

## Roadmap of Proposed Rule and Procedure Changes to Implement SB 1515

SB 1515 Provisions	Background Check Unit	Office of Adult Abuse Prevention and Investigations	Office of Child Welfare Programs	Office of Licensing & Regulatory Oversight
SECTION 1: ORS 418.205 Definitions for ORS 418.205-218.327, 418.470, 418.475, 418.950-970, and 418.992-998				
(1) Defines "child" to include persons under 21.	None.	<b>Definitions for Investigations of Reported Abuse in Child-Caring Agencies</b> will be amended to include a "child in care" (see section 36 of SB 1515) under 21 years of age.	<u>Child Protective Services rules</u> define "child" as an individual under 18 and "young adult" as an individual age 18-20 and refer to both children and young adults when needed to include individuals in Department custody under 21. "Child in care" (see <u>section 36 of SB 1515</u> ) may be used to refer to children under 21 receiving care from a child-caring agency.	Definition of "child" will be changed to include persons under 21 in OAR <u>413-215-0006 Definitions for Licensing Umbrella Rules</u> , OAR <u>413-215-0206 Definitions for Licensing Academic Boarding Schools</u> , OAR <u>413-215-0506 Definitions for Licensing Residential Care Agencies</u> , and OAR <u>413-215-0606 Definitions for Licensing Therapeutic Boarding Schools</u> . <hr/> Definition of "youth" will be changed to include a person aged 10-20 in OAR <u>413-215-0911 Definitions for Licensing Outdoor Youth Programs</u> .
(2)(a)(B) Definition of "child-caring agency" is changed to include shelter-care, independent residence facilities, private residential boarding schools (previously excluded), and child-caring facilities defined in ORS 418.950 (Local Residential Child Care Facilities).	None.	<b>Definitions for Investigations of Reported Abuse in Child-Caring Agencies</b> will be amended to revise the definition of "child-caring agency" to mean a private school, agency, or organization licensed under OAR chapter 413, division 215 that includes the agency's employees, agents, contractors and their employees and volunteers. The term "child-caring agency" for purposes of OAAPI rules will be narrowed by new language in <b>Purpose and Applicability</b> to five types of licensed child-caring agencies: children's residential care agencies; day treatment programs; therapeutic boarding schools; foster caring agencies; and outdoor youth programs. (Abuse alleged to occur in the other three child-caring agencies licensed under OAR chapter 413, division 215 is investigated by Child Welfare, not OAAPI.)	<u>OCWP rules</u> will be amended to reflect the revised definition of "child-caring agency." This will replace the definitions of "children's care provider (CCP)" and "private child-caring agency."	OAR <u>413-215-0006 Definitions for Licensing Umbrella Rules</u> will be amended to reflect the new statutory definition of "child-caring agency". <hr/> Rules in <u>413-215</u> that distinguish between private residential boarding schools and child-caring agencies may need to be amended.

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(8) "Proctor foster home" is defined as a foster home certified by a child-caring agency.	None.	<b>Definitions for Investigations of Reported Abuse in Child-caring Agencies</b> will be amended to include the definition of "proctor foster home" as a foster home certified by a child-caring agency that includes the provider and employees or staff of the provider.	<u>OCWP rules</u> will be amended to include the definition of "proctor foster home."	OLRO will continue to use "approved provider parent" and "certified provider home" to refer to foster homes and providers licensed by a child-caring agency because the terms need to be slightly more inclusive than "proctor foster home." However, the definitions of those terms in OAR <u>413-215-0206</u> <b>Definitions for Foster Care Agencies</b> will be amended to clarify that those terms encompass proctor foster homes as defined in ORS 418.205.
(9) "Provider of care or services for children" is defined as a person, entity, or organization that provides care or services to children, regardless of whether the child is in the custody of the Department and that does not otherwise meet the definition of a CCA. It includes a proctor foster home certified by a CCA.	None.	<b>Definitions for Investigations of Reported Abuse in Child-Caring Agencies</b> will be amended to include this term.	None.	None.
<b>SECTION 3: ORS 418.215 License and Incorporation Requirements</b>				
(1) An agency may not provide care or services unless licensed by the Department.	None.	None.	None.	None. Licensure is currently required under OAR <u>413-215-0011(1)(a)</u>
(2) An agency may not be licensed unless duly incorporated.	None.	None.	None.	Incorporation is currently required under <u>413-215-0016(1)</u> but OAR <u>413-215-0121</u> <b>Denial, Suspension, or Revocation of License</b> will be amended to require denial of license or renewal if the agency is not incorporated as required by ORS 418.215 and OAR <u>413-215-0016(1)</u> .

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<b>SECTION 4: ORS 418.240 Licensing Standards</b>				
(1) Requires agencies to be licensed by the Department. Requires the Department to establish the criteria for issuance, renewal, suspension or revocation of, or for placing conditions on, a license to be set forth in rules which must include the full compliance requirements in subsection (2) of ORS 418.240.	None.	None.	None.	OAR <u>413-215-0121 Denial, Suspension, or Revocation of License</u> will be amended to require the Department to deny issuance or renewal if the agency is not in full compliance with the criteria listed in ORS 418.240(2)(a).
(2)(a) Prohibits the Department from issuing or renewing a license unless the Department finds that the agency is or will be in full compliance with subsection (2) of ORS 418.240.	None.	None.	None.	See change to OAR <u>413-215-0121 Denial, Suspension, or Revocation of License</u> described above.
(2)(b) Allows the Department to suspend, revoke, or place conditions on a license of an agency who is not in full compliance with one or more of the specifically referenced requirements in ORS 418.240(2)(a).	None.	None.	None.	OAR <u>413-215-0121 Denial, Suspension, or Revocation of License</u> will be amended to allow the Department to deny, suspend, revoke, or place conditions on a license if the agency is not in full compliance with any of the requirements in ORS 418.240(2)(a) or any "applicable requirement" in a rule in division 413-215.

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<p>(2)(c) Prohibits the Department from issuing, renewing, or placing conditions on a license in the following circumstances and requires immediate steps to suspend or revoke:</p> <ul style="list-style-type: none"> <li>• There has been the death of a child as a result of abuse or neglect on the part of the agency or the agency's employees or agents.</li> <li>• There has been sexual or physical abuse or neglect that was known to the agency and the agency did not take steps to report the abuse and ensure the child's safety.</li> <li>• The agency failed to cooperate with any local, state, or federal investigation.</li> <li>• The agency failed to provide financial statements as required by ORS 418.255.</li> </ul>	None.	None.	None.	OAR <u>413-215-0121</u> <b>Denial, Suspension, or Revocation of License</b> will be amended to require the Department to suspend or revoke a license if any of those circumstances exist.
<p>(2)(d) States that it is grounds to deny issuance or renewal, suspend, revoke, or place conditions on a license if the Department becomes aware that the agency, or the owner or operator, has been found by other state or federal entities to have engaged in financial, civil or criminal misconduct.</p>	None.	None.	None.	OAR <u>413-215-0121</u> <b>Denial, Suspension, or Revocation of License</b> will be amended to state that the Department may deny issuance or renewal, suspend, revoke, or place conditions on a license if the owner or operator has been found to have engaged in financial, civil, or criminal misconduct.

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<p>(3) Allows the Department to place conditions on any license, including but not limited to restrictions of admissions, temporary suspension, or limitation of operations subject to an intent to revoke or correction of violations.</p> <hr/> <p>Requires the Department to notify any governmental agency or unit that has a contract with a child-caring agency of conditions placed on the license.</p>	None.	None.	None.	<p>OAR <a href="#">413-215-0121 Denial, Suspension, or Revocation</a> will be amended to allow the Department to place conditions on any license including, but not limited to, restrictions of admissions, temporary suspension, or limitation of operations subject to an intent to revoke or correction of violations.</p> <hr/> <p>An internal procedure will be created to notify entities with whom an agency contracts when the Department places a condition on a license. Additionally, OAR <a href="#">413-215-0081 Application for License</a> will be amended to require agencies to provide a list of governmental agencies or units the agency is contracted with to provide services or care for children as part of the documents agencies must provide with their initial application and renewals and OAR <a href="#">413-215-0091 Responsibilities of Licensees</a> will be amended to require agencies to notify the Department when they contract with a governmental entity or unit to provide care or services to children.</p>
<p>(7)(a) Requires the Director of the Department to issue an interim emergency order requiring an agency to correct any condition that that seriously endangers the health, safety or welfare of a child whenever such a condition is known to exist.</p>	None.	None.	None.	<p>An internal procedure will be created to direct staff in determining when and how to seek such an emergency order.</p>
<p>(7)(b) Allows the Director to enjoin the operation of an agency if the agency is operating without a license or the agency fails to make corrections in a plan of correction or interim emergency order.</p>	None.	None.	None.	<p>An internal procedure will be created about when/how operations will be enjoined in this context.</p>

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<p>(8) When the Department becomes aware that an agency or the owner, operator, or employee of an agency is under investigation by another state, federal, or law enforcement agency, the Director or Director's designee is required to "take immediate steps" to investigate whether there is a threat to a child at the agency.</p> <hr/> <p>Upon determination of the level of threat or risk to children at the agency, the Director must "take appropriate steps" to protect and ensure the health, safety, and welfare of children as necessary.</p> <hr/> <p>Failure to comply is grounds for a charge of official misconduct.</p>	None.	None.	None.	An internal procedure will be created to reflect the requirement to investigate when the Department becomes aware of an investigation by another state, federal, or law enforcement agency.
<b>SECTION 6: Proctor Foster Homes</b>				
<p>(1) Allows a child-caring agency to certify proctor foster homes as a provider of care or services. The child-caring agency must determine the home meets the minimum standards established in Department or OYA rules prior to placing a child in a proctor foster home.</p>	None.	None.	None.	<p>OAR <u>413-215-0306</u> <b>Definitions for Licensing Foster Care Agencies</b> will be amended to revise the definition of "certified provider home" (which will include proctor foster homes) to mean a home certified as meeting the applicable standards set forth in the Department's rules.</p> <hr/> <p>A requirement may be added for agencies to include language on proctor home certificates indicating the certified home meets DHS/OYA standards.</p>

<p>(2)(a)-(b) Requires proctor applicants to provide the Department and the child-caring agency a release of information to allow the Department to disclose to the child-caring agency information about whether there is an ongoing investigation involving the applicant, or a finding of substantiated allegations of abuse or neglect relating to a vulnerable person including, but not limited to, a child, person with a disability, or person residing in a long-term care or residential facility.</p> <hr/> <p>Within 30 days of receipt of a release of information, the Department must provide the information regarding ongoing investigations or substantiated allegations of abuse or neglect against the applicant to the child-caring agency.</p> <hr/> <p>Requires a proctor foster home applicant to disclose in writing to the Department and the child-caring agency any criminal convictions, restraining or protective orders, or abuse or neglect investigations relating to a vulnerable person.</p>	<p>OAR <u>407-007-0250</u> <b>Background Check Process</b> will be amended to require an applicant or licensee of a proctor foster home to provide a release of information allowing the Department to release information regarding open or pending abuse investigations or substantiated allegations of abuse or neglect and to disclose any current or pending abuse or neglect investigations; any substantiated abuse or neglect allegations; and any restraining or protective orders against the applicant.</p> <hr/> <p>OAR <u>407-007-0290</u> <b>Other Potentially Disqualifying Conditions</b> will be amended to add restraining or protective orders against a subject individual who is an applicant or licensee of a proctor foster home as a potentially disqualifying condition.</p> <hr/> <p>OAR <u>407-007-0320</u> <b>Final Fitness Determinations</b> will be amended to state that if a proctor foster home applicant fails to provide a release of information as required in the rules, the subject individual has no hearing rights and BCU considers the outcome of the fitness determination incomplete and the request is considered closed. The rule will also state that BCU will notify the entity who requested the background</p>	<p>None.</p>	<p>None.</p>	<p>OAR <u>413-215-0306</u> <b>Definitions for Licensing Foster Care Agencies</b> will be amended to change the definition of "criminal background check" to "background check" to reflect that the background check will include more than just criminal history.</p> <hr/> <p>Rules will need to be developed to describe how foster care agencies must handle and consider abuse/neglect information received from the Department and how to document decision-making related to the information received.</p> <hr/> <p>OAR <u>413-215-0321</u> <b>Assessment and Approval of Certified Provider Homes</b> will be amended to require a background check for all members of the household age 16 (previously limited to 18 years) and over and for any household member under 16 if there is reason to believe the background check may reveal information useful in assessing the risk posed by the individual.</p> <hr/> <p>OAR <u>413-215-0331</u> <b>Annual Review and Approval</b> will be amended to require that foster care agencies include in their annual review a background check for all members of the household age 16 (previously limited to 18 years) and over and for any household member under 16 if there is reason to believe the background check may reveal information useful in assessing the risk posed by the individual.</p>
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check (QE) if the individual is being denied or approved with restrictions. For those subject individuals, BCU will provide the QE with information regarding open or pending abuse investigations or substantiated allegations of abuse or neglect. For all other subject individuals, BCU will not disclose any abuse or criminal information unless first disclosed by the subject individual or the information is public record.

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BCU will develop a document/report that captures information the Department must provide child-caring agencies with the final fitness determination within 30 days of receipt of a release of information from a proctor home applicant that includes:

- Ongoing investigation: yes/no
- List of substantiated allegations with dates
- If the applicant was ever a certified foster parent in Oregon: yes/no

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BCU will incorporate into the weighing test information regarding any restraining or protective orders against the applicant.

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BCU will modify DHS forms and CRIMMS (and rules?) so that



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	applicants are required to provide both DHS and CCAs authorization to release information.			
(3) When a proctor agency elects not to certify a proctor applicant due to consideration of abuse or neglect information, the agency must inform the applicant concerning the reason why the applicant was denied.	None.	None.	None.	OAR <a href="#">413-215-0321</a> <b>Assessment and Approval of Certified Provider Homes</b> will be amended to state that if an agency denies an application based on ongoing abuse investigation or history of substantiated abuse or neglect, the agency must disclose to the applicant the reason for the denial.
<b>SECTION 7: Licensing Workload Model</b>				
(1) Requires minimum of 5 FTE responsible for licensing, inspection, and investigation of child-caring agencies and requires DHS to develop rules to direct the development a workload model to determine the amount and type of human resources necessary to accomplish licensing and oversight of child-caring agencies.	None.	None.	None.	OLRO will work with Office of Human Resources to develop rules and process for required workload model.
<b>SECTION 9: ORS 418.250 Information about Children Receiving Care from CCA</b>				
The Department may require child-caring agency to provide "at any time, in the manner prescribed by rules adopted by the Department" information about a child receiving care or services.	None.	None.	None.	OAR <a href="#">413-215-0091</a> <b>Responsibilities of Licensees</b> will be amended to require an agency to provide information about children in its care when requested by the Department at any time.
<b>SECTION 10: 418.255 Inspections and Financial Disclosures</b>				
(2) Requires annual unannounced inspections at irregular intervals of premises where children receive care or services from employees or staff who do not reside on the premises.	None.	None.	None.	OAR <a href="#">413-215-0101</a> <b>Periodic Inspections</b> will be amended to require yearly inspections and that they must (as opposed to may) occur at unannounced irregular intervals.

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<p>(3)(a) Beginning 1/1/2017 all agencies with annual revenue over \$1,000,000 must provide annual financial statements that have been audited by an independent CPA and with a tax compliance certificate from Dept. of Revenue at such times as the Department specifies in rule.</p> <hr/> <p>(b) All agencies with revenue of \$1,000,000 or less must provide DHS with financial statements that have been reviewed by an independent CPA and with a tax compliance certificate from Dept. of Revenue when requested by the Department or as prescribed in DHS rules.</p> <hr/> <p>(c) Information in the financial statements and tax compliance certificates submitted under this subsection is a public record.</p>	None.	None.	None.	<p>OAR <u>413-215-0026</u> <b>Financial Management</b> will be amended to require agencies to provide financial statements annually that have been reviewed by an independent CPS who is not an employee of the agency and not otherwise affiliated with the agency. Additionally, agencies with annual revenue in excess of \$1,000,000, beginning 1/1/17, must provide annual financial statements that have been audited by an independent CPA who is not an employee of the agency and not otherwise affiliated with the agency.</p> <hr/> <p>OAR <u>413-215-0081</u> <b>Application for License</b> will be amended to require agencies to provide annual financial statements described in OAR <u>413-215-0026</u> and a tax compliance certificate from the Oregon Department of Revenue with their initial application for license and subsequent renewals.</p>
<p>(4) Allows the Department to conduct an audit, including a forensic audit of any agency and, upon request at any time, inspect and audit the books and records, including but not limited to financial records, of the agency.</p>	None.	None.	None.	<p>OAR <u>413-215-0091</u> <b>Responsibilities of Licensees</b> will be amended to require licensees to provide the Department with financial records and documents when requested including annual operating budget, annual financial statements, tax information, and signed releases authorizing the Department to obtain information about the agency from the IRS, Oregon DOR, or any other government entity.</p>

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<p>(5) An agency's failure to permit the Department to inspect the agency's premises or books or records or to provide required financial statements, is grounds for immediate suspension or revocation or denial of a license.</p>	None.	None.	None.	<p>OAR <a href="#">413-215-0121 Denial, Suspension, or Revocation of License</a> will be amended to allow the Department to immediately suspend, revoke, or place conditions on an agency's license for failure to permit inspection of premises or books and records of the agency.</p>
<p><b>SECTION 11: ORS 418.260 Department Responsibilities to Investigate Reports of Abuses, Deficiencies, Violations, or Failures to Comply</b></p>				
<p>(1) When the Department "becomes aware that any suspected or founded abuses, deficiencies, violations, or failures to comply with the full compliance requirements in ORS 418.240," the Department must "immediately investigate and take appropriate action"</p> <hr/> <p>The Department must "immediately report" the "alleged abuses, deficiencies, or violations to the state or governmental agency or unit, governing board, trustees, owners, managers or operators, or other appropriate authorities responsible for the child-caring agency."</p> <hr/> <p>The Department must "immediately notify" any government entity that contracts with the agency.</p> <hr/> <p>The Department may notify law enforcement as necessary to assist with investigation and enforcement of corrective actions.</p>	None.	<p><b>Screening Reports of Abuse</b> will be amended to state that within 24 hours of the receipt of a report of abuse, OAAPI will determine if the report meets the definition of abuse and, if so, will immediately assign the report for investigation. Additionally, OAAPI will immediately make the notifications required in <b>Cross Reporting and Notifications</b> (see section 37).</p>	<p>For reports of abuse that are the purview of OAAPI, <u>OCWP rules</u> will require screeners to immediately notify OAAPI.</p> <hr/> <p>For reports that OCWP will respond to that meet the definition of abuse of a child in care in section 36 of SB 1515, <u>OCWP rules</u> will require an initial contact to be made within 24 hours as well as notification to OLRO to notify the appropriate contacts at the child-caring agency.</p>	<p>Internal procedures will be modified to reflect the notification requirements. Additionally, OAR <a href="#">413-215-0081 Application for License</a> will be amended to require agencies to provide a list of governmental agencies or units the agency is contracted with to provide services or care for children as part of the documents agencies must provide with their initial application and renewals and OAR <a href="#">413-215-0091 Responsibilities of Licensees</a> will be amended to require agencies to notify the Department when they contract with a governmental entity or unit to provide care or services to children.</p>

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<p>(2) If the Department finds, after investigation by the Department or law enforcement, that abuses, deficiencies, violations, or failures to comply are founded, the Department may: suspend, revoke, or place conditions on a license.</p> <hr/> <p>Allows the Department to "immediately suspend or revoke the license" if corrections are not made within 45 days from the effective date of a plan of correction.</p> <hr/> <p>Requires the Department to notify any governmental entity that contacts with the child-caring agency of any suspension or revocation of, or conditions placed on, the license.</p>	None.	None.	None.	<p>OAR <u>413-215-0121 Denial, Suspension, or Revocation of License</u> will be amended to allow the Department to deny, suspend, revoke, or place conditions on a license when, after investigation by the Department or law enforcement, it has determined alleged violations are founded.</p> <hr/> <p>OAR <u>413-215-0121 Denial, Suspension, or Revocation of License</u> will be amended to allow the Department to immediately deny, suspend, revoke, or place conditions on a license if corrections are not made within 45 days.</p> <hr/> <p>Internal procedures will be modified to reflect notification requirements when an agency fails to comply with plan of correction issued by the Department.</p>

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<p>(3) If the Department determines at any time during or after an investigation that alleged abuses, deficiencies, violations, or failures to comply are or threaten a serious danger to any child or the public, or place a child at risk with respect to the child's health, safety, or welfare, the Department may immediately suspend or revoke the agency's license.</p> <hr/> <p>Requires the Department to notify any government entity that has a contract with the agency when the Department takes action to suspend or revoke an agency's license in this circumstance.</p>	None.	<p><b>Investigative Process</b> will be amended to state that if an investigator determines at any time during an investigation that the abuses, deficiencies, violations, or failures to comply are a serious danger to any child or the public, or place a child at risk, OAAPI must immediately notify licensing personnel and any governmental agency or unit that has a contact with the CCA.</p>	None.	<p>OAR <u>413-215-0121 Denial, Suspension, or Revocation of License</u> will be amended to allow the Department to immediately deny, suspend, revoke, or place conditions on a license "in the event of an imminent danger to the health or safety of children or families receiving services or the public."</p> <hr/> <p>Internal procedures will be modified to reflect notification requirements. Additionally, OAR <u>413-215-0081 Application for License</u> will be amended to require agencies to provide a list of governmental agencies or units the agency is contracted with to provide services or care for children as part of the documents agencies must provide with their initial application and renewals and OAR <u>413-215-0091 Responsibilities of Licensees</u> will be amended to require agencies to notify the Department when they contract with a governmental entity or unit to provide care or services to children.</p>

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<p>(4) If the Department finds the allegations are founded and imposes a plan of correction and the agency does not comply within the time allotted, the Department must "immediately notify":</p> <ul style="list-style-type: none"> <li>• The legislature;</li> <li>• "The state or governmental agency or unit, governing board, trustees, owners, managers or operators, or other appropriate authorities responsible for the" agency; and</li> <li>• Any governmental entity that contracts with the CCA.</li> </ul>	None.	None.	None.	<p>Internal procedures will be modified to reflect notification requirements. Additionally, OAR <u>413-215-0081</u> <b>Application for License</b> will be amended to require agencies to provide a list of governmental agencies or units the agency is contracted with to provide services or care for children as part of the documents agencies must provide with their initial application and renewals and OAR <u>413-215-0091</u> <b>Responsibilities of Licensees</b> will be amended to require agencies to notify the Department when they contract with a governmental entity or unit to provide care or services to children.</p>
<p>(5) Requires Department employees to inform the Department director or director's designee whenever an employee believes that an abuse or violation on the part of a child-caring agency constitutes a threat to the health, safety, or well-being of children or the public.</p> <hr/> <p>Requires the Department Director and department personnel to "immediately commence an investigation and take all reasonably prudent and necessary action to ensure" child health and safety.</p>	None.	None.	None.	<p>Internal procedures will be developed to describe if/when licensing personnel should report violations to the Director or a designee of the Director.</p> <hr/> <p>Internal procedures will be developed to describe what licensing personnel do in response to notifications received from Department employees about conditions at agencies that constitute a threat to the health, safety, or well-being of children or the public.</p>

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<b>SECTION 13: ORS 418.265 Requirement to Report Information to the Department</b>				
(1) Requires agencies to report information to the Department "at such times and with such information as the Department prescribes in rules" including but not limited to "financial information about the cost to provide care or services for a child". <hr/> (2) This information is a public record.	None.	None.	None.	This is separate and distinct from other financial reporting requirements described in Section 10.
<b>SECTION 16: ORS 418.280 Proctor Foster Homes</b>				
(1) Prohibits child-caring agency from placing children in a proctor foster home unless the home has been determined to meet minimum standards as established by Department or OYA rules and certified by the agency pursuant to section 6 of SB 1515.	None.	None.	None.	See changes described under section 6.
(3) A child-caring agency maintains custody and control and responsibility for and guardianship of a child placed with a proctor foster home.	None.	None.	None.	None.
<b>SECTION 20: Entities Not Subject to ORS 418.205-418.327</b>				
(1) Allows the Department to require agencies to disclose the "location and circumstances of any child."	None.	<b>Responsibilities of a CCA</b> will be amended to require CCAs to cooperate with investigations.	None.	See change to OAR <a href="#">413-215-0091</a> <b>Responsibilities of Licensees</b> for section 9 of SB 1515.

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<p>(2) Requires agencies to permit immediate access to children and to the premises where children are served to:</p> <ul style="list-style-type: none"> <li>• Employees and representatives of the Department;</li> <li>• Children’s attorneys and CASAs;</li> <li>• Parents and guardians (unless the children are in DHS custody);</li> <li>• Any government entity that contracts with the agency; and</li> <li>• Anyone else authorized by DHS.</li> </ul> <hr/> <p>(3) Purposes for which access may be allowed include, but are not limited to, ascertaining circumstances and condition of the child; determining the quality of care provided; and ensuring the health, safety, and welfare of a child.</p>	None.	None.	None.	OAR <u>413-215-0091</u> <b>Responsibilities of Licensees</b> will be amended to require agencies to permit immediate access to a child receiving care or services from the agency and access to any area in which care or services are provided to the persons and entities in the bill.
<b>SECTION 23: ORS 418.325 Medical Examinations</b>				
Deletes section that excluding the medical examinations from applying to private residential boarding schools.	None.	None.	None.	Adjustments may need to be made to the language in licensing rules that differentiate between private residential boarding schools and child-caring agencies.

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<b>SECTION 24: ORS 418.327 Private Residential Boarding Schools</b>				
Aligns licensing requirements for private residential boarding schools with other types of child-caring agencies, including allowing the Department to place conditions on a license.	None.	None.	None.	Adjustments may need to be made to the language in licensing rules that differentiate between private residential boarding schools and child-caring agencies.
<b>SECTION 26: ORS 418.495 Department Contracting for Purchase of Care for Children</b>				
(1) Payments to child-caring agencies and other providers of care or services to children must be made by electronic funds transfer and may not be made by check.	None.	None.	An internal policy will be developed to prohibit payment by check. Current contract language requires payment by EFT.	None.
<b>SECTION 31: ORS 418.992 Civil Penalties for Child-Caring Agencies</b>				
(1)(d) Allows civil penalty to be imposed for failure to be licensed.	None.	None.	None.	OAR <a href="#">413-215-0116 Civil Penalties</a> will be amended to allow imposition of a civil penalty for violation of licensure requirement.
(2) Requires DHS to impose a civil penalty <\$500 on an agency that falsifies records, reports, documents, or financial statements or causes another person to do so.	None.	None.	None.	OAR <a href="#">413-215-0116 Civil Penalties</a> will be amended to require imposition of penalty not to exceed \$500 for falsifying records, documents, etc.
(3) Requires the Department to impose a civil penalty of \$250-500 on a child-care facility that assumes care of a child whose needs exceed the agency's license if doing so endangers the child's health, safety, or welfare.	None.	None.	None.	OAR <a href="#">413-215-0116 Civil Penalties</a> will be amended to require imposition of penalty of \$250-500 for assuming care or custody of a child knowing that the child's needs exceed the license of the agency if the assumption of the child places the child's health, safety, or welfare at risk.

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Section limiting when a civil penalty can be imposed is deleted.	None.	None.	None.	OAR <a href="#">413-215-0116 Civil Penalties</a> will be amended to remove the section of the current rule that requires that the violation involves direct care and feeding of children, staff to child ratios, etc.
(4) Does not allow the director to allow a reasonable time for elimination of the violation if the health, safety, or welfare of a child is at risk. <hr/> Changes the reasonable time for elimination of a violation from 30 to 45 days.	None.	None.	None.	OAR <a href="#">413-215-0116 Civil Penalties</a> is amended to clarify that the Department must prescribe a reasonable time period (not to exceed 45 days for the first violation or, for violations that require more than 45 days, such time as specified in a plan of correction found acceptable by the Department) <i>but only when</i> the health, safety, or welfare of a child is not at risk.
(6) Requires the Department to adopt rules "establishing objective criteria for the imposition of civil penalties..."	None.	None.	None.	None. The Department will continue to use the criteria in sections (2) and (3) of <a href="#">413-215-0116 Civil Penalties</a> .
<b>SECTION 36: Definitions for Abuse Investigations Relating to Child-Caring Agencies</b>				
(1)-(13) This section defines terms for purposes of the abuse investigation requirements in sections 36-38 of the bill including "abuse," "child in care," "financial exploitation," "intimidation," "neglect," "services," "sexual abuse," and "verbal abuse."	None.	<b>Definitions for Investigation of Reported Abuse in Child-Caring Agencies</b> is amended to include these terms.	OAR 413-015-0000 <b>Definitions for Screening and Assessment of a Report of Abuse in a Child-Caring Agency or Proctor Foster Home</b> will be adopted to include the definition of abuse in SB 1515.	None.

SECTION 37: Department Responsibilities Relating to Report of Abuse of a Child in Care

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<p>(1)(a)-(d) When the Department becomes aware of a report of suspected abuse of a child in care, the Department must immediately:</p> <ul style="list-style-type: none"> <li>• Notify appropriate Department personnel including, but not limited to employees responsible for licensing child-caring agencies;</li> <li>• Notify any governmental agency or unit that has a contract with the child-caring agency concerning any report of suspected abuse regardless of how and to whom within DHS the report is made;</li> <li>• Commence an investigation; and</li> <li>• Report to law enforcement any crime that the Department has reason to believe has occurred even if unrelated to the abuse report.</li> </ul>	<p>None.</p>	<p><b>Screening Reports of Abuse</b> will be amended to state that within 24 hours OAAPI will determine if a report meets the definition of abuse and whether a child-caring agency, its employees, proctor foster home provider or their staff, including volunteers, contractors, or their employees are reported as being responsible for abuse. If so, the report "must immediately be assigned for investigation." If OAAPI determines it does not meet the definition, it must be closed at screening.</p> <hr/> <p><b>Cross Reporting and Notifications</b> will be adopted to require OAAPI to notify or assure notification occurs to the entities below (1) immediately when a report of alleged abuse is received; (2) when a screening decision is made; and (3) upon completion of an abuse investigation:</p> <ul style="list-style-type: none"> <li>• Office of Licensing and Regulatory Oversight (OLRO);</li> <li>• The Child Welfare case manager for the child;</li> <li>• Any governmental agency or unit that has a contract with the child-caring agency;</li> <li>• The child-caring agency designated contact person, e.g. governing board, trustees, owners, director, etc.;</li> <li>• Attorney for the child;</li> <li>• CASA for the child;</li> <li>• Parent or legal guardian of the child unless prohibited or would compromise safety or the investigation;</li> <li>• Attorney for the parent or guardians, unless prohibited or would compromise safety or the investigation;</li> </ul>	<p>OAR <u>413-215-0205(4)(b) Screening Activities</u> currently requires screeners to immediately notify OAAPI when an abuse report is received that falls under OAAPI's purview. For reports that fall under OCWP purview, screening rules will be amended to require a 24-hour response time and notification of the child-caring agency or proctor foster home; OLRO; the Well-Being Unit within OCWP; and any caseworker and supervisor involved in an open case. Additionally, current screening rules require consultation with a supervisor regarding reports received related to any child-caring agency.</p> <hr/> <p>OAR <u>413-015-0305 Cross Reporting Requirements</u> currently requires cross reporting to law enforcement regarding all abuse or neglect reports but language will be added that the cross report must include information about crimes the Department has reason to believe occurred, even when unrelated to the abuse report.</p>	<p>ORLO will develop an internal process for contacting government entities that contract with an agency when OLRO is notified by OAAPI or OCWP regarding a report of abuse or neglect. Additionally, OAR <u>413-215-0081 Application for License</u> will be amended to require agencies to provide a list of governmental agencies or units the agency is contracted with to provide services or care for children as part of the documents agencies must provide with their initial application and renewals and OAR <u>413-215-0091 Responsibilities of Licensees</u> will be amended to require agencies to notify the Department when they contract with a governmental entity or unit to provide care or services to children.</p> <hr/> <p>OLRO will develop internal procedures for how to handle abuse reports that are reported to them rather than to the hotline or other means to ensure investigation is immediately commenced.</p>
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		<ul style="list-style-type: none"> <li>• The individual who reported the abuse;</li> <li>• OYA or OHA if either of those entities placed the child with the child-caring agency;</li> <li>• Tribe, if applicable; and</li> </ul> <p>The caseworker of other children in the proctor foster home who are in the custody of the Department.</p> <hr/> <p><b>Cross Reporting and Notifications</b> will be amended to require OAAPI to immediately report to law enforcement any crime that may have occurred even if unrelated to the report of abuse.</p>		

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<p>(2) As a condition for issuance or renewal of a license, the Department must require and verify that agencies have procedures and protocols that: require employees of an agency or proctor foster home to immediately report abuse; provide annual training and written materials that includes information about the hotline and that the agency advise and educate employees of the duty to report abuse; and inform employees that the duty to report is personal and is not fulfilled by reporting to the agency owner, operator, or other employee.</p>	<p>None.</p>	<p>None.</p>	<p>None.</p>	<p>OAR <u>413-215-0056</u> <b>Policies and Procedures</b> will be amended to require agencies to have a written policy on mandatory child abuse reporting that includes a requirement for employees and, if applicable, approved provider parents to immediately report abuse and provide training at orientation and at least annually thereafter.</p> <hr/> <p>OAR <u>413-215-0061</u> <b>Personnel</b> will be amended to require agencies to provide training and written materials to all employees and, if applicable, approved provider parents as part of initial orientation and annually thereafter. The training must include the legal definition of child abuse; the responsibility of employees to immediately report abuse; and that the duty to report abuse is personal to the employee and, if applicable, the approved provider parent, and the duty is not fulfilled by reporting abuse to the owner, operator, or any other employee of the agency.</p> <hr/> <p>OAR <u>413-215-0081</u> <b>Application for License</b> will be amended to require applicants to submit their written policy on mandatory abuse reporting that includes a requirement for employees and, if applicable, approved provider parents to immediately report abuse directly to the Department and that abuse reporting training is provided at orientation and at least annually thereafter.</p> <hr/> <p>OAR <u>413-215-0121</u> <b>Denial, Suspension, or Revocation of License</b> will be amended to require the Department to deny issuance or renewal of a license if an agency does not have abuse reporting procedures required in</p>
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				OAR 413-215-0056 and providing training as required in OAR 413-215-0061.
(3) Makes interfering with or hindering an abuse investigation grounds for license revocation or suspension or the imposition of conditions on an agency's license.	None.	None.	None.	OAR <u>413-215-0121</u> <b>Denial, Suspension, or Revocation of License</b> will be amended to allow the Department to suspend, revoke, or place conditions on a license if the owner or operator of the agency has interfered with or hindered an abuse investigation.  Update internal procedures to reflect the consequences for hindering an abuse investigation.
(4)(a) Provides immunity for anyone making a good faith abuse report.	None.	None.	None.	None.
(4)(b) Allows disclosure of otherwise protected information for purposes of making abuse reports.	None.	None.	None.	Amend OAR <u>413-215-0066</u> <b>Privacy</b> to add a caveat that disclosure is allowed for purposes of making a report?

**SECTION 38: Department Responsibilities Relating to Investigations of Abuse in a Child-Caring Agency**

(1) Requires investigations to result in one of the following findings: <ul style="list-style-type: none"> <li>Substantiated meaning there is reasonable cause to believe that the abuse of a child in care occurred.</li> <li>Unsubstantiated meaning there is no evidence that abuse occurred.</li> <li>Inconclusive meaning there is some indication that abuse occurred but there is insufficient evidence to conclude there is reasonable cause to believe that abuse occurred.</li> </ul>	None.	<p><b>Definitions for Investigations of Abuse in Child-Caring Agencies</b> will be amended to define "inconclusive," "substantiated," and "unsubstantiated" in line with SB 1515, specifically changing references from "preponderance of evidence" to "reasonable cause to believe."</p> <hr/> <p><b>Investigating Reports of Abuse</b> will be amended to require OAAPI to issue a final decision after an investigation is completed that indicates whether the allegation is substantiated, unsubstantiated, or inconclusive and prepare a report as described in <b>Abuse Investigation Report</b>.</p>	OCWP rules will be amended to reflect these dispositions for investigations in child-caring agencies that OCWP is responsible for.	None.
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<p>(2) When a report of abuse is received for a child in care, the Department must notify the child's attorney, CASA, parents or guardians of the child, any attorney representing a parent or guardian of the child, and any governmental agency or unit that has a contract with the child-caring agency that a report of abuse has been received.</p>	<p>None.</p>	<p>See description of changes to <b>Cross Reporting and Notifications</b> above.</p>	<p><u>OCWP rules</u> will be amended to require notification to the child's attorney, CASA, parents of the child, attorneys for the parents of the child, and others involved in the case if authorized by ORS <u>419B.035</u>.</p>	<p>ORLO will develop an internal process for contacting government entities that contract with an agency when OLRO is notified by OAAPI or OCWP regarding a report of abuse or neglect. Additionally, OAR <u>413-215-0081</u> <b>Application for License</b> will be amended to require agencies to provide a list of governmental agencies or units the agency is contracted with to provide services or care for children as part of the documents agencies must provide with their initial application and renewals and OAR <u>413-215-0091</u> <b>Responsibilities of Licensees</b> will be amended to require agencies to notify the Department when they contract with a governmental entity or unit to provide care or services to children.</p>
<p>(3) Allows the Department to interview the child in care without the presence of child-caring agency or proctor foster home employees or Department personnel. Requires Department to inform the child that the child may have the child's parent or guardian, if the child has not been committed to the custody of the Department or OYA, or attorney present during the interview.</p>	<p>None.</p>	<p><b>Investigating Reports of Abuse</b> will be amended to allow OAAPI to interview witnesses and the child who is the subject of suspected abuse without the presence of the child-caring agency or proctor foster home employees or Department personnel. Requires OAAPI to inform the child that the child may have their parent or guardian present, if the child is not in Department or OYA custody, or their attorney present during an interview.</p>	<p>OCWP rules will be amended to require Child Welfare to inform the child prior to conducting an interview that the child may have their attorney present and their parent or caregiver if the child is not in Department or OYA custody.</p>	<p>None.</p>

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<p>(4) Requires notification of the following for any substantiated report of abuse:</p> <ul style="list-style-type: none"> <li>• Department director;</li> <li>• Department licensing personnel;</li> <li>• CW director;</li> <li>• The child's case managers, CASA, and attorney;</li> <li>• Parents or guardians if the child has not been committed to the Department or OYA;</li> <li>• Parent or guardians of each child residing in the child-caring agency or proctor foster home that is the subject of the report if the child has not been committed to the Department or OYA; and</li> <li>• Any governmental entity or unit that has a contract with the child-caring agency.</li> </ul>	None.	<p>See changes to <b>Cross Reporting and Notifications</b> described in section 37.</p> <hr/> <p>OAAPI will develop internal procedure to notify the Director of the Department and Child Welfare of substantiated reports.</p>	<p><u>OCWP rules</u> will be amended to require that the following individuals must be notified of the disposition of the abuse report within 10 days of completing the CPS assessment: the caseworker of the child and the attorney, CASA, parents of the child, and attorneys for the parents of the child, and others involved in the case if authorized by ORS <u>419B.035</u>.</p> <hr/> <p><u>OCWP rules</u> will be amended to require Child Welfare CPS workers to comply with the Reporting Sensitive Issues policy and complete a Sensitive Issue Report when a report of abuse is substantiated for a child in care.</p>	<p>OAR <u>413-215-0081 Application for License</u> will be amended to require agencies to provide a list of governmental agencies or units the agency is contracted with to provide services or care for children as part of the documents agencies must provide with their initial application and renewals.</p> <hr/> <p>Develop internal procedure for handling of incoming substantiated abuse reports.</p>
<p>(5) Requires quarterly legislative report on the quality and safety of child-caring agencies and proctor foster homes that includes the name of the agencies that were substantiated for abuse during the quarter, the date of the abuse, the nature of the abuse, and corrective actions taken by the Department.</p>	None.	None.	None.	Will this be developed as an internal OLRO function?

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<b>SECTION 58: Legislative Report on National Accreditation</b>				
Requires the Department to report by 12/1/16 regarding the process and requirements to achieve national accreditation in child welfare from a nationally recognized organization including legislative and budget needs and information about available accreditation programs, impact of accreditation on child safety, and how other states have achieved national accreditation.	None.	None.	None.	None.
<b>SECTION 60: Legislative Report on Center for Continuous Improvement</b>				
Requires the Department to report by 12/1/16 regarding recommendations for the development, implementation, and oversight of a Center for Continuous Improvement.	None.	None.	None.	None.

**NOTE: Sections 5, 8, 12, 14-15, 17-19, 22-23, 25, 27-30, 32-35, 39-57, 59, 61-68** are ORS housekeeping, conforming amendments, operational dates/sunset clauses, appropriations, emergency clause, etc. and therefore no rule or policy changes are needed.

DHS welcomes input on these proposed changes. Please send feedback or questions to Kris Skaro at [kris.a.skaro@state.or.us](mailto:kris.a.skaro@state.or.us) or 503-945-6067.