



Early Learning Council

Thursday, January 29, 2015

8:00 am – 12:00 pm

Oregon Department of Education

255 Capitol Street

Second floor, Room 251 A/B

Salem, OR 97310

*Members of the public wanting to give public testimony must sign in.
Each individual speaker or group spokesperson will have 2 minutes.*

PAM CURTIS
ELC Chair

HARRIET ADAIR

VIKKI BISHOP

MARTHA BROOKS

JANET
DOUGHERTY- SMITH

TIM FREEMAN

DANA HARGUNANI

KALI THORNE-LADD

CHARLES McGEE

EVA RIPPETEAU

CHRISTA RUDE

LYNNE SAXTON

TERI THALHOFER

JIM TIERNEY

ROBERTA WEBER

KIM WILLIAMS

DICK WITHNELL

MARLENE YESQUEN

ROB SAXTON

MEGAN IRWIN
*Acting Early Learning
System Director*

AGENDA

- I. Board Welcome and Roll Call
Chair Pam Curtis
- II. Chair's Report
Pam Curtis, Chair
- III. Director's Report
Megan Irwin, Acting Early Learning System Director
- IV. Rule Promulgation - Final Adoption
Kathleen Hynes, ELD Legal and Compliance Manager
 - a. Medical Marijuana Use in Licensed Child Care
 - b. Registered Family Home Rules
 - c. Central Background Registry Rules
- V. Strategic Plan Ratification
Pam Curtis, Chair
- VI. Early Learning Council Subcommittee Reports
 - a. Acknowledge written receipt of reports
 - b. Discussion and adoption of Early Learning Hub Metrics Committee Recommendations
Pam Curtis, Chair
David Mandell, ELD Director of Policy and Research
- VII. Child Care Development Fund Discussion
Bobbie Weber, ELC member
David Mandell, ELD Director of Policy and Research
- VIII. Public Testimony
- IX. Adjournment

All meetings of the Early Learning Council are open to the public and will conform to Oregon public meetings laws. The upcoming meeting schedule and materials from past meetings are posted [online](#). A request for an interpreter for the hearing impaired or for accommodations for people with disabilities should be made to Alyssa Chatterjee at 503-373-0066 or by email at Alyssa.Chatterjee@state.or.us. Requests for accommodation should be made at least 48 hours in advance.

Rules for Final Adoption

Medical Marijuana Rules for Licensed Child
Care, Registered Family Child Care Rules,
Central Background Registry Rules

Board Action Summary

January 29, 2015

AGENDA ITEM: Rules Adoption

Summary of Recommended Board Action

ACTION:

Final adoption of three sets of rules considered and discussed at the November 2014 Early Learning Council Meeting.

ISSUE:

In November 2014 the Early Learning Council had a first reading and discussion of rules pertaining to:

- Medical marijuana use in licensed childcare facilities and homes.
- The Office of Child Care's Central Background Registry.
- Certified Family Child Care Homes.

The Council must now vote on whether or not to adopt these rule sets. The Council has been provided with a detailed summary of each rule set, the process preceding the rule revisions and copies of the revised rules themselves.

ACTION PRECEDING RECOMMENDED BOARD ADOPTION:

A detailed summary of action on each rule set is provided in this packet.

Each set of rules was vetted and discussed by a rule advisory committee and then run through a public comment period where the public was invited to share their input via online comment and public hearing. The rules pertaining to medical marijuana use in child care were vetted and discussed by a rule advisory committee made up of ELC members, impacted constituents from the child care community, the medical marijuana community and law enforcement, as well as state staff from impacted state agencies.

The rules pertaining to the Central Background Registry and Certified Family Child Care Homes were vetted and discussed by the Council's Child Care Work Group, which has been chartered by the Council to act as its rule advisory committee.

BOARD MEMBER PRESENTING REPORT FOR ADOPTION:

Pam Curtis, Early Learning Council Chair

CONTACT: Megan Irwin, Acting Early Learning System Director

Early Learning Council – Administrative Rule Summary

Title/OAR #: Medical Marijuana Rules for Licensed Child Care

Date: January 29, 2015

Registered Family OAR 414-205-0010 to 414-205-0100

Certified Family OAR 414-300-0005 to 414-300-0070

Certified Center OAR 414-350-0010 to 414-350-0090

Staff/Office: Cindy Hunt, Deputy Supt. Office

☐ New Rule ☒ Amend Existing Rule ☐ Repeal Rule

Hearing Dates: October 21, 2014, October 23, 2014 and November 25, 2014 (joint with DHS) ☒ Hearings Officer
Report Attached

Prompted by: ☐ State law changes ☐ Federal law changes ☒ Other

Action Requested:

☒ Approve for Filing ☐ First Reading and Review

PROPOSED/AMENDED RULE SUMMARY:

The proposed final rules will strengthen health and safety standards for child care facilities related to illegal controlled substances, and address marijuana, alcohol and tobacco products. The proposed rules will amend three sets of child care facility rules: Registered Family Child Care, Certified Family Child Care, and Certified Child Care Center.

Proposed final rule revisions to address use, growth, storage and distribution of marijuana in licensed child care facilities. by child child care providers.

Rules retain the provision that a certificate of licensure shall not be issued to an applicant who holds a medical marijuana card or who grows, uses or distributes marijuana. Note: The provision referring to growing or distributing marijuana is no longer limited to 'medical' marijuana. In addition, new amendments were added requiring medical marijuana and related paraphernalia be kept or stored in its original container if purchased at a dispensary and under lock at any licensed child care facility. Amendments were added stating that no adult under the influence of medical marijuana shall have contact with child care children.

BACKGROUND:

The Early Learning Division was established through the passage of HB 3234 and came into existence July 1, 2013. The Early Learning Division of the Oregon Department of Education is directed under Oregon statute to establish minimum standards for child care facilities under the guidance of the Early Learning Council, which has responsibility for adopting rules and broadly overseeing the development of early learning system and programs for children age 0-6. The Council's child care regulatory responsibility came with the creation of the division effective July 1, 2013 and is the first time that this body or any other public body has had jurisdiction over the state's child care regulatory and programmatic responsibilities.

When establishing minimum standards for health and safety, the division shall give consideration 'to all basic requirements for the protection of the children to receive child care' including any factor affecting the care provided at the child care facility. Oregon law also directs providers of child care to protect the health, the safety and the physical, moral and mental well-being of the children cared for in the facility.

Governor Kitzhaber directed the Early Learning Council to take the necessary regulatory action to ensure that medical marijuana consumption is not allowed in a child care environment. In a statement, Governor Kitzhaber said, "*Marijuana*

consumption should not and cannot be tolerated within a child care environment licensed by the state. We entrust our providers to maintain safe learning environments where our children can thrive. There is a loophole that needs to be closed. I want that addressed immediately, and have directed the Early Learning Council to take the necessary regulatory action.”

As a result, the Early Learning Council approved temporary rules implementing the Governor’s directive August 6, 2014 and they became effective August 7, 2014. These rules revise the temporary rules. Since then, the Early Learning Division convened an Advisory Group to provide the division additional information and comment on the temporary rules and are convened three public hearings on the rules.

Attendees at the Advisory Group included:

- | | |
|---------------------------|--|
| 1. Shelly Campbell | Provider Resource Organization Board Co- Chair – Salem |
| 2. Jeremy Chedester | Child Abuse Unit - Drug Unit– Washington County Sherriff |
| 3. Karen Collette | Child Care Policy Analyst - Employment Related Day Care |
| 4. Aaron Cossel | Program Analyst and Custodian of Records - Oregon Medical Marijuana Program |
| 5. Blake Dye | Project Manager – Government & Legal Affairs - ODE |
| 6. Becky Goodman | Provider Resource Organization Board Chair - Portland |
| 7. Cindy Hunt | Manager, Government & Legal Affairs - ODE |
| 8. Tonia Hunt | Executive Director Children First for Oregon |
| 9. Kathleen Hynes | Legal and Compliance Manager - Early Learning Division |
| 10. Megan Irwin | Interim Director of the Early Learning Division |
| 11. Tim Kiurski | Detective – Washington County Sheriff’s office |
| 12. Megan Lockwood | Office Manager – Oregon Medical Marijuana Program |
| 13. David Mandell | Policy Director – Early Learning Division |
| 14. Shannon O’Fallon | Senior Assistant Attorney General – Oregon Medical Marijuana Program (via phone) |
| 15. Henry Oliva | Regional Manager – Early Learning Division |
| 16. Rhonda Prodzinski | Child Care and Refugee Program Manager |
| 17. Eva Rippeteau | Early Learning Council & American Federation of State, County & Municipal Employees |
| 18. Norm Smith | Early Learning Council (via phone Conference Line 1-888-251-2909 Participant code 9089304) |
| 19. Anthony Taylor | Compassionate Oregon |
| 20. Penelope Jones Vaughn | American Federation of State, County & Municipal Employees |

On November 4, 2014 Oregon voters passed Ballot Measure 91, making use of marijuana legal in Oregon, effective July 1, 2015. As a result, the proposed rules anticipate this change and have incorporated its outcome in the rules.

Summary of Revisions of Licensed Child Care Facility Rules including Registered Family Child Care, Certified Family Child Care and Certified Child Care Centers:

- Prohibit provider from holding a medical marijuana card.
- Prohibit anyone from using marijuana, including medical marijuana, in a child care home during child care hours or when child care children are present.
- Prohibit anyone under the influence of marijuana from having contact with child care children.
- Prohibit anyone from growing or distributing marijuana on the child care premises.
- Permits children with medical marijuana card to use and to be medicated in child care facility.

TIMELINE OF KEY ACTIVITIES

- August 6, 2014, the Early Learning Council approved temporary rules.
- Early Learning Division convened an advisory group for two meetings on August 29, 2014 and September 8, 2014.
- Early Learning Division, Office of Child Care staff drafted and reviewed new rule amendment language to the temporary administrative rules for external review.
- The new rule amendment language was posted on line and sent to agency stakeholders on September 22, 2014.

- Public hearings were held in Portland on October 21, 2014 and Eugene on October 23, 2014, and Salem on November 25, 2014. Testimony was presented.
- Public comments about the proposed new rule amendment language were accepted until November 28, 2014 at 5:00 p.m.

BENEFITS

- Provides specific requirements to ensure the continued safety and well-being of child care children.
- Provides clarification on the regulations related to marijuana, including medical marijuana, and other substances.

ISSUES/CONCERNS THAT SURFACED DURING RULE WORK:

- Should the rules address the use of medical marijuana differently than the growing or distributing of medical marijuana? Response: The rule amendments prohibit providers from holding a marijuana card or growing or distributing marijuana. Response: The rules are intended to assure that child care children are in a safe learning environment and that the health and safety of children is assured. Permitting the growing and distributing of marijuana (which is still illegal under federal law) in a child care facility is not compatible with these goals. Should the rules address different categories of card holders such as child care providers, children and other adults on the premises differently? Response: The rule amendments continue to prohibit a provider from holding a medical marijuana card and using medical marijuana. The amendments revised the restrictions on other household members and permit them to be under the influence of medical marijuana, but they may not have any contact with child care children. The amendments restrict use of marijuana by child care providers and other adults during child care hours or when child care children are present.
- Should the rule treat child care facilities differently based upon when child care children are present? The rules place specific restrictions on marijuana when child care children are present. Response: No marijuana may be used during child care hours or when child care children are present. However a household member who is not a provider may be under the influence of medical marijuana during child care hours or when child care children are present, but may not have any contact with child care children.
- If marijuana is on the premises of a child care provider, how should it be stored? There was also a concern regarding restricting access to child friendly products that contain marijuana. Response: The rules require marijuana to be under a child safety lock and, if purchased from a dispensary, in its original packaging.
- Do these rules violate the confidentiality of medical marijuana cardholders? Response: The rules do not require disclosure by an individual, the Oregon Medical Marijuana program, or a medical provider, of an individual's medical marijuana card holder status and the Early Learning Division does not have access to these records.
- Do these rules discriminate against one group of people? Response: Medical Marijuana continues to be illegal under federal law. It also does not have the same level of regulation and oversight by the FDA or other safety and regulatory bodies, as prescription medications. Consequently there are no standards that regulate the quality of the medication, and safe dosages.
- What is the definition of premises and how much access should Office of Child Care staff have to areas that are not used for child care? Response: Rules allow access to the premises, with a higher level of inspection for child care areas. Examples were given relating to dangerous items being found in areas not used for child care that could impact health or safety of child care children.
- Do these rules cover the storage of all marijuana or just medical marijuana? The proposed rules cover all forms of legal marijuana by adding language that "marijuana must be kept in the original container if purchased from a dispensary" and "regardless of the source of the marijuana, all marijuana must be stored under a child safety lock."
- Do these rules prevent parents who use medical marijuana from picking up their children? Response: The rules do not regulate or apply to parents who are picking up their children.

FISCAL IMPACT:

- Potential loss of livelihood for providers not able to operate a licensed child care facility while holding a medical marijuana card or growing, distributing or using marijuana.

STAFF RECOMMENDATION:

- ☒ Approve final rule for filing
☐ Adopt administrative rule in January
☐ No recommendation at this time

Comments:

DRAFT

September 17, 2014

**OREGON DEPARTMENT OF EDUCATION
EARLY LEARNING DIVISION**

DIVISION 300

CERTIFIED CHILD CARE CENTERS

General Provisions

414-300-0005

Definitions

The following words and terms, when used in OAR 414-300-0000 through 414-300-0415, have the following meanings:

- (1) "Activity Area" means the area of the center that is available, during all the hours of operation, for the children's activities. This area excludes kitchens, hallways, toilet rooms, multi-purpose areas used by all children, lockers, office, storage areas, isolation quarters, staff room, furnace room, and that part of rooms occupied by heating stoves, or stationary equipment not used by children. Additional exclusions may apply for specific age groups.
- (2) "Attendance" means children actually present in the center at any given time.
- (3) "Capacity" means the total number of children allowed in the center at any one time, based on the available indoor and outdoor square footage, the number of toilets in the center and the number of qualified staff.
- (4) "Caregiver" means any person in the child care center who works directly with the children, providing care, supervision, and guidance.
- (5) "Central Background Registry" means OCC's Registry of individuals who have been approved to work in a child care facility in Oregon pursuant to ORS 657A.030 and OAR 414-061-0000 through 414-061-0120.
- (6) "Certificate" means the document that is issued by OCC to a child care center pursuant to ORS 657A.280.

(7) "Child Care" means the care, supervision, and guidance on a regular basis of a child, unaccompanied by a parent, guardian, or custodian, during a part of the 24 hours of the day, with or without compensation. Child care does not include the care provided:

(a) In the home of the child;

(b) By the child's parent or guardian, or person acting in loco parentis;

(c) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;

(d) On an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care; or

(e) By providers of medical services.

(8) "Child Care Area" means that indoor and outdoor area specifically certified for use by the center and includes all activity areas and other areas of the facility used to provide child care, such as kitchen, toilet rooms, offices, storage areas, and rooms used solely for napping or eating. This may be a specific portion or portions of the building and grounds of a larger facility or one or more buildings at the same location.

(9) "Child Care Child" means any child six weeks of age or older and under 13 years of age, or a child with special needs under the age of 18 who requires a level of care over and above the norm for his/her age, for whom the child care center has supervisory responsibility in the temporary absence of the parent.

(10) "Child Care Center" or "Center" means a child care facility that is certified to care for thirteen or more children, or a facility that is certified to care for twelve or fewer children and located in a building constructed as other than a single family dwelling.

(11) "Child with Special Needs" means a child under the age of 18 who requires a level of care over and above the norm for his/her age due to a physical, developmental, behavioral, mental or medical disability.

(12) "OCC" means the Office of Child Care of the Department of Education or the Administrator or staff of the Office of Child Care.

(13) "Child Care Facility" means any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before or after school care, or child development center, except those excluded under ORS

657A.250. This term applies to the total child care operation and includes the physical setting, administration, staff, equipment, program, and care of children.

(14) "Civil Penalty" means a fine imposed by OCC on a facility for violation of these rules.

(15) "Comparable group care program" means a program which has the following elements:

(a) Staff are supervised by knowledgeable professionals;

(b) Training of staff is provided or required annually;

(c) Group size is similar to a certified child care facility;

(d) Curriculum is age appropriate; and

(e) The program is not providing uncertified drop-in care.

(16) "Contracted services" means activities (e.g., tumbling, music) provided by an organization or program other than the center, where non-center staff come into the center or the children are transported to another location.

(17) "Director" means a person who is designated by the operator as director or administrator of the center and who meets the qualifications of director pursuant to OAR 414-300-0080.

(18) "Drop-in Care" means care provided on an unscheduled, irregular basis, any time of the day or night, exclusively for drop-in children in a child care center.

(19) "Enrollment" means all children registered to attend the center.

(20) "Group" means a specific number of children assigned to specific staff.

(21) "Guidance and discipline" means the on-going process of helping children develop self control and assume responsibility for their own acts.

(22) "Head Teacher" means the person(s) who is responsible for the development and implementation of the program of activities for each infant and toddler, preschool age, and school-age program in the center.

(23) "Infant" means a child who is at least six weeks of age but is not yet walking alone.

(24) "Infant and Toddler Age Program" means care and education provided in a center, or part of a center, to children between the ages of six weeks and thirty-six months.

(25) "Night Care" means care given to children who sleep at the child care center for all or part of the night.

(26) "Nonserious Violation" means OCC has made a valid finding when assessing a complaint alleging a violation not listed in OAR 414-300-0005(42)

(27) "Occasional" means infrequently or sporadically, including but not limited to care that is provided during summer or other holiday breaks when children are not attending school, but not to exceed 70 calendar days in a year.

(28) "Operator" means the person, group, corporation, partnership, governing body, association, or other public or private organization legally responsible for the overall operation of the center and who has the authority to perform the duties necessary to meet certification requirements. If the operator is other than the owner, an individual must be appointed as the operator by the owner.

(29) "Oregon Registry" means the voluntary registry at the Oregon Center for Career Development in Childhood Care and Education at Portland State University that documents the training, education and experience of individuals who work in childhood care and education.

(30) "Outbreak of a communicable disease" means two cases from separate households associated with a suspected common source.

(31) "Owner" means the person, group, corporation, partnership, governing body, association, or other public or private organization which holds the child care center as property and has a major financial stake in the operation of the center. The owner may or may not be active in the operation of the center; the owner may also be the operator.

(32) "Parent" means parent(s), custodian(s), or guardian(s), exercising physical care and legal custody of the child.

(33) "Parent cooperative" means a child care program in which:

(a) Care is provided by parents on a rotating basis;

(b) Membership in the cooperative includes parents;

(c) There are written policies and procedures; and

(d) A board of directors that includes parents of the children cared for by the cooperative controls the policies and procedures of the program.

(34) "Premises" means the structure that is identified on the application, including indoors and outdoors and space not directly used for child care under the direct control of the child care facility.

(35) "Preschool-Age Child" means a child who is 36 months of age to eligible to be enrolled in the first grade and, during the months of summer vacation from school, eligible to be enrolled in the first grade in the next school year. For purposes of these rules, children attending kindergarten may be considered school-age children.

(36) "Preschool-Age Program" means care and education provided in a center, or part of a center, to children 36 months of age to attending kindergarten.

(37) "Program" means all activities and care provided for the children during their hours of attendance at the center.

(38) "Qualifying Teaching Experience" means:

(a) For infant/toddler and preschool age groups, 1,500 hours, gained with a group of the same age children in at least three-hour blocks, within a 36-month period;

(b) For school-age groups, 600 hours, gained with a group of the same age children in at least three-hour blocks, within a 36-month period. Qualifying teaching experience must be documented. Time spent in a college practicum or practice teaching is considered qualifying teaching experience. The following does not constitute qualifying teaching experience: leader of a scout troop; Sunday school teacher; and coaching.

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

(40) "School-Age Child" means a child eligible to be enrolled in the first grade or above and, during the months of summer vacation from school, a child eligible to be enrolled in the first grade or above in the next school year, up to age 13. For purposes of these rules, children attending kindergarten may be considered school-age children.

(41) "School-Age Program" means care and education provided in a center, part of a center, school or other facility to children attending kindergarten or eligible to be enrolled in the first grade or above and, during the months of summer

vacation from school, eligible to be enrolled in the first grade or above in the next school year.

(42) "Serious complaint" means a complaint filed against:

(a) A certified child care center by a person who has alleged that:

(A) Children are in imminent danger;

(B) There are more children in care than allowed by certified capacity;

(C) Corporal punishment is being used;

(D) Children are not being supervised;

(E) Multiple or serious fire, health or safety hazards are present in the center;

(F) Extreme unsanitary conditions are present in the center; or

(G) Adults are in the center who are not enrolled in the Central Background Registry; or

(b) A facility providing child care, as defined ORS 657A.250(3), which is not a certified child care center by a person who has alleged that there are more children in care than allowed by law.

(43) "Serious Violation" means OCC has made a valid finding when assessing a complaint that alleges:

(a) Children are in imminent danger;

(b) There are more children in care than allowed by law;

(c) Corporal punishment is being used;

(d) Children are not being supervised;

(e) Multiple or serious fire, health or safety hazards are present in the home;

(f) Extreme unsanitary conditions are present in the center;

(g) Adults are in the center who are not enrolled in the Central Background Registry; or

(h) A facility is providing child care as defined in ORS 657A.250(4) which is not a certified child care center, by a person who has alleged that there are more children in care than allowed by law.

(44) "Site Director/Supervisor" means the person in charge of the facility at a site which is part of a larger multi-site program.

(45) "Site Coordinator" means the person responsible for coordinating over-all management and operation of a number of sites in a multi-site program.

(46) "Staff" means an individual who is the director, an employee, or a volunteer who is in the center for more than a single activity.

(47) "Substitute Director" means the person in charge of the center during the hours of operation when the director is not on site.

(48) "Supervision" means the act of caring for a child or group of children. This includes awareness of and responsibility for the ongoing activity of each child. It requires physical presence, knowledge of program requirements and children's needs, and accountability for their care and well-being. Supervision also requires that staff be near and have ready access to children in order to intervene when needed.

(49) "Teacher" means a caregiver who plans and implements daily activities for a designated group of children and who meets the qualifications of teacher pursuant to OAR 414-300-0100.

(50) "Teacher Aide" means a caregiver who works under the direct supervision of a teacher and who meets the qualifications of Aide I or Aide II pursuant to OAR 414-300-0110.

(51) "Toddler" means a child who is able to walk alone but is under 36 months of age. "Younger toddler" means a child who is able to walk alone but is under 24 months of age; "older toddler" means a child who is 24 months of age but under 36 months of age.

(52) "Usable Exit" means an unobstructed door or window through which caregivers and children can evacuate the center in case of a fire or emergency. Doors must be able to be opened from the inside without a key, and window openings must be at least 20 inches wide and 22 inches in height, with a net clear opening of 5 square feet and a sill no more than 48 inches above the floor.

Certificate

414-300-0015

Issuance of a Child Care Certificate

(1) A certificate shall not be issued by OCC to an applicant who holds a medical marijuana card. A certificate shall not be issued to an applicant who grows or uses medical marijuana or distributes medical marijuana.

(2 3) A certificate shall be issued by OCC when it has been determined the center is in compliance with OAR 414-300-0000 through 414-300-0415. There are two types of certifications. These are:

(a) A regular certificate, which, except as provided in OAR 414-300-0010(4)(b)(A), is valid for no more than one year; and

(b) A temporary certificate. A child care center may not operate under a temporary certification for more than 180 days in any 12-month period. A temporary certificate is issued when:

(A) The center is in compliance with most requirements;

(B) There are no deficiencies identified by OCC that are hazardous to children; and

(C) The operator demonstrates an effort to be in full compliance.

(2 4) A certificate is not transferable to any other location or to another organization or individual.

(3 5) Any changes in the conditions of certificate shall be requested in writing to OCC and approved by OCC before the condition(s) of the current certificate may be changed. Changes include, but are not limited to, facility capacity, age range of children, or hours of operation.

Personnel

414-300-0070

General Requirements

(1) The operator shall establish a system of job descriptions, staff selection, and staff evaluation. ~~that ensures that staff:~~ All caregivers shall:

(a) Have competence, sound judgment, and self-control in working with children;

(b) **Are Be** mentally, physically, and emotionally capable of performing **assigned** duties related to child care; and

(c) Have the required training and/or experience for the position for which they are hired.

(2) There shall be a person or persons on the staff who meet(s) the qualifications of director (OAR 414-300-0080) and head teacher (OAR 414-300-0090). A person assigned the duties of the position must meet the qualifications of the position.

(3) Notwithstanding OAR 414-300-0120(3), there shall be at least one person in the center at all times who has current certification in first aid and CPR.

(4) Any staff with evidence of a child care-restrictable disease, as defined in OAR 333-019-0010, symptom of physical illness, as defined in OAR 414-300-0220(1), or mental incapacity that poses a threat to the health or safety of children shall be relieved of his/her duties.

~~(5) If there is evidence which casts doubt on the physical or mental competence of a person to care for children or have access to children, OCC may require that the operator provide OCC with an evaluation, or other information, as specified by OCC.~~

(5) If additional information is needed to assess a person's ability to care for children or to have access to children, OCC may require references, an evaluation by a physician, counselor, or other qualified person, or other information.

(6) No one shall have access to child care children or be in the center during child care hours who has demonstrated behavior that may have a detrimental effect on a child. This includes any individual in the center who has or may have unsupervised access, however brief, to child care children (i.e., the owner, the operator, all child care staff, maintenance staff who work on-site during hours of operation, volunteers who may be left alone with children, etc.). This does not apply to parents of children in care when they drop off and pick up their children:

(a) The operator, all child care staff and others as described in section (6) above 18 years of age or older shall be enrolled in OCC's Central Background Registry prior to the issuance of an initial or renewal certification;

(b) Prior to any new staff, including a director, or individual being on-site at the center during child care hours, the staff/individual shall be enrolled in the Central Background Registry and the center shall receive verification from OCC of the enrollment. This does not apply to parents of children in care unless they are

assisting in the provision of child care. Volunteers may be exempt from this rule, as specified in OAR 414-300-0070(7);

(c) When a center is notified by OCC that a staff member or other individual has been removed from the Central Background Registry, the center shall not permit the staff member or other individual to have access to child care children;

(d) If any person listed in section (6) and section (6)(a) of this rule has been charged with, arrested for, or a warrant is out for any of the crimes which OCC has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, certification will be denied or suspended until the charge, arrest, or warrant has been resolved if the person continues to operate, be employed in, or have access to children in the center;

(e) If a criminal record check shows that a warrant has been issued for any person checked, OCC will inform the originating law enforcement agency of the person's name, address, and telephone number.

(7) Alcohol shall not be consumed or stored on the child care center premises during the hours the child care business is conducted or when child care children are present. No one shall be under the influence of alcohol on the child care center premises during the hours the child care business is conducted or when child care children are present.

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

(9) No one shall grow or possess medical marijuana plants on the child care center premises. No one shall possess, use or store medical marijuana on the premises of the child care center unless medically necessary to treat a child care child. No adult shall use or be under the influence of medical marijuana on the child care center premises.

(10) Medical marijuana, derivatives and associated paraphernalia shall not be kept on the child care center premises unless medically necessary to treat a child care child. All associated medical marijuana must be kept in original container, and together with derivatives and related paraphernalia must be kept under child safety lock.

(7 11) Volunteers must meet the following requirements:

(a) If volunteers are counted in determining the staff/child ratios, they must meet the qualifications of the position they are filling and be enrolled in the Central Background Registry;

(b) If volunteers may have unsupervised access to children, they must be enrolled in the Central Background Registry;

(c) If volunteers do not have unsupervised access to children at any time, including during emergencies, the center must have a written policy to this effect, the policy must be known to all center staff and volunteers, and the volunteers do not have to be enrolled in the Central Background Registry.

~~(8) No person shall smoke or use smokeless tobacco in the child care area during child care hours. No person shall smoke or use smokeless tobacco in motor vehicles while child care children are passengers.~~

~~(9) Alcohol and non-prescribed controlled substances shall not be consumed or stored in the child care area during child care hours. Staff or volunteers who appear to be under the influence of alcohol or non-prescribed controlled substances shall not be in the center during child care hours.~~

(12) No person shall smoke or carry any lighted smoking instrument, including an e-cigarette or vaporizer in the certified center or within ten feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area, during child care hours or when child care children are present. No person shall use smokeless tobacco in the certified center during child care hours or when child care children are present. No person shall smoke, carry any lighted smoking instrument, including an e-cigarette or vaporizer or use smokeless tobacco in motor vehicles while child care children are passengers.

DRAFT

September 17, 2014

**OREGON DEPARTMENT OF EDUCATION
EARLY LEARNING DIVISION**

DIVISION 350

CERTIFIED FAMILY CHILD CARE HOMES

General Provisions

414-350-0010

Definitions

(27) “Premises” means the structure that is identified on the application, including indoors and outdoors and space not directly used for child care.

414-350-0030

Issuance of a Child Care Certificate

(1) A certificate shall not be issued by OCC to an applicant who holds a medical marijuana card. A certificate shall not be issued to an applicant who grows or uses medical marijuana or distributes medical marijuana.

(2) A certificate shall be issued by OCC when it has been determined the home is in compliance with OAR 414-350-0000 through 414-350-0405. There are two types of certification. These are:

(a) A regular certificate which, except as provided in OAR 414-350-0020(4)(b)(A), is valid for no more than one year; and

(b) A temporary certificate. A certified family child care home may not operate under a temporary certificate for more than 180 days in any 12-month period. A temporary certificate is issued when:

(A) The home is in compliance with most requirements;

(B) There are no deficiencies identified by OCC that are hazardous to children; and

(C) The provider demonstrates an effort to be in full compliance.

(3) A certificate is not transferable to any other location or to another organization or individual.

(4) A certificate is granted in the name of the operator/provider. An operator/provider is limited to one certificate at one address. (5) An owner can have multiple sites under the following conditions:

(a) If the owner is the provider/operator in one of the homes, the owner can have two certified family child care homes; or

(b) If the owner does not directly care for any children, the owner can have more than two certified family child care homes.

(c) If the owner is the provider/operator in a home certified for more than 12 children, the owner may be the provider for only that certified family child care home. The provider may be the owner of other facilities. See OAR 414-350-0100 (5).

(6) Any changes in the conditions of certificate shall be requested in writing to OCC and approved by OCC before the condition(s) of the current certificate may be changed. Changes include, but are not limited to, facility capacity, age range of children, or hours of operation.

Home

414-350-0050

General Requirements

(1) The following items shall be posted in the certified family child care home where they may be viewed by parents:

(a) The child care certificate;

(b) Notification of a communicable disease outbreak at the home;

(c) The evacuation plan; and

(d) A notice that the following items are available for parents to review:

(A) The guidance/discipline policy;

(B) The current week's menus, with substitutions recorded;

(C) The description of the general routine;

(D) Information on how to report a complaint to OCC regarding certification requirements; and

(E) The most recent OCC and sanitation inspection reports and, if applicable, fire life safety self evaluation (or fire marshal inspection report if completed).

(2) The provider shall ensure that a copy of these administrative rules is available in the certified family child care home to all parents and staff.

(3) Caregivers shall report suspected child abuse or neglect immediately, as required by the Child Abuse Reporting Law (ORS 419B.005 through 419B.050) to the Department of Human Services Child Welfare (DHS) or to a law enforcement agency. By statute, this requirement applies 24 hours per day.

(4) The certified family child care home shall comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans With Disabilities Act (ADA).

(5) Representatives of all agencies involved in certification shall have immediate access to all parts of the home whenever the provider is conducting the child care business:

(a) OCC staff shall have the right to **inspect all areas of the facility that are accessible to child care children, and to conduct a health and safety review of other areas of the facility to ensure sanitation, and the health and safety of child care children.** ~~enter and inspect the home, including~~ This includes access to all caregivers, records of children enrolled in the home, and all records and reports related to the child care operation regarding compliance with these rules; and

(b) Representatives of the Department of Human Services Child Welfare (DHS) and the State Fire Marshal have the right to enter and inspect the home when an inspection has been requested by OCC.

(6) Custodial parents of all children enrolled shall have access to the home during the hours their child(ren) are in care.

(7) The provider shall develop the following information in writing and shall make it available to OCC, to staff, and to parent(s) at the time of enrollment:

(a) Guidance and discipline policy;

(b) Information on transportation, when provided by the provider or other caregiver; and

(c) The plan for handling emergencies and/or evacuations, including, but not limited to, fire, acute illness of a child or staff, natural disasters, power outages, and situations which do not allow reentry to the home after evacuation.

(8) The provider shall comply with the Department of Human Services' administrative rules relating to:

(a) Immunization of children (OAR 333-019-0021 through 333-019-0090);

(b) Reporting communicable diseases (OAR 333-019-0215 through 333-019-0415); and

(c) Child care restrictable diseases (OAR 333-019-0010).

(9) The provider shall report to OCC:

(a) An accident at the home resulting in the death of a child, within 48 hours after the occurrence; and

(b) Injuries to a child at the certified family child care home which require attention from a licensed health care professional, such as a physician, EMT or nurse, within 7 days after the occurrence.

(10) Documentation of meals and snacks provided by the certified family child care home shall be made available to OCC upon request, if the home does not participate in the USDA Child and Adult Care Food Program. Documentation is limited to the three weeks prior to the request.

(11) The provider is responsible for compliance with these requirements (OAR 414-350-0000 through 414-350-0405).

(12) Parental request or permission to waive any of the rules for certified family child care homes does not give the provider permission to do so.

Staff

414-350-0090

General Requirements

(1) As required by Oregon civil rights law, ORS Chapter 659, the provider shall not discriminate in employment on the basis of race, color, gender, marital status, religion, national origin, age, or because of a mental or physical handicap unrelated to specific job performance.

(2) All caregivers, including the provider, shall:

(a) Have competence, sound judgment, and self-control in working with children;

(b) Be mentally, physically, and emotionally capable of performing duties related to child care; and

(c) Have the required training and/or experience for the positions they hold, as specified in OAR 414-350-0100 and 0110.

~~(3) If there is evidence that casts doubt on the physical or mental competence of a person to care for children or have access to children, OCC may require that the provider provide OCC with an evaluation or other information, as specified by OCC.~~

(3) If additional information is needed to assess a person's ability to care for children or to have access to children, OCC may require references, an evaluation by a physician, counselor, or other qualified person, or other information.

(4) No one shall have access to child care children who has demonstrated behavior that may have a detrimental effect on a child. Residents of the home are considered to have access to the child care children even if they are not generally at home during hours of operation. This does not apply to parents of children in care when they drop off and pick up their children.

(a) The owner, the provider, all caregivers and other residents of the home 18 years of age or older must be enrolled in OCC's Central Background Registry prior to the issuance of an initial or renewal certificate. Residents of the home who are under 18 years of age must be enrolled in the Registry by their 18th birthday. Certification may be denied, suspended, or revoked if the provider or other resident of the home has been removed or suspended from the Central Background Registry.

(b) Prior to any new caregiver caring for children or prior to an individual residing in the home, visiting the home on a regular basis, or substituting for or assisting the provider, the caregiver/individual shall be enrolled in the Central Background

Registry and the provider shall receive verification from OCC of the enrollment. This does not apply to parents of children in care unless they are residing in the home or assisting in the provision of child care.

(c) When a provider is notified by OCC that a caregiver or other individual has been removed from the Central Background Registry, the provider shall not permit the caregiver or other individual to be in the home during hours the child care business is conducted or to have access to child care children.

(d) If any person listed in section (4)(a) & (b) of this rule has been charged with, arrested for, or a warrant is out for any of the crimes which OCC has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, certification may be denied or suspended until the charge, arrest, or warrant has been resolved if the person continues to operate, be employed in or reside in the home, or have access to children in the home.

(e) If a criminal record check shows that a warrant has been issued for any person checked, OCC will inform the originating law enforcement agency of the person's name, employment address and telephone number.

(f) Any visitor to the home or other adult who is not enrolled in the Central Background Registry shall not have unsupervised access to children.

(5) Volunteers must meet the following requirements:

(a) If volunteers are counted in determining the staff/child ratios, they must meet the qualifications of the position they are filling and be enrolled in the Central Background Registry.

(b) If volunteers may have unsupervised access to children, they must be enrolled in the Central Background Registry.

(c) If volunteers do not have unsupervised access to children at any time, including during emergencies, the provider must have a written policy to this effect, the policy must be known to all caregivers and volunteers, and the volunteers do not have to be enrolled in the Central Background Registry.

~~(6) No person shall smoke or use smokeless tobacco in the certified family child care home during the hours the child care business is conducted. No person shall. No person shall smoke or use smokeless tobacco in motor vehicles while child care children are passengers.~~

(6) No person shall smoke or carry any lighted smoking instrument, including an e-cigarette or vaporizer in the certified family child care home or within ten feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area, during child care hours or

when child care children are present. No person shall use smokeless tobacco in the certified family child care home during child care hours or when child care children are present. No person shall smoke, carry any lighted smoking instrument, including an e-cigarette or vaporizer or use smokeless tobacco in motor vehicles while child care children are passengers.

~~(7) No one shall consume alcohol or use non-prescription controlled substances in the certified family child care home during the hours the child care business is conducted. No one under the influence of alcohol or non-prescription controlled substances shall be in the home during the hours the child care business is conducted.~~

(7) No one shall consume alcohol on the certified family child care home premises during the hours the child care business is conducted or when child care children are present. No one shall be under the influence of alcohol on the family child care home premises during the hours the child care business is conducted or when child care children are present.

(8) Notwithstanding OAR 414-350-0000(6), no one shall possess, use or store illegal controlled substances on the certified family child care home premises. No one shall be under the influence of illegal controlled substances on the certified family child care home premises.

(9) Notwithstanding OAR 414-350-0000(6), no one shall grow medical marijuana on the premises of the certified family child care home. No adult shall use medical marijuana on the certified family child care home premises during child care hours or when child care children are present

(10) No adult under the influence of medical marijuana shall have contact with child care children.

(11) All medical marijuana must be kept in its original container and stored under child safety lock. All medical marijuana derivatives and associated paraphernalia must be stored under child safety lock.

(12) Notwithstanding OAR 414-350-0000(6), marijuana plants shall not be grown or kept on the certified family child care home premises.

DRAFT

September 17, 2014

**OREGON DEPARTMENT OF EDUCATION
EARLY LEARNING DIVISION**

DIVISION 205

REGISTERED FAMILY CHILD CARE HOMES

414-205-0010

Definitions

(18) “Premises” means the structure that is identified on the application, including indoors and outdoors and space not directly used for child care.

414-205-0035

General Requirements

(1) The home in which child care is provided must be the residence of the provider.

(2) The provider may not hold a medical marijuana card, grow or use medical marijuana, or be a distributor of medical marijuana.

(3) Registration is limited to one provider per household.

(4) A registration applies to only the person and address on the certificate of registration and is not transferable to another location or individual.

(5) The registration is valid for a maximum of two years. The registration period begins with the effective date shown on the certificate of registration. A provider may not care for more than three (3) children, other than the provider's own children, at any one time prior to receiving a certificate of registration from OCC.

(6) OCC registration records are open to the public on request. However, information protected by state or federal law will not be disclosed.

(7) The name, address, telephone number, and registration status of providers is public information. However, OCC may withhold from the public a provider's address and telephone number if the provider makes a written request documenting that disclosure of the address and/or telephone number would endanger him/her or a family member living in the home (OAR 137-004-0800). The request must be on a form supplied by OCC.

(8) The Certificate of Registration must be posted in the family child care home in an area where it can be viewed by parents.

(9) The provider shall have no other employment, either in or out of the home, during the hours children are in care.

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

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

(12) The provider must comply with state and federal laws related to immunizations, child care restrictable diseases, child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans with Disabilities Act.

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

(14) The provider must notify parents if there will be a substitute caregiver and the caregiver's name or if the children will be away from the home for any part of the day for visits, field trips, or any other activity off the premises. In the event of an emergency, a good faith effort will be made to notify parents that a substitute will be caring for the children.

(15) If an applicant or a provider provides or wishes to provide adult or child foster care, the foster care licensing agency must grant approval for the applicant to provide both child care and foster care services.

The Provider and Other Persons in the Home

(1) The registered provider and any substitute caregiver shall: ~~be at least 18 years old and in such physical and mental health as will not adversely affect a child in care.~~

(a) Be at least 18 years old,

(b) Have competence, sound judgment and self-control when working with children, and

(c) Be mentally, physically and emotionally capable of performing duties related to child care.

(2) No one shall have access to child care children who has demonstrated behavior that may have a detrimental effect on a child. Residents of the home are considered to have access to the child care children even if they are not generally at home during child care hours.

(a) The applicant and other residents of the home 18 years of age or older must be enrolled in OCC Central Background Registry prior to the issuance of a registration. Residents of the home who are under 18 years of age must be enrolled in the Registry by their 18th birthday.

(b) Prior to another adult moving into the home, residing on a temporary basis in the home, visiting the home on a regular basis, or substituting for or assisting the provider, the provider must receive documentation from OCC that the individual is enrolled in the Central Background Registry. This does not apply to parents of children in care unless they are residing in the home or substituting for or assisting the provider.

(c) If additional information is needed to assess a person's ability to care for children or to have access to children, **OCC may require** references, an evaluation by a physician, counselor, or other qualified person, or other information ~~may be required by OCC.~~

(d) Any visitor to the home or other adult who is not enrolled in the Central Background Registry may not have unsupervised access to children.

(3) A caregiver substituting for the provider must:

(a) Be familiar with the requirements for registration and agree to comply with them;

(b) Be enrolled in the Central Background Registry prior to substituting for the provider; and

(c) Comply with all the requirements, except those in OAR 414-205-0055, placed on the provider in these rules.

414-205-0100

Health

(1) The home must be a healthy environment for children.

~~(a) No person shall smoke or use smokeless tobacco in the family child care home during the hours the child care business is conducted. No person shall smoke or use smokeless tobacco in motor vehicles while child care children are passengers.~~

(a) No person shall smoke or carry any lighted smoking instrument, including an e-cigarette or vaporizer in the family child care home or within ten feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area, during child care hours or when child care children are present. No person shall use smokeless tobacco in the family child care home during child care hours or when child care children are present. No person shall smoke, carry any lighted smoking instrument, including an e-cigarette or vaporizer or use smokeless tobacco in motor vehicles while child care children are passengers.

~~(b) No one shall consume alcohol or use non-prescription controlled substances in the presence of children. No one under the influence of alcohol or non-prescription controlled substances shall be in the home when child care are present.~~

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

(c) Notwithstanding OAR 414-205-0000(5), no one shall possess, use or store illegal controlled substances on the family child care home premises. No one shall be under the influence of illegal controlled substances on the family child care home premises.

(d) Notwithstanding OAR 414-205-0000(5), no one shall grow medical marijuana on the premises of the registered family child care home. No

adults shall use medical marijuana on the registered family child care home premises during child care hours or when child care children are present.

(e) No adult under the influence of medical marijuana shall have contact with child care children.

(f) Notwithstanding OAR 414-205-0000(5), marijuana plants shall not be grown or kept on the registered family child care home premises.

(g) All medical marijuana must be kept in its original container and stored under child safety lock. All medical marijuana derivatives and associated paraphernalia must be stored under child safety lock.

(f h) There must be at least one flush toilet and one hand-washing sink available to children. Steps or blocks must be available to ensure children can use the toilet and sink without assistance.

(g i) The room temperature must be at least 68°F during the hours the child care business is conducted.

(h j) Rooms occupied by children must have a combination of natural and artificial lighting.

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

(2) The provider must have a basic first aid kit available for use. The kit must be kept out of the reach of children.

(3) Infants must be put to sleep on their backs.

(4) Except for mild cold symptoms that do not impair a child's function, children who are ill shall not be in care.

(5) If a child becomes ill in child care, the provider must separate the child from other children, to the extent possible, and contact the child's parent(s) to remove the child from care as soon as possible.

(6) Parents must be notified if their child is exposed to a communicable disease.

(7) Prescription and non-prescription medication may be given to a child only if the provider has written authorization from the parent, as required in OAR 414-205-0130(3).

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

(a) Non-prescription medications or topical substances must be labeled with the child's name.

(b) Prescription medications must be in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, and the physician's name.

(c) Medication requiring refrigeration must be kept in a separate, covered container, marked "medication," in the refrigerator.

(9) Sunscreen is considered a non-prescription medication and may be used for child care children under the following conditions:

(a) Providers must obtain written parental authorization prior to using sunscreen.

(b) One container of sunscreen may be used for child care children unless a parent supplies an individual container for their child. The sunscreen shall be applied in a manner that prevents contaminating the container.

(A) Parents must be informed of the type of product and the sun protective factor (SPF).

(B) Parents must be given the opportunity to inspect the product and active ingredients.

(c) If sunscreen is supplied for an individual child care child, the sunscreen must be labeled with the child's first and last name and must be used for only that child.

(d) Providers must reapply sunscreen every two hours while the child care children are exposed to the sun.

(e) Providers shall use a sunscreen with an SPF of 15 or higher and must be labeled as "Broad Spectrum".

(f) Providers shall not use aerosol sunscreens on child care children.

(g) Sunscreen shall not be used on child care children younger than six months.

(h) Child care children over six years of age may apply sunscreen to themselves under the direct supervision of the provider or staff member.

(10) Parents must be informed daily of any medications given to their child or any injuries their child has had.

(11) The provider must provide or ensure the availability of meals and snacks appropriate for the ages and needs of the children served.

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

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

(c) Foods must be prepared and served according to the minimum standards for food handler certification.

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

(12) Any animal at the family child care home must be in good health and be a friendly companion for the children in care.

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

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

(13) Animal litter boxes shall not be located in areas accessible to children.

(14) Caregivers must be physically present when children are interacting with animals.

(15) Reptiles (e.g. lizards, turtles, snakes, iguanas) frogs, monkeys, hooked beaked birds, baby chicks and ferrets are prohibited unless they are housed in and remain in a tank or other container which precludes any direct contact by children. Educational programs that include prohibited animals and are run by zoos, museums and other professional animal handlers are permitted.

(16) Parents must be made aware of the presence of any animals in the child care home.

Early Learning Council – Administrative Rule Summary

Title/OAR #:

Date: January 29, 2015

Registered Family Child Care OAR 414-205-0000 to 414-205-0170

Staff/Office: Early Learning Division, Office of Child Care

☐ New Rule ☒ Amend Existing Rule ☐ Repeal Rule

Hearing Dates: October 28, 2014 and November 24, 2014 ☒ Hearings Officer Report Attached

Prompted by: ☐ State law changes ☐ Federal law changes ☒ Other

Action Requested:

☐ First Reading of Administrative Rule ☒ Approve for Filing

PROPOSED/AMENDED RULE SUMMARY:

Current rules have been amended in the Registered Family Child Care rules in all sections of the rulebook, including, but not limited to: Definitions, The Provider and Other Persons in the Home, Training Requirements, Children in Care, Health, Safety and Sanitation.

BACKGROUND:

The Early Learning Division was established through the passage of HB 3234 and came into existence July 1, 2013. The Early Learning Division of the Oregon Department of Education is directed under Oregon statute to establish minimum standards for child care facilities under the guidance of the Early Learning Council, which has responsibility for adopting rules and broadly overseeing the development of early learning system and programs for children age 0-6. The Council's child care regulatory responsibility came with the creation of the division effective July 1, 2013 and is the first time that this body or any other public body has had jurisdiction over the state's child care regulatory and programmatic responsibilities.

When establishing minimum standards for health and safety, the division shall give consideration 'to all basic requirements for the protection of the children to receive child care' including any factor affecting the care provided at the child care facility. Oregon law also directs providers of child care to protect the health, the safety and the physical, moral and mental well-being of the children cared for in the facility.

The Registered Family Child Care rules have not had a comprehensive review for many years. The Office of Child Care had accumulated many suggestions and revision proposals from licensed providers, staff members, partner agencies and other stakeholders to ensure the health and safety of child care children. Many rules that incorporated or relied on the guiding principles and practices of other agencies or entities were in need of updating to ensure that they did not contradict other agency rules and regulations. There was also a desire to maximize consistency between all sets of rules related to licensed child care.

Proposed revisions include:

- Note: The definition of 'Serious Violation' as it relates to use of prohibited forms of discipline has been clarified
- Prohibiting use of 15 passenger vans after January 18, 2018. This proposal is in response to National Highway Transportation Safety Administration studies and directives related to safety issues in these vehicles.
- Training requirements for provider increased from 8 to 10 hours during two year licensing period. Minimal safety training requirements established for substitute caregivers.

- Additional supervision requirements.
- Monitoring visits during the two year license period.
- Clarification on: guidance and discipline, first aid kit requirements, safety requirements, requirements for conducting foster care and child care.

TIMELINE OF KEY ACTIVITIES

- Early Learning Division, Office of Child Care staff drafted and reviewed revisions to current rule language for external review.
- Convened the Advisory Committee to review the rule proposals for Registered Family Child Care in 2012.
- Posted rules on the agency website and sought online and written comments in 2013
- Convened stakeholder forums in Redmond and Portland to review draft rule revisions in 2014
- Child Care Education Workgroup Advisory Committee met and reviewed draft revisions in September 2014.
- Public hearing dates on October 28, 2014 and November 24, 2014. No written or verbal testimony was received.

BENEFITS

- Maximizes consistency throughout the rules for licensed child care.
- Ensures that rules are current in relation to other agency or entity regulations and guidelines.
- Provides specific requirements to ensure the continued safety and well-being of child care children.

ISSUES/CONCERNS THAT SURFACED DURING RULE WORK:

- There was considerable discussion concerning the proposal to define kindergarten age children as school age children for the purposes of determining allowed ratios in licensed child care facilities. The proposed final revision includes language clarifying that a kindergarten age child is considered a school age child.
- The potential impact on licensed child care facilities that would be prohibited from using 15-passenger vans under the proposed rule. It is unknown how many Registered Family providers use 15 passenger vans. A question was raised on whether alterations (removing the back seat) or retrofitting (adding second tires in the rear) the van would address the safety concerns. These changes would not address the safety concerns because 15 passenger vans are defined as a 'bus' under federal regulation and therefore must meet school bus standards e.g. extra mirror, roll over protections, crush resistant body, particular types of seats.
- There was some concern about requiring basic safety set training for substitutes.

FISCAL IMPACT:

- Modifying definitions of age groups for child care children.
- Requiring minimum training for substitutes.
- Increasing the required training for providers from 8 hours per license period to 10 hours.
- Requiring Office of Child Care approved health and safety training.
- Prohibiting the use of 15-passenger vans for transporting child care children after January 1, 2018.

STAFF RECOMMENDATION:

- ☒ Review and approve for filing
- ☐ First Reading
- ☐ No recommendation at this time

Comments:

Public Hearings were conducted October 28, 2014 and November 24, 2014. No verbal or written testimony was received at those hearings.

ISSUE BRIEF
USE OF 15 PASSENGER VANS BY CHILD CARE FACILITIES

QUESTION(S)	Should the Child Care Division propose a rule that bans the use of 15 passenger vans by licensed child care facilities to transport child care children?
BACKGROUND INFORMATION	<p>The Oregon Department of Education has banned the use of 15 passenger vans to transport students since 1986. The National Highway Traffic Safety Administration (NHSTA) has long expressed concern about the use of large vans for transporting students and the school transportation industry has sought to ban their use.</p> <p>The 2005 federal highway reauthorization bill prohibits a school or school system from purchasing or leasing large, non-conforming vans for purposes of transporting students. Specifically it provides, "...a school or school system may not purchase or lease a new 15-passenger van if it will be used significantly by, or on behalf of, the school or school system to transport preprimary, primary, or secondary school students to or from school or an event related to school, unless the 15 passenger van complies with the motor vehicle standards prescribed for school buses and multifunction school activity buses under this title..."</p>
RATIONALE	The NHSTA has determined that the use of nonconforming vans to transport students is dangerous. Although the federal prohibition only applies to school districts, it includes pre-primary and primary aged students. This strongly suggests that it is unsafe for any institution to transport children of any age in 15 passenger vans.
DISCUSSION POINTS	<ul style="list-style-type: none"> • Both federal government and the Oregon Department of Education have banned the use of 15 passenger vans by school districts to transport students. • The federal ban includes school districts, but does not include child care facilities in the prohibition on the use of 15 passenger vans, although it includes young children. • The Child Care Division has the authority to regulate child care facilities and may propose a rule prohibiting the use of 15 passenger vans by licensed child care facilities to transport child care children, under its general authority to regulate health and safety in child care facilities. • Since some facilities may currently be using 15 passenger vans, the prohibition may present a financial hardship. This could be addressed by phasing in the rule.
ACTIONS TO DATE	The Oregon Dept. of Education contacted the Child Care Division and requested the division to review information and policy on 15 passenger vans.
RECOMMENDED ACTION(S)	CCD requests the Commission's advice on whether the division should propose a rule prohibiting the use of 15 passenger vans by licensed child care facilities to transport child care children.
CONTACT	Tom Olsen, Administrator, 503-947-1409 Kathleen Hynes, Legal and Compliance Manager 503-947-1408

NHTSA Older vs Newer

There are newer Safety Rating tests that were implemented in 2011. NHTSA says a consumer should not compare ratings from 1990-2010 models to models that were tested after 2011.

Search Results by Model

Filter results by year: Select

Explanation of 1990–2010 compared to 2011–Newer
 Starting with 2011 models, NHTSA has introduced tougher tests and rigorous new 5-Star Safety Ratings that provide more information about safety feature performance and crash avoidance technologies. Because of the more stringent tests, 2011–newer model ratings are not comparable to 1990–2010 vehicles.

Year/Make/Model	Overall	Frontal Crash	Side Crash	Rollover	Recommended Technologies	Compare
2014 Ford E-350 P15 VAN RWD	Not Rated	Not Rated	Not Rated	★★★★☆		Add
2013 Ford E-350 P15 VAN RWD	Not Rated	Not Rated	Not Rated	★★★★☆		Add
2012 Ford E-350 P15 VAN RWD	Not Rated	Not Rated	Not Rated	★★★★☆		Add
2011 Ford E-350 P15 VAN RWD	Not Rated	Not Rated	Not Rated	★★★★☆		Add

Key

Rearview Video Systems
 Electronic Stability Control
 Forward Collision Warning
 Lane Departure Warning

Note: Electronic Stability Control (ESC) is now a required safety feature on vehicles with a gross vehicle weight rating of 10,000 pounds or less. Thus, beginning in Model Year 2014, ESC has been removed from the list of 'Recommended Technologies' and 'Rearview Video Systems' has been added.

**OREGON DEPARTMENT OF EDUCATION
EARLY LEARNING DIVISION**

DRAFT

[1-15-15]

[replaces 1-14-14 version]

DIVISION 205

REGISTERED FAMILY CHILD CARE HOMES

414-205-0000

Purpose

(1) Oregon Administrative Rules (OAR) 414-205-0000 through 414-205-0170 are the Office of Child Care's **(OCC)** minimum requirements for registering family child care providers. The purpose of these rules is to protect the health, safety, and well-being of children when cared for outside their own homes.

(2) Registration is required for persons who provide child care:

(a) On other than an occasional basis; and

(b) To more than three children from more than one family at any one time, other than the person's ~~own~~ children subject to the limits in OAR 414-205-0065; or

(c) To three or fewer children, even if from the same family if that person's enrollment in the Central Background Registry **(CBR)** has been denied or the person has been removed for cause, or suspended; or their child care facility certification or registration has been denied or revoked for cause, or suspended, or the person has voluntarily withdrawn their application or closed their registration or certification while under investigation by OCC; or

(d) Provide care that is primarily educational for four hours or less per day and where no preschool age child is present at the facility for more than four hours per day if that person's enrollment in the ~~Central Background Registry~~ **CBR** has been denied or the person has been removed for cause, or suspended; or their child care facility certification or registration has been denied or revoked for cause, or suspended, or the person has voluntarily withdrawn their application or closed their registration or certification while under investigation by OCC; or

(e) On an occasional basis by a person not ordinarily engaged in providing child care if that person's enrollment in the ~~Central Background Registry~~ **CBR** has been denied or the person has been removed for cause, or suspended; or their child care facility certification or registration has been denied or revoked for cause, or suspended, or the person has voluntarily withdrawn their application or closed their registration or certification while under investigation by OCC; or

(f) To children from only one family other than the person's own family if that person's enrollment in the ~~Central Background Registry~~ **CBR** has been denied or the person has been removed for cause, or suspended; or their child care facility certification or registration has been denied or revoked for cause, or suspended, or the person has voluntarily withdrawn their application or closed their registration or certification while under investigation by OCC.

(3) These rules do not apply to care provided:

(a) In the home of the child;

(b) To three or fewer children, not including the provider's ~~own~~ children subject to the limits in OAR 414-205-0065 except as provided in 414-205-0000(2)(c);

(c) To children from one family, not including the provider's ~~own~~ children except as provided in 414-205-0000(2)(f);

(d) On an occasional basis by a person not ordinarily engaged in providing child care except as provided in 414-205-0000(2)(e);

(e) By the child's parent, **legal** guardian, or person acting in place of a parent;

(f) By a person related to the child care children by blood, marriage, or adoption; or

(g) By a person who is a member of the child's extended family, as determined by ~~the Office~~ **OCC** on a case-by-case basis[.]or;

(h) By a person providing care for preschool children that is primarily educational for four hours or less per day and where no preschool age child is present at the facility for more than four hours per day, except as provided in 414-205-0000(2)(d).

(4) Any family child care provider exempt from registration may apply for registration.

(5) These rules apply only during the hours the provider is conducting the child care business.

Stat. Auth.: ORS ~~657 329~~A

Stats. Implemented: ORS ~~657 329~~A.260 & ~~657 329~~A.330

Hist.: CCD 2-1994, f. 7-15-94, cert. ef. 8-15-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 2-1995(Temp), f. 12-28-95, cert. ef. 1-1-96; CCD 2-1996, f. 3-19-96, cert. ef. 4-1-96; CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 7-2003, f. 12-23-03, cert. ef. 12-28-03; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 2-2010, f. 6-29-10, cert. ef. 7-1-10

414-205-0010

Definitions

(1) "Caregiver" means any person, including the provider, who cares for the children in the registered family child care home and works directly with the children, providing care, supervision and guidance.

(2) "Central Background Registry" means OCC's Registry of individuals who have been approved to ~~work in~~ **be associated with** a child care facility in Oregon pursuant to ORS ~~657 329~~A.030 and OAR 414-061-0000 through 414-061-0120.

(3) "Child Care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, **legal** guardian or custodian, during a part of the 24 hours of the day, with or without compensation.

(4) "Child Care Child" ~~means any child under 13 years of age, or a child with special needs under the age of 18 who requires a level of care over and above the norm for his/her age, who does not reside in the home and for whom the provider has supervisory responsibility in the temporary absence of the parent.~~ **means a child at least six weeks of age and under 13 years of age, or a child under 18 years of age with special needs. The child does not reside in the home and the provider has supervisory responsibility for the child in the temporary absence of the parent.**

(5) "Child with Special Needs" means a child under ~~the age of~~ 18 **years of age** who requires a level of care over and above the norm for ~~his/her~~ **their** age due to a physical, developmental, behavioral, mental or medical disability.

~~(6) "OCC" means the Office of Child Care of the Department of Education, or the Administrator or staff of OCC.~~

~~(7)~~ **(6)** "Civil Penalty" means a fine imposed by OCC on a provider for violation on these rules.

(7) "Communicable Disease" means an illness caused by an infectious agent or its toxins.

(8) “Disinfecting” means using a process for destroying or irreversibly inactivating harmful organisms, including bacteria, viruses, germs and fungi.

~~(8) (9) "Family" means persons related by blood, marriage, or adoption, or whose functional relationship (e.g., parent(s), custodian(s), guardian(s)) in exercising physical care and custody of the child(ren) is similar to those found in such associations.~~ **means a group of individuals related by blood, marriage or adoption, or individuals whose functional relationships are similar to those found in such associations.**

~~(9) "Full-Time Child Care" means care provided to children not yet eligible for the first grade or above. One or more children may fill a full-time space in the home as long as the children are not in care at the same time.~~

~~(10) "Infant" means a child who is not yet walking.~~ **at least six weeks of age up to 12 months of age.**

(11) “Kindergarten-Age Child” means a child eligible to attend kindergarten in a public school. A kindergarten-age child is considered a school-age child.

~~(11) (12) "New Application" means a registration application that has been filed by an applicant who has never had an active registration.~~

~~(12) (13) "Night Care" means care given to a child who sleeps at the family child care home for all or part of the night.~~

~~(13) “Nonserious violation” means OCC has made a valid finding when assessing a complaint alleging a violation not listed in OAR 414-205-0010(25).~~

(14) “OCC” means the Office of Child Care, Early Learning Division of the Department of Education.

~~(14) (15) "Occasional" means infrequently or intermittently, including but not limited to care that is provided during summer or other holiday breaks when children are not attending school, but not to exceed 70 calendar days in a year.~~

~~(15) (16) "Oregon Registry" means the voluntary registry at the Oregon Center for Career Development in Childhood Care and Education at Portland State University that documents the training, and education and experience of individuals who work in childhood care and education.~~

~~(16) "Part-Time Child Care" means care provided to a child who meets the definition of a school-age child and is in care on days and hours school is not in session.~~

(17) “Outbreak of Communicable Disease” means two cases from separate households associated with a suspected common source.

(18) “Premises” means the structure that is identified on the application, including indoors and outdoors and space not directly used for child care.

(19) "Preschool-Age Child" ~~means a child 24 months of age to eligible to be enrolled in the first grade and, during the months of summer vacation from school, eligible to be enrolled in the first grade in the next school year.~~ **means a child who is 36 months of age up to eligible to attend kindergarten in a public school.**

(20) "Provider" means a resident of the registered family child care home who is responsible for the children in care; is the children's primary caregiver; and the person whose name is on the certificate of registration.

(21) "Registered Family Child Care Home" means the residence of the provider, who has a current Family Child Care Registration at that address and who provides care in the family living quarters.

(22) "Registration" means the document a family child care provider is issued by ~~the Office of Child Care~~ **OCC** to operate a family child care home where care is provided in the family living quarters of the provider's home pursuant to ORS ~~657~~ **329**A.330 and OAR 414-205-0000 through 414-205-0170. Registration is limited to one provider at one address.

(23) "Renewal Application" means a registration application that has been filed by a currently registered family child care provider who wishes to continue registration.

(24) "Reopen Application" means a registration application that has been filed by an applicant whose registration is expired or closed, including those closures resulting from an address change.

(25) “Restrictable Disease” means an illness or infection that would prohibit the child from attending child care.

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

~~(24)~~ **(27) "School-Age Child" means a child eligible to be enrolled in the first grade or above and, during the months of summer vacation from school, a child eligible to be enrolled in the first grade or above in the next school year, up to age 13.** **means a child eligible to attend kindergarten or above in public**

school. This does not include the months prior to the start of the kindergarten school year.

~~(25)~~ **(28)** "Serious Complaint" means a complaint filed against:

(a) A registered family child care provider by a person who ~~has alleged~~ **alleges** that:

(A) Children are in imminent danger;

(B) There are more children in care than allowed by law;

(C) ~~Corporal punishment is being used~~ **Provider is engaging in behavior prohibited under OAR 414-205-0085(6);**

(D) Children are not being supervised;

(E) Multiple or serious fire, health or safety hazards are present in the home;

(F) Extreme unsanitary conditions are present in the home; or

(G) Adults are in the home who are not enrolled in ~~the Office of Child Care's OCC's Central Background Registry CBR~~; or

(b) An individual providing child care, as defined by ORS ~~657~~ **329**A.250(4), who is not a registered family child care provider by a person who has alleged that there are more children in care than allowed by law.

~~(26)~~ **(29)** "Serious Violation" means OCC has made a valid finding when assessing a serious complaint that alleges:

(a) Children are in imminent danger;

(b) There are more children in care than allowed by law;

(c) ~~Corporal punishment is being used~~ **Provider is engaging in behavior prohibited under OAR 414-205-0085(6);**

(d) Children are not being supervised;

(e) Multiple or serious fire, health or safety hazards are present in the home;

(f) Extreme unsanitary conditions are present in the home; or

(g) Adults are in the home who are not enrolled in ~~the Office of Child Care's OCC's Central Background Registry CBR~~; or

(h) An individual is providing child care as defined by ORS ~~657~~ **329A.250(4)** without registering with the Office of Child Care of the Department of Education.

~~(27)~~ **(30)** "Substitute Caregiver" means a person who acts as the children's primary caregiver in the registered family child care home in the temporary absence of the provider.

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

(a) "Younger Toddler" means a child who is at least 12 months of age but is under 24 months of age.

(b) "Older toddler" means a child who is at least 24 months of age but is not yet preschool-age.

~~(28)~~ **(32)** "Useable Exit" means an unobstructed door or window through which the provider and the children can evacuate the home in case of a fire or emergency. Doors must be able to be opened from the inside without a key; ~~. and window openings must be at least 20 inches wide and 22 inches in height, with a net clear opening of 5 square feet and a sill no more than 48 inches above the floor.~~

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

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

Stat. Auth.: ORS 329A.260

Stats. Implemented: ORS 329A

Hist.: CCD 2-1994, f. 7-15-94, cert. ef. 8-15-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-1999(Temp), f. 10-21-99, cert. ef. 10-23-99 thru 1-1-00; CCD 7-1999, f. 12-29-99, cert. ef. 1-1-00; CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01; CCD 1-2007(Temp), f. & cert. ef. 3-20-07 thru 9-16-07; CCD 2-2007, f. & cert. ef. 7-13-07; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 2-2010, f. 6-29-10, cert. ef. 7-1-10; ELD 9-2014(Temp), f. & cert. ef. 8-7-14 thru 2-3-15

414-205-0020

Application for Registration

(1) The applicant must apply for registration on the form(s) supplied by OCC. The original form(s) must be submitted to OCC for processing.

(2) Persons submitting new applications must attend a family child care overview session prior to submitting their application to OCC.

(3) Persons interested in submitted an application must meet the training requirements outlined in OAR 414-205-0055.

(4) An application for registration is required:

(a) For a new registration;

(b) For renewing a registration; and

(c) For reopening a registration.

(5) There is a non-refundable filing fee of \$30 for each application. If the provider submits documentation that the provider's family income is below 100% of the Federal Poverty Level, the fee may be reduced.

(6) All civil penalties must be paid in full.

(7) To determine if requirements are met, the applicant/provider may be required to supply additional information or permit OCC, a fire marshal, or a public health official to assess the home and/or review child care records.

(8) Providers must satisfactorily complete an on-site health and safety review conducted by OCC prior to issuance of a new, renewal or reopen registration. The review will ensure that the provider is in compliance with the rules related to health, safety and sanitation.

(9) If an application for renewal ~~and payment of the required fee~~ is received by OCC at least 30 days prior to the expiration date of the current registration, the current registration, unless officially revoked, remains in effect until OCC has acted on the application for renewal and has given notice of the action taken.

Stat. Auth. ORS ~~657~~ 329A

Stats. Implemented: ORS ~~657~~ 329A.260, ~~657~~ 329A.330 & ~~657~~ 329A.440

Hist.: CCD 2-1994, f. 7-15-94, cert. ef. 8-15-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 2-1995(Temp), f. 12-28-95, cert. ef. 1-1-96; CCD 2-1996, f. 3-19-96, cert. ef. 4-1-96; CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01; CCD 1-2007(Temp), f. & cert. ef. 3-20-07 thru 9-16-07; CCD 2-2007, f. & cert. ef. 7-13-07; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 2-2010, f. 6-29-10, cert. ef. 7-1-10

414-205-0035

General Requirements

- (1) The home in which child care is provided must be the residence of the provider.
- (2) The provider may not hold a medical marijuana card, grow or use medical marijuana, or be a distributor of medical marijuana.
- (3) Registration is limited to one provider per household.
- (4) A registration applies to only the person and address on the certificate of registration and is not transferable to another location or individual.
- (5) The registration is valid for a maximum of two years. The registration period begins with the effective date shown on the certificate of registration. A provider may not care for more than three (3) children, other than the provider's own children, at any one time prior to receiving a certificate of registration from OCC.
- (6) OCC registration records are open to the public on request. However, information protected by state or federal law will not be disclosed.
- (7) The name, address, telephone number, and registration status of providers is public information. However, OCC may withhold from the public a provider's address and telephone number if the provider makes a written request documenting that disclosure of the address and/or telephone number would endanger him/her or a family member living in the home (OAR 137-004-0800). The request must be on a form supplied by OCC.
- (8) The Certificate of Registration must be posted in the family child care home in an area where it can be viewed by parents.
- (9) The provider shall have no other employment, either in or out of the home, during the hours children are in care.
- (10) OCC staff may conduct an unannounced monitoring visit at least once during the license period.**
- (11) The provider or substitute must allow a representative from the Office of Child Care access to the home any time child care children are present.**
- (12) The provider shall allow an inspection of all areas of the home that are accessible to child care children, and a health and safety review of other areas of the home to ensure sanitation and the health and safety of child care children.**

~~(10)~~ **(13)** The provider must allow ~~custodial~~ parents or **legal** guardians of child care children access to the home during the hours their child(ren) are in care.

~~(11)~~ **(14)** The provider must comply with **local**, state and federal laws related to immunizations, child care restrictable diseases, child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans with Disabilities Act.

~~(12)~~ **(15)** Any caregiver who has reason to believe that any child has suffered abuse (physical injury, mental injury, neglect that leads to physical harm, sexual abuse and/or exploitation, or threat of harm) must report the information to the Department of Human Services Child Welfare (DHS) or to a law enforcement agency. By statute, this requirement applies 24 hours per day.

~~(13)~~ **(16)** The provider must notify parents if there will be a substitute caregiver and the caregiver's name. ~~or if the children will be away from the home for any part of the day for visits, field trips, or any other activity off the premises.~~ In the event of an emergency, a good faith effort will be made to notify parents that a substitute will be caring for the children.

(17) The provider must notify parents if the children will be away from the home for any part of the day for visits, field trips or any other activity off the premises and the name of the caregiver.

~~(14)~~ **(18)** ~~If an applicant or a provider provides or wishes to provide adult or child foster care, the foster care licensing agency must grant approval for the applicant to provide both child care and foster care services. If an applicant or a provider wishes to provide child foster care, the provider must receive approval from OCC and DHS, prior to placement of the foster child(ren).~~

(19) Registered providers shall comply with all conditions placed on their license.

(20) Information provided to OCC on applications, in records or reports, or any other written or verbal communication, shall be current, complete and accurate.

Stat. Auth.: ORS 329A.260

Stats. Implemented: ORS 329A

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 1-2007(Temp), f. & cert. ef. 3-20-07 thru 9-16-07; CCD 2-2007, f. & cert. ef. 7-13-07; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; ELD 9-2014(Temp), f. & cert. ef. 8-7-14 thru 2-3-15

414-205-0040

The Provider and Other Persons in the Home

(1) The registered provider and any substitute caregiver shall:

(a) Be at least 18 years old,

(b) Have competence, sound judgment and self-control when working with children, and

(c) Be mentally, physically and emotionally capable of performing duties related to child care.

(2) No one shall have access to child care children who has demonstrated behavior that may have a detrimental effect on a child. Residents of the home are considered to have access to the child care children even if they are not generally at home during child care hours.

~~(a)~~ **(3)** The applicant and other residents of the home 18 years of age or older must be enrolled in ~~OCC~~ **OCC's Central Background Registry CBR** prior to the issuance of a registration. Residents of the home who are under 18 years of age must be enrolled in the Registry by their 18th birthday.

~~(b)~~ **(4)** ~~Prior to another adult moving into the home, residing on a temporary basis in the home, visiting the home on a regular basis, or substituting for or assisting the provider, the provider must receive documentation from OCC that the individual is enrolled in the Central Background Registry. This does not apply to parents of children in care unless they are residing in the home or substituting for or assisting the provider. The provider must verify with OCC that the individual is enrolled in the CBR prior to that individual moving into the home, residing on a temporary basis in the home, visiting the home on a regular basis (including overnight visits) or substituting for or assisting the provider. This does not apply to parents of children in care unless they are residing in the home or substituting or assisting the provider. The provider must keep a copy of OCC's confirmation letter for all adults enrolled in the CBR that may have contact with child care children.~~

~~(c)~~ **(5)** If additional information is needed to assess a person's ability to care for children or to have access to children, OCC may require references, an evaluation by a physician, counselor, or other qualified person, or other information.

~~(d)~~ **(6)** Any visitor to the home or other adult who is not enrolled in the ~~Central Background Registry~~ **CBR** may not have unsupervised access to children.

(7) The provider, substitutes and other individuals that are required to be enrolled in the CBR must maintain current enrollment in the CBR at all times while the child care license is active.

~~(3)~~ **(8) A caregiver substituting for the provider must: Prior to substituting for the provider, a caregiver must:**

(a) Be familiar with the requirements for registration and agree to comply with them;

(b) Be enrolled in the ~~Central Background Registry~~ **CBR**; ~~prior to substituting for the provider; and~~

(c) Comply with all the requirements **placed on the provider**, except those in OAR 414-205-0055 ~~(1)(a)(b)(d)(e),(2),(3); ; placed on the provider in these rules.~~

(d) Have current certification in first aid and infant and child cardiopulmonary resuscitation (CPR). The certifications must be current while the caregiver is substituting for the provider. CPR training must have practical hands-on instruction. CPR courses that involve an on-line component with hands-on instruction may be accepted. Strictly on-line CPR training is not acceptable; and

(e) Have current food handler's certification, if preparing or serving food to children.

Stat. Auth.: ORS 329A.260

Stats. Implemented: ORS 329A

Hist.: CCD 2-1994, f. 7-15-94, cert. ef. 8-15-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 2-2010, f. 6-29-10, cert. ef. 7-1-10; ELD 9-2014(Temp), f. & cert. ef. 8-7-14 thru 2-3-15

414-205-0055

Training Requirements

(1) When a person submits a new application for registration as a family child care provider, ~~the Office of Child Care~~ **OCC** shall, prior to approving the registration, receive evidence from the person that the person has:

(a) Completed the Family Child Care Overview session;

(b) A current certification in first aid and infant and child ~~cardiopulmonary resuscitation~~ **CPR**. **CPR** training must have practical hands-on instruction; ~~. therefore, online training is not acceptable.~~ **CPR courses that involve an on-**

line component with hands-on training may be accepted. Strictly on-line CPR training is not acceptable.

(c) A current food handler certification pursuant to ORS 624.570; ~~and~~

(d) Completed two hours of training on recognizing and reporting child abuse and neglect issues.

(A) Recognizing and reporting child abuse and neglect training must be based on Oregon law and practice so information is relevant to reporting in Oregon.

(B) Recognizing and reporting child abuse and neglect training must be two hours or more in duration to be accepted.

(e) Completed OCC approved health and safety training.

(2) When a registered family child care provider submits a renewal application, the OCC shall, prior to approving it, receive evidence from the provider that the provider has:

(a) A current certification in first aid and infant and child ~~cardiopulmonary resuscitation~~ **CPR**. **CPR** training must have practical hands-on instruction; ~~. therefore, online training is not acceptable.~~ **CPR courses that involve an on-line component with hands-on instruction may be accepted. Strictly on-line CPR training is not acceptable.**

(b) A current food handler certification pursuant to ORS 624.570; and

(c) Completed a minimum of ~~eight~~ **ten** hours of training during the two years preceding the renewal date. The training must be related to the core knowledge categories in the Oregon Registry. At least ~~four~~ **six** clock hours of the ~~eight~~ **ten** hours of training must be in child development or early childhood **education**. ~~Duplicate A~~ training on recognizing and reporting child abuse and neglect ~~issues can~~ **will** be accepted ~~again~~ after five years; ~~(and every five years thereafter) towards the eight clock hours of training required for licensing.~~ **as part of the ten clock hours of training required for licensing, but will not be accepted as part of the required child development training hours.**

(A) ~~The~~ OCC will accept duplicate training one additional time if it is a Set 2 (intermediate) or Set 3 (advanced) training or above as described by the Oregon Center for Career Development in Childhood Care and Education; and it is not taken within the same license period.

(B) The following core knowledge categories are accepted for the child development and early childhood education requirement: Diversity (D), Family and Community Systems (FCS), Human Growth and Development (HGD),

Health Safety and Nutrition (HSN), Learning Environments and Curriculum (LEC), Observation and Assessment (OA), Special Needs (SN), and Understanding and Guiding Behavior (UGB).

~~(C) An approved planned reading program of professional materials may count for up to two hours of the eight clock hours of training and must include a written assessment of the reading materials completed.~~

(3) When a person submits a reopen application, the OCC shall, prior to approving it, receive evidence from the individual that the individual has:

(a) A current certification in first aid and infant and child ~~cardiopulmonary resuscitation~~ **CPR**. **CPR** training must have practical hands-on instruction; ~~. therefore, online training is not acceptable.~~ **CPR courses that involve an on-line component with hands-on instruction may be accepted. Strictly on-line CPR training is not acceptable.**

(b) A current food handler certification pursuant to ORS 624.570; and

(c) Documentation that individual has ~~eight~~ **ten** hours of training related to the Oregon Registry core knowledge categories ~~during the previous two year license period.~~ **since the individual's last active child care license was issued.** If the individual was previously licensed for less than two years, the training requirements will be prorated as follows: ~~two~~ **2.5** hours of training for each six months of the previous license period. ~~Duplicate A~~ training on recognizing and reporting child abuse and neglect ~~issues can~~ **will** be accepted again after five years, (and every five years thereafter) ~~towards the eight clock hours of training required for licensing.~~ **as part of the ten clock hours of training required for licensing, but will not be accepted as part of the required child development training hours.**

(d) ~~The~~ OCC will accept duplicate training one additional time if it is a Set 2 (intermediate) or Set 3 (advanced) training or above as described by the Oregon Center for Career Development in Childhood Care and Education; and it is not taken within the same license period.

~~(B) An approved planned reading program of professional materials may count for up to two hours of the eight clock hours of training and must include a written assessment of the reading materials completed.~~

(4) While the registered family child care license is active, the provider must maintain current certification in first aid, infant and child CPR and food handler training.

Stat. Auth.: ORS ~~657~~ **329**A.260

Stats. Implemented: ORS ~~657~~ **329**A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01; CCD 3-2004, f. 7-30-04 cert. ef 8-1-04; CCD 1-2007(Temp), f. & cert. ef. 3-20-07 thru 9-16-07; CCD 2-2007, f. & cert. ef. 7-13-07; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; CCD 7-2010, f. 12-29-10, cert. ef. 1-1-11

414-205-0065

Children in Care

(1) A family child care provider may care for a maximum of 10 children under 13 years of age, or under age 18 if a child with special needs, at any one time. This includes the provider's own children, the child care children, foster children, and any other children for whom the provider is responsible.

(2) Of the 10 children under 13 years of age or under age 18 ~~if a child~~ **years of age** with special needs, the provider may care for:

(a) A maximum of 6 children preschool age or younger, including the provider's ~~own~~ children, of which only 2 children may be under 24 months of age.

(b) ~~In addition, there may be 4 school-age children.~~ **Four school-age children, in addition to the six children preschool-age or younger.**

(c) **if More school-age children if** there are fewer than 6 children preschool age or younger, ~~there may be more school-age children,~~ as long as there are no more than 10 children in the home at any one time.

(3) Other children, including but not limited to **relatives**, neighborhood children or friends of the provider's children, are included in the maximum number of 10 children allowed in care if their parents or other adults responsible for supervising them are not present in the home or are not directly supervising their own child(ren).

(4) Visiting children and their parents or others directly supervising them can be in the family child care home only on an occasional basis.

(5) No child younger than 6 weeks of age can be in care in a family child care home. This does not include the provider's child(ren).

Stat. Auth.: ORS ~~657~~ **329**A.260

Stats. Implemented: ORS ~~657~~ **329**A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 2-2010, f. 6-29-10, cert. ef. 7-1-10

414-205-0075

Supervision of Children

(1) The provider or a substitute caregiver is responsible for the children in care. ~~The~~ **At all times the** provider or substitute caregiver must:

~~(1) (a)~~ Be within sight ~~and/or~~ sound of all children ~~at all times~~;

~~(2) (b)~~ Be aware of what each child is doing ~~at all times~~; and

~~(3) Be physically present when preschool age or younger children are playing outside unless the outside play area is fully fenced and hazard free. If the outside play area is fully fenced and hazard free, the provider must be within sight and/or sound of the children.~~

(c) Be near enough to children to respond when needed;

(d) Be physically present when there are children under the age of 36 months playing outside; and

(e) Be physically present when kindergarten-age or younger children are playing outside, unless the outside play area is fully fenced and hazard free.

Stat. Auth.: ORS ~~657~~ **329**A.260

Stats. Implemented: ORS ~~657~~ **329**A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 2-2010, f. 6-29-10, cert. ef. 7-1-10

414-205-0085

Guidance and Discipline

(1) The provider must have a written ~~discipline~~ policy **on guidance and discipline of child care children**. The policy must be simple and understandable to the child, the parent(s) and to substitute caregivers. ~~The written discipline policy must be given to all parents.~~

~~(2) The following behavior by caregivers is prohibited:~~

~~(a) Corporal punishment, including hitting, spanking, slapping, beating, shaking, pinching, and other measures that produce physical pain;~~

~~(b) Withdrawal or the threat of withdrawal of food, rest, or bathroom opportunities;~~

~~(c) Punishing a child for toileting accidents or for refusing food;~~

~~(d) Abusive or profane language;~~

~~(e) Any form of public or private humiliation, including threats of physical punishment; and~~

~~(f) Any form of emotional abuse, including, but not limited to, rejecting, terrorizing, neglecting, or corrupting a child.~~

~~(3) Parental request or permission to use any form of punishment listed in subsection (2) of this rule does not give the provider permission to use such punishment.~~

(2) The written guidance and discipline policy must be given to all parents.

(3) The guidance and discipline policy shall:

(a) Provide for positive guidance, redirection and the setting of clear boundaries; and

(b) Be designed to help the child develop self-control, self-esteem and respect for others.

(4) Only providers and substitutes shall provide guidance or discipline to child care children.

(5) Guidance and discipline shall be fair, consistently applied, timely and appropriate to the behavior and age of the child. Positive statements or redirection of behaviors shall be used.

(6) The following behaviors by caregivers are prohibited:

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

(b) Using inappropriate forms of restraints, including, but not limited to, tying or binding;

(c) Using non-prescription chemicals for discipline or to control behavior;

- (d) Yelling harshly or using profane or abusive language;**
 - (e) Using mental or emotional punishment, including, but not limited to: name calling, ridicule or threats;**
 - (f) Confining a child in an enclosed area (e.g. a locked or closed room, closet or box);**
 - (g) Withdrawal or the threat of withdrawal of food, rest or bathroom opportunities;**
 - (h) Punishing a child for toileting accidents or for refusing to eat food;**
 - (i) Engaging in any form of public or private humiliation, rejecting, terrorizing, neglecting or corrupting a child or any form of emotional abuse; and**
 - (j) Requiring a child to remain silent or inactive for excessive periods of time or removing a child from activities or the group for excessive periods of time.**
- (7) Parental request or permission to use any form of behavior listed in subsection (6) of this rule, does not give the provider or substitute caregiver permission to do so.**

Stat. Auth.: ORS ~~657~~ **329**A.260

Stats. Implemented: ORS ~~657~~ **329**A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10

414-205-0090

Program of Activities

- (1) The provider must give the children's needs first priority, assuring that they get adequate care and attention.
- (2) Providers must make available activities, materials, and equipment for both indoor and outdoor play that provide a variety of experiences geared to the ages and abilities of the child(ren).
- (3) The children's activities must allow choice and develop skills based on each child's age and abilities.
- (4) A balance of active and quiet play must be provided, both indoors and outdoors.

(5) The provider must have routines for eating, napping, **diapering** and toileting, with flexibility to respond to the needs of each child.

(a) An individual bed, mat or cot with individual bedding appropriate to the season shall be provided at nap time for each toddler and preschool-age child in the home and for each school-age child who wants to rest.

(A) Family beds or sofas may be used with individual bedding appropriate to the season.

(B) If the parent(s) so request, siblings may share the same bed.

(C) The upper level of bunk beds shall not be used for children under ten years of age.

(D) The upper level of bunk beds may be used for children ten years or older if the bed rail and safety ladder are in place.

(b) Infants shall have a crib, portable crib or playpen with a clean, non-absorbent mattress. All cribs must comply with current Consumer Product Safety Commission (CPSC) standards. There shall be no items in the crib with the infant (e.g. toys, pillows or stuffed animals).

(c) If a child uses a blanket, the blanket may not cover the child's head or restrict the child from moving.

~~(6) No child may view television or videos or play computer or electronic games for more than two (2) hours per day.~~ Child care children shall not be exposed to more than two hours of screen time per day. All media exposure must be developmentally and age appropriate.

Stat. Auth.: ORS ~~657~~ **329**A.260

Stats. Implemented: ORS ~~657~~ **329**A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10

414-205-0100

Health

(1) The home must be a healthy environment for children.

(a) No person shall smoke or carry any lighted smoking instrument, including e-cigarettes **or vaporizers** in the family child care home or within ten feet of any entrance, exit, window that opens or any ventilation intake that serves an enclosed area, during child care hours or when child care children are present.

No person shall use smokeless tobacco in the family child care home during child care hours or when child care children are present. No person shall smoke, carry any lighted smoking instrument, e-cigarettes, **vaporizers** or use smokeless tobacco in motor vehicles while child care children are passengers.

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

(c) Notwithstanding OAR 414-205-0000(5), no one shall possess, use or store illegal controlled substances on the family child care home premises. No one shall be under the influence of illegal controlled substances on the family child care home premises.

(d) Notwithstanding OAR 414-205-0000(5), no one shall grow medical marijuana on the premises of the registered family child care home. No adults shall use medical marijuana on the registered family child care home premises during child care hours or when child care children are present.

(e) No adult under the influence of medical marijuana shall have contact with child care children.

(f) Notwithstanding OAR 414-205-0000(5), marijuana plants shall not be grown or kept on the registered family child care home premises.

(g) All medical marijuana must be kept in its original container and stored under child safety lock. All medical marijuana derivatives and associated paraphernalia must be stored under child safety lock.

(h) There must be at least one flush toilet and one hand-washing sink available to children. Steps or blocks must be available to ensure children can use the toilet and sink without assistance.

(i) The room temperature must be at least 68°F during the hours the child care business is conducted.

(j) Rooms occupied by children must have a combination of natural and artificial lighting.

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

(2) ~~The provider must have a basic first aid kit available for use. The kit must be kept out of the reach of children.~~ **First aid supplies and a chart or handbook**

of first aid instructions shall be maintained in one identified place and kept out of reach of children.

(a) The first aid supplies shall include: band aids, adhesive tape, sterile gauze pads, soap or sealed antiseptic towelettes or solution to be used as a wound cleaning agent, scissors, disposable plastic gloves for handling blood spills, a solution for disinfecting after a blood spill, a sanitary temperature taking device and CPR mouth guards.

(b) A first aid kit and a copy of each child's emergency medical information including a medical release form shall be taken any time the caregiver is transporting child care children or taking child care children on field trips.

(3) Infants must be ~~put to sleep on their backs.~~ **laid on their backs on a flat surface for sleeping.**

(4) ~~Except for mild cold symptoms that do not impair a child's function, children who are ill shall not be in care.~~ **Illness:**

(a) A provider shall not admit or retain in care, except with the written approval of the local health office, a child who:

(A) Is diagnosed as having or being a carrier of a child care restrictable disease, as defined in Oregon Health Authority administrative rule; or

(B) Has one of the following symptoms or combination of symptoms or illness;

(i) fever over 100°F, taken under the arm;

(ii) diarrhea (more than one abnormally loose, runny, watery or bloody stool);

(iii) vomiting;

(iv) nausea;

(v) severe cough;

(vi) unusual yellow color to skin or eyes;

(vii) skin or eye lesions or rashes that are severe, weeping or pus-filled;

(viii) stiff neck and headache with one or more of the symptoms listed above;

(ix) difficulty breathing or abnormal wheezing;

(x) complaints of severe pain.

(b) A child, who, after being admitted into child care, shows signs of illness, as defined in this rule, shall be separated from the other children, and the parent(s) notified and asked to remove the child from the provider's home as soon as possible.

~~(5) If a child becomes ill in child care, the provider must separate the child from other children, to the extent possible, and contact the child's parent(s) to remove the child from care as soon as possible.~~ **If a child has mild cold symptoms that do not impair his/her normal functioning, the child may remain in the provider's home and the parent(s) notified when they pick up their child.**

(6) Parents must be notified if their child is exposed to **an outbreak of** a communicable disease.

(7) Prescription and non-prescription medication ~~may~~ **shall only** be given to a child ~~only~~ if the provider has written authorization from the parent, as required in OAR 414-205-0130(3).

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

(a) Non-prescription medications or topical substances must be labeled with the child's name.

(b) Prescription medications must be in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, and the physician's name.

(c) Medication requiring refrigeration must be kept in a separate, **tightly** covered container, marked "medication," in the refrigerator.

(9) Sunscreen is considered a non-prescription medication and may be used for child care children under the following conditions:

(a) Providers must obtain written parental authorization prior to using sunscreen.

(b) One container of sunscreen may be used for child care children unless a parent supplies an individual container for their child. The sunscreen shall be applied in a manner that prevents contaminating the container.

(A) Parents must be informed of the type of product and the sun protective factor (SPF).

- (B) Parents must be given the opportunity to inspect the product and active ingredients.
- (c) If sunscreen is supplied for an individual child care child, the sunscreen must be labeled with the child's first and last name and must be used for only that child.
- (d) Providers must reapply sunscreen every two hours while the child care children are exposed to the sun.
- (e) Providers shall use a sunscreen with an SPF of 15 or higher and must be labeled as "Broad Spectrum".
- (f) Providers shall not use aerosol sunscreens on child care children.
- (g) Sunscreen shall not be used on child care children younger than six months.
- (h) Child care children over six years of age may apply sunscreen to themselves under the direct supervision of the provider or staff member.
- (10) Parents must be informed daily of any medications given to their child or any injuries their child has had.
- (11) The provider must provide or ensure the availability of meals and snacks appropriate for the ages and needs of the children served.
- (a) Meals and snacks must be based on the guidelines of the USDA Child Care Food Program.
- (b) Foods must be stored and maintained at the proper temperature.
- (c) Foods must be prepared and served according to the minimum standards for food handler certification.
- (d) Infants must ~~either~~ be held or ~~be fed~~ sitting up for bottle feeding. Propping bottles is prohibited.
- (e) Children shall not be laid down with a bottle for sleeping.**
- (12) Any animal at the family child care home ~~must~~ **shall** be in good health and be a friendly companion for the children in care.
- (a) Potentially aggressive animals must not be in the same physical space as the children.

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

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

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

(14) Caregivers must be physically present when children are interacting with animals.

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

(16) Parents must be made aware of the presence of any animals ~~in the child care home.~~ **on the premises.**

Stat. Auth.: ORS 329A.260

Stats. Implemented: ORS 329A

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 1-2008(Temp), f. & cert. ef. 8-6-08 thru 2-2-09; CCD 3-2008, f. & cert. ef. 10-2-08; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; CCD 7-2010, f. 12-29-10, cert. ef. 1-1-11; CCD 1-2012(Temp), f. & cert. ef. 6-12-12 thru 11-6-12; CCD 2-2012, f. 9-28-12, cert. ef. 10-10-12; ELD 9-2014(Temp), f. & cert. ef. 8-7-14 thru 2-3-15

414-205-0110

Safety

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

(a) ~~If any preschool age or younger children are in care, hard-to-remove protective caps on all exposed electrical outlets in rooms used by children.~~ **All exposed electrical outlets in rooms used by preschool or younger children must have hard-to-remove protective caps or safety devices installed when the outlet is not in use.**

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

(c) All appliance cords must be in good condition;

(d) Multiple connectors for cords shall not be used;

(e) A grounded power strip outlet with a built-in over-current protection may be used;

~~(f) If any preschool age or younger children are in care, barriers to protect children from fireplaces, space heaters, wood stoves, stairways and other hazards. Gates and enclosures should have the Juvenile Products Manufacturers Assn. (JPMA) certification seal to ensure safety.~~ **A stable screen or guard barrier shall be installed to prevent children from falling into hazards, including, but not limited to: fireplaces, heaters and woodstoves that are in use when child care children are present;**

(g) A secure barrier shall be placed at the top and/or bottom of all stairways accessible to infants and toddlers;

~~(h)~~ **(h)** A working smoke detector on each floor and in any area where children nap;

~~(i)~~ **(i)** A working fire extinguisher with a rating of at least 2-A:10-BC;

~~(j) Firearms and ammunition kept under lock. Ammunition stored separately from firearms. Firearms must remain unloaded;~~ **Firearms, BB guns, pellet guns and ammunition kept under lock, with ammunition stored and locked separately. Firearms, BB guns and pellet guns must remain unloaded;**

~~(k)~~ **(k)** Cleaning supplies, paints, matches, ~~cigarette~~ lighters, and plastic bags kept under child-~~proof~~ **safety** lock;

~~(l)~~ **(l)** Other potentially dangerous items, such as medicine, drugs, **sharp knives** and poisonous and toxic materials kept under child-~~proof~~ **safety** lock;

~~(m)~~ **(m)** If any preschool age or younger children are in care, poisonous plants must be kept out of the reach of children; and

~~(n)~~ **(n)** All clear glass panels in doors clearly marked at child level.

(2) All floor levels used by children must have access to two useable exits, as defined in OAR 414-205-0010(27), to the outdoors.

(a) If a basement is used for child care purposes, the requirement for two useable exits may be met by one of the following:

(A) A sliding glass door **or swinging door** to the ~~outdoors~~ **outside** and a window ~~which~~ **that** meets the definition of a useable exit;

~~(B) A swinging door to the outdoors and a window which **that** meets the definition of a useable exit; or~~

(B) A window which meets the definition of a useable exit and an internal stairway to ground level ~~which~~ **that** has unobstructed and direct access to the outdoors.

(b) If a window, which meets the definition of a useable exit, is used:

(A) Steps must be placed under the window to allow children to exit without assistance; and

(B) The window must be kept in good working condition.

(c) If a window used as an exit has a window well, a mechanism must be in place to allow children to exit the window well.

(3) Second floors (does not apply to providers registered continuously at the same address before 2009, unless the provider has moved the child care license to a new residence):

(a) Child care children shall not sleep on the second floor or above;

(b) Care shall not be provided for infants and toddlers on the second floor or above;

(c) Night care shall not be provided on the second floor or above;

(d) Children may be allowed on the second floor to use the bathroom if the only bathroom is on the second floor;

(e) Care can be provided for preschool and school-age children on the second floor or above, if:

(A) There are two staircases to the ground level and all children are mobile enough to exit safely; or

(B) The designated fire marshal has approved the use of the upper floor.

~~(3)~~ **(4)** The provider must have a written plan for evacuating **and removing** children **to a safe location** in an emergency. The plan must be posted in the home, familiar to the children and the caregivers, and practiced at least every other month. **and must include:**

(a) Procedures for notifying parents or other adults responsible for the children, of the relocation;

(b) Procedures to address the needs of individual children, including those with special needs; and

(c) An acceptable method to ensure that all children in attendance are accounted for.

~~(4)~~ **(5)** A telephone in working condition must be in the family child care home.

(a) Parents must be given the telephone number so they can contact the provider if needed.

(b) Emergency telephone numbers for fire, ambulance, police and poison control **and the provider's home address** must be posted ~~near the telephone.~~ **in a visible location.**

~~(5)~~ **(6)** The building, grounds, water supply, and toys, equipment and furniture used by children must be maintained in a hazard-free condition.

(a) Broken toys, furniture and equipment must be removed from areas accessible to children.

(b) Both the exterior and interior of the home must be maintained in good repair.

(c) Painted surfaces must be in good condition, both inside and outside, to avoid exposing children to lead paint ~~chips~~.

(d) The provider shall report to OCC any damage to the building that affects the provider's ability to comply with these requirements, within 48 hours after the occurrence.

~~(6)~~ **(7)** If a caregiver is transporting children, the caregiver must have a valid driver's license and proof of appropriate insurance.

~~(7)~~ **(8)** The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle.

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

(10) 15-passenger vans shall not be used to transport child care children after January 1, 2018.

Stat. Auth.: ORS ~~657~~ **329**A.260

Stats. Implemented: ORS ~~657~~ **329**A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 2-2009(Temp), f. 12-30-09,

cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10; CCD 7-2010, f. 12-29-10, cert. ef. 1-1-11

414-205-0120

Sanitation

(1) Pre-mixed EPA registered and Oregon Health Authority approved sanitizers and disinfectants may be used in all areas of the home per manufacturer instructions. ~~on the bottle. Bleach or quaternary ammonium that requires mixing with water must be tested for correct concentration with test strips.~~

~~(1)~~ **(2)** All caregivers **and children** must wash their hands with soap and warm, running water:

~~(a) After changing a diaper;~~

~~(b) Before feeding a child or handling food; and~~

~~(c) After assisting a child with toileting or nose wiping.~~

(a) Before handling food;

(b) Before assisting with feeding;

(c) Before and after eating;

(d) After diapering;

(e) After using the toilet;

(f) After assisting someone with toileting;

(g) After nose wiping;

(h) After playing outside; and

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

~~(2) All caregivers and children must wash their hands with soap and warm, running water:~~

~~(a) After using the toilet;~~

~~(b) Before and after eating;~~

~~(c) After nose wiping;~~

~~(d) After playing outside; and~~

~~(e) After playing with animals or handling pet toys.~~

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

~~(3)~~ **(4)** All toys, equipment and furniture used by children must be cleaned, **rinsed** and sanitized regularly and whenever soiled.

(5) Diaper changing surfaces must be either:

(a) Non-absorbent and easily disinfected;

(b) Disposed of after each use; or

(c) Laundered after each use.

(6) The diaper changing area shall be located so that hand washing can occur immediately after diapering without contacting other surfaces or children.

~~(4)~~ **(7)** The building and grounds must be maintained in a clean and sanitary manner.

~~(5)~~ **(8)** All garbage, solid waste, and refuse must be disposed of regularly, in a safe and sanitary manner.

~~(6)~~ **(9)** The home's water supply must be safe to drink.

~~(7)~~ **(10)** Wading pools are prohibited. **for wading.**

Stat. Auth.: ORS ~~657~~ **329**A.260

Stats. Implemented: ORS ~~657~~ **329**A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10

414-205-0130

Record Keeping

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

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

(A) Name and birth date of the child;

(B) Any chronic health problem(s), including allergies, the child has;

(C) Date child entered care;

~~(C)~~ **(D)** Names, work and home telephone numbers and addresses, and the work hours of the ~~custodial~~ parent(s) or **legal** guardian(s);

~~(D)~~ **(E)** Name and telephone number of person(s) to contact in an emergency;

~~(E)~~ **(F)** Name and telephone number of person(s) to whom the child may be released;

~~(F)~~ **(G)** The **name of the** school attended by ~~a school-age the child care~~ child; and

~~(G)~~ **(H)** Name, address and telephone number of the child's doctor and dentist.

(I) Health history of any problems that could affect the child's participation in child care.

(b) Daily attendance records, including dates each child attended and arrival and departure times **for each day. Times shall be recorded as the child care children arrive and depart;**

(c) Medications administered, including the child's name, and the date and time of dosage **and the dosage amount;** and

(d) Injuries to a child.

(2) Injuries to a child which require attention from a licensed health care professional, such as a physician, EMT or nurse, must be reported to OCC within seven days.

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

(a) Obtain emergency medical treatment for a child;

(b) Administer medications to a child;

(c) Take a child on a field trip or other activity outside the home or participate in any water activity; and

(d) Transport a child to ~~and~~/or from school or allow a child to bus or walk to ~~and~~/or from school or home.

Stat. Auth.: ORS ~~657 329~~A.260

Stats. Implemented: ORS ~~657 329~~A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10

414-205-0140

Night Care

(1) A provider providing night care must:

~~(1)~~ (a) Have a written plan for the care, ~~jointly~~ **mutually** agreed ~~to~~ **upon** by the parent(s) and the provider;

~~(2)~~ (b) Have a written plan for emergency situations occurring during the night;

~~(3)~~ (c) Be awake for the arrival and departure of each child in night care; and

~~(4)~~ (d) Follow all other applicable Registration rules.

Stat. Auth.: ORS ~~657 329~~A.260

Stats. Implemented: ORS ~~657 329~~A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10

414-205-0150

Exceptions to Rules

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

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

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

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

(3) In instances where care that is subject to registration, as defined in subsection (2) of rule 414-205-0000, will not be provided in the provider's own residence, the applicant/provider must request and receive approval for an

exception prior to providing care at that location. In all respects, the location must appear and be arranged as a residence.

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

(5) An exception is valid only for the ~~registration period~~ **specified dates** for which it is issued. ~~A new exception must be requested with each renewal application.~~

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

~~(7) Waivers in effect on April 1, 2000, will remain in effect until the expiration of the current registration.~~

Stat. Auth.: ORS ~~657 329~~ A.260

Stats. Implemented: ORS ~~657 329~~ A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10

414-205-0160

Complaints

(1) The Office of Child Care (~~OCC~~) will respond to complaints made on registered and illegal providers, and **may will** cooperate with law enforcement or other agencies in response to allegations of child abuse or noncompliance.

(a) Any and all complaints may result in an on-site **investigation assessment** at the family child care home;

(b) All serious complaints will result in an on-site **investigation assessment** at the family child care home;

(c) Complaints alleging child abuse or neglect will be reported to the Department of Human Services Child Welfare (DHS) or local law enforcement agencies.

(2) **Applicants New applicants** for registration will be given a copy of OCC's complaint procedures at the time of the on-site health and safety review. The complaint procedures are also available upon request. ~~to all applicants/providers for family child care registration.~~

Stat. Auth.: ORS ~~657 329~~ A.260

Stats. Implemented: ORS ~~657 329~~ A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 2-2007, f. & cert. ef. 7-13-07;

CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; Administrative correction 7-27-10

414-205-0170

Grievance Findings Review and Sanctions

(1) ~~Providers have a right to review any action or decision affecting them. The OCC grievance procedures are available upon request to all applicants/providers for family child care registration.~~ **A provider has the right to a review of any finding made by OCC. New applicants for registration will be given a copy of OCC's findings review procedures at the time of the on-site inspection. Information on the OCC findings review process will be in complaint letters. The OCC findings review procedures are also available upon request.**

(2) Registration may be denied, suspended, or revoked if a provider fails to meet requirements, provide OCC with information requested, allow an inspection, or correct deficiencies.

(3) Any action taken by OCC to deny, suspend, or revoke registration may be reported to USDA Child Care Food Programs, child care resource and referral agencies, Children, Adults and Families, Office of Self-Sufficiency and Office of Safety and Permanency for Children.

(4) A registration may be suspended immediately when OCC believes children may be at risk of harm in the family child care home. Such action may be taken before an investigation is completed.

(a) A provider whose registration has been suspended must immediately notify, verbally or in writing, all parents of the suspension.

(b) A provider whose registration has been suspended must post the suspension in the home where it can be viewed by parents.

(c) A provider whose registration has been suspended must immediately provide OCC with all names, work and home telephone numbers and addresses of the parent(s) or legal guardian(s) for each child.

(5) Registration will be denied, suspended or revoked if the provider or other resident of the home has been removed or suspended from the ~~Central Background Registry~~ **CBR**.

(6) If an individual listed in 414-205-0040(2)(a) or (b) has been charged with, arrested for, or a warrant is out for any crime which OCC has determined indicates behavior that would have a detrimental effect on a child, the provider's

application will be denied or registration will be suspended or revoked until the charge, arrest, or warrant has been resolved.

(7) Registration will be denied, suspended or revoked if an individual listed in OAR 414-205-0040(2)(a) or (b) has been convicted of or sentenced for offenses that would disqualify the individual from the **Central Background Registry CBR**.

(8) Registration will be denied, suspended or revoked if an individual listed in OAR 414-205-0040(2)(a) or (b) has a founded child protective services case or an open child protective services or law enforcement case that would disqualify the individual from the **Central Background Registry CBR**.

(9) A provider whose registration has been **denied for cause or** revoked **for cause** shall not be eligible to reapply for three years after the effective date of the revocation.

(10) A provider who violates these rules or the terms and conditions of registration under these rules may be subject to a civil penalty.

(a) For a serious violation, as defined in OAR 414-205-0010(25) a provider may be subject to a civil penalty of \$100 for **the first a** violation after a written warning with time to correct is issued; and \$100 for each subsequent violation, not to exceed \$1,000 in a quarter for all rule violations.

(b) For other violations, a provider may be subject to a civil penalty of \$50 for **the first a** violation after a written warning with time to correct is issued; \$100 for a second violation, and \$100 for each subsequent violation, not to exceed \$1,000 in a quarter for all rule violations.

(11) The provider has the right to appeal any decision to deny, suspend, or revoke registration or to impose a civil penalty, subject to the provisions of Chapter 183, Oregon Revised Statutes.

Stat. Auth.: ORS 657.610 & **657 329**A.260

Stats. Implemented: ORS **657 329**A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2004, f. & cert. ef. 11-16-04; CCD 1-2005, f. & cert. ef. 4-29-05; CCD 2-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 2-2010, f. 6-29-10, cert. ef. 7-1-10; CCD 7-2010, f. 12-29-10, cert. ef. 1-1-11

Early Learning Council – Administrative Rule Summary

Title/OAR #:

Date: January 29, 2015

Central Background Registry Rule, OAR 414-061-0000 to 414-061-0120

Staff/Office: Early Learning Division, Office of Child Care

☐ New Rule ☒ Amend Existing Rule ☐ Repeal Rule

Hearing Dates: October 28, 2014 and November 24, 2014 ☒ Hearings Officer Report Attached

Prompted by: ☐ State law changes ☐ Federal law changes ☒ Other

Action Requested:

☐ First Reading of Administrative Rule ☒ Review and Approve for Filing

PROPOSED/AMENDED RULE SUMMARY:

Current Central Background Registry rules have been amended in all sections of the rulebook, including, but not limited to: Subject Individuals, History to be Considered and Procedures for Conducting Oregon State Police Criminal Records Checks and Child Protective Services Record Checks.

BACKGROUND:

The Central Background Registry rules have not had a comprehensive review for many years. The Office of Child Care had accumulated many suggestions and revision proposals from licensed providers, staff members, partner agencies and other stakeholders. There was also a need to align the rules more with the Department of Human Services Child Care Subsidy background check rules and to enable the division to respond to rising cost of conducting background checks and anticipated changes in federal requirements. Some changes were necessary as a result of a change in federal and state law. The revisions related to reviewing patterns of behavior to determine suitability for enrollment in the Central Background Registry were incorporated into the temporary rules adopted by the Early Learning Council August 6, 2014.

Proposed Revisions include:

- Addition of several crimes to the list of crimes the division reviews when determining suitability.
- Adjustment of timeframes for review of crimes to align more with the Department of Human Services.
- Review of patterns of behavior when determining suitability. In the past, there had to be a 'founded' case of child abuse or conviction as the base standard. That base standard is eliminated and the division may now look at the entire record when determining suitability.
- Enables division to respond to rising costs of conducting background checks.

TIMELINE OF KEY ACTIVITIES

- Early Learning Division, Office of Child Care staff drafted and reviewed amendments to current rule language for external review.
- The revisions related to reviewing pattern of behavior were adopted as a temporary rule by the Early Learning Council on August 6, 2014.
- The Child Care Education Workgroup Advisory Committee met and reviewed draft revisions in October 2014. Public hearings were held on October 28, 2014 and November 24, 2014. No testimony received at the October 28th or November 24th hearing.

BENEFITS

- Aligns the rules more closely with Department of Human Services Background check rules.
- Ensures that the rules are current in relation to statutory changes.
- Enhances the health and safety of child care children by considering all history when determining suitability for enrollment in the Central Background Registry.

ISSUES/CONCERNS THAT SURFACED DURING RULE WORK:

- Broadening the history that is looked at (pattern of behavior) may result in negative action towards individuals against whom non-legitimate allegations or complaints have been made. The validity of a complaint or allegation related to child abuse and neglect is made by the Department of Human Services, Child Welfare. That determination is final in relation to these regulations.
- Importance of having a framework under which to make suitability decisions.
- Concern about availability and cost of fingerprinting services when proposed new federal rules requiring everyone to be fingerprinted become effective in 2015.

FISCAL IMPACT:

- Providers and potential providers may be impacted if they or members of their staff or household are denied enrollment in the Central Background Registry.
- Increases in cost of background checks will impact providers.

STAFF RECOMMENDATION:

- ☐ First Reading of Rule
- ☒ Review rule and approve for filing.
- ☐ No recommendation at this time

Comments:

A Public Hearing was conducted October 28, 2014 and November 24, 2014. No verbal or written testimony was received.

**OREGON DEPARTMENT OF EDUCATION
EARLY LEARNING DIVISION**

DRAFT

[11-24-14]

DIVISION 61

~~CHILD CARE DIVISION~~ OFFICE OF CHILD CARE

Central Background Registry

414-061-0000

Purpose

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

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

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0010

Scope of Rules

(1) Consistent with the purposes of these rules, ~~CCD~~ OCC will issue decisions about persons defined as subject individuals as to their suitability to be enrolled in the Central Background Registry and employed in programs defined as "Requesting Agencies" in OAR 414-061-0020 ~~(16)~~ (17).

(2) These rules (OAR 414-061-0000 through 414-061-0120) shall be construed and implemented consistent with the regulations governing:

(a) Child care licensing in OAR 414-205-0000 through 414-205-0170, 414-300-0000 through ~~414-300-0410~~ 414-300-0415, and 414-350-0000 through ~~414-350-0400~~ 414-350-0405;

(b) Pre-kindergarten programs in OAR 581-019-0005 through 581-019-0035;

(c) Parent-as-teacher programs in OAR 581-019-0050 through 581-019-0080; and

(d) Early childhood special education and early intervention programs in OAR ~~581-015-0900~~ 581-015-2700 through ~~581-015-1060~~ 581-015-2910.

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0020

Definitions

(1) "Agency Agreement" means the written agreement between the Oregon State Police and the Oregon ~~Child Care Division~~ Office of Child Care.

~~(2) "CCD" means the Child Care Division of the Employment Department.~~

~~(3)~~ (2) "Child Protective Services Records" means information on child abuse and neglect cases ~~from the Department of Human Services.~~

~~(4)~~ (3) "Computerized Criminal History (CCH) System" means the on-line computer files of significant criminal offender information maintained by the Oregon State Police (OSP).

~~(5)~~ (4) "Conditional Enrollment" means temporary approval to be enrolled in the Central Background Registry following an OSP criminal records check and child protective services records check but prior to receipt by ~~the Division~~ OCC of the results of a required FBI criminal records check.

~~(6)~~ (5) "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.

~~(7)~~ (6) "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.

~~(8)~~ (7) "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.

~~(9)~~ (8) "Employee of the ~~Child Care Division~~ Early Learning Division" means any individual employed by the ~~Child Care Division~~ Office of Child Care ~~who works in the child care licensing unit.~~

~~(10)~~ (9) "Enrollment" means approval for a two-year period to be enrolled in the Central Background Registry following an OSP criminal records check, child protective services records check and, if required, an FBI records check.

~~(11)~~ (10) "Fee" means the charges assessed ~~by~~ the subject individual for processing each criminal records check and/or fingerprint-based criminal records check.

~~(12)~~ (11) "FBI" means the Federal Bureau of Investigation.

~~(13)~~ (12) "Fingerprint-Based Criminal Records" means criminal offender information compiled and maintained by the Federal Bureau of Investigation.

~~(14)~~ (13) "Incident" means the commission of a Category I or Category II crime or a ~~founded~~ child protective services case.

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

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

(16) "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 ~~OS~~ ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.

~~(16)~~ (17) "Requesting Agency" means a childhood care and education program or individual providing care to children that is:

(a) Regulated by ~~CCD OCC~~ under ORS ~~657 329~~A.280 or ~~657 329~~A.330; or

(b) An early childhood care and education program.

~~(17)~~ (18) "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 ~~employee staff with supervisory authority~~.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS ~~657 329~~A.030(7)

Stats. Implemented: ORS ~~657 329~~A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0030

Subject Individuals

(1) For purposes of criminal records checks, including fingerprint-based criminal records checks, and child protective services records checks, "Subject Individual" means a person who ~~wishes to seek employment as 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 ~~the Child Care Division of the Employment Department 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) An employee of the Child Care Division of the Employment Department~~ A designated employee, a contractor, or 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.

(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.**

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0040

Limitations of Inquiries

(1) Only ~~CCD~~ **OCC** employees 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(1). 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 ~~CCD~~ **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, and child protective services information shall be obtained by ~~CCD~~ **OCC** to determine whether a subject individual has ~~been convicted of a crime~~ **criminal information** or has ~~a founded~~ child protective services ~~record~~ **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 ~~CCD~~ **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 ~~Assistant Director of the FBI Identification Division, Washington, D.C. 20537-9700~~ **FBI's CJIS Division**; and

(c) May inspect his/her own OSP record, but not his/her FBI record, by requesting the opportunity from ~~CCD~~ **OCC** in writing.

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0050

History to be Considered

(1) ~~CCD~~ **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 ~~(6)~~ (10) of this rule.

~~(a) The crimes in Category I include:~~

~~(A) 162.165 Escape I;~~

~~(B) 162.185 Supplying Contraband;~~

~~(C) 163.095 Aggravated Murder;~~

~~(D) 163.115 Murder;~~

~~(E) 163.118 Manslaughter I;~~

~~(F) 163.125 Manslaughter II;~~

~~(G) 163.145 Criminally Negligent Homicide;~~

~~(H) 163.165 Assault III;~~

~~(I) 163.175 Assault II;~~

~~(J) 163.185 Assault I;~~

~~(K) 163.200 Criminal Mistreatment II;~~

~~(L) 163.205 Criminal Mistreatment I;~~

~~(M) 163.225 Kidnapping II;~~

~~(N) 163.235 Kidnapping I;~~

~~(P) 163.275 Coercion;~~

~~(Q) 163.355 Rape III;~~

~~(R) 163.365 Rape II;~~

~~(S) 163.375 Rape I;~~

~~(T) 163.385 Sodomy III;~~

~~(U) 163.395 Sodomy II;~~

~~(V) 163.405 Sodomy I;~~

~~(W) 163.408 Unlawful Sexual Penetration II;~~

~~(X) 163.411 Unlawful Sexual Penetration I;~~

~~(Y) 163.415 Sexual Abuse III;~~

~~(Z) 163.425 Sexual Abuse II;~~

~~(AA) 163.427 Sexual Abuse I;~~

~~(BB) 163.435 Contributing to Sexual Delinquency of Minor;~~

~~(CC) 163.445 Sexual Misconduct;~~

~~(DD) 163.515 Bigamy;~~

~~(EE) 163.525 Incest;~~

~~(FF) 163.535 Abandonment of a Child;~~

~~(GG) 163.545 Child Neglect II;~~

~~(HH) 163.547 Child Neglect I;~~

~~(II) 163.555 Criminal Nonsupport;~~

~~(JJ) 163.575 Endangering the Welfare of a Minor;~~

~~(KK) 163.670 Using Child in Display of Sexually Explicit Conduct;~~

~~(LL) 163.684 Encouraging Child Sexual Abuse I;~~

~~(MM) 163.685 Encouraging Child Sexual Abuse II;~~

~~(NN) 163.686 Encouraging Child Sexual Abuse III;~~

~~(OO) 163.688 Possession of Materials Depicting Sexually Explicit Conduct of a Child I;~~

~~(PP) 163.689 Possession of Materials Depicting Sexually Explicit Conduct of a Child II;~~

~~(QQ) 163.693 Failure to Report Child Pornography;~~

~~(RR) 163.732 Stalking;~~

~~(SS) 164.075 Theft by Extortion;~~

~~(TT) 164.225 Burglary I;~~

~~(UU) 164.325 Arson I;~~

~~(VV) 164.395 Robbery III;~~

~~(WW) 164.405 Robbery II;~~

~~(XX) 164.415 Robbery I;~~

~~(YY) 166.085 Abuse of Corpse II;~~

~~(ZZ) 166.087 Abuse of Corpse I;~~

~~(AAA) 166.155 Intimidation II;~~

~~(BBB) 166.165 Intimidation I;~~

~~(CCC) 166.220 Unlawful Use of a Weapon;~~

~~(DDD) 166.270 Possession of Weapons by Certain Felons;~~

~~(EEE) 166.272 Unlawful Possession of Machine Guns, Certain Short Barreled Firearms and Firearms Silencers;~~

~~(FFF) 166.275 Possession of Weapons by Inmates of institutions;~~

~~(GGG) 166.382 Possession of Destructive Device;~~

~~(HHH) 166.384 Unlawful Manufacture of Destructive Device;~~

~~(III) 166.429 Firearms Used in Felony;~~

~~(JJJ) 166.660 Unlawful Paramilitary Activity;~~

~~(KKK) 166.720 Racketeering Activity;~~

~~(LLL) 167.012 Promoting Prostitution;~~

~~(MMM) 167.017 Compelling Prostitution;~~

~~(NNN) 167.062 Sadomasochistic Abuse or Sexual Conduct in Live Show;~~

~~(OOO) 167.065 Furnishing Obscene Materials to Minors;~~

~~(PPP) 167.070 Sending Obscene Materials to Minors;~~

~~(QQQ) 167.075 Exhibiting an Obscene Performance to a Minor;~~

~~(RRR) 167.080 Displaying Obscene Materials to Minors;~~

~~(SSS) 167.087 Disseminating Obscene Material;~~

~~(TTT) 167.090 Publicly Displaying Nudity or Sex for Advertising Purposes;~~

~~(UUU) 167.212 Tampering with Drug Records;~~

~~(VVV) 167.262 Adult Using Minor in Commission of Controlled Substance Offense; or~~

~~(WWW) 181.599 Failure to Report as Sex Offender.~~

~~(b) (a) CCD OCC will consider conviction of the following crimes if they were committed for 15 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request Application for Enrollment in the OCC's Central Background Registry. The 15 years will run from the date of arrest, citation, charge, or conviction whichever is later. : Assault III; Bigamy; Burglary I; Coercion; Contributing to Sexual Delinquency of Minor; Criminal Mistreatment II; Criminal Nonsupport; Kidnapping II; Possession of Weapons by Certain Felons; Racketeering Activity; Rape III; Robbery II; Robbery III; Sexual Misconduct; Stalking; Supplying Contraband; and Unlawful Use of a Weapon.~~

- (A) 163.165 Assault III
- (B) 163.515 Bigamy
- (C) 164.225 Burglary I
- (D) 163.275 Coercion
- (E) 163.200 Criminal Mistreatment II
- (F) 163.555 Criminal Nonsupport
- (G) 163.225 Kidnapping II
- (H) 166.270 Possession of Weapons by Certain Felons
- (I) 166.720 Racketeering Activity
- (J) 164.405 Robbery II
- (K) 164.395 Robbery III
- (L) 163.445 Sexual Misconduct
- (M) 163.732 Stalking
- (N) 162.185 Supplying Contraband
- (O) 166.220 Unlawful Use of a Weapon
- (P) 163.257 Custodial Interference in the First Degree

~~(e) (b) GCD OCC will consider conviction of the following crimes if they were committed for 20 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request Application for Enrollment in the OCC's Central Background Registry. The 20 years will run from the date of arrest, citation, charge, or conviction whichever is later. : Abuse of a Corpse I; Abuse of a Corpse II; Adult Using Minor in Commission of Controlled Substance Offense; Arson I; Assault I; Assault II; Compelling Prostitution; Criminal Mistreatment I; Criminally Negligent Homicide; Disseminating Obscene Material; Escape I; Failure to Report Child Pornography; Failure to Report as Sex Offender; Firearms Used in Felony; Incest; Intimidation I; Intimidation II; Kidnapping I; Manslaughter I; Manslaughter II; Possession of Destructive Device; Possession of Weapons by Inmates of Institutions; Promoting Prostitution; Publicly Displaying Nudity or Sex for Advertising Purposes; Robbery I; Sadomasochistic Abuse or Sexual Conduct in Live Show; Tampering with Drug Records; Theft by Extortion; Unlawful Manufacture of Destructive Device; Unlawful Paramilitary Activity; and Unlawful Possession of Machine Guns, Certain Short Barreled Firearms and Firearms Silencers.~~

- (A) 166.087 Abuse of Corpse I
- (B) 166.085 Abuse of Corpse II
- (C) 167.262 Adult using Minor in Commission of Controlled Substance Offense
- (D) 164.325 Arson I
- (E) 163.185 Assault I

(F) 163.175	Assault II
(G) 475.908	Causing another person to ingest a controlled substance
(H) 167.017	Compelling Prostitution
(I) 163.205	Criminal Mistreatment I
(J) 163.145	Criminally Negligent Homicide
(K) 167.087	Disseminating Obscene Material
(L) 162.165	Escape I
(M) 163.693	Failure to Report Child Pornography
(N) 181.599	Failure to Report as Sex Offender
(O) 166.429	Firearms Used in Felony
(P) 163.525	Incest
(Q) 166.165	Intimidation I
(R) 166.155	Intimidation II
(S) 163.235	Kidnapping I
(T) 163.118	Manslaughter I
(U) 163.125	Manslaughter II
(V) 166.382	Possession of Destructive Device
(W) 166.275	Possession of Weapons by Inmates of Institutions
(X) 167.012	Promoting Prostitution
(Y) 167.090	Publicly Displaying Nudity or Sex for Advertising Purposes
(Z) 163.355	Rape III
(AA) 164.415	Robbery I
(BB) 167.062	Sadomasochistic Abuse or Sexual Conduct in Live Show
(CC) 167.212	Tampering with Drug Records
(DD) 164.075	Theft by Extortion
(EE) 163.479	Unlawful contact with a child
(FF) 166.384	Unlawful Manufacture of Destructive Device

- (GG) 166.660 Unlawful Paramilitary Activity
- (HH) 166.272 Unlawful Possession of Machine Guns, Certain Short Barreled Firearms and Firearms Silencers
- (II) 163.212 Unlawful use of an electrical stun gun, tear gas, or mace II
- (JJ) 163.476 Unlawfully being in a location where children regularly congregate

~~(d) (c) GCD OCC will consider the following crimes regardless of the length of time since they were committed: the conviction. Abandonment of a Child; Aggravated Murder; Child Neglect I; Child Neglect II; Displaying Obscene Materials to Minors; Encouraging Child Sexual Abuse I; Encouraging Child Sexual Abuse II; Encouraging Child Sexual Abuse III; Endangering the Welfare of a Minor; Exhibiting an Obscene Performance to a Minor; Furnishing Obscene Materials to Minors; Murder; Possession of Materials Depicting Sexually Explicit Conduct of a Child I; Possession of Materials Depicting Sexually Explicit Conduct of a Child II; Rape I; Rape II; Sending Obscene Materials to Minors; Sexual Abuse I; Sexual Abuse II; Sexual Abuse III; Unlawful Sexual Penetration I; Unlawful Sexual Penetration II; Sodomy I; Sodomy II; Sodomy III; and Using Child in Display of Sexually Explicit Conduct.~~

- (A) 163.535 Abandonment of a Child
- (B) 163.095 Aggravated Murder
- (C) 163.149 Aggravated vehicular homicide
- (D) 163.537 Buying or selling person under 18
- (E) 163.547 Child Neglect I
- (F) 163.545 Child Neglect II
- (G) 167.820 Concealing the birth of an infant
- (H) 163.435 Contributing to Sexual Delinquency of Minor
- (I) 163.005 Criminal Homicide
- (J) 163.452 Custodial Sexual misconduct I
- (K) 163.454 Custodial Sexual misconduct II
- (L) 163.673 Dealing sexual condition of children
- (M) 167.080 Displaying Obscene Materials to Minors
- (N) 163.684 Encouraging Child Sexual Abuse I
- (O) 163.686 Encouraging Child Sexual Abuse II
- (P) 163.687 Encouraging Child Sexual Abuse III
- (Q) 163.575 Endangering the Welfare of a Minor
- (R) 167.075 Exhibiting an Obscene Performance to a Minor

(S)	163.207	Female genital mutilation
(T)	167.065	Furnishing Obscene Materials to Minors
(U)	167.054	Furnishing sexually explicit material to child
(V)	167.057	Luring a minor
(W)	163.115	Murder
(X)	163.433	Online sexual corruption of child I
(Y)	163.432	Online sexual corruption of child II
(Z)	163.680	Paying for sexual view of children
(AA)	166.370	Possession of firearm or dangerous weapon in public building or court facility exception; discharging a firearm in a school
(BB)	163.688	Possession of Materials Depicting Sexually Explicit Conduct of a Child I
(CC)	163.689	Possession of Materials Depicting Sexually Explicit Conduct of a Child II
(DD)	163.375	Rape I
(EE)	163.365	Rape II
(FF)	163.675	Sale sexual condition of children
(GG)	167.070	Sending Obscene Materials to Minors
(HH)	181.594	Sex crimes including transporting child pornography into the state
(II)	163.427	Sexual Abuse I
(JJ)	163.425	Sexual Abuse II
(KK)	163.415	Sexual Abuse III
(LL)	167.333	Sexual assault of animal
(MM)	163.405	Sodomy I
(NN)	163.395	Sodomy II
(OO)	163.385	Sodomy III
(PP)	433.010	Spreading disease (willfully) prohibited
(QQ)	163.187	Strangulation
(RR)	163.264	Subjecting another person to involuntary servitude in the first degree

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

(TT) 163.266 Trafficking in persons

(UU) 163.670 Using Child in Display of Sexually Explicit Conduct

(VV) 163.411 Unlawful Sexual Penetration I

(WW) 163.408 Unlawful Sexual Penetration II

(XX) 163.213 Unlawful use of an electrical stun gun, tear gas, or mace I

~~(e) 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;~~

~~(B) 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~~

~~(C) Any attempts or solicitations to commit any Felony or Misdemeanor crime listed in Category I.~~

~~(f) 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.~~

(2) ~~CCD~~ **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, ~~CCD~~ **OCC** will seek to obtain and review information on all intervening circumstances and other background information related to criminal activity, subject to section ~~(6)~~ (10) of this rule. ~~Based on this information, the Division will make a decision whether or not to enroll the subject individual in the Central Background Registry. OCC will make a determination whether an individual is suitable for enrollment in the Central Background Registry based on all information available. The crimes in Category II include:~~

~~(a) The crimes in Category II include:~~

~~(A) 162.025 Bribe Receiving;~~

~~(B) 162.065 Perjury;~~

~~(C) 162.155 Escape II;~~

~~(D) 162.205 Failure to Appear I;~~

~~(E) 162.235 Obstructing Governmental or Judicial Administration;~~

~~(F) 162.265 Bribing a Witness;~~

~~(G) 162.275 Bribe Receiving by a Witness;~~

~~(H) 162.285 Tampering with a Witness;~~

~~(I) 162.305 Tampering with Public Records;~~

~~(J) 162.325 Hindering Prosecution;~~

~~(K) 162.405 Official Misconduct II;~~

~~(L) 162.415 Official Misconduct I;~~

~~(M) 163.160 Assault IV;~~

~~(N) 163.190 Menacing;~~

~~(O) 163.195 Recklessly Endangering Another Person;~~

~~(P) 163.208 Assault on a Public Safety Officer;~~

~~(Q) 163.465 Public Indecency;~~

~~(R) 163.700 Invasion of Personal Privacy;~~

~~(S) 164.055 Theft I;~~

~~(T) 164.057 Aggravated Theft I;~~

~~(U) 164.215 Burglary II;~~

~~(V) 164.315 Arson II;~~

~~(W) 164.365 Criminal Mischief I;~~

~~(X) 165.013 Forgery I;~~

~~(Y) 165.022 Criminal Possession of a Forged Instrument I;~~

~~(Z) 165.032 Criminal Possession of a Forgery Device;~~

~~(AA) 165.055 Fraudulent Use of a Credit Card (over \$750);~~

~~(BB) 165.070 Possessing Fraudulent Communications Device;~~

~~(CC) 165.074 Unlawful Factoring of Credit Card Transaction;~~

~~(DD) 165.085 Sports Bribery;~~

~~(EE) 165.090 Sports Bribe Receiving;~~

~~(FF) 166.015 Riot;~~

~~(GG) 166.065 Harassment;~~

~~(HH) 166.090 Telephone Harassment;~~

~~(II) 166.190 Pointing Firearm at Another;~~

~~(JJ) 166.240 Carrying of Concealed Weapons;~~

~~(KK) 166.250 Unlawful Possession of Firearms;~~

~~(LL) 167.007 Prostitution;~~

~~(MM) 167.222 Frequenting a Place Where Controlled Substances are Used;~~

~~(NN) 167.320 Animal Abuse I;~~

~~(OO) 167.322 Aggravated Animal Abuse I;~~

~~(PP) 167.330 Animal Neglect I;~~

~~(QQ) 411.630 Unlawfully Obtaining Public Assistance;~~

~~(RR) 411.675 Submitting Wrongful Claim or Payment Prohibited;~~

~~(SS) 411.840 Unlawfully Obtaining or Disposing of Food Stamp Benefits;~~

~~(TT) 471.410 Providing Liquor to Person under 21 or to Intoxicated Person;~~

~~(UU) 475.992 Prohibited Acts Generally; Penalties; Affirmative Defense for Certain Peyote Uses (controlled substance offenses);~~

~~(VV) 475.993 Prohibited Acts for Registrants; Penalties;~~

~~(WW) 475.994 Prohibited Acts Involving Records and Fraud; Penalties;~~

~~(XX) 475.995 Penalties for Distribution to Minors;~~

~~(YY) 475.996 Crime Category Classification for Violation of ORS 475.992; Proof of Commercial Drug Offense;~~

~~(ZZ) 475.999 Penalty for Manufacture or Delivery of Controlled Substance within 1,000 feet of School;~~

~~(AAA) 811.140 Reckless Driving;~~

~~(BBB) 811.182 Criminal Driving while Suspended or Revoked;~~

~~(CCC) 811.540 Fleeing or Attempting to Elude Police Officer;~~

~~(DDD) 811.700 Failure to Perform Duties of Driver When Property Damaged (hit and run, property);~~

~~(EEE) 811.705 Failure to Perform Duties of Driver to Injured Persons (hit and run, injury); or~~

~~(FFF) 813.010 Driving Under the Influence of Intoxicants.~~

~~(b) (a) GGD OCC will consider conviction of the following crimes if they were committed for 5 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request Application for Enrollment in the OCC's Central Background Registry: . The 5 years will run from the date of arrest, citation, charge, or conviction whichever is later. Bribe Receiving; Bribe Receiving by a Witness; Bribing a Witness; Criminal Driving while Suspended or Revoked; Criminal Possession of a Forged Instrument I; Criminal Possession of Forgery Device; Failure to Appear I; Forgery I; Fraudulent use of a Credit Card (over \$750); Hindering Prosecution; Failure to Perform Duties of Driver to Injured Persons (hit and run, injury); Failure to Perform Duties of Driver When Property Damaged (hit and run, property);~~

~~Obstructing Governmental or Judicial Administration; Criminal Driving while Suspended or Revoked; Official Misconduct I; Official Misconduct II; Perjury; Possessing Fraudulent Communications Device; Reckless Driving; Sports Bribe Receiving; Sports Bribery; Submitting Wrongful Claim or Payment Prohibited; Tampering with a Witness; Tampering with Public Records; Unlawful Factoring of Credit Card Transaction; Unlawfully Obtaining or Disposing of Food Stamp Benefits; Unlawfully Obtaining Public Assistance.~~

- (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) 033.045 Contempt of Court
- (G) 811.182 Criminal Driving while Suspended or Revoked
- (H) 164.354 Criminal Mischief II
- (I) 192.865 Criminal Penalty (prohibition on obtaining actual address or telephone number)
- (J) 165.022 Criminal Possession of a Forged Instrument I
- (K) 165.017 Criminal Possession of a Forged Instrument II
- (L) 165.032 Criminal Possession of Forgery Device
- (M) 164.245 Criminal Trespass II
- (N) 166.025 Disorderly Conduct II
- (O) 813.010 Driving Under the Influence of Intoxicants
- (P) 162.145 Escape III
- (Q) 162.205 Failure to Appear I
- (R) 162.195 Failure to Appear II
- (S) 811.705 Failure to Perform Duties of Driver to Injured Persons (hit and run, injury)
- (T) 811.700 Failure to Perform Duties of Driver When Property Damaged (hit and run, property)
- (U) 830.475 Failure to Perform the Duties of an Operator (boat)
- (V) 165.007 Forgery II
- (W) 165.570 Improper use of 9-1-1 emergency reporting system
- (X) 162.375 Initiating a false report

(Y)	165.572	Interference with making a report
(Z)	162.257	Interfering with a firefighter or emergency medical technician
(AA)	162.247	Interfering with a peace officer
(BB)	166.116	Interfering with public transportation
(CC)	418.327	Licensing of certain schools and organizations offering residential programs
(DD)	166.095	Misconduct with emergency phone calls
(EE)	162.425	Misuse of confidential information
(FF)	166.450	Obliteration or change of identification on firearms
(GG)	162.235	Obstructing Governmental or Judicial Administration
(HH)	162.415	Official Misconduct I
(II)	162.405	Official Misconduct II
(JJ)	418.630	Operate uncertified foster home
(KK)	830.325	Operating boat while under the influence of intoxicating liquor or controlled substance
(LL)	167.431	Participation in cockfighting
(MM)	167.370	Participation in dogfighting
(NN)	162.065	Perjury
(OO)	165.070	Possessing Fraudulent Communications Device
(PP)	164.235	Possession of Burglar's tools
(QQ)	164.335	Reckless burning
(RR)	811.140	Reckless Driving
(SS)	811.231	Reckless endangering of highway workers
(TT)	830.315	Reckless operation of a boat
(UU)	162.315	Resisting Arrest
(VV)	165.085	Sports Bribe Receiving
(WW)	165.090	Sports Bribery
(XX)	411.675	Submitting Wrongful Claim or Payment Prohibited
(YY)	162.295	Tampering with physical evidence

- (ZZ) 162.305 Tampering with Public Records
- (AAA) 164.045 Theft II
- (BBB) 166.649 Throwing an object off an overpass II
- (CCC) 162.175 Unauthorized departure
- (DDD) 165.074 Unlawful Factoring of Credit Card Transaction
- (EEE) 165.810 Unlawful Possession of a personal identification device
- (FFF) 165.813 Unlawfully Possession of fictitious identification
- (GGG) 411.840 Unlawfully Obtaining or Disposing of Food Stamp Benefits
- (HHH) 411.630 Unlawfully Obtaining Public Assistance
- (III) 811.060 Vehicular assault of bicyclist or pedestrian
- (JJJ) 163.750 Violating Court's stalking protection order

~~(e) (b) -GGD OCC will consider conviction of the following crimes if they were committed for 7 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request Application for Enrollment in the OCC's Central Background Registry: . The 7 years will run from the date of arrest, citation, charge, or conviction whichever is later. Aggravated Animal Abuse I; Animal Abuse I; Animal Neglect I; Assault IV; Carrying of Concealed Weapons; Criminal Mischief I; Driving under the Influence of Intoxicants; Fleeing or Attempting to Elude Police Officer; Harassment; Menacing; Recklessly Endangering Another Person; Telephone Harassment; Theft I; and Unlawful Possession of Firearms.~~

- (A) 163.196 Aggravate driving while suspended or revoked
- (B) 167.340 Animal abandonment
- (C) 167.330 Animal Neglect I
- (D) 167.325 Animal Neglect II
- (E) 166.240 Carrying of Concealed Weapons
- (F) 164.365 Criminal Mischief I
- (G) 166.023 Disorderly conduct I
- (H) 813.010 Driving under the Influence of Intoxicants
- (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
- (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 Telephone Harassment
- (R) 166.651 Throwing an object off an overpass I
- (S) 164.135 Unauthorized Use of a Vehicle
- (T) 166.250 Unlawful Possession of Firearms
- (U) 167.805 Unlawful Possession of Inhalants
- (V) 133.310 Violation of restraining order

~~(d) (c) GCD OCC will consider conviction of the following crimes if they were committed for 10 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request Application for Enrollment in the OCC's Central Background Registry: . The 10 years will run from the date of arrest, citation, charge, or conviction whichever is later. Aggravated Theft I; Arson II; Assault on a Public Safety Officer; Burglary II; Escape II; Invasion of Personal Privacy; Pointing Firearm at Another; Providing Liquor to Person Under 21 or to Intoxicated Person; Public Indecency; and Riot.~~

- (A) 165.803 Aggravated identity theft
- (B) 167.315 Animal Abuse in Second Degree
- (C) 164.215 Burglary II
- (D) 165.581 Cellular Counterfeiting I
- (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 I
- (K) 164.265 Criminal Trespass while in Possession of Firearm
- (L) 163.245 Custodial Interference in the Second Degree
- (M) 167.365 Dogfighting
- (N) 165.013 Forgery I

- (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 a firearm at Another
- (W) 819.300 Possession of a Stolen Vehicle
- (X) 162.369 Possession of false law enforcement identification card
- (Y) 163.467 Private indecency
- (Z) 685.990 Prohibited acts (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
- (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) 164.075 Theft by extortion
- (GG) 164.095 Theft by receiving
- (HH) 164.055 Theft I
- (II) 164.125 Theft of services
- (JJ) 164.272 Unlawful entry into motor vehicle

~~(e) (d) GGD OCC will consider conviction of the following crimes if they were committed for 15 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request Application for Enrollment in the OCC's Central Background Registry: .The 15 years will run from the date of arrest, citation, charge, or conviction whichever is later. Crime Category Classification for Violation of ORS 475.992/Proof of Commercial Drug Offense; Frequenting a Place Where Controlled Substances are Used; Prohibited Acts for Registrants; penalties; [(C)] Prohibited Acts Generally; Penalties; Affirmative Defense for Certain Peyote Uses (controlled substance offenses); [(D)] Prohibited Acts involving Records and Frauds; Penalties; and [(E)] Prostitution.~~

- (A) 167.322 Aggravated Animal Abuse I

(B)	166.070	Aggravated Harassment
(C)	164.057	Aggravated Theft I
(D)	167.320	Animal Abuse I
(E)	164.315	Arson II
(F)	163.160	Assault IV
(G)	163.208	Assault on a Public Safety Officer
(H)	167.339	Assaulting law enforcement animal
(I)	475.900	Crime Category Classification; for proof of Commercial Drug Offense
(J)	475.962	Distribution of equipment, solvent, reagent, or precursor substance with intent to facilitate manufacture of controlled substance
(K)	164.172	Engaging in a financial transaction in property derived from unlawful activity
(L)	162.155	Escape II
(M)	165.107	Failing to maintain metal purchase record
(N)	475.955	Failure to report missing precursor substances
(O)	475.950	Failure to report precursor substance transaction
(P)	167.222	Frequenting a Place Where Controlled Substances are Used
(Q)	162.325	Hindering Prosecution
(R)	475.960	Illegally selling drug equipment
(S)	167.352	Interfering with assistance, search and rescue or therapy animal
(T)	167.352	Interfering with Law Enforcement Animal
(U)	163.700	Invasion of Personal Privacy
(V)	164.170	Laundering a monetary instrument
(W)	166.180	Negligently wounding another
(X)	475.967	Possession of precursor substance with intent to manufacture controlled substance
(Y)	475.977	Possession or disposing of methamphetamine manufacturing waste
(Z)	475.914	Prohibited acts for registrants; penalties
(AA)	475.752	Prohibited Acts Generally; Penalties: Affirmative Defense for Certain Peyote Uses: Causing death by Schedule IV substance

(BB) 475.916 Prohibited Acts Involving Records and Frauds; Penalties

(CC) 167.007 Prostitution

(DD) 475.965 Providing false information on precursor substance report or record

(EE) 163.465 Public indecency

(FF) 166.015 Riot

(GG) 475.525 Sale of Drug Paraphernalia prohibited

(HH) 166.005 Treason

(II) 475.870 Unlawful delivery of 3,4-methylenedioxymethamphetamine

(JJ) 475.880 Unlawful delivery of cocaine

(KK) 475.850 Unlawful delivery of heroin

(LL) 475.810 Unlawful delivery of hydrocodone

(MM) 475.912 Unlawful delivery of imitation controlled substance

(NN) 475.860 Unlawful delivery of marijuana

(OO) 475.820 Unlawful delivery of methadone

(PP) 475.890 Unlawful delivery of methamphetamine

(QQ) 475.830 Unlawful delivery of oxycodone

(RR) 475.866 Unlawful manufacture of 3,4-methylenedioxymethamphetamine

(SS) 475.876 Unlawful manufacture of cocaine

(TT) 475.846 Unlawful manufacture of heroin

(UU) 475.806 Unlawful manufacture of hydrocodone

(VV) 475.856 Unlawful manufacture of marijuana

(WW) 475.816 Unlawful manufacture of methadone

(XX) 475.886 Unlawful manufacture of methamphetamine

(YY) 475.826 Unlawful manufacture of oxycodone

(ZZ) 475.814 Unlawful possession of hydrocodone

(AAA) 475.824 Unlawful possession of methadone

(BBB) 475.834 Unlawful possession of oxycodone

- (CCC) 475.874 Unlawful possession of 3,4-methylenedioxymethamphetamine
- (DDD) 475.971 Unlawful possession of anhydrous ammonia
- (EEE) 475.884 Unlawful possession of cocaine
- (FFF) 475.854 Unlawful possession of heroin
- (GGG) 475.975 Unlawful possession of iodine in its elemental form; recording transfers; unlawful distribution of iodine in its elemental form
- (HHH) 475.976 Unlawful possession of iodine matrix; recording transfers; unlawful distribution of iodine matrix
- (III) 475.979 Unlawful possession of lithium metal or sodium metal
- (JJJ) 475.864 Unlawful possession of marijuana or marijuana product
- (KKK) 475.894 Unlawful possession of methamphetamine
- (LLL) 475.969 Unlawful possession of phosphorus

~~(f)~~ (e) ~~CCD OCC~~ will consider conviction of the following crimes ~~if they were committed~~ for 20 years or less prior to the date the subject individual signed the ~~Consent for Criminal Records Check and Request Application for Enrollment in the OCC's Central Background Registry~~. The 20 years will run from the date of arrest, citation, or conviction whichever is later. ~~Penalties for Distribution to Minors; and Penalty for Manufacture or Delivery of Controlled Substance within 1,000 feet of School.~~

- (A) 475.910 Application of controlled substance to the body of another person prohibited
- (B) 475.906 Penalties for Distribution to Minors
- (C) 475.805 Providing hypodermic device to minor prohibited
- (D) 163.263 Subjecting another person to involuntary servitude II
- (E) 475.872 Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1000 feet of school
- (F) 475.882 Unlawful delivery of cocaine within 1000 feet of school
- (G) 475.852 Unlawful delivery of heroin within 1000 feet of school
- (H) 475.812 Unlawful delivery of hydrocodone within 1000 feet of school
- (I) 475.862 Unlawful delivery of marijuana within 1000 feet of school
- (J) 475.822 Unlawful delivery of methadone within 1000 feet of school
- (K) 475.892 Unlawful delivery of methamphetamine within 1000 feet of school
- (L) 475.832 Unlawful delivery of oxycodone within 1000 feet of school
- (M) 475.868 Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1000 feet of school

- (N) 475.878 Unlawful manufacture of cocaine within 1000 feet of school
- (O) 475.848 Unlawful manufacture of heroin within 1000 feet of school
- (P) 475.808 Unlawful manufacture of hydrocodone within 1000 feet of school
- (Q) 475.858 Unlawful manufacture of marijuana within 1000 feet of school
- (R) 475.818 Unlawful manufacture of methadone within 1000 feet of school
- (S) 475.888 Unlawful manufacture of methamphetamine within 1000 feet of school
- (T) 475.828 Unlawful manufacture of oxycodone within 1000 feet of school
- (U) 475.904 Unlawful manufacture or delivery of controlled substance within 1000 feet of school

~~(9)~~ (3) These rules also apply to:

~~(A)~~ (a) A conviction of a crime in another jurisdiction which is the substantial equivalent of a crime listed in Category I and II;

~~(B)~~ (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; ~~and~~

~~(C)~~ (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

~~(H)~~ (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.

~~(3)~~ (4) ~~OCC~~ OCC has determined that ~~founded child protective services cases and firearm prohibition orders~~ a negative history involving a vulnerable population may substantially jeopardize the safety of children and ~~are~~ is inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual has a ~~founded~~ child protective services ~~case or active firearm prohibition order~~ history or a negative history involving other populations, ~~OCC~~ OCC will seek to obtain and review information related to the ~~case~~ history, subject to section ~~(6)~~ (10) of this rule. Based on this information, ~~the Division~~ OCC will make a decision whether or not to enroll, ~~suspend or remove~~ the subject individual in or from the Central Background Registry.

(5) The OCC has determined that firearm prohibition orders or guilt by the exception of insanity, 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 has an active firearm prohibition order or guilty by the exception of insanity, OCC will seek to obtain and review information related to the case, subject to section (10) 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) If OCC determines a subject individual who has demonstrated behavior that may have a detrimental effect on a child or indicates behavior that may jeopardize the safety of a child, OCC will make a decision whether or not to enroll, suspend, or remove the subject individual in or from the Central Background Registry.

(7) If OCC determines a subject individual is a registered sex offender in Oregon or any other jurisdiction, OCC will make a decision whether or not to enroll, suspend, or remove the subject individual in or from the Central Background Registry.

~~(4) If CCD determines that additional information is needed to assess a person's suitability to be 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.~~

~~(5)~~ (8) If a subject individual is in a diversion program or similar agreement for any Category I or Category II crime, the subject individual must provide written documentation of compliance with the terms of diversion or similar agreement. Based on ~~this~~ all information obtained, ~~the Division~~ OCC will make a decision whether or not to enroll, ~~suspend or remove~~ the subject individual in ~~or from~~ the Central Background Registry.

~~(9) 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.~~

~~(6)~~ (10) Factors to be considered in determining suitability, based on information available to ~~CCD~~ OCC and information provided by the subject individual, include:

(a) Types and number of incidences;

(b) Passage of time since the incident occurred;

(c) Circumstances surrounding the incident;

(d) Intervening circumstances since the occurrence of the incident; and

(e) Relationship of the facts under subsections (a) through (d) of this section to the individual's suitability to work with children.

~~(7)~~ (11) ~~CCD~~ 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.

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

Stat. Auth.: ORS ~~657~~ 329A.030

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 3-2004, f. 7-

30-04 cert. ef. 8-1-04; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0060

Requirements of Requesting Agencies

Requesting agencies, as defined in OAR 414-061-0020~~(46)~~ (17), 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 and criminal records checks.
- (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. 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.

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0065

Requirements for Reciprocal Agreement Programs

A reciprocal agreement program must enter into a reciprocal agreement with ~~the Child Care Division~~ ~~OCC that~~ that provides for sharing information on enrollment status of the individuals described in OAR 414-061-0020 ~~(4)(g)~~ (16)(a) and ~~(4)(b)~~ (b) respectively, and for the recovery of administrative, including direct and indirect costs incurred by ~~the division~~ ~~OCC~~ from the participation in the agreement.

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist. : CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0070

Procedures for Conducting Oregon State Police Criminal Records Checks and ~~Department of Human Services~~ Child Protective Services Record Checks

- (1) Subject individuals shall consent to a criminal records check of the Oregon State Police Computerized Criminal History (CCH) System and a child protective services check at the time they request enrollment in the Central Background Registry.

(2) Central Background Registry enrollment forms shall contain notice that criminal records checks will be conducted as required by ORS ~~484-637~~ 181.534 and ~~657~~ 329A.030. The form shall also contain notice that child protective services checks will be conducted.

(3) Subject individuals shall provide all information required for a criminal records check and a child protective services check. ~~Information includes ; including:~~

(a) A properly completed and signed ~~form CCD-199, Consent for Criminal Records Check and Request Application~~ for Enrollment in ~~the~~ OCC's Central Background Registry;

(b) For a subject individual who acknowledges a prior ~~conviction of a~~ criminal offense, as listed in OAR 414-061-0050, ~~or a child protective services record~~, an explanation of the relationship of the facts ~~which that~~ support the ~~conviction criminal offense or child protective services record~~ and ~~all~~ intervening circumstances. ~~On~~ Upon request of ~~CCD~~ OCC, the subject individual must authorize ~~CCD~~ OCC to verify information provided by the individual; and

(c) ~~On the application for enrollment in the Central Background Registry, CCD OCC may request subject individuals to consent~~ Consent to the use of their social security numbers for criminal and child protective services records checks, for identifying enrollees in the Central Background Registry, for sharing information with other agencies to verify child care licensing status for child care payments, and for compiling statistical information for program planning and evaluation.

(4) ~~CCD~~ OCC will review the criminal records information, child protective services information, and any additional information and will determine whether or not a subject individual may be enrolled in the Central Background Registry.

(5) Fees for each name checked through OSP CCH and child protective services systems are as follows:

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

(b) ~~All other requests for criminal record checks and child protective services checks and enrollment in the Central Background Registry will cost \$3 per person. OCC will charge the subject individual up to the amount equal to the cost incurred by OCC for criminal record checks and child protective services checks and enrollment in the Central Background Registry, to be paid at the time of the request.~~

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

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2006(Temp), f. & cert. ef. 3-16-06 thru 9-12-06; CCD 4-2006, f. 7-13-06, cert. ef. 7-14-06; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0080

Procedures for Conducting FBI Criminal History Checks

(1) An FBI criminal records check will be done on a subject individual whose OSP CCH record shows multi-~~state source~~ offender status, who has lived in Oregon less than 18 months or when ~~CCD~~ OCC has information that the individual has committed a crime in another state, ~~or has committed a federal crime, or when OCC has reason to question the identity of the subject individual.~~

(2) The subject individual shall supply to ~~CCD~~ OCC the following information:

(a) One properly completed FBI fingerprint card, with printing in the "reason fingerprinted" block ~~which that~~ reads ~~"ORS 181.537/NCPA/CA Child Care"~~ "License/Certificate/Permit ORS 181.534"; and

~~(b) Properly completed form CCD-199, Consent for Criminal Records Check and Request for Enrollment in the Central Background Registry; and~~

~~(c) For a subject individual who acknowledges a prior conviction, as listed in OAR 414-061-0050, an explanation of the relationship of the facts which support the conviction and all intervening circumstances. On request of CCD, the subject individual must authorize CCD to verify information provided under this rule.~~

(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 ORS 181.534"; and

(d) A properly completed "Verification form for Authorized Fingerprinter" form.

~~(3) As part of the consent to a criminal records check, CCD may request the subject individual to consent to the use of his/her social security number in conducting the check.~~

~~(4)~~ (3) ~~CCD~~ **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 in~~ the Central Background Registry.

~~(5)~~ (4) ~~CCD~~ **OCC** will charge the subject individual ~~\$62 up to the amount equal to the cost incurred by OCC~~ for an FBI records check, to be paid at the time of the request.

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

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98 ; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 6-2004, f. & cert. ef 12-17-04; CCD 3-2005(Temp), f. & cert. ef. 8-16-05 thru 2-12-06; CCD 5-2005, f. 12-29-05, cert. ef. 1-1-06; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0090

~~CCD~~ **OCC Enrollment Procedures**

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

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

(b) Has no ~~criminal or child protective services~~ history as described in 414-061-0050 or has dealt with the issues and provided adequate evidence of suitability;

(c) Has paid the applicable fee; and

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

(2) Enrollment in the Central Background Registry shall expire two years from the date of enrollment, unless ~~rescinded~~ **suspended or removed** sooner, and may be renewed upon application to ~~CCD~~ **OCC**, payment of the required fee and compliance with the rules adopted by ~~CCD~~ **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 ~~CCD~~ **OCC** of his or her enrollment and the enrollment dates. 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 ~~OSP~~ criminal records information and child protective services information.

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

(b) The two-year enrollment period will include the time the subject individual was conditionally enrolled.

(c) A conditionally enrolled subject individual who has **subsequently** been determined not to be suitable based on FBI criminal records information shall be **suspended or** removed from the Central Background Registry, according to the provisions of OAR 414-061-0110.

(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 required fee is received by OCC at least 14 days prior to the expiration date of the current enrollment, unless the individual is removed, remains in effect until OCC has acted on the application for renewal and has given notice of the action taken.

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0100

CCD Denial Procedures

(1) A subject individual shall 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 ~~is out~~ for a Category I or Category II crime with final disposition not yet reached;

(d) Has an open ~~child~~ protective services or law enforcement case with final disposition not yet reached; or

(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.

(2) A subject individual may appeal ~~CCD's~~ **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.

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 5-2004, f. & cert. ef. 11-16-04; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0110

OCC Removal and Suspension Procedures

(1) An individual enrolled in the Central Background Registry shall be removed or suspended from the Registry by ~~CCD~~ 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) Has been charged with, arrested for, or a warrant is-out for a Category I or Category II crime with final disposition not yet reached;

(d) Has a founded ~~child~~ protective services case or an open ~~child~~ protective services or law enforcement case with final disposition not yet reached; or

(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.

(2) ~~CCD~~ OCC may immediately, and without prior hearing, remove or suspend a subject individual from the Central Background Registry when, in the opinion of ~~CCD~~ 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) ~~CCD~~ 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, ~~CCD~~ 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 3 years from the date of removal.

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 5-2004, f. & cert. ef. 11-16-04; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0120

Rights for Review and Contested Case Hearings

(1) ~~CCD~~ OCC shall ~~conduct contested case hearings per ORS 183.413 to 183.470 and~~ afford subject individuals the right to appeal a decision made by ~~CCD~~ OCC that the subject individual ~~may not be enrolled in or has been removed~~ 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 ~~notify CCD of their~~ submit a request for a contested case hearing ~~not later than 14 calendar days from the date of service of the denial or removal notice.~~ in writing in a timely manner.

(2) ~~CCD OCC~~ has no jurisdiction in a contested case hearing over allegations that the criminal records information received from OSP or the FBI or child protective services information received from the Department of Human Services is inaccurate, incomplete or maintained in violation of any federal or state law. Therefore, a contested case hearing cannot be held by ~~CCD OCC~~ for that purpose. Challenges to the accuracy or completeness of the information provided by the Department of State Police, the FBI and agencies reporting information to ~~CCD OCC~~ must be made through those departments, bureaus or agencies and not through the contested case process.

(3) ~~CCD OCC~~ is entitled to rely on the criminal records information supplied by OSP or the FBI or child protective services information supplied by the Department of Human Services until OSP, the FBI, or the Department of Human Services notifies ~~CCD OCC~~ that information has been changed or corrected in a manner that would alter the ~~CCD OCC~~ decision. If a subject individual has requested a contested case hearing, ~~CCD OCC~~ will stay the hearing until the subject individual has been afforded a reasonable time to correct or complete the record or has declined to do so.

(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 ~~the Child Care Division 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.

Stat. Auth.: ORS ~~657~~ 329A.030(7)

Stats. Implemented: ORS ~~657~~ 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

Board Action Summary

January 29, 2015

AGENDA ITEM: ELC Strategic Plan

Summary of Recommended Board Action

ACTION:

Council adoption of 2015-2020 strategic plan.

ISSUE:

The Early Learning Council (ELC) is statutorily charged with setting and overseeing the policy direction for the state's early learning system (encompassing programs formally housed in the Early Learning Division, as well as providing direction to early childhood programs across health and human services) and has not updated its strategic plan since 2013.

ACTION PRECEDING RECOMMENDED BOARD ADOPTION:

In late 2010 Governor John Kitzhaber convened an Early Learning Design Team to develop the early childhood agenda for his first term in office, laying the strategic groundwork for Oregon's early learning system reforms. This work resulted in significant policy change over the course of the 2011, 2012 and 2013 legislative sessions.

In October 2014, the Early Learning Council met for a two day retreat to assess progress to date against this framework and to develop a strategic framework for the next five years of early learning system development and implementation. The work from this session was developed into a strategic framework presented to the Council for further discussion in November 2014.

The final document up for adoption today has been revised based on feedback given at this meeting and includes strategies that align with each of the Council's statutorily mandated goals, along with strategies for addressing equity and meaningful engagement with stakeholders.

BOARD MEMBER PRESENTING REPORT FOR ADOPTION:

Pam Curtis, Early Learning Council Chair

CONTACT: Megan Irwin, Acting Early Learning System Director

Oregon's Early Learning System

Positive early experiences. A lifetime of learning. Results for Oregon.

The Oregon Early Learning Council was created in 2011 by the Legislature to build a coordinated, connected and outcomes focused statewide early learning system. The Council guides efforts to streamline state programs, provides policy direction to meet early learning goals statewide and provides oversight of services supporting children and families across Oregon.

The Council is committed to making measurable progress to ensure that all Oregon children enter kindergarten ready to succeed and are raised in stable families with caregivers to whom they are attached. The Council is also committed to ensuring services and systems are coordinated and aligned to support achieving these goals.

In doing its work, the Early Learning Council is committed to:

- Focusing strategies on children who are over-represented in the academic achievement gap and under-represented in accessing strong services and supports.
- Listening to stakeholders across the state and acting on what we hear and learn from them.
- Focusing on results and using data to drive decisions.
- Having the courage necessary to make change.
- Holding onto a sense of urgency.
- Focusing its message and broadening its communication.

This strategic plan acts as a guide for this important work. It is intended to work as a living document to which additional activities and strategies may be added in response to changes in the early childhood landscape. Once adopted, the Council will review progress on key strategies at each business meeting and review/update the plan in its entirety annually.

The members of the Oregon Early Learning Council are:

Pam Curtis (chair), Harriet Adair, Vikki Bishop, Martha Brooks, Janet Dougherty-Smith, Tim Freeman, Dana Hargunani, Charles McGee, Eva Rippateau, Christa Rude, Lynne Saxton, , Teri Thalhofer, Jim Tierney, Roberta Weber, Kim Williams, Dick Withnell, Marlene Yesquen, Rob Saxton.

Each member of the Council created to the creation of this plan. Former Early Learning Council member Norm Smith also played a role in its development.

Updated: January, 2015

Goal 1: Ready children - All children enter kindergarten with the skills, experiences and supports to succeed

Success Metrics

- Standards are completed.
- 40% of providers licensed; 30% at C2Q; 15% at 3 star, 10% at 4 star, 5% at 5 star in the quality rating improvement system.
- Increase #/% of children in focus population on subsidy in 3,4, and 5 star programs.
- Increase # of license exempt early learning providers participating in training and professional supports by 25%.
- Increase “career ready” workforce by 25%, increase AA holding work force by 15% and increase BA holding workforce by 10%. (“Career ready” is defined here as obtaining at least a certificate in the state’s career lattice system.)
- Providers of color are proportionally represented in "career ready" workforce.
- Increase by 33% the number of children grades K-3 who are in schools that have
 - a. aligned curricula.
 - b. aligned professional development standards.
 - c. seamless, connected services and transition to kindergarten.

Strategy	Tactic(s)	Key Partners	Executive Sponsor	Timeline
Strategy 1.1 Develop a supply of high quality, community based early learning programs that support the diversity of family values and experiences in our state, across a variety of settings.	1A. Implement a Quality Rating Improvement System for licensed/regulated early learning and development programs in Oregon.	WOU, CCR&R, CBOs who work with child care providers, Head Start Association, AFSCME	Child care work group	Full implementation by June 2017; ongoing improvement
	1B. Develop quality community-based early learning development programs using support systems recognized by focus communities.	CBOs who work with these providers; CCR&R	Child care work group	Full implementation by June 2017
	1C. Strengthen and support "family friends and neighbor" providers through enhanced training and professional development.	DHS, SEIU, CBOs who work with these providers.	Child care work group	June 2016
	1D. Develop and implement one unified set of Early Learning Standards for all early learning and development programs.	Oregon Center for Career Development, OAEYC, Head Start Association, ODE, WOU.	Child care work group	Jan. 2016

Strategy 1.2 Ensure equitable access for children and families to quality early learning and development programs, overcoming traditional barriers of race, culture, income and geography.	1E. Develop and implement a range of mixed use preschool models that includes but not limited to family and center-based care, OPK programs, community-based organizations and public/private schools.	Hubs, CCR&R, CBOs	ELC Executive Committee	Dec. 2016 (with ongoing improvement)
	1F. Develop an increased supply of high quality ELDPs in areas of the state that are currently "child care and pre-school deserts" and/or where educational outcomes at kindergarten entry and third grade reading are lagging for our focus population.	Hubs	Child Care Work Group in consultation with Equity committee	June 2017 (for full implementation - pilot in fall 2015 if we get federal funds)
	1G. Connect Oregon's "Employment Related Day Care" child care subsidy program to quality early learning and develop a tiered reimbursement approach to ERDC and expand access to children/families.	DHS	Child care work group	Jan. 2016
	1H. Increase providers willing to accept subsidy by implementing a contracted slots program.	DHS	Child care work group	Jan. 2016
Strategy 1.3 Provide parents with the information and support they need to meet the developmental and educational needs of their children and the child care needs of their families.	1I. Develop a statewide early learning services referral system to ensure that families can connect with the services they need when they need them.	DHS, CCR&R, Hubs, OHA, Parenting hubs	Child care work group	Jan. 2016
Strategy 1.4 Develop robust educational and certification pathways for early learning providers	1J. Create and sustain "portable" "stackable" and transferable degrees/pathways to degrees for early learning programs at community colleges and 4-year colleges/universities, accessible regardless of geography.	HECC, community colleges, private colleges & universities, Oregon Center for Career Development.	Child care work group	Dec. 2020
	1K. Ensure pathways are accessible, affordable and supportive of non-traditional students through strategies such as coaching, mentoring, etc.	HECC, community colleges, private colleges & universities, Oregon Center for Career Development.		
	1L. Establish a statewide apprenticeship program for early childhood professionals, early childhood teachers and program or center directors.	HECC, community colleges, Oregon Center for Career Development, AFSCME		

Strategy 1.5 Build a consistent approach and aligned pathway between early childhood services (beginning at age 3) and K-3 education.	1M. Continue to improve the implementation of the statewide KA.	ODE	ELC Executive Committee	Ongoing
	1N. Develop best practice strategies among early learning and development programs, Early Learning Hubs and elementary schools for strong kindergarten transition.	ODE, OEIB, Hubs, CBOs	ELC Executive Committee	June 2016
	1O. Develop shared plans between early learning and development programs and elementary schools/school districts for aligned professional development.	ODE, OEIB, Hubs, CBOs	ELC Executive Committee	June 2016
	1P. Connect and align standards and instructional practices from early learning and development programs through the early grades of elementary school.	ODE, OEIB, Hubs, CBOs	ELC Executive Committee	Jun3 2016

Goal 2: Stable and Attached Families - Families have the information and support they need to nurture and prepare their children for school

Success Metrics

- Policy agenda adopted.
- Family Stability included as a lens in policy making.
- FRM is consistently operationalized across the state.
- 50% increase in high risk families served.
- 35% decrease in substantiated child abuse and neglect in focus population.
- 50% of families and caregivers who receive information about family role in child development report behavior changes.
- 80% of children/families receiving developmental screening before age 3.

Strategy	Tactic(s)	Key partners	Executive Sponsor	Timeline
Strategy 2.1 Strengthen community supports for family health and well being	2A. Increase access to home based services through child-driven home based services coordination so that children and families have access to the best program for their needs.	OHA	Joint ELC/OHPB subcommittee ELC Executive Committee	July 2016
	2B. Identify state level policy changes that support family well-being and stability.	Family Forward Oregon, SEIU, AFSCME	ELC Executive Committee	Dec. 2020
	2C. Increase focus on critical aspects of development and attachment for children age 0 - 3 and their families.	DHS, OHA, Hubs	Joint ELC/OHPB subcommittee & ELC Executive Committee	Jan. 2018
	2D. Support/advocate for implementation of a statewide pay-for-prevention model for child welfare	DHS	ELC Executive Committee	Dec. 2015
	2E. Launch ongoing messaging campaign for families related to key actions that each stage of development as well as critical importance of health and well-being pre-conception to age 8.	Hubs, OHA, DHS Vroom Parenting Hubs, DOHAD	ELC executive committee	June 2015
	2F. Develop a "family stability lens" and systematically include "family stability" in all policy and resource allocation decisions.	DHS, OHA	Joint ELC/OHPB subcommittee	Dec. 2015
	2G. Operationalize the family resource manager function fully.	DHS, OHA, Hubs	ELC Executive Committee	July 2017
	2H. Develop a financial incentive set-aside for Hubs to collaborate with CCOs, DHS and community partners, challenging state partners to establish similar set aside for collaboration in their own budgets as well.	DHS, OHA	ELC Executive Committee	Dec. 2015
	2I. Finalize and implement statewide screening tool and assessment protocol.	DHS, OHA	Joint ELC/OHPB Subcommittee	Dec. 2015
	2J. Develop best practice referral pathways statewide.	DHS, Housing & Community Services, ODE, OHA	Joint ELC/OHPB Subcommittee	Dec. 2015

Goal 3: Early Learning Services and Services are Coordinated and Aligned

Success Metrics

- Hubs making meaningful progress on accountability metrics.
- Contracts and state dollars aligned to both statewide and local goals.
- MOUs implemented and working.
- Statewide screening and referral protocols are established.
- Early Learning Passport exists and is operational.
- Comprehensive Children’s Budget exists and is driving policy and at state and local level.
- Data system exists and is operational.

Strategy	Tactic(s)	Key Partners	Executive Sponsor	Timeline
Strategy 3.1 Strengthen birth through 3rd grade policy, planning and service coordination.	3A. Support and continually improve local system building work through the Early Learning Hubs.	Hubs, DHS, OHA	ELC & Executive Committee	Ongoing
	3B. Develop an approach to contracting and contract administration for programs assigned to ELD that advances equity and system coordination goals.	ELD, contractors in network	ELC & Executive Committee	July 2015
	3C. Develop MOUs that articulate coordination and referral and accountability across state agencies.	Hubs, DHS, OHA, Housing & Community Services	ELC & Executive Committee	Dec. 2015
	3D. Solidify screening connection/referral process between EI/ECSE and early learning programs.	ODE, SICC	ELC & Executive Committee	July 2017
	3E. Create a developmental passport that shows the progressive path of positive child & family development tasks/outcomes beginning pre-birth through 3rd grade with 3rd grade culminating in on-track 3 rd grade reading score.	ODE (data team), OEIB, OHA, DHS, DOHAD	ELC & Executive Committee	July 2020
	See also Tactic 1P			
Strategy 3.2 Strengthen systems that support cost-effective results driven services.	3F. Biennial development of comprehensive children's budget.	ODE fiscal, OHA, DHS, DAS	ELC & Executive Committee	Ongoing
	3G. Develop early learning data system.	ODE data team; OEIB , DHS, DAS	ELC & Executive Committee	July 2017

Goal 4: The Early Learning Council is accountable/accessible to its constituents

Success Metrics

- 25% increase in stakeholder opportunities to give feedback and inform early learning policy through Early Learning Council.
- Increase Hub and Provider understanding of focus populations, as measured by:
 - Implementation of recommendations resulting from evaluation of equity strategies in programs and Hubs; and
 - Self reported use of equity toolkit by 100% of Hubs.

Strategy	Tactic(s)	Key Partners	Executive Sponsor	Timeline
Strategy 4.1 Ensure implementation of the equity lens across the ELC's work.	4A. Identify and analyze service disparities for focus populations by hub region	ODE, DHS, OHA, Hubs	Equity Subcommittee	Data by March 2015, Targets set by August 2015
	4B. Evaluate the equity strategy for each ELD program	ELD	Equity Subcommittee	Report on equity lens implementation by June 2016
	4C. Develop consistent approach for listening to communities/incorporating feedback/vetting resulting action, and ensure perspectives from underserved communities are regularly heard at ELC meetings.	Hubs, CBOs	Executive Committee	Ongoing
	4E. Develop a community engagement campaign to elevate early learning resources	Hubs, CBOs	ELC Executive Committee	December 2016 for initial engagement
	4F. Sharpen ELC messages and broaden communications	Hubs, CBOs	ELC Executive Committee	Ongoing
	4G. Develop toolkit to support communities and programs in implementing equity lens.		Equity Committee	March 2015

Subcommittee Reports

Early Learning Council Equity Subcommittee Report

Subcommittee Charge: *Develop and early learning equity report and toolkit*

Subcommittee Membership:

- Marlene Yesquen *Chair*, Attorney, Medford's Black Chapman Webber & Stevens; Medford School District Board Member
- Harriet Adair, Assistant Superintendent, Portland Public Schools
- Vicki Bishop, Grand Ronde Tribe
- Janet Dougherty-Smith, Former Director, Early Childhood Services for Clackamas County Education Service District
- Maria Castro, Rural and Migrant Health Coordinator, Office of Equity & Inclusion, OHA
- Kali Ladd, Executive Director and Co-Founder, KairosPDX
- Dani Ledezma, Education Policy Advisor, Office of Governor Kitzhaber
- Charles McGee, Executive Director and Co-Founder, Black Parent Initiative
- Carmen Rubio, Executive Director, LatinoNetwork
- Diane Teeman, Former Tribal Council Chairman, Burns Paiute Tribe

Report:

Convened workgroups during the months of November -December to create implementation approaches for each equity subcommittee report recommendation.

Data & Resource Allocation: November 13, 2014

Operating Systems: November 13, 2014

Culturally Responsive Practice: December 5, 2015

Draft 6 of the Equity report was sent to subcommittee members and equity workgroup members December 17th. During the next month, members will share the draft with community members and solicit feedback and input.

Carman Morgan, equity consultant will be supporting our work in the creation of a toolkit to accompany the recommendations outlined in the equity subcommittee report. Carmen is a national diversity, inclusion and organizational consultant with experience working with non-profit organizations, foundations and the public sector. We are excited about having the opportunity to work with her.

Key Issues Discussed & Uncovered:

- Clarity around the purpose of the report and toolkit
- Clarity around the importance for early learning equity work and rationale for leading with racial equity
- Community outreach, engagement, input and feedback on early learning policy and practice
- Safe spaces to process, discuss, address micro-aggressions and implicit bias in the workplace

Upcoming Key Decisions:

- January 14th Equity Subcommittee Meeting to review implementations strategies
- February 20th Equity Subcommittee Meeting to review toolkit additions
- March 19th Early Learning Council Meeting to present report and toolkit

Early Learning Council, Child Care and Education Workgroup Report

Subcommittee Charge: Advise the Early Learning Council on the issues, challenges, and priorities related to affordable, quality child care in Oregon, and recommend methods and policies to improve integration across the Early Learning System. The Child Care and Early Education Committee will focus on priorities of the Early Learning Council, components of the Race to the Top Early Learning Challenge plan, and assume the functions of the Oregon Commission for Child Care as requested by the Early Learning Council.

Subcommittee Membership: See attached.

Report:

The workgroup has worked on the following issues since our November report:

- Recommendations to ELC on child care rules revisions. The Chair of the Early Learning Council (ELC) asked the workgroup to take responsibility for advising the ELC on rule revisions. This role has been defined as acting as the Rule Advisory Committee for all rules related to early learning and development programs under Oregon's Early Learning Division's authority. This includes center, registered family and certified child care rules, central background registry, rules related to relief nurseries and to the Oregon pre-kindergarten program.

The process for revision of family child care rules had been underway for over two years when the CCEW took responsibility for making recommendations to the ELC on rule revisions. A Rule Advisory Committee had been created in 2012 and had made recommendations for revisions that had been incorporated by Early Learning Division staff (ELD) staff. In September 2014 the workgroup reviewed proposed changes from the ELD, developed recommendations based on input from Workgroup members and the public. These recommendations have been incorporated into rules revisions and were provided to the Early Learning Council at its November, 2014 meeting. The workgroup met in October to review Central Background Registry (CBR) rules revisions. Recommendations for CBR rules revisions based on CCEW and public input have been incorporated by staff into rules revision and were provided to the ELC at the November 18, 2014 meeting.

The CCEW reviewed rule revisions for Certified Center rules at their meeting on January 15th. The workgroup is scheduled to review rule revisions for School Aged Centers on February 19th and Certified Family Child Care on March 19th.

Key Issues Discussed & Uncovered:

The CCEW has identified a number of issues related to child care rules. Our recommendations are made directly to ELC staff and will be presented to the full ELC for discussion. The workgroup is fortunate to have various perspectives represented in the review of these rules and are stakeholders who have typically not been involved in the rule revision process. The recommendations will be stronger as a result of these perspectives incorporated into them.

Upcoming Key Decisions:

Key decisions and upcoming work is to provide the Council with recommendations for licensing rules for child care centers. The CCEW reviewed rule revisions for Certified Center rules at their meeting on January 15th and will provide further input at their meeting on March 19th. The workgroup is also scheduled to review rule revisions for School Aged Centers and Certified Family Child Care.

Joint Early Learning Council (ELC)/Oregon Health Policy Board (OHPB) Subcommittee Report

Subcommittee Charge:

Identify opportunities for alignment and/or integration across health, human services and early learning system transformation efforts.

Subcommittee Membership:

Pam Curtis (ELC)	Carla McKelvey (OHPB)
Teri Thalhofer (ELC)	Leslie Clement (OHA)
Janet Dougherty-Smith (ELC)	Erinn Kelley-Siel (DHS)
Megan Irwin (ELD)	Jim Carlough (CCO/Hub)
Zeke Smith (OHPB)	Dana Hargunani (ELC/OHA/Staff)

ELC= Early Learning Council; ELD= Early Learning Division; OHPB= Oregon Health Policy Board; OHA= Oregon Health Authority; DHS= Department of Human Services; CCO= Coordinated Care Organization; Hub= Early Learning Hub

Report:

The Joint ELC/OHPB Subcommittee met last on November 4th, 2014 and does not meet again until February 3, 2015.

Key Issues Discussed & Uncovered in November, 2014:

Issues that were discussed and reviewed included:

- *Exploring what issues are appropriate for the Joint Subcommittee to address*
- *Navigation of state level accountability role vs. local flexibility commitment*
- *Status/update on adoption of kindergarten readiness as shared agenda and potential shared incentives; some members shared concern re: inadequate progress in this area*
- *Status update on the Joint Subcommittee's Child and Family Well-being Measures Workgroup*
- *Review of Infant Mental Health Workgroup and expected recommendations this winter*
- *Update on straw proposal re: Family Well-being Screening Tool and discussion of next steps*

Upcoming Key Decisions:

- Subcommittee work plan, meeting schedule (bimonthly in 2015) and extended charter (expected by April, 2015)
- Recommendations for shared, cross-sector measures (spring, 2015)

Board Action Summary

January 29, 2015

AGENDA ITEM: EARLY LEARNING HUB METRICS ADOPTION

Summary of Recommended Board Action

ACTION:

Early Learning Council adoption of accountability metrics for Early Learning Hubs.

ISSUE:

The Early Learning Council is statutorily charged by House Bill 2013 with setting accountability metrics for Early Learning Hubs. These metrics are part of the Hubs contract with the state.

BACKGROUND:

The Hub Metrics Committee Report includes recommendations for revised accountability metrics for the Early Learning Hubs, as well as next steps for operationalizing those metrics.

ACTION PRECEDING RECOMMENDED BOARD ADOPTION:

The Early Learning Hubs Metrics Committee was charged with recommending revisions to the accountability metrics for Early Learning Hubs. The Committee, composed of Hub leaders, Hub partners and sectors with which Hubs connects, as well as Early Learning Council members and Early Learning Division staff, met bi-weekly between August and December. In addition to recommending specific metrics for the next round of Hub contracts, the Hub Metrics Committee also identified principles to guide the selection of Hub metrics.

BOARD MEMBER PRESENTING REPORT FOR ADOPTION:

Pam Curtis, Chair, Early Learning Council and Hub Metrics Committee

CONTACT: David Mandell, Early Learning Division Director of Policy and Research

Report on Hub Metrics Committee Recommendations to the Early Learning Council

1.15.15

Hub Metrics Committee Charge:

The Early Learning Hubs Metrics Committee was charged with recommending revisions to the accountability metrics for Early Learning Hubs. The Committee, composed of Hub leaders, Hub partners and sectors with which Hubs connects, as well as Early Learning Council members and Early Learning Division staff, met bi-weekly between August and December. This Committee was created in recognition that the current accountability metrics were developed prior to the creation of Hubs and the Hubs did not have a chance to weigh in on them. As the Hubs have started to organize themselves, solidify their partnerships and implement their strategic plans, they have gained a new understanding of how and where they can be effective, the greatest leverage points in their communities, and most significant barriers and challenges to success.

Hub Metrics Principles:

The Hub Metrics Committee identified the following principles for guiding the selection of metrics:

- Metrics should reflect the impact of Hubs across goals in a way that is focused, transformative, and clear about where the Hubs have true impact.
- Metrics should show a meaningful difference for children, families and the community.
- Metrics must reflect the necessity of collective action, fostering engagement from parents and Community Based Organizations, as well as the health, human services, K12, early education and the private sectors.
- Metrics should reflect the stages of development with a logical progression toward high level outcomes and goals.
- Metrics should reinforce a focus on reducing disparities for target populations.
- Metrics should support a strength based approach to the work.
- Metrics must have a data source that is readily accessible, reliable and valid.

Hub Metrics Committee Recommendations:

One of the core principles identified by the Hub Metrics Committee is that metrics should reflect the stages of development with a logical progression toward high level outcomes and goals. Following this principle, the Hub Metrics Committee organized its recommendations in the following way:

- **GOALS:** The three primary high-level goals that Early Learning Hubs have been directed to achieve by statute and the Early Learning Council:
 1. The early childhood system is aligned, coordinated and family-centered
 2. Children are supported to enter school ready to succeed
 3. Families are healthy, stable and attached
- **OUTCOMES:** Results that need to be achieved in order to attain the primary goals.
- **SHORT-TERM INDICATORS:** Indicators or measures that show progress in achieving the outcomes that can be demonstrated in one to two years.
- **MEDIUM & LONG TERM INDICATORS:** Indicators or measures that show progress in achieving the outcomes that can be demonstrated in three to five years.

The Hub Metrics Committee, because of the more immediate need, prioritized developing short-term indicators. The Hub contracts will be up for renewal at the end of June, 2015 and the short term indicators need to be in place in order to be incorporated in the new contracts. In some cases, additional work is needed to clarify medium and long term indicators. The Child and Family Well-Being Measures Workgroup of the Joint ELC/OHPB Committee is currently identifying measures and the Hub Metrics Committee recommends drawing on the work of this group for medium and long-term indicators for the goal of healthy, stable and attached families.

Once short-term indicators are adopted, Early Learning Division staff, working with Hubs, will operationalize these indicators to ensure consistent measurement and reporting. Where the Committee identified specific work that needs to be done to operationalize indicators, it is called out in the recommendations below.

Goal 1: The early childhood system is aligned, coordinated and family-centered

Outcomes

- There is a common vision and agenda for focus population of children across five sectors (health, human services, K-3 education, early learning programs, business)
- Catalytic and transformative leadership is demonstrated
- All five sectors can demonstrate alignment of agendas, strategies and resources
- Partners share data and information
- All five sectors demonstrate coordination of activities
- The voice of families and communities served by the Hub guides the work of the Hub
- Family Resource Management function has been developed
- Disparities in access to services and supports are reduced and services and supports are culturally responsive

Short-term Indicators

1. Strategic plan is in place and details the role of all five sectors in achieving shared outcomes for children and families.
2. Demonstrated active participation of leaders from all five sectors in governance of Hub.
3. MOU's are in place with partners from all five sectors that specify shared outcomes and activities.
4. MOU's are in place with partners to share data about budgets, services provided and children served.
5. Mechanisms to share funding and blend/braid resources are actively being used and can be verified.
6. Demonstrated meaningful engagement with children and families from all of the communities served by the Hub.
7. Demonstrated engagement with culturally-specific Community Based Organization as partners in delivery of services to children and families.
8. Program participation data demonstrates increase in services to children and families from focus populations.

Goal 2: Children are supported to enter school ready to succeed

Outcomes

- Children arrive at Kindergarten with the social-emotional, language and cognitive skills that will support their success in school;
- Families are supported as their child's first and most important teachers;
- Early care and education programs and providers are equipped to promote positive child development;
- Children and families experience aligned instructional practices and seamless transitions from early learning programs to kindergarten; and
- Disparities in outcomes for children of color and from low-income families are reduced.

Shorter-term Indicators

The Hub Metrics Committee has identified the following metrics as indicators for tracking the Hubs progress in this area over the next one to two years, which Hubs will be accountable for via their contracts with the state:

1. Number of Children from OPK, Head Start or other waiting lists served by a Hub partner program.
2. Increase in number of QRIS providers serving "hot spots" and communities of color.
3. Increase in percent of children who receive a developmental screen before the age of 3. *(note: the only currently available data source for this only captures screenings that are billed for in Medicaid, and doesn't not capture screenings that occur in other settings that Hubs are actively promoting)*

4. Increase in percentage of children enrolled in Kindergarten before start of school year.

Medium & Long-term Indicators

The Hub Metrics Committee has identified the following measures for tracking the progress of the Early Learning Hubs over time in achieving this goal:

1. Increase in percentage of children in Kindergarten with consistent school attendance by demographic group.
2. Decrease in disparities in percentage of Kindergarten children of color and from low-income families with consistent school attendance.
3. Increase in Kindergarten Assessment scores in each domain by demographic group.
4. Decrease in disparities in Kindergarten Assessment scores for children of color and children from low-income families.
5. Increase in percentage of children in third grade who are reading at grade-level by demographic group.
6. Decrease in disparities in percentage third grade children of color and from low-income families who are reading at grade level.

These metrics are ordered by the length of time that the Hub Metrics Committee assessed that it will take to impact them. Metrics 1 & 2 are expected in two to three years; metrics 3 & 4 in three to five years; and metrics 5 & 6 in five years. The longer time horizon for the metrics tied to third grade reading scores reflects the time it will take for younger children impacted by early learning programs to reach third grade.

Goal 3: Families are healthy, stable and attached

Outcomes

- Families have positive physical and mental health, supported by access to high-quality health services;
- Parents and families have the confidence, knowledge and skills to support healthy attachment and the positive development of the children in their care;
- Families have adequate resources to meet their needs, such as housing and transportation, and supports to strengthen their resilience to stress; and
- Working families have access to safe and affordable child care that promotes positive child development.

Shorter-term Indicators:

The Hub Metrics Committee has identified the following metrics as indicators for tracking the Hubs progress in this area over the next one to two years.

- Increase in percentage of children in Employment Related Day Care (ERDC) in a 3, 4 or 5 tier QRIS program.

- Increase in the number of children and families served by DHS (e.g., through TANF or child welfare) who are receiving early learning, parent education or family support services. *(note: there are data challenges in tracking this indicator that need to be addressed.)*
- Increase in the percentage of children on OHP who make it to regular visits in their primary care home.

Medium & Long-term Indicators

The Hub Metrics Committee is seeking recommendations from the Child and Family Well-being Measures Workgroup for medium and long-term indicators to track progress towards this goal.

Next Steps

1. Early Learning Division staff, working with the Early Learning Hubs, will develop recommendations for operationalizing short-term indicators. (Completed May, 2015)
2. Early Learning Division staff will continue to work with the Oregon Health Authority to develop strategies for consistent measurement of developmental screening in both health and community settings.
3. Following the completion of the work of the Child and Family Well-Being Measures Workgroup, the Hub Metrics Committee will reconvene to recommend medium and long term indicators for the goal of healthy, stable and attached families.

Hub Metrics Committee Membership

Pam Curtis, Chair	Daniel Ledezma
Harriet Adair	Shannon Lipscomb
Bobbie Weber	Holly Mar Conte (Lane Early Learning Alliance Hub)
Nancy Anderson	Colleen Reuland
Cade Burnette (Blue Mountain Early Learning Hub)	Zeke Smith (Early Learning Multnomah)
Donalda Dodson (Early Learning Hub, Inc.)	Rhonda Prodzinski
Ken Kestner (South-Central Oregon Early Learning Hub)	Megan Irwin, staff
	David Mandell, staff