



Oregon

Kate Brown, Governor

Early Learning Division
Office of Child Care



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

Amended June 30, 2021

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I. Authority, Applicability, and Definitions

- A. As authorized by [Executive Order](#) (“EO”) 21-15 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 and requirements for temporary unlicensed emergency childcare facilities and Emergency Background Checks (“Order”).
- B. This Order supersedes the order issued May 19, 2021. Pursuant to the rescission of EO 20-19, this Order does not require that licensed child care facilities and recorded programs operating as such¹ be approved as Emergency Child Care Facilities in order to operate, or to abide by associated requirements applicable only to Emergency Child Care Facilities. For unlicensed child care providers operating temporary sites as emergency child care facilities, referred to in EO 21-15 as temporary unlicensed emergency childcare facilities and sometimes referred to as Temporary Unlicensed Emergency Child Care Facilities, this Order continues rule changes from the May 19, 2021 Order pertaining to Emergency Child Care Facilities on various topics, ends new Emergency Child Care Facility approvals, and provides that all existing Emergency Child Care Facility approvals will be rescinded effective September 1, 2021. The Order continues the Emergency Background Check (“EBC”) but provides that no new EBC applications will be accepted and that all existing EBC approvals will be rescinded effective September 1, 2021.
- C. These temporary changes are effective immediately and expire after the Governor lifts the emergency declaration or as otherwise indicated in this Order, whichever comes first.
- D. The following definitions apply to this Order:
 - a. “Experienced child care provider” means an individual who has the equivalent of 12 months fulltime experience providing child care in any of or a combination of the following or substantially similar setting: (i) a licensed or recorded child care program; (ii) an all-day summer camp; (iii) a public or private school (including work as a teacher); or (iv) another type of program that provided all-day care to child care age children.
 - b. “Legal action” means an order suspending or revoking an Emergency Child Care Facility approval or the imposition of conditions on the approval.
 - c. “Temporary Unlicensed Emergency Child Care Facility” or “temporary unlicensed childcare facility” means a temporary site for Emergency Child Care approved by OCC pursuant to EO 20-19 to provide child care during the COVID-19 state of emergency. It is a type of Emergency Child Care Facility.

2. Emergency Child Care Facilities

A. Generally

- a. Pursuant to Executive Order 21-15, “Any entity that has been approved as a temporary unlicensed emergency childcare facility under Executive Order 20-19 may choose to continue to operate as a temporary unlicensed emergency childcare facility if it meets

¹ The recorded program is operating only as either a preschool recorded program or school-age recorded program pursuant to ORS 329A.250 through ORS 329A.460 and the regulations promulgated thereunder.

and complies with all requirements for emergency childcare as provided by the Early Learning Division, including any conditions imposed on the emergency childcare approval. “

- b. Applications for Emergency Child Care Facilities will no longer be accepted.
- c. All Emergency Child Care Facility approvals are rescinded effective September 1, 2021.

B. Eligibility to be Remain Approved as Emergency Child Care Provider

- a. An individual’s whose enrollment in the Central Background Registry (“CBR”) was denied, is suspended, or has been removed is ineligible to provide Emergency Child Care, unless OCC, in its discretion, allows the individual to remain approved with or without conditions. OCC may exercise discretion to allow Emergency Child Care by an ineligible individual or entity if OCC determines that conditions can be imposed to address OCC’s concerns and there is a need for additional child care capacity in the area.
- b. If an individual previously approved to provide Emergency Child Care is or becomes ineligible to provide Emergency Child Care pursuant to this Order, OCC may revoke the individual Emergency Child Facility approval or may impose conditions or additional conditions on the approval.

C. Conditions on Approvals

- a. OCC may impose conditions on the operations of a previously approved Emergency Child Care Facility when OCC has determined conditions are necessary to promote the facility’s adherence with applicable requirements.
- b. Any conditions imposed on the Emergency Child Care Facility approval are effective immediately, subject to judicial review pursuant to ORS 183.184.

D. Health and Safety Requirements

- a. All staff of facilities approved as a Temporary Unlicensed Emergency Child Care Facility must either be enrolled in the OCC Central Background Registry or have completed and cleared the OCC Emergency Background Check. A facility approved as a Temporary Unlicensed Emergency Child Care Facility must notify OCC when adding new employees while operating the Emergency Child Care Facility or when changing the director, experienced child care provider operator, or facility contact person, and must obtain OCC verification of any new employee’s enrollment in the CBR or Emergency Background Check completion before allowing the new employee to begin work in the Emergency Child Care Facility.
- b. Experienced child care providers approved to operate Temporary Unlicensed Emergency Child Care Facilities, must follow all the requirements in the Emergency Child Care Health and Safety Checklist, available [here](#).
- c. The experienced child care provider that applied for and was approved to open a Temporary Unlicensed Emergency Child Care Facility must be in the Emergency Child

Care Facility at least half of the hours that the facility is in operation unless another person qualified as an experienced child care provider and approved by OCC will be on site for the required number of hours. The hours shall be calculated on a weekly basis, except for emergency absences. The time on-site must include time spent directly observing staff and children.

E. Complaints, Noncompliance, Investigations, Inspections, and Findings

- a. OCC accepts complaints from parents/caregivers or others who report concerns.
- b. OCC may conduct investigations of Emergency Child Care Facilities.
- c. OCC may inspect, or require a virtual inspection of, an Emergency Child Care Facility at any time children are in care or during approved operating hours. A virtual inspection includes both audio and video transmission using a smart phone, tablet, or portable computer.
- d. OCC may issue findings against Emergency Child Care Facilities for violations of any applicable requirements.
- e. Any finding against a Temporary Unlicensed Emergency Child Care Facility will attach to the provider's Emergency Child Care Facility approval and may be relied upon to support legal action against or conditions imposed on the provider's Emergency Child Care Facility approval.
- f. Any finding against a recorded program that is approved to operate an Temporary Unlicensed Emergency Child Care Facility, will attach to both the Temporary Unlicensed Emergency Child Care Facility approval, if any, and be included in the recorded program's record, and may be relied upon to support legal action against or conditions imposed on the recorded program's Emergency Child Care Facility approval, its underlying record, or both.

F. Denial, Suspension, and Revocation of Approval

- a. OCC may suspend or revoke its approval for an individual or entity to provide Emergency Child Care at any time based on OCC's determination of any of the following:
 1. There is a danger to children at the Emergency Child Care Facility.
 2. The Emergency Child Care Facility has not maintained compliance with the applicable requirements.
 3. OCC is unable to ensure compliance by the Emergency Child Care Facility without in-person monitoring.
- b. OCC may suspend or revoke an Emergency Child Care Facility approval for any facility that does not comply with conditions on such approval or that communicates an intent not to comply with such conditions.
- c. An order to suspend or revoke approval to operate an Emergency Child Care Facility shall take effect immediately upon email, mail, or personal delivery notice to the individual or entity operating the facility or to the director of any such facility. The individual or entity may request a contested case hearing with respect to any such order to occur as soon as

reasonably practicable, taking into consideration the availability of OCC staff, OCC's legal representatives, and Office of Administrative Hearings resources in light of competing priorities including work related to the COVID-19 pandemic response.

3. Exceptions

- A. OCC may grant exceptions to the Emergency Child Care Health and Safety Checklist on a case-by-case or program-type basis.
- B. Approval of an exception may be based on the size of facility, staffing, compliance history, and the impact of the proposed exception on the ability of the facility to comply with the intent of the Emergency Child Care Health and Safety Checklist.

4. Emergency Background Check

- A. To expedite filling the child care needs of the essential workforce during this declared emergency, and due to the significant time required to achieve enrollment in the Central Background Registry, OCC established an Emergency Background Check process for those not currently enrolled in the CBR. Emergency Background Check applicants are subject to a LEDS (Law Enforcement Data System) check for Oregon criminal and sex offender registry, a Child Protective Services check for child abuse, a National Sex Offender Registry Public website check, and run against the CBR.
- B. OCC may deny, cancel, or revoke an Emergency Background Check authorization at any time if OCC has received information indicating that the person poses a risk to children. An individual whose Emergency Background Check authorization is denied, canceled, or revoked may not provide child care in an Emergency Child Care Facility unless enrolled in the Central Background Registry.
- C. Applications for the Emergency Background Check will no longer be accepted.
- D. All Emergency Background Check approvals are rescinded effective September 1, 2021.

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

So ordered by  on June 30, 2021.
Alyssa Chatterjee, Acting Early Learning System Director