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**NOTICE OF PROPOSED RULEMAKING**  
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 414  
OREGON DEPARTMENT OF EDUCATION  
EARLY LEARNING DIVISION

**FILED**  
06/30/2018 4:28 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Rules governing Certified Family child care providers to conform with federal law and HB4065 (2018).

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/20/2018 5:00 PM

*The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.*

*A public rulemaking hearing may be requested in writing by 10 or more people, or by a group with 10 or more members, within 21 days following the publication of the Notice of Proposed Rulemaking in the Oregon Bulletin or 28 days from the date the Notice was sent to people on the agency mailing list, whichever is later. If sufficient hearing requests are received, the notice of the date and time of the rulemaking hearing must be published in the Oregon Bulletin at least 14 days before the hearing.*

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Filed By:  
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**NEED FOR THE RULE(S):**

The Early Learning Division Office of Child Care must comply with all requirements of the federal Child Care Development Fund (CCDF)/Child Care Development Block Grant (CCDBG). These requirements include the following changes.

**Central Background Registry:**

Federal law requires fingerprint background checks on all individuals that may have contact with child care children. Once an individual has submitted their fingerprints to OCC, they may be conditionally enrolled in the CBR while their fingerprint checks are completed. The new rule states that during conditional enrollment, the individual may be present on the premises and may function in their staff position, but they may not have unsupervised access to child care children until confirmation of enrollment in the CBR has been received.

**Training Requirements:**

Federal law requires Aide I's to receive training in CPR, First Aid and Recognizing and Reporting Child Abuse and Neglect (RRCAN). The new rule requires this training.

**Serious Injury & Reporting:**

Federal law requires child care programs report any serious injury to OCC within 5 calendar days of the occurrence. The new rules specifies the injuries that must be reported and revised the reporting time to 5 calendar days. Serious injury is defined in rule to include such things as choking, concussion, poisoning, broken bones, near-drowning as well as

several other specific situations. This does not include precautionary evaluations by a doctor, ongoing medical issues or injuries where first aid is administered at the center, but no further treatment is needed.

#### Staff Orientation and Critical Training:

Federal law requires that child care staff have critical training before having unsupervised access to children.

In addition to meeting the federal requirements, the Early Learning Division Office of Child Care must adhere to the statutory changes that resulted from the passage of House Bill 4065 during the 2018 legislative session, which have been reflected in ORS 329A.030, 329A.250, 329A.252, 329A.263, 329A.300, 329A.330, 329A.360, 329A.370 and 329A.992.

The following rules changes are required to align with these statutory changes:

- implement changes to certain restrictions that apply to individuals who have had a child care licensed or enrollment in the Central Background Registry revoked or denied for cause. These change include amending the Central Background Registry rules to make a revocation of denial of a facility license a basis for denial or removal in the Registry. These changes also include adjusting the existing rules regarding the types of care that cannot be provided by individuals who have had a child care licensed or enrollment in the Central Background Registry revoked or denied for cause.
- change the definition of school-aged and school aged child to include children eligible to be enrolled in kindergarten (currently first grade)
- increase the amount of money the agency can assess as civil penalties

Finally, the Early Learning Division Office of Child Care has identified the need for additional rules that will better meet the unique needs of infants while in child care. These practices are outlined below.

#### Safe Sleep:

The new rules require safe sleep training for all caregivers that care for infants. The new rules expand on safe sleep standards by prohibiting any items in the crib with infants, except for a pacifier. The new rules prohibit swaddling and other clothing or items that could restrict a child's movement or pose a strangulation hazard .

#### Restrictive Infant Equipment:

The new rules limit the amount of time children can be in restrictive infant equipment. Restrictive infant equipment, such as bouncers, swings, infants seats, high chairs may be used for no more than 20 minutes in any 2 hour period. Studies have shown that restricting a child's freedom of movement can be detrimental to a child's physical, mental and emotional development. The use of infant walkers will continue to be prohibited.

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

ORS 329A.: [https://www.oregonlegislature.gov/bills\\_laws/ors/ors329A.html](https://www.oregonlegislature.gov/bills_laws/ors/ors329A.html)

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#### FISCAL AND ECONOMIC IMPACT:

Central Background Registry: We anticipate no additional fiscal impact as a result of these rules changes. The costs to

businesses and individuals may actually decrease if the rule establishes enrollment periods longer than the current 2 year period.

**Training Requirements:** The addition of required trainings of First Aid, CPR and RRCAN for Aide I's in centers could incur additional costs to the program or the individual staff member. This cost will vary based on the size of the child care facility and number of Aide I's on staff.

**Serious Injury & Reporting:** No financial impact is anticipated. As injuries were already being required reports to OCC, a program would only need to modify the instances of reporting to meet the new requirements.

**Staff Orientation and Critical Training:** Minimal financial impact is expected. Programs may need to modify their staff orientation curriculum to incorporate new critical training requirements. The Early Learning Division will assist programs with revising orientations and attaining required trainings. There could be additional training costs in centers to meet the new training requirement for Aide I's.

**Clarification of exempt prohibition to match statute:** No financial impact is expected as the intent of the rule has not changed.

**Definition of "School-Age Child" to include the summer months prior to the start of kindergarten:** Potential benefit to programs as the new definition could open up additional slots for pre-school children.

**Civil Penalties increase :** Financial impact would occur to those programs that were determined to be out of compliance with rules and a civil penalty was assessed at the increased amounts. This would only impact those programs found to be out of compliance with rules.

**Safe Sleep Training:** Some financial impact to programs could occur. The cost of the additional, required training would be incurred by the program or the individual staff member. The training is required to be taken only once, therefore, once the initial cost has been absorbed, only new, incoming staff will need to complete the training.

**Safe Sleep for Infants:** No financial impact expected. Current rules require that caregivers attend to the need of individual children. Caregivers may need to spend additional time comforting infants that may be accustomed to swaddling, but no additional financial costs are expected.

**Restrictive Infant Equipment:** Minimal to no financial impact expected. Current rules require that caregivers attend to the need of individual children. Caregivers may need to spend additional time actively engaging infants rather than the infants being left in restrictive infant equipment for prolonged periods of time, but no additional financial costs are expected.

COST OF COMPLIANCE:

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

(1) Some licensed child care providers may see an economic impact to meet the new Safe Sleep, Critical Training, and Aide I training requirements; (2)(a) Approximately 1342 licensed facilities; (2)(b) Minimal impact due to added record keeping and posting notices for parents; (2)(c) No additional costs for professional services, equipment supplies, labor and increased administration for the majority of proposed rules.

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

A series of community engagements were conducted, public testimony accepted during the convening of the Rules Advisory Committee meetings, a public hearing was held, and input from the public and small businesses was requested

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

414-350-0000, 414-350-0010, 414-350-0050, 414-350-0090, 414-350-0100, 414-350-0110, 414-350-0115, 414-350-0210, 414-350-0220, 414-350-0390, 414-350-0400, 414-350-0405

AMEND: 414-350-0000

RULE SUMMARY: Rewording the rule concerning exempt prohibition to align with revised statute language.

CHANGES TO RULE:

414-350-0000

Applicability of Rules ¶¶

(1) OAR 414-350-0000 through 414-350-0405 set forth the Office of Child Care Division's (OCCD) requirements for the inspection and certification of certified family child care homes subject to Oregon laws governing child care facilities (ORS 657A.030, 657A.250 through 657A.310, 657A.350 through 657A.460, and 657A.990) that:¶¶

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

(b) Are located in a building constructed as a single-family dwelling; and,¶¶

~~(c) Care for three or fewer children if that person's enrollment in the Central Background Registry has been denied or the person has been removed for cause, or suspended; or their child care facility certification or registration has been denied or revoked for cause, or suspended, or the person has voluntarily withdrawn their application or closed their registration or certification while under investigation by CCD; and¶¶~~

~~(d) Provide care for preschool children that is primarily educational for four hours or less a per day and where no preschool age child is present at the facility for more than four hours per day if that person's enrollment in the Central Background Registry has been denied or the person has been removed for Individuals who are not enrolled in the Central Background Registry because, or suspended; or their child care facility certification or registration has been denied or revoked for cause, or suspended, or the person has voluntarily withdrawn their application or closed their registration or certification while under investigation by CCD; and¶¶~~

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

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

(23) The following child care facilities are specifically excluded by law and are not required to comply with these rules:

(a) A registered family child care home;

(b) A facility providing care for preschool children that is primarily educational for four hours or less per day and where no preschool age child is present at the facility for more than four hours per day except as provided in 414-350-0000(1)(d);

(c) Care provided in the home of the child; or

(d) A facility that provides care on an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care except as provided in 414-350-0000(1)(e); or

(e) A facility that provides care for no more than three children other than the person's own children except as provided in 414-350-0000(1)(c);

(f) A facility that provides care for children from only one family other than the person's own family except as provided in 414-350-0000(1)(f).

(34) 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.

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

(56) Providers have a right to review any action or decision affecting them. The OCCD grievance procedures are available upon request to all applicants for child care certification or operators of certified family child care homes.

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

Statutory/Other Authority: ORS ~~657329A~~

Statutes/Other Implemented: ORS ~~657329A.260, 657329A.280~~

AMEND: 414-350-0010

RULE SUMMARY: Addition to the definition of Central Background Registry to include "CBR Enrollment" and "CBR Conditional Enrollment". Revisions to the definitions of "Preschool-Age Child" and "School-Age Child" to count children eligible to attend kindergarten as school-age children. Addition of definition of "Serious Injury or Incident" and "Unsupervised Access to Children".

CHANGES TO RULE:

414-350-0010

Definitions ¶¶

The following words and terms, when used in OAR 414-350-0000 through 414-350-0405, 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) "Attendance" means children actually present in the home at any given time.¶¶
- (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 OCCD's Registry of individuals who have been approved to work in be associated with a child care facility in Oregon pursuant to ORS 657329A.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) "Certificate" means the document that is issued by OCCD to a certified family child care home pursuant to ORS 657A.280.¶¶
- (7) "Certified Family Child Care Home" or "Home" means: a child care facility 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.¶¶
- (8) "Child Care" means the care, supervision, and guidance on a regular basis of a child, unaccompanied by a parent, guardian, or custodian, during a part of the 24 hours of the day, with or without compensation. Child care does not include the care provided:¶¶
  - (a) In the home of the child;¶¶
  - (b) By the child's parent or guardian, or person acting in loco parentis;¶¶
  - (c) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;¶¶
  - (d) On an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care;¶¶
  - (e) By providers of medical services; or¶¶
  - (f) By a person who is a member of the child's extended family, as determined by the division on a case-by-case basis.¶¶
- (9) "Child Care Child" means any child six weeks of age or older and under 13 years of age, or a child with special needs under the age of 18 who requires a level of care over and above the norm for his/her age, and for whom the provider has supervisory responsibility in the temporary absence of the parent.¶¶
- (10) "Child with Special Needs" means a child under the age of 18 who requires a level of care over and above the norm for his/her age due to a physical, developmental, behavioral, mental or medical disability.¶¶
- (11) "~~CCD~~" means ~~the Child Care Division of the Employment Department or the Administrator or staff of the~~

Division.¶

- (12) "Child Care Facility" means any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before and after school care, or child development center, except those excluded under ORS 657A.250. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children.¶
- (13) "Civil Penalty" means a fine imposed by OCCD on a provider for violation of these rules.¶
- (14) "Enrollment" means all children registered to attend the certified family child care home.¶
- (15) "Guidance and Discipline" means the on-going process of helping children develop self control and assume responsibility for their own acts.¶
- (16) "Infant" means a child who is at least 6 weeks of age but is not yet walking alone.¶
- (17) "Night Care" means care given to children who sleep at the home for all or part of the night.¶
- (18) "Nonserious violation" means OCCD has made a valid finding when assessing a complaint alleging a violation not listed in OAR 414-350-0010(32).¶
- (19) "OCC" means the Office of Child Care, Early Learning Division of the Department of Education.¶
- (20) "Occasional" means infrequently or sporadically, including but not limited to care that is provided during summer or other holiday breaks when children are not attending school, but not to exceed 70 calendar days in a year.¶
- (21) "Operator" means the person responsible for the overall operation of the home and who has the authority to perform the duties necessary to meet certification requirements. In a certified family child care home, the operator is the provider.¶
- (22) "Oregon Registry" means Pathways for Professional Recognition in Childhood Care and Education is a voluntary, statewide program to document and recognize the professional achievements of people who work in the childhood care and education profession.¶
- (23) "Owner" means the person who holds the certified family child care business as property and has a major financial stake in the operation of the home.¶
- (24) "Parent" means parent(s), custodian(s), or guardian(s) exercising physical care and legal custody of the child.¶
- (25) "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.¶
- (26) "Preschool Age Child" means a child 36 months of age up to the summer vacation months prior to being to eligible to be enrolled attend in the first gradedergarten or above in public school.¶
- (27) "Program" means all activities and care provided for the children during their hours of attendance at the certified family child care home.¶
- (28) "Provider" means the person in the certified family child care home who is responsible for the children in care, is the children's primary caregiver, and in whose name the certificate is issued. In a certified family child care home, the provider is the operator.¶
- (29) "Qualifying Teaching Experience" means 1,500 hours, gained in at least three-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 or registered 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.¶
- (30) "Sanitizing" means using a bactericidal treatment that provides enough heat or concentration of chemicals for enough time to reduce the bacterial count, including disease-producing organisms, to a safe level on utensils, equipment, and toys.¶
- (31) "School-Age Child" means a child eligible to be enrolled attend in the first gradedergarten or above in public school. This includes the months of summer vacation prior to being eligible to be enrolled in the first grade, up to age 13 from the end of the prior school year to the start of the kindergarten school year.¶
- (32) "Serious complaint" means a complaint filed against a certified child care home by a person who has alleged

that:¶

- (a) Children are in imminent danger;¶
- (b) There are more children in care than allowed by certified capacity;¶
- (c) Corporal punishment is being used;¶
- (d) Children are not being supervised;¶
- (e) Multiple or serious fire, health or safety hazards are present in the home;¶
- (f) Extreme unsanitary conditions are present in the home; or¶
- (g) Adults are in the home who are not enrolled in the Central Background Registry.¶

(32) "Serious Injury or Incident" means any of the following: ¶

- (a) Injury requiring surgery;¶
- (b) Injury requiring admission to a hospital;¶
- (c) Injury requiring emergency medical attention;¶
- (d) Choking and unexpected breathing problems;¶
- (e) Unconsciousness;¶
- (f) Concussion;¶
- (g) Poisoning;¶
- (h) Medication overdose;¶
- (i) Broken bone;¶
- (j) Severe head or neck injury;¶
- (k) Chemical contact in eyes, mouth, skin, inhalation or ingestion;¶
- (l) Severe burn;¶
- (m) Allergic reaction requiring administration of Epi-Pen;¶
- (n) Severe bleeding or stitches;¶
- (o) Shock or confused state;¶
- (p) Near-drowning.¶

(33) "Serious Violation" means QCCD has made a valid finding when assessing a complaint that alleges:¶

- (a) Children are in imminent danger;¶
- (b) There are more children in care than allowed by law;¶
- (c) Corporal punishment is being used;¶
- (d) Children are not being supervised;¶
- (e) Multiple or serious fire, health or safety hazards are present in the home;¶
- (f) Extreme unsanitary conditions are present in the home; or¶
- (g) Adults are in the home who are not enrolled in the Office of Child Care-Division's Central Background Registry¶

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

(345) "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 and/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.¶

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

(367) "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.¶

(38) "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, and window openings must be at least 20 inches wide and 22 inches in height, with a net clear opening of 5 square feet



and a sill no more than 48 inches above the floor.  
Statutory/Other Authority: ORS 329A.260  
Statutes/Other Implemented: ORS chapter 329A

AMEND: 414-350-0050

RULE SUMMARY: Rules were added to the General Requirements section pertaining to the reporting requirements. Providers must report any death of a child, any child left unattended, any serious injuries, any damage to the building, any animal bites and any change in provider to OCC within prescribed time frames.

CHANGES TO RULE:

414-350-0050

General Requirements ¶

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

(a) The ~~child care certificate~~ most current certificate issued by OCC;¶

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

(c) The evacuation plan and the location where parents may be reunited with their children in the event of an evacuation; and¶

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

(A) The guidance/discipline policy;¶

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

(C) The description of the general routine;¶

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

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

~~(24)~~ 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.¶

~~(35)~~ Caregivers shall report suspected child abuse or neglect immediately, as required by the Child Abuse Reporting Law (ORS 419B.005 through 419B.050) to the Department of Human Services Child Welfare (DHS) or to a law enforcement agency. By statute, this requirement applies 24 hours per day.¶

~~(46)~~ The certified family child care home shall comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans with Disabilities Act (ADA).¶

~~(57)~~ Representatives of all agencies involved in certification shall have immediate access to all parts of the home whenever the provider is conducting the child care business:¶

(a) OCC staff shall have the right to inspect all areas of the facility that are accessible to child care children, and to conduct a health and safety review of other areas of the facility to ensure 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; and¶

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

~~(68)~~ Custodial parents of all children enrolled shall have access to the home during the hours their child(ren) are in care.¶

~~(79)~~ The provider shall develop the following information in writing and shall make it available to OCC, to staff, and to parent(s) at the time of enrollment:¶

(a) Guidance and discipline policy;¶

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

(c) The plan for handling emergencies and/or evacuations, including, but not limited to, 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.¶

~~(810)~~ The provider shall comply with the Department of Human Services' administrative rules relating to:¶

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

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

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

~~(911)~~ The provider shall report to OCC:¶¶

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

~~(b) y death of a child while in care, within 24 hours;¶¶~~

~~(b) Any child that was left unattended within 24 hours;¶¶~~

~~(c) Any serious injury or incident, as defined in OAR 414-350-0010(38) within 5 calendar days after the occurrence. This does not include:¶¶~~

~~(A) Injuries to a child at the certified for which a child is evaluated by a professional as a precaution;¶¶~~

~~(B) Injuries for which first aid is administered at the family child care home which require attention from a licensed health care professional, such as a physician, EMT or nurse, within 7 days after the occurrenceity, 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.¶¶~~

~~(d) 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.¶¶~~

~~(e) Any animal bites to a child within 48 hours of occurrence.¶¶~~

~~(f) 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.¶¶~~

~~(102)~~ Documentation of meals and snacks provided by the certified family child care home shall be made available to OCC upon request, if the home does not participate in the USDA Child and Adult Care Food Program. Documentation is limited to the three weeks prior to the request.¶¶

~~(113)~~ The provider is responsible for compliance with these requirements (OAR 414-350-0000 through 414-350-0405).¶¶

~~(124)~~ The written emergency plan must be given to parents of children in care.¶¶

~~(15)~~ 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.

Statutory/Other Authority: ORS ~~657329A.260~~

Statutes/Other Implemented: ORS ~~657329A.260, 657329A.280, 657329A.290, 657329A.300, 657329A.390, 657329A.400~~

AMEND: 414-350-0090

RULE SUMMARY: Addition of rules pertaining to individuals required to be enrolled in the Central Background Registry.

CHANGES TO RULE:

414-350-0090

General Requirements ¶

- (1) As required by Oregon civil rights law, ORS Chapter 659, the provider shall not discriminate in employment on the basis of race, color, gender, marital status, religion, national origin, age, or because of a mental or physical handicap unrelated to specific job performance.¶
- (2) All caregivers, including the provider, shall:¶
  - (a) Have competence, sound judgment, and self-control in working with children;¶
  - (b) Be mentally, physically, and emotionally capable of performing duties related to child care; and¶
  - (c) Have the required training and/or experience for the positions they hold, as specified in OAR 414-350-0100 and 0110.¶
- (3) If additional information is needed to assess a person's ability to care for children or to have access to children, OCC may require references, an evaluation by a physician, counselor, or other qualified person, or other information.¶
- (4) No one shall have access to child care children who has demonstrated behavior that may have a detrimental effect on a child. Residents of the home are considered to have access to the child care children even if they are not generally at home during hours of operation. This does not apply to parents of children in care when they drop off and pick up their children.¶
  - (a) The owner, the provider, all caregivers and other residents of the ~~home~~premises 18 years of age or older must be enrolled in OCC's Central Background Registry prior to the issuance of an initial or renewal certificate. Residents of the home who are under 18 years of age must be enrolled in the Registry by their 18th birthday. Certification may be denied, suspended, or revoked if the provider or other resident of the home has been removed or suspended from the Central Background Registry.¶
  - (b) ~~Prior to any new careg~~The provider must receive caring for children or prior to an individual residing in the home, visiting the home on a regular basis, or substituting for or assisting the provider, the caregiver/individual shall be enrolled in the Central Background Registry and the provider shall receive verification from OCC 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 enrollment. This does not apply to parents of children in care unless they are residing in the home or assisting in the provision of child care.¶
    - (c) ~~When a provider is notified by OCC that a caregiver or other individual has been removed from the Central Background Registry, the provider shall not permit the caregiver or other individual to be in the home during hours the child care business is conducted or to have access to child care children~~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.¶
  - (~~d~~) If any person listed in section (4)(a) & (b) of this rule has been charged with, arrested for, or a warrant is out for any of the crimes which OCC has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, certification may be denied or suspended until the charge, arrest, or warrant has been resolved if the person continues to operate, be employed in or reside in the home, or have access to children in the home.¶
  - (~~e~~) If a criminal record check shows that a warrant has been issued for any person checked, OCC will inform the originating law enforcement agency of the person's name, employment address and telephone number.¶

- (~~6~~e) Any visitor to the home or other adult who is not enrolled in the Central Background Registry shall not have unsupervised access to children.¶
- (5) 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.¶
- (6) 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.¶
- (7) 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.¶
- (8) 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.¶
- (9) 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.¶
- (10) Volunteers must meet the following requirements:¶
- (a) If volunteers are counted in determining the staff/child ratios, they must meet the qualifications of the position they are filling and be enrolled in the Central Background Registry.¶
- (b) If volunteers may have unsupervised access to children, they must be enrolled in the Central Background Registry.¶
- (c) If volunteers do not have unsupervised access to children at any time, including during emergencies, the provider must have a written policy to this effect, the policy must be known to all caregivers and volunteers, and the volunteers do not have to be enrolled in the Central Background Registry.¶
- (~~6~~11) No person shall smoke or carry any lighted smoking instrument, including an e-cigarette or vaporizer in the certified family child care home or within ten feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area, during child care hours or when child care children are present. No person shall use smokeless tobacco in the certified family child care home during child care hours or when child care children are present. No person shall smoke, carry any lighted smoking instrument, including an e-cigarette or vaporizer or use smokeless tobacco in motor vehicles while child care children are passengers.¶
- (~~7~~12) No one shall consume alcohol on the certified family child care home premises during the hours the child care business is conducted or when child care children are present. No one shall be under the influence of alcohol on the family child care home premises during the hours the child care business is conducted or when child care children are present.¶
- (~~8~~13) Notwithstanding OAR 414-350-0000(6), no one shall possess, use or store illegal controlled substances on the certified family child care home premises. No one shall be under the influence of illegal controlled substances on the certified family child care home premises.¶
- (~~9~~14) Notwithstanding OAR 414-350-0000(6), no one shall grow or distribute marijuana on the premises of the certified family child care home. No adult shall use marijuana on the certified family child care home premises during child care hours or when child care children are present¶
- (105) No adult under the influence of marijuana shall have contact with child care children.¶
- (116) Secure Storage:¶
- (a) All medical marijuana obtained from a dispensary must be kept in its original container and stored under child safety lock. All medical marijuana derivatives and associated paraphernalia must be stored under lock.¶
- (b) Effective July 1, 2015 all marijuana, marijuana derivatives and associated paraphernalia must be stored under child safety lock.¶
- (127) Notwithstanding OAR 414-350-0000(6), marijuana plants shall not be grown or kept on the certified family child care home premises.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A

AMEND: 414-350-0100

RULE SUMMARY: Addition of safe sleep training requirement for providers.

CHANGES TO RULE:

414-350-0100

The Provider ¶

(1) The provider shall be:¶

(a) At least 18 years of age if the facility is certified for 12 children; or at least 21 years of age if the facility is certified for more than 12 children; and¶

(b) 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, financial management, maintaining records, maintenance of the building and grounds, meal planning and preparation, compliance with certification requirements, communication with OCC, and correcting deficiencies.¶

(2) The provider shall have:¶

(a) At least one year of qualifying teaching experience, as specified in OAR 414-350-0010(28), 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, registered family child care home, or Head Start program; or prior to applying to be certified for up to 16 children, completed one year of successful operation as a certified family child care facility for 12 children if the qualifying teaching experience is based on registered family child care; or¶

(b) 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¶

(c) Documentation of attaining at least step eight in the Oregon Registry.¶

(3) The provider shall provide evidence of the following training prior to being certified:¶

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

(b) A current food handler certification; ~~and~~¶

(c) Have completed a minimum of two hours of training on child abuse and neglect that is specific to Oregon law; and¶

(d) Completed OCC approved safe sleep training.¶

(4) Prior to a facility providing care to more than two children under 24 months of age, the provider shall have at least 30 clock hours of training specific to infant and toddler care. The provider of facilities certified on October 15, 2002, who are providing care for more than two children under 24 months of age must have documentation of 30 hours of prior training in infant and toddler care or a plan, approved by OCC, that shows how the training will be attained.¶

(5) The provider/operator shall be on-site at least half of the hours of operation that are reflected on the certificate. If the facility is certified for more than 12 children, the provider shall be on site 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.¶

(6) The provider shall have no other employment, either in or out of the home, during the hours the provider is directly caring for children.¶

(7) The provider, or a substitute caregiver, shall be present during all the hours the certified family child care business is conducted.¶

(8) A caregiver substituting for the provider shall:¶

(a) Be at least 18 years old;¶

(b) Have current certification in first aid and infant and child cardiopulmonary resuscitation (CPR). Training must have practical hands-on instruction; therefore, online training is not acceptable.¶

(c) Have current food handler certification pursuant to ORS 624.570, if the substitute will be preparing or serving

food;¶

(d) Be familiar with the provider's policies and procedures and with these requirements (OAR 414-350-0000 through 414-350-0405);¶

(e) Be authorized and able to correct a deficiency that might be an immediate threat to children; and¶

(f) Have on file documentation of an orientation and training in these administrative rules and the functions and duties of a provider;¶

(g) Have completed a minimum of two hours of training on child abuse and neglect that is specific to Oregon law before they can have unsupervised access to children; and¶

(h) Have worked in the home at least 60 hours when substituting for the provider in a home certified to care for more than 12 children.

Statutory/Other Authority: ORS ~~657329A~~.260

Statutes/Other Implemented: ORS ~~657329A~~.260, ~~657329A~~.280, ~~657329A~~.290

AMEND: 414-350-0110

RULE SUMMARY: Addition of rules for Assistant I's requiring current certification in first aid and CPR as well as completion of training in recognizing and reporting child abuse and neglect. Addition of required training in OCC approved health and safety and safe sleep for Assistant I's. Addition of required training in OCC approved safe sleep for Assistant II's.

CHANGES TO RULE:

414-350-0110

Assistants ¶

- (1) Assistants may be included in the caregiver/child ratio calculation.¶
- (2) An Assistant I shall:¶
  - (a) Be at least 15 years of age;¶
  - (b) ~~Work under the direct supervision, i.e., within sight and sound of the provider or substitute provider~~ 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; ¶
  - (f) Have completed OCC approved safe sleep training within 30 days of employment; and¶
  - (g) Have on file documentation of an orientation and be familiar with the provider's policies and procedures and these requirements (OAR 414-350-0000 through 414-350-0405).¶
- (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.¶
- (5) An Assistant II shall:¶
  - (a) Be at least 18 years of age;¶
  - (b) Have on file documentation of an orientation and be familiar with the provider's policies and procedures and these requirements (OAR 414-350-0000 through 414-350-0405);¶
  - (c) Have worked at least 60 hours at the certified family child care home, in a minimum of 3-4 hour blocks of time;¶
  - (d) Have current certification in first aid and CPR. Training must have practical hands-on instruction; therefore, online training is not acceptable; ~~and~~¶
  - (e) With the approval of the provider, may be out of sight and sound of the provider with a group of children; and¶
  - (f) Have completed OCC approved safe sleep training.

Statutory/Other Authority: ORS ~~657329A.260~~

Statutes/Other Implemented: ORS ~~657329A.260~~, ~~657329A.280~~, ~~657329A.290~~



AMEND: 414-350-0115

RULE SUMMARY: Addition of required OCC safe sleep training for staff.

CHANGES TO RULE:

414-350-0115

#### Training Requirements ¶¶

(1) All staff shall receive an orientation within the first two weeks of employment and before they can have unsupervised access to children. Orientation shall ensure that staff are 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 414-350-0405);¶¶

(c) The facility policies, as required in OAR 414-350-0050; and¶¶

(d) Procedures for reporting suspected child abuse or neglect.¶¶

(2) The provider and all caregivers who function as substitute providers and Assistant II staff, including volunteers, shall participate yearly in at least 15 clock hours of training related to child care, of which at least eight clock hours shall be in child development or early childhood education. Substitute providers and volunteers who provide care in the home for less than 20 hours in a calendar year are not required to participate in the 15 clock hours of training. If an individual has worked in the facility less than a year, the training requirements will be prorated as follows: At least 1.25 clock hours for each month worked in the current license period.¶¶

(a) 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).¶¶

(b) Training may include correspondence courses, conferences, workshops and audio-visual programs.¶¶

(c) An approved planned reading program of professional materials may count for up to six hours of the 15 clock hours of training and must include a written assessment of reading materials completed by each participating staff person.¶¶

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

(3) During the first year of certification and the first year of employment staff may count up to two hours of orientation and their most recent training in first aid and CPR, food handler's and recognizing and reporting child abuse and neglect training, as part of the 15 clock hours of training required in OAR 414-350-0115(2), but may not use these toward the eight hours required in child development or early childhood education.¶¶

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

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

(4) During subsequent years of certification and subsequent years of employment staff may count five hours of first aid and CPR training or food handler's training as part of the 15 clock hours of training. Duplicate training on recognizing and reporting child abuse and neglect training can be accepted again after three years, and every three years thereafter towards the 15 clock hours of staff training required for licensing.¶¶

(5) The provider shall document each caregiver's training, showing the subject matter, the date completed, and the number of clock hours of training in each certification year.¶¶

(6) All new staff that mayThe 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 ~~must have~~and functioning in their position. Assistant I's must complete the training within the first 30 days of employment.¶

(7) The provider and all staff, with the exception of Assistant I's, who count in staff to child ratios must completed OCC approved ~~health and safety~~training on safe sleep prior to having unsupervised access to children. Assistant I's must complete the training within ~~thirty~~the first 30 days of employment.¶

(78) All current staff must complete OCC approved safe sleep training by January 1, 2019.¶

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

(10) All new staff that may have unsupervised access to children must ~~have~~ completed OCC approved health and safety training ~~by June 30, 2017~~within thirty days of employment.

Statutory/Other Authority: ORS ~~657329A.260~~

Statutes/Other Implemented: ORS ~~657329A.260, 657329A.280~~

AMEND: 414-350-0210

RULE SUMMARY: Addition of rule requiring infants up to six months of age to be held or sitting up in a caregiver's lap for bottle feeding. Addition of rule prohibiting children of any age to be laid down with a bottle.

CHANGES TO RULE:

414-350-0210

#### Meals and Snacks ¶¶

(1) 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., Jell-O, popcorn, desserts, potato chips) shall only be served occasionally and not replace nutritious foods.¶¶

(a) Every meal shall meet USDA guidelines and shall include at least one serving from each of the following food groups: fluid milk; breads and grains; meat, fish, poultry or meat alternatives (e.g., dried beans, peanut butter, yogurt or cheese). Each meal shall include two servings of fruits or vegetables. No liquids other than milk and 100% fruit juice shall be counted as part of the daily nutrition.¶¶

(b) Snacks shall meet USDA guidelines and shall consist of food or beverage from at least two of the following food groups: fluid milk, breads and grains; meat, fish, poultry or meat alternatives (e.g., dried beans, peanut butter, yogurt or cheese); vegetables and fruits. No liquids other than milk and 100% fruit juice shall be counted as part of the daily nutrition. A snack shall not consist of only two beverages.¶¶

(c) 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.¶¶

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

(a) In certified family child care homes open morning through afternoon, lunch and morning and afternoon snacks shall be served to the children in care. If breakfast is served to all children, a midmorning snack is not required;¶¶

(b) School-age children arriving after school shall be served a snack;¶¶

(c) 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); and¶¶

(d) There shall be no more than 3-1/2 hours between meals and snacks.¶¶

(3) Meals and snacks for children shall be:¶¶

(a) Prepared by the provider;¶¶

(b) Prepared by the parent of the child; or¶¶

(c) Prepared from a source approved by the Department of Human Services.¶¶

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

(a) The provider shall be responsible for at least one serving of milk or a milk product to each child at meals;¶¶

(b) 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¶¶

(c) 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) Meals shall be served in a manner that supports safe and sanitary eating and allows socialization to occur.¶¶

(6) Nutrient concentrates and supplements shall not be served to a child without a written statement of consent from the parent and a medical practitioner. Special diets, not including vegetarian diets, shall not be served to a child without a written statement of consent from the parent and a registered dietician or medical practitioner.¶¶

(7) 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 CCD, which includes at least the following elements:¶¶

(a) Provision for handwashing immediately prior to eating;¶¶

- (b) Separate serving portions for each table, if more than one table is used;¶
- (c) Serving utensils distinct from eating utensils;¶
- (d) Provision for serving mildly ill children so as to prevent the spread of the illness;¶
- (e) The discarding of any food brought to the table and not eaten; and¶
- (f) Food brought to the table must be covered until a caregiver is seated with the children.¶
- (8) 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 his/her 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. When formula is prepared on site, the provider must have a written plan for mixing formula and sanitizing bottles and nipples. The plan must be approved in writing by the environmental health specialist.¶
  - (c) Formula, breast milk, and food provided by the parent shall be clearly marked with the child's name and refrigerated if required.¶
  - (d) No liquids, other than milk, formula, water, and 100 percent fruit juice, shall be served.¶
  - (e) Whole milk, skim milk, 1%, and 2% milk shall not be served unless requested in writing by the child's parent(s) and with a medical provider's written permission.¶
  - (f) Solid foods fed to infants shall be selected from the USDA Infant Food Chart.¶
  - (A) Solid foods shall not be fed to infants less than four months of age without parental consent.¶
  - (B) Solid food shall not be served directly from the container unless the child consumes the entire contents of the container or any remaining food in the container is discarded.¶
  - (C) If a portion of solid food from a container is placed in a clean, sanitized dish and served from the dish, any food remaining in the dish shall be discarded.¶
  - (D) Open containers of food, from which a portion has been removed, must immediately be refrigerated at 41 degrees F or less.¶
  - (E) Solid foods, with the exception of finger foods, shall be fed with a spoon.¶
  - (g) Honey or foods containing honey shall not be served; and¶
  - (h) Children who cannot feed themselves shall be held or, if able to sit alone, fed in an upright position.¶
  - (A) Infants up to six months of age shall be held while 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.¶
  - (C) Infants no longer being held for feeding shall be fed in a manner that provides safety and comfort.¶
- (9) Children of any age shall not be laid down with a bottle.

Statutory/Other Authority: ORS 657329A.260

Statutes/Other Implemented: ORS 657329A.260, 657329A.280, 657329A.290

AMEND: 414-350-0220

RULE SUMMARY: Addition of safe sleep requirements for infants.

CHANGES TO RULE:

414-350-0220

## General Requirements ¶

- (1) The provider and any caregivers must give the children's needs first priority, ensuring they get adequate care and attention.¶
- (2) 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.¶
- (3) A description of the general routine, covering all hours of operation, shall be in writing and shall provide:¶
  - (a) Regularity of such activities as eating, napping, and toileting with flexibility to respond to the needs of individual children;¶
  - (b) A balance of active and quiet activities;¶
  - (c) Individual and group activities;¶
  - (d) Daily indoor and outdoor activities in which children use both large and small muscles;¶
  - (e) Periods of outdoor play each day when weather permits; and¶
  - (f) Opportunities for a free choice of activities by children.¶
- (4) The provider and other caregivers shall use the written description of the general routine as a guide, allowing flexibility to respond to the needs of individual children and/or groups of children and to appropriate variations in daily activities.¶
- (5) No child may view television or videos or play computer or electronic games for more than two hours per day.¶
- (6) Infant and toddler program of activities. The following apply to infant and toddlers in care at the certified home.¶
  - (a) Infants shall be allowed to form and follow their own patterns of sleeping and waking periods.¶
  - (b) Children shall be given opportunities during each day to move freely by creeping and crawling in a safe, clean, warm, and uncluttered area.¶
  - (c) Throughout the day, each ~~child~~ 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).¶
  - (d) ~~Routines relating to activities~~ The provider must have routines such as bedtime, feed for eating, napping, diapering, and toileting shall be used as opportunities for language development, building the child's self-esteem, and other learning experiences.¶
  - (e) Children shall be encouraged to play with a variety of safe toys and objects.¶
  - (f) Children shall be given appropriate opportunities to use the five senses through sensory play.¶
  - (g) ~~Infants shall be put to sleep on their back, with flexibility to respond to the needs of each child.~~¶
  - (e) Infants shall have a variety of appropriate infant toys stimulating to the senses.¶
  - (hf) Immediate attention shall be given to the emotional and physical needs of the children. No child shall be routinely left in a crib except for sleep or rest.¶
  - (ig) Caregivers shall encourage the development of self-help skills (dressing, toileting, washing, eating) as children are ready.¶
  - (jh) 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.¶
- (7) 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;

(j) Clothing or items that could pose a strangulation hazard (e.g. teething necklaces, pacifier attachments, clothing drawstrings) are prohibited; and

(k) 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.

(8) Preschool-age program of activities. In addition to the daily routine specified in OAR 414-350-0220(2), preschool-age children shall have opportunities, on a daily basis, to choose from a variety of activities and experiences, which shall include:

(a) Creative expression through the arts;

(b) Dramatic play;

(c) Gross (large) motor development;

(d) Fine (small) motor development;

(e) Music and movement;

(f) Opportunities to listen and speak;

(g) Concept development;

(h) Appropriate sensory play; and

(i) 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.

(9) School-age program of activities. In addition to the daily routine specified in OAR 414-350-0220(2), school age children shall have opportunities to choose from a variety of activities, including:

(a) Individual or group projects and activities, including homework; and

(b) Rest or relaxation.

(10) A home providing swimming or other water activities to children shall meet all of the requirements set forth in OAR 414-350-0380.

(11) Spa pools on the grounds of the certified family child care home shall be enclosed by a barrier at least 48 inches high, with a lockable gate or door, and have a lockable pool cover. The enclosure and cover shall be locked whenever the child care business is being conducted.

Statutory/Other Authority: ORS 657329A.260

Statutes/Other Implemented: ORS 657329A.260, 657329A.280, 657329A.290

AMEND: 414-350-0390

RULE SUMMARY: Combination of rules pertaining to suspensions, denials and revocations into one section. Wording of rules revised to match new statutory language.

CHANGES TO RULE:

414-350-0390

Suspension, Denial and Revocation of Certification ¶

- (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.¶
- (28) Revocation of a A certified family child care home whose certification shall occur only after the provider receives notification of deficiencies, has adequate-s been denied or revoked must immediately notify all parents of the closure and shall post a notimce to make corrections, and fails to do so of the closure where it can be viewed by parents and others. The notice shall remain posted for a minimum of 2 weeks.¶
- (39) The providerowner has the right to appeal any decision to suspend, deny or revoke the certification, subject to the provisions of Chapter 183, Oregon Revised Statutes.¶
- (4) A provider whose certification has been10) 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 three5 years after the closure of the certified family child care home.¶
- (5) If necessary to protect children, CCD may give public notice of denial or revocation action taken. The type of notice will deeffective 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 on individual circumstances, 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.

Statutory/Other Authority: ORS 657329A.260

Statutes/Other Implemented:





REPEAL: 414-350-0400

RULE SUMMARY: Rules contained in this section have been combined into the section titled "Suspensions, Denials and Revocations".

CHANGES TO RULE:

~~414-350-0400~~

~~Suspension of Certification~~

~~(1) CCD may immediately, and without prior notice, suspend the child care certification when, in the opinion of CCD, 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.¶¶~~

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

~~(b) A provider whose certification has been suspended must post the suspension in the home where it can be viewed by parents and others.¶¶~~

~~(2) The provider has the right to appeal any decision to suspend the certification, subject to the provisions of Chapter 183, Oregon Revised Statutes.¶¶~~

~~(3) If the provider does not request a hearing and the conditions which resulted in suspension have not been corrected, the certification shall be revoked.~~

~~Statutory/Other Authority: ORS 657A.260~~

~~Statutes/Other Implemented:~~

AMEND: 414-350-0405

RULE SUMMARY: Addition of rules for civil penalties and penalty amounts to match revised statutory language.

CHANGES TO RULE:

414-350-0405

Civil Penalty ¶¶

~~(1) A provider who violates~~Violations of these rules or the terms and conditions of certification under these rules may be subject to a civil penalty.¶¶

~~(2) For a serious violation, as defined in OAR 414-350-0010 (32), a provider may be subject to a civil penalty of \$100 for the first viola~~ up to \$1200.¶¶

~~(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 after a wre appropriat~~en warning with time to correct is issued; and \$200 for each subsequent violation, not to exceed \$1,000 in a quarter for all rule, including but not limited to civil penalties, denials, revocations or suspensions, depending upon:¶¶

~~(A) Numbers of previous violations of the same rule; or~~¶¶

~~(B) Circumstances surrounding the rule violation.~~¶¶

~~(3) For a serious violation, as defined in OAR-414-350-0010 (33), a provider may be subject to a civil penalty not to exceed \$1200 for each violations.~~¶¶

~~(3)4) For a non-serious violation, a provider~~certified family child care home may be subject to a civil penalty of \$5400 for the first violation after a written warning w~~each~~ violation.¶¶

~~(5) Each day that a child care facility is operating in violation of any of the rules and conditions of certification is a separate violation of the rules.~~¶¶

~~(6) An individual or entity~~ time to correct is issued; \$100 for a second violation, and \$200 for a third and subsequent violations, not to exceed \$1,000 in a quarter for allhat 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 facility.¶¶

~~(7) 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.~~¶¶

~~(48) The provider~~facility has the right to appeal any decision to impose a civil penalty, subject to the provisions of ~~C~~chapter 183, Oregon Revised Statutes.¶¶

~~(9) 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.~~

Statutory/Other Authority: ORS ~~657~~329A.260

Statutes/Other Implemented: