

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**

10/31/2022 1:06 PM  
ARCHIVES DIVISION  
SECRETARY OF STATE

FILING CAPTION: Recorded Programs and License-Exempt Subsidized Care Facilities to enroll in Central Background Registry (CBR).

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 12/07/2022 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.*

CONTACT: Remy Watts  
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700 Summer St. NE  
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: 12/05/2022

TIME: 5:30 PM

OFFICER: Remy Watts

ADDRESS: Virtual access only

700 Summer St NE

Salem, OR 97310

SPECIAL INSTRUCTIONS:

Please arrive to the meeting within 15 minutes of meeting start time. View the ELD calendar for more information on signing up for and attending the public hearing: <http://oregonearlylearning.com/meeting/cbr-updates-dec-2022>

NEED FOR THE RULE(S)

In response to the Secretary of State audit and subsequent bills (SB 1547 and HB 4005), the ELD/OCC must modify rules to expand who is considered a "subject individual" and therefore required to be enrolled in the Central Background Registry (CBR). This includes revisions to 414-061-0000 (CBR), 414-425-0000 (Preschool Recorded) and 414-450-0000 (School-Age Recorded). Rules outline that staff, volunteers, household members, and those that may have unsupervised contact with children in Recorded programs and Subsidized Care Facilities be enrolled in the CBR. Temporary rules were adopted by the Early Learning Council June 2022.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

SB 1547 (2022): <https://olis.oregonlegislature.gov/liz/2022R1/Measures/Overview/SB1547>

HB 4005 (2022): <https://olis.oregonlegislature.gov/liz/2022R1/Measures/Overview/HB4005>

Statutory Authority:

329A.030

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**STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE**

Recorded Programs: Limited data has been collected on demographic information for those working and utilizing these services, therefore it is difficult to state the racial equity impact for these programs.

License Exempt Subsidized Child Care Providers: Currently, the race-based data collected from providers on the ODHS Provider listing form is voluntary. From the data that is available, there is a higher percentage of Black or African American license exempt non-relative providers than the percentage of Black or African American individuals living in the state of Oregon. Adding a new application process for background checks requirement could be harmful to this group of providers for a few reasons.

- Historically, adding new requirements has caused some providers to not complete the listing process.
- Adding a different background check application requirement to an existing provider population could mean losing providers who do not complete the CBR enrollment requirement by the deadline. This would negatively impact the ability to receive CCDF child care funding.
- According to data cited by the Oregon Criminal Justice Commission, there is a disparity in the number of probation and local control intakes and prison intakes suffered by members of Oregon's Black, Latino, and Native American populations. Disparate and biased law enforcement practices or outcomes may lead to disparate background check results, which may result in disparate child care provider denials. The background check is not a new requirement, but a different agency will be conducting the background check and the list of disqualifying crimes is identical across both background check processes. The weigh testing process does vary between agencies as noted in the 2020 SOS audit of the background check processes.

Consumers of Services: Children and families utilizing recorded programs/license except care will have assurance that adults working in these programs have been vetted through the same background check process as licensed child care programs. Recorded programs serve a diverse population as costs are traditionally lower than licensed care. Enrollment in the CBR provides the same level of protection for children, no matter the child care setting. Similarly, families who utilize license-exempt child care providers/programs will have the same level of protection for their children.

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**FISCAL AND ECONOMIC IMPACT:**

Individuals Enrolling in the CBR: CBR application, fingerprint costs, and out-of-state costs associated with the background are covered by ELD/OCC, in most cases. If a subject individual does not use or have access to the contracted fingerprint company (Fieldprint) the estimated cost to complete fingerprinting varies between \$5-\$100, depending on service used. In this case, the application fee and out-of-state background check fees are still paid by ELD/OCC. Enrollment in the CBR must be renewed every five years.

Recorded Programs: There is a financial benefit to Recorded Programs, as they will no longer have to pay for background checks for employees and volunteers. Previous to CBR enrollment, Recorded Programs needed to acquire background checks for staff and cover the costs themselves. Costs for these background checks vary depending on the service used (from no cost to upwards of \$79 through the Clearinghouse).

License Exempt Subsidized Child Care Providers: No significant fiscal impact regarding the fingerprinting process identified, as ELD/OCC will cover the costs associated with enrollment in the CBR. Prior to CBR Enrollment, the costs associated with the background check were covered by ODHS. As with any change in process, there may be risks that

the provider may not complete the CBR application timely which may impact the providers ability to collect subsidy payments.

Potential positive fiscal impacts are the ability to gain employment in child care centers or become licensed providers (due to CBR enrollment), which could result in additional income, and that providers will no longer have to resubmit for eligibility every two years, minimizing administrative burdens (CBR enrollment is valid for five years).

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**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) Based on the current number of exempt providers, ELD estimates that it will perform 8,000 background checks for license exempt employment related care providers. The cost to perform background checks is \$640,000 (estimate 8,000 applicants times \$80).

ODHS will see a positive financial impact, as the agency will no longer be covering the cost of license exempt employment related care providers background checks. The estimated savings is \$17,000 per month.

In addition, ELD is estimating to process 5,820 background checks for Recorded Programs, at a cost of \$80 per individual. The estimated cost of completing this work is \$465,600.

The negative fiscal impact on ELD is covered by additional funds supplied through HB4005 and SB1547.

(2)(a)

Recorded Preschool Programs: 396 programs\*

Recorded School-Age Programs: 134 programs\*

Subsidized Care Facilities (Regulated Subsidy Providers, Except Providers receiving Child Care Subsidies): 1,650 providers\* (includes in-home providers as well as licensed exempt child care centers)

\*Programs may be operated by small businesses, individuals, school districts, other governmental organizations such as local Parks & Recreation Departments, which may not be considered small businesses.

(b) There is no cost associated with recordkeeping or reporting.

Programs will be required to maintain documentation of CBR enrollment for each employee, volunteers and anyone of may have unsupervised contact with children. Documentation must be kept onsite. CBR enrollment letters are free to programs and individuals enrolled and can be requested at any time.

(c) No professional services, equipment supplies, labor and increased administration were identified within these rules changes.

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

During with the legislative process ELD/DELCO representatives met with government liaisons, YMCA representatives, Boys & Girls Clubs representatives, and smaller Recorded Programs owners. Feedback was gathered on costs of backgrounds checks, length of time for approval and how to define staff, volunteer, staff, and unsupervised contact with

children.

ODHS, BCU, OCC have engaged in partner meetings with SEIU related to background check changes that impact providers.

A Rulemaking Advisory Committee will convene in late early November to provide additional feedback on the rulesets as well as additional fiscal or equity impacts not previously identified.

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WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

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RULES PROPOSED:

414-061-0020, 414-061-0030, 414-061-0060, 414-061-0090, 414-425-0010, 414-425-0030, 414-450-0010, 414-450-0030

AMEND: 414-061-0020

RULE SUMMARY: Updating definitions of Subsidized Care Facility.

CHANGES TO RULE:

414-061-0020

Definitions ¶¶

- (1) "Adult protective services history" means information about whether the subject individual has a substantiated finding of abuse or neglect in an adult abuse investigation conducted by the Oregon Department of Human Services or its contractor or designee, or similar information held by another state, county, municipal or other governmental entity or its contractor or designee.¶¶
- (2) "Adult protective services check" means a certification by the subject individual of the presence or absence of a substantiated finding of abuse or neglect in an adult abuse investigation, or obtaining and reviewing adult protective services records from appropriate governmental authority, its designee or contractor as required or permitted by these rules .¶¶
- (3) "Agency Agreement" means the written agreement between the Oregon State Police (OSP) and the Oregon Office of Child Care (OCC).¶¶
- (4) "Caretaker Relative" is an individual related to the child by biology, marriage or adoption, including the former spouse of a relative who resides in the same household with and has primary responsibility for a child needing care.¶¶
- (5) "Central Background Registry" or "CBR" means the registry established and operated pursuant to ORS 329A.030 (6)(a).¶¶
- (56) "Child Abuse and Neglect Records" means information on child abuse and neglect cases conducted by the Oregon Department of Human Services or its contractor or designee, or similar information held by another state, county, municipal or other governmental entity or its contractor or designee.¶¶
- (67) "Child Abuse and Neglect Records Check" means obtaining and reviewing child abuse and neglect reports and records as required or permitted by these rules.¶¶
- (78) "Computerized Criminal History (CCH) System" means the on-line computer files of significant criminal offender information maintained by the Oregon State Police (OSP).¶¶
- (89) "Conditional Enrollment" means enrollment in the CBR pursuant to ORS 329A.030(6)(a).¶¶
- (910) "Criminal Records" means information, including fingerprints and photographs, received, compiled, and disseminated by the Oregon State Police, or by other states or jurisdictions, for purposes of identifying criminal offenders and alleged offenders and maintained as to such persons' records of arrest, the nature and disposition of criminal charges, sentencing, confinement, and release and includes the OSP Computerized Criminal History System.¶¶
- (101) "Criminal Records Check" means obtaining and reviewing criminal records as required or permitted by these rules and includes any or all of the following;¶¶
  - (a) A check of Oregon criminal records and driving records conducted through use of the Law Enforcement Data System (LEDS) maintained by OSP, in accordance with the rules adopted and procedures established by OSP;¶¶
  - (b) A check of Oregon criminal records, including through fingerprint identification or other means, conducted by OSP at the authorized agency or district's request;¶¶

- (c) A nationwide check of criminal records, including through fingerprint identification, conducted by OSP through the Federal Bureau of Investigation (FBI);¶
- (d) A check of criminal records repositories maintained by any state or jurisdiction, including through fingerprint identification or name-based identification;¶
- (e) A check of the National Criminal Information Center's National Sex Offender Registry (NSOR); or¶
- (f) A check of a sex offender registry maintained by any state or jurisdiction;¶
- (11) or¶
- (g) A check of Oregon Judicial Department's OJCIN/OECI which includes court case information for Oregon's 36 judicial districts.¶
- (12) "DHS Background Check" means a background check completed pursuant to OAR 125-007-0200 through 125-007-0330 and OAR 407-007-0200 through 407-007-0370 on or before June 30, 2023.¶
- (13) "Early Childhood Care and Education Program" means a regulated child care facility, federally-funded Head Start program, Oregon Department of Education funded pre-kindergarten program, parent-as-teacher program, or early childhood special education/early intervention program.¶
- (124) "ERDC" means Employment Related Day Care benefits which a child care provider may be approved to receive pursuant to OAR 461-165-0180.¶
- (15) "Early Learning Program" means a preschool provider referenced in ORS 329.172(3) that has applied to participate in the preschool program described in that section.¶
- (136) "Employee" means any individual caring for, overseeing, or who has or may have access to children, who holds a paid position in a requesting agency.¶
- (147) "Employee of the Early Learning Division" means any individual employed by the Early Learning Division on or after July 1, 2023, by the Department of Early Learning and Care.¶
- (158) "Enrollment" means approval for a five -year period to be enrolled in the Central Background Registry following an OSP criminal records check, child abuse and neglect records check, checks of adult protective services and foster care certification, and; an FBI records check.¶
- (169) "Fee" means the charges assessed by the subject individual for processing each criminal records check and/or fingerprint-based criminal records check.¶
- (1720) "FBI" means the Federal Bureau of Investigation.¶
- (218) "Fingerprint-Based Criminal Records" means criminal offender information compiled and maintained by the Federal Bureau of Investigation.¶
- (1922) "Foster Care Certification History" means information and records regarding the status of any application for or approval of the Oregon Department of Human Services permitting the subject individual to provide foster care, or similar information held by another state, county, municipal or other governmental authorities or their contractors or designees.¶
- (203) "Foster care certification check" means a certification by the subject individual of the presence or absence of any negative action taken on their foster care certification by appropriate governmental authority, or obtaining and reviewing foster care from appropriate governmental authority, its designee or contractor as required or permitted by these rules.¶
- (214) "Incident" means the commission of a Category I or Category II crime, a child abuse and neglect ~~history~~, negative foster care history, or a substantiated finding of adult abuse or neglect.¶
- (225) "Limited enrollment" means:¶
- (a) An enrollment in the CBR for a subject individual that is subject to a restriction or condition agreed to in writing by the subject individual and OCC, the Early Learning Division, or, on and after July 1, 2023, the Department of Early Learning and Care; or ¶
- (b) An enrollment that does not allow unsupervised access to child care children for a subject individual who meets all of the following criteria: ¶
- (A) The subject individual is a household member of a subsidized care facility that is not registered or certified by OCC; ¶
- (B) The subject individual does not have a conviction for a disqualifying crime listed in 45 CFR 98.43(c); ¶
- (C) The subject individual is the parent or a caretaker relative for a child needing care; and ¶
- (D) The child care is needed for the parent or caretaker relative to participate in the JOBS program or they are eligible for the ERDC subsidy program. ¶
- (26) "OCC" means the Office of Child Care of the Early Learning Division of the Department of Education, or, on or after July 1, 2023, of the Department of Early Learning and Care.¶
- (237) "OSP" means the Oregon State Police.¶
- (248) "Preschool Recorded Program" means a facility providing care for preschool age children that is primarily educational for four hours or less per day and where no preschool child is present at the facility for more than four hours per day.¶
- (29) "Reciprocal Agreement Program" includes:¶

- (a) A metropolitan service district organized under ORS chapter 268; and¶
- (b) A private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.¶
- ~~(2530) "Requesting Agency" means a childhood care and education program or individual providing care to children that is:¶~~
- ~~(a) Regulated by OCC under ORS 329A.280 or 329A.330; or¶¶~~
- ~~(b) An early childhood care and education program.¶¶~~
- ~~(26¶~~
- (b) An early childhood care and education program;¶¶
- (c) A Preschool or a School Age Recorded Program; or¶¶
- (d) A Subsidized Care Facility as defined in these rules.¶¶
- (31) "School Age Recorded Program" means a program as described in ORS 329A.250 (12) through (14). ¶¶
- (32) "Subsidized Care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to a child during a part of the 24 hours of a day, paid for in whole or in part by public funds administered by the Oregon Department of Human Services, or, on or after July 1, 2023, the Oregon Department of Early Learning and Care.¶¶
- (33) "Subsidized Care Facility" means any facility that provides subsidized care to children, including a day nursery, nursery school, child care center, certified or registered family child care home, regulated subsidy, relative caregiver, or similar unit operating under any name, for which payment for child care is made by the Oregon Department of Human Services or, on or after July 1, 2023, the Oregon Department of Early Learning and Care. ¶¶
- (34) "Unsupervised Contact with Children" means contact with children that provides the person opportunity for personal communication or touch when not under the direct supervision of a child care provider or staff with supervisory authority.¶¶
- [Publications: Publications referenced are available from the agency.]n individual who holds a position with supervisory authority and holds an active enrollment in the CBR that is not a Limited Enrollment as defined by these rules.
- Statutory/Other Authority: ORS 329A.030(7)
- Statutes/Other Implemented: ORS 329A.030

AMEND: 414-061-0030

RULE SUMMARY: Simplifies the rule text for timelines for enrollment.

CHANGES TO RULE:

414-061-0030

Subject Individuals ¶¶

(1) For purposes of criminal records checks, including fingerprint-based criminal records checks, and child abuse and neglect records checks, foster care or adult protective services checks, "Subject Individual" means a person who is or applies to be:¶¶

(a) The owner, operator or an employee or volunteer of a certified, registered or otherwise regulated facility caring for children that is subject to the jurisdiction of OCC;¶¶

(b) The operator or an employee of an Oregon pre-kindergarten program or parent-as-teacher program under ORS 329.170 to 329.200;¶¶

(c) The operator or an employee of a federal Head Start Program regulated by the United States Department of Health and Human Services;¶¶

(d) A designated employee or a contractor with the Early Learning Division;¶¶

(e) A contractor or an employee of the contractor who provides early childhood special education or early intervention services pursuant to ORS 343.455 to 343.534; ~~or~~¶¶

(f) A child care provider who is required to be enrolled in the Central Background Registry by any state agency.¶¶

(g) A designated contractor, employee or volunteer of a Metro Service District.¶¶

(h) A provider of respite services as defined in ORS 418.205 for parents pursuant to a properly executed power of attorney under ORS 109.056.¶¶

(i) An employee, contractor or provider of child care services under any memorandum of understanding or similar arrangement with one of the nine federally recognized tribes in Oregon or administrators of the Tribal Child Care and Development Fund.¶¶

(j) The operator or an employee of an Early Learning Program.¶¶

(k) On or after July 1, 2025, and beginning September 1, 2022 through June 30, 2025 unless holding an unexpired DHS Background Check: ¶¶

(A) An individual who operates or plans to operate a subsidized care facility:¶¶

(B) An individual who has attained 18 years of age and is a household member in a subsidized care facility:¶¶

(C) An individual in a subsidized care facility who has attained 18 years of age and who may have unsupervised contact with children:¶¶

(l) On or after January 1, 2023, and on or after September 1, 2022 through December 31, 2022 if the individual submits an application for enrollment, the operator or an employee of a preschool recorded program or a school-age recorded program¶¶

(2) An individual in any of the above facilities or programs who may have unsupervised contact with children is also a subject individual. This includes but is not limited to permanent or temporary residents in the home or facility or persons visiting on a regular basis.

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

Statutes/Other Implemented: ORS 329A.030

AMEND: 414-061-0060

RULE SUMMARY: Updating an OAR referenced.

CHANGES TO RULE:

414-061-0060

#### Requirements of Requesting Agencies ¶¶

Requesting agencies, as defined in OAR 414-061-0020(2430), must comply with the following requirements:¶¶

(1) A requesting agency's application forms must contain a notice that employees and other persons who are subject individuals must be enrolled in the Central Background Registry and that employment is subject to fingerprinting, criminal records checks, child abuse and neglect records check, foster care certification check, and adult protective services check.¶¶

(2) A requesting agency may hire a subject individual on a probationary basis if the subject individual is conditionally enrolled in the Central Background Registry. Conditionally enrolled individuals shall not have unsupervised access to childcare children at any time. A requesting agency may hire a subject individual on a permanent basis if the subject individual is enrolled in the Central Background Registry.¶¶

(3) A requesting agency shall not hire or continue to employ on a probationary or permanent basis an individual if the individual is not enrolled in the Central Background Registry or has been removed from the Central Background Registry and has not been re-enrolled.¶¶

(4) A requesting agency may allow a subject individual who is not yet enrolled or conditionally enrolled in the Central Background Registry to participate in training, orientation and work activities if the training, orientation and work activities are at a location other than the child care facility or are conducted at the facility when children are not present and the subject individual is not in contact with any children.¶¶

(5) A requesting agency that is a subsidized care facility and is in a home may provide child care if all household members have been approved for enrollment or for limited enrollment in the CBR.

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

Statutes/Other Implemented: ORS 329A.030



AMEND: 414-061-0090

RULE SUMMARY: Updating language to align with ODHS.

CHANGES TO RULE:

414-061-0090

Central Background Registry Enrollment Procedures ¶¶

(1) A subject individual shall be ~~enrolled~~approved for enrollment that is not a conditional or limited enrollment 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, a subject individual:~~¶¶

(a) May be approved for or have their enrollment changed to a limited enrollment in the Central Background Registry as agreed to in writing by the subject individual and OCC, the Early Learning Division, or, on and after July 1, 2023, the Department of Early Learning and Care.¶¶

(b) Who is a household member of a subsidized care facility may be approved for a limited enrollment in the Central Background Registry that does not allow unsupervised access to child care children unrelated to the subject individual if OCC has determined that the individual:¶¶

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

(B) Has completed the application;¶¶

(C) Has paid the applicable fee;¶¶

(D) Has complied with the rules of OCC adopted pursuant to the Central Background Registry (OAR 414-061-0000 through 414-061-0120); and¶¶

(E) Is a household member of a subsidized care facility that is not registered or certified by OCC;¶¶

(F) Does not have a conviction for a disqualifying crime listed in 45 CFR 98.43(c);¶¶

(G) Is the parent or a caretaker relative with primary responsibility for a child needing care; and¶¶

(H) Needs child care in order to participate in the JOBS program or they are eligible for the ERDC subsidy program.¶¶

(3) 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~~the Early Learning Council pursuant to the Central Background Registry (OAR 414-061-0000 through 414-061-0120). The five-year enrollment period shall include the time the subject individual was enrolled prior to entering into an agreement changing the enrollment to a limited enrollment.¶¶

~~(34)~~ A subject individual who has been enrolled in the Central Background Registry will be notified by OCC of ~~his or her~~the individual's 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.¶¶

~~(45)~~ 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 subject individual with conditionally enrolled subject individual shall not have unsupervised access to child care children at any time.¶~~

(f) ~~A subject individual with limited enrollment may have access to their own child at their own residence or any other location, or as provided access to eby the written agreement between the individual and OCC, the Early Learning Division, or, on and after July 1, 2023, the Department of Early Learning and Care. The Office of Child eCare children at any time may disclose the terms of the limited enrollment to any requesting agency. ¶~~

(56) 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

AMEND: 414-425-0010

RULE SUMMARY: Adding a definition for Central Background Registry, and updating definitions to align with current office management and statutory authority.

CHANGES TO RULE:

414-425-0010

Definitions ¶¶

(1) "Central Background Registry" means OCC's Registry of individuals who have been approved to be associated with a child care facility in Oregon pursuant to ORS 329A.030 and OAR 414-061-0000 through 414-061-0120.¶¶

(2) "Child Care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation.¶¶

(23) "OCCD" means the Office of Child Care in the Early Learning Division of the Employment Department; or the Administrator or staff of the Division of Education.¶¶

(34) "Program Record" means the document a school age recorded program is issued by the Office of Child Care Division to operate a school age recorded program pursuant to ORS ~~657~~329A.257 and OAR 414-425-0000 through 414-425-0030.¶¶

(45) "School Age Child" means a child eligible to be enrolled in the first grade or above in public school including the months of summer vacation prior to being eligible to be enrolled in the first grade or above in the next school year, up to age 13. For purposes of these rules, a child attending kindergarten may be considered a school age child.¶¶

(56) "School Age Recorded Program" means a program for school age children that does not take the place of a parent's care, in which youth development activities are provided to children during hours that school is not in session. For purposes of these rules it does not include programs that are operated by a school district as defined in ORS 332.002.¶¶

(67) "Staff" means any individual 18 years and older who works in, and has contact with children in the program.¶¶

(78) "Youth development activities" means care, supervision or guidance that is intended for enrichment, including but not limited to teaching skills or proficiency in physical, social or educational activities such as tutoring, social activities, and recreational activities.¶¶

(89) "Volunteer" means any individual 18 years or older who intends to perform uncompensated duties for the program and who may have unsupervised contact with the children in the program or who is in the facility more than four hours per year and has contact with children in the program.

Statutory/Other Authority: ~~ORS 657A.030~~(7329A.257)(9)

Statutes/Other Implemented: ~~ORS 657A.030~~329A.257

AMEND: 414-425-0030

RULE SUMMARY: Updating general requirements around registration with the Central Background Registry.

CHANGES TO RULE:

414-425-0030

General Requirements ¶

(1) ~~Through December 31, 2022, the school age recorded program must assure that criminal background checks are done on all staff and volunteers prior to having contact with children in the program.¶~~

~~(2) Enrollment in the Central Background Registry as defined in OAR 414-061-0020(18) that is not a limited enrollment as defined in OAR 414-061-0020(25)(b) shall meet the requirement of a criminal background check.¶~~

~~(2) Beginning January 1, 2023, the school age recorded program must obtain and have on file written verification from the Office of Child Care that all staff and volunteers are enrolled in the Central Background Registry prior to having contact with children, and must maintain in the program's records written verification from OCC of enrollment. Enrollment, limited enrollment as defined in OAR 414-061-0020(25)(a) or conditional enrollment as defined in OAR 414-061-0020(9) meets this requirement.: The school-age recorded program may allow individuals for which the school-age recorded program completed a criminal background check before January 1, 2023 to continue be employed or allowed to volunteer after January 1, 2023 without enrollment in the Central Background Registry if the individual submits a completed application for enrollment in the Central Background Registry no later than June 30, 2023 for which the Office of Child Care has not issued a notice of intent to deny.¶~~

~~(a) For staff and volunteers currently employed in the program as of January 1, 2023 whose employment began prior to January 1, 2023, documentation of a background check performed during the current term of employment provided all such staff and volunteers apply for enrollment in the Central Background Registry no later than June 30, 2023; or¶~~

~~(b) For staff and volunteers initially employed or who are reemployed in the program on or after January 1, 2023, written verification from the Office of Child Care that all staff and volunteers are enrolled in the Central Background Registry prior to having contact with children, and must maintain in the program's records written verification from OCC of enrollment. Enrollment, limited enrollment as defined in OAR 414-061-0020(25)(a) or conditional enrollment as defined in OAR 414-061-0020(9) meets this requirement.¶~~

~~(3) The school age recorded program must post a notice where it is visible to parents that the program is recorded with OCC and is legally exempt from licensure.~~

~~Statutory/Other Authority: ORS 657A.030(7329A.257)(9)~~

~~Statutes/Other Implemented: ORS 657A.030(329A.257)~~

AMEND: 414-450-0010

RULE SUMMARY: Updating definitions of the Central Background Registry, as well as updating old language around the old name of the Office of Child Care.

CHANGES TO RULE:

414-450-0010

Definitions ¶¶

(1) "Central Background Registry" means OCC's Registry of individuals who have been approved to be associated with a child care facility in Oregon pursuant to ORS 329A.030 and OAR 414-061-0000 through 414-061-0120.¶

(2) "Child Care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation.¶

(23) "OCCD" means the Office of Child Care in the Early Learning Division of the Employment Department; or the Administrator or staff of the Division of Education.¶

(34) "Preschool-Age Child" means a child who is 36 months of age up to the summer vacation months prior to being eligible to be enrolled in the first grade in public school.¶

(45) "Preschool Recorded Program" means a facility providing care for preschool age children that is primarily educational for four hours or less per day and where no preschool child is present at the facility for more than four hours per day.¶

(56) "Program Record" means the document a preschool recorded program is issued by the Office of Child Care Division to operate a preschool recorded program pursuant to ORS 657329A.2575 and OAR 414-450-0000 through 414-450-0030.¶

(67) "School-Age Child" means a child eligible to be enrolled in the first grade or above in public school including the months of summer vacation prior to being eligible to be enrolled in the first grade or above in the next school year, up to age 13. For purposes of these rules, a child attending kindergarten may be considered a school age child.¶

(78) "Staff" means any individual 18 years and older who works in, and has contact with children in the program.¶

(89) "Volunteer" means any individual 18 years or older who intends to perform uncompensated duties for the program and who may have unsupervised contact with the children in the program; or who is in the facility more than four hours per year and has contact with children in the program four hours per year and has contact with children in the program.

Statutory/Other Authority: ~~ORS 657A.030~~(7329A.255(9))

Statutes/Other Implemented: ~~ORS 657A.030~~329A.255

AMEND: 414-450-0030

RULE SUMMARY: Updating to allow preschool recorded programs to apply to the Central Background Registry.

CHANGES TO RULE:

414-450-0030

General Requirements ¶

(1) ~~Through December 31, 2022, the preschool recorded program must assure that criminal background checks are done on all staff and volunteers prior to having contact with children in the program.¶~~

~~(2) Enrollment in the Central Background Registry as defined in OAR 414-061-0020(18) that is not a limited enrollment as defined in OAR 414-061-0020(25)(b) meets the requirement of a criminal background check.¶~~

~~(2) Beginning January 1, 2023, the preschool recorded program must obtain verification from the Office of Child Care that all staff and volunteers are enrolled in the Central Background Registry prior to having contact with children, and must maintain in the program's records written verification from OCC of enrollment. Enrollment, limited enrollment as defined in OAR 414-061-0020(25)(a) or conditional enrollment as defined in 414-061-0020(9) shall meet this requirement. The preschool recorded program may allow individuals for which the preschool recorded program completed a criminal background check before January 1, 2023 to continue be employed or allowed to volunteer after January 1, 2023 without enrollment in the Central Background Registry if the individual submits a completed application for enrollment in the Central Background Registry no later than June 30, 2023 for which the Office of Child Care has not issued a notice of intent to deny.¶~~

~~(3) The preschool recorded program must post a notice where it is visible to parents that the program is recorded with OCCD and is legally exempt from licensure.~~

Statutory/Other Authority: ~~ORS 657A.030(7329A.255(9))~~

Statutes/Other Implemented: ~~ORS 657A.030(329A.255)~~