

## **NOTICE OF PROPOSED RULEMAKING**

CHAPTER 414

OREGON DEPARTMENT OF EDUCATION, EARLY LEARNING DIVISION

FILING CAPTION: Rules governing the Central Background Registry to conform with federal law and HB 2259 (2017).

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/21/2017 5:00 PM

### **NEED FOR THE RULE(S):**

Rule amendments are necessary due to the passage of HB 2259 (2017 session), which modifies existing statutory language in ORS 329A.030 related to the Office of Child Care's Central Background Registry (CBR). Additionally, the Child Care Development Block Grant (CCDBG) of 2014, codified at 45 CFR 98, established new requirements for CBR background checks, and established a list of crimes that make an individual ineligible for enrollment in the CBR.

### **DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:**

ORS 329A.030 [https://www.oregonlegislature.gov/bills\\_laws/Pages/ORS.aspx](https://www.oregonlegislature.gov/bills_laws/Pages/ORS.aspx)

HB 2259 Enrolled (2017)

<https://olis.leg.state.or.us/liz/2017R1/Downloads/MeasureDocument/HB2259>

S.1086. Public Law 113-186. <https://www.congress.gov/113/plaws/publ186/PLAW-113publ186.pdf>

### **FISCAL AND ECONOMIC IMPACT:**

We anticipate no additional fiscal impact as a result of these rules changes. The costs to businesses and individuals may actually decrease if the rule establishes enrollment periods longer than the current 2 year period. More information on fiscal impact will be established as the rules are finalized.

### **COST OF COMPLIANCE:**

(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

1) No impact to governmental units or state agencies; 2) (a) There are approximately 4,000 licensed programs, and 1,800 license exempt providers receiving child care subsidies that are subject to the rules; (b) no reporting, recordkeeping or other additional administrative activities.

### **DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):**

Licensed child care centers are represented on the Early Learning Council Rules Advisory Committee.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

414-061-0000, 414-061-0020, 414-061-0030, 414-061-0035, 414-061-0040, 414-061-0045, 414-061-0050, 414-061-0060, 414-061-0070, 414-061-0075, 414-061-0080, 414-061-0090, 414-061-0100, 414-061-0110, 414-061-0120

AMEND: 414-061-0000

RULE TITLE: Purpose

RULE SUMMARY: 414-060-0000 is proposed to be amended to reflect statutory and federal requirements relating to adult protective services and foster care records checks.

RULE TEXT:

(1) The Office of Child Care (OCC) will conduct criminal records checks, child abuse and neglect records checks, and checks of foster care certification and adult protective services records checks on subject individuals, as defined in OAR 414-061-0030, for enrollment of subject individuals in the Central Background Registry.

(2) These rules provide guidelines on how OCC conducts criminal records and child abuse and neglect records checks, checks a subject individual's foster care certification and adult protective services history, obtains relevant records when necessary, applies such information to its determination about the suitability of the subject individual, and enrolls approved subject individuals in the Central Background Registry.

STATUTORY/OTHER AUTHORITY: ORS 329A.030(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.030

AMEND: 414-061-0020

RULE TITLE: Definitions

RULE SUMMARY: 414-061-0020 is proposed to be amended to reflect statutory and federal requirements and definitions relating to adult protective services and foster care records checks.

RULE TEXT:

- (1) "Adult Protective Services history" means information about whether the subject individual has a substantiated finding of abuse or neglect in an adult abuse investigation conducted by the Oregon Department of Human Services or its contractor or designee, or similar information held by another state, county, municipal or other governmental entity or its contractor or designee.
- (2) "Adult protective services check" means a certification by the subject individual of the presence or absence of a substantiated finding of abuse or neglect in an adult abuse investigation, or obtaining and reviewing adult protective services records from appropriate governmental authority, its designee or contractor as required or permitted by these rules .
- (3) "Agency Agreement" means the written agreement between the Oregon State Police (OSP) and the Oregon Office of Child Care (OCC).
- (4) "Central Background Registry" or "CBR" means the registry established and operated pursuant to ORS 329A.030.
- (5) "Child Abuse and Neglect Records" means information on child abuse and neglect cases conducted by the Oregon Department of Human Services or its contractor or designee, or similar information held by another state, county, municipal or other governmental entity or its contractor or designee.
- (6) "Child Abuse and Neglect Records Check" means obtaining and reviewing child protective services reports and records as required or permitted by these rules.
- (7) "Computerized Criminal History (CCH) System" means the on-line computer files of significant criminal offender information maintained by the Oregon State Police (OSP).
- (8) "Conditional Enrollment" means temporary approval to be enrolled in the CBR following an OSP criminal records check and child abuse and neglect records check but prior to receipt by OCC of the results of a required FBI criminal records check.
- (9) "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.
- (10) "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).

(11) "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.

(12) "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.

(13) "Employee of the Early Learning Division" means any individual employed by the Early Learning Division.

(14) "Enrollment" means approval for a five -year period to be enrolled in the Central Background Registry following an OSP criminal records check, child abuse and neglect records check, checks of adult protective services and foster care certification, and, an FBI records check.

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

(16) "FBI" means the Federal Bureau of Investigation.

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

(18) "Foster Care Certification History" means information and records regarding the status of any application for or approval of the Oregon Department of Human Services permitting the subject individual to provide foster care, or similar information held by another state, county, municipal or other governmental authorities or their contractors or designees.

(19) "Foster care certification check" means a certification by the subject individual of the presence or absence of any negative action taken on their foster care certification by appropriate governmental authority, or obtaining and reviewing foster care from appropriate governmental authority, its designee or contractor as required or permitted by these rules.

(20) "Incident" means the commission of a Category I or Category II crime, a child abuse and neglect case, negative foster care history, or a substantiated finding of adult abuse or neglect

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

(22) "OSP" means the Oregon State Police.

(23) "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.

(24) "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.

(25) "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.

STATUTORY/OTHER AUTHORITY: ORS 329A.030(7), HB 2259 (2017)

STATUTES/OTHER IMPLEMENTED: ORS 329A.030, HB 2259 (2017)

AMEND: 414-061-0030

RULE TITLE: Subject Individuals

RULE SUMMARY: Rule revisions are proposed to update definitions relating to child abuse and neglect, adult protective services and foster care checks; require adult protective services and foster care checks prior to enrollment in the CBR; Updating definition of "subject individual" to allow enrollment, when appropriate, in the CBR of employees or providers of child care services of one of the nine federally recognized tribes in Oregon or administrators of the Tribal Child Care and Development Fund.

RULE TEXT:

(1) For purposes of criminal records checks, including fingerprint-based criminal records checks, and child abuse and neglect records checks, foster care or adult protective services checks, "Subject Individual" means a person who is or applies to be:

- (a) The owner, operator or an employee or volunteer of a certified, registered or otherwise regulated facility caring for children that is subject to the jurisdiction of OCC;
- (b) The operator or an employee of an Oregon pre-kindergarten program or parent-as-teacher program under ORS 329.170 to 329.200;
- (c) The operator or an employee of a federal Head Start Program regulated by the United States Department of Health and Human Services;
- (d) A designated employee or a contractor with the Early Learning Division;
- (e) A contractor or an employee of the contractor who provides early childhood special education or early intervention services pursuant to ORS 343.455 to 343.534; or
- (f) A child care provider who is required to be enrolled in the Central Background Registry by any state agency.
- (g) A designated contractor, employee or volunteer of a Metro Service District.
- (h) A provider of respite services as defined in ORS 418.205 for parents pursuant to a properly executed power of attorney under ORS 109.056.
- (i) An employee, contractor or provider of child care services under any memorandum of understanding or similar arrangement with one of the nine federally recognized tribes in Oregon or administrators of the Tribal Child Care and Development Fund.

(2) An individual in any of the above facilities or programs who may have unsupervised contact with children is also a subject individual. This includes but is not limited to permanent or temporary residents in the home or facility or persons visiting on a regular basis.

STATUTORY/OTHER AUTHORITY: ORS 329A.030(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.030, HB 2259 (2017)

ADOPT: 414-061-0035

RULE TITLE: Applications

RULE SUMMARY: Prescribes enrollment application process for enrollment in the Office of Child Care's Central Background Registry, including payment of required application fee and requirements for the applicant to provide information to the Office of Child Care to complete the application process.

RULE TEXT:

#### 414-061-0035 Applications

(1) As part of an initial or renewal application, a subject individual must submit requested fee and provide all information required for a criminal records check of the Oregon State Police Computerized Criminal History (CCH) System, and FBI criminal records check, a child abuse and neglect records check, a foster care certification check, and an adult protective services check; including:

(a) A properly completed and signed Application for Enrollment in OCC's Central Background Registry, available from the agency;

(b) For a subject individual who acknowledges criminal history, child abuse and neglect history, foster care certification history, or adult protective services history, an explanation of the history and any steps the subject individual has taken to address the history;

(c) Consent to the use of the subject individual's social security number or other personally identifying information for criminal, child protective services history, child abuse and neglect, foster care certification or adult protective services checks, for identifying enrollees in the Central Background Registry, for sharing information with other governmental agencies their contractors or designees to verify child care licensing status for child care payments, and for compiling statistical information for program planning and evaluation;

(d) The information required for the FBI criminal records check under OAR 414-061-0080

(2) At the time of initial application or renewal of enrollment in the Central Background Registry, subject individuals shall attest on their application or renewal form:

(a) Whether they are a foster parent or have ever been a foster parent, including but not limited to:

(A) Dates of participation in the foster care program

(B) Locations, including street address, city, county and state, at which they provided foster care

(C) Any negative foster care history, including:

(i) Revocation, denial, suspension, closure in lieu of legal action, or other loss of certification or approval to operate a foster home or provide foster care

(ii) Any criminal or civil matters initiated against the individual related to their foster care certification



(b) Whether they have adult protective services history, including but not limited to any record of a substantiated finding of abuse or neglect of an adult:

(3) As part of the application process, the subject individual shall, upon request from OCC, provide OCC with an authorization sufficient to:

(a) allow OCC to obtain records and information regarding out-of-state child abuse and neglect history, foster care certification history, or adult protective services history; and

(b) use those records and information to for the purpose of evaluating the subject individual's suitability for enrollment in the Central Background Registry.

(4) An application is incomplete if:

(a) it does not include all of the required information identified in subsections (1), (2) or (3) of this rule; or

(b) is not accompanied by the required fee.

(5) OCC shall provide the applicant a reasonable time to cure an incomplete application, not to exceed 30 days from the date the application was received by OCC. OCC shall return the incomplete application to the applicant.

(6) Application fees are non-refundable.

STATUTORY/OTHER AUTHORITY: 329A.030(7)

STATUTES/OTHER IMPLEMENTED: 329A.030, HB 2259

AMEND: 414-061-0040

RULE TITLE: Limitations of Criminal and Judicial Inquiries

RULE SUMMARY: Update rule language to reflect statutory changes and changes to the Child Care Development Block Grant (CCDBG) of 2014, codified at 45 CFR 98, which established new requirements for CBR background checks

RULE TEXT:

(1) Only OCC employees or contractors 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(23). 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 held by the FBI, OSP or other state, county or municipal law enforcement agency and records of all state, federal or municipal judicial proceedings information shall be obtained by OCC to determine whether a subject individual has criminal 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.

STATUTORY/OTHER AUTHORITY: ORS 329A.030(7)

STATUTES/OTHER IMPLEMENTED: ORS329A.030, HB 2259 (2017)

ADOPT: 414-061-0045

RULE TITLE: Disqualifying Conditions for Enrollment

RULE SUMMARY: 414-061-0045 is being proposed due to the new requirements of CCDGB of 2014 (45 CFR 98) that establish disqualifying conditions for enrollment in the Central Background Registry and the passage of HB 2259 in 2017.

RULE TEXT:

(1) A subject individual shall be ineligible for enrollment in the Central Background Registry and if enrolled may be removed or suspended, or have their renewal application denied if such individual:

(a) Refuses to consent to OCC's criminal background check or required fingerprinting;

(b) Knowingly makes or has knowingly made a materially false statement in connection with their application for initial enrollment or renewal of their enrollment in the Central Background Registry, including but not limited to the required criminal background check, or the individual's records or history related (b) to child abuse and neglect, foster care, or adult protective services;

(c) Is registered, or is required to be registered, on any State, tribal, or US territory sex offender registry or repository or the National Sex Offender Registry; or

(d) Has been convicted of a felony or misdemeanor consisting of:

(A) Aggravated murder, murder, criminal homicide, aggravated vehicular homicide, or manslaughter in the first degree as defined by ORS 163.005, ORS 163.095, ORS 163.115, ORS 163.118, or ORS 163.149;

(B) Child abuse or neglect, or other crimes against children as defined by ORS 163.207, ORS 163.405, ORS 163.408, ORS 163.432, ORS 163.433, ORS 163.435, ORS 163.535, ORS 163.537, ORS 163.545, ORS 163.547, ORS 163.555, ORS 163.575, ORS 163.670, ORS 163.684, ORS 163.686, ORS 163.687, ORS 163.688, or ORS 163.689;

(C) A crime involving rape, sexual assault, sexual abuse, sodomy, sexual misconduct or other sexual offenses as defined by; ORS 163.365, ORS 163.375, ORS 163.395, ORS 163.405, ORS 163.408, ORS 163.411, ORS 163.415, ORS 163.425, ORS 163.427 ORS 163.452, or ORS 163.454,

(D) Kidnapping or trafficking in persons as defined by ORS 163.225, ORS 163.235 or ORS 163.266

(E) Arson as defined in ORS 164.315 or ORS 164.325

(F) Physical assault or battery as defined by ORS 163.165, ORS 163.175, ORS 163.185, ORS 163.187

(G) A drug-related offense under ORS chapter 475, committed during the preceding five years, that results in the conviction of the subject individual of a Class A felony, Class B felony, Class C felony, or a Class A Misdemeanor.

(2) These rules also apply to:

(a) A conviction of a crime in another jurisdiction which is the substantial equivalent of a crime listed Section 1(d);

(b) An adjudication of guilt by reason of insanity, of an act that is the substantial equivalent of a crime listed in section 1(d);

(c) An adjudication by a juvenile court that a youth has committed an act that is the substantial equivalent of a crime listed in Section 1(d);

(d) Any attempts, conspiracies or solicitations to commit any Felony or Misdemeanor crime listed in Section 1(d);

(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 Section 1(d);

(f) Any crime that is no longer codified in Oregon, but which is the substantial equivalent of any of the crimes listed in Section 1(d);

STATUTORY/OTHER AUTHORITY: 329A.030(7)

STATUTES/OTHER IMPLEMENTED: 329A.030

AMEND: 414-061-0050

RULE TITLE: History to be Considered

RULE SUMMARY: Rule revisions are necessary due to the new requirements of CCDGB Act of 2014 (45 CFR 98) and the passage of HB 2259 in 2017.

RULE TEXT:

(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 (9) 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) 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) 163.515 Bigamy.

(B) 164.225 Burglary in the first degree.

(C) 163.275 Coercion.

(D) 163.200 Criminal mistreatment in the second degree.

(E) 163.225 Kidnapping in the second degree.

(F) 166.270 Possession of weapons by certain felons.

(G) 166.720 Racketeering activity unlawful; penalties.

(H) 164.405 Robbery in the second degree.

(I) 164.395 Robbery in the third degree.

(J) 163.445 Sexual misconduct.

(K) 163.732 Stalking.

(L) 162.185 Supplying contraband.

(M) 166.220 Unlawful use of weapon.

(N) 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) 475.908 Causing another person to ingest a controlled substance.

(D) 163.205 Criminal mistreatment in the first degree.

(E) 163.145 Criminally negligent homicide.

(F) 162.165 Escape in the first degree.

(G) 163.693 Failure to report child pornography.

(H) 181.812 Failure to report as sex offender; defense.

(I) 166.429 Firearms used in felony.

(J) 163.525 Incest.

(K) 166.165 Intimidation in the first degree.

(L) 166.155 Intimidation in the second degree.

(M) 163.125 Manslaughter in the second degree.

(N) 166.382 Possession of destructive device prohibited; exceptions.

(O) 166.275 Possession of weapons by inmates of institutions.

(P) 167.012 Promoting prostitution.

(Q) 167.090 Publicly displaying nudity or sex for advertising purposes.

(R) 163.355 Rape in the third degree.

(S) 164.415 Robbery in the first degree.

(T) 167.062 Sadomasochistic abuse or sexual conduct in live show.

(U) 167.212 Tampering with drug records.

(V) 164.075 Theft by extortion.

(W) 163.479 Unlawful contact with a child.

(X) 166.384 Unlawful manufacture of destructive device.

(Y) 166.660 Unlawful paramilitary activity.

(Z) 166.272 Unlawful possession of machine guns, certain short-barreled firearms and firearms silencers.

(AA) 163.212 Unlawful use of an electrical stun gun, tear gas or mace in the second degree.

(BB) 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) 167.820 Concealing the birth of an infant.

(B) 167.080 Displaying obscene materials to minors.

(C) 167.075 Exhibiting an obscene performance to a minor.

(D) 167.057 Luring a minor.

(E) 166.370 Possession of firearm or dangerous weapon in public building or court facility exception; discharging a firearm in a school.

(F) 433.010 Spreading disease prohibited; health certificates to be issued by physicians; rules.

(G) 163.264 Subjecting another person to involuntary servitude in the first degree.

(H) 163.263 Subjecting another person to involuntary servitude in the second degree.

(I) 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 (9) 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) 167.431 Participation in cockfighting.

(JJ) 167.370 Participation in dogfighting.

(KK) 162.065 Perjury.

(LL) 165.070 Possessing fraudulent communications device.

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

(NN) 164.335 Reckless burning.

(OO) 811.140 Reckless driving; penalty.

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

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

(RR) 162.315 Resisting arrest.

(SS) 165.090 Sports bribe receiving.

(TT) 165.085 Sports bribery.

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

(VV) 162.295 Tampering with physical evidence.

(WW) 162.305 Tampering with public records.

(XX) 164.045 Theft in the second degree.

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

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

(AAA) 162.175 Unauthorized departure.

(BBB) 165.074 Unlawful factoring of payment card transaction.

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

(DDD) 165.813 Unlawful possession of fictitious identification.

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

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

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

(HHH) 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)(F) 163.160 Assault in the fourth degree.

(F) 163.208 Assaulting a public safety officer.

(G)) 167.339 Assaulting a law enforcement animal.

(H) 475.900 Crime category classification; proof of commercial drug offense.

(I) 475.962 Distribution of equipment, solvent, reagent, or precursor substance with intent to facilitate manufacture of controlled substance.

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

(GG) 166.005 Treason.

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

(II) 475.880 Unlawful delivery of cocaine.

(JJ) 475.850 Unlawful delivery of heroin.

(KK) 475.810 Unlawful delivery of hydrocodone.

(LL) 475.912 Unlawful delivery of imitation controlled substance.

(MM) 475.860 Unlawful delivery of marijuana.

(NN) 475.820 Unlawful delivery of methadone.

(OO) 475.890 Unlawful delivery of methamphetamine.

(PP) 475.830 Unlawful delivery of oxycodone.

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

(RR) 475.876 Unlawful manufacture of cocaine.

(SS) 475.846 Unlawful manufacture of heroin.

(TT) 475.806 Unlawful manufacture of hydrocodone.

(UU) 475.856 Unlawful manufacture of marijuana.

(VV) 475.816 Unlawful manufacture of methadone.

(WW) 475.886 Unlawful manufacture of methamphetamine.

XX 475.826 Unlawful manufacture of oxycodone.

(YY) 475.814 Unlawful possession of hydrocodone.

(ZZ) 475.824 Unlawful possession of methadone.

(AAA) 475.834 Unlawful possession of oxycodone.

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

(CCC) 475.971 Unlawful possession of anhydrous ammonia.

(DDD) 475.884 Unlawful possession of cocaine.

(EEE) 475.854 Unlawful possession of heroin.

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

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

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

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

(JJJ) 475.894 Unlawful possession of methamphetamine.

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

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

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

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

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

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

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

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

(L) 475.868 Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of



school.

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

(N) 475.848 Unlawful manufacture of heroin within 1,000 feet of school.

(O) 475.808 Unlawful manufacture of hydrocodone within 1,000 feet of school.

(P) 475.858 Unlawful manufacture of marijuana within 1,000 feet of school.

(Q) 475.818 Unlawful manufacture of methadone within 1,000 feet of school.

(R) 475.888 Unlawful manufacture of methamphetamine within 1,000 feet of school.

(S) 475.828 Unlawful manufacture of oxycodone within 1,000 feet of school.

(T) 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 child abuse and neglect 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 abuse and neglect history, OCC will seek to obtain and review information related to the history, including information from the subject individual, subject to section (9) 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) OCC has determined that a substantiated finding of adult abuse may substantially jeopardize the safety of child care children and could be inconsistent with any position of unsupervised contact with children. If a subject individual discloses adult protective services history, OCC will seek to obtain and review information related to the history, including information from the subject individual, subject to section (9) 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) OCC has determined that foster care certification history may, depending on the history, substantially jeopardize the safety of child care children and could be inconsistent with any position of unsupervised contact with children. If a subject individual discloses foster care certification history, OCC will seek to obtain and review information related to the history, including information from the subject individual, subject to section (9) 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.

(7) OCC has determined a subject individual in a diversion program or similar agreement for any Category I or Category II crime, depending on the history, may substantially jeopardize the safety of child care children and could be inconsistent with any position of unsupervised contact with children. If a subject individual discloses a diversion program or similar agreement for any Category I or Category II crime, OCC will seek to obtain and review information related to the history, including information from the subject individual, subject to section (9) 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.

(8) 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.

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

(a) The nature of the child abuse and neglect, foster care adult protective services, or criminal history;

(b) The facts that support the child abuse and neglect, foster care, adult protective services, or criminal history or that indicate the making of a false statement;

- (c) The relevancy of the child abuse and neglect, foster care, adult protective services, or criminal history, or false statement to the individual's enrollment in the Central Background Registry; and
- (d) 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 abuse and neglect, foster care, adult protective services, or criminal history;
  - (ii) The age of the individual at the time of the child abuse and neglect, foster care, adult 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 abuse and neglect, foster care, adult 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 abuse and neglect, foster care, adult protective services, whether the subject individual has had an opportunity to contest the abuse finding through the agency or entity that made the finding and, if so, the status of any such challenge.
- (10) 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.

STATUTORY/OTHER AUTHORITY: ORS 657A.030

STATUTES/OTHER IMPLEMENTED: ORS 657A.030, HB 2259 (2017)

AMEND: 414-061-0060

RULE TITLE: Requirements of Requesting Agencies

RULE SUMMARY: Rule revisions are necessary due to the new requirements of CCDGB of 2014 (45 CFR 98) that establish disqualifying conditions for enrollment in the CBR and the passage of HB 2259 in 2017.

RULE TEXT:

Requesting agencies, as defined in OAR 414-061-0020(24), must comply with the following requirements:

- (1) A requesting agency's application forms must contain a notice that employees and other persons who are subject individuals must be enrolled in the Central Background Registry and that employment is subject to fingerprinting, criminal records checks, child abuse and neglect records checks, foster care certification check, and adult protective services check.
- (2) A requesting agency may hire a subject individual on a probationary basis if the subject individual is conditionally enrolled in the Central Background Registry. Conditionally enrolled individuals shall not have unsupervised access to childcare children at any time. A requesting agency may hire a subject individual on a permanent basis if the subject individual is enrolled in the Central Background Registry.
- (3) A requesting agency shall not hire or continue to employ on a probationary or permanent basis an individual if the individual is not enrolled in the Central Background Registry or has been removed from the Central Background Registry and has not been re-enrolled.
- (4) A requesting agency may allow a subject individual who is not yet enrolled or conditionally enrolled in the Central Background Registry to participate in training, orientation and work activities if the training, orientation and work activities are at a location other than the child care facility or are conducted at the facility when children are not present and the subject individual is not in contact with any children.

STATUTORY/OTHER AUTHORITY: ORS 329A.030(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.030, HB 2259 (2017)

AMEND: 414-061-0070

RULE TITLE: Procedures for Conducting Criminal Records Checks, Child Abuse and Neglect Records Checks, Foster Care Certification Checks, and Adult Protective Services Checks.

RULE SUMMARY: Rule revisions will reflect the new requirements of CCDGB Act of 2014 (45 CFR 98) and HB 2259 adopted in 2017.

RULE TEXT:

(1) OCC shall perform a criminal records check, child abuse and neglect records check, foster care certification check, and adult protective services check on all subject individuals who:

(a) Are currently enrolled in the Central Background Registry as of January 1, 2017; or

(b) Submit an initial or renewal application for enrollment in the Office of Child Care's Central Background Registry after January 1, 2017

(2) Subject individuals shall consent to being fingerprinted, and complete all requirements of OAR 414-061-0035

(a) If the Office of Child Care receives information a subject individual who is conditionally enrolled or enrolled in the Central Background Registry has foster care or adult protective services history, it shall require the person to sign a release and waiver of confidentiality so OCC may check whether the person has a substantiated finding of abuse or neglect or negative action taken on their certification.

(b) If the person fails to sign the release and waiver of confidentiality, the Office of Child Care shall:

(i) If the individual is conditionally enrolled in the Central Background Registry the agency shall remove the conditional enrollment and cease processing the individual's application for enrollment or renewal.

(ii) If the individual is enrolled in the Central Background Registry the Office of Child Care shall commence action to remove the person from the registry.

(3) Central Background Registry enrollment forms shall contain notice that a criminal records check of the Oregon State Police Computerized Criminal History (CCH) System, a child abuse and neglect records check, a foster care certification check and a check of adult protective services will be conducted as required by ORS 181.534 and 329A.030.

(4) OCC will review the criminal records information, child abuse and neglect, foster care and substantiated adult abuse or neglect records information, and any additional relevant information and will make a determination whether a subject individual may be enrolled in the Central Background Registry.

(5) OCC may accept FBI criminal background checks performed by the Department of Human Services when the FBI criminal background check has been completed within 24 months of the of the application date for enrollment in the central background registry

(6) Fees for each name checked through OSP CCH and child abuse and neglect systems are as follows:

(a) No charge for designated Early Learning Division employees; and

(b) OCC will charge the subject individual up to the amount equal to the cost incurred by OCC for criminal record checks and child abuse and neglect checks and enrollment in the Central Background Registry, to be paid at the time of application.

[ED. NOTE: Forms referenced in this rule are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 329A.030(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.030, HB 2259 (2017)

ADOPT: 414-061-0075

RULE TITLE: Duty of Subject Individuals

RULE SUMMARY: Rule revisions will reflect the new requirements of CCDGB Act of 2014 (45 CFR 98) and passage of HB 2259 in 2017.

RULE TEXT:

A subject individual who is conditionally enrolled or enrolled in the CBR shall inform the Office of Child Care within 30 days of the date of any change in their mailing address, phone number or email listed on their application materials.

STATUTORY/OTHER AUTHORITY: 329A.030(7)

STATUTES/OTHER IMPLEMENTED: 329A.030, HB 2259 (2017)

AMEND: 414-061-0080

RULE TITLE: Procedures for Conducting FBI Criminal History Checks

RULE SUMMARY: Rule revisions will reflect the new requirements of the CCDGB Act of 2014 (45 CFR 98) and HB 2259 adopted in 2017.

RULE TEXT:

- (1) An FBI criminal records check will be done on all subject individuals who:
  - (a) Are currently enrolled in the CBR; or
  - (b) Are submitting an application for enrollment in the Office of Child Care's Central Background Registry.
- (2) The subject individual shall supply to OCC the following information:
  - (a) One properly completed FBI fingerprint card, with printing in the "reason fingerprinted" block that reads "License/Certificate/Permit ORS 181A.195"; and
  - (b) A properly completed "Instructions to Authorized Fingerprinter" form; or
  - (c) Electronically submitted fingerprints through an OCC designated fingerprinter. The "reason fingerprinted" field must read "License/Certificate/Permit".
- (3) OCC will review the criminal records information and any additional information and will determine whether or not a subject individual may be enrolled, suspended or removed in or from the Central Background Registry.
- (4) Individuals currently enrolled in the Central Background Registry or with pending applications for enrollment in the Central Background Registry will receive a request to complete an FBI criminal records check from the Office of Child Care and must complete the FBI criminal records check by the date indicated on the request.
- (5) Failure to complete and pass the FBI criminal records check is a basis for suspension of enrollment in the Central Background Registry, removal from the Central Background Registry, or denial of the application.

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

STATUTORY/OTHER AUTHORITY: ORS 329A.030(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.030, HB 2259 (2017)



AMEND: 414-061-0090

RULE TITLE: Central Background Registry Enrollment Procedures

RULE SUMMARY: Rule revisions will reflect the new requirements of the CCDGB Act of 2014 (45 CFR 98) and HB 2259 adopted in 2017.

RULE TEXT:

(1) A subject individual shall be enrolled in the Central Background Registry if OCC has determined that the individual:

(a) Has provided all information and/or documents requested by OCC;

(b) Has no history as described in OAR 414-061-0045, 414-061-0050, or OAR 414-061-0075 or has dealt with the issues and provided adequate evidence of suitability;

(c) Has completed the application;

(d) Has paid the applicable fee; and

(e) Has complied with the rules of OCC adopted pursuant to the Central Background Registry (OAR 414-061-0000 through 414-061-0120).

(2) As of January 1, 2017, all enrollments in the Central Background Registry shall expire five years from the date of enrollment, unless suspended or removed sooner, and may be renewed upon application to OCC, payment of the required fee and compliance with the rules adopted by OCC pursuant to the Central Background Registry (OAR 414-061-0000 through 414-061-0120).

(3) A subject individual who has been enrolled in the Central Background Registry will be notified by OCC of his or her enrollment and the enrollment dates. Notification of enrollment status may be sent via email at the request of the individual. Such notification will not be sufficient evidence of enrollment for employment by a requesting agency.

(4) A subject individual may be conditionally enrolled in the Central Background Registry pending the results of an FBI criminal records check if the individual has been determined to be suitable based on their application having no disclosures of negative foster care history or a substantiated finding of adult abuse or neglect, no state disqualifying criminal records information as outlined in OAR 414-061-0045, no category I or II crime as listed in OAR 414-061-0050, and no negative child abuse and neglect information.

(a) The five-year enrollment period shall include the time the subject individual was conditionally enrolled.

(b) A conditionally enrolled subject individual who has subsequently been determined not to be suitable based on FBI criminal records information, or any other information that was not disclosed on the application that OCC becomes aware of, shall be suspended or removed from the Central Background Registry, according to the provisions of OAR 414-061-0110.

(c) A conditionally enrolled subject individual who is subsequently determined to be suitable based on FBI criminal records information shall be enrolled in the Central Background Registry.

(d) A conditional enrollment will expire if the subject individual has not been enrolled in the Registry within one year of the conditional enrollment.

(5) If an application for renewal and payment of the required fee is received by OCC at least 14 days prior to the expiration date of the current enrollment, the enrollment remains in effect until OCC has acted upon the application for renewal and given notice of the action taken. This subsection does not apply to a renewal application submitted by an individual who is removed from the Central Background Registry at the time of submission of the renewal application.

STATUTORY/OTHER AUTHORITY: ORS 329A.030(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.030, HB 2259 (2017)

AMEND: 414-061-0100

RULE TITLE: Office of Child Care Denial Procedures

RULE SUMMARY: Rule revisions will reflect the new requirements of the CCDGB Act of 2014 (45 CFR 98) and HB 2259 adopted in 2017.

RULE TEXT:

(1) A subject individual may 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 in OAR 414-061-0050 with final disposition not yet reached;

(d) Has an open child abuse or neglect investigation, or a substantiated finding of abuse or neglect against an adult, or law enforcement case with final disposition not yet reached;

(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; or

(f) Has been charged with, arrested for, or has a warrant for a crime listed in OAR 414-061-0045(4) or of a crime from another jurisdiction that is substantially similar.

(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.

(4) A subject individual who has been determined to be ineligible for enrollment in the Central Background Registry due to conviction of a crime listed in OAR 414-061-0045(4)(g) or convicted of a crime from another jurisdiction that is substantially similar, may apply for enrollment in the Registry after five or more years since the date of their last conviction.

STATUTORY/OTHER AUTHORITY: ORS 329A.030(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.030, HB 2259 (2017)

AMEND: 414-061-0110

RULE TITLE: OCC Removal Procedures

RULE SUMMARY: Rule revisions will reflect the new requirements of the CCDGB Act of 2014 (45 CFR 98) and HB 2259 adopted in 2017.

RULE TEXT:

(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) 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; or

(d) has a disqualifying condition listed in OAR 414-061-0045.

(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 five years from the date of removal.

STATUTORY/OTHER AUTHORITY: ORS 657A.030(7)

STATUTES/OTHER IMPLEMENTED: ORS 657A.030, HB 2259 (2017)

AMEND: 414-061-0120

RULE TITLE: Rights for Review and Contested Case Hearings

RULE SUMMARY: Rule revisions will reflect the new requirements of the CCDGB Act of 2014 (45 CFR 98) and HB 2259 adopted in 2017.

RULE TEXT:

(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.

(2) OCC does not have authority to change decisions, records, or information from other agencies.

(3) OCC is entitled to rely on the criminal records, child abuse and neglect records and information, foster care and adult protective services records and information or the child abuse and neglect information until notified that the information has been changed or corrected in a manner that would alter the OCC decision.

(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.

STATUTORY/OTHER AUTHORITY: ORS 329A.030(7)

STATUTES/OTHER IMPLEMENTED: ORS 329A.030, HB 2259 (2017)

