

Purpose 414-205-0000

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

- (a) On other than an occasional basis; and
- (b) To more than three children from more than one family at any one time, other than the person's children subject to the limits in OAR 414-205-0065.

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certification or registration has been denied or revoked for cause, or suspended, or the person has voluntarily withdrawn their application or closed their registration or certification while under investigation by OCC; or~~

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certification or registration has been denied or revoked for cause, or suspended, or the person has voluntarily withdrawn their application or closed their registration or certification while under investigation by OCC; or~~

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certification or registration has been denied or revoked for cause, or suspended, or the person has voluntarily withdrawn their application or closed their registration or certification while under investigation by OCC; or~~

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certification or registration has been denied or revoked for cause, or suspended, or the person has voluntarily withdrawn their application or closed their registration or certification while under investigation by OCC.~~

(3) 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.

Definitions 414-205-0010

(2) "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.

(27) "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.~~ This includes the months from the end of the prior school year to the start of the kindergarten school year.

(29) "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;

Concern: What does "severe" mean?
 Recommended change: None.
 Rationale: Merriam-Webster defines severe as "very painful or harmful as in *severe* wound". Additional guidance can be given with an interpretive guide accompanying the rule.

- (k) Chemical contact in eyes, mouth, skin, inhalation or ingestion;
- (l) Severe burn;

Concern: What does "severe" mean? Does this include sunburns?
 Recommended change: ~~Severe~~ All burns
 Rationale: All burns (1st degree, 2nd degree and 3rd degree) should be reported. This would include sunburns.

- (m) Allergic reaction requiring administration of Epi-Pen;
- (n) Severe bleeding or stitches;

Concern: What does "severe" mean?
 Recommended change: None.
 Rationale: Merriam-Webster defines severe as "very painful or harmful as in *severe* wound". Additional guidance can be given with an interpretive guide accompanying the rule.

- (o) Shock or confused state;
- (p) Near-drowning.

(32) "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.

Application for Registration 414-205-0020

(6) An applicant shall identify the location of drinking water faucets and fixtures used to obtain water to prepare food, infant formula, drinking or cooking, ~~and dish washing~~ and the location of bathroom, diaper changing, bathing and handwashing faucets and fixtures that are not used for drinking water.

(10) An applicant may submit documented lead testing results obtained within six 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 six 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 414-205-0020(9).

General Requirements 414-205-0035

(8) ~~The Certificate of Registration must be posted in the family child care home in an area where it can be viewed by parents.~~ The provider shall display the following near the entrance, or in some other area of the home where they may be viewed by parent(s) of children in care:

Concern: Need more guidance on where items need to be posted.
 Recommended change: The provider shall display the following near the entrance, or in some other area of the home where they may be clearly viewed by parent(s) of children in care:
 Rationale: Provides clearer wording to meet the intent of the rule.

- (a) The Certificate of Registration; and

(11) The provider or substitute must allow a representative from the Office of Child Care access to the ~~home~~ **premises** any time child care children are present.

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

(25) The provider shall report to OCC:

- (a) Any death of a child while in care, within 24 hours;
- (b) Any child that was left unattended, within 24 hours;

Concern: What does “unattended” mean? Is there a time limit on how long a child can be unattended?
Recommended change: None.

Rationale: Further guidance will be given by licensors and an interpretive guide accompanying the rule. Examples given in engagement were if the group of children are brought in from the play area and while engaged in an activity, a head count reveals that a child had been left in the play area. Supervision rules would also be used to determine if a child was left “unattended”.

(c) Any serious injury or incident, as defined in OAR 414-205-0010(29) 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.
- (d) Any damage to the building that affects the provider’s ability to comply with these requirements, within 48 hours of the occurrence.
- (e) Any animal bites to a child within 48 hours of occurrence.

Concern: Reports of any instance in the rule above that will appear on the parent portal may be viewed by parents as non-compliances and could negatively affect programs.

Recommended change: Include a lead-in statement on the parent portal informing parents that reports do not automatically indicate non-compliance. If a non-compliance has occurred, it will be clearly indicated.

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

The Provider and Other Persons in the Home 414-205-0040

~~(4) The provider must verify with OCC that the individual is enrolled in the CBR prior to that individual moving into the home, residing on a temporary basis in the home, visiting the home on a regular basis (including overnight visits) or substituting for or assisting the provider. This does not apply to parents of children in care unless they are residing in the home or substituting or assisting the provider. The provider must keep a copy of the OCC’s confirmation letter for the individuals enrolled in the CBR that may have contact with child care children. 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;

Concern: What about family or other visitors that may stay for longer than 14 days? For example, kids coming home for the summer from college or military personnel.

Recommended change: None.

Rationale: Other rules are in place to help ensure that adults who are not enrolled or conditionally enrolled in the CBR will not have unsupervised access to children. Special circumstances can be assessed using the exception process.

- (c) Assist the provider; or
- (d) Volunteer in the child care program.

- (5) Individuals with conditional enrollment in the CBR shall not have unsupervised access to children.
- (7) The provider, substitutes and other individuals that are required to be enrolled in the CBR must maintain current enrollment in the CBR at all times while the registered 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 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, registration 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.
- (10) 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.
- (11) 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.

Concern: Why does the plan apply to the premises and the log only apply to the home?

Recommended change: None.

Rationale: The plan is designed to ensure that no one has access to child care children who is not enrolled or conditionally enrolled in the CBR regardless of where the children may be. For example, landscapers or contractors. The log is designed to monitor and document who has entered the home as there is an increased potential for unsupervised contact due to multiple rooms, etc.

Training Requirements 414-205-0055

- (1) When a person submits a new application for registration as a family child care provider, OCC shall, prior to approving the registration, receive evidence from the person that the person has:
- (f) Completed OCC approved safe sleep training.
- (3) When a person submits a reopen or address change application, OCC shall, shall prior to approving it, receive evidence from the individual that the individual has:
- (f) Completed OCC approved safe sleep training. If the reopen is the result of an address change, the person must complete the OCC approved safe sleep training by January 1, 2019.

Program of Activities 414-205-0090

- (6) 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).
- (7) The provider must have routines for eating, napping, diapering and toileting, with flexibility to respond to the needs of each child.
- (8) Infants shall have a variety of appropriate infant toys stimulating to the senses.

(9) 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;

Concern: Do bassinets and playpens also have to have a tightly fitting sheet? Those types of equipment typically don't have mattresses, they have pads.

Recommended change: None. Additional guidance can be given through an interpretive guide accompanying the rule.

Rationale: The intent of the rule is to ensure that bedding will not restrict the infant's movement or interfere with breathing.

(d) A clean sheet shall be provided for each child;

(e) Infants must be placed on their backs on a flat surface for sleeping;

Concern: What about infants that can easily turn over, do we need to keep repositioning them on their backs?

Recommended change: None.

Rationale: Caring for Our Children 3.1.4.1: Safe Sleep Practices and Sudden Unexpected Infant Death (SUID)/SIDS Risk Reduction (American Academy of Pediatrics): Infants up to twelve months of age should be placed for sleep in a supine position (wholly on their back) for every nap or sleep time

<http://nrckids.org/CFOC/Database/3.1.4.1>

(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;

Concern: What if an infant falls asleep in a stroller while on a walk, or on a blanket or pad while at a park? Shall the walk or park visit be cut short so that the infant can "immediately" be moved to an appropriate sleep surface?

Recommended change: **While on the child care premises** if an infant falls asleep...

Rationale: It seems unnecessary to require caregivers to curtail activities such as walks or park visits if an infant falls asleep. The additional language should provide clarity to the intent of the rule.

(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);

Concerns: What about security blankets or comfort toys?

Recommended change: None.

Rationale: Caring for Our Children 3.1.4.1: Safe Sleep Practices and Sudden Unexpected Infant Death (SUID)/SIDS Risk Reduction (American Academy of Pediatrics): Soft or loose bedding should be kept away from sleeping infants and out of safe sleep environments. These include, but are not limited to: bumper pads, pillows, quilts, comforters, sleep positioning devices, sheepskins, blankets, flat sheets, cloth diapers, bibs, etc. Also, blankets/items should not be hung on the sides of cribs. Loose or ill-fitting sheets have caused infants to be strangled or suffocated. Toys, including mobiles and other types of play equipment that are designed to be attached to any part of the crib should be kept away from sleeping infants and out of safe sleep environments.

<http://nrckids.org/CFOC/Database/3.1.4.1>

(i) Swaddling or other clothing or covering that restricts the child's movement is prohibited;

Concern: Why is swaddling bad? It helps the infant sleep. They do it in hospitals.

Recommended change: None. Additional guidance will be given by licensors and interpretive guides accompanying the rule. Special circumstances can be assessed using the exception process.

Rationale: Caring for Our Children 3.1.4.2: Swaddling (Jointly published by the National Resource Center for Health and Safety in Child Care and Early Education, the AAP and the American Public Health Association): There is evidence that swaddling can increase the risk of serious health outcomes, especially in certain situations. The risk of sudden infant death is increased if an infant is swaddled and placed on his/her stomach to sleep or if the infant can roll over from back to stomach. Loose blankets around the head can be a risk factor for sudden infant

death syndrome (SIDS). With swaddling, there is an increased risk of developmental dysplasia of the hip, a hip condition that can result in long-term disability. Hip dysplasia is felt to be more common with swaddling because infants' legs can be forcibly extended. With excessive swaddling, infants may overheat (i.e., hyperthermia).

<http://nrckids.org/CFOC/Database/3.1.4.2>

(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.

Health 414-205-0100

(9) A provider may submit documented lead testing results obtained within six 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 six 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 414-205-0100 (3).

(14) 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 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.

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

Record Keeping 414-205-0130

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

~~Findings Review and Sanctions 414-205-0170~~ Suspension, Denial, Revocation, Findings Reviews and Civil Penalties 414-205-0170

(1) A provider has the right to a review of any finding made by OCC. New applicants for registration will be given a copy of OCC's findings review procedures at the time of the on-site inspection. Information on the OCC findings review process will be in complaint letters. The OCC findings review procedures are also available upon request.

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

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

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

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

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

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

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

~~(6) If an individual listed in 414-205-0040(2)(a) or (b) has been charged with, arrested for, or a warrant is out for any crime which OCC has determined indicates behavior that would have a detrimental effect on a child, the provider's application will be denied or registration will be suspended or revoked until the charge, arrest, or warrant has been resolved.~~

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

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

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

(2) The Office of Child Care may immediately, and without prior notice, suspend the child care registration 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.

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

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

(5) A provider whose registration 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.

(6) 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.

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

(8) Registration may be denied or revoked if a registered 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.

(9) A registered family child care home whose registration 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.

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

(11) Any action taken by OCC to deny, suspend, or revoke registration may be reported to the Department of Human Services, USDA Child Care Food Programs and child care resource and referral system.

(12) A provider whose registration 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.

(13) 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, registration 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.

(14) Registration may be denied, suspended or revoked if an individual listed in OAR 414-205-0075 has a child protective services history or an open child protective services or law enforcement case that would disqualify the individual from the CBR.

~~(15) A provider who violates these rules or the terms and conditions of certification under these rules may be subject to a civil penalty.~~ Violations of these rules or terms and conditions of certification under these rules may be subject to a civil penalty up to \$750 per violation.

(16) Whenever the Office of Child Care (OCC) investigates an alleged complaint at a registered 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) Numbers of previous violations of the same rule; or
 - (B) Circumstances surrounding the rule violation.

~~(2) For a serious violation, as defined in OAR 414-205-0010(29) a provider may be subject to a civil penalty of \$100 for a violation after a written warning with time to correct is issued; and \$100 for each subsequent violation, not to exceed \$1,000 in a quarter for all rule violations.~~

(17) For a serious violation, as defined in OAR-414-350-0010 (29), a provider may be subject to a civil penalty not to exceed \$750 for each violation.

~~(3) For other violations, a provider may be subject to a civil penalty of \$50 for a violation after a written warning with time to correct is issued; \$100 for a second violation, and \$100 for each subsequent violation, not to exceed \$1,000 in a quarter for all rule violations.~~ (18) For a non-serious violation, a provider may be subject to a civil penalty of \$250 for each violation.

(19) 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.

(20) 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 facility.

Feedback was very supportive of the increase in civil penalty for illegal care.

(21) 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.

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

(23) 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.

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