

SB 1515 External Stakeholder Meeting Minutes

June 8, 2016

I. Sen. Gelser - Intent of SB 1515

- SB 1515 is intended to support, shape, and empower the Department to go through a massive culture change.
- The bill makes clear that the role of licensing is a consumer protection agency for children; its primary client is children and its role is ensuring their safety.
- Safety is more than the absence of abuse; it's well-being including ensuring access to basic necessities and a clean living environment. Some of this is enumerated in the bill, but during the hearings on the bill, Lois Day said that the Department would pick up some of these pieces in rule such as a clean living environment, access to hygiene products, ability to make food choices, etc. Issues like this were raised in the past (rats, food, insects) but licensing felt they couldn't take action because those things weren't in rule.
- The bill is clear that the Department is expected to be as aggressive as possible. It allows 45 days to come into compliance, but if it's something that can't wait or isn't fixed in 45 days, action needs to be taken. That is emphasized by the criminal penalties in the bill to hold the Department accountable. That's why the rules need to be explicit: to protect the staff and make expectations clear to providers.
- Licensing is one piece of a very complex system, but it is separate from the others pieces for a reason. We can't have OAAPI and OLRO making decisions based on the number of beds needed in the system. We will have a conversation about capacity, but SB 1515 is not the place for that conversation. SB 1515 is for strong enforcement, strong rules, ensuring kids have food they want, tampons, etc. This issue is my priority for the next session and the following sessions so if the intent is unclear, there's opportunity to make those clarifications in statute.

II. Background Check Unit (BCU) - Frank Miles

BCU changes are in section 6 of the bill. The background check process for proctor foster home applicants will start with a new form that will include a request for abuse investigation and protective order information. Applicants will need to sign a release of information allowing DHS to release information about pending investigations of abuse. Failure to grant a release of information will result in closing the background check request and the applicant will have no hearing rights. In addition to criminal history and abuse and neglect substantiations, protective

orders will be potentially disqualifying conditions. Within 30 days, BCU will report to the child-caring agency: criminal history; abuse history; history of protective orders; and whether the applicant was or is a Department-certified foster parent.

III. Office of Licensing and Regulatory Oversight (OLRO) - Tom van der Veen, Interim Director

- Children in these settings are often the most vulnerable and have significant needs. In some settings, OLRO is the only oversight entity overseeing these organizations and only sees them once every two years. For other organizations, OLRO is one of several oversight entities that providers are dealing with. The coordination of regulation is a continuing process and we want to make sure that these rules make sense, are efficient, and truly protect kids in licensed settings.
- There are 200 programs, currently served by only three OLRO staff. With three current staff, they are spread thin so OLRO is very appreciative of the additional two staff provided under SB 1515.
- Primary changes:
 - Most entities will be inspected yearly and visits will be unannounced whereas they were almost always announced in the past.
 - When OLRO is notified of suspected deficiencies, other agencies the child-caring agency works with will be notified.
 - The main difference is the intention overall - we're a small group and we've often flown under the radar but clearly the attention we've received has been significant and it's clear that people really care about these agencies and the kids they serve.
 - Harry Gilmore has been very involved in the drafting of the rules and can be answer any questions about the specific changes.

IV. Office of Child Welfare Program (OCWP) - Stacey Ayers, CPS Manager

Fairly minimal impact on Child Welfare investigations. (There are eight types of licensed child-caring agencies. OAAPI investigates reports of abuse in five of the licenses and proctor foster homes; Child Welfare is responsible for investigations in the other three agencies, as well as child-on-child abuse or abuse reports for a child who is not in the care of the agency. For example, if a proctor foster parent is accused of abuse against their own child, Child Welfare would investigate.) Child Welfare will now investigate reports of abuse against children and young adults under the age of 21, if they reside or receive care from a child-caring agency. The notifications process will also change - we will make sure that people who are responsible for the facilities are getting notification when DHS is receiving reports of abuse or neglect. Screening rules will be changed to reflect those notification requirements.

V. Office of Adult Abuse Prevention and Investigation (OAAPI) - Marie Cervantes, Director

The intent of raising the safety and dignity of children in substitute care has been made very clear and we all need to work together to make sure that occurs. We value the relationship with our stakeholders.

Five areas will change at OAAPI under SB 1515: investigations, screening, notification, communication, accountability, and transparency. In addition, we have put in place 21 systems improvements relating to child-care agencies. We will continue implementing those improvements and we plan to continue to work with and engage with stakeholders as things move forward.

Therese Hutchinson, Policy Program and Training Manager and Interim Investigations Unit Manager and Brooke Hall, Assistant Policy and Training Manager

SB 1515 Changes to OAAPI:

- Screening must be immediate (within 24 hours) and an investigation will be commenced within 24 hours of the determination that an allegation meets the new definition of abuse. OAAPI will investigate abuse for children and young adults under the age of 21 if they are receiving care or services from a child-caring agency. SB 1515 also lowers the burden of proof from preponderance to reasonable cause to believe; defines substantiated, unsubstantiated, and inconclusive in statute; and requires notification of various internal and external notification to ensure everyone involved with the child and the child-caring agency are involved.
- More collaboration between the child-caring agencies, OLRO, OAAPI, and OCWP to ensure the safety of each child.
- Child-caring agency employees will be required to report abuse; the requirement is personal to the employee and is not fulfilled by reporting to the child-caring agency.
- Will be providing trainings through NetLink because of the short timeline to implement the changes but hopefully in the future, we could do in-person regional trainings. If you have questions, please contact Jessica Denison at Jessica.denison@state.or.us.
- OAAPI created a FAQ available at <https://www.oregon.gov/DHS/CHILDREN/sb1515/OAAPI%20SB%201515%20FAQ-%206-7-16.pdf>.

VI. Stakeholder Questions, Comments, and Feedback

- 1) Sen. Sara Gelser: We won't see the rule until it's in effect. How specific can we expect the rules to be? For example, I saw a sign on the wall at a residential care agency that said children had to earn the right to call their CASA. Will the rules be clear as to children's rights?
 - a) Stacy Ayers - It's important to avoid being too prescriptive in rules and narrowing the Department's ability to act on things just because they aren't in the rules.

- b) Sen. Gelser - I agree, but do hope to see rules that specifically call out these rights and standards such that the Department has the ability to act.
 - c) Robin Donart with Maple Star Oregon: Something that would help would be a protocol manual about expectations so that you can be general in the rule, but providers have access to very specific expectations.
- 2) Doug Riggs, Oregon Alliance of Children's Programs: We have two investigations, one lasted four months and there's was ultimately no finding of abuse. One has been going on for three months - phone calls are not returned, no communication. Children are also at risk when a staff person is off duty for months and months. So the practical effect is delay and taking staff away from kids.
- a) Marie Cervantes: I would like to follow-up directly on those cases. There are some reasons an investigation may be delayed - if law enforcement is involved, accessing witnesses, and although we are a statewide entity, we are based in Salem, so getting investigators out to all parts of the state is a challenge. But we want to be efficient and conduct timely investigations and will make an effort to respond to your concerns.
 - b) Robin Donart, Maple Star Oregon: Does SB 1515 provide for additional staff in OAAPI?
 - c) Marie Cervantes: Yes, one additional staff but reports have quadrupled in the last quarter.
- 3) Craig Opperman, Looking Glass: We're in support of increasing child safety so increasing OAAPI staff would help, but providers need staff too. That really impacts child safety when providers don't have adequate staff so that needs to be addressed.
- 4) Josh Graves, Catholic Community Services: To add to the comment before, we have a foster home in Woodburn in its third month of investigation. No investigator has talked to the foster parents. Generally, foster parents are good people who want to help kids and when no one even talks to them about an investigation, which doesn't show respect to those parents. We're all non-profits, many of us are faith-based, our core mission is child welfare and safety. In the end, rules are necessary but they don't keep children safe; people keep children safe. So we need the rules so we know how to keep kids safe, but we need to be respectful to all the people working hard day because in the end, if the caretakers become disheartened, there won't be any people to do the work.
- a) Stacy Ayers: I really appreciate your comments. It is incumbent upon the Department that in our investigations, we're communicating with people, letting them know what we're doing, what's going on, so as a program manager, I want to know if these situations are occurring. I share your sentiment and please reach out to people at the agency who can make decisions when a situation like that is happening.
 - b) Scott Gallant, CASA: What is the standard for communication in investigations?

- c) Brooke Hall: It's supposed to be a 30-day timeline of gathering information and making a determination at OAAPI. There are times when there are extenuating circumstances such as law enforcement involvement, trying to locate people, etc. In the new rules, we will be making contact with people within 24 hours when possible.
 - d) Stacy Ayers: Regardless of the length of time, it shouldn't prevent someone from contacting the provider, even if it's just to say that there are pieces outside our control. We should make sure we're communicating that information with a provider. Expectation is contact with people responsible for a facility being investigated.
 - e) Robin Donart, Maple Star Oregon: I would like that to be part of protocol that providers are notified if the investigation is being delayed. Providers receive an initial vague email but follow-up would be really nice.
- 5) Robin Donart, Maple Star Oregon: As a provider, I really appreciate the efforts that are being made by the Department to be inclusive of the provider organizations and get feedback. I know that's been a large part of changing the culture at DHS and it's noticed and appreciated that these efforts are being made.
 - 6) Lisa McMahon, Oregon Foster Youth Connection: Also related to the culture shift, youth often report being afraid to report, being told to make a situation work, there are no other options. This creates young adults who think they don't deserve anything so a culture shift that encourages foster youth is important.

VII. Next Steps

- 1) Continue to submit questions, comments, and feedback to kris.a.skaro@state.or.us.
- 2) Information is available on the SB 1515 website at <https://www.oregon.gov/DHS/CHILDREN/Pages/sb1515.aspx>.
- 3) Sign up to be notified when new information is posted to the SB 1515 website at https://public.govdelivery.com/accounts/ORDHS/subscriber/new?topic_id=ORDHS_560.