



Statutory workgroup proposals		
Current statute	Proposed changes	Rationale and impact
<p><b>Does not currently exist in OCC statutes</b></p>	<p><b>ORS 329A.xxx Continuing jurisdiction over facility and central background registry actions</b></p> <p>(1) The lapsing, suspension or revocation of a facility registration or certification by operation of law or by order of the Office of Child Care or by decision of a court of law, or the voluntary surrender of a facility registration or certification by a licensee, shall not deprive the Office of Child Care of jurisdiction to proceed with any investigation of or any action or proceeding against the licensee, or to revise or render null and void an order suspending or revoking the license.</p> <p>(2) The lapsing, suspension or revocation of an enrollment in the central background registry by operation of law or by order of the Office of Child Care or by decision of a court of law, or the voluntary surrender of an enrollment by an enrollee, shall not deprive the Office of Child Care of jurisdiction to proceed with any investigation of or any action or proceeding against the enrollee, or to revise or render null and void an order suspending or revoking the enrollment.</p>	<p>Gives OCC greater enforcement authority over facilities and individuals when the office has started to take action on a license. once a licensing action is commenced;</p> <p>Currently, when a license expires in the middle of an enforcement action, the OCC loses its authority to take action.</p> <p>This change would allow the process to continue even if the license expires. This saves staff rework and expense if the individual tries to apply for a license in the future.</p>

Current statute	Proposed changes	Rationale and impact
<p><b>329A.252 Provision of care by persons whose enrollment in registry is denied, revoked or under suspension.</b></p> <p>(1) Notwithstanding ORS 329A.250 (4), care provided to children other than the children of the person providing the care by a person whose enrollment in the Central Background Registry established by ORS 329A.030 has been denied for cause, has been revoked or is under suspension, or whose certification or registration has been denied for cause, has been revoked or is under suspension, or who has voluntarily surrendered the person’s certification or registration while under investigation by the Office of Child Care, is “child care” for purposes of ORS 329A.030 and 329A.250 to 329A.450.</p> <p>(2) Notwithstanding ORS 329A.250 (5), a facility providing care for four hours or less per day that is primarily educational to preschool children that is operated by a person whose enrollment in the Central Background Registry established by ORS 329A.030 has been denied for cause, has been revoked or is under suspension, or whose certification or registration has been denied for cause, has been revoked or is under suspension, or who has voluntarily surrendered the person’s certification or registration while under investigation by the Office of Child Care, is a “child care facility” for purposes of ORS 329A.030 and 329A.250 to 329A.450.</p>	<p><b>329A.252 Provision of care by persons whose enrollment in registry is denied, revoked or under suspension.</b></p> <p>(1) For the purposes of this section, an exempt prohibited individual means an individual:</p> <ul style="list-style-type: none"> <li>(a) whose facility registration or certification has been revoked, denied, or suspended, as defined by rule;</li> <li>(b) whose enrollment in the central background registry has been denied or who has been suspended or removed for cause from the Central Background Registry, as defined by rule; or</li> <li>(c) who has voluntarily surrendered, as defined by rule, their facility registration or certification or central background registry enrollment while under investigation by the Office of Child Care or at any time after the Office of Child Care has sent notice of an administrative law proceeding against the individual’s facility or registry enrollment;</li> </ul> <p>(2) An exempt prohibited individual cannot, without first obtaining a certification or registration from the Office of Child Care, care for children that are not related to the individual by blood or marriage within the fourth degree as determined by civil law. For the purposes of this section, care does not have to be provided in exchange for compensation and does not have to be provided in any particular location.</p> <p>(3) Status as an exempt prohibited individual lasts for five years from the date of an individual becoming an exempt prohibited individual. After five years from that date, an individual ceases to be exempt prohibited.</p>	<p>Strengthens, simplifies and clarifies existing statute.</p> <p>Closes loopholes that currently allow an individual who has had previous significant licensing violations to provide care in a different facility or allow a different provider to provide care in their facility. This would better protect children from providers with a history of violations.</p>



Current statute	Proposed changes	Rationale and impact
<p><b>Does not currently exist in OCC statutes</b></p>	<p><b>ORS 329A.xxx Effect of denial or revocation on Central Background Registry enrollment.</b></p> <p>(1) Notwithstanding ORS 329.030, an individual is ineligible for enrollment in the Central Background Registry if the individual has:</p> <ul style="list-style-type: none"> <li>(a) had a registration or certificate denied for a violation of the applicable Office of Child Care administrative rules, as defined by the Early Learning Council by rule; or</li> <li>(b) had a registration or certificate revoked for a violation of the applicable Office of Child Care administrative rules, as defined by the Early Learning Council by rule.</li> </ul> <p>(2) If the individual is enrolled in the Central Background Registry at the time of the denial or revocation, the Office of Child Care shall remove the individual from the Central Background Registry.</p> <p>(3) The individual shall be ineligible for enrollment for a period of five years from the date of their denial or removal from the Central Background Registry</p>	<p>Similar to above, this protects children from individuals who have previously been removed from the Central Background Registry.</p>
<p><b>329A.250 Definitions</b></p> <p>(12) “School age” means of an age eligible to be enrolled in the <b>first grade</b> or above and, during the months of summer vacation from school, means of an age eligible to be enrolled in <b>first grade</b> or above in the next school year.</p>	<p><b>329A.250 Definitions</b></p> <p>(12) “School age” means of an age eligible to be enrolled in <b>kindergarten</b> or above and, during the months of summer vacation from school, means of an age eligible to be enrolled in <b>kindergarten</b> or above in the next school year.</p>	<p>Oregon’s implementation of all-day kindergarten requires current definition to be updated</p>



Current statute	Proposed changes	Rationale and impact
<p>Does not currently exist in OCC statutes</p>	<p><b>ORS 329A.xxx Cease and desist orders</b></p> <p>(1) If the Office of Child Care has reason to believe that a person has engaged, is engaging, or is about to engage in a violation of ORS 329A.250 through 329A.450, or the rules created thereunder, the agency may, subject to ORS chapter 183, issue an order directing the person to cease and desist from the violation or threatened violation.</p> <p>(2) A cease and desist order issued under subsection (1) of this section must include:</p> <ul style="list-style-type: none"> <li>(a) A statement of the facts constituting the violation or threatened violation.</li> <li>(b) A provision requiring the person named in the order to cease and desist from the violation or threatened violation.</li> <li>(c) The effective date of the order.</li> <li>(d) A notice to the person named in the order of the right to a contested case hearing under ORS chapter 183.</li> </ul> <p>(3) A cease and desist order issued under subsection (1) of this section becomes effective 21 days after service of the order, as provided by rule, unless the person named in the order requests a hearing on the order. A person is not entitled to judicial review of a cease and desist order unless the person has made a timely demand for a hearing.</p> <p>(4) After the hearing under ORS chapter 183, the Office of Child Care shall enter a final order vacating, modifying or affirming the cease and desist order.</p> <p>(5) A judgment of a reviewing court under ORS chapter 183 does not bar the Office of Child care from thereafter vacating or modifying a</p>	<p>The Office of Child Care currently does not have the ability to issue a cease and desist order. That means, for example, the only way to take action against an unlicensed facility that continues to provide care is by seeking a court injunction, which is a time-consuming and lengthy process.</p> <p>The ability to issue a cease and desist order allows for more timely enforcement actions to protect children when providers are failing to follow OCC rules. Generally, this would apply to unlicensed facilities that refuse to become licensed, or that cannot become licensed due to a previous enforcement action.</p> <p>Note: OCC does not lose the ability to take other enforcement actions against licensed facilities, such as denials revocations and emergency suspensions, nor does OCC lose the ability to seek an injunction, which can take several months and require significant collaboration with DOJ</p>

	<p>cease and desist order involved in the proceeding for review, or entering any new order, for a proper cause that was not decided by the reviewing court.</p> <p>(6) The Attorney General, the prosecuting attorney of any county or the agency, in its own name, may maintain an action for an injunction in a court of competent jurisdiction against a person violating ORS 329A.250 through 329A.450. An injunction may be issued without proof of actual damage sustained by any person. An injunction does not relieve a person from criminal prosecution for violation of this section or from any other civil, criminal or disciplinary remedy.</p>	
Current statute	Proposed changes	Rationale and impact
<p><b>329A.992 Suspension; revocation; civil penalty; rules; deposit into Child Care Fund.</b></p> <p>(1) In addition to any other provision of law or rule adopted pursuant to ORS 329A.260 for enforcement of the provisions of ORS chapter 329A, the Office of Child Care may suspend or revoke a certification or registration issued under ORS 329A.030 and 329A.250 to 329A.450, or impose a civil penalty in the manner provided in ORS 183.745, for violation of:</p> <p>(a) Any of the provisions of ORS 329A.030 and 329A.250 to 329A.450;</p> <p>(b) The terms and conditions of a certification or registration issued under ORS 329A.030 and 329A.250 to 329A.450; or</p> <p>(c) Any rule of the Early Learning Council adopted under ORS 329A.030 and 329A.250 to 329A.450.</p> <p>(2) The Early Learning Council shall adopt by rule a schedule establishing the civil penalties that may be</p>	<p><b>329A.992 Suspension; revocation; civil penalty; rules; deposit into Child Care Fund.</b></p> <p>(1) In addition to any other provision of law or rule adopted pursuant to ORS 329A.260 for enforcement of the provisions of ORS chapter 329A, the Office of Child Care may suspend or revoke a certification or registration issued under ORS 329A.030 and 329A.250 to 329A.450, or impose a civil penalty in the manner provided in ORS 183.745, for violation of:</p> <p>(a) Any of the provisions of ORS 329A.030 and 329A.250 to 329A.450;</p> <p>(b) The terms and conditions of a certification or registration issued under ORS 329A.030 and 329A.250 to 329A.450; or</p> <p>(c) Any rule of the Early Learning Council adopted under ORS 329A.030 and 329A.250 to 329A.450.</p> <p>(2) The Early Learning Council shall adopt by rule a schedule establishing the civil penalties that may be</p>	<p>Existing penalty structure is too low to act as a deterrent and change behavior.</p> <p>Strengthening the civil penalty statute (increasing amounts and consequences of not paying) will allow the statute to act as more of a deterrent to facilities and individuals that have repeated rule violations.</p> <p>With an emphasis on deterrence Oregon's children will attend safer child care facilities and have less incidences of harm.</p>

<p>imposed under this section. The schedule must provide for categories of violations for which a penalty may be imposed, including “nonserious” and “serious” to be defined by the council by rule under ORS 329A.260.</p> <p>(3) The office must issue a written warning for a nonserious or serious violation before assessing a civil penalty under this section. The written warning must prescribe a reasonable time in which to correct a violation.</p> <p>(4) The office may not impose a civil penalty of more than \$100 for a first violation.</p> <p>(5) The office may not impose a civil penalty for a subsequent violation that exceeds the penalty imposed for the previous violation by more than \$100. Penalties imposed under this subsection may not exceed \$500 per violation, or \$1,000 total for multiple violations per quarter.</p> <p>(6) Notwithstanding any other provision of this section, the maximum civil penalty that may be imposed:</p> <p>(a) For violation of ORS 329A.330 by a registered family child care home provider is \$100.</p> <p>(b) For violation of ORS 329A.280 by an operator of a child care facility that is not a child care center is \$200.</p> <p>(c) For violation of ORS 329A.280 by an operator of a child care facility that is a child care center is \$500.</p> <p>(7) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the office considers proper and consistent with the public health and safety.</p> <p>(8) All moneys received under this section shall be deposited in the</p>	<p>imposed under this section. <del>The schedule must provide for categories of violations for which a penalty may be imposed, including “nonserious” and “serious” to be defined by the council by rule under ORS 329A.260.</del></p> <p>(3) The office <del>shall</del> may issue a written warning for a <del>nonserious</del> violation before assessing a civil penalty under this section. The written warning shall prescribe a reasonable time in which to correct a violation.</p> <p>(4) The office may issue a civil penalty for the first violation of a rule.</p> <p>(5) For a registered family child care provider the office may not impose a civil penalty of more than \$_____ for each violation.</p> <p>(6) For a certified family child care provider that is not a center, the office may not impose a civil penalty of more than \$_____ for each violation.</p> <p>(7) For a certified child care center that is not a certified family home, the office may not impose a civil penalty of more \$_____ for each violation.</p> <p>(8) Failure of a facility to pay civil penalties in which the office has issued a final order by default or a final order after a contested case hearing, shall be grounds for the denial or revocation of the facility’s registration or certification.</p> <p>(9) Notwithstanding sections (5), (6), or (7), the Office of Child Care may assess civil penalties for violations of ORS 329A.280 and ORS 329A.330.</p> <p>(a) The penalties for initial violations are:</p> <p>(A) \$_____ for a violation of ORS 329A.330;</p> <p>(B) \$_____ for a violation of ORS 329A.280.</p> <p>(b) Each day of violation is a separate offense and subject to a civil penalty.</p>	<p>Discussions with AFSCME led to revised penalty amounts. Workgroup needs to make recommendations on highlighted spots.</p>
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<p>Child Care Fund established under ORS 329A.010 (4) and may be used for the administration of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.</p>	<p>(10) A civil penalty imposed under this section may be remitted or reduced upon such terms and conditions as the office considers proper and consistent with the public health and safety.</p> <p>(11) All moneys received under this section shall be deposited in the Child Care Fund established under ORS 329A.010 (4) and may be used for the administration of ORS 181A.200, 329A.030 and 329A.250 to 329A.450.</p>	
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**Clarify OCC’s ability to impose conditions upon registrations and certifications**

Current statute	Proposed changes	Rationale and impact
<p><b>329A.992 Suspension; revocation; civil penalty; rules; deposit into Child Care Fund.</b></p> <p>(1) In addition to any other provision of law or rule adopted pursuant to ORS 329A.260 for enforcement of the provisions of ORS chapter 329A, the Office of Child Care may suspend or revoke a certification or registration issued under ORS 329A.030 and 329A.250 to 329A.450, or impose a civil penalty in the manner provided in ORS 183.745, for violation of:</p> <p>(a) Any of the provisions of ORS 329A.030 and 329A.250 to 329A.450;</p> <p>(b) The terms and conditions of a certification or registration issued under ORS 329A.030 and 329A.250 to 329A.450; or ...</p>	<p>Existing statutory authority to issue conditions is highlighted</p>	<p>Changes are to clarify existing OCC authority to place conditions on facility registration and certification.</p> <p>If OCC determines that it is necessary to protect the health, safety, and well-being of child care children, OCC may impose a condition on the certification or registration reasonably designed to address the agency’s concern and limit the risk to children in care.</p>
	<p><b>329A.330 Registration requirements; fee; waiver; renewal; rules; work sheet. (changed / added language highlighted)</b></p> <p>(6) A registration authorizes operation of the facility only on the premises described in the registration and only by the person named in the registration. OCC may impose a condition on a registration in accordance with ORS 329A.350(2).</p>	



Current statute	Proposed changes	Rationale and impact
	<p><b>329A.350 Denial, revocation or suspension of certification or registration; imposing conditions on certifications and registrations. (added language highlighted)</b></p> <p>(1)An initial application from a child care facility for certification or registration or a renewal application from a child care facility for certification or registration may be denied, or a temporary or regular certification or regular registration may be revoked or suspended, if the Office of Child Care finds:</p> <p>(a) That the facility or its operation does not comply with ORS 181A.200, 329A.030 and 329A.250 to 329A.450 or with applicable rules <b>or with conditions imposed on the license under subsection two of this section.</b>; or</p> <p>(b) That visitation, on-site review or inspection of a facility or its records authorized by ORS 329A.390 or 329A.400 has not been permitted.</p> <p><b>(2) If OCC determines that it is necessary to protect the health, safety, and well-being of child care children, OCC may impose a condition on the certification or registration reasonably designed to address the agency’s concern and limit the risk to children in care. OCC may impose a condition as part of the application or application renewal process or at any time after the issuance of a certification or registration.</b></p>	
<p><b>329A.360 Notice; hearing; decision; judicial review.</b></p> <p>(1) Upon deciding to deny, revoke, suspend or not to renew a certification or registration, the Office of Child Care shall give notice and opportunity for hearing as provided in ORS chapter 183.</p>	<p><b>329A.360 Notice; hearing; decision; judicial review. (added language highlighted)</b></p> <p>(1) Upon deciding to deny, revoke, suspend, <b>impose conditions on existing registrations or certifications,</b> or not to renew a certification or registration, the Office of Child Care shall give notice and opportunity for</p>	<p>Changes are to clarify existing OCC authority to place conditions on facility registration and certification.</p>



<p>(2) The Office of Child Care shall make the final decision and notice thereof shall be sent by certified mail to the address of the child care facility as shown on the records of the office. The decision of the office is reviewable by the Court of Appeals in the manner provided in ORS 183.480 for the review of orders in contested cases.</p>	<p>hearing as provided in ORS chapter 183.</p> <p>(2) The Office of Child Care shall make the final decision and notice thereof shall be sent by certified mail to the address of the child care facility as shown on the records of the office. The decision of the office is reviewable by the Court of Appeals in the manner provided in ORS 183.480 for the review of orders in contested cases.</p>	<p>If OCC determines that it is necessary to protect the health, safety, and well-being of child care children, OCC may impose a condition on the certification or registration reasonably designed to address the agency's concern and limit the risk to children in care.</p>
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**Create tiered, progressive enforcement structure**

<b>Current statute</b>	<b>Proposed changes</b>	<b>Rationale and impact</b>
<p><b>329A.260 Minimum standards for child care facilities; rules.</b></p> <p>(1) After consultation with appropriate agencies and interested persons, the Early Learning Council by rule shall establish minimum standards for child care facilities and the operation thereof and for the administration of ORS 329A.030 and 329A.250 to 329A.450.</p> <p>(2) In establishing minimum standards of health and safety, the council shall consult with the Oregon Health Authority and the State Fire Marshal and shall give consideration to their recommendations and to all basic requirements for the protection of the children to receive child care, including the criteria prescribed in ORS 329A.290, and may adopt rules applicable to different categories of child care facilities, considering:</p> <p>(a) The numbers and ages of the children to receive care in the child care facility.</p> <p>(b) The number, experience and training of the staff of the child care facility.</p> <p>(c) The types and qualities of equipment and other factors in the physical plant of the child care</p>	<p><b>329A.260 Minimum standards for child care facilities; rules.</b></p> <p>(1) After consultation with appropriate agencies and interested persons, the Early Learning Council by rule shall establish minimum standards for child care facilities and the operation thereof and for the administration of ORS 329A.030 and 329A.250 to 329A.450.</p> <p>(2) Under the direction and with approval of the Early Learning Council the Office of Child Care shall develop rules for tiered, progressive enforcement of all rules developed pursuant to ORS 329A.250 – 329A.992.</p> <p>(a) The tiered, progressive enforcement program developed under this section shall establish a set of progressively higher standards that are used by the Office of Child Care in determining the appropriate enforcement action it may take for rule violations.</p> <p>(b) Consist of the following components:</p> <p>(A) Tiered standards that define a progression of potential enforcement actions for</p>	<p>Coincide with Risk Assessed Rule (RAR) development.</p> <p>Makes explicit OCC's authority to adopt new rule structure that is more transparent for child care providers and easier to follow. Additionally, a tiered, progressive enforcement structure makes clear to OCC staff the enforcement actions they should take to keep children safe.</p>



<p>facility.</p> <p>(d) Any other factor affecting the care provided in the child care facility.</p>	<p>programs.</p> <p>(B) Assignment of point values to rules developed pursuant to ORS 329A.250—329A.992.</p> <p>(C) Monitoring of programs based on established standards.</p> <p>(D) Program ratings within the tiered system shall be publicly available.</p> <p>(3) In establishing minimum standards of health and safety, the council shall consult with the Oregon Health Authority and the State Fire Marshal and shall give consideration to their recommendations and to all basic requirements for the protection of the children to receive child care, including the criteria prescribed in ORS 329A.290, and may adopt rules applicable to different categories of child care facilities, considering:</p> <p>(a) The numbers and ages of the children to receive care in the child care facility.</p> <p>(b) The number, experience and training of the staff of the child care facility.</p> <p>(c) The types and qualities of equipment and other factors in the physical plant of the child care facility.</p> <p>(d) Any other factor affecting the care provided in the child care facility</p>	
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