

## GENERAL REQUIREMENTS

### 414-350-0000 Purpose

(1) OAR 414-350-0000 through 414-350-0415 set forth the Office of Child Care's (OCC) requirements for the inspection and certification of certified family child care homes subject to Oregon laws governing child care facilities that:

(a) Care for no more than 16 children; and

(b) Are located in a building constructed as a single-family dwelling.

(2) Unless exempted by Oregon laws governing child care facilities, no person or organization shall operate a family child care home without a valid certificate issued by the Office of Child Care.

(3) Individuals who are not enrolled in the Central Background Registry because of removal, denial for cause, or voluntary surrender in lieu of legal action, may only care for their own children or children related within the fourth degree as determined by civil law, pursuant to ORS 329A.252.

### 414-350-0005 Exemptions from Licensing

Programs are exempt from certification when they:

(1) Are registered family child care home.

(2) Provide care for preschool children that is primarily educational for 4 hours or less per day and where no preschool age child is present at the facility for more than 4 hours per day except as provided in 414-350-0000(3).

(3) Provide care in the home of the child.

(4) Provide care on an occasional basis by a person not ordinarily engaged in providing child care except as provided in 414-350-0000(3). "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.

(5) Provide care to 3 or fewer children, not including the provider's children except as provided in 414-350-0000(3).

(6) Provide care to children from one family, not including the provider's children except as provided in 414-350-0000(3).

(7) Operate as a parent cooperative for no more than 4 hours a day.

### 414-350-0010 Definitions

The following words and terms, when used in OAR 414-350-0000 through 414-350-0415, have the following meanings:

(1) "Activity Area" means the area of the home that is available, during all the hours of operation, for the children's activities. This area excludes the food preparation area of the kitchen, bathrooms, storage areas, and those parts of rooms occupied by heating stoves, furniture and stationary equipment not used by children.

(2) "Applicant" means a person or governing body who submits the child care license application and in whose name the certificate will be issued. The applicant is the owner.

- (3) "Capacity" means the total number of children allowed in the certified family child care home at any one time, based on the available square footage, the ages of the children to be served and the total number of staff.
- (4) "Caregiver" means any person, including the provider, who cares for the children in the certified family child care home and works directly with the children, providing care, supervision and guidance.
- (5) "Central Background Registry" (CBR) means OCC's Registry of individuals who have been approved to be associated with a child care facility in Oregon pursuant to ORS 329A.030 and OAR 414-061-0000 through 414-061-0120.
- (a) "CBR Enrollment" means approval for a 5 year period to be enrolled in the CBR following an Oregon State Police criminal records check, child abuse and neglect records check, checks of adult protective services and foster care certification and an FBI records check.
- (b) "CBR Conditional Enrollment" means temporary approval to be enrolled in the CBR following a Oregon State Police records check and child abuse and neglect records check but prior to receipt by OCC of the results of the required FBI records check.
- (6) "Certified Family Child Care Home" or "Home" means a child care home located in a building constructed as a single family dwelling that has a certificate to care for a maximum of 16 children at any one time.
- (7) "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.
- (8) "Child Care Child" means a child at least 6 weeks of age and under 13 years of age, or a child under 18 years of age with special needs. The family child care home has supervisory responsibility in the temporary absence of the parent.
- (9) "Child with Special Needs" means a child under 18 years of age who requires a level of care over and above the norm for their age due to a physical, developmental, behavioral, mental or medical disability.
- (10) "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. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children.
- (11) "Civil Penalty" means a fine imposed by OCC on the owner for violation of these rules.
- (12) "Communicable Disease" means a condition caused by an infectious agent or its toxins.
- (13) "Custodial parent" is the parent who is given the physical or legal custody of the child by court order.
- (14) "Disinfecting" means using a process for destroying or irreversibly inactivating harmful organisms, including bacteria, viruses, germs and fungi.
- (15) "Family" means a group of individuals related by blood, marriage or adoption, or individuals whose functional relationships are similar to those found in such associations.
- (16) "Guidance and Discipline" means the on-going process of helping children develop self-control and assume responsibility for their own acts.
- (17) "Infant" means a child who is at least 6 weeks of age up to 12 months of age.
- (18) "Kindergarten-Age Child" means a child eligible to attend kindergarten in a public school. A kindergarten-age child is considered a school-age child. This does not include the summer months prior to the start of the school year.

- (19) "License" means the document that is issued by OCC to a certified family child care home pursuant to ORS 329A.280. License may also be referred to as certification.
- (20) "Night Care" means care given to children who sleep at the home for all or part of the night.
- (21) "OCC" means the Office of Child Care, Early Learning Division of the Department of Education.
- (22) "Oregon Registry" means the professional development registry at the Oregon Center for Career Development in Childhood Care and Education at Portland State University that stores, tracks and recognizes the training and education of individuals who work in childhood care and education.
- (23) "Oregon Registry Online (ORO)" means the statewide database that stores all submitted training and education to be verified for use by the Office of Child Care.
- (24) "Outbreak of Communicable Disease" means 2 cases from separate households associated with a suspected common source.
- (25) "Owner" means the person, corporation, partnership or other public or private organization which holds the certified family child care business as property and has a major financial stake in the operation of the home. The certificate is issued in the owner's name. The owner is considered the operator. The owner may be the provider.
- (26) "Parent" means parent(s), custodian(s), or guardian(s) exercising physical care and legal custody of the child.
- (27) "Potentially hazardous food" means any food or beverage containing milk or milk products, eggs, meat, fish, shellfish, poultry, cooked rice, beans or pasta, and all other previously cooked foods, including leftovers.
- (28) "Premises" means the location that is identified on the application, including indoors and outdoors, all out-buildings and any space not directly used for child care under the direct control of the child care facility.
- (29) "Preschool Age Child" means a child 36 months of age up to eligible to attend kindergarten in a public school.
- (30) "Provider" means the person in the certified family child care home designated by the owner to be responsible for the day to day operations of the certified family child care home and who is the children's primary caregiver. The provider may be the owner.
- (31) "Qualifying Teaching Experience" means experience gained in at least 3-hour blocks, within a 36-month period, with a group of children in an on-going group setting. Such a setting includes a kindergarten, preschool, child care center, certified family child care home, Head Start program, or equivalent. 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.
- (32) "Restrictable Disease" means an illness or infection that would prohibit the child from attending child care.
- (33) "Risk assessed value" means the value (low, medium, high or extreme) assigned to a rule based on the likelihood that harm would occur and the probable severity of harm to a child if that rule were violated.
- (34) "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.

(35) "School-Age Child" 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.

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

(a) A certified child care home by a person who alleges that:

(A) Children are in imminent danger;

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

(C) Provider is engaging in behavior prohibited under OAR 414-350-0130(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 CBR.

(b) A facility providing child care as defined in ORS 329A.250(3), which is not a certified child care home and is caring for more children than is allowed by law.

(37) "Serious Injury" means any of the following:

(a) Injury requiring surgery;

(b) Injury requiring admission to a hospital;

(c) Choking or unexpected breathing problems;

(d) Unconsciousness;

(e) Concussion;

(f) Poisoning;

(g) Medication overdose;

(h) Broken bone;

(i) Severe head or neck injury;

(j) Chemical contact in eyes, mouth, skin, inhalation or ingestion;

(k) Severe burn;

(l) Allergic reaction requiring administration of Epi-Pen;

(m) Severe bleeding or stitches;

(n) Shock or confused state;

(o) Near-drowning.

(38) "Staff" means an individual who is the director, an employee, or a volunteer who is in the certified family home for more than a single activity.

(39) "Substitute Provider" means a person who acts as the children's caregiver in the certified family child care home in the temporary absence of the provider.

(40) "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 a caregiver to be within sight or sound of the children, knowledge of children's needs, and accountability for children's care and well-being. Supervision also requires that staff be near and have ready access to children in order to intervene when needed.

(41) "Toddler" means a child who is at least 12 months of age but under 36 months of age.

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

(b) "Older toddler" means a child who is at least 24 months of age but under 36 months of age.

(42) "Unsupervised Access to Children" means contact with children that provides the person opportunity for personal communication or touch when not under the direct supervision of a child care provider or staff with supervisory authority.

(43) "Useable Exit" means an unobstructed door or window through which caregivers and 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. A clear path must exist to all useable exits.

(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 5 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 5 square feet (at least 720 square inches) and a sill no more than 44 inches above the floor.

#### **414-350-0015 General Licensing**

(1) For purposes of these rules, the determination of compliance or noncompliance shall be made by OCC.

(2) Child care children may only be in activity areas approved by OCC.

(3) The owner has the right to request a review of any finding made by OCC.

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

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

(6) The provider is responsible for ensuring the certified family child care home is in compliance with all conditions placed on the license.

(7) Unless otherwise stated, these rules apply only when child care children are in care.

(8) The certified family child care home shall immediately notify all parents of any closure of the active license.

(9) 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.

(10) Rules that impact a child's health and safety have been assessed for risk, taking into consideration the probability of harm and the potential severity of harm. A risk assessed value has been assigned to rules.

(11) Circumstances of a violation, that increase the level of risk to children, may increase the risk assessed value. Circumstances include, but are not limited to: imminent danger to a child, extreme disregard for ratio, supervision, discipline, CBR enrollment, hazards, sanitation, and repeat rule violations.

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

(13) 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 or telephone number would endanger their or a family member living in the home (OAR 137-004-0800). The request must be on a form supplied by OCC.

(14) If any court of law finds that any clause, phrase, or provision of these rules is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portion of these rules.

**414-350-0020 Application**

- (1) Application for a certificate shall be made on forms provided by OCC. The original form(s) must be submitted to OCC for processing.
- (2) A completed application is required:
  - (a) For the initial certificate;
  - (b) For the annual renewal of the certificate; or
  - (c) Whenever there is a change of owner or location.
- (3) The applicant shall complete and submit an application to OCC at least:
  - (a) 45 days before the planned opening date of the certified family child care home; and
  - (b) For renewal of a certificate, 30 days prior to the expiration of the certificate.
  - (A) 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 certificate, the current certificate, unless officially revoked, remains in force until OCC has acted on the application for renewal and has given notice of the action taken.
  - (B) When an application for renewal and payment of the required fee is received by OCC less than 30 days prior to the expiration date of the current certificate, the certificate will expire unless the renewal process is completed.
- (4) An application for a certificate shall be accompanied by a non-refundable fee.
  - (a) For the initial application, a change of owner, the reopening of a home after a lapse in the certificate, or a change of location, the fee is \$25 plus \$2 for each certified space (e.g., the fee for a certified family child care home certified to care for 12 children is  $\$24 + \$25 = \$49$ ).
  - (b) For a renewal application, the fee is \$2 for each certified space.
- (5) An application for a certificate must be completed by the applicant and approved by OCC within 12 months of submission or the application will be denied. If an application is denied, an applicant must submit a new application for a certificate.
- (6) All civil penalties must be paid in full before the Office of Child Care will process the application.
- (7) The applicant shall submit with the initial application or when the home is being remodeled a drawing showing the dimensions of all rooms to be used (length and width), the planned use of each room, the location of required exits, the placement of the kitchen and bathrooms, and the location of plumbing fixtures, identifying which are drinking water faucets and fixtures used to obtain water to prepare food, infant formula, drinking or cooking, and which are bathroom, diaper changing, bathing and handwashing faucets or fixtures that are not used for drinking water.
- (8) The home shall be approved by an environmental health specialist registered under ORS Chapter 700 or an authorized representative of the Oregon Health Authority before a certificate is issued by OCC.
- (9) The home may be inspected by the local fire jurisdiction when local ordinances require a fire life safety survey as part of a business license or when OCC determines there is a need to do so.
- (10) An application for certificate shall be accompanied by lead testing results for drinking water faucets and fixtures identified in OAR 414-350-0020(7). Results shall be those obtained within the past 6 years.
  - (a) An applicant shall have all drinking water faucets and fixtures identified in OAR 414-350-0020(7) tested for lead;

(b) The applicant shall test in accordance with United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and shall use an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water laboratory.

(c) An applicant may submit documented lead testing results obtained within 6 years immediately preceding the effective date of this section to the OCC, and request a waiver of this requirement for a period not to exceed 6 years from the date of the test results submitted. This provision applies only to tests conducted in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and the results were below 15 ppb. The OCC shall determine whether the tests submitted conform to the requirements of OAR 414-350-0020 (10)(b).

(11) Upon receipt of a completed application, a representative of OCC shall evaluate the home and all aspects of the proposed operation to determine if certification requirements (OAR 414-350-0000 through 414-350-0415) are met.

#### **414-350-0025 Right to Inspect**

(1) Representatives of all agencies involved in certification shall have immediate access to the premises anytime child care is being conducted.

(2) 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 the health and safety of child care children. 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.

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

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

(5) OCC staff may conduct an unannounced monitoring visit at least once annually.

#### **414-350-0030 Applicable Rules and Laws**

(1) 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 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, 7 days a week.

(2) The provider shall comply with local, state and federal laws related to child safety systems and seat belts in vehicles and bicycle safety.

(3) The provider shall comply with the Oregon Health Authority's administrative rules relating to:

(a) Immunization of children;

(b) Reporting communicable diseases; and

(c) Restrictable diseases.

- (4) As required by Oregon civil rights law, ORS Chapter 659, the owner and 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.
- (5) If 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).

#### **414-350-0035 Issuance of License**

- (1) A certificate shall not be issued to an applicant who holds a medical marijuana card, or who grows or distributes marijuana from their premises.
- (2) A certificate shall be issued by OCC when it has been determined the home is in compliance with OAR 414-350-0000 through 414-350-0415. There are 2 types of certification. These are:
- (a) A regular certificate which, except as provided in OAR 414-350-0020(3)(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 may be 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) The certified family child care home shall be:
- (a) Located in an area zoned residential or commercial:
- (A) "Residential zone" means any zone within an acknowledged urban growth boundary or an acknowledged residential exception area that allows a dwelling unit as a use permitted outright.
- (B) "Commercial Zone" means any zone within an acknowledged urban growth boundary or an acknowledged commercial exception area that allows sales or service or commercial and professional offices as uses permitted outright.
- (b) A building constructed as a single family dwelling; and
- (c) In space designed or remodeled for living quarters.
- (4) The applicant shall provide verification to OCC that the home meets all applicable building codes and zoning requirements that apply to certified family child care homes, whenever the home is remodeled.
- (5) A home that is not the residence of the provider or a home located in a zone other than residential or commercial shall meet all state and local planning and zoning, occupancy, and building code requirements for a child care home.
- (6) A garage or other outbuildings may be used for child care if they have been converted to a habitable space as determined by local jurisdiction.
- (7) A certificate is not transferable to any other location or to another organization or individual.
- (8) A certificate is granted in the name of the owner.
- (9) An address shall have only one certificate.
- (10) An owner who does not function as the provider, must take a minimum of 2 hours of recognizing and reporting child abuse and neglect training that is specific to Oregon law before a certificate will be issued.



(11) If the owner is the provider in a home certified for more than 12 children, the owner may be the provider for that certified family child care home only. The provider may be the owner of other facilities.

(12) Any changes in the 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, change of address, or hours of operation.

## HOME MANAGEMENT

### 414-350-0040 Required Postings and Available Information

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

- (a) The most current certificate issued by OCC;
- (b) The evacuation plan and the location where parents may be reunited with their children in the event of an evacuation;
- (c) Lead testing results for drinking water for the past 6 years;
- (d) The most recent OCC and sanitation inspection reports and, if applicable, fire life safety self-evaluation (or fire marshal inspection report if completed);
- (e) Information on how to report a complaint to OCC regarding certification requirements; and
- (f) A notice that the following items are available for parents to review:
  - (A) The guidance and discipline policy;
  - (B) The current week's menus, with substitutions recorded; and
  - (C) The description of the general routine.

(2) 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 that will be caring for the children.

(3) 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.

(4) The following information shall be in writing and made available to OCC, to staff, and to parent(s) at the time of enrollment:

- (a) Information on transportation, when provided by the owner, provider or other caregiver; and
- (b) When transportation is being provided by a third party.

### 414-350-0045 Required Reportings

The provider shall report to OCC:

- (1) Any death of a child while in care, within 24 hours.
- (2) Any serious injury, as defined in OAR 414-350-0010(37) within 5 calendar days after the occurrence. This does not include:
  - (a) Injuries for which a child is evaluated by a professional as a precaution;
  - (b) Injuries for which first aid is administered at the facility, but no further treatment by a medical professional is warranted; or

- (c) Medical events due to routine, ongoing medical issues, such as asthma or seizures.
- (3) Any damage to the building that affects the provider's ability to comply with the rules for Certified Family Child Care Homes within 48 hours of the occurrence.
- (4) Any animal bites to a child within 48 hours of occurrence.
- (5) Any change in provider prior to being on site. Such notification must include the replacement person's qualifications for the position and documentation that the person is enrolled in the Central Background Registry. A phone call, followed by written documentation, an e-mail or a FAX will serve as notification.

#### **414-350-0050 Record Keeping**

- (1) The following records must be kept by the family child care home for at least 2 years, kept current at all times and must be available to OCC:
  - (a) Information from the parent(s) for each child at the time of admission:
    - (A) Name and birth date of each child;
    - (B) Date child entered care;
    - (C) Names, work and home addresses and telephone numbers of the parent(s) or legal guardian(s);
    - (D) The name of the school attended by the child care child;
    - (E) Name and telephone number of child's doctor and dentist;
    - (F) Name and telephone number of person(s) to contact in an emergency;
    - (G) Name and telephone number of person(s) to whom the child may be released;
    - (H) Health history of any problems that could affect the child's participation in child care; and
    - (I) Any chronic health problem(s), including allergies, the child has.
  - (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. The record must show the children in attendance at any given time;
  - (c) Medications administered, including the child's name, and the date and time of dosage and the dosage amount;
  - (d) Injuries to a child;
  - (e) Emergency plan practice sessions and evacuations;
  - (f) Child abuse reports made to the Department of Human Services Child Welfare (DHS) or a law enforcement agency; and
  - (g) Lead testing results for drinking water for the past 6 years.
- (2) The provider shall obtain the following written authorizations from parent(s) of each child before admission. The authorizations shall be kept current at all times.
  - (a) Permission for the provider to obtain emergency medical treatment for the child. The emergency medical release shall be:
    - (A) On a form accepted by the medical treatment facility used by the provider for emergency medical services;
    - (B) Immediately accessible to all staff.
  - (b) Permission to administer medications to a child;
  - (c) Permission for the provider to call an ambulance or take a child to an available physician or medical treatment facility;

- (d) Permission to transport a child to or from school or allow a child to bus or walk to or from school or home; and
- (e) Permission to take a child on a field trip or other activity away from the home or participate in any water activity, on or off the premises.
- (3) The provider shall maintain separate information and authorization forms on each child in care.
- (4) The provider shall keep the following records for at least 2 years. Records for staff no longer employed at the certified family child care home must be kept for 2 years after the date of termination. These records shall be available to OCC.
  - (a) Daily attendance record for the provider and each caregiver, including dates worked and arrival and departure times each day;
  - (b) Driving record, driver's license number and expiration date if the person is to transport children.
- (5) The following records shall be available at the certified family child care home in paper or electronic format:
  - (a) Written verification of staff qualifications;
  - (b) The confirmation letter issued by OCC to the facility that the staff is enrolled in the CBR;
  - (c) Current health-related training and current food handler certifications, as appropriate; and
  - (d) Caregiver participation in an orientation to the facility's policies and practices and these administrative rules.
- (6) Electronic records must be immediately available to OCC staff and portable for use during an emergency evacuation.
- (7) With the exception of child abuse reports, the provider shall allow parent(s), upon request, to review records and reports maintained on their own children.
- (8) Records that are older than one year may be stored off-site and must be made available within 48 hours, upon request. All other records must be available at all times to OCC.
- (9) A written record of meals and snacks provided by the certified family child care home must be kept for 3 weeks.

#### **414-350-0055 Arrival and Departure**

- (1) The provider shall require the person bringing the child to the certified family child care home remain with the child until the child is accepted by a caregiver.
- (2) The provider shall release a child only to a parent(s) or another person named and identified by the parent. The provider shall verify the identification of any person, who picks up a child.
- (3) If a school-age child arrives at or leaves the home without a parent, there shall be arrangements in advance, in writing, from the parent(s) for the arrival and departure times and what the provider will do if the child has not arrived by the expected time.
- (4) The provider must notify parents if there will be a substitute provider and the substitute's name. 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.

#### **414-350-0060 Enrollment**

- (1) No child under 6 weeks of age shall be enrolled in the certified family child care home. This does not include the provider's child(ren).

- (2) Children shall be admitted only in accordance with the conditions of the certificate, including, but not limited to, capacity, hours of operation, age range, and special conditions.
- (3) As required by state and federal civil rights laws and the Americans with Disabilities Act (ADA), the certified family child care home shall not discriminate against any child on the basis of race, religion, color, national origin, gender, marital status of parent, or because of a need for special care.
- (4) Refusal by the provider to care for a child with a need for special care because of lack of related skills and degree of competence or because of structural barriers in the certified family child care home, shall not in itself establish a prima facie case of discrimination. The decision to enroll or not enroll a child shall be made on an individual basis after the child's child care needs have been assessed using information from parents and professionals who are knowledgeable about the specific disability. The provider shall record the assessment that was made for each child with special needs.
- (5) If a specific plan is needed for a child with special needs a plan shall be developed in writing between the provider, parent(s) and, if necessary, outside specialists. The provider shall be responsible for ensuring that all caregivers have knowledge of the plan and act in compliance with the plan.

#### **414-350-0070 Emergency Preparedness**

- (1) A portable light source, to be used in emergencies, shall be:
  - (a) Available in all activity areas used by children;
  - (b) In working condition; and
  - (c) Stored in an easily accessible place.
- (2) A telephone in working condition must be in the family child care home.
- (3) There must be a system in place to ensure that parents can contact the provider and staff when children are in care.
- (4) The phone number for poison control, 9-1-1, and the family child care home's address must be posted in a visible location.
- (5) The written plan for evacuating and removing children to a safe location in an emergency must be posted in the home and must be familiar to the children and the caregivers.
- (6) The family child care home shall have a written plan for handling emergencies and evacuations, including, but not limited to, acute illness of a child or staff, natural disasters (e.g. fire, earthquake, etc.), man-caused events, such as violence at a child care facility, power outages, and situations which do not allow reentry to the home after evacuation. The plan must include:
  - (a) Designation of an alternate safe location in the event of evacuation;
  - (b) Procedures for notifying parents or other adults responsible for the children, of the relocation and how children will be reunited with their families;
  - (c) Procedures to address the needs of individual children, including infants and toddlers, children with special needs, and children with chronic medical conditions;
  - (d) An acceptable method to ensure that all children in attendance are accounted for;
  - (e) Procedures in the event that children must shelter-in-place or if the child-care home must be locked-down so that no one can enter or leave; and
  - (f) Procedures for maintaining continuity of child-care operations.
- (7) The written emergency plan must be given to parents of children in care.
- (8) Fire drills shall be practiced monthly.

- (9) One other aspect of the emergency response plan shall be practiced a minimum of twice a year.
- (10) The provider shall maintain a written record showing the date, time of day, participants, and type of emergency of each emergency plan practice session.
- (11) The provider shall identify a licensed physician, hospital, or clinic to be used for emergency medical care.
- (12) In the event of an illness or injury which requires immediate medical care, the provider is responsible for securing such care and notifying the parent(s).

## **THE PROVIDER AND OTHER PERSONS**

### **414-350-0075 General Requirements for the Provider and Other Persons**

- (1) 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 qualifications for the positions they hold.
- (2) Any staff with evidence of a child care restrictable disease or symptom of physical illness that poses a threat to the health or safety of children shall be relieved of their duties.
- (3) Any staff with evidence of a mental incapacity that poses a threat to the health or safety of children shall be relieved of their duties.
- (4) No one shall have access to child care children or be on the premises who has demonstrated behavior that may have a detrimental effect on a child.
- (5) Volunteers counted in determining the staff to child ratios, must meet the qualifications of the position they are filling.

### **414-350-0080 CBR Enrollment**

- (1) The owner, provider, all caregivers and other residents of the premises 18 years of age or older must be enrolled in OCC's CBR prior to the issuance of an initial or renewal certificate.
- (2) When the owner is a corporation, partnership or other public or private organization, the individual who has oversight of the facility is required to be enrolled in the CBR.
- (3) Residents of the premises who are under 18 years of age must be enrolled in the Registry by their 18th birthday.
- (4) Certification may be denied, suspended or revoked if the owner, provider or other resident of the home has been removed, denied or suspended from the CBR.
- (5) The provider must receive confirmation from OCC that an individual 18 years of age or over, is enrolled or conditionally enrolled in the CBR before the individual can:
- (a) Reside on the premises;
  - (b) Stay overnight on the premises for longer than 14 consecutive days, not to exceed a total of 30 days in a calendar year;
  - (c) Assist the provider; or
  - (d) Volunteer in the child care program.

- (6) Individuals conditionally enrolled in the CBR shall not have unsupervised access to children until the provider has confirmed with OCC the individual is enrolled, but may count in staff to child ratio.
- (7) Any visitor to the home or other adult who is not enrolled in the CBR shall not have unsupervised access to children.
- (8) The provider shall have a written plan to ensure that individuals who are not enrolled or conditionally enrolled in the CBR and are on the child care premises shall not have unsupervised access to children.
- (9) The provider shall maintain a log of arrival and departure times of all individuals 18 and older who are not enrolled or conditionally enrolled in the CBR and enter the home while child care children are present, excluding parents who are dropping off or picking up their children.
- (10) The provider, caregivers and other individuals that are required to be enrolled in the CBR and are on-site must maintain current enrollment in the CBR at all times while the certified family child care license is active.
- (11) Individuals whose CBR enrollment has been revoked, denied or suspended, may not live in the home; be on the premises during child care hours; or have contact with child care children.
- (12) 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.

#### **414-350-0085 Marijuana, Smoking and Alcohol**

- (1) All tobacco (cigarettes, cigars, and smokeless) and any lighted smoking instrument, including inhalant delivery systems, shall not be consumed on the child care home premises:
  - (a) During business hours;
  - (b) Within 10 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; and
  - (c) In any vehicles where child care children are present.
- (2) Notwithstanding OAR 414-350-0015(7), no one shall possess, use or store illegal controlled substances on the certified family child care home premises.
- (3) Notwithstanding OAR 414-350-0015(7), no one shall grow or distribute marijuana on the premises of the certified family child care home.
- (4) No one shall consume alcohol or use marijuana or marijuana infused products on the premises of the certified family child care home during the hours the child care business is conducted or when child care children are present.
- (5) No person who is "under the influence," shall have contact with child care children. "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana (including medical marijuana), or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others. Examples of abnormal behaviors include, but are not limited to hallucinations, paranoia, or violent outbursts. Examples of impairments in physical or mental performance include, but are not limited to slurred speech as well as difficulty walking or performing job activities.

**414-350-0090 Provider – Qualifications and Responsibilities**

- (1) The provider shall be at least 18 years of age if the home is certified for up to 12 children, or at least 21 years of age if the home is certified for more than 12 children.
- (2) The provider may not hold a medical marijuana card.
- (3) The provider must have:
  - (a) At least 1500 hours of qualifying teaching experience, as specified in OAR 414-350-0010(31), in the care of a group of children in an ongoing group setting such as a kindergarten, preschool, child care center, certified family child care home, or Head Start program; or
  - (b) One year as a registered family child care provider within the previous 3 years. During the last year of registered family care there may be no civil penalties assessed; or
  - (c) Completion of 20 credits (semester system) or 30 credits (quarter system) of training in a college or university in early childhood education or child development; or
  - (d) Documentation of attaining at least Step 7.5 in the Oregon Registry.
- (4) Prior to a home becoming certified for more than 12 children, a provider who is qualified solely through their experience in a registered family child care home, must also complete one year of experience in a certified family child care home with no civil penalties.
- (5) The provider must be responsible for the operation of the certified family child care home, including those duties ordinarily considered to be administrative. These include, but are not limited to, maintaining records, maintenance of the building and grounds, meal planning and preparation, compliance with certification requirements, communication with OCC, and correcting deficiencies.
- (6) The provider shall provide evidence of the following training:
  - (a) A current certification in first aid and pediatric CPR.
    - (A) CPR courses must have practical hands-on instruction;
    - (B) CPR courses that involve an on-line component with hands-on instruction may be accepted; and
    - (C) Strictly on-line CPR training is not acceptable.
  - (b) A current food handler certification approved by the Oregon Health Authority or OCC;
  - (c) Have completed a minimum of 2 hours of training on recognizing and reporting child abuse and neglect that is specific to Oregon law;
  - (d) Completed OCC approved health and safety training; and
  - (e) Completed OCC approved safe sleep training.
- (7) The provider shall be on-site and actively engaged in the care of the child care children, at least half of the hours of operation that are reflected on the certificate. If the home is certified for more than 12 children, the provider shall be on site and actively engaged in the care of the child care children at least 2/3 of the hours of operation that are reflected on the certificate. The hours shall be calculated on a weekly basis, except for planned vacations and emergency absences.
- (8) The provider shall have no other employment, either in or out of the home, during the hours the provider is actively engaged in the care of the child care children.
- (9) The provider, or a substitute provider, shall be present during all the hours the certified family child care business is conducted.

**414-350-0095 Substitutes – Qualifications and Responsibilities**

A caregiver substituting for the provider must:

- (1) Be Assistant II qualified.
- (2) Be authorized and able to correct a deficiency that might be an immediate threat to children.

**414-350-0100 Assistant II - Qualifications and Responsibilities**

- (1) An Assistant II shall:
  - (a) Be at least 18 years of age;
  - (b) Have worked at least 60 hours at the certified family child care home;
  - (c) Have current certification in first aid and pediatric CPR;
    - (A) CPR training must have practical hands-on instruction;
    - (B) CPR courses that involve an on-line component with hands-on instruction may be accepted; and
    - (C) Strictly on-line CPR training is not acceptable.
  - (d) Have completed a minimum of 2 hours of training on recognizing and reporting child abuse and neglect that is specific to Oregon law;
  - (e) Have completed OCC approved health and safety training;
  - (f) Have completed OCC approved safe sleep training; and
  - (g) Have a current food handler certification approved by the Oregon Health Authority or OCC if the Assistant II will be preparing or serving food.
- (2) With the approval of the provider, may be out of sight and sound of the provider with a group of children.

**414-350-0105 Assistant I - Qualifications and Responsibilities**

- (1) Assistants may be included in the caregiver to child ratio calculation.
- (2) An Assistant I shall:
  - (a) Be at least 15 years of age;
  - (b) Have current certification in first aid and pediatric CPR;
    - (A) CPR courses must have practical hands-on instruction;
    - (B) CPR courses that involve an on-line component with hands-on instruction may be accepted;
    - (C) Strictly on-line CPR training is not acceptable; and
    - (D) New Assistant I's must complete the training within 90 days of employment.
  - (c) Have completed a minimum of 2 hours of training on child abuse and neglect that is specific to Oregon law within 30 days of employment;
  - (d) Have a current food handler certification approved by the Oregon Health Authority or OCC before preparing or serving food;
  - (e) Have completed OCC approved health and safety training within 30 days of employment; and
  - (f) Have completed OCC approved safe sleep training within 30 days of employment.
- (3) An Assistant I, who is not enrolled in the CBR because they are under the age of 18, must be supervised within sight AND sound of the provider or substitute provider.
- (4) An assistant I, who is enrolled in the CBR, must be supervised within sight OR sound of the provider or substitute provider.



**414-350-0110 Training**

- (1) The provider and all staff, with the exception of Assistant I's, who count in staff to child ratios must complete OCC approved training on recognizing and reporting child abuse and neglect and health and safety, prior to having unsupervised access to children and functioning in their position. Assistant I's must complete the training within the first 30 days of employment.
- (2) The provider and all staff, with the exception of Assistant I's, who count in staff to child ratios must complete OCC approved training on safe sleep prior to having unsupervised access to children. Assistant I's must complete the training within the first 30 days of employment.
- (3) All current staff must complete OCC approved safe sleep training by January 1, 2019.
- (4) All staff shall receive an orientation within the first 2 weeks of employment and before they can have unsupervised access to children. Staff must be familiar with the contents of the orientation, as described below, and shall include, but is not limited to:
  - (a) Individual responsibilities in the event:
    - (A) The home must be evacuated (e.g. fire);
    - (B) An emergency requiring staff and children to remain inside under unusual circumstances (e.g. power outage, environmental hazard); or
    - (C) A child or staff is injured or becomes ill.
  - (b) These requirements (OAR 414-350-0000 through 414-350-0415);
  - (c) The program policies, as required in OARs 414-350-0040, 414-350-0045 and 414-350-0050; and
  - (d) Procedures for reporting suspected child abuse or neglect; and
  - (e) An OCC approved video on staff roles and responsibilities.
- (5) The provider and Assistant II staff, shall participate yearly in at least 16 clock hours of training related to child care, of which at least 8 clock hours shall be in child development or early childhood education. At least 2 hours must be in Understanding and Guiding Behavior(UGB).
- (6) During the first year of certification, the provider is required to complete a minimum of 4 hours in the core knowledge category of Program Management as part of their 16 hours of training or provide verification of equivalent training in ORO.
- (7) Training must have occurred during the 12 months preceding the renewal date.
- (8) All training must be verified by ORO and be at least one hour in duration.
- (9) Substitute providers and substitute Assistant II's who provide care in the home for 60 hours or more in a calendar year are required to complete 16 clock hours of training. At least 8 clock hours shall be in child development or early childhood education. At least 2 hours must be in Understanding and Guiding Behavior(UGB).
- (10) A staff person that has worked less than a year, will have training requirements prorated at 1.25 clock hour for each month worked in the current license period.
- (11) If the 16 hours of training are pro-rated, the requirement to have 8 hours of training in child development or early childhood education does not apply.
- (12) 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).

(13) OCC will accept repeat training one additional time if it is a Set 2 (intermediate) or Set 3 (advanced) training as described by the Oregon Registry; and it is not taken within the previous 2 years.

(14) When a reopen or address change application is submitted, OCC shall, prior to approving it, receive evidence that the provider and all staff have:

- (a) A current certification in first aid and pediatric CPR.
- (A) CPR training must have practical hands-on instruction;
- (B) CPR courses that involve an on-line component with hands-on instruction may be accepted; and
- (C) Strictly on-line CPR training is not acceptable.
- (b) A current food handler certification approved by the Oregon Health Authority or OCC;
- (c) Documentation that the provider has 16 hours of training related to the Oregon Registry core knowledge categories since the individual’s last active child care license was issued;
- (d) If the child care home was previously licensed for less than one year, the training requirements for the provider will be prorated at 1.5 hours of training for each month of the previous license period;
- (e) A minimum of 2 hours of training on recognizing and reporting child abuse and neglect based on Oregon law, completed within the previous 5 years;
- (f) Completed OCC approved health and safety training; and
- (g) Completed OCC approved safe sleep training. If the reopen is a result of an address change, the person must complete the OCC approved safe sleep training by January 1, 2019.

(15) Prior to caring for 3 or more children under 24 months of age, the following training requirements apply:

# of children under 24 months	Position	Training specific to Infant and toddler care
2 or less	NA	No requirements
3-4 under 24 months	Provider	30 hours
5 or more under 24 months	Provider	Extra 20 hours
	At least 1 caregiver other than the provider	30 hours

(16) At least one caregiver with the required training must be present at all times when 3 or more children under 24 months of age are in care.

(17) During the first year of certification or the first year of employment staff may count:

- (a) Most recent training in first aid and pediatric CPR;
- (b) Food handler certification, approved by the Oregon Health Authority or OCC; and
- (c) Recognizing and reporting child abuse and neglect training, as part of the 16 clock hours of training required in OAR 414-350-0110(3). These may not use these toward the 8 hours required in child development or early childhood education.

(18) After employment hire date, the orientation will be counted towards the required training hours at the first renewal period. A maximum of 2 hours of orientation will be counted.

(19) During subsequent years of certification and subsequent years of employment staff may count 5 hours of first aid and pediatric CPR training or food handler's training as part of the 16 clock hours of

training. Duplicate training on recognizing and reporting child abuse and neglect can be accepted again after 3 years and every 3 years thereafter towards the 16 clock hours of staff training required for licensing, but will not be accepted as part of the required child development training hours.

## CHILDREN IN CARE

### 414-350-0115 Caregiver to child Ratios

- (1) The maximum number of children allowed in a certified family child care home at any one time is 16.
- (2) A provider may not exceed the maximum number of children specified on their license.
- (3) The number of caregivers shall be determined by the number and ages of the children in attendance, per Table A. These ratios must be met at all times.

Table A

		Total Number of Children Present											
		16	15	14	13	12	11	10	9	8	7	6	5
Number of Children Present Under the Age of Two	0	2	2	2	2	2	2	1	1	1	1	1	1
	1	2	2	2	2	2	2	2	2	1	1	1	1
	2	2	2	2	2	2	2	2	2	2	1	1	1
	3	2	2	2	2	2	2	2	2	2	2	1	1
	4	3	3	2	2	2	2	2	2	2	2	2	2
	5	3	3	3	3	2	2	2	2	2	2	2	2
	6	3	3	3	3	3	2	2	2	2	2	2	
	7	3	3	3	3	3	3	2	2	2	2		
	8	3	3	3	3	3	3	3	3	2			
	9	3	3	3	3	3	3	3	3				
	10	4	3	3	3	3	3	3					
	11	4	4	3	3	3	3						
	12	4	4	4	4	3							
	13	4	4	4	4								
	14	4	4	4									
	15	4	4										
	16	4											

Number of Caregivers Required

- (4) If all children in care are school-age, the caregiver to child ratio is 1:15.
- (5) If more than 8 children are under 24 months, the groups must be separated with a maximum of 8 children under 24 months in any one group.
- (6) Even though the staff to child ratios are specified above in Table A, a certified 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.
  - (a) The provider may care for a maximum of 6 children preschool age or younger, including the provider's children;

(b) The provider may care for a maximum of 2 children under 24 months of age, including the provider's children.

(7) All children in the home, including the provider's or other caregivers' own children, shall be counted in determining the caregiver to child ratio.

(8) All children visiting the home on a regular basis will count in capacity. Children visiting with a parent do not count as enrolled as long as the parent remains with and is responsible for non-enrolled children.

#### **414-350-0120 Supervision**

(1) Children shall at all times have the full attention of and be supervised by the required number of caregivers. At all times caregivers must:

(a) Be within sight or sound of all children;

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

(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 children between 36 months and kindergarten-age playing outside, unless the outside play area is fully fenced and hazard free.

(2) Children out of direct visual contact shall be monitored regularly and frequently and must be in approved activity areas.

(3) Children may not be on a floor level of the home unless the provider, substitute provider or Assistant II is on the same floor level.

(4) When bathroom facilities are not on the same floor level, a written plan for adequate supervision of both bathroom and child care areas shall be developed and implemented.

(5) There must be sufficient light in any room where children are napping or resting so that caregivers can clearly see each child.

(6) Background noise must not be so loud as to prevent sound supervision.

#### **414-350-0130 Guidance and Discipline**

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

(2) All staff, volunteers and parents shall be familiar with the guidance and discipline policy.

(3) The guidance and discipline policy shall:

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

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

(c) Be given to parents.

(4) Only a caregiver 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 or threatening to use inappropriate forms of restraints, including, but not limited to, tying or binding;
  - (c) Using mental or emotional punishment, including, but not limited to, name calling, ridicule or threats;
  - (d) Unauthorized use of prescription or non-prescription drugs or chemicals for discipline or to control behavior;
  - (e) Confining or threatening to confine a child in an enclosed area (e.g. a locked or closed room, closet or box);
  - (f) Withdrawal or the threat of withdrawal of food, rest or bathroom opportunities;
  - (g) Yelling harshly or using profane or abusive language;
  - (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 provider permission to do so.

## PHYSICAL SETTING

### 414-350-0140 Indoor Space

- (1) Rooms occupied by children must have a combination of natural and artificial lighting.
- (2) The indoor area used for child care shall meet the following requirements:
  - (a) If the owner is certified to care for 12 children or fewer, there shall be a minimum of 35 square feet of indoor activity area, as defined by OAR 414-350-0010(1), per child. If the owner is certified to care for more than 12 children, there shall be a minimum of 35 square feet of indoor activity area per child for 12 or fewer children, and 50 square feet of indoor activity area available per child for each of the additional 4 children. This space, considered in determining capacity of the home, shall be available for use by children at all times. The following shall not be counted as part of the 35 square feet per child requirement: heating units, storage areas; large permanent equipment; lofts; any space not useable by children; and
  - (b) There shall be a designated area for children under 24 months of age that is developmentally appropriate and safe.
- (3) All floor levels used by children for play and napping shall have 2 usable exits to ground level.
- (4) All rooms used by children for play and napping shall have 2 usable exits.
- (5) If a basement is used for child care purposes, the requirement for 2 useable exits may be met by two of the following:
  - (a) A sliding glass door to the outside;
  - (b) A swinging door to the outside;
  - (c) A window that meets the definition of a useable exit; or
  - (b) An internal stairway to ground level that has unobstructed and direct access to the outdoors.
- (6) 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.
- (7) 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.
- (8) Care shall not be provided for infants and toddlers on the second floor or above.
- (9) Night care shall not be provided to any age children on the second floor or above;
- (10) Care, other than night care, may be provided for preschool and school-age children on the second floor or above, if:
  - (a) There are 2 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.
- (11) Children may be allowed on the second floor to use the bathroom if the only bathroom is on the second floor, or if the bathroom is needed to comply with licensed capacity.
- (12) The room temperature must be at least 68 degrees Fahrenheit during the hours the child care business is conducted.
- (13) When the inside temperature exceeds 85 degrees Fahrenheit, the provider must take steps to minimize the high temperature impact on children by:
  - (a) Increased ventilation by natural or mechanical means;
  - (b) Ensuring children remain well-hydrated; and
  - (c) Adjusting activities to reduce the possibility of children over-heating.
- (14) After painting or laying carpet, the certified home must be aired out completely for at least 24 hours with good ventilation before children are allowed to return.
- (15) A sink used for diapering or bathing activities shall not be used for any part of food or drink preparation or dish washing.

#### **414-350-0145 Outdoor Space**

- (1) There shall be an outdoor activity area that children can reach safely. If the outdoor activity area is not under the control of the provider during the hours of operation of the home, written approval to use the area by OCC is required.
- (2) A home shall have an outdoor play area of no less than 75 square feet for each child using the area at one time.
- (3) All outdoor equipment of 18 inches or higher shall be installed over protective surfacing of an acceptable depth according to the standards of the Consumer Product Safety Commission (CPSC).
- (4) Acceptable materials to be used for surfacing shall include: wood mulch, double shredded bark mulch, shredded or recycled rubber, uniform wood chips, fine sand, coarse sand, pea gravel or rubber mats manufactured for such use.
- (5) Equipment with a height of 18 inches or higher shall have:
  - (a) A minimum depth of 6 inches if the play equipment is more than 18 inches but less than 4 feet in height; or
  - (b) A minimum depth of 9 inches if the play equipment is more than 4 feet in height.
- (6) Play equipment shall have a minimum of 6 feet of clearance from walkways, buildings and other structures.
- (7) Play equipment used by children under 24 months shall have a minimum 3 feet of clearance from walkways, buildings and other structures.

- (8) Swings shall have a front and rear clearance and protective surfacing that extends a minimum distance of twice the height of the top of the swing set to the protective surface.
- (9) Multi-axis swings (e.g. tire swings) shall have an all-around clearance and protective surfacing that extends a minimum distance of the height of the top of the swing set to the bottom of the swing's seat plus 6 feet.
- (10) The outside activity area shall:
- (a) Be well drained;
  - (b) Kept free of litter, solid waste and refuse, ditches, or other conditions presenting a potential hazard; and
  - (c) Equipped to provide age-appropriate activities for gross motor development.
- (11) The outdoor activity area of the home designated for use by child care children shall be enclosed by a barrier (fence, wall, or building) at least 4 feet high. There shall be no more than 3 1/2 inches of open spacing in fences. Fences must meet applicable local codes.
- (12) The provider shall be aware of and protect children from any toxic or other harmful plants, shrubs, or trees.
- (13) Trampolines may be used under the following conditions:
- (a) The trampoline must be maintained in good condition;
  - (b) A pad must be present that covers the springs;
  - (c) Direct adult supervision at all times while children are on the trampoline; and
  - (d) Only one child may be on the trampoline at a time.
- (14) Hot tubs, spas and pools must be inaccessible to children by one of the following methods:
- (a) A locking, rigid cover;
  - (b) A minimum 4 foot high fence and all gates and doors that allow access shall be locked;
  - (c) Four foot non-climbable sides with pool ladder removed or inaccessible; or
  - (d) In a locked room.

#### **414-350-0150 Fire Protection**

- (1) There shall be at least one 2-A-10 BC-rated fire extinguisher on each floor of the home used by children. Fire extinguishers shall be easily accessible, kept out of the reach of children, and located along the path of emergency exiting.
- (2) There shall be a working smoke detector on each floor level and in any area where children sleep.
- (3) Obstructions, including furniture, supplies, or any other items shall not be placed in a manner that blocks usable exits.
- (4) Candles or other open flame decorative devices are prohibited, except for the brief use of celebratory candles.
- (5) Matches and lighters shall be kept under child safety lock.
- (6) The provider shall have written evidence that any wood stove in the home has been inspected and approved for use by a local building official.
- (7) All wood stove and fireplace flues shall be cleaned as needed or, at a minimum, once a year. A written record of cleaning shall be maintained on site.
- (8) Flammable and combustible liquids, such as paint thinner and gasoline, shall be stored in the original container or a safety container.

(9) The provider must complete a fire life safety self-evaluation at initial licensing and subsequent renewals. OCC staff and the provider will review the self-evaluation. If fire safety concerns are identified, OCC staff may consult with the fire marshal and after consultation, may request that the fire marshal complete a fire life safety inspection.

#### **414-350-0155 Safety and Hazards**

- (1) The building, grounds, toys, equipment and furniture used by children must be maintained in a hazard-free condition.
- (2) Both the exterior and interior of the home must be maintained in good repair.
- (3) If there is a structural or maintenance problem that could present a health or safety hazard to children, OCC may request that the owner have the home inspected by the appropriate authority and the provider shall comply with the request. The owner is responsible for payment of any applicable fees for inspections.
- (4) Clear glass panels in doors shall be clearly marked at child level.
- (5) Any window above ground story that is potentially accessible to child care children, shall have a lock to prevent opening more than 4 inches when children under 5 years of age are present.
- (6) 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.
- (7) Extension cords shall not be used as permanent wiring. All appliance cords will be in good condition and multiple connectors for cords will not be used. A grounded power strip outlet with built-in over-current protection may be used.
- (8) Broken toys, furniture and equipment must be removed from areas accessible to children.
- (9) Children shall be protected from fire and safety hazards. Providers must have the following protections in place:
  - (a) A stable 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;
  - (b) A secure barrier shall be placed at the top or bottom (or both, if needed) of all stairways accessible to infants and toddlers;
  - (c) Hot water heaters shall be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location; and
  - (d) Unused appliances, such as old refrigerators or freezers, that present a risk for entrapment, shall be secured so as to prevent entry by children.
- (10) Floors shall be free of splinters, large unsealed cracks, sliding rugs, and other hazards.
- (11) Devices which generate heat and are hot from recent use shall be inaccessible to children.
- (12) Items of potential danger (e.g., sharp knives, medications, cleaning supplies and equipment, paints, poisonous and toxic materials, plastic bags, aerosols, detergents, tools, sharp scissors) shall be:
  - (a) Kept in the original container or labeled;
  - (b) Stored under child-safety lock; and
  - (c) Kept away from food service supplies.
- (13) Children shall not be in the kitchen or food preparation areas when foods are being prepared unless they are protected from such hazards as hot foods, sharp utensils, etc.
- (14) All alcohol, marijuana, marijuana derivatives and associated paraphernalia must be stored under child safety lock.



- (15) Painted surfaces must be in good condition, both inside and outside, to avoid exposing children to lead paint.
- (16) Firearms and ammunition must be kept under lock with ammunition stored and locked separately. Firearms must be kept unloaded.
- (17) Pellet, paintball or BB guns must be kept unloaded and kept under child proof lock. Arrows must be kept under child proof lock.
- (18) The provider must take precautions to protect children from vehicular traffic. The provider shall:
  - (a) Require drop off and pick up only at the curb or at an off-street location protected from traffic; and
  - (b) Assure that any adult who supervises drop-off and loading can see and assure that children are clear of the perimeter of all vehicles before any vehicle moves.
- (19) Other hazards observed in the certification process must be corrected.

#### **414-350-0160 Sanitation**

- (1) The child care home must be a healthy environment for children.
- (2) The building, toys, equipment, and furniture shall be maintained in a clean, sanitary condition.
- (3) Bathtubs, showers, sinks, bathinettes, or other receptacles used for bathing children shall be cleaned and sanitized after each use and shall not be used to obtain drinking water for preparing food, infant formula, drinking or cooking.
- (4) Kitchen and bathrooms shall be cleaned regularly and when soiled.
- (5) The area for sick children shall be thoroughly cleaned after use and all bedding laundered after each use.
- (6) Floors, walls, ceilings, and fixtures of all rooms shall be kept clean and in good repair.
- (7) All food storage areas shall be kept clean and free of food particles, dust, dirt and other materials.
- (8) Cribs, mats and cots shall be cleaned and sanitized at least once a week and upon change of occupant.
- (9) Bedding shall be cleaned when soiled, with change of occupant, or at least once a week.
- (10) Water tables and toys used in water tables shall be emptied and sanitized daily.
- (11) Pre-mixed sanitizers and disinfectants that are EPA registered and meet Oregon Health Authority criteria may be used in all areas of the home per manufacturer instructions.
- (12) Cloths, both single use and multiple use, used for wiping food spills on utensils and food-contact surfaces shall be kept clean and used for no other purpose. Cloths that are reused shall be stored in a sanitizing solution between uses.
- (13) The home and grounds shall be kept clean and free of litter and rubbish.
- (14) Diaper changing surfaces must not be used for any purpose other than diapering. If the diaper changing surface is not disposed of after each use, the diaper changing surface must be non-absorbent and the surface must be washed, rinsed and disinfected after each use. The diaper changing surface must comply with the requirements for the diaper changing area specified in OAR 414-350-0170(6)(b).
- (15) All toys, equipment and furniture used by children must be cleaned, rinsed and sanitized regularly and whenever soiled.
- (16) The home shall be in such condition as to prevent the infestation of rodents and insects.

(17) Doors and windows which are opened for ventilation shall be equipped with fine-meshed screens.

(18) Automatic insecticide dispensers, vaporizers, or fumigants shall not be used.

#### **414-350-0165 Waste Disposal**

(1) All septic systems must meet the requirements of the Department of Environmental Quality.

(2) All garbage, solid waste, and refuse shall be disposed of at least once a week.

(3) All garbage shall be kept in watertight, non-absorbent, and easily washable containers with close-fitting lids.

(4) Diaper disposal containers shall be approved by the environmental health specialist.

(5) All garbage storage areas and garbage containers shall be kept clean.

(6) All garbage storage shall be inaccessible to children.

(7) Bio-contaminants including but not limited to bodily fluids and blood shall be disposed of in a manner that prevents exposure to children.

#### **414-350-0170 Toilet Facilities**

(1) There shall be at least one flush toilet and one hand washing sink with mixing faucets available to the children at all times.

(2) There must be a second flush toilet if:

(a) The facility is licensed to care for 16 children;

(b) There are more than 12 toddlers in care.

(3) Soap, paper towels dispensed in a sanitary manner, and mixing faucets with hot and cold running water shall be provided at each hand washing sink.

(4) Easily cleanable steps or blocks shall be provided so that children can use the toilets and sinks without adult assistance.

(5) If bathroom facilities are not on the same floor level as the activity areas, the provider must comply with OAR 414-350-0120(4).

(6) If infants and toddlers are in care there shall be:

(a) A bathtub, bathinette, plastic basin, or similar size shallow sink available for bathing children; and

(b) A diaper-changing area. The area shall be located so that handwashing can occur immediately after diapering without contact with other surfaces or other children.

(7) If the owner is certified to care for more than 12 children and more than 8 infants and toddlers are regularly in care, there must be a second diaper-changing area available.

(8) The use of potty chairs must be approved by the environmental health specialist.

(9) The diaper-changing table or area shall comply with the requirements specified in OAR 414-350-0160(14).

#### **414-350-0175 Beds**

(1) 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.

- (2) Family beds may be used.
- (3) At the parent(s) request, siblings may share the same bed.
- (4) The upper level of bunk beds shall not be used for children under 10 years of age.
- (5) The upper level of bunk beds may be used for children 10 years or older if a bed rail and safety ladder are in place.

#### **414-350-0180 Infant and Toddler Furniture and Equipment**

*[Note: For crib information, refer to OAR 414-350-0240.]*

- (1) If high chairs are used, they shall have:
  - (a) A broad base to prevent tipping;
  - (b) A latch to keep a child from raising the tray;
  - (c) Straps to prevent a child from sliding out; and
  - (d) A crotch bar or guard to prevent a child from slipping down and becoming entrapped between the tray and seat.
- (2) If clip-on table chairs are used, they shall have straps to prevent a child from sliding out.
- (3) High chairs must meet current US Consumer Product Safety Commission standards.
- (4) The use of infant walkers is prohibited.
- (5) Restrictive infant equipment (e.g. bouncers, swings, infant seats, high chairs) shall only be used for no more than 20 minutes in any 2 hour period.

## **HEALTH**

#### **414-350-0185 Water Supply and Lead Testing**

- (1) The home's water supply shall be continuous in quantity.
- (2) Facilities that are not on municipal water systems must meet all requirements under ORS 448.131 and OAR Chapter 333 Division 061.
- (3) There shall be safe drinking water available to children that is supplied in a sanitary manner. Drinking water shall not be obtained from bathroom sinks or diaper changing sinks.
- (4) The facility shall sample the water from all drinking water faucets and fixtures identified in OAR 414-350-0020(7) and have the water tested for lead. The facility shall test in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and shall use an Oregon Health Authority Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water testing laboratory.
- (5) Lead testing as required by 414-350-0020(7) shall be conducted within the past 6 years of the effective date of this section and no later than 6 months after the effective date of this section and at least once every 6 years.
- (6) The test results shall be kept on the facility premises at all times and a copy provided to the Office of Child Care within ten (10) days of receiving the results.
- (7) If the test results are at or above 15 parts per billion (ppb), the facility shall:

- (a) Immediately prevent children from using or consuming water from faucets or fixtures identified in OAR 414-350-0020(7) that have test results at or above 15 ppb by supplying water from drinking water faucets or fixtures that have test results below 15 ppb or bottled or packaged water to meet the requirements of this section;
- (b) Within 60 days of receiving the test results, the provider shall submit a corrective action plan for approval by the OCC for any faucet or fixture that has test results at or above 15 ppb, following the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006; and
- (c) Implement corrective actions or remedies identified in the approved plan within 30 days of OCC approval.
- (8) The facility must conduct follow-up sampling and results must demonstrate lead below 15 ppb before the facility may resume use of faucets or fixtures identified OAR 414-350-0020(7) that previously tested at or above 15 ppb.
- (9) With approval by OCC, the facility may resume use of faucets or fixtures that previously tested at or above 15 ppb once corrective actions or remedies have been implemented.
- (10) Irrespective of results obtained in accordance with 414-350-0020(10)(a) and 414-350-0020(10)(b), actions to protect children from exposure to lead contamination in drinking water should be taken at all times, including:
  - (a) Flushing pipes before using to prepare food, infant formula, drinking or cooking by running the tap each time before use until the water is noticeably cooler (approximately 30 seconds to 2 minutes); and
  - (b) Using only cold water from drinking water faucets and fixtures identified in OAR 414-350-0020(7) that have lead test results below 15 ppb for preparing food, infant formula, drinking or cooking.
- (11) Boiling water does not remove lead from water and is not an acceptable action to protect children from exposure to lead contamination in drinking water.
- (12) Existing programs must submit testing results by September 30, 2018.
- (13) If a provider replaces any faucets or fixtures identified pursuant to OAR 414-350-0020(7) at any time, the provider must notify OCC and sample the water from these faucets and fixtures pursuant to requirements of OAR 414-350-0020(10)(b) and provide the test results to the OCC within 10 days of receiving the results. The provider may not allow access to the replaced faucet or fixture until the OCC approves access.

#### **414-350-0190 Illness or Injury**

- (1) Except for mild cold symptoms that do not impair a child's daily functioning, sick children shall not be in care.
- (2) A provider shall not admit, or retain in care, except with the written approval of the local health officer, 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 rules; or
  - (b) Has one of the following symptoms, or combination of symptoms, of illness:
    - (A) Fever over 101 degrees Fahrenheit by ear thermometer or forehead scanner;
    - (B) Diarrhea (more than one abnormally loose, runny, watery or bloody stool);
    - (C) Vomiting;

- (D) Nausea;
  - (E) Severe cough;
  - (F) Unusual yellow color to skin or eyes;
  - (G) Skin or eye lesions or rashes that are severe, weeping, or pus-filled;
  - (H) Stiff neck and headache with one or more of the symptoms listed above;
  - (I) Difficult breathing or abnormal wheezing;
  - (J) Complaints of severe pain.
- (3) A child who, after being admitted into child care, shows signs of illness, as defined in subsection (2) of this rule, shall be separated from the other children and the parent(s) notified and asked to remove the child from the home as soon as possible.
- (4) If a child has mild cold symptoms that do not impair their normal functioning, the child may remain in the home and the parent(s) notified when they pick up the child.
- (5) A specific place for separating a child who becomes ill shall be provided. The area shall be:
- (a) Located where the child can be seen and heard by a caregiver; and
  - (b) Equipped with a cot, mat, or bed for each sick child.
- (6) If a child with allergies is enrolled and requires a specific care plan, such a plan shall be developed in writing between the provider and parents, and, if necessary, outside specialists. All caregivers who come in contact with that child shall be fully aware of the plan.
- (7) An outbreak of a child care restrictable disease, as defined in Oregon Health Authority rule, or food poisoning shall be reported immediately to the local health department and posted for the parents of all children who attend the facility.
- (8) All caregivers shall take appropriate precautions to prevent shaken baby syndrome and abusive head trauma.
- (9) First aid supplies and a chart or handbook of first aid instructions shall be maintained in one identified place but kept out of reach of children:
- (a) The first aid supplies shall include: adhesive bandages, 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 separate first aid kit, a copy of each child's emergency medical information including a medical release form, information on any chronic health problems including allergies a child may have and any personal emergency medications shall be taken any time child care children are away from the child care premises.
- (10) Injuries that require first aid shall be reported in writing to the child's parent(s) on the day of occurrence:
- (a) Any impact to a child's head shall be reported to the child's parent(s) immediately;
  - (b) A written report of the injury shall be maintained on file; and
  - (c) The report shall include the date, child's full name, nature of the injury, witnesses, action taken, and the signatures of the provider and parent(s).
- (11) Parents must be notified if their child is exposed to an outbreak of a communicable disease, excluding colds.

**414-350-0200 Medications**

- (1) No prescription medication or non-prescription medication, including, but not limited to, pain relievers, cough syrup, diapering and first aid ointments or nose drops, may be given to a child except under the following conditions:
  - (a) A signed, dated, written authorization from the parent(s) is on file;
  - (b) Prescription medication is in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, date and physician's name;
  - (c) Non-prescription medication is in the original container, labeled with the child's name, the dosage, and directions for administering;
  - (d) Other than diapering ointment, a written record of all medications administered listing, as a minimum, the name of the child, type of medication, the signature of the person administering the medication, date, time, and dosage given, shall be kept;
  - (e) All medications shall be secured in a tightly-covered container with a child-safety lock or latch and stored so that they are not accessible to children; and
  - (f) Medications requiring refrigeration shall be kept in the refrigerator in a separate, tightly-covered container, with a child-safety lock or latch, clearly marked "medication".
- (2) Parent(s) shall be informed daily of medication administered to their child.

**414-350-0205 Sunscreen**

- (1) Child care children shall be protected from excessive exposure to the sun by using sunscreen or other methods.
- (2) Sunscreen may be used for child care children under the following conditions:
  - (a) Providers must obtain written parental authorization prior to using sunscreen;
  - (b) 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;
  - (c) If using sunscreen, providers must reapply sunscreen every 2 hours while the child care children are exposed to the sun;
  - (d) Providers shall not use aerosol sunscreens on child care children; and
  - (e) Sunscreen shall not be used on child care children younger than 6 months.

**414-350-0210 Animals**

- (1) Any animal at the family child care home shall be in good health and show no signs of carrying any diseases.
- (2) Children may not have direct contact with any potentially aggressive animals.
- (3) Any animal at the family child care home accessible to children shall be a friendly companion.
- (4) Caregivers must be physically present when children are interacting with animals.
- (5) Proof of current rabies vaccinations is required for dogs.
- (6) Dogs and cats shall be kept free of fleas, ticks and worms.
- (7) Exotic animals, including, but not limited to: reptiles, amphibians and monkeys, as well as hook-beaked birds, chickens, rodents 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.

(8) Parents must be made aware of the presence of any animals on the premises.

(9) Any animals other than cats and dogs shall be kept in a cage or tank. Cages shall have removable bottoms and shall be kept clean and sanitary.

(10) Litter boxes shall not be located in areas accessible to children or areas used for food storage or preparation.

(11) Cleaning cages shall not be done in areas used for food preparation, storage or serving.

(12) All animals shall be kept away from food preparation surfaces.

#### **414-350-0215 Food Selection, Storage and Preparation**

(1) All food and drink served by the provider shall be selected, stored, prepared, and served in a sanitary manner.

(2) All food products served by the provider shall be obtained from commercial food suppliers, except that:

(a) Fresh or frozen fruits and vegetables may be served;

(b) Canned and frozen jams and jellies processed in the certified family child care home may be served; and

(c) Home-made foods brought by a child can only be consumed by that child.

(3) Only pasteurized 100 percent fruit or vegetable juice shall be served.

(4) Only Grade A pasteurized and fortified milk shall be served to children.

(5) Powdered milk may be used only in cooking.

(6) The following foods may not be served or offered in a ready-to-eat form:

(a) Raw animal foods such as raw fish, raw meat or raw eggs;

(b) Partially cooked animal food such as lightly cooked fish, rare meat, soft cooked eggs and meringue; and

(c) Raw seed sprouts.

(7) A certified family child care home shall have at least one refrigerator, in good operating condition, that is adequate to store all potentially hazardous foods.

(8) A thermometer, approved by an environmental health specialist, in working condition, shall be affixed to the door, or the front edge of the top shelf, of each refrigerator.

(9) Refrigerators equipped with a temperature gauge visible from the exterior are acceptable.

(10) All potentially hazardous food shall, except when being prepared, be kept at 41 degrees Fahrenheit or below, or 135 degrees Fahrenheit or above.

(11) Foods requiring refrigeration after preparation shall be covered and rapidly cooled to a temperature of 41 degrees Fahrenheit or below.

(12) Refrigerated storage space at 41 degrees Fahrenheit or less shall be used to store lunches which contain potentially hazardous food that children bring from home.

(13) Foods that have been cooked, and then refrigerated, shall be reheated rapidly to at least 165 degrees Fahrenheit before being served.

(14) Foods must be prepared and served according to the minimum standards identified in food handler certification.

(15) Extra care shall be taken to ensure that, after pouring milk, any unused portion left in the container is returned to the refrigerator immediately.

(16) Leftover food prepared but not served by the provider shall be covered, dated, labeled, and either refrigerated promptly and used within 36 hours or frozen immediately for later use.

#### **414-350-0220 Cleaning, Sanitizing and Storage of Food Service Equipment and Utensils**

(1) Tableware, kitchenware (pots, pans and equipment), and food-contact surfaces of equipment shall be washed, rinsed, sanitized, and air-dried after each use.

(2) The cleaning and sanitizing of tableware and kitchenware shall be accomplished by using:

(a) A dishwasher that is operated according to the manufacturer's instructions; or

(b) A 3-step manual process as follows:

(A) Washing in the first compartment;

(B) Rinsing in a second compartment; and

(C) Immersion in a third compartment or large dishpan or tub for at least 2 minutes in a sanitizing solution.

(3) All kitchen counters, shelves, tables, refrigeration equipment, sinks, drain boards, cutting boards, and other equipment or utensils used for food preparation shall be kept clean and in good repair.

#### **414-350-0225 Meals and Snacks**

(1) The provider must ensure that all meals and snacks follow the USDA Child and Adult Care Food Program guidelines.

(2) The provider shall provide or ensure the availability of adequate and nutritious meals and snacks appropriate for the ages and needs of the children served. USDA guidelines will be used to determine if meals and snacks are adequate and nutritious. Foods of minimal nutritional value (e.g. gelatin, popcorn, desserts, potato chips) shall only be served occasionally and not replace nutritious foods.

(3) Meals and snacks provided to children shall meet the following requirements:

(a) Food services hours may be flexible but there shall be no more than 3-1/2 hours between meals and snacks in any certified family providing care for the same children 3 1/2 or more consecutive hours;

(b) In a certified family open morning through afternoon, lunch and morning and afternoon snacks shall be served to the children in care. If breakfast is served in the certified family to all children, a midmorning snack is not required, as long as there is no more than 3 1/2 hours between meals;

(c) School-age children arriving after school shall be served a snack; and

(d) When the planned attendance is prior to 7 a.m. or after 6:30 p.m., a child shall be offered a complete meal if it is not provided by the parent(s).

(4) Meals and snacks for children shall be:

(a) Prepared by the provider;

(b) Prepared from a source approved by the Oregon Health Authority;

(c) Prepared by the parent of the child; or

(d) When the parent of a child provides food for the child's meal:

(A) Each child's food shall be monitored daily by a caregiver to ensure that the food meets nutritional requirements as defined in section (1) of this rule; and



(B) The provider shall have sufficient food available to supplement any meal that does not meet nutritional requirements as defined in section (1) of this rule.

(5) To serve family style meals, where food is brought to the table in larger quantities and served to the plates from the table, a certified home must have a written plan, approved by the environmental health specialist and OCC, which includes at least the following elements:

(a) Separate serving portions for each table, if more than one table is used;

(b) Provision for serving mildly ill children so as to prevent the spread of the illness; and

(c) The discarding of any food brought to the table and not eaten.

(6) A certified family child care home serving children under 12 months of age shall comply with the following requirements for those children:

(a) Each child shall be fed on their own feeding schedule;

(b) When formula is furnished by the provider, it shall be either the commercially prepared, iron-enriched, ready-to-feed type or shall be prepared from powder or concentrate and diluted according to manufacturers' instructions;

(c) Formula, human milk, and food provided by the parent shall be clearly marked with the child's name and refrigerated if required;

(d) Whole milk, skim milk, 1 percent, and 2 percent milk shall not be served unless requested in writing by the child's parent(s) and with a medical provider's written permission;

(e) Open containers of food, from which a portion has been removed, must immediately be refrigerated at 41 degrees Fahrenheit or less;

(f) Bottles, bottle caps, nipples and other equipment used for bottle feeding must be cleaned and sanitized by washing in a dishwasher or by washing, rinsing and boiling them for one minute or must come from home labeled by the parent or guardian with the child's name. Nipples must be stored in a closed container after sanitizing;

(g) Solid foods fed to infants shall be selected from the USDA Infant Food Chart;

(h) Solid foods shall not be fed to infants less than 4 months of age;

(i) Commercially packaged baby food shall be served from a dish and not directly from the factory-sealed container;

(j) Leftovers in the serving container shall be discarded;

(k) Solid foods, with the exception of finger foods, shall be fed with a spoon; and

(l) Honey or foods containing honey shall not be served.

(7) No liquids, other than milk, formula, water, and 100 percent fruit juice, shall be served.

(8) Water shall be freely available to children.

(9) Nutrient concentrates and supplements (protein powders, liquid proteins, vitamins, minerals, and other nonfood substances) shall not be served to a child without a written statement of parental consent and written instructions from a medical practitioner. Special diets, not including vegetarian diets, shall not be served to a child without written instructions from a registered dietician or medical practitioner and written parental consent.

(10) Children who cannot feed themselves shall be held or, if able to sit alone, fed in an upright position.

(a) Infants up to 6 months of age shall be held or sitting up in a caregiver's lap for bottle feeding;

(b) Bottles shall never be propped. The child or a caregiver shall hold the bottle; and

(c) Infants no longer being held for feeding shall be fed in a manner that provides safety and comfort.

(11) Children of any age shall not be laid down with a bottle.

**414-350-0230 Hand Washing**

- (1) All caregivers and children must wash their hands with soap and warm running water:
  - (a) Before handling food;
  - (b) Before assisting with feeding;
  - (c) Before and after eating;
  - (d) before and after administering medications;
  - (e) After diapering;
  - (f) After using the toilet;
  - (g) After assisting someone with toileting;
  - (h) After nose wiping;
  - (i) After playing outside; and
  - (j) After touching animals, other than dogs and cats, and after handling pet toys.
- (2) 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 by children.
- (3) When hand washing is not possible, e.g., on field trips or the neighborhood park, moist towelettes shall be used.

**PROGRAM AND CARE OF CHILDREN****414-350-0235 Schedule and Activity Plan for All Children**

- (1) The provider and any caregivers must give the children's needs first priority, ensuring they get appropriate care and attention.
- (2) Immediate attention shall be given to the emotional and physical needs of the children.
- (3) There shall be activities for children according to their ages, interests, and abilities. If the provider is certified to care for more than 12 children the provider shall have a written program of activities for each age group.
- (4) A daily schedule covering all hours of operation, shall be in writing, posted and provide:
  - (a) Regularity of such activities as eating, napping, and toileting with flexibility to respond to the needs of individual children;
  - (b) Individual and group activities;
  - (c) Periods of outdoor play each day when weather permits;
  - (d) Opportunities for a free choice of activities by children;
  - (e) Daily indoor and outdoor activities in which children use both large and small muscles; and
  - (f) Intentional planning for electronic media, if used as part of the program.
- (5) The provider and other caregivers shall use the written schedule of the general routine as a guide, allowing flexibility to respond to the needs of individual children and groups of children and to appropriate variations in daily activities.
- (6) Children shall have a balance of active and quiet play, both indoors and outdoors.
- (7) Child care children shall be limited to no more than two and a half hours per week of screen time. Screen time is defined as time spent using electronic devices, including, but not limited to computers, television, tablets, phones and game consoles.

- (a) Usage times may be extended for special events, projects and homework; and
- (b) All media exposure must be developmentally and age appropriate.

#### **414-350-0240 Infant and Toddler Activity Plan and Safe Sleep**

(1) The following safe sleep practices must be followed:

- (a) Each infant shall sleep in a crib, portable crib, bassinet or playpen with a clean, non-absorbent mattress. All cribs, portable cribs, bassinets and playpens must comply with current Consumer Product Safety Commission (CPSC) standards;
  - (b) Bassinets may only be used until the infant is able to roll over on their own;
  - (c) Each mattress shall:
    - (A) Fit snugly; and
    - (B) Be covered by a tightly fitting sheet;
  - (d) A clean sheet shall be provided for each child;
  - (e) Infants must be placed on their backs on a flat surface for sleeping;
  - (f) If an infant falls asleep in a place other than their crib, portable crib, bassinet or playpen, the provider must immediately move the infant to an appropriate sleep surface;
  - (g) No child shall be routinely left in a crib, portable crib, bassinet or playpen except for sleep or rest;
  - (h) There shall be no items in the crib with the infant, except a pacifier (e.g. bottles, toys, pillows, stuffed animals, blankets, bumpers);
  - (i) Swaddling or other clothing or covering that restricts the child's movement is prohibited; and
  - (j) Car seats are to be used for transportation only. Children who are asleep in a car seat must be removed upon arrival to the home and placed in an appropriate sleep surface.
- (2) Each infant and toddler shall be:
- (a) Allowed to form and follow his or her own pattern of sleeping and waking periods; and
  - (b) Given opportunities during each day to move freely by creeping and crawling in a safe, clean, open, warm, and uncluttered area.
- (3) Throughout the day, each infant and toddler shall receive physical contact and individual attention (e.g., being held, rocked, talked to, sung to, and taken on walks inside and outside the home).
- (4) Routines relating to activities such as bedtime, feeding, diapering, and toileting shall be used as opportunities for language development, building the child's self-esteem, and other learning experiences.
- (5) Children shall be encouraged to play with a variety of safe toys and objects.
- (6) Children shall be given appropriate opportunities to use the 5 senses through sensory play.
- (7) Caregivers shall encourage the development of self-help skills (dressing, toileting, washing, eating) as children are ready.
- (8) In addition, toddlers shall be given opportunities to participate in:
- (a) A variety of activities encouraging creative expression through the arts; and
  - (b) Running, climbing, and other vigorous physical activities.

#### **414-350-0245 Preschool Activity Plan**

Preschool-age children shall have opportunities, on a daily basis, to choose from a variety of activities and experiences, including:

- (1) Creative expression through the arts;
- (2) Dramatic play;
- (3) Gross (large) motor development;
- (4) Fine (small) motor development;
- (5) Music and movement;
- (6) Opportunities to listen and speak;
- (7) Concept development;
- (8) Appropriate sensory play; and
- (9) A supervised nap or rest period. Children who do not sleep after 20-45 minutes of quiet time must be provided with an alternative quiet activity. The activity may be in the same room where children are sleeping if it is not distracting to sleeping children.

#### **414-350-0250 School Age Activity Plan**

School-age children shall have opportunities to choose from a variety of activities, including:

- (1) Individual or group projects and activities, including homework; and
- (2) Rest or relaxation.

#### **414-350-0255 Equipment and Materials**

- (1) The certified family child care home shall have indoor and outdoor play equipment, materials, and furniture that are:
  - (a) Appropriate to the developmental needs and interests of children;
  - (b) Safe, clean, durable, well-constructed, in good condition and made from lead-free, non-toxic materials;
  - (c) Child-sized or appropriately adapted for infants, toddlers, and preschool age children's use; and
  - (d) Easily accessible to the children.
- (2) The quantity of play materials (i.e., toys, books and games) shall be sufficient to:
  - (a) Avoid excessive competition;
  - (b) Provide a variety of choices to each child;
  - (c) Provide a balance of active and quiet, and individual and group activities; and
  - (d) Provide the variety of activities required in OAR 414-350-0235(3)(4) and (5).
- (3) Infants shall have a variety of appropriate infant toys stimulating to the senses.

#### **414-350-0260 Transportation**

- (1) When transportation is provided by or arranged for by the certified family child care home, the following requirements must be met:
  - (a) Proof of appropriate insurance;
  - (b) Driver's shall:
    - (A) Be at least 18 years of age;
    - (B) Hold a current and valid driver's license as required by the Oregon Department of Motor Vehicles (DMV); and
    - (C) Shall operate the vehicle in a safe manner.

(2) The vehicle shall be:

- (a) In compliance with all applicable state and local motor vehicle laws; and
- (b) Maintained in a safe operating condition.

(3) If transportation is provided between the certified family child care home and the child's school or other destination, the provider shall have in writing an acknowledgment from the parent(s) that they are aware of the time of day their child is to be picked up and delivered by an authorized driver. If the pick-up schedule results in children being unsupervised at school or other location, the provider shall notify parents of this fact.

(4) When transporting children there shall be sufficient staff to meet the required staff to child ratios.

(5) When transporting children:

- (a) The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle;
  - (b) Children shall leave the vehicle on the same side of the street as the building they will enter;
  - (c) Drivers delivering children to their homes or other destinations shall not depart until the child has been received by an authorized person; and
  - (d) No child shall be left unattended inside or outside a vehicle.
- (6) The following vehicles may be used to transport child care children:
- (a) A vehicle manufactured to carry fewer than 10 passengers;
  - (b) A school bus or a multi-function school activity bus;
  - (c) A vehicle manufactured to carry 10 or more passengers that was manufactured in 2010 or after; or
  - (d) A vehicle manufactured to carry 10 or more passengers that was manufactured before 2010 with the following conditions:
    - (A) Travel speed may not exceed 50 mph; and
    - (B) The vehicle must have an annual safety inspection by a garage, dealership or auto repair shop. Proof of inspection must be on a form provided by the Early Learning Division or on a form provided by the inspector which contains the same information. All deficiencies must be corrected before the vehicle can be used for child care transportation.

## **SPECIAL PROGRAMS**

### **414-350-0375 Night Care**

(1) During the hours of night care, the provider shall meet all of the requirements for certified family child care homes contained in OAR 414-350-0000 through 414-350-0415, except for 414-350-0145 and 414-350-0235. In addition, the home shall comply with the following requirements, and the certification shall reflect that regulated night care is offered.

(2) Staffing:

- (a) During the hours of night care, the required staff to child ratios, as specified in OAR 414-350-0115 shall be maintained;
- (b) A caregiver must be present on the same floor level as the child care children who are sleeping;
- (c) A caregiver must be awake for the arrival and departure of each child in night care. A caregiver must be awake during night care hours if more than 6 children are in care.

(3) Notwithstanding OAR 414-350-0080(5), when night care is conducted, all persons on the premises, 18 years of age and older, shall be enrolled in the CBR.

(4) Activities:

(a) There shall be quiet activities, such as story-time, games, arts and crafts, and reading, for each child arriving before bedtime. These activities shall be appropriate to the child's age, interests and abilities;

(b) The provider shall have a written plan for night care which includes:

(A) Regular routines;

(B) Supervision of children;

(C) Evacuation procedures for awake and sleeping children;

(D) Sleeping arrangements; and

(E) Arrival and departure procedures.

(c) If 24-hour care is provided, the provider shall have a written plan for self-care, i.e., how their own needs will be met.

(5) Sleeping Arrangements:

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

(b) Space shall be available so that children may go to sleep at various times, based on their age and need for rest;

(c) All sleeping rooms used by children shall have 2 useable exits. A sliding or swinging door or window can be considered a useable exit if it meets the definition, as specified in OAR 414-350-0010(42);

(d) Each child who spends the majority of their sleeping hours per night in night care shall have a bed or another sleeping arrangement that provides adequate support to a child's body with a waterproof cover and of a size appropriate to the age of the child;

(e) The upper level of bunk beds shall not be used for children under 10 years of age;

(f) The upper level of bunk beds may be used for children 10 years or older if a bed rail and safety ladder are in place;

(g) Each child who does not spend the majority of their sleeping hours in night care shall have a crib, cot, or mat with bedding that complies with OAR 414-350-0175 and OAR 414-35-0240(1); and

(h) At the parent(s) request, siblings may share the same bed.

(6) Bathing:

(a) When bathing is provided, there shall be individual washcloths and towels for each child;

(b) Children spending the night must have the opportunity to brush their teeth with an individual toothbrush and toothpaste labeled with their name;

(c) Appropriate equipment in bathtubs and showers to prevent slipping;

(d) When bathing, showering or brushing teeth, children shall be supervised by a caregiver. For school-age children, privacy shall be maintained;

(e) Children must bathe alone, unless a parent(s) has given permission for siblings to bath together;

(f) Appropriate cleaning and sanitizing procedures implemented after each child has used the shower or tub; and

(g) Glass shower doors or glass tub enclosures shall be constructed of safety glass.

**414-350-0380 Swimming**

- (1) Swimming pools may not be used unless they have been certified by the Oregon Health Authority or delegated agent.
- (2) Children are prohibited from using a hot tub, spa, portable wading pool, or other similar equipment.
- (3) At all times, when children are engaged in swimming activities, the provider must:
  - (a) Have written permission from each child's parent or guardian;
  - (b) Ensure that a certified lifeguard is present and on duty;
  - (c) Ensure that a caregiver is within reach of infants and toddlers, when the water depth is 24 inches or less; and
  - (d) Ensure that a one-to-one staff to child ratio is maintained for each infant and toddler, and that staff are holding or are in constant touch contact with each infant and toddler when the water depth is greater than 24 inches.
- (4) Preschool and older children must be within sight and sound of caregivers at all times.
- (5) The provider shall comply with the following staff to child ratios when at the swimming pool:
  - (a) Six weeks of age to 36 months - 1:1;
  - (b) Preschool age - 1:6;
  - (c) School age - 1:10.
- (6) All adults counted in the staff to child ratios shall be able to swim if the water is more than 48 inches deep.
- (7) The lifeguard may not count in staff to child ratios.
- (8) Water activities that involve a sprayer or spray feature using potable water that is not re-circulated or collected may be conducted by the home.
- (9) Natural Bathing Areas:
  - (a) The certified family child care home shall not conduct swimming activities in areas with flowing water;
  - (b) Wading is the only water activity permitted in shallow surf, lakes, rivers and streams.

**REGULATORY ACTIONS****414-350-0390 Exceptions**

- (1) OCC may grant an exception to an individual rule (OAR 414-300-0000 through 414-300-0415) only when the health, safety and well-being of children will not be compromised as a result of the exception.
- (2) The owner shall request an exception to a rule on a form provided by OCC. The request shall include:
  - (a) A justification for the requested exception; and
  - (b) An explanation of how the provider plans to meet the intent of the rule.
- (3) The facility must be in compliance with the rule as written until the provider has received approval for the exception from OCC.
- (4) An exception is valid only for the specified dates for which it is issued.

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

(6) OCC may withdraw approval of an exception at any time, if deemed necessary to ensure the health, safety and well-being of the children.

#### **414-350-0400 Complaints**

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

(2) Any complaint received by the Office of Child Care may result in an on-site assessment at the certified family child care home.

(3) All serious complaints shall result in an on-site assessment at the certified family child care home.

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

#### **414-350-0405 Civil Penalty**

(1) Violations of these rules or terms and conditions of certification under these rules may be subject to a civil penalty up to \$1200 per violation.

(2) Whenever the Office of Child Care (OCC) investigates an alleged complaint at a certified facility, or a facility that may be operating in violation of the requirements of ORS 329A.250 through 329A.450, OCC shall:

(a) Provide technical assistance as appropriate;

(b) Send written notice of the complaint visit to the facility with a finding of valid, unable to substantiate, or invalid; and

(c) OCC shall assess whether additional legal actions are appropriate, including but not limited to civil penalties, denials, revocations or suspensions, depending upon:

(A) The assessed value of the rule violated

(B) Numbers of previous violations of the same rule; or

(C) Circumstances surrounding the rule violation

(3) Notwithstanding subparagraphs (1) and (2), the Office of Child Care (OCC) shall take the following actions whenever a child care facility has violated a rule with an assessed value of "low:"

(a) For a first violation that is the result of an observed noncompliance, OCC may issue a written notice of the rule violation and shall provide technical assistance.

(b) For a second and all subsequent violations of the same rule within 2 years of the most recent violation:

(A) OCC shall issue a written notice for the second and all subsequent rule violations; and

(B) OCC may assess a civil penalty not to exceed \$200 per violation, not to exceed \$1000 per quarter for the same rule violation.

(4) Notwithstanding subparagraph (1) and (2), the Office of Child Care (OCC) shall take the following actions whenever a child care facility has violated a rule with an assessed value of "medium:"



- (a) For a first violation that is the result of an observed noncompliance, OCC may issue a written notice of the rule violation and shall provide technical assistance.
- (b) For a second and all subsequent violations of the same rule within 2 years of the most recent violation:
- (A) OCC shall issue a written notice for the second and all subsequent rule violations; and
- (B) OCC may assess a civil penalty not to exceed \$400 per violation, not to exceed \$2000 per quarter for the same rule violation.
- (5) Notwithstanding subparagraph (1) and (2), the Office of Child Care (OCC) shall take the following actions whenever a child care facility has violated a rule with an assessed value of “high:”
- (a) For a first violation OCC shall issue a written notice of the rule violation and provide technical assistance. OCC may also assess a civil penalty not to exceed \$800.
- (b) For a second and all subsequent violations of the same rule within 2 years of the most recent violation:
- (A) OCC shall issue a written notice for the second and all subsequent rule violations; and
- (B) OCC may assess a civil penalty not to exceed \$800 per violation, not to exceed \$4000 per quarter for the same rule violation.
- (6) Notwithstanding subparagraph (1) and (2), the Office of Child Care (OCC) shall take to following actions whenever a child care facility has violated a rule with an assessed value of “extreme:”
- (a) For a first violation OCC shall issue a written notice of the rule violation and may assess a civil penalty not to exceed \$1600.
- (b) For a second and all subsequent violations of the same rule within 2 years of the most recent violation:
- (A) OCC shall issue a written notice for the second and all subsequent rule violations; and
- (B) OCC shall assess a civil penalty not to exceed \$1200 per violation.
- (7) Each day that a child care home is operating in violation of any of the rules, terms or conditions of registration is a separate violation of the rules.
- (8) An individual or entity that provides child care subject to licensing in a home or facility that is not certified with the Office of Child Care, may be subject to a civil penalty not to exceed \$1,500 per day of operation of the uncertified home.
- (9) Notwithstanding the Office of Child Care’s (OCC) decision to impose a civil penalty for one or more rule violations, OCC may also take action to deny, suspend or revoke a certification for the same rule violation or violations.
- (10) The owner has the right to appeal any decision to impose a civil penalty, subject to the provisions of Chapter 183, Oregon Revised Statutes.
- (11) Failure to pay a civil penalty in which the Office of Child Care has issued a final order by default or a final order after a contested case hearing shall be grounds for denial or revocation of the facility’s certification.

#### **414-350-0410 Suspension, Denial and Revocation**

- (1) The Office of Child Care may immediately, and without prior notice, suspend the child care certification when, in the opinion of OCC, such action is necessary to protect the children from physical or mental abuse or a substantial threat to health, safety or well-being. Such action may be taken before an investigation is completed.

- (2) An owner whose certification has been suspended must immediately notify, verbally or in writing, all parents of the suspension.
- (3) An owner whose certification 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.
- (4) An owner whose certification has been suspended must post the suspension in the home where it can be viewed by parents and others for the duration of the suspension.
- (5) If necessary to protect children, OCC may give public notice of denial, suspension or revocation action taken. The type of notice will depend on individual circumstances.
- (6) If the owner does not request a hearing and the conditions which resulted in suspension have not been corrected, the certification shall be revoked.
- (7) Certification may be denied or revoked if a certified family child care home fails to meet requirements, provide OCC with information requested, allow an inspection, correct deficiencies, or is operated or maintained in a manner which is harmful to the health, safety or well-being of children in care.
- (8) A certified family child care home whose certification has been denied or revoked must immediately notify all parents of the closure and shall post a notice of the closure where it can be viewed by parents and others. The notice shall remain posted for a minimum of 2 weeks.
- (9) The owner has the right to appeal any decision to suspend, deny or revoke the certification, subject to the provisions of Chapter 183, Oregon Revised Statutes.
- (10) Any action taken by OCC to deny, suspend, or revoke certification may be reported to the Department of Human Services, USDA Child Care Food Programs, child care resource and referral system.
- (11) An owner whose certification has been denied for cause (e.g. health and safety concerns, criminal activity or child protective services involvement) or revoked shall not be eligible to reapply for 5 years after the effective date of the closure.
- (12) If any person, who is enrolled in the CBR, 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 or revoked 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.
- (13) Certification may be denied, suspended or revoked if an individual listed in OAR 414-350-0080(5) has a child protective services history or an open child protective services or law enforcement case that would disqualify the individual from the CBR.

#### **414-350-0415 Findings Reviews**

- (1) The owner has a right to request a first level findings review of any complaint visit that results in a valid or unable to substantiate finding, any observed non-compliance, or whenever there is a risk assessed value assigned in which a range of potential values is possible (e.g. medium to high or high to extreme).
  - (a) The first level findings review shall be conducted by teleconference or similar technological means within 30 calendar days of the date from which the Office of Child Care (OCC) received the request.
  - (b) If the owner shows good cause why the first level findings review cannot be conducted via telephone, an in-person meeting shall be scheduled at the OCC offices in Salem.

- (A) A determination of whether good cause has been shown to have an in-person review rests solely with the first level findings review panel members assigned to review the findings.
- (B) If an in-person review is granted, OCC shall conduct the review within 30 calendar days of the date from which the panel made a determination that good cause has been shown.
- (c) If the owner requests a first level findings review they may choose to waive their right to give verbal testimony and submit relevant evidence and written statements to the review panel for its consideration and decision. When an owner waives their right to appear, all documents must be submitted to OCC for review within 30 calendar days of the date of the findings review letter that is under consideration.
- (2) The action or decision that is under review shall remain in effect and shall be reported as such during the findings review process.
- (3) An owner must initiate a findings review by submitting their request on the appropriate OCC form, within 30 calendar days of the date of the findings letter.
- (4) The owner does not have a right to representation by an attorney during the findings review process, but may at their own expense hire an attorney to represent them during the first level findings review process.
- (5) The owner may be represented by a lay representative of their own choosing during the first level findings review process.
- (6) The owner, their attorney, or lay representative may prepare documents for and present relevant evidence to the first level review panel.
- (7) The first level findings review panel shall consist of two OCC regional managers whose area of responsibility does not include the facility seeking the findings review; or, the OCC licensing director and a regional manager whose area of responsibility does not include the facility seeking review.
- (a) The first-level review panel shall consider all relevant evidence and written statements submitted to the review panel;
- (b) The first-level review panel may question the owner; and
- (c) The review panel shall inform the owner, or their attorney, in writing of its decision within 30 calendar days of the date the findings review request was received by OCC.
- (8) The owner may request a second-level review whenever the first-level review panel has decided a complaint finding or observed noncompliance remains unchanged, except:
- (a) First level findings that result in a finding of unable to substantiate are not appealable to a second level review;
- (b) The first level review panel's decisions regarding risk assessed rule values are not appealable to a second level review.
- (9) The owner must request a second level review within ten (10) business days of the date of the first level review letter.
- (10) The second level review shall be conducted by OCC's legal administrator, who may only review the written record of the first level review, including:
- (a) Relevant evidence and written statements that were submitted to the first level review panel;
- (b) Case file materials that were presented to the first level panel;
- (c) The decision of the first level findings review panel; and
- (d) Any other document(s) the legal administrator believes to be relevant to the proceeding.

- (11) The owner may not submit additional information or written statements for the second-level review. Second level review shall be completed within 20 calendar days of the date OCC receives the request for the review.
- (12) The legal administrator shall inform the owner, or their attorney, in writing of the decision within 30 calendar days of the date the second level review request was received by OCC.
- (13) Second level review decisions are final.

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