

Early Learning Council

January 26, 2022

10 a.m. – 2 p.m.

[Access Meeting Stream](#)

Meeting Agenda

SUE MILLER
Chair, Early Learning Council

PATRICK ALLEN
Director, Oregon Health Authority

ANGELA BLACKWELL

PETER BUCKLEY

KATY BROOKS

COLT GILL
Deputy Superintendent, Oregon Department of Education

ANNE KUBISCH

GEORGE MENDOZA

DR. MARGARET MILLER

MARGARET SALAZAR
Executive Director, Oregon Housing and Community Services

KALI THORNE LADD

LIESL WENDT
Deputy Director, Oregon Department of Human Services

ALYSSA CHATTERJEE
Early Learning System Director, Early Learning Division

Staff
Remember Watts,
Early Learning Council Administrator, Early Learning Division

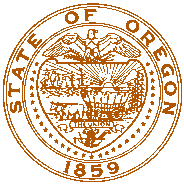
*Due to COVID-19, this will be a virtual meeting. Access the [live stream here](#). Please allow up to five minutes past meeting start time for streaming to begin. Only written testimony will be accepted. Please submit written comment formatted as a Word or PDF document to Remy.Watts@ode.state.or.us by **Tuesday, January 25, at 10 a.m.***

- I. Board Welcome & Roll Call
Sue Miller, Chair, Early Learning Council
- II. Agency Updates & Feedback on Proposed 2022 Early Learning Council Priorities & Schedule
Pat Allen, Director, Oregon Health Authority
Liesl Wendt, Deputy Director, Oregon Department of Human Services
Tenneal Wetherell, Assistant Superintendent, Office of Enhancing Student Opportunities, Oregon Department of Education
Margaret Salazar, Executive Director, Oregon Housing & Community Services
Alyssa Chatterjee, Early Learning System Director, Early Learning Division
Supporting Document: Memo to Early Learning Council – Early Learning Council Priorities for 2022
- III. Update on Tribal Early Learning Hub Implementation
Angie Blackwell, member, Tribal Advisory Committee
Valeria Atanacio, Tribal Affairs Manager, Early Learning Division
Supporting Document: Presentation – HB 2055 Updates: Establishing a Tribal Early Learning Hub; Tribal Early Learning Hub 2022 Draft Legislative Concept
- IV. Lunch Break (approximately 11:50 a.m. – 12:20 p.m.)
- V. Department of Early Learning & Care Report
Alyssa Chatterjee, Early Learning System Director, Early Learning Division
Supporting Document: Presentation – Department of Early Learning & Care Organization Design Overview
- VI. Public Testimony
- VII. Review & Adoption of Temporary Rules for Fire Safety in Family Care Facilities – *Action item*
Alyssa Chatterjee, Early Learning System Director, Early Learning Division
Alicia Gardiner, Interim Field Director, Office of Child Care, Early Learning Division
Supporting Document: Presentation – Fire Safety Temporary Rules; Council Action Request – Temporary Rulemaking for Fire Safety in Child Care Facilities
- VIII. Preview of Upcoming Rulemaking
Kelly Scales, Child Care Initiatives Support Analyst, Early Learning Division
Dana Bleakney-Huebsch, Infant & Toddler Program Specialist, Early Learning Division
Alicia Gardiner, Interim Field Director, Office of Child Care, Early Learning Division

IX. Closing & Adjournment

Sue Miller, Chair, Early Learning Council

**Times are approximate; items may be taken out of order, meetings may conclude early and breaks may be added as needed. All meetings of the Early Learning Council are open to the public and will conform to Oregon public meetings laws. The upcoming meeting schedule and materials from past meetings are posted [online](#). A request for an interpreter for the hearing impaired or for accommodations for people with disabilities should be made to Remember Watts at 503-947-0674 or by email at Remember.Watts@state.or.us. Requests for accommodation should be made at least 48 hours in advance.*



EARLY LEARNING COUNCIL

MEMORANDUM

To : Members of the Early Learning Council

From : Sue Miller

Date : 1/7/2022

RE : Early Learning Council Priorities for 2022

SUE MILLER
*Early Learning Council
Chair*

PATRICK ALLEN
*Director, Oregon Health
Authority*

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*Executive Director,
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LIESL WENDT
*Deputy Director, Oregon
Department of Human
Services*

Alyssa Chatterjee
*Early Learning System
Director*

Welcome to 2022! We are off to a strong start based on the priorities that we developed during our retreat at the end of 2021. When we meet later in January, we will have additional opportunities to review and discuss our priorities. To assist in the process, we have prepared two documents, as introduced below.

The first document, found in Appendix A, Early Learning Council 2022 Priorities & Roles by Month, is designed as an at-a-glance chart. It organizes Council priorities by content area, and within each content area, references the priorities we identified. Other information includes the agencies that support each priority and whether we expect to engage in rulemaking. The month-by-month portion of the chart shows the number of times Council will address each of the priorities at Council meetings, as well as the anticipated meeting(s) at which this will occur. *This document is helpful for its overview of the priorities and the agencies that relate to each priority, an understanding of our regulatory responsibilities, and our anticipated schedule for addressing each priority.*

The second document, found in Appendix B, Early Learning Council Proposed 2022 Schedule, focuses on the month-by-month schedule. It shows the dates the Council will meet, the priority issues we anticipate covering at each meeting, and the regulations that will be addressed at each meeting. This is our best effort, in combination with Appendix A, to array issues across our nine meetings, although we will need to be flexible as we finalize our agenda for each meeting. Some priority issues may shift from one meeting to the next. *This document is helpful for seeing the number of issues we anticipate addressing during each of our Council meetings.*

APPENDIX A: ELC 2022 SCHEDULE WORKING DRAFT

JANUARY 26, 2022

- Agency Updates & Feedback on Proposed 2022 Early Learning Council Priorities & Schedule
- Focus on ELC Early Childhood Education priorities – Early Learning Division:
 - Update on Tribal Early Learning Hub Implementation
 - DELC Report & ELD Update
- Rulemaking:
 - Preview for February
 - Adoption of temporary rules addressing fire safety in family child care homes

FEBRUARY 23, 2022

- February legislative session update
- Cross-sector & cross-agency roundtable
- Focus on ELC health priorities – Oregon Health Authority:
 - 1115 Waiver Presentation from OHA
 - CCO Social-Emotional Metric Update
 - Home Visiting & Universally Offered Home Visiting Implementation
- Additional potential topics:
 - Alternative Rate Methodology for Child Care Assistance update
 - Equity Fund Evaluation
 - Cross-agency Early Learning Fellows Program
- Rulemaking:
 - Baby Promise
 - Child Care Development Fund (CCDF) Allergy Safety Plan Requirement
 - Reimbursement for Commission & Committee Members

MARCH 30, 2022

- February legislative session debrief
- Cross-sector & cross-agency roundtable
- Focus on ELC human services / child welfare priorities – Oregon Department of Human Services:
 - ODHS Child Welfare Division's Vision for Transformation
 - Panel: Supporting young children & families in contact with child welfare system across agencies & partners
- Community Listening Session Roundtable
- Panel: Early Learning Hubs
- Rulemaking:
 - Presented for vote
 - CCDF Child Development Training Requirement
 - Allowing Recorded Programs into Central Background Registry
 - Allowing License-exempt Employment Related Day Care Providers (ERDC) into Central Background Registry
 - Briefing:
 - Tribal Early Learning Hub
 - Kindergarten Readiness Partnership & Innovation Program

APRIL 27, 2022

- Cross-sector & cross-agency roundtable
- Focus on ELC education & K-12 priorities – Oregon Department of Education:
 - Supporting inclusion for children with special needs
 - Preschool literacy strategy

APPENDIX A: ELC 2022 SCHEDULE WORKING DRAFT

- Kindergarten Entry Assessment
- Additional potential topics:
 - Cross-agency Early Learning Fellows Program
- Rulemaking:
 - Presented for vote:
 - Crib Bumper Ban
 - Kindergarten Readiness Partnership & Innovation Program
 - Briefing:
 - DELC administrative rulemaking
 - Early Childhood Suspension & Expulsion Reduction

MAY 25, 2022

- Cross-sector & cross-agency roundtable
- Focus on ELC housing and facility priorities – Oregon Housing & Community Services:
 - Co-location for Affordable Housing & Early Childhood Education update
 - Panel: Early childhood from the perspective of rural communities (including facilities) panel
- Panel: Cross-agency workforce discussion
- Update on CCDF
- ECE Professional Learning & Spark revision
- Additional potential topics:
 - DELC update
 - Early Learning System Dashboard & Early Learning Map of Oregon (ELMO) presentation
 - Cost modeling a full early care & education system
- Rulemaking:
 - Briefing:
 - Tribal Early Learning Hub
 - Early Childhood Suspension & Expulsion Reduction
 - School-age ruleset
 - Status of OCC ruleset rewrite
 - Employment Related Day Care transfer

JUNE 29, 2022

- Cross-sector & cross-agency roundtable
- Conversation with advocates on 2023 legislative priorities
- Rulemaking:
 - Presented for vote:
 - Tribal Early Learning Hub
 - Early Childhood Suspension & Expulsion Reduction
 - School-age Ruleset

SEPTEMBER 28, 2022

- Cross-sector & cross-agency roundtable
- Engagement with Governor's Office on Legislative Priorities

ANNUAL RETREAT: OCTOBER 25 – 26, 2022

- Cross-sector & cross-agency roundtable
- Starting the process for *Raise Up Oregon* revision

APPENDIX A: ELC 2022 SCHEDULE WORKING DRAFT

DECEMBER 14, 2022

- Cross-sector & cross-agency roundtable
- Additional potential topics: TBD

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APPENDIX B: ELC 2022 PRIORITIES BY MONTH

	Agencies	Rule making	Jan	Feb	March	April	May	June	Sept	Oct	Dec
CROSS CUTTING											
Racial equity	All	•	•	•	•	•	•	•	•	•	•
Family voice	All		•		•	•	•	•	•	•	•
Geographic equity	All		•	•	•	•	•	•	•	•	•
Workforce (e.g., recruitment, workforce social-emotional health)	All			•		•	•			•	
EARLY CARE AND EDUCATION											
Formation of DELC	ELD, ODE, ODHS	•	•				•				
Affordability and quality child care	ELD	•					•				
Alternative Rate Methodology	ELD			•							
Tribal Early Learning Hub	ELD	•	•								
Increased services for children birth to five with developmental delays / disabilities	ODE, OHA, ODHS, ELD					•					
ELD Rules	ELD	•	•	•	•	•	•	•	•		•
EDUCATION K-12											
Kindergarten Entry Assessment reform	ODE, ELD					•					
Seamless transition for children from preschool/child care to K-12, including special needs	ODE, ELD, OHA	•				•					
Preschool and literacy	ODE, ELD					•					
HEALTH											
Home visiting, including implementation of Universally Offered Home Visiting	OHA, ELD			•							
Family Health services under proposed 1115 Medicaid waiver	OHA			•							
HOUSING AND FACILITIES											
Rural facilities for housing and child care	OHCS, ELD						•				
Colocation of affordable housing and child care	OHCS, ELD						•				

APPENDIX B: ELC 2022 PRIORITIES BY MONTH

	Agencies	Rule making	Jan	Feb	March	April	May	June	Sept	Oct	Dec
Early care and education facilities statewide	All						•				
HUMAN SERVICES/CHILD WELFARE											
Support Family Preservation for young children in/near child welfare	All				•			•			
Support families connected to ODHS-SSP in PSP, OPK, ERDC	ODHS, ELD										
Support ODHS Vision for Transformation implementation	ODHS				•						
SOCIAL-EMOTIONAL-MENTAL HEALTH											
Suspension and Expulsion prevention program	ELD, OHA	•					•	•			
Social-emotional metric for CCOs	OHA			•							
SYSTEMS											
Early Learning System Dashboard	All						•				
Early care and education universal cost model	ELD						•				
Leveraging Early Learning Hubs across multiple sectors	All				•		•				
Legislative priorities	All		•	•	•			•	•		



HB 2055 UPDATES:
ESTABLISHING A TRIBAL EARLY LEARNING HUB

Legislative Update
Early Learning Council Meeting

ACTIVITIES COMPLETED OR ON-GOING RELATED TO HB 2055

- Third-party consultant facilitated the initial convening of the ELD-TAC
- ELD is currently seeking two contractors for development of rule language and a strategic communications & implementation plan for Tribal Early Learning Hub
- Tribal Advisory Committee has 17 appointed representatives from the 9 tribes, with 3 appointments pending
- One tribal family representative, with 3 vacancies
- We have active participation from our LCIS, ELC and ELD representatives
- Four meetings to date; next scheduled is February 9th, 2022 at 3 p.m.

CHAIR & VICE-CHAIR

- Chair: Valerie Switzler of Warm Springs
- Vice-Chair: Sandy Henry of Cow Creek

MEETING STRUCTURE

Tribal Advisory Committee (TAC) Welcome & Roll Call
Valerie Switzler, Chair | Warm Springs Tribe Representative

Public Testimony
Valeria Atanacio, Tribal Affairs Manager | ELD

Review Group Agreements
Lorraine Brave, Tribal Advisory Committee Facilitator | Early Learning Division (ELD)

Intergovernmental Coordination (Tribal-State Collaboration) 30MIN
Valerie Switzler, Chair | Warm Springs Tribe Representative
Sandy Henry, Vice-Chair | Cow Creek Tribe Representative

INTERGOVERNMENTAL COORDINATION

Government-to-Government Consultation

- Purpose: to work from a tribal-state collaborative approach
- Begin with tribal government partners meeting with no state staff to allow tribes to privately discuss ongoing efforts and TAC members to develop direct partnerships.

TRIBAL ADVISORY COMMITTEE COMPOSITION OVERVIEW

Summary Narrative:

- TAC members are concerned about the 4 family representatives as voting members as required by HB 2055
- Family-represented seats of TAC are not being selected by tribal governments; does not recognize the consultative government-to-government relationship

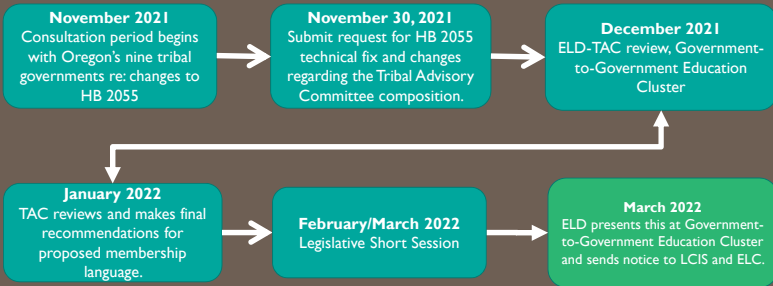
HB 4033 (2022) TRIBAL ADVISORY COMMITTEE

- HB 2055 (2021): Establishes a Tribal Early Learning Hub to deliver early learning services to the tribal communities of Oregon. Design will be informed by the Tribal Advisory Committee.
- HB 4033 (2022): ELD consulted with tribes to review the statutorily required membership of the Tribal Advisory Committee. Proposed language will be introduced in the February 2022 short session.

HB 4033 OVERVIEW

- Summary:
 - Modifies membership of tribal advisory committee that advises Early Learning Council regarding delivery of early care and education services to tribal communities. **Requires committee to convene parent group.** Declaring emergency, effective on passage.
 - Section 3(b): One representative from the Legislative Commission on Indian Services **who shall be a nonvoting member;**
 - Section 4: The tribal advisory committee shall advise the Early Learning Council on the delivery of early care and education services to the tribal communities of this state in a culturally specific manner. **For the purpose of advising the Early Learning Council, the tribal advisory committee shall convene a parent group. Members of the parent group must: (a) Be selected in consultation with the nine federally recognized Indian tribes of this state; (b) Consist of one representative from each of the nine federally recognized Indian tribes of this state; and (c) Be parents or guardians of children enrolled in early childhood care and early childhood education programs.**

HB 4033 – ELD-TAC MODIFICATIONS PROCESS & TIMELINE



LOOKING FORWARD

- Continuing a feedback loop with members of the TAC to build responsive governance
- Currently TAC members are co-designing the committee charter with the ELD
- TAC to form Rulemaking Advisory Subcommittee to present administrative rules for the Tribal Early Learning Hub to the ELC in June 2022

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SUMMARY

Modifies membership of tribal advisory committee that advises Early Learning Council regarding delivery of early care and education services to tribal communities.

Declaring emergency, effective on passage.

A BILL FOR AN ACT

Relating to the delivery of early childhood services to tribal communities; amending ORS 417.831; and declaring an emergency.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 417.831 is amended to read:

417.831. (1) As used in this section:

(a) "Tribal advisory committee" means the committee established by the Early Learning Division for the purpose of advising the Early Learning Council on the Tribal Early Learning Hub.

(b) "Tribal Early Learning Hub" means the entity designated by the Early Learning Council, in consultation with the tribal advisory committee, to coordinate early learning services provided to the tribal communities of this state, as determined by rules adopted by the Early Learning Council in consultation with the tribal advisory committee.

(2) The Early Learning Council shall implement and coordinate a system that coordinates the delivery of early learning services to the tribal communities of this state through the direction of the Tribal Early Learning Hub. The Tribal Early Learning Hub shall be separate and distinct from the Early Learning Hubs designated under ORS 417.827.

(3) The Early Learning Division shall establish a tribal advisory com-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

mittee. The tribal advisory committee shall consist of [25] **21** members appointed by the Early Learning Division **in consultation with the nine federally recognized Indian tribes of this state** as follows:

(a) Two representatives from each of the nine federally recognized Indian tribes of this state;

(b) One representative from the Commission on Indian Services, **who shall be a nonvoting member;**

[(c) Four parents of children enrolled in early childhood care and early childhood education programs, as identified by representatives of the nine federally recognized Indian tribes of this state;]

[(d)] (c) One representative of the Early Learning Council, who shall be a nonvoting member; and

[(e)] (d) One representative of the Early Learning Division, who shall be a nonvoting member.

(4) The tribal advisory committee shall advise the Early Learning Council on the delivery of early care and education services to the tribal communities of this state in a culturally specific manner. The Early Learning Council shall adopt rules related to the Tribal Early Learning Hub in consultation with the tribal advisory committee, including rules that prescribe the requirements for accountability and services provided.

SECTION 2. This 2022 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2022 Act takes effect on its passage.

DEPARTMENT OF EARLY LEARNING AND CARE

Agency Design Project

DEL C Organization Design Overview

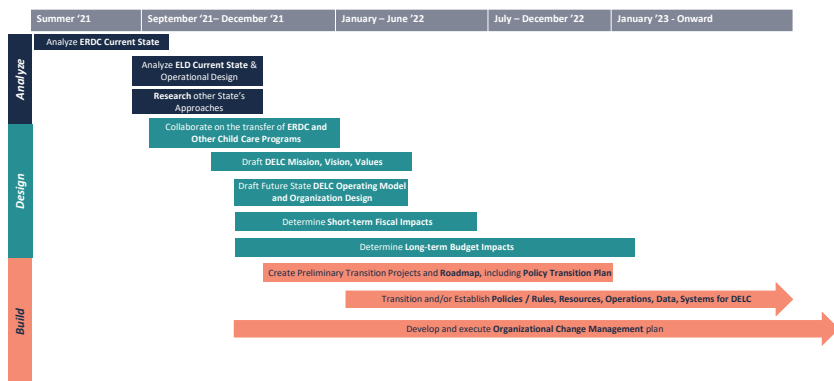
DEL C AGENCY DESIGN PROJECT

Goals

- No disruption of services to providers and families
- No reduction in access to services for providers and families
- Increased access to services for providers and families
- Improved services and operations

DEL C AGENCY DESIGN PROJECT

Developing the Department of Early Learning and Care (DEL C) | Timeline & Key Workstreams



DEL C AGENCY DESIGN PROJECT

3

Child Care Assistance Transition Plans

Intention

- Migrate the Direct Pay positions & processes to DELC
- Migrate Child Care Policy positions & processes to DELC
- ODHS Field Office staff continue to support ERDC application as part of their existing eligibility determination process
- ONE Eligibility System continues to support ERDC eligibility determination
- Other support functions will be managed through IAAs: OTIS, IRMS, OPAR, Fraud and Investigations, Quality Control + Hearings and Rules
- Migrate Inclusive Partners positions & processes to DELC
- Migrate Head Start Contracts to DELC
- Migrate Teen Parent Program
- DEL C will conduct background checks for license-exempt providers on or before July 1, 2023*

*Pending passage of legislation in 2022

DEL C AGENCY DESIGN PROJECT

Current State Analysis & DELC Organizational Design

DELC AGENCY DESIGN PROJECT

ELD Current State | Summary of Findings

Members of ELD contributed information through data requests, interviews, and workshops. The synthesis of this information forms the foundation of the current state from which DELC will be designed in accordance with HB3073.

Key Themes

- Heavily interconnected to contracted, community partners for service delivery
- Technology and a lack of standardization across tools and processes results in a decentralized model with limited reporting
- Dedicated workforce planning can improve recruiting and retention for critical workforce segments as well as instill clearer delineation of roles and responsibilities across the organization

Challenges Facing DELC

- Systems, data, and records coming together under a common organization and format
- Funding obligations and spending without initial cash reserves once separate from ODE
- Identifying key roles to address staffing capacity and the ability to develop standard operating procedures
- Stand up of functions to assume responsibility for areas provided by ODE, ODHS, and other agencies today

Aspirational Observations

- The use of data to both monitor programs today and longitudinally can influence the theory of change being followed at community partners as well as help with program design and performance management
- Coordinated enrollment can leverage data to ensure that children are being placed in the programs which will provide the best outcomes
- Incorporating performance improvement opportunities into the future state operating model will allow DELC to enhance the experience of families, providers and employees

DELC AGENCY DESIGN PROJECT

6

Current State Analysis: Gaps and Opportunities

Through the current state assessment of both ELD's and ERDC's operations, interviews with staff and key stakeholders, and an analysis of leading practices related to stand-alone state agencies, several gaps and opportunities were identified, which have informed the proposed organizational structure and the staffing positions requested.

Back Office Functionality

- Most systems leveraged by ELD today are owned/administered through other agencies.
- ELD does not have structures to support the following: payroll processing, master data management, procurement, fiscal/accounting services, fraud prevention, internal audit and talent acquisition, which are currently provided by ODE or ODHS.
- Staffing levels in DELC will have to be representative of a separate agency to provide needed supports.

Data Management and Analysis

- ELD lacks critical data analytics infrastructure.
- Current staff lack capacity and systems to make effective data-based decisions.
- An opportunity exists to centralize all analysis functions under one department to provide data support to programs and OCC teams.

Information Technology

- ELD has no existing IT organization and depends on ODE for its infrastructure.
- ERDC is supported by legacy ODHS systems and similarly ELD has outdated legacy systems for provider licensing; these systems will need to be replaced to increase efficiency and service quality.

Organization Structure

- Current organizational structure is siloed with duplicative capabilities operating independently and inefficiently across multiple teams.
- Many functions and programs have been historically underfunded, causing constraints in capacity.
- To scale and continuously improve efficiently the agency, DELC must have the capacity and the capability to do work internally.

Access and Inclusion

- Need for an expansion of the dedicated workforce supporting tribal nations and other communities that have been historically marginalized or underserved to promote equity and access across programs.
- Need to perpetuate Diversity, Inclusion, and Equity (DEI) throughout agency operations, initiatives, and training programs

DELC AGENCY DESIGN PROJECT

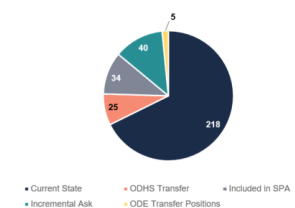
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DELC Organization Design | Design Overview

The DELC target organization builds upon the foundations within ELD, ODE and ODHS today to achieve the mission, vision, and values of the new Agency.

- 25 ERDC-related, funded positions will be moving to DELC from ODHS.
- 34 positions that were included in the special purpose appropriation are still needed which includes a request to convert 12 limited duration positions to permanent positions.
- 40 new positions are needed to provide services to families and children in line with the goals set forth in HB3073*.
- 5 positions will transfer ODE to support the back-office functions listed above.
- 8 new functions (Human Resources, Accounting, Procurement, Data & Analytics, Information Technology, Budget, Facilities & Real Estate, and Strategic Projects) account for the majority of new positions.

322 Employees in DELC Future State



*Note: The design reflects permanent positions and does not include potential limited duration positions needed to launch DELC.

DELC AGENCY DESIGN PROJECT

8

DELC Organizational Design Review [click link](#)

DELC AGENCY DESIGN PROJECT

DELC Organizational Design | New Positions Summary

To establish a modern agency with centralized functions and the ability to scale its services in the future, the DELC agency includes 40 new permanent positions in addition to initial 34 positions requested in the SPA.

40 New, permanent positions to be requested in the February 2022 short session to ensure sufficient resourcing for DELC as a standalone agency

38

Of the new position requests are non-managerial, staff-level position requests.

6

Chief of Programs

10

Chief of Staff

2

Chief of Policy & Research

19

Chief Operating Officer

3

Office of Child Care

Note – SPA Positions: the 40 positions mentioned here are all being requested for the first time. The 34 positions that were not approved in the initial SPA will be requested in the February short session (and are not included in the 40 summarized above).

DELC AGENCY DESIGN PROJECT

10

Available Funds

Federal Funding Source	Funding Use	Amount	Obligation Date	Liquidation Date
ARPA Discretionary	DELC Administration	\$6.0	9/30/23	9/20/24
	DELC IT System Development	\$15.0		
ARPA Stabilization (Admin)	DELC IT System Development	\$5.0	9/30/23	9/30/24
Preschool Development Grant	DELC Administration	\$2.2	12/30/22	12/30/22*
CARES Act	DELC and Grant Administration	\$2.0	9/30/22	9/30/23
CRRSA	DELC Administration	\$0.6	9/30/22	9/30/23
CRRSA	ODHS Admin / ONE Eligibility	\$1.0	9/30/22	9/30/23

Total Available Funds \$31.8

DELC AGENCY DESIGN PROJECT

Additional Fiscal and Budget Requests

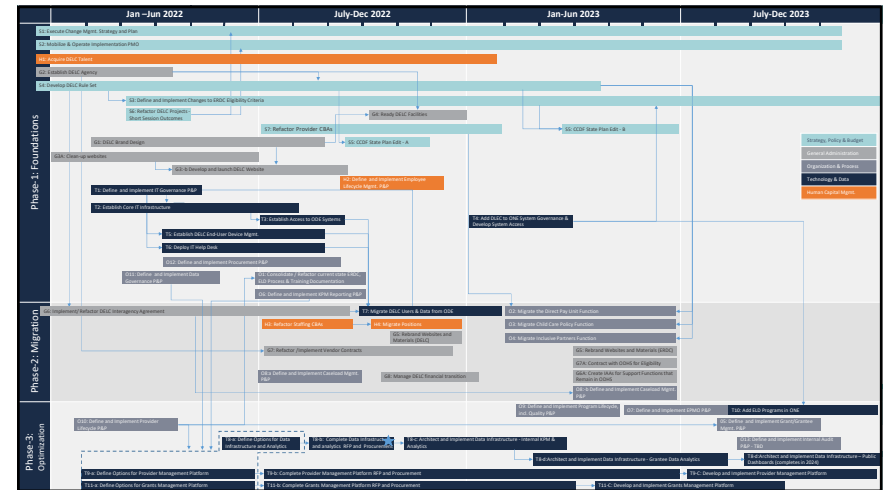
- January 2022 SPA Position Request:** ELD is requesting access to the 34 positions/12.38 FTE identified in the Special Purpose Appropriation (HB 3073) during January 2022 Legislative Days, with approval in the February 2022 legislative session. ELD is requesting \$5.8 M.
- February 2022 Legislative Session New General Fund Request:** In addition to the previously identified Special Purpose Appropriation positions, ODE, ELD is requesting an additional 40 positions/18.58 FTE which will cost a total of \$4.3 M for March 2022 – June 2023 of the 21-23 biennium.
- One-Time Federal Funds:** ELD will leverage federal ARPA Discretionary, CARES, and CRRSA resources to invest in Information Technology and Data Infrastructure to stand-up new DELC infrastructure and replace critical systems capabilities. These funds will also be leveraged to procure time-limited external resources to support DELC implementation.

Total GF Request: ELD is requesting 74 Positions/30.96 FTE at \$10.1 M for the 21-23 Biennium.

DELC AGENCY DESIGN PROJECT

Next Steps

DEL C AGENCY DESIGN PROJECT

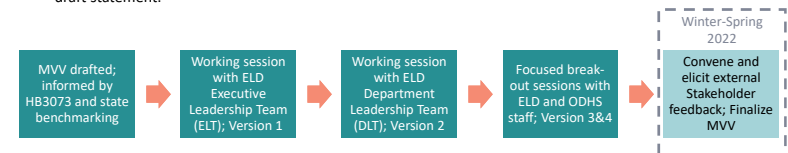


Mission, Vision, Values | School-Age Rules | Background Checks | EI/ECSE

DEL C AGENCY DESIGN PROJECT

DEL C Mission, Vision, Values | Approach

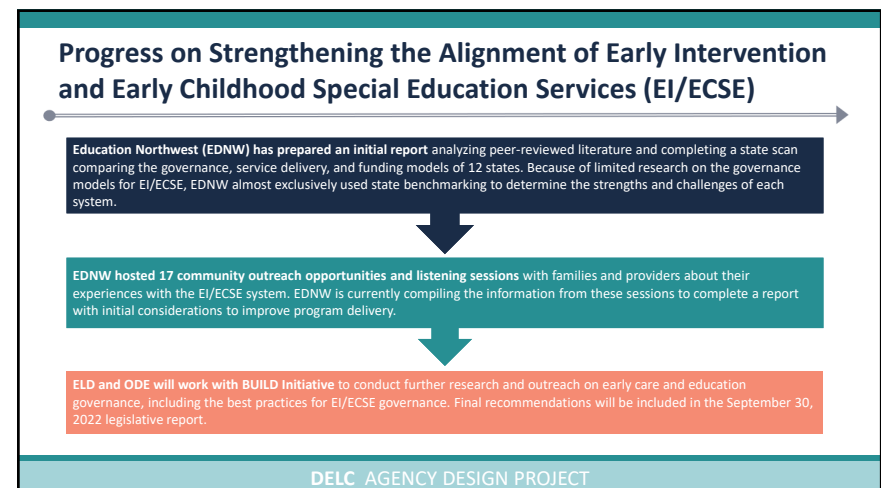
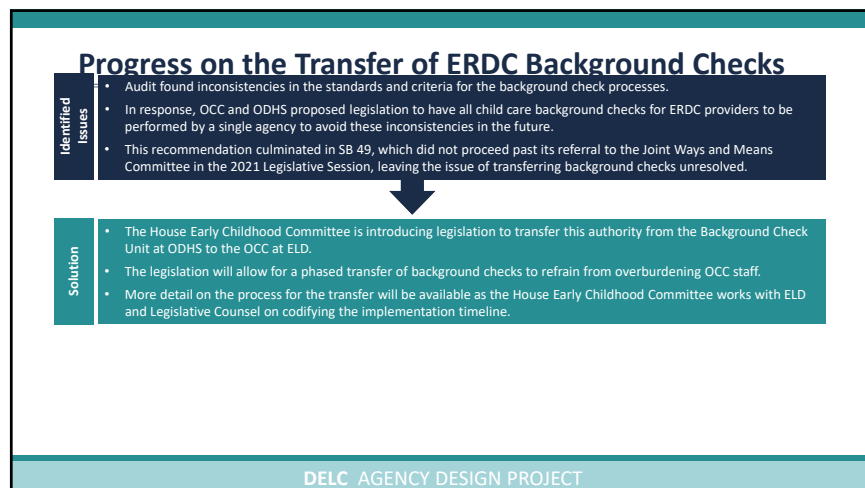
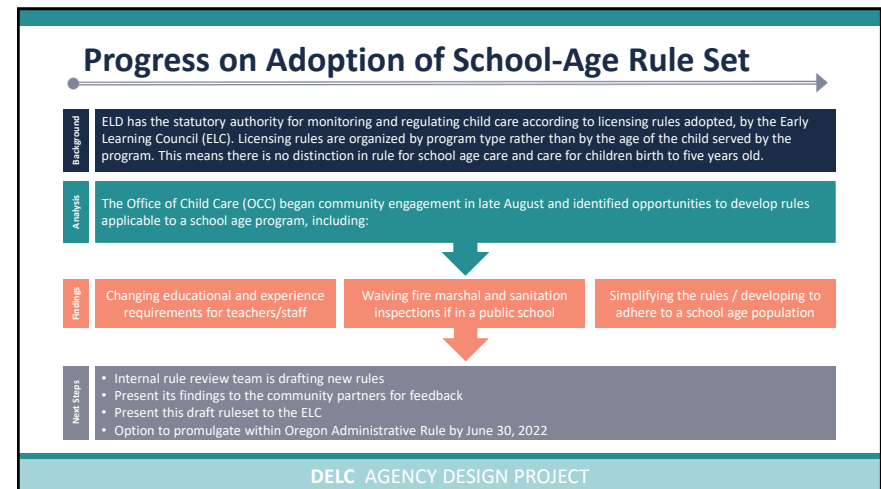
The following approach has been used to draft and refine early versions of DEL C's Mission, Vision, and Values (MVV) statements. Over 100 ELD and ODHS employees moving to DEL C have vetted and given feedback on draft statement.



Going forward, DEL C will continue to engage internal stakeholders and expand to involve external stakeholders to further refine the M, V, V to guide the focus and work of the agency.

DEL C AGENCY DESIGN PROJECT

16





Fire Safety Temporary Rules

Alyssa Chatterjee, Director
Alicia Gardiner, Interim Field Operations Director



DCBS Rulemaking

DCBS plans to modify a proposal submitted by Multnomah County to state that sprinklers are not required when:

- Care is provided on “the level of exit discharge,” i.e. a level where there is a door to the outside, such as the ground floor, and
- The path to the exit does not pass within three feet of a fixed cooking appliance (where most fires begin) or through a storage room or a room with locks.

The Building Codes Structures Board is slated to consider these temporary rule recommendations on January 26, 2022.



ELC Rulemaking

The Early Learning Council will consider complementary temporary rules to enhance fire safety in Registered and Certified Family child care.

- Fire extinguisher rules aligned across provider types and require they are in an easily accessible and visible location and inspected monthly.
- Smoke detectors, which are currently required, will be required to be regularly tested.
- Carbon monoxide detectors will be required.
- Evacuation drill requirements will be expanded and include a new requirement, developed in conjunction with the Office of State Fire Marshal, prescribing a maximum allowable evacuation time.
- Heat sources and protection requirements will be enhanced to further prevent fires from starting.
- Emergency and evacuation plan requirements will be expanded to include clearly marking exits, primary evacuation routes, secondary evacuation routes; and portable fire extinguishers .
- Fire safety during night hours requirements will add provisions around illumination of exit paths.



Fire Extinguisher Rules

Current RF Rule	Current CF Rule	Recommendations
<ul style="list-style-type: none">• Requires one 2-A-10 BC-rated fire extinguisher in the home	<ul style="list-style-type: none">• Requires at least one 2-A-10 BC-Rated fire extinguisher on each floor of the home. Fire extinguishers shall be easily accessible, kept out of reach of children, and located along the path of emergency exiting.	<ul style="list-style-type: none">• RF rule to be aligned with CF on requiring a fire extinguisher on each floor, out of reach of children and along the path of emergency exiting.• The fire extinguishers must be mounted in an easily accessible and visible location. The fire extinguisher may be mounted in a closet if there is a sign indicating the location of the extinguisher and obstructions must not block access to the closet.• Provider inspects fire extinguisher to ensure it is in good working order monthly.



Smoke Detector Requirements

Current RF Rule	Current CF Rule	Recommendations
<ul style="list-style-type: none">Requires a working smoke detector on each floor and in any area where children nap	<ul style="list-style-type: none">Requires Smoke alarms installed on each floor level of the home and in any area where children nap and are maintained in operating order.	<ul style="list-style-type: none">Align RF rule to CF rule – add that smoke detectors need to be maintained in operating order.The provider shall test each smoke detector monthly and keep a record of testing for inspection purposes.




Carbon Monoxide Detectors and Storage of Flammable materials

Current RF Rule	Current CF Rule	Recommendations
<ul style="list-style-type: none">None	<ul style="list-style-type: none">None	<ul style="list-style-type: none">There must be a carbon monoxide detector installed in the area of the home as recommended by the manufacturer and in the area where children sleep.Monthly testing of carbon monoxide detectors
Current RF Rule	Current CF Rule	Recommendations
<ul style="list-style-type: none">Flammable and combustible liquids, such as paint thinner and gasoline, shall be stored in the original container or a safety container and, if over one gallon, kept in an unattached storage building;	<ul style="list-style-type: none">Flammable and combustible liquids, such as paint thinner and gasoline, shall be stored in the original container or a safety container and, if over one gallon, kept in an unattached storage building.	<ul style="list-style-type: none">Flammable and combustible materials shall be stored in the original container or a safety container; must not be stored within 4 feet of furnaces, other flame or heat-producing equipment, or fuel-fired water heaters, and if over one gallon, kept in an unattached storage building.



Comprehensive Fire Drills

Current RF Rule	Current CF Rule	Recommendations
<p>The provider must have a written plan for evacuating and removing children to a safe location in an emergency. The plan must be posted in the home, familiar to the children and the caregivers, and *practiced at least every other month</p>	<ul style="list-style-type: none">Evacuating the home shall be practiced at least eight times per year. If the facility is certified to care for more than 12 children and more than 4 children regularly in care are under 24 months of age, evacuating the home shall be practiced monthly.The provider shall maintain a written record showing the date, time of day, participants, and type of emergency of each emergency plan practice session.	<ul style="list-style-type: none">Align CF and RF to practice one fire drill per month and one other aspect of the emergency plan every other monthAdditional recommendations on the next slide 



Drill Frequency

Recommendations
<ul style="list-style-type: none">Drills must be conducted with a variety of staff and at different times of the day, including in the evening and during overnight hours for early learning programs that care for children during those hours and must include:<ol style="list-style-type: none">One fire drill during the established napping/sleeping timesOne fire drill using an alternate evacuation route, andOne fire drill in the presence and at the request of OCC in coordination with the provider.Drills must be completed within an amount of time designated by the fire marshal (place holder for time here).The provider shall have a warning system (for example, loud bell or whistle), to alert occupants of the home of an emergency or drillDuring night care, exit paths must be illuminated.



Record Keeping and Postings

Current RF Rule	Current CF Rule	Recommendations
<ul style="list-style-type: none">None	<ul style="list-style-type: none">The provider shall maintain a written record showing the date, time of day, participants, and type of emergency of each emergency plan practice session.	<ul style="list-style-type: none">Align RF and CF: Provider must keep a record of the date, time, the exits used, the age range and number of children evacuated and total number of people in the building at the time of the drill, the amount of time taken to evacuate the building, and the name of the person conducting the drill, and the alert method used.Documentation of fire extinguisher, smoke detector and carbon monoxide inspectionsA floor plan must be posted identifying the locations of exits, primary and secondary evacuation routes, and the location of fire extinguishers



Next Steps

ELD and DCBS will each convene rulemaking advisory committees (RACs) to inform the permanent rulemaking process.

Permanent rules must be adopted by June 26, 2022.



Early Learning Council

January 26, 2022

10:00 a.m. – 2:00 p.m.

Early Learning Division
3rd Floor, Grand Ronde Room
700 Summer St NE, Suite 350
Salem, OR 97301

COUNCIL ACTION REQUEST

Date: January 26, 2022

AGENDA ITEM: Fire Safety in Family Child Care Settings Temporary Rule Adoption

ACTION: Adopt temporary administrative rules to strengthen fire safety in family child care settings (i.e. Registered Family & Certified Family child care).

ISSUE: The Early Learning Division (ELD) must adopt recommendations to improve fire safety in family child care settings into administrative rule.

BACKGROUND: In April 2021, Department of Consumer & Business Services (DCBS) Building Codes Structures Board passed rules requiring new Registered and Certified Family child care facilities as defined by ORS 329A to have an automatic residential fire sprinkler system installed, with potential alternate methods offered locally. Additional information regarding the DCBS rulemaking process and model building codes can be found in Appendix A: ELD & DCBS joint letter to Rep. Karin Power.

Child care types affected by this rule include new certified family (CF) and registered family (RF) child care homes, also known as family care, which are located in residential homes. Maintaining life safety in child care is of critical importance to the Governor, ELD and DCBS. However, there has been confusion at the local level about suitable alternatives to sprinklers; and installation of an automatic residential fire sprinkler system can present a cost barrier for many family care providers.

In November 2021, Governor Kate Brown requested that ELD, DCBS, and Oregon State Fire Marshal (OSFM) develop recommendations to ensure life safety protection in family care facilities while also mitigating the financial impact on child care providers. ELD and DCBS referred to the [City of Portland decision](#), for family care homes operating for fewer than 24 hours per day to comply with the Oregon Residential Specialty Code (ORSC) without a fire sprinkler system if certain conditions are met.

Upon coordination with ELD, DCBS's Building Code Structures Board is considering temporary rules [on January 26, 2022](#) that provide an alternative to sprinklers for new RF/CF providers when:

1. Care is provided on "the level of exit discharge," i.e. a level where there is a door to the outside, such as the ground floor, and
2. The path to the exit does not pass within three feet of a fixed cooking appliance (where most fires begin) or through a storage room or a room with locks.

ELD and DCBS reviewed best practices for fire safety in child care homes and worked with ELD – Office of Child Care (ELD-OCC) regional managers to test feasibility of implementation. In consultation with the National Center on Early Childhood Quality Assurance (ECQA), ELD identified fire safety rules nationwide that have high



Early Learning Council

January 26, 2022

10:00 a.m. – 2:00 p.m.

Early Learning Division
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safety impact with low financial impact for consideration. Several states include a time limit of three minutes or less to complete fire drills in family child care homes, which OSFM has accepted.

Proposed temporary rule language has been developed by ELD in consultation with DCBS. In January 2022, ELD sought initial feedback on the draft rule language operationalizing safety strategies from advocates and union representatives. The proposed ruleset is temporary language that will be effective 120 days (January 26, 2022 through May 26, 2022). The ELD will engage in the public rulemaking process, including increased partner engagement and a Rulemaking Advisory Committee (RAC) to evaluate fiscal and equity impacts, and return to the Early Learning Council for adoption of permanent rule in spring 2022.

Please see “Appendix B: Proposed temporary Oregon Administrative Rule language related to fire safety in Registered Family Child Care” and “Appendix C: Proposed temporary Oregon Administrative Rule language related to fire safety in Certified Family Child Care” for full rule language text presented for temporary adoption.

EQUITY ANALYSIS: The Early Learning Division will engage in a more in-depth equity analysis as part of the RAC process in Spring 2022. However, this proposed temporary ruleset was developed with equity in mind particularly when it comes to the financial impact of these rule changes. While the RAC process requires a more robust fiscal analysis, ELD’s preliminary assessment is that these temporary rules present no- to low-cost changes that are significantly cheaper than installing sprinklers in new programs. ELD’s initial assessment has identified the carbon monoxide detectors as the largest expense, ranging from \$25-\$45 per detector. Other potential costs include straps to mount fire extinguishers in a visible location and night lights to illuminate an exit path for night care.

PROPOSED DRAFT MOTIONS:

- A)** I move to adopt the proposed language dated January 26, 2022 that temporarily adopts amendments to Oregon Administrative Rules 414-205-0035, 414-205-0110, 414-205-0130, and 414-205-0140.
- B)** I move to adopt the proposed language dated January 26, 2022 that temporarily adopts amendments to Oregon Administrative Rules 414-350-0050, 414-350-0170, 414-350-0375.

CONTACT: Alyssa Chatterjee, Early Learning System Director, Early Learning Division



Oregon

Kate Brown, Governor

Early Learning Division



January 19, 2022

Dear Representative Power,

Thank you for the opportunity to engage with you on the important issue of fire safety for children receiving care in certified and registered family child care facilities, specifically as they relate to Section 34 of LC 104 (2022). We share your desire to increase the availability of home-based child care across the state and to do so in a manner that protects the lives of the children being cared for as well as those providing care.

The Department of Consumer and Business Services (DCBS), the Early Learning Division (ELD), and the Office of the State Fire Marshal have been working together with the Office of the Governor to achieve additional flexibility on the requirement to sprinkle new certified and registered child care facilities, while maintaining fire safety. This letter provides additional context around the sprinkler requirement and the approach we have developed.

Background

The national model codes recognize that business uses are often located within detached dwellings, such as a single family home. These model codes, adopted in Oregon, establish a baseline standard of care where any business, including a child care facility, is voluntarily located in a home. The national model code standard of care is to require a domestic residential sprinkler system in all home businesses, and limit the number of care recipients in care facility businesses to further mitigate the relative risk profile.

Under the International Residential Code (IRC), which serves as the base national model for Oregon's Residential Specialty Code (ORSC), care facilities are permitted to be located within dwellings provided both of the following conditions are met:

1. A domestic residential sprinkler system is installed (required for all businesses located in dwellings), and
2. A maximum of five individuals receive care at any given time.

If a care facility exceeds the allowable number of recipients, it becomes regulated by the International Building Code (IBC). The IBC serves as the base national model code for our Oregon Structural Specialty Code (OSSC).

There are a variety of approaches taken in other states to building safety in child care facilities, made more complex by the variety of regulatory schemes around both building codes and licensing. For example, while some other states adopt a statewide building code, Oregon is the only state where,

with only small exceptions not relevant here, this statewide code cannot be altered at the local level. This makes it difficult to compare Oregon’s statewide approach and any other state that might not have a similar statewide standard but could have local sprinkler requirements. It’s also important to consider that every facility is subject to both building code standards and licensing standards, and that each plays a separate but important role.

That said, California and Maryland have a general residential sprinkler requirement, meaning sprinklers are required for new construction. Many major cities also have specific sprinkler requirements for child care in homes, including Las Vegas, Olympia, Milwaukee, and Philadelphia, with some variation around how many children trigger the requirement – see the table below for more info. Some places, such as Rhode Island and Iowa, have a lower number of children who can be cared for in a home (for Rhode Island and Iowa, the cap is eight children, compared to 16 in Oregon).

CITY or STATE	NOTES
Philadelphia	Sprinklers required when more than 5 children 2.5 yrs. of age or less are cared for.
Washington	8 cities require sprinklers for 12 or fewer children receiving care.
California	Requires sprinklers in new construction.
Maryland	Requires sprinklers in new construction.
West Virginia	Requires sprinklers when there are more than 12 children receiving care, or when care is located above or below the level of exit discharge.
Milwaukee, WI	Requires sprinklers when more than 5 children 2.5 yrs. of age or less are cared for. Requires sprinklers when each room where care is provided does not have an exit door directly to the exterior.
Louisiana	Requires sprinklers when care is located above or below the level of exit discharge.

Starting in 2019, DCBS engaged in rulemaking to update the residential building code (the ORSC) as well as parts of the commercial building code (the OSSC). Discussions around the sprinkler issue took place in several areas, including the Governor’s Child Care Workgroup, where the proposed sprinkler requirement appeared in its final [report](#). In 2021, DCBS began rulemaking to adopt a new ORSC, which is where the sprinkler requirement is found. The entire code package, including the sprinkler change, was reviewed by the board, had multiple public hearings, and was ultimately adopted effective April 1, 2021.

Following its adoption, we heard a few complaints about application of the new requirement. Working with ELD, DCBS issued technical bulletins to help consumers and building officials understand the requirement and when it applies, and to emphasize the flexibility available to building officials to allow alternative methods in lieu of the sprinkler requirement. Those bulletins also clearly state that the requirement only applies to new registered or certified family child care facilities that have never been licensed, in particular recognition of facilities that may have paused services during COVID and were trying to reopen.

APPENDIX A: ELD & DCBS JOINT LETTER TO REP. KARIN POWER

Despite these actions, we have heard that implementation challenges have led to inconsistent application and confusion. In response, several legislators, including you, are seeking to abolish the sprinkler requirement. Rather than simply removing this important life safety measure and potentially putting lives in danger, we have developed a comprehensive approach described below that provides an exception to the requirement if other measures are put in place.

Alternative approach

DCBS is preparing a rule that provides a clear, non-discretionary exception to the sprinkler requirement if certain conditions are met. Separate from but in addition to this Code change, ELD is preparing rules to enhance the fire safety measures it requires. Together, these rules maintain a high level of safety while allowing a facility to obtain a license without installing sprinklers.

DCBS Rulemaking

DCBS is currently engaged in rulemaking to adopt a new OSSC. As part of that process, a public proposal was submitted to allow an alternate compliance path to the sprinkler requirement. Any such code change requires approval of both the relevant board and DCBS.

DCBS plans to modify the proposal to state that sprinklers are not required when:

1. Care is provided on “the level of exit discharge,” i.e. a level where there is a door to the outside, such as the ground floor, and
2. The path to the exit does not pass within three feet of a fixed cooking appliance (where most fires begin) or through a storage room or a room with locks.

In recognition of the simultaneous work ELD intends to do, the proposal also requires documentation to the building official of licensure by ELD, which can occur after a certificate of occupancy is issued by a building official.

The next Board meeting is Jan. 26, and this proposal will be presented at that time. If approved, DCBS will issue a temporary rule to implement the change so it can be effective immediately. At the same time, DCBS will also begin the process to permanently incorporate the change.

ELD Rulemaking

ELD is preparing temporary rules to present for approval to the Early Learning Council, also on Jan. 26. These rules will implement enhanced fire safety measures for registered family and certified family home-based child care providers, including the following:

- Fire extinguisher rules aligned across provider types and require they are in an easily accessible and visible location.
- Smoke detectors, which are currently required, will be required to be regularly tested.
- Carbon monoxide detectors will be required.

APPENDIX A: ELD & DCBS JOINT LETTER TO REP. KARIN POWER

- Evacuation drill requirements will be expanded and include a new requirement, developed in conjunction with the Office of State Fire Marshal, prescribing a maximum allowable evacuation time.
- Heat sources and protection requirements will be enhanced to further prevent fires from starting.
- Emergency and evacuation plan requirements will be expanded to include clearly marking exits, primary evacuation routes, secondary evacuation routes; and portable fire extinguishers .
- Fire safety during night hours requirements will add provisions around illumination of exit paths.

Next Steps

DCBS and ELD are committed to closely working together to ensure increased communication and coordination around child care. After the adoption of temporary rules, DCBS and ELD will convene rulemaking advisory committees including impacted partners to review and provide recommendations for the adoption of permanent rules, which must be in place by June 26, 2022.

Conclusion

These rule changes will create additional low- or no-cost flexibility while still providing enhanced life safety for children and operators in registered and certified family child care facilities. Simply abolishing the sprinkler requirement could create a health and safety risk and runs counter to the national model standard of care. We therefore respectfully request that you remove section 34 from LC 104.

Thank you for your continued work and leadership on this topic, and please feel free to contact us if you have any questions.

Sincerely,



Andrew R. Stolfi
Director
Department of Consumer and Business Services



Alyssa Chatterjee
Early Learning System Director
Early Learning Division



Early Learning Council

January 26, 2022

10:00 a.m. – 2:00 p.m.

Early Learning Division
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Salem, OR 97301

APPENDIX B: Proposed temporary Oregon Administrative Rule language related to fire safety in Registered Family Child Care

OAR 414-205-0035: General Requirements

- (1) The home in which child care is provided must be the residence of the provider.
- (2) The provider may not hold a medical marijuana card, grow marijuana, or be a distributor of marijuana.
- (3) Registration is limited to one provider per household.
- (4) A registration applies to only the person and address on the certificate of registration and is not transferable to another location or individual.
- (5) The registration is valid for a maximum of two years. The registration period begins with the effective date shown on the certificate of registration. A provider may not care for more than three (3) children, other than the provider's own children, at any one time prior to receiving a certificate of registration from OCC.
- (6) OCC registration records are open to the public on request. However, information protected by state or federal law will not be disclosed.
- (7) The name, address, telephone number, and registration status of providers is public information. However, OCC may withhold from the public a provider's address and telephone number if the provider makes a written request documenting that disclosure of the address and/or telephone number would endanger him/her or a family member living in the home (OAR 137-004-0800). The request must be on a form supplied by OCC.
- (8) 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:
 - (a) The Certificate of Registration; ~~and~~
 - (b) Providers must post all serious valid complaint and serious non-compliance letters for 12 calendar months; ~~and~~
 - (c) **A floor plan identifying the locations of the following:**
 - (A) Exits;
 - (B) Primary evacuation routes;
 - (C) Secondary evacuation routes; and
 - (D) Fire extinguishers.

OAR 414-205-0110: Safety

- (1) Children shall be protected from fire and safety hazards. Providers must have the following protections in place:
 - (a) All exposed electrical outlets in rooms used by preschool or younger children must have hard-to-remove protective caps or safety devices installed when the outlet is not in use.
 - (b) Extension cords shall not be used as permanent wiring;
 - (c) All appliance cords must be in good condition;
 - (d) Multiple connectors for cords shall not be used;
 - (e) A grounded power strip outlet with a built-in over-current protection may be used;



Early Learning Council

January 26, 2022

10:00 a.m. – 2:00 p.m.

Early Learning Division
3rd Floor, Grand Ronde Room
700 Summer St NE, Suite 350
Salem, OR 97301

(f) A stable barrier shall be installed to prevent children from falling into hazards, including, but not limited to: fireplaces, heaters and woodstoves that are in use when child care children are present;

(g) A secure barrier shall be placed at the top and/or bottom of all stairways accessible to infants and toddlers;

~~(h) A working smoke detector on each floor and in any area where children nap~~ **Smoke alarms and carbon monoxide detectors shall be:**

(a) Installed on each floor level of the home and in any area where children nap;

(b) Maintained in operating order; and

(c) Tested monthly to ensure they are in working order. The provider must document each test;

~~(i) A working fire extinguisher with a rating of at least 2-A-10-BC;~~ **There shall be at least one 2-A-10 BC-rated fire extinguisher on each floor of the home. Fire extinguishers must be mounted along the evacuation route, in an easily accessible and visible location that is out of reach of children. The fire extinguisher may be mounted in a closet if there is a sign indicating the location of the extinguisher and the access to the closet must be unobstructed.**

(j) The provider must inspect the fire extinguishers monthly and the inspection must be documented.

~~(jk)~~ Firearms, BB guns, pellet guns and ammunition kept under lock, with ammunition stored and locked separately. Firearms, BB guns and pellet guns must remain unloaded;

~~(kl)~~ Cleaning supplies, paints, matches, lighters, and plastic bags kept under child-safety lock;

~~(lm)~~ Other potentially dangerous items, such as medicine, drugs, sharp knives and poisonous and toxic materials kept under child-safety lock;

~~(mn) Flammable and combustible liquids, such as paint thinner and gasoline, shall be stored in the original container or a safety container and, if over one gallon, kept in an unattached storage building;~~ **Flammable and combustible materials:**

(a) Shall be stored in the original container or a safety container;

(b) Must not be stored within 4 feet of furnaces, other flame or heat-producing equipment, or fuel-fired water heaters, and

(c) If over one gallon, kept in an unattached storage building.

~~(no)~~ If any preschool age or younger children are in care, poisonous plants must be kept out of the reach of children; and

~~(op)~~ All clear glass panels in doors clearly marked at child level.

(2) All floor levels used by children must have access to two useable exits, as defined in OAR 414-205-0010(34), to the outdoors.

(a) If a basement is used for child care purposes, the requirement for two useable exits may be met by one of the following:

(A) A sliding glass door or swinging door to the outside and a window that meets the definition of a useable exit; or

(B) A window which meets the definition of a useable exit and an internal stairway to ground level that has unobstructed and direct access to the outdoors.

(b) If a window, which meets the definition of a useable exit, is used:

(A) Steps must be placed under the window to allow children to exit without assistance; and



Early Learning Council

January 26, 2022

10:00 a.m. – 2:00 p.m.

Early Learning Division
3rd Floor, Grand Ronde Room
700 Summer St NE, Suite 350
Salem, OR 97301

- (B) The window must be kept in good working condition.
- (c) If a window used as an exit has a window well, a mechanism must be in place to allow children to exit the window well.
- (d) The provider must complete a daily inspection to ensure that evacuation routes are clear and usable exits, including doors and escape windows, are operable.**
- (3) Second floors (does not apply to providers registered continuously at the same address before 2009, unless the provider has moved the child care license to a new residence):
 - (a) Child care children shall not sleep on the second floor or above;
 - (b) Care shall not be provided for infants and toddlers on the second floor or above;
 - (c) Night care shall not be provided on the second floor or above;
 - (d) Children may be allowed on the second floor to use the bathroom if the only bathroom is on the second floor;
 - (e) Care can be provided for preschool and school-age children on the second floor or above, if:
 - (A) There are two staircases to the ground level and all children are mobile enough to exit safely;
 - or
 - (B) The designated fire marshal has approved the use of the upper floor.
- (4) Fire drills shall be practiced monthly at varying times of day, including in the evening and during overnight hours for programs that care for children during those hours.**
 - (a) Fire drills must include:**
 - (A) A drill conducted during the established napping or rest time at least once per year;**
 - (B) A drill including using an alternate evacuation route at least once per year; and**
 - (C) A drill observed by OCC staff; if requested.**
 - (b) The provider must have an alert method (for example, a loud bell or whistle) to warn the occupants of the home of an emergency or drill.**
 - (c) Full evacuation of all staff and children must be completed within three minutes.**
- (5) One other aspect of the emergency plan shall be practiced every other month and must follow the recording requirements listed in OAR 414-205-0110(6)(a-f).**
- (46) The provider must have a written plan for evacuating and removing children to a safe location in an emergency. The plan must be posted in the home, familiar to the children and the caregivers, and practiced at least every other month and must include:
 - (a) Procedures for notifying parents or other adults responsible for the children, of the relocation and how children will be reunited with their families;
 - (b) Procedures to address the needs of individual children, including infants and toddlers, children with special needs and children with chronic medical conditions;
 - (c) An acceptable method to ensure that all children in attendance are accounted for
 - (d) Procedures for handling natural disasters (e.g. fire, earthquake, etc.) and man-caused events, such as violence at a child-care facility;
 - (e) Procedures in the event that children must shelter-in-place or if the child-care home must be locked-down so that no one can enter or leave; and
 - (f) Procedures for maintaining continuity of child care operations.
- (57) A telephone in working condition must be in the family child care home.**
 - (a) Parents must be given the telephone number so they can contact the provider if needed.



Early Learning Council

January 26, 2022

10:00 a.m. – 2:00 p.m.

Early Learning Division
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- (b) Emergency telephone numbers for fire, ambulance, police and poison control and the provider's home address must be posted in a visible location
- (68) The building, grounds, water supply, and toys, equipment and furniture used by children must be maintained in a hazard-free condition.
 - (a) Broken toys, furniture and equipment must be removed from areas accessible to children.
 - (b) Both the exterior and interior of the home must be maintained in good repair.
 - (c) Painted surfaces must be in good condition, both inside and outside, to avoid exposing children to lead paint.
 - (d) The provider shall report to OCC any damage to the building that affects the provider's ability to comply with these requirements, within 48 hours after the occurrence.
- (79) If a caregiver is transporting children, the caregiver must have a valid driver's license and proof of appropriate insurance.
- (810) The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle
- (911) The provider must take precautions to protect children from vehicular traffic. The provider shall:
 - (a) Require drop off and pick up only at the curb or at an off-street location protected from traffic.
 - (b) Assure that any adult who supervises drop-off and loading can see and assure that children are clear of the perimeter of all vehicles before any vehicle moves.
- (1012) The following vehicles may be used to transport child care children:
 - (a) A vehicle manufactured to carry fewer than ten passengers;
 - (b) A school bus or a multi-function school activity bus;
 - (c) A vehicle manufactured to carry ten or more passengers that was manufactured in 2010 or after; or
 - (d) A vehicle manufactured to carry ten or more passengers that was manufactured before 2010, with the following conditions:
 - (A) Travel speed may not exceed 50 mph; and
 - (B) The vehicle must have an annual safety inspection by a garage, dealership or auto repair shop. Proof of inspection must be on the form provided by the Early Learning Division or on a form provided by the inspector which contains the same information.

OAR 414-205-0130: Record Keeping

- (1) The following records, except those specified in OAR 414-205-0105(7)(a), shall be kept by the provider for at least one year. These records shall be available at all times to OCC:
 - (a) Information from the parent(s) for each child at the time of admission:
 - (A) Name and birth date of the child;
 - (B) Any chronic health problem(s), including allergies, the child has;
 - (C) Date child entered care;
 - (D) Names, work and home telephone numbers and addresses, and the work hours of the parent(s) or legal guardian(s);
 - (E) Name and telephone number of person(s) to contact in an emergency;
 - (F) Name and telephone number of person(s) to whom the child may be released;
 - (G) The name of the school attended by the child care child; and



Early Learning Council

January 26, 2022

10:00 a.m. – 2:00 p.m.

Early Learning Division
3rd Floor, Grand Ronde Room
700 Summer St NE, Suite 350
Salem, OR 97301

- (H) Name, address and telephone number of the child's doctor and dentist.
- (I) Health history of any problems that could affect the child's participation in child care.
- (b) Daily attendance records, including dates each child attended and arrival and departure times for each day. Times shall be recorded as the child care children arrive and depart;
- (c) Medications administered, including the child's name, and the date and time of dosage and the dosage amount; ~~and~~
- (d) Injuries to a child; **and**
- (e) The provider shall maintain a written record of each emergency evacuation drill showing:**
 - (A) The date and time;**
 - (B) The exits used;**
 - (C) The number and age range of children evacuated;**
 - (D) The total number of people in the home at the time of the drill;**
 - (E) The amount of time taken to evacuate the home;**
 - (F) The name of the person conducting the drill, and**
 - (G) The alert method used.**

OAR 414-205-0140: Night Care

A provider providing night care must:

- (1) Have a written plan for the care, mutually agreed upon by the parent(s) and the provider;
- (2) Have a written plan for emergency situations occurring during the night;
- (3) Be awake for the arrival and departure of each child in night care; ~~and~~
- (4) Follow all other applicable Registration rules; **and**
- (5) Illuminate evacuation routes.**



Early Learning Council

January 26, 2022

10:00 a.m. – 2:00 p.m.

Early Learning Division
3rd Floor, Grand Ronde Room
700 Summer St NE, Suite 350
Salem, OR 97301

APPENDIX C: Proposed temporary Oregon Administrative Rule language related to fire safety in Certified Family Child Care

OAR 414-350-0050: General Requirements

(1) The following items shall be posted in the certified family child care home where they may be clearly viewed by parents:

- (a) The most current certificate issued by OCC; 12
- (b) Notification of a communicable disease outbreak at the home;
- (c) The evacuation plan and the location where parents may be reunited with their children in the event of an evacuation;
- (d) A notice that the following items are available for parents to review:
 - (A) The guidance/discipline policy;
 - (B) The current week's menus, with substitutions recorded;
 - (C) The description of the general routine;
 - (D) Information on how to report a complaint to OCC regarding certification requirements; and
 - (E) The most recent OCC and sanitation inspection reports and, if applicable, fire life safety self-evaluation (or fire marshal inspection report if completed).
- (e) The Early Learning Division Website [www.oregonearlylearning.com] and phone number [1-800-556-6616], and a statement advising parents that they can access information about their child care provider on the child care safety portal.
- (f) Providers must post all serious valid complaint and serious non-compliance letters for 12 calendar months.
- (g) A floor plan identifying the locations of the following:**
 - (A) Exits;**
 - (B) Primary evacuation routes;**
 - (C) Secondary evacuation routes; and**
 - (D) Fire extinguishers.**

OAR 414-350-0170: Home Safety

- (1) All floor levels used by children for play and napping shall have two usable exits to ground level.
- (2) All rooms used by children for play and napping shall have two usable exits.
- (3) Obstructions, including furniture, storage of supplies, or any other items shall not be placed in a manner that blocks usable exits.
 - (a) The provider must complete a daily inspection to ensure that evacuation routes are clear and usable exits, including doors and escape windows, are operable.**
- (4) There shall be at least one 2-A-10 BC rated fire extinguisher on each floor of the home. ~~Fire extinguishers shall be easily accessible, kept out of reach of children, and located along the path of emergency exiting.~~ **Fire extinguishers must be mounted along the evacuation route, in an easily accessible and visible location that is**



Early Learning Council

January 26, 2022

10:00 a.m. – 2:00 p.m.

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out of reach of children. The fire extinguisher may be mounted in a closet if there is a sign indicating the location of the extinguisher and the access to the closet must be unobstructed.

(5) The provider must inspect the fire extinguishers monthly and the inspection must be documented.

(56) Smoke alarms and carbon monoxide detectors shall be:

- (a) Installed on each floor level of the home and in any area where children nap;
- (b) Maintained in operating order; and

(c) Tested monthly to ensure they are in working order. The provider must document each test.

(67) Candles or other open flame decorative devices are prohibited, except for the brief use of celebratory candles.

(78) Matches and lighters shall be kept in locked storage when not in use.

(89) A portable light source, to be used in emergencies, shall be:

- (a) Available in all activity areas used by children;
- (b) In working condition; and
- (c) Stored in an easily accessible place.

(910) Items of potential danger (e.g., cleaning supplies and equipment, paints, poisonous and toxic materials, plastic bags, aerosols, detergents) shall be:

- (a) Kept in the original container or labeled;
- (b) Stored under child-proof lock; and
- (c) Kept away from food service supplies.

(1011) The provider shall protect children from safety hazards, including but not limited to:

- (a) A rigid screen or guard shall be installed to prevent children from falling into a fireplace or against a heater or wood stove;
- (b) A movable barrier, such as mesh-type gate, shall be placed at the top and/or bottom of all stairways accessible to infants and toddlers. Gates and enclosures should have the Juvenile Products Manufacturers Assn. (JPMA) certification seal to ensure safety;
- (c) Child-proof latches shall be installed on all cupboards, closets, and drawers that contain hazardous objects and may be accessible to preschool-age and younger children;
- (d) Firearms, ammunition, and other potentially hazardous equipment, such as darts, other projectiles, power tools, and knives shall be kept under lock:
 - (A) Firearms, pellet or BB guns must be unloaded and kept in areas not used by childcare children; and
 - (B) Ammunition shall be stored separately from firearms;
- (e) Hot water heaters shall be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location;
- (f) Unused appliances, such as old refrigerators or freezers, that present a risk for entrapment, shall be secured so as to prevent entry by children;
- (g) Clear glass panels in doors shall be clearly marked at child level;
- (h) All exposed electrical outlets in rooms used by preschool or younger children shall have hard-to-remove protective caps or safety devices when not in use;
- (i) Extension cords shall not be used as permanent wiring. All appliance cords will be in good condition and multiple connectors for cords will not be used. A grounded power strip outlet with built-in over-current protection may be used;



Early Learning Council

January 26, 2022

10:00 a.m. – 2:00 p.m.

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(j) Floors shall be free of splinters, large unsealed cracks, sliding rugs, and other hazards;

(k) Devices which generate heat and are hot from recent use shall be inaccessible to children; and

(l) After painting or laying carpet, the certified home must be aired out completely for at least 24 hours with good ventilation before children are allowed to return.

~~(1112)~~ The provider shall have written evidence that any wood stove in the home has been inspected and approved for use by the local building official.

~~(1213)~~ All wood stove and fireplace flues shall be cleaned as needed or, at a minimum, once a year. A written record of cleaning shall be maintained on site.

~~(1314)~~ The use of unvented, fuel-fired space heaters is prohibited.

~~(1415)~~ Flammable and combustible liquids, such as paint thinner and gasoline, shall be stored in the original container or a safety container and, if over one gallon, kept in an unattached storage building. Flammable and combustible materials:

(a) Shall be stored in the original container or a safety container;

(b) Must not be stored within 4 feet of furnaces, other flame or heat-producing equipment, or fuel-fired water heaters, and

(c) If over one gallon, kept in an unattached storage building.

~~(1516)~~ All caregivers and children shall practice at least one aspect of the emergency plan, as described in OAR 414-350-0050(8)(c), once per month.

~~(a)~~ Evacuating the home shall be practiced at least eight times per year. If the facility is certified to care for more than 12 children and more than 4 children regularly in care are under 24 months of age, evacuating the home shall be practiced monthly.

~~(b)~~ The provider shall maintain a written record showing the date, time of day, participants, and type of emergency of each emergency plan practice session.

Fire drills shall be practiced monthly at varying times of day, including in the evening and during overnight hours for programs that care for children during those hours.

(a) Fire drills must include:

(A) A drill conducted during the established napping or rest time at least once per year;

(B) A drill including using an alternate evacuation route at least once per year; and

C) A drill observed by OCC staff; if requested.

(b) The provider must have an alert method (for example, a loud bell or whistle) to warn the occupants of the home of an emergency or drill.

(c) Full evacuation of all staff and children must be completed within three minutes.

(17) The provider shall maintain a written record of each fire drill showing:

(a) The date and time;

(b) The exits used;

(c) The number and age range of children evacuated;

(d) The total number of people in the home at the time of the drill;

(e) The amount of time taken to evacuate the home;

(f) The name of the person conducting the drill; and

(g) The alert method used.



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(18) One other aspect of the emergency plan shall be practiced every other month and must follow the recording requirements listed in OAR 414-350-0170(17)(a-g).

~~(1619)~~ The written plan for evacuating and removing children to a safe location in an emergency must be posted in the home and must be familiar to the children and the caregivers. The plan must include:

- (a) Procedures for notifying parents or other adults responsible for the children, of the relocation and how children will be reunited with their families;
- (b) Procedures to address the needs of individual children, including infants and toddlers, children with special needs, and children with chronic medical conditions;
- (c) An acceptable method to ensure that all children in attendance are accounted for;
- (d) Procedures in the event that children must shelter-in-place or if the child-care home must be locked-down so that no one can enter or leave; and
- (e) Procedures for maintaining continuity of child-care operations.

~~(1720)~~ The provider must take precautions to protect children from vehicular traffic. The provider shall:

- (a) Require drop off and pick up only at the curb or at an off-street location protected from traffic.
- (b) Assure that any adult who supervises drop-off and loading can see and assure that children are clear of the perimeter of all vehicles before any vehicle moves.

~~(1821)~~ Other hazards observed in the certification process must be corrected.

OAR 414-350-0375: Night Care

(1) When a certified family home provides night care to child care children, the provider shall meet all of the requirements for certified family child care homes contained in OAR 414-350-0000 through 414-350-0405, except for 414-350-0150 and 414-350-0220. In addition, the home shall comply with the following requirements, and the certification shall reflect that regulated night care is offered.

(2) Staffing:

- (a) During the hours of night care, the required staff/child ratios, as specified in OAR 414-350-0120 shall be maintained.
- (b) A caregiver must be present on the same floor level as the child care children who are sleeping.
- (c) A caregiver must be awake for the arrival and departure of each child in night care. A caregiver must be awake during night care hours if more than six(6) children are in care.
- (d) All persons 18 years of age and older, inclusive of guests sleeping in the home during night care hours, shall comply with OAR 414-350-0090(4).

(2) Activities:

- (a) There shall be quiet activities, such as story-time, games, arts and crafts, and reading, for each child arriving before bedtime. These activities shall be appropriate to the child's age, interests and abilities.
- (b) The use of television, videos, and computer or electronic games shall comply with OAR 414-350-0220(5).
- (c) The provider shall have a written plan for night care which includes:



Early Learning Council

January 26, 2022

10:00 a.m. – 2:00 p.m.

Early Learning Division
3rd Floor, Grand Ronde Room
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Salem, OR 97301

- (A) Regular routines;
- (B) Supervision of children;
- (C) Evacuation procedures for awake and sleeping children;
- (D) Sleeping arrangements; and
- (E) Arrival and departure procedures.

(d) If 24-hour care is provided, the provider shall have a written plan for self care, i.e., how her/his own needs will be met.

(3) Sleeping Arrangements:

- (a) Space shall be available so that children may go to sleep at various times, based on their age and need for rest.
- (b) All sleeping rooms used by children shall have two useable exits. A sliding door or window can be considered a useable exit if it meets the definition, as specified in OAR 414-350-0010(38).
- (c) Beds and bedding shall comply with OAR 414-350-0230(3) and 414-350-0235(1).

(4) Personal Hygiene:

(a) When bathing is provided, there shall be:

- (A) Individual washcloths and towels for each child;
- (B) Individual bathing opportunities for each child, unless a parent(s) has given permission for siblings to bath together;
- (C) Safety glass in glass shower doors or glass tub enclosures;
- (D) Appropriate cleaning and sanitizing procedures implemented after each child has used the shower or tub; and
- (E) Appropriate equipment in bathtubs and showers to prevent slipping.

(b) Children spending the night shall have the opportunity to brush their teeth with an individual toothbrush and toothpaste labeled with his/her name.

(c) When bathing, showering or brushing teeth, children shall be supervised by a caregiver. For school-age children, privacy shall be maintained.

(5) During night care, evacuation routes must be illuminated.



MEMORANDUM

To: Early Learning Council Members

From: Dana Bleakney-Huebsch, Infant & Toddler Program Specialist
David Mandell, Director of Policy and Research
Kelly Scales, Child Care Initiatives Support Analyst
Remember Watts, Early Learning Council Administrator & Rule Coordinator

Date: January 26, 2022

Re: Notification of upcoming rulemaking

EXECUTIVE SUMMARY: The purpose of this memo is to update the Early Learning Council (ELC) on development of rules, including associated stakeholder engagement, which the ELC will be voting on in future meetings. The Early Learning Division (ELD) plans to present several rulesets for vote to the Early Learning Council in the February 23, 2022 meeting. Public comment for each ruleset below will be open from **February 1 – 16**. Please reach out with any questions or concerns about the rulemaking process to Remy Watts, Rule Coordinator.

The following rulesets will be up for vote in the February meeting:

- Baby Promise
- Child Care Development Fund (CCDF) Allergy Safety Plan Requirement
- Reimbursement for Commission & Committee Members

The following rulesets will be up for vote at future meetings:

- CCDF Child Development Training Requirement (March 2022)
- Allowing Recorded Programs into Central Background Registry (March 2022)
- Allowing License-exempt Employment Related Day Care Providers (ERDC) into Central Background Registry (March 2022)
- Crib Bumper Ban (April 2022)
- Kindergarten Readiness Partnership & Innovation Program (April 2022)
- Early Childhood Suspension and Expulsion Prevention Program (June 2022)
- Tribal Early Learning Hub (June 2022)
- School-Age Ruleset Amendments (June 2022)

RULESETS PROPOSED IN FEBRUARY:

Baby Promise (OAR 414-480-0000 – 414-480-0060)

Summary: The Baby Promise pilot program was approved and funded in HB 2024 of the 2019 Oregon Legislative Session. The purpose of Baby Promise is to increase and sustain the supply and availability of high-quality infant and toddler care for marginalized families furthest from opportunity. Currently, the Baby Promise pilot operates in three regions across Oregon (Coos / Curry Counties, Deschutes / Crook /



INTERNAL MEMORANDUM

Jefferson Counties, and Multnomah County). The ELD must operationalize the program through rulemaking.

Process: The ELD convened a Rulemaking Advisory Committee (RAC) over the course of December 2021 and January 2022. The RAC evaluated draft rule language for fiscal and equity impacts. See membership chart of the Baby Promise RAC below:

Member	Organization
Linda Bryant-Daaka	Doula & Lactation Manager, Black Parent Initiative, Portland
Josh Davies	Tribal Councilman, Confederated Tribes of Coos, Lower Umpqua and Siuslaw Indians
Regan Gray	Child Care Policy Advisor, Family Forward, Portland
Robyn Harris	Baby Promise Coordinator, Mount Hood Community College, Multnomah County
Karen Prow	Child Care Resources Director, Neighbor Impact Child Care Resources, Deschutes / Crook / Jefferson Counties
Anita Rea-Davis	Baby Promise Program provider, AFSCME member, Portland
Laura Reyes-Cortez	Baby Promise Grant Coordinator, Southwestern Oregon Community College, Coos / Curry Counties
Heather Rogen	Baby Promise Program provider, Redmond
Mina Smith	Senior Manager for Early Care and Education, United Way of the Columbia-Willamette
Hailey Starks	Baby Promise Parent, Coquille
Halima Yousif	Child Care Provider, Beaverton

Public comment will be open from **February 1 – 16**, and there will be a public hearing on **Tuesday, February 8 at 5:30 p.m.**

RAC Feedback: The RAC flagged equity and fiscal concerns for programs, early care educators, and families of the program. Fiscal concerns include balancing needs of families with provider payment schedule. Equity concerns include barriers to entry for culturally and linguistically responsive early care educators. Strategies to address these concerns will be presented in the Council Action Request for Baby Promise rulemaking in the February Early Learning Council meeting packet.

CCDF Requirement: Allergic Reactions Update (OARs 414-205-0100; 414-300-0220; and 414-300-0220)

Summary: ELD must update policies around children in care who are at risk of allergic reactions to comply with federal CCDF requirements. These required changes were identified this last fall by the federal Office of Child Care as part of their review of Oregon's CCDF State Plan. OARs 414-205-0100;



INTERNAL MEMORANDUM

414-300-0220; and 414-300-0220 will be updated to strengthen care providers' emergency response in the event a child in their care has an allergic reaction. See text below:

A written care plan must be developed for each enrolled child with a known allergy. The plan must include instructions regarding the food(s) to which the child is allergic and steps to be taken to avoid that food; signs and symptoms of an allergic reaction; and a detailed treatment plan including the names, doses, and methods of prompt administration of any medication in response to allergic reactions.

(a) The parent must be notified immediately of any suspected allergic reactions or if the child consumed or came in contact with the problem food even if a reaction did not occur.

(b) If epinephrine is administered, emergency medical services must be contacted immediately.

(c) All staff who come in contact with the child and staff that prepare and serve food must be fully aware of the plan.

(d) Specific food allergies must also be shared with all staff that prepare and serve food.

(e) Each child's food allergies should be easily accessible for staff but not available to those who are not parents or guardians of the enrolled child.

Process: There are no anticipated fiscal or equity impacts to stakeholders as a result of this federal requirement strengthening safety of children in care settings. The ELD is consulting with providers on the proposed language and does not plan to convene a RAC for this rule change. Public comment will be open from **February 1 – February 16**, and there will be a public hearing on **Wednesday, February 9 at 1 p.m.**

Council & Council Member Reimbursement (OAR 414-055-0000 – 414-055-0015)

Summary: The ELD must promulgate permanent rules allowing payment of commission & council members created under ORS 292.495. Temporary rules allowing payment were passed by the Early Learning Council in the October 26, 2021 meeting, and now the rule language must be permanently codified through the public rulemaking process. See the [“Council Action Request: Council and Commission Reimbursement Temporary Rule Adoption”](#) from the October 26, 2021 ELC meeting for full proposed rule language.

Process: There are no anticipated fiscal or equity impacts to stakeholders, so the ELD does not plan to consult a RAC. Public comment will be open from **February 1 – February 16**, and there will be a public hearing on **Wednesday, February 9 at 2 p.m.**

UPCOMING AT FUTURE MEETINGS:



INTERNAL MEMORANDUM

CCDF Child Development Training Requirement: ELD must update its policies around child development training to comply with federal CCDF requirements. Recommended rule language will be presented for vote in the March 2022 ELC meeting.

Allowing Recorded Programs into Central Background Registry: Recorded programs, which are currently unlicensed facilities, will be allowed to enter the Central Background Registry. This change has been requested in the 2022 Oregon Legislative Session and is contingent on legislation passing. Recommended rule language will be presented for vote in the March 2022 ELC meeting.

Allowing License-exempt Employment Related Day Care (ERDC) Providers into Central Background Registry: License-exempt ERDC providers, which are currently unlicensed facilities, will be allowed to enter the Central Background Registry. This change has been requested in the 2022 Oregon Legislative Session and is contingent on legislation passing. Recommended rule language will be presented for vote in the March 2022 ELC meeting.

Crib Bumper Ban: HB 3379 of the 2021 Oregon Legislative Session bans crib bumper pads. The ELD must operationalize the ban in care facility administrative rules. Recommended rule language will be presented for vote in the April 2022 ELC meeting.

Kindergarten Readiness Partnership & Innovation (KPI) Program: The purpose of the KPI Program is to improve the readiness for kindergarten of children who are at-risk. KPI was modified in HB 2054 of the 2021 Oregon Legislative Session to update allowable programs and administration of funding. The ELD will hold a RAC to evaluate rule language in late February – mid-March. Recommended rule language will be presented for vote in the April 2022 ELC meeting.

Early Childhood Suspension and Expulsion Prevention Program: The purpose of the Early Childhood Suspension and Expulsion Prevention Program is to prevent suspension and expulsion of young children from early care settings, especially based on race, ethnicity, language, or ability. HB 2166 of the 2021 Oregon Legislative Session requires the Early Learning Council to adopt rules necessary to administration of the program. The ELD will convene a RAC to evaluate rule language between late March and early May. Recommended rule language will be presented for vote in the June 2022 ELC meeting.

Tribal Early Learning Hub: The purpose of the Tribal Early Learning Hub is to deliver early learning services to the Tribal communities of Oregon. HB 2055 of the 2021 Oregon Legislative Session requires the Early Learning Council to adopt rules necessary to administration of the Tribal Early Learning Hub. The ELD will convene a RAC to evaluate rule language between late March and early May. Recommended rule language will be presented for vote in the June 2022 ELC meeting.

School-Age Ruleset Amendments: School-aged care stakeholders have requested an update to their administrative rule set. School-aged care includes after-school programs for children up to age 12. ELD is currently engaging stakeholders in developing rule language and will convene a RAC to evaluate rule language in spring 2022. Recommended rule language will be presented for vote in the June 2022 ELC meeting.