

OFFICE OF THE SECRETARY OF STATE
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ARCHIVES DIVISION
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NOTICE OF PROPOSED RULEMAKING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 414
OREGON DEPARTMENT OF EDUCATION
EARLY LEARNING DIVISION

FILED
06/21/2021 6:20 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: OCC needs authority consider Adult Protective Service history that is not self-disclosed.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 08/04/2021 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.

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700 Summer Street NE
Suite 350
Salem, OR 97301

Filed By:
Remember Watts
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 08/03/2021

TIME: 5:00 PM - 5:45 PM

OFFICER: Remy Watts

ADDRESS: Hearing will be virtual

700 Summer Street NE

Suite 350

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Please arrive onto the Zoom and sign into the hearing by 5:15pm to submit testimony.

NEED FOR THE RULE(S):

Secretary of State recommended that OCC include a check of Adult Protective Services history (beyond the current process, which relies on self-disclosure) in the Central Background Registry process. This rule change gives OCC the authority to complete this check in addition to self-disclosure.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Secretary of State Audit: <https://sos.oregon.gov/audits/Documents/2020-21.pdf>

FISCAL AND ECONOMIC IMPACT:

OCC does not anticipate a fiscal or economic impact to providers.

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) Individuals who have substantiated allegations of abuse and failed to self-disclose this information will need to go through the suitability process prior to enrolling in the Central Background Registry. If there is a nexus between their history and the safety of child care children, the applicant could be denied enrollment or could have their enrollment revoked.

2a) OCC anticipates that the number of affected providers will be low. When The Secretary of State performed this check, they identified eight (8) individuals who had undisclosed APS history out of 60,000 enrollees and applicants.

b) The process will impact ODHS's Office of Reporting, Research, Analytics and Implementation (ORRAI) and OCC the most, with an increase in requests for additional information to determine suitability of an individual with a substantiated allegation of abuse or neglect. ORRAI staff will provide a report to OCC with the names of individuals who have substantiated allegations issued by partner agencies. OCC will compare that report with names of CBR applicants and enrollees to determine if there are matches. If matches are identified, OCC will request additional information from the reporting agency and the individual.

C) See above.

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

Since there is no anticipated fiscal impact on providers, there was no external consultation on these rule updates. Child care unions representing providers have been notified of this rule update that increases safety of care for children.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

No anticipated fiscal impact to providers.

AMEND: 414-061-0050

RULE SUMMARY: Gives OCC authority to consider Adult Protective Service history that is not self-disclosed.

CHANGES TO RULE:

414-061-0050

History to Be Considered ¶¶

(1) OCC has determined that serious felonies and misdemeanors involving violence or unauthorized sexual conduct, especially with children or otherwise vulnerable persons, is fundamentally inconsistent with any responsibility for care of children. Conviction of crimes listed in Category I of this rule shall disqualify a subject individual from being enrolled in the Central Background Registry, unless the subject individual provides sufficient evidence of suitability as described in section (9) of this rule.¶¶

(a) OCC will consider conviction of the following crimes for 15 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 15 years will run from the date of arrest, citation, charge, or conviction whichever is later.¶¶

(A) 163.515 Bigamy.¶¶

(B) 164.225 Burglary in the first degree.¶¶

(C) 163.275 Coercion.¶¶

(D) 163.200 Criminal mistreatment in the second degree.¶¶

- (E) 166.270 Possession of weapons by certain felons.¶
- (F) 166.720 Racketeering activity unlawful; penalties.¶
- (G) 164.405 Robbery in the second degree.¶
- (H) 164.395 Robbery in the third degree.¶
- (I) 163.445 Sexual misconduct.¶
- (J) 163.732 Stalking.¶
- (K) 162.185 Supplying contraband.¶
- (L) 166.220 Unlawful use of weapon.¶
- (M) 163.257 Custodial interference in the first degree.¶
- (b) OCC will consider conviction of the following crimes for 20 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 20 years will run from the date of arrest, citation, charge, or conviction whichever is later.¶
- (A) 166.087 Abuse of corpse in the first degree.¶
- (B) 166.085 Abuse of corpse in the second degree.¶
- (C) 475.908 Causing another person to ingest a controlled substance.¶
- (D) 475B.367 Causing another person to ingest marijuana.¶
- (E) 163.205 Criminal mistreatment in the first degree.¶
- (F) 163.145 Criminally negligent homicide.¶
- (G) 162.165 Escape in the first degree.¶
- (H) 163.693 Failure to report child pornography.¶
- (I) 181.812 Failure to report as sex offender; defense.¶
- (J) 166.429 Firearms used in felony.¶
- (K) 163.525 Incest.¶
- (L) 166.165 Intimidation in the first degree.¶
- (M) 166.155 Intimidation in the second degree.¶
- (N) 163.125 Manslaughter in the second degree.¶
- (O) 166.382 Possession of destructive device prohibited; exceptions.¶
- (P) 166.275 Possession of weapons by inmates of institutions.¶
- (Q) 167.012 Promoting prostitution.¶
- (R) 167.090 Publicly displaying nudity or sex for advertising purposes.¶
- (S) 163.355 Rape in the third degree. ¶
- (T) 164.415 Robbery in the first degree.¶
- (U) 167.062 Sadoomasochistic abuse or sexual conduct in live show.¶
- (V) 167.212 Tampering with drug records.¶
- (W) 164.075 Theft by extortion.¶
- (X) 163.479 Unlawful contact with a child.¶
- (Y) 166.384 Unlawful manufacture of destructive device.¶
- (Z) 166.660 Unlawful paramilitary activity.¶
- (AA) 166.272 Unlawful possession of machine guns, certain short-barreled firearms and firearms silencers.¶
- (BB) 163.212 Unlawful use of an electrical stun gun, tear gas or mace in the second degree.¶
- (CC) 163.476 Unlawfully being in a location where children regularly congregate.¶
- (c) OCC will consider the following crimes regardless of the length of time since the conviction.¶
- (A) 167.820 Concealing the birth of an infant.¶
- (B) 167.080 Displaying obscene materials to minors.¶
- (C) 167.341 Encouraging sexual assault of an animal.¶
- (D) 167.075 Exhibiting an obscene performance to a minor.¶
- (E) 167.057 Luring a minor.¶
- (F) 166.370 Possession of firearm or dangerous weapon in public building or court facility exception; discharging a firearm in a school.¶

- (G) 433.010 Spreading disease prohibited; health certificates to be issued by physicians; rules.¶
- (H) 163.264 Subjecting another person to involuntary servitude in the first degree.¶
- (I) 163.263 Subjecting another person to involuntary servitude in the second degree.¶
- (J) 163.213 Unlawful use of an electrical stun gun, tear gas or mace in the first degree.¶
- (2) OCC has further determined that felonies and misdemeanors involving theft, fraud, or deception, crimes against the state and public justice, and major traffic violations may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual was convicted of a crime listed in Category II of this rule, OCC will seek to obtain and review information on all intervening circumstances and other background information related to criminal activity, subject to section (9) of this rule. OCC will make a determination whether an individual is suitable for enrollment in the Central Background Registry based on all information available.¶
- (a) OCC will consider conviction of the following crimes for 5 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 5 years will run from the date of arrest, citation, charge, or conviction whichever is later.¶
- (A) 162.015 Bribe giving.¶
- (B) 162.025 Bribe receiving.¶
- (C) 162.275 Bribe receiving by a witness.¶
- (D) 162.265 Bribing a witness.¶
- (E) 162.335 Compounding.¶
- (F) 811.182 Criminal driving while suspended or revoked; penalties.¶
- (G) 164.354 Criminal mischief in the second degree.¶
- (H) 192.865 Criminal penalty (192.852 Prohibition on obtaining actual address or telephone number; prohibition on disclosure by employee of public body).¶
- (I) 165.022 Criminal possession of a forged instrument in the first degree.¶
- (J) 165.017 Criminal possession of a forged instrument in the second degree.¶
- (K) 165.032 Criminal possession of a forgery device.¶
- (L) 164.245 Criminal trespass in the second degree.¶
- (M) 166.025 Disorderly conduct in the second degree.¶
- (N) 830.475 Duties of operators and witnesses at accidents (failure to perform the duties of an operator of a boat).¶
- (O) 162.145 Escape in the third degree.¶
- (P) 162.205 Failure to appear in the first degree.¶
- (Q) 162.195 Failure to appear in the second degree.¶
- (R) 811.705 Failure to perform duties of driver to injured persons; penalty (hit and run, injury).¶
- (S) 811.700 Failure to perform duties of driver when property is damaged; penalty (hit and run, property).¶
- (T) 165.007 Forgery in the second degree.¶
- (U) 418.630 Foster home must be certified as approved.¶
- (V) 165.570 Improper use of emergency reporting system.¶
- (W) 162.375 Initiating a false report.¶
- (X) 165.572 Interference with making a report.¶
- (Y) 162.257 Interfering with a firefighter or emergency medical services provider.¶
- (Z) 162.247 Interfering with a peace officer or parole and probation officer.¶
- (AA) 166.116 Interfering with public transportation.¶
- (BB) 418.327 Licensing of certain schools and organizations offering residential programs; fees; rules.¶
- (CC) 166.095 Misconduct with emergency telephone calls.¶
- (DD) 162.425 Misuse of confidential information.¶
- (EE) 166.450 Obliteration or change of identification number on firearms.¶
- (FF) 162.235 Obstructing governmental or judicial administration.¶
- (GG) 162.415 Official misconduct in the first degree.¶

- (HH) 162.405 Official misconduct in the second degree.¶
- (II) 167.431 Participation in cockfighting.¶
- (JJ) 167.370 Participation in dogfighting.¶
- (KK) 162.065 Perjury.¶
- (LL) 165.070 Possessing fraudulent communications device.¶
- (MM) 164.235 Possession of a burglary tool or theft device.¶
- (NN) 164.335 Reckless burning.¶
- (OO) 811.140 Reckless driving; penalty.¶
- (PP) 811.231 Reckless endangerment of highway workers; penalties.¶
- (QQ) 830.315 Reckless operation; speed (boat).¶
- (RR) 162.315 Resisting arrest.¶
- (SS) 165.090 Sports bribe receiving.¶
- (TT) 165.085 Sports bribery.¶
- (UU) 411.675 Submitting wrongful claim for payment of public assistance or medical assistance.¶
- (VV) 162.295 Tampering with physical evidence.¶
- (WW) 162.305 Tampering with public records.¶
- (XX) 164.045 Theft in the second degree.¶
- (YY) 166.649 Throwing an object off an overpass in the second degree.¶
- (ZZ) 033.045 Types of sanctions (Contempt of Court).¶
- (AAA) 162.175 Unauthorized departure.¶
- (BBB) 165.074 Unlawful factoring of payment card transaction.¶
- (CCC) 165.810 Unlawful possession of a personal identification device.¶
- (DDD) 165.813 Unlawful possession of fictitious identification.¶
- (EEE) 411.840 Unlawfully obtaining or disposing of supplemental nutrition assistance.¶
- (FFF) 411.630 Unlawfully obtaining public assistance or medical assistance.¶
- (GGG) 811.060 Vehicular assault of bicyclist or pedestrian; penalty.¶
- (HHH) 163.750 Violating a court's stalking protective order.¶
- (b) OCC will consider conviction of the following crimes for 7 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 7 years will run from the date of arrest, citation, charge, or conviction whichever is later.¶
- (A) 163.196 Aggravate driving while suspended or revoked.¶
- (B) 167.340 Animal abandonment.¶
- (C) 167.330 Animal neglect in the first degree.¶
- (D) 167.325 Animal neglect in the second degree.¶
- (E) 166.240 Carrying of concealed weapons.¶
- (F) 164.365 Criminal mischief in the first degree.¶
- (G) 166.023 Disorderly conduct in the first degree.¶
- (H) 813.010 Driving under the influence of intoxicants; penalty.¶
- (I) 314.075 Evading requirements of law prohibited (tax evasion).¶
- (J) 475.918 Falsifying drug test results.¶
- (K) 813.011 Felony driving under the influence of intoxicants; penalty.¶
- (L) 811.540 Fleeing or attempting to elude police officer; penalty.¶
- (M) 166.065 Harassment- if against a child.¶
- (N) 609.098 Maintaining dangerous dog.¶
- (O) 830.325 Operating boat while under influence of intoxicating liquor or controlled substance.¶
- (P) 163.195 Recklessly endangering another person.¶
- (Q) 162.285 Tampering with a witness.¶
- (R) 166.090 Telephonic harassment.¶
- (S) 166.651 Throwing an object off an overpass in the first degree.¶

- (T) 164.135 Unauthorized use of a vehicle.¶
- (U) 166.250 Unlawful possession of firearms.¶
- (V) 167.808 Unlawful possession of inhalants.¶
- (W) 133.310 Authority of peace officer to arrest without warrant (Violation of restraining order).¶
- (c) OCC will consider conviction of the following crimes for 10 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 10 years will run from the date of arrest, citation, charge, or conviction whichever is later.¶
- (A) 165.803 Aggravated identity theft.¶
- (B) 167.315 Animal abuse in the second degree.¶
- (C) 164.215 Burglary in the second degree.¶
- (D) 165.581 Cellular counterfeiting in the first degree.¶
- (E) 167.428 Cockfighting.¶
- (F) 164.377 Computer crime.¶
- (G) 162.365 Criminal impersonation.¶
- (H) 162.367 Criminal impersonation of peace officer.¶
- (I) 164.138 Criminal possession of a rented or leased motor vehicle.¶
- (J) 164.255 Criminal trespass in the first degree.¶
- (K) 164.265 Criminal trespass while in possession of a firearm.¶
- (L) 163.245 Custodial interference in the second degree.¶
- (M) 167.365 Dogfighting.¶
- (N) 165.013 Forgery in the first degree.¶
- (O) 165.055 Fraudulent use of a credit card.¶
- (P) 165.800 Identity theft.¶
- (Q) 167.355 Involvement in animal fighting.¶
- (R) 166.470 Limitations and conditions for sales of firearms.¶
- (S) 164.162 Mail theft or receipt of stolen mail.¶
- (T) 163.190 Menacing.¶
- (U) 164.098 Organized retail theft.¶
- (V) 166.190 Pointing firearm at another; courts having jurisdiction over offense.¶
- (W) 819.300 Possession of a stolen vehicle; penalty.¶
- (X) 162.369 Possession of false law enforcement identification card.¶
- (Y) 163.467 Private indecency.¶
- (Z) 685.990 Penalties (pertaining to naturopathic medicine).¶
- (AA) 677.080 Prohibited acts (regarding the practice of medicine).¶
- (BB) 475B.329 Prohibition regarding person who is visibly intoxicated; prohibition against allowing consumption of marijuana by person under 21 years of age on private property; penalty.¶
- (CC) 471.410 Providing liquor to person under 21 or to intoxicated person; allowing consumption by minor on property; mandatory minimum penalties.¶
- (DD) 689.527 Prohibited practices; rules (pertaining to pharmacy technicians and practitioners).¶
- (EE) 166.480 Sale or gift of explosives to children.¶
- (FF) 164.085 Theft by deception.¶
- (GG) 164.095 Theft by receiving.¶
- (HH) 164.055 Theft in the first degree.¶
- (II) 164.125 Theft of services.¶
- (JJ) 164.272 Unlawful entry into a motor vehicle.¶
- (d) OCC will consider conviction of the following crimes for 15 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 15 years will run from the date of arrest, citation, charge, or conviction whichever is later.¶
- (A) 167.322 Aggravated animal abuse in the first degree.¶

- (B) 166.070 Aggravated harassment.¶¶
- (C) 164.057 Aggravated theft in the first degree.¶¶
- (D) 167.320 Animal abuse in the first degree.¶¶
- (E) 475B.359 Arson incident to manufacture of cannabinoid extract in first degree.¶¶
- (F) 475B.363 Arson incident to manufacture of cannabinoid extract in second degree.¶¶
- (G) 163.160 Assault in the fourth degree.¶¶
- (H) 163.208 Assaulting a public safety officer.¶¶
- (I) 167.339 Assaulting a law enforcement animal.¶¶
- (J) 167.008 Commercial sexual solicitation.¶¶
- (K) 475.900 Crime category classification; proof of commercial drug offense.¶¶
- (L) 475.962 Distribution of equipment, solvent, reagent, or precursor substance with intent to facilitate manufacture of controlled substance.¶¶
- (M) 164.172 Engaging in a financial transaction in property derived from unlawful activity.¶¶
- (N) 162.155 Escape in the second degree.¶¶
- (O) 475.955 Failure to report missing precursor substances.¶¶
- (P) 475.950 Failure to report precursor substance transaction.¶¶
- (Q) 167.222 Frequenting a place where controlled substances are used.¶¶
- (R) 162.325 Hindering prosecution.¶¶
- (S) 475.960 Illegally selling drug equipment.¶¶
- (T) 167.352 Interfering with an assistance, a search and rescue or a therapy animal.¶¶
- (U) 167.337 Interfering with law enforcement animal.¶¶
- (V) 163.700 Invasion of personal privacy.¶¶
- (W) 164.170 Laundering a monetary instrument.¶¶
- (X) 165.117 Metal property transaction records; prohibited conduct; commercial sellers; penalties.¶¶
- (Y) 166.180 Negligently wounding another.¶¶
- (Z) 475.967 Possession of precursor substance with intent to manufacture controlled substance.¶¶
- (AA) 475.977 Possession or disposing of methamphetamine manufacturing waste.¶¶
- (BB) 475.914 Prohibited acts for registrants; penalties.¶¶
- (CC) 475.752 Prohibited acts generally; penalties; affirmative defense for certain peyote uses; causing death by Schedule IV substance.¶¶
- (DD) 475.916 Prohibited acts involving records and fraud; penalties.¶¶
- (EE) 475B.333 Prohibition against giving marijuana item as prize; penalty.¶¶
- (FF) 475B.227 Prohibition against importing or exporting marijuana items.¶¶
- (GG) 475B.311 Prohibition against producing, processing or storing homemade cannabinoid extracts.¶¶
- (HH) 167.007 Prostitution.¶¶
- (II) 475.920 Providing drug test falsification equipment.¶¶
- (JJ) 475.965 Providing false information on precursor substance report or record.¶¶
- (KK) 163.465 Public indecency.¶¶
- (LL) 166.015 Riot.¶¶
- (MM) 475.973 Rulemaking authority regarding products containing ephedrine, pseudoephedrine and phenylpropanolamine; records.¶¶
- (NN) 475.525 Sale of drug paraphernalia prohibited; definition of drug paraphernalia; exceptions.¶¶
- (OO) 166.005 Treason.¶¶
- (PP) 475.870 Unlawful delivery of 3,4-methylenedioxymethamphetamine.¶¶
- (QQ) 475.880 Unlawful delivery of cocaine.¶¶
- (RR) 475.850 Unlawful delivery of heroin.¶¶
- (SS) 475.810 Unlawful delivery of hydrocodone.¶¶
- (TT) 475.912 Unlawful delivery of imitation controlled substance.¶¶
- (UU) 475B.346 Unlawful delivery of marijuana item.¶¶

- (VV) 475.820 Unlawful delivery of methadone.¶
- (WW) 475.890 Unlawful delivery of methamphetamine.¶
- (XX) 475.830 Unlawful delivery of oxycodone.¶
- (YY) 475.866 Unlawful manufacture of 3,4-methylenedioxymethamphetamine.¶
- (ZZ) 475.876 Unlawful manufacture of cocaine.¶
- (AAA) 475.846 Unlawful manufacture of heroin.¶
- (BBB) 475.806 Unlawful manufacture of hydrocodone.¶
- (CCC) 475.856 Unlawful manufacture of marijuana.¶
- (DDD) 475.816 Unlawful manufacture of methadone.¶
- (EEE) 475.886 Unlawful manufacture of methamphetamine.¶
- (FFF) 475.826 Unlawful manufacture of oxycodone.¶
- (GGG) 475B.337 Unlawful possession by person 21 years of age or older.¶
- (HHH) 475B.341 Unlawful possession by person under 21 years of age.¶
- (III) 475.814 Unlawful possession of hydrocodone.¶
- (JJJ) 475.824 Unlawful possession of methadone.¶
- (KKK) 475.834 Unlawful possession of oxycodone.¶
- (LLL) 475.874 Unlawful possession of 3,4-methylenedioxymethamphetamine.¶
- (MMM) 475.971 Unlawful possession of anhydrous ammonia.¶
- (NNN) 475.884 Unlawful possession of cocaine.¶
- (OOO) 475.854 Unlawful possession of heroin.¶
- (PPP) 475.975 Unlawful possession of iodine in its elemental form; recording transfers; unlawful distribution of iodine in its elemental form.¶
- (QQQ) 475.976 Unlawful possession of iodine matrix; recording transfers; unlawful distribution of iodine matrix.¶
- (RRR) 475.979 Unlawful possession of lithium metal or sodium metal.¶
- (SSS) 475.894 Unlawful possession of methamphetamine.¶
- (TTT) 475.969 Unlawful possession of phosphorus.¶
- (e) OCC will consider conviction of the following crimes for 20 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 20 years will run from the date of arrest, citation, or conviction whichever is later.¶
- (A) 475B.371 Administration to another person under 18 years of age.¶
- (B) 475.910 Application of controlled substance to the body of another person; prohibition.¶
- (C) 475.906 Penalties for unlawful delivery to minors.¶
- (D) 475.744 Providing hypodermic device to minor prohibited; exception.¶
- (E) 475.872 Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school.¶
- (F) 475.882 Unlawful delivery of cocaine within 1,000 feet of school.¶
- (G) 475.852 Unlawful delivery of heroin within 1,000 feet of school.¶
- (H) 475.812 Unlawful delivery of hydrocodone within 1,000 feet of school.¶
- (I) 475.822 Unlawful delivery of methadone within 1,000 feet of school.¶
- (J) 475.892 Unlawful delivery of methamphetamine within 1,000 feet of school.¶
- (K) 475.832 Unlawful delivery of oxycodone within 1,000 feet of school.¶
- (L) 475.868 Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school.¶
- (M) 475.878 Unlawful manufacture of cocaine within 1,000 feet of school.¶
- (N) 475.848 Unlawful manufacture of heroin within 1,000 feet of school.¶
- (O) 475.808 Unlawful manufacture of hydrocodone within 1,000 feet of school.¶
- (P) 475.818 Unlawful manufacture of methadone within 1,000 feet of school.¶
- (Q) 475.888 Unlawful manufacture of methamphetamine within 1,000 feet of school.¶
- (R) 475.828 Unlawful manufacture of oxycodone within 1,000 feet of school.¶
- (S) 475.904 Unlawful manufacture or delivery of controlled substance within 1,000 feet of school.¶
- (3) These rules also apply to:¶

- (a) A crime in another jurisdiction which is the substantial equivalent of a crime listed in Category I and II;¶
 - (b) An adjudication of guilt by reason of insanity, of an act that is the substantial equivalent of a crime listed in Category I and II;¶
 - (c) An adjudication by a juvenile court that a youth has committed an act that is the substantial equivalent of a crime listed in Category I and II;¶
 - (d) Any attempts, conspiracies or solicitations to commit any Felony or Misdemeanor crime listed in Category I and II;¶
 - (e) A new crime, adopted by the legislature following the most recent amendment of these rules, which is the substantial equivalent of any crimes listed in Category I and II;¶
 - (f) Any crime that is no longer codified in Oregon, but which is the substantial equivalent of any of the crimes listed in Category I and II;¶
 - (g) Any felony in Oregon Revised Statutes not listed in Category I and II that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by OCC;¶
 - (h) Any misdemeanor in Oregon Revised Statutes not listed in Category I and II that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by OCC; and¶
 - (i) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.¶
- (4) OCC has determined that arrests for certain conduct may substantially jeopardize the safety of child care children and could be inconsistent with any position of unsupervised contact with children. If any subject individual has one or more arrests, on or after January 1, 2015, for any crime(s) listed in OAR 414-061-0045(1)(d) or a crime in another jurisdiction which is the substantial equivalent of a crime listed in OAR 414-061-0045(1)(d), OCC will seek to obtain and review information related to the conduct resulting in the arrest, including information from the subject individual, subject to section (10) of this rule. Based on this information, OCC will determine whether or not to enroll, suspend or remove the subject individual in or from the Central Background Registry.¶
- (5) OCC has determined that child abuse and neglect history may substantially jeopardize the safety of children and is inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual has a child abuse and neglect history, OCC will seek to obtain and review information related to the history, including information from the subject individual, subject to section (9) of this rule. Based on this information, OCC will make a decision whether or not to enroll, suspend or remove the subject individual in or from the Central Background Registry.¶
- (6) OCC has determined that a substantiated finding of adult abuse may substantially jeopardize the safety of child care children and could be inconsistent with any position of unsupervised contact with children. If a subject individual ~~discloses~~has adult protective services history, OCC will seek to obtain and review information related to the history, including information from the subject individual, subject to section (9) of this rule. Based on this information, OCC will make a decision whether or not to enroll, suspend or remove the subject individual in or from the Central Background Registry.¶
- (7) OCC has determined that foster care certification history may, depending on the history, substantially jeopardize the safety of child care children and could be inconsistent with any position of unsupervised contact with children. If a subject individual discloses foster care certification history, OCC will seek to obtain and review information related to the history, including information from the subject individual, subject to section (9) of this rule. Based on this information, OCC will make a decision whether or not to enroll, suspend or remove the subject individual in or from the Central Background Registry.¶
- (8) OCC has determined a subject individual in a diversion program or similar agreement for any Category I or Category II crime, depending on the history, may substantially jeopardize the safety of child care children and could be inconsistent with any position of unsupervised contact with children. If a subject individual discloses a diversion program or similar agreement for any Category I or Category II crime, OCC will seek to obtain and review information related to the history, including information from the subject individual, subject to section (9) of this rule. Based on this information, OCC will make a decision whether or not to enroll, suspend or remove the

subject individual in or from the Central Background Registry.¶

(9) If OCC determines that additional information is needed to assess a person's suitability to be enrolled or remain enrolled in the Central Background Registry, the subject individual shall provide the requested information within the required timeframes. The additional information may include, but is not limited to, an evaluation or assessment by a physician, counselor or other qualified person, documents to determine positive identification of the subject individual, and court documents.¶

(10) Factors to be considered in determining suitability, based on information available to OCC and information provided by the subject individual, include:¶

(a) The nature of the child abuse and neglect, foster care, adult protective services, or criminal history;¶

(b) The facts that support the child abuse and neglect, foster care, adult protective services, or criminal history or that indicate the making of a false statement;¶

(c) The relevancy of the child abuse and neglect, foster care, adult protective services, criminal history, or false statement to the individual's enrollment in the Central Background Registry; and¶

(d) Intervening circumstances relevant to the individual's enrollment in the Central Background Registry, including but not limited to:¶

(A) The passage of time since the child abuse and neglect, foster care, adult protective services, or criminal history;¶

(B) The age of the individual at the time of the child abuse and neglect, foster care, adult protective services, or criminal history;¶

(C) The likelihood of repetition of the incident or the commission of another crime;¶

(D) The existence of subsequent child abuse and neglect, foster care, adult protective services, or criminal history;¶

(E) The recommendation of an employer, if provided;¶

(F) For criminal history, whether the conviction was set aside or overturned and the legal effect of that setting aside or overturning; and¶

(G) For child abuse and neglect, foster care, or adult protective services, whether the subject individual has had an opportunity to contest the abuse finding through the agency or entity that made the finding and, if so, the status of any such challenge.¶

(11) OCC will not bar from enrollment in the Central Background Registry any subject individual because of the existence or contents of a juvenile record that has been expunged by the court.

Statutory/Other Authority: ORS 329A.030

Statutes/Other Implemented: ORS 329A.030