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## **TEMPORARY ADMINISTRATIVE ORDER**

INCLUDING STATEMENT OF NEED & JUSTIFICATION

### **DELC 7-2026**

CHAPTER 414

**DEPARTMENT OF EARLY LEARNING AND CARE**

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**FILED: 04/22/2026 3:35 PM**

ARCHIVES DIVISION SECRETARY OF STATE & LEGISLATIVE COUNSEL

FILING CAPTION: Sets agency and provider requirements for inactive status and administrative closures in child care programs.

EFFECTIVE DATE: 04/23/2026 THROUGH 10/19/2026

AGENCY APPROVED DATE: 04/22/2026

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**NEED FOR THE RULE(S):**

This rule is necessary to ensure that public child care funds are used appropriately and only for providers that are actively operating and serving children. Clear authority to identify inactive providers allows DELC to suspend payments, maintain compliance with federal fiscal integrity requirements, and reduce financial and programmatic risk. The rule strengthens accountability, supports consistent regulatory practices, and protects the stability of services for children and families.

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**JUSTIFICATION OF TEMPORARY FILING:**

(1) Potentially improper expenditure of public funds, including duplicate billing or billing for services not rendered, or payments issued without verification that a provider is currently operating and serving children. Public funds being spent inconsistently with federal and state requirements. Erosion of program integrity, including diminished accountability measures, weaker internal controls, increased legal costs for regulatory enforcement, and difficulty enforcing corrective actions for licensing violations. and increased difficulty in identifying and correcting potential misuse of funds. Heightened fiscal risk to the agency, including over-payments that must be recouped, audit findings, and potential penalties and/or corrective action plans imposed by federal partners. These financial risks would require additional

agency resources to address, that can be better addressed with a preventative rule. Loss of public trust and diminished confidence in DELC's stewardship abilities.

(2) Children and families may lose access to stable early learning services if funds are improperly spent, if providers are later found ineligible, or if corrective actions disrupt the availability of care. Families on waitlists may experience delays in accessing care because funding is held with providers who no longer have children in care. Child care providers who follow rules and rely on stable payments may be harmed when absent or inactive providers continue to receive subsidy funds, resulting in inequitable allocation and reputational harm to the provider community. Providers may also face corrective action or repayment obligations if the system lacks clear expectations. The Department of Early Learning and Care, which could incur audit findings, financial liability, and administrative burden due to increased fiscal or fraud risks. Taxpayers and the public bear the consequences of misdirected public investment and the costs required to remedy preventable issues.

(3) Without a rule authorizing DELC's licensing division to temporarily designate such providers as "inactive," due to the observations of the licensing staff, the agency cannot suspend payments while still preserving licensure status and due process protections related to both licensing actions and payment suspensions. Gaps in established rules may delay DELC's ability to identify issues that may lead to corrective actions. Efforts to confirm federal compliance tied to CCDF fiscal integrity requirements may not be met if rules are ambiguous. Delayed action increases the cumulative financial impact, since each additional payment cycle made under outdated rules can expand the amount of funds later deemed misspent.

(4) Provide DELC with enforceable authority to ensure that child care programs are operating and providing services and are able to be inspected by DELC as required for their eligibility for public funding. DELC may act quickly when compliance issues are identified --which would permit suspending payments, initiating investigation processes, or removing providers from participation until compliance is restored. Prevent potential misuse of funds by stopping payments when care is not being provided, while preserving the provider's license and ensuring a pathway to resume participation once children are again in care. Provide a clear pathway for licensed child care providers who may have breaks in care for a time but will provide care again in the future. Establish a clear and consistent practice for the administration of child care regulation in terms of inspections and proper reporting by the providers/owners of child care facilities and CCLD whether the child care facility is or is not operating, and Reinforce public trust by showing DELC's commitment to fiscal integrity, minimizing the risk of potential fraud or misuse of funds as defined in federal guidance, and ensuring early learning investments reach the children and families they are intended to serve.

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#### DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Washington Administrative Code <https://app.leg.wa.gov/WAC/default.aspx?cite=110-300-0016>. Correspondence with Oregon Department of Justice

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ADOPT: 414-075-0400

RULE SUMMARY: OAR 414-075-0400 describes agency and child care program requirements to implement an inactive child care program status. States when and how the department may administratively close a child care program. Includes department processes for determining when a child care license has been abandoned.

#### CHANGES TO RULE:

#### 414-075-0400

#### Inactive Status, Administrative Closure and Abandoned License

(1) As used in this section: ¶

- (a) "Administrative closure" means a period of more than six months or an indefinite period during which no children are attending the program. ¶
- (b) "Completed visit" means a visit in which the department observes the operation of the program while children are in care. ¶
- (c) "Inactive status" means any period during which no children are enrolled or attending the program lasting 30 days or more. ¶
- (d) "Incomplete visit" means a visit during the provider's observed or regular operating hours as defined in OAR 414-075-0010(36) in which there is no answer at the door, access to the premises is denied, or no children are in care at the time of the visit. ¶
- (e) "License" means any of the following: ¶
- (A) A certification or registration issued by the department authorizing a provider to operate a child care facility. ¶
- (B) A record authorizing a provider to operate a recorded program as defined in OAR 414-075-0010(34). ¶
- (C) An approval to receive payment for subsidized care issued to a license-exempt child care facility as defined in OAR 414-075-0010(23;) or ¶
- (D) An approval to receive payment for subsidized care issued to an exempt care facility as defined in OAR 414-075-0010(12). ¶
- (f) "Premises" means as defined in OAR 414-075-0010(32). ¶
- (g) "Program" means the program of care for children provided under a license. ¶
- (h) "Provider" means the individual or entity in whose name a license or approval to receive payment for subsidized care is issued. ¶
- (2) The department may pause payments to a provider while the provider's license has inactive status or is subject to administrative closure, including subsidy payments and any other funds administered by the department related to care provided under the license or the provider's operation of the program under the license, including during the pendency of a contested case hearing requested in connection with a determination of administrative closure or abandonment of the license. ¶
- (3) If a provider temporarily ceases operation of their program for more than thirty (30) consecutive calendar days, and no children are enrolled or attending during that period, the provider must submit a notification of inactive status to the department. ¶
- (4) The provider must notify the department of inactive status: ¶
- (a) At least two business days prior to ceasing operations if the inactive status is planned; or ¶
- (b) Within one business day after ceasing operations if the inactive status is unexpected. ¶
- (5) A provider's notification of inactive status must include: ¶
- (a) The date the provider ceased or will cease operating; ¶
- (b) The projected date the provider will resume operating; and ¶
- (c) If the provider operates more than one child care facility or subsidized care facility, a statement of the specific facilities that will have inactive status. ¶
- (6) Inactive status may be for no more than six consecutive months. The department may administratively close a license that has inactive status for more than six consecutive months or when a provider notifies the department that they have ceased or will cease operating for more than six consecutive months. ¶
- (7) During the first thirty calendar days of an initial license or approval to receive payment for subsidized care, a provider is not required to submit a notification of inactive status even if no children are enrolled or attending. The purpose of this provision is to allow the provider time for children to be enrolled and begin attending. ¶
- (8) A provider must notify parents and guardians of all enrolled children that the program has a planned inactive status, to be made concurrently with or before the provider submits the notification to the department required by subsection (4) of this section. The notification to parents and guardians must include the date the provider expects to resume operations, if known. ¶
- (9) During inactive status, the provider must notify the department of the following: ¶
- (a) Any voluntary surrender of the license, or other decision to not resume operations; ¶
- (b) The addition or removal of staff or household members; ¶
- (c) Any changes in the projected date the provider will resume operations; or ¶
- (d) Other program changes that require DELC approval that will apply when the provider resumes operations. ¶
- (10) For a license with an expiration date that is anticipated to be reached during inactive status: ¶
- (a) The provider must submit a timely application and all required fees for renewal in order for the license to be active past its expiration date when inactive status ends; and ¶
- (b) The department is not required to begin processing the renewal application until the provider has resumed operating. ¶
- (11) After receiving a notice of inactive status, the department will: ¶
- (a) Identify in its records that license has inactive status; ¶
- (b) Notify the provider that the license has inactive status; and ¶

- (c) Notify the following programs of the inactive status: ¶  
(A) The department's child care subsidy programs; and ¶  
(B) Any other department program administering funds granted or paid to child care facilities or subsidized care facilities. ¶  
(d) Not process an application from any other person for a license for the same location unless: ¶  
(A) The provider notifies the department that they will not resume operations; ¶  
(B) The provider's license expires without a timely renewal application; or ¶  
(C) The department determines that the license has been abandoned as described in this section. ¶
- (12) The department may determine that administrative closure is appropriate as described in this section, including when the provider has given notice of inactive status. ¶  
(a) An administrative closure is not a denial, suspension, or revocation for cause. ¶  
(b) An administrative closure is not a voluntary surrender of a license. ¶
- (13) Administrative closure is appropriate when a provider: ¶  
(a) Notifies the department that the provider intends to cease operations for more than six consecutive months; ¶  
(b) Notifies the department that the provider intends to cease operations without indicating the date the provider expects to resume operations; ¶  
(c) Fails to resume operations on the date indicated in the notification of inactive status or in an update by the provider of the projected date of resumed operations; ¶  
(d) Fails to contact the department for more than three months after the license has been placed on inactive status pursuant to subsection (9) of this section; or ¶  
(e) Has been determined to have abandoned the license as described in this section. ¶  
(f) The department's decision under this subsection to administratively close a license is subject to judicial review pursuant to ORS 183.484. ¶
- (14) The department may determine that a license has been abandoned based on one or more of the following: ¶  
(a) During a three month period during which the department does not otherwise observe children in the care of the provider, the department visits the premises in person during previously observed or regular operating hours as defined in OAR 414-075-0010(36) no less than three times resulting in incomplete visits; ¶  
(b) The provider vacates or no longer maintains the premises without submitting an application to change locations. To establish this basis, the department may rely on: ¶  
(A) The provider's statement that they no longer have access to the premises on a permanent basis; ¶  
(B) Evidence of legal eviction of the provider from the premises; ¶  
(C) A lease for the premises to another person; ¶  
(D) A sale of the property to another person who is observed to occupy the premises; or ¶  
(E) Department staff's observations supporting the conclusion that the premises are completely vacated and unoccupied. ¶  
(c) The provider who is employed by the owner of the child care program leaves the employment of the owner or otherwise provides notice to the department or the owner that they have ceased operating the child care program. ¶  
(d) Fails to notify the department of a program closure or change in status. ¶
- (15) Prior to determining that administrative closure is appropriate, the department must make reasonable efforts to contact the provider using the contact information on file. For purposes of this subsection, the department makes reasonable efforts if it attempts to contact the provider at least three times. ¶  
(a) The department must attempt contact using at least three of the following five communication modes: mail, email, telephone, text message, and in-person. ¶  
(b) The department must consider any explanation or information from the provider in response to the department's contacts. ¶
- (16) After determining that administrative closure is appropriate under this section, the department will: ¶  
(a) Identify in its records and notify the provider at the provider's last known address that the license is administratively closed; ¶  
(b) Notify the provider at the provider's last known address that the provider may request a hearing to challenge the department's determination that administrative closure is appropriate or that the license has been abandoned in a contested case before the Office of Administrative Hearings. ¶  
(A) During the contested case process, the provider may give notice of intent to resume operations, which, if resulting in the department identifying the license as open and active, will operate to withdraw the request for hearing. ¶  
(B) A provider may submit written notification to resume operations as provided in subsection (18) of this section at any time during administrative closure regardless of whether the provider has requested a hearing. ¶  
(c) Reopen a license that has not expired upon provider's written notification to resume operations as provided in subsection (18) of this section unless at the time of the provider's notification: ¶

(A) The department has determined that the license has been abandoned pursuant to subsections (15)(b) or (c) of this section; or ¶

(B) The department has issued a license to another person for the same location and that person has begun operating at the location. ¶

(d) Notify the following programs of the administrative closure: ¶

(A) The department's child care subsidy programs; and ¶

(B) Any other department program administering funds granted or paid to child care facilities or subsidized care facilities. ¶

(e) Require the provider to apply for a license for the location if the provider seeks to resume operations after the provider's license for that location has expired and the department has not issued a license to another person for the same location. ¶

(f) Not accept a renewal application to extend the expiration date of the license unless the provider has notified the department that it intends to resume operations. ¶

(g) Accept an application from a person other than provider for the location if the provider consents to the application or the license has expired or the department determined by final order that the license has been abandoned. ¶

(17) Notwithstanding inactive status or administrative closure: ¶

(a) The department may issue findings and conduct complaint investigations. If a complaint investigation requires observation of the facility in operation or access to the provider who is not available, the department may but is not required to delay the investigation until such time as the provider is operating or is available. ¶

(b) The department may issue any appropriate legal action including an order of emergency suspension of the license or of the Central Background Registry enrollment of the provider or provider's staff or household members, an order imposing emergency conditions, an order to cease and desist, a notice of intent to revoke, a notice of intent to impose conditions, a notice of intent to deny renewal, a notice of intent to impose civil penalties, or a notice of intent to deny renewal of or for removal of the enrollment of provider or provider's staff or household members in the Central Background Registry. ¶

(18) A provider with a license with inactive status or that has been administratively closed must notify the department in writing no less than 10 business days prior to the date the provider intends to resume operations. ¶

(a) If the provider operates at multiple locations, the provider must state in the writing which locations will resume operations. ¶

(b) If the provider intends to resume operations at multiple locations on different dates or in stages, the provider must notify the department separately with respect to each location's intended date of resumed operations. ¶

(19) Upon receipt of a provider's notice of intent to resume operations, and unless the department has both determined that the license has been abandoned and has issued a license to another person for the same location who is operating at the location, the department will: ¶

(a) Identify the license in the department's records as open and active effective as of the date indicated in provider's notice: ¶

(b) Notify the provider that the license for each location for which the provider is resuming operations is active; and ¶

(c) Notify the department's child care subsidy programs and any other department program administering funds granted or paid to child care or subsidized care facilities of the active status upon confirming the provider has resumed operations. ¶

(20) The department may conduct an unannounced visit at any location at which a provider has resumed or will resume operations after a period of inactive status or administrative closure to determine whether the provider has resumed operations and is in compliance with applicable requirements. ¶

(a) The department may conduct the visit regardless of whether there is a pending complaint or prior noncompliance. ¶

(b) The department may but is not required to consider the visit to meet requirements for an annual unannounced monitoring visit. ¶

(c) All staff and household members must be enrolled in the CBR and not suspended as of the date the provider resumes operations.

Statutory/Other Authority: ORS 329A.260, ORS 326.430, ORS 329A.992, ORS 183.459, ORS 329A.350, ORS 329A.360, ORS 329A.390

Statutes/Other Implemented: ORS 329A.260, ORS 326.430, ORS 329A.992, ORS 183.459, ORS 329A.350, ORS 329A.360, ORS 329A.390