed rule language addresses the areas when possible.

- 1) Whether the certification process is equitable; whether all areas of the state have equal access to implementing a RN program; whether fees charged by OARN for an entity to undergo the certification process preclude some from participating. *(The draft rules attempt to respect and work in concert with the Relief Nursery model. To provide for equal access, the draft rules provide entities an opportunity to challenge OARN's certification decisions to the Division.);*
- 2) Ensuring a strengthened partnership with Hub equity work, identifying and serving target populations and reduce disparities in communities *(see Coordination with the Statewide Early Learning System.);*
- 3) Include a definition of “Culturally responsive supports” or at a minimum require the inclusion of “Principles and guidelines for culturally responsive supports appropriate to the unique needs of the child and family” *(definition added);*
- 4) Whether and why adult child ratios are different from those in licensing standards *(The draft rules attempt to respect and work in concert with the Relief Nursery model. The adult child ratios are specific to and mirror the RN model.);*
- 5) EIC commented that Trauma-informed care (TIC) should apply to all RN services in general not just the therapeutic classroom setting (TCS). *(The draft rules attempt to respect and work in concert with the Relief Nursery model. The model calls out therapeutic classrooms as an integral component, with TIC a required component of the TCS.)*

Equity Analysis:

- **Who are the racial/ethnic and underserved groups affected?**
- **Do the proposed rules ignore or worsen existing disparities or produce other unintended consequences?**
- **What is the impact of the rules on eliminating the opportunity gap?**
- **What are the barriers to more equitable outcomes? (e.g., mandated, political, emotional, financial, programmatic or managerial)**
- **How have you intentionally involved stakeholders who are also members of the communities affected?**
- **How will you modify or enhance strategies and rules to ensure each learner and communities' individual and cultural needs are met?**