

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
09/07/2021 12:40 PM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Senate Bill 757 Central Background Check Conditional Enrollment alignment.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 10/21/2021 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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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: 10/19/2021

TIME: 5:00 PM - 5:30 PM

OFFICER: Remy Watts

ADDRESS: Virtual access only

700 Summer St. NE

Suite #350

Salem, OR 97301

SPECIAL INSTRUCTIONS:

Due to COVID-19, this hearing will be virtual access only. Please register for the Zoom Webinar on the ELD calendar:

<https://oregonearlylearning.com/early-learning-council/early-learning-council-meeting-calendar/>

Please register for the hearing 24 hours in advance and log into the hearing by 5:15 p.m.

NEED FOR THE RULE(S):

Senate Bill 757 modifies conditional enrollment in the Central Background Registry (CBR). The permanent rule change gives the Office of Child Care authority to include checks of criminal records or child abuse and neglect records from state of prior residence. This change will allow applicants who have no state (Oregon or any other) disqualifying criminal records to become conditionally enrolled in the CBR.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

SB 757; <https://olis.oregonlegislature.gov/liz/2021R1/Measures/Overview/SB757>

FISCAL AND ECONOMIC IMPACT:

There are no anticipated negative fiscal or economic impacts on stakeholders, as child care providers will be able to get to work more quickly as a result of this rule change, and families will subsequently be able to more easily access child care.

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) Child care providers who are required to enroll in the Central Background Registry will experience much shorter wait times to be conditionally enrolled, which is a requirement of providers before they are able to provide care to young children. Child care providers will gain capacity in service to families, and families will be able to access care more reliably and quickly as a result of this rule change.

2) (a) There are approximately 10,000 providers enrolled in the Central Background Registry; only new applicants will be affected by this rule change, which will allow providers to begin working much more quickly.

(b) No expansion of agency responsibility anticipated; all updated workflows are within current capacity of the Early Learning Division.

(c) No increase in cost or administration anticipated at this time.

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

These rules are a direct result of a public legislative process in the 2021 Legislative Session which garnered thorough stakeholder interest and input that modified statute governing enrollment in the Central Background Registry.

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

There was no anticipated negative fiscal impacts to stakeholders.

AMEND: 414-061-0090

RULE SUMMARY: Permanent adoption of temporary rules modifying conditional enrollment implemented as a result of SB 757 (2021).

CHANGES TO RULE:

414-061-0090

Central Background Registry Enrollment Procedures ¶¶

(1) A subject individual shall be enrolled in the Central Background Registry if OCC has determined that the individual:¶¶

(a) Has provided all information and/or documents requested by OCC;¶¶

(b) Has no history as described in OAR 414-061-0045, 414-061-0050, or OAR 414-061-0075 or has dealt with the issues and provided adequate evidence of suitability;¶¶

(c) Has completed the application;¶¶

(d) Has paid the applicable fee; and¶¶

- (e) Has complied with the rules of OCC adopted pursuant to the Central Background Registry (OAR 414-061-0000 through 414-061-0120).¶
- (2) As of January 1, 2017, all enrollments in the Central Background Registry shall expire five years from the date of enrollment, unless suspended or removed sooner, and may be renewed upon application to OCC, payment of the required fee and compliance with the rules adopted by OCC pursuant to the Central Background Registry (OAR 414-061-0000 through 414-061-0120).¶
- (3) A subject individual who has been enrolled in the Central Background Registry will be notified by OCC of his or her enrollment and the enrollment dates. Notification of enrollment status may be sent via email at the request of the individual. Such notification will not be sufficient evidence of enrollment for employment by a requesting agency.¶
- (4) A subject individual may be conditionally enrolled in the Central Background Registry pending the results of an FBI criminal records check if the individual has been determined to be suitable based on their application having no disclosures of negative foster care history or a substantiated finding of adult abuse or neglect, and, in this state and in the state of the individual's residence, if other than Oregon, no state disqualifying criminal records information as outlined in OAR 414-061-0045, no category I or II crime as listed in OAR 414-061-0050, and no negative child abuse and neglect information.¶
- (a) The five-year enrollment period shall include the time the subject individual was conditionally enrolled.¶
- (b) A conditionally enrolled subject individual who has subsequently been determined not to be suitable based on FBI criminal records information, criminal records or child abuse and neglect records from other states of prior residence, or any other information that was not disclosed on the application that OCC becomes aware of, shall be suspended or removed from the Central Background Registry, according to the provisions of OAR 414-061-0110.¶
- (c) A conditionally enrolled subject individual who is subsequently determined to be suitable based on FBI criminal records information or criminal records or child abuse and neglect records from states of prior residence shall be enrolled in the Central Background Registry.¶
- (d) A conditional enrollment will expire if the subject individual has not been enrolled in the Registry within one year of the conditional enrollment.¶
- (e) A conditionally enrolled subject individual shall not have unsupervised access to child care children at any time.¶
- (5) If an application for renewal and payment of the required fee is received by OCC at least 14 days prior to the expiration date of the current enrollment, the enrollment remains in effect until OCC has acted upon the application for renewal and given notice of the action taken. This subsection does not apply to a renewal application submitted by an individual who is removed from the Central Background Registry at the time of submission of the renewal application.

Statutory/Other Authority: ORS 329A.030(7)

Statutes/Other Implemented: ORS 329A.030, ~~HSB 2259757~~ (20217)