



Temporary Changes to Child Care Rules in Response to COVID-19 State of Emergency

Amended March 24, 2020

As authorized by Executive Orders [20-08](#) and [20-12](#) and as a necessary response to developments in the COVID-19 State of Emergency, the Early Learning System Director hereby orders temporary changes to child care rules. This order supersedes the [order issued on March 18, 2020](#). This order continues rule changes from the prior order pertaining to emergency background checks, expedited training, and exception requests but (a) narrows and clarifies the scope of operation of emergency child care as required by Executive Order 20-12 and revised health guidance, (b) adds recorded programs to groups that must receive approval to serve as Emergency Child Care Facilities in order to remain open, and (c) modifies the social distancing requirements as per the revised directive from the Governor.

On March 23, 2020, Governor Brown issued [Executive Order 20-12](#). This order requires that all licensed child care facilities close from March 25, 2020 through April 28, 2020.¹ However, licensed facilities and other groups may seek permission from OCC to operate as an Emergency Child Care Facility if they meet certain requirements in addition to any currently applicable regulations. These requirements are that facilities must limit all group sizes in child care to a maximum of 10 children, and that facilities must prioritize providing child care for certain categories of critical workers.

These temporary changes are effective immediately and expire after the Governor lifts the emergency declaration. These changes do not apply to any person or facility previously denied, suspended, or removed from the Central Background Registry, or under an Office of Child Care (OCC) legal order, settlement agreement, or currently in the administrative hearing process.

1. Emergency Child Care Facilities

While licensed child care facilities are directed by the Governor to close on March 25, 2020, the facilities may remain open if they submit an application to become an Emergency Child Care Facility and are approved by OCC. Recognizing the need to consult with families and staff about their willingness and ability to serve in Emergency Child Care, providers shall submit their application to provide emergency care, as described below, by Friday March 27, 2020. Further, Recorded Programs under ORS 329A.255 and 329A.257—both preschool and school-age—may not operate without applying and being approved to operate as an Emergency Child Care

¹ That period may be extended or terminated earlier by the Governor.

Facility. These changes also do not apply to license-exempt individuals that provide care that is not considered child care under ORS 329A.250(4)(a)-(i) such as care “by a person who cares for no more than three children other than the person’s own children.”

Any Licensed Child Care or Recorded Program that does not apply, applies and does not receive approval, or does not abide by the requirements, must close.

Groups who can apply for approval as Emergency Child Care Facilities include licensed child care providers, schools, and experienced child care providers opening additional sites for emergency care. Currently, Recorded Programs are among the experienced child care providers that would qualify to be considered for approval.

Any group that is approved as an Emergency Child Care Facility must adhere to all the following requirements, in the following order of priority:

- *Group Size and Priority Enrollment Requirements*
 - Executive Order 20-12’s directives to limit group size, maintain consistent groupings, and prioritize child care for critical workers, available [here](#).
- *COVID-19 Safety Requirements*
 - ELD and OHA’s Safety Procedures and Guidance for Child Care Facilities Operating During COVID-19, available [here](#).
 - Note: Following these procedures is now required (it was previously a recommendation). These procedures may continually be updated. Providers will be notified of updates via email and will be expected to update procedures to comply with updates.
- *Basic Requirements*
 - If child care is provided by a public school or an experienced child care provider at a new site, then the rules detailed below under the heading of “Basic Requirements” apply.
 - If a licensed facility is providing child care, then they should continue to follow existing child care rules for the type of facility. The exception to this is the modified guidance on Group Size and Priority Enrollment Requirements, and the COVID-19 Safety Requirements.

These requirements are explained in detail below.

a. Group Size and Priority Enrollment Requirements

i. Child Care Facilities Must Limit Group Size to a Maximum of 10 Children

Child care must be carried out in maximum “stable” groups of 10 or fewer children. “Stable” means the same 10 or fewer children are in the same group each day. Further, this group of ten children must be cared for in a room that cannot be accessed by children outside the stable group. Emergency child care providers may serve new children in care.

ii. Child Care Facilities Must Prioritize Providing Care for Certain Categories of Workers

Facilities must prioritize providing child care for individuals employed in certain critical jobs. Among these jobs, Governor Brown has designated two levels of priorities. Guidance on how to determine whether a worker falls into one of these categories can be found in the March 19, 2020 guidance from the U.S. Department of Homeland Security (“Homeland Security Guidance”), and summarized [here](#) by ELD.

The first priority level is first responders, emergency workers, and health care professionals. The jobs included in this priority level are detailed on page 5 of the Homeland Security Guidance under the “Healthcare / Public Health” heading and on page 6 under the “Law Enforcement, Public Safety, First Responders” heading.

The second priority level is critical operations staff and essential personnel. The jobs included in this priority level are detailed on pages 6 through 11 of the Homeland Security Guidance, starting with the “Food and Agriculture” heading on page 6.

You may continue to serve the children in your care. If you are at capacity and are asked to care for the child of essential workforce, you should ask the other families in care who have other options for care to give that slot to someone who needs it during this state of emergency.

Facilities do not have to provide child care services to parents/caregivers who are working from their home. There may be exceptions to this, for example, a parent/caregiver is providing telehealth services from home. Providers may choose to prioritize families with these extenuating circumstances.

b. COVID-19 Safety Requirements

The practices detailed in the COVID-19 Safety Requirements must be followed at all times. The practices will likely continue to evolve as new information becomes available on how best to prevent the spread of COVID-19 or more specific guidance in response to questions from providers.

c. Basic Requirements

Currently licensed child care facilities providing emergency child care should continue to follow their applicable rules. However, if any of those rules conflict with either the Group and Priority Enrollment Requirements or the COVID-19 Safety Requirements, the requirements supersede the rule.

For all other groups providing emergency child care, the following basic standards from the March 18, 2020 order remain in place:

- Child care providers must adhere to specific social distancing guidelines as directed by the governor.

- Staff may use the emergency background check process authorized above if they do not have sufficient staff enrolled in the CBR.
- Staff must complete basic online training. At least one person on site must have First Aid/Infant CPR (online acceptable) and Intro to Child Care Health and Safety; any staff caring for infants must complete Safe Sleep, and all staff must complete Recognizing and Reporting Child Abuse and Neglect.
- To the extent it furthers opening emergency care facilities, OCC will allow child care to open without seeking other approval from local jurisdictions.
- Equipment (e.g., cribs, playpens, and high chairs) must meet U.S. Consumer Product Safety Commission or equivalent standards.
- Smoking, vaping, alcohol, marijuana, and illegal substances are prohibited.
- Building, grounds, and water supply must be maintained and hazard-free.
- Toilets, sinks, smoke detectors, fire extinguishers, phone (mobile acceptable) on site and in working condition.
- Children must be supervised, and adults must provide positive guidance/discipline, hand washing and other hygiene practices enforced, toxics and weapons must be child-safety locked, safe sleep and safe bottle-feeding rules enforced.
- Home-based care may have 10 children total. Of the 10, there may be no more than 6 children ages preschool and younger and of the 6, no more than 2 under 24 months.
- Center-based care may have the following ratios:

Age	Caregiver to Child ratio	Max children in group
6 weeks – 23 months	1:4	8
24 months – 35 months	1:5	10
36 months – Kindergarten	1:10	10
Attending Kindergarten and older	1:10	10

- OCC accepts reports from parents or others who may report concerns. OCC may inspect and investigate at any time. If OCC determines there is danger to children, the agency may close the facility.

d. Application Required to Operate as an Emergency Child Care Facility

Any group that wants to provide emergency child care, including licensed facilities, recorded programs, schools and experienced child care providers must submit an Emergency Child Care Facility application to OCC whereby the facility agrees to follow the applicable rules including the Group Size and Priority Enrollment Requirements. The application is available [here](#). For licensed facilities, recorded programs, and experienced child care providers opening additional sites for emergency care, OCC will review the application and determine whether to approve the request. For school districts, ODE/ELD staff will review the application and provide direct follow up.

If a group has submitted an Emergency Child Care Facility application and agreed to abide by all applicable requirements, the group may continue to provide emergency child care in compliance with all applicable requirements, pending OCC's decision on whether to approve the application.

2. Social Distancing

The Governor's early directive on social distancing has been strengthened by her "Stay Home, Save Lives" Executive Order, available [here](#). Social distancing has been adapted for child care and will be updated as part of the COVID-19 Safety Requirements.

3. Licensed Care Exceptions on a Case-by-Case Basis

OCC will consider case-by-case exceptions to current licensing requirements, as is already provided for in law, on an expedited timeframe. Examples could include allowing mixed-age groupings in Certified Center facilities, or allowing existing child care centers to open additional temporary rooms without seeking approval from local jurisdictions or other state agencies.

Approval of an exception will be based on the size of facility, staffing, compliance history, and guidance from public health officials.

4. Expedited Training

OCC will adapt training requirements so that staff can begin working more quickly, without sacrificing safety. OCC will grant extensions for completing training for license renewals. For example, staff who have unsupervised access to children will complete online training that addresses health and safety, child abuse reporting, First Aid/CPR, and safe sleep practices.

5. Emergency Background Check

To expedite filling the child care need for essential workforce during this declared emergency, and due to the significant time required to achieve enrollment in the Central Background Registry (CBR), OCC is establishing an emergency background check process for those not already enrolled in the CBR. Applicants will be subject to LEADS (Law Enforcement Data System) check for Oregon criminal and sex offender registry, Child and Protective Services check for child abuse, National Sex Offender Registry Public web site check, and run against the CBR.

Emergency Child Care Facilities located at public schools and staffed by school district employees may continue using their existing background checks to qualify staff.

OCC will work with organizations that are filling the child care gap during this public health emergency – child care providers, Child Care Resource and Referral (CCR&R) agencies, 211 Info, and others – to supply information on applicants who have passed the emergency background check. OCC may cancel or revoke an emergency background authorization at any time, due to any concern that the person poses a risk to children. Once the emergency declaration is lifted, the authorization provided by this emergency background check is canceled. That person will need to be enrolled in the CBR to continue work in child care.

Child care must operate in a safe manner, while being made accessible to Oregonians in the critical workforce.

So ordered by _____ on _____
Miriam Calderon, Early Learning System Director March 24, 2019