

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
DEPARTMENT OF EARLY LEARNING AND CARE

FILED

10/26/2023 7:56 AM
ARCHIVES DIVISION
SECRETARY OF STATE

FILING CAPTION: Amends Adult-to-child Ratios for Provider's Children in Certified Family Child Care Homes

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/29/2023 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.

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Filed By:
Crys O'Grady
Rules Coordinator

HEARING(S)

Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/16/2023

TIME: 5:00 PM - 6:00 PM

OFFICER: Crys O'Grady

REMOTE MEETING DETAILS

MEETING URL: [Click here to join the meeting](#)

PHONE NUMBER: 1-669-254-5252

CONFERENCE ID: 1610959719

SPECIAL INSTRUCTIONS:

Join ZoomGov Meeting: <https://www.zoomgov.com/j/1610959719?pwd=NElla3MzcVdvOHRkT0h1N1p4ZXc5dz09>

Meeting ID: 161 095 9719

Passcode: 990569

One tap mobile

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The meeting location is accessible to persons with disabilities. A request for an interpreter for the hearing impaired or for other accommodations for persons with disabilities should be made at least 48 hours before the meeting to Crys O'Grady by email at Crys.OGrady@delc.oregon.gov.

NEED FOR THE RULE(S)

These proposed rule amendments are needed to amend capacity and adult-to-child ratios to implement changes in ORS 329A.280, ORS329A.330(2), and ORS329A.330(7)(c) required by HB 2468 (2023). This amendment excludes the

provider's children over the age of 10 in determining capacity and adult-to-child ratios, unless the child needs a level of care above normal for the child's age.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE

There were no outside documents relied upon for this rulemaking process.

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

Child Care Center Workforce: Race and ethnicity information on the child care workforce is collected through OCC's partnership with Portland State University Oregon Center for Career Development in Early Childhood (PSU OCCD) Individuals provide this information on a voluntary basis.

As of the last report received by CCLD (July 2023), 74% of those in the child care workforce responded to requests for demographic information. This data indicates that roughly 38.8% of the certified family workforce identified as a person of color. It should be noted that certified family child cares often have more than one caregiver and this data will include all those working in CF homes, not just the provider. DELC does not have data connecting providers of color and their own school-age children ages 10-12, however since these providers make up 38.8% of the workforce is it likely this will have a positive impact on the ability to care for their own children, while opening additional child care slots.

FISCAL AND ECONOMIC IMPACT:

Certified Family Child Care Providers have a maximum capacity based on square footage of the home and number of caregivers. Prior to this amendment, the provider's children ages 6 weeks to 12 years were considered in capacity and staff-to-child ratios. This amendment will exclude provider's children ages 10-12 from capacity and may therefore open child care slots within the child care home to additional children. This change has the potential to increase the child care provider's revenue because they may be able to enroll more children/families into care. Actual financial and economic benefits may vary depending on whether or not the child care provider has children in the home 10 years of age and older.

Additionally, parents of school-age children may have increased access to child care, which will reduce their costs in searching for available child care. This amendment could potentially open an additional 181 spaces across the state.

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) These rules impact the Department of Early Learning and Care and public employees in this state agency. The cost to the Department of Early Learning and Care is expected to be minimal because the agency will need to make adjustments regarding compliance with this rule to necessary forms and technical assistance documents. State agency staff will also need to be trained compliance with this rule amendment. There are no additional fiscal impacts anticipated for other state agencies.

(2) Because these rules impact certified family child care providers, this rule may have a positive fiscal impacts on these providers as they operate as small businesses. They may be able to enroll more children and increase revenue.

(a) DELC estimates that there are 1,033 CF Providers in the state. Of those, an estimated 157 providers have child(ren) ages 10-12. The total number of children in this age bracket is estimated at 181 (based on data available as of January 1, 2023). DELC estimates that state-wide average monthly fee for a school-age care in large family child care homes is

\$900 (based on data from the 2022 Oregon Child Care Market Price Study). There is potential for CF providers to enroll more school-age children and increase revenue at an average of \$900 per child per month enrolled. In addition, a CF provider may choose to enroll younger children increasing revenue (average monthly rates: infants-\$1,404, toddlers-\$1,250, preschool-age children-\$1,100), but this may also increase staffing costs, as additional caregivers may be needed to comply with ratio requirements.

(b) DELC estimates a minimal cost savings to certified child care providers for reporting, recordkeeping and administrative activities and cost required to comply with the rule(s).

(c) DELC estimates a minimal cost savings to certified child care providers for the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

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

DELC involved certified family child care providers, who operate as small businesses, in a Rulemaking Advisory Committee (RAC) to develop the amendments to these rules.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:

414-350-0000, 414-350-0010, 414-350-0020, 414-350-0030, 414-350-0040, 414-350-0050, 414-350-0080, 414-350-0090, 414-350-0100, 414-350-0110, 414-350-0115, 414-350-0120, 414-350-0130, 414-350-0140, 414-350-0150, 414-350-0165, 414-350-0170, 414-350-0180, 414-350-0210, 414-350-0235, 414-350-0250, 414-350-0375, 414-350-0390, 414-350-0405

AMEND: 414-350-0000

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0000

Applicability of Rules ¶¶

(1) OAR 414-350-0000 through 414-350-0405 set forth the ~~Office of Child Care~~ Child Care Licensing Division's (CCLD) requirements for the inspection and certification of certified family child care homes subject to Oregon laws governing child care facilities (ORS 329A.030, 329A.250 through 329A.310, 329A.350 through 329A.460, and 329A.990) that:¶¶

(a) Care for no more than 16 children; and¶¶

(b) Are located in a building constructed as a single-family dwelling.¶¶

(2) Individuals who are not enrolled in the Central Background Registry because of removal, denial for cause, or voluntary surrender in lieu of legal action, may only care for their own children or children related within the fourth degree as determined by civil law, pursuant to ORS 329A.252.¶¶

(3) The following child care facilities are specifically excluded by law and are not required to comply with these rules:¶¶

(a) A registered family child care home;¶¶

(b) A facility providing care for preschool children that is primarily educational for four hours or less per day and where no preschool age child is present at the facility for more than four hours per day except as provided in 414-350-0000(2);¶¶

(c) Care provided in the home of the child; or¶¶

(d) A facility that provides care on an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care except as provided in 414-350-0000(2); or¶¶

(e) A facility that provides care for no more than three children other than the person's own children except as provided in 414-350-0000(2);¶¶

(f) A facility that provides care for children from only one family other than the person's own family except as provided in 414-350-0000(2).¶¶

- (4) If any court of law finds that any clause, phrase, or provision of these rules is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portion of these rules.¶
- (5) For purposes of these rules, the determination of compliance or noncompliance shall be made by OCCLD.¶
- (6) Providers have a right to review any action or decision affecting them. The OCCLD grievance procedures are available upon request to all applicants for child care certification or operators of certified family child care homes.¶
- (7) These rules apply only during the hours the provider is conducting the certified family child care business.
- Statutory/Other Authority: ORS 329A
- Statutes/Other Implemented: ORS 329A.260, 329A.280

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0010

Definitions ¶

The following words and terms, when used in OAR 414-350-0000 through 414-350-0405, have the following meanings:¶

(1) "Activity Area" means the area of the home that is available, during all the hours of operation, for the children's activities. This area excludes the food preparation area of the kitchen, bathrooms, storage areas, and those parts of rooms occupied by heating stoves, furniture and stationary equipment not used by children.¶

(2) "Attendance" means children actually present in the home at any given time.¶

(3) "Capacity" means the total number of children allowed in the certified family child care home at any one time, based on the available square footage, the ages of the children to be served and the total number of staff.¶

(4) "Caregiver" means any person, including the provider, who cares for the children in the certified family child care home and works directly with the children, providing care, supervision and guidance.¶

(5) "Central Background Registry" means OCCLD'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.¶

(a) "CBR Enrollment" means approval for a 5 year period to be enrolled in the CBR following an Oregon State Police criminal records check, child abuse and neglect records check, checks of adult protective services and foster care certification and an FBI records check.¶

(b) "CBR Conditional Enrollment" means temporary approval to be enrolled in the CBR following a Oregon State Police records check and child abuse and neglect records check but prior to receipt by OCCLD of the results of the required FBI records check.¶

(6) "Certificate" means the document that is issued by OCCLD to a certified family child care home pursuant to ORS 329A.280.¶

(7) "Certified Family Child Care Home" or "Home" means: a child care facility located in a building constructed as a single family dwelling that has a certificate to care for a maximum of 16 children at any one time.¶

(8) "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. Child care does not include the care provided:¶

(a) In the home of the child;¶

(b) By the child's parent or guardian, or person acting in loco parentis;¶

(c) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;¶

(d) On an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care;¶

(e) By providers of medical services; or¶

(f) By a person who is a member of the child's extended family, as determined by OCCLD on a case-by-case basis.¶

(9) "Child Care Child" means any child six weeks of age or older and under 13 years of age, or a child with special needs under the age of 18 who requires a level of care over and above the norm for his/her age, and for whom the provider has supervisory responsibility in the temporary absence of the parent.¶

(10) "Child with Special Needs" means a child under the age of 18 who requires a level of care over and above the norm for his/her age due to a physical, developmental, behavioral, mental or medical disability.¶

(11) "Child Care Facility" means any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before and after school care, or child development center, except those excluded under ORS 329A.250. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children.¶

(12) "CCLD" means Child Care Licensing Division, Department of Early Learning and Care.¶

(13) "Civil Penalty" means a fine imposed by OCCLD on a provider for violation of these rules.¶

(134) "DELC" means the Department of Early Learning and Care.¶

(15) "Enrollment" means all children registered to attend the certified family child care home.¶

(146) "Guidance and Discipline" means the on-going process of helping children develop self control and assume responsibility for their own acts.¶

(157) "Infant" means a child who is at least 6 weeks of age up to 12 months of age. ¶

(168) "Night Care" means care given to children who sleep at the home for all or part of the night.¶

(179) "Nonserious violation" means OCCLD has made a valid finding when assessing a complaint alleging a

violation not listed in OAR 414-350-0010(334).¶

(18) "OCC" means the Office of Child Care of the Department of Education or the Administrator or staff of the Office of Child Care.¶

(1920) "Occasional" means infrequently or sporadically, including but not limited to care that is provided during summer or other holiday breaks when children are not attending school, but not to exceed 70 calendar days in a year.¶

(201) "Operator" means the person responsible for the overall operation of the home and who has the authority to perform the duties necessary to meet certification requirements. In a certified family child care home, the operator is the provider.¶

(212) "Oregon Registry" means Pathways for Professional Recognition in Childhood Care and Education is a voluntary, statewide program to document and recognize the professional achievements of people who work in the childhood care and education profession.¶

(223) "Owner" means the person who holds the certified family child care business as property and has a major financial stake in the operation of the home.¶

(234) "Parent" means parent(s), custodian(s), or guardian(s) exercising physical care and legal custody of the child.¶

(245) "Potentially hazardous food" means any food or beverage containing milk or milk products, eggs, meat, fish, shellfish, poultry, cooked rice, beans or pasta, and all other previously cooked foods, including leftovers.¶

(256) "Preschool Age Child" means a child 36 months of age to eligible to attend kindergarten or above in public school.¶

(267) "Program" means all activities and care provided for the children during their hours of attendance at the certified family child care home.¶

(278) "Provider" means the person in the certified family child care home who is responsible for the children in care, is the children's primary caregiver, and in whose name the certificate is issued. In a certified family child care home, the provider is the operator.¶

(289) "Qualifying Teaching Experience" means 1,500 hours, gained in at least three-hour blocks, within a 36-month period, with a group of children in an on-going group setting. Such a setting includes a kindergarten, preschool, child care center, certified or registered family child care home, Head Start program, or equivalent. Qualifying teaching experience must be documented. Time spent in a college practicum or practice teaching is considered qualifying teaching experience. The following does not constitute qualifying teaching experience: leader of a scout troop; Sunday school teacher; and coaching.¶

(2930) "Sanitizing" means using a bactericidal treatment that provides enough heat or concentration of chemicals for enough time to reduce the bacterial count, including disease-producing organisms, to a safe level on utensils, equipment, and toys.¶

(301) "School-Age Child" means a child eligible to attend kindergarten or above in public school. This includes the months from the end of the prior school year to the start of the kindergarten school year.¶

(312) "Serious complaint" means a complaint filed against a certified child care home by a person who has alleged that:¶

(a) Children are in imminent danger;¶

(b) There are more children in care than allowed by certified capacity;¶

(c) Corporal punishment is being used;¶

(d) Children are not being supervised;¶

(e) Multiple or serious fire, health or safety hazards are present in the home;¶

(f) Extreme unsanitary conditions are present in the home; or¶

(g) Adults are in the home who are not enrolled in the Central Background Registry.¶

(323) "Serious Injury or Incident" means any of the following: ¶

(a) Injury requiring surgery;¶

(b) Injury requiring admission to a hospital;¶

(c) Injury requiring emergency medical attention;¶

(d) Choking and unexpected breathing problems;¶

(e) Unconsciousness;¶

(f) Concussion;¶

(g) Poisoning;¶

(h) Medication overdose;¶

(i) Broken bone;¶

(j) Severe head or neck injury;¶

(k) Chemical contact in eyes, mouth, skin, inhalation or ingestion;¶

(l) All burns;¶

(m) Allergic reaction requiring administration of Epi-Pen;¶

(n) Severe bleeding or stitches;¶

(o) Shock or confused state;¶

(p) Near-drowning.¶

(334) "Serious Violation" means OCCLD has made a valid finding when assessing a complaint that alleges:¶

(a) Children are in imminent danger;¶

(b) There are more children in care than allowed by law;¶

(c) Corporal punishment is being used;¶

(d) Children are not being supervised;¶

(e) Multiple or serious fire, health or safety hazards are present in the home;¶

(f) Extreme unsanitary conditions are present in the home; or¶

(g) Adults are in the home who are not enrolled in the Office of Child Care Licensing Division's Central Background Registry¶

(345) "Substitute Caregiver" means a person who acts as the children's primary caregiver in the certified family child care home in the temporary absence of the provider.¶

(356) "Supervision" means the act of caring for a child or group of children. This includes awareness of and responsibility for the ongoing activity of each child. It requires a caregiver to be within sight and/or sound of the children, knowledge of children's needs, and accountability for children's care and well-being. Supervision also requires that staff be near and have ready access to children in order to intervene when needed.¶

(367) "Toddler" means a child who is able to walk alone but is under 36 months of age. "Younger toddler" means a child who is able to walk alone but is under 24 months of age; "older toddler" means a child who is at least 24 months of age but under 36 months of age.¶

(378) "Unsupervised Access to 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.¶

(389) "Useable Exit" means an unobstructed door or window through which caregivers and children can evacuate the home in case of a fire or emergency. Doors must be able to be opened from the inside without a key, and window openings must be at least 20 inches wide and 22 inches in height, with a net clear opening of 5 square feet and a sill no more than 48 inches above the floor.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS chapter 329A

AMEND: 414-350-0020

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0020

Application for a Child Care Certificate ¶

(1) No person, unless exempted by Oregon laws governing child care facilities, shall operate a certified family child care home without a valid certificate issued by OCCLD.¶

(2) Application for a certificate shall be made on forms provided by OCCLD.¶

(3) A completed application is required:¶

(a) For the initial certificate;¶

(b) For the annual renewal of a certificate; and¶

(c) Whenever there is a change of provider or location.¶

(4) The applicant shall complete and submit an application to OCCLD at least:¶

(a) 45 days before the planned opening date of the certified family child care home; and¶

(b) For renewal of a certificate, 30 days prior to the expiration of the certificate.¶

(A) The expiration date of the current certificate, unless officially revoked, remains in force until OCCLD has acted on the application for renewal and has given notice of the action taken.¶

(B) If an application for renewal and payment of the required fee is not received by OCCLD at least 30 days prior to the expiration date of the current certificate, the certificate will expire as of the date stated on the certificate and child care must cease at the facility, unless the renewal is completed before the expiration date.¶

(C) An application for a certificate shall be accompanied by a non-refundable filing fee.¶

(D) For the initial application, a change of provider, the reopening of a facility after a lapse in the certificate, or a change of location, the fee is \$25 plus \$2 for each certified space (e.g., the fee for a certified family child care home certified to care for 12 children is \$24 + \$25 = \$49).¶

(E) For a renewal application, the fee is \$2 for each certified space.¶

(5) All civil penalties must be paid in full.¶

(6) An application for a certificate must be completed by the applicant and approved by OCCLD within 12 months of submission or the application will be denied. If an application is denied, an applicant will be required to submit a new application for a certificate.¶

(7) The applicant shall submit with the initial application or when the home is being remodeled a drawing showing the dimensions of all rooms to be used (length and width), the planned use of each room, the location of required exits, and the placement of the kitchen and bathrooms.¶

(8) The applicant shall provide verification to OCCLD that the home meets all applicable building codes and zoning requirements that apply to certified family child care homes:¶

(a) Before the initial certificate is issued; and¶

(b) Whenever the home is remodeled.¶

(9) The home shall be approved by an environmental health specialist registered under ORS Chapter 700 or an authorized representative of the Department of Human Services before a certificate is issued by OCCLD.¶

(10) The home may be inspected by the local fire jurisdiction when local ordinances require a fire life safety survey as part of a business license or when OCCLD determines there is a need to do so.¶

(11) If the provider applies to care for more than 12 children, the provider must complete a fire life safety self evaluation. OCCLD staff and the provider will review the self evaluation. If fire safety concerns are identified, OCCLD staff may consult with the fire marshal and after consultation, may request that the fire marshal complete a fire life safety inspection.¶

(12) Upon receipt of a completed application, a representative of OCCLD shall evaluate the home and all aspects of the proposed operation to determine if certification requirements (OAR 414-350-0000 through 414-350-0405) are met.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A.260, 329A.270, 329A.280, 329A.310

AMEND: 414-350-0030

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0030

Issuance of a Child Care Certificate ¶

(1) A certificate shall not be issued by OCCLD to an applicant who holds a medical marijuana card. A certificate shall not be issued to an applicant who grows marijuana or distributes marijuana.¶

(2) A certificate shall be issued by OCCLD when it has been determined the home is in compliance with OAR 414-350-0000 through 414-350-0405. There are two types of certification. These are:¶

(a) A regular certificate which, except as provided in OAR 414-350-0020(4)(b)(A), is valid for no more than one year; and¶

(b) A temporary certificate. A certified family child care home may not operate under a temporary certificate for more than 180 days in any 12-month period. A temporary certificate is issued when:¶

(A) The home is in compliance with most requirements;¶

(B) There are no deficiencies identified by OCCLD that are hazardous to children; and¶

(C) The provider demonstrates an effort to be in full compliance.¶

(3) A certificate is not transferable to any other location or to another organization or individual.¶

(4) A certificate is granted in the name of the operator/provider. An operator/provider is limited to one certificate at one address.¶

(5) An owner can have multiple sites under the following conditions:¶

(a) If the owner is the provider/operator in one of the homes, the owner can have two certified family child care homes; or¶

(b) If the owner does not directly care for any children, the owner can have more than two certified family child care homes.¶

(c) If the owner is the provider/operator in a home certified for more than 12 children, the owner may be the provider for only that certified family child care home. The provider may be the owner of other facilities. See OAR 414-350-0403(5).¶

(6) Any changes in the conditions of certificate shall be requested in writing to OCCLD and approved by OCCLD before the condition(s) of the current certificate may be changed. Changes include, but are not limited to, facility capacity, age range of children, or hours of operation.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A

AMEND: 414-350-0040

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0040

Exceptions to Rules ¶

(1) OCCLD may grant an exception to an individual rule (OAR 414-350-0000 through 414-350-0405) for a specified period of time when:¶

(a) A requirement does not apply to the home; or¶

(b) The intent of the requirement can be met by a method not specified in the applicable rule.¶

(2) The provider shall request an exception to a rule on a form provided by OCCLD. The request shall include:¶

(a) A justification for the requested exception; and¶

(b) An explanation of how the provider plans to meet the intent of the rule.¶

(3) No exception to a rule shall be granted:¶

(a) If the requirement is established by statute;¶

(b) To any home safety requirement (OAR 414-350-0170);¶

(c) Unless the health, safety, and well-being of the children are ensured; or¶

(d) That would place the facility in violation of local zoning or state building codes.¶

(4) Exceptions may not be implemented until approval is received from OCCLD.¶

(5) The granting of an exception to a rule shall not set a precedent, and each request shall be considered on its own merits.¶

(6) OCCLD may withdraw approval of an exception at any time, if deemed necessary to ensure the health, safety and well-being of the children.

Statutory/Other Authority:

Statutes/Other Implemented: ORS 329A.260, 329A.280

AMEND: 414-350-0050

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD. Update OAR reference numbers. Update division website.

CHANGES TO RULE:

414-350-0050

General Requirements ¶

- (1) The following items shall be posted in the certified family child care home where they may be clearly viewed by parents:¶
 - (a) The most current certificate issued by OCCLD;¶
 - (b) Notification of a communicable disease outbreak at the home;¶
 - (c) The evacuation plan and the location where parents may be reunited with their children in the event of an evacuation;¶
 - (d) A notice that the following items are available for parents to review:¶
 - (A) The guidance/discipline policy;¶
 - (B) The current week's menus, with substitutions recorded;¶
 - (C) The description of the general routine;¶
 - (D) Information on how to report a complaint to OCCLD regarding certification requirements; and¶
 - (E) The most recent OCCLD and sanitation inspection reports and, if applicable, fire life safety self-evaluation (or fire marshal inspection report if completed).¶
 - (e) The Department of Early Learning Division and Care Website [www.oregonearlylearning.com.gov/DELC] and phone number [1-800-556-6616], and a statement advising parents that they can access information about their child care provider on the child care safety portal.¶
 - (f) Providers must post all serious valid complaint and serious non-compliance letters for 12 calendar months.¶
- (2) The provider shall display a floor plan identifying the locations of the following near the entrance, or in some other area of the home where they may be clearly viewed by all individuals responsible for evacuation procedures:¶
 - (a) Exits; ¶
 - (b) Primary evacuation routes; ¶
 - (c) Secondary evacuation routes; and ¶
 - (d) Fire extinguishers.¶
- (3) Providers shall immediately notify all parents of any closure of the active license.¶
- (4) The provider shall ensure that a copy of these administrative rules is available in the certified family child care home to all parents and staff.¶
- (5) Caregivers shall report suspected child abuse or neglect immediately, as required by the Child Abuse Reporting Law (ORS 419B.005 through 419B.055) to the Department of Human Services Child Welfare (DHS) or to a law enforcement agency. By statute, this requirement applies 24 hours per day.¶
- (6) The certified family child care home shall comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans with Disabilities Act (ADA).¶
- (7) Representatives of all agencies involved in certification shall have immediate access to all parts of the home whenever the provider is conducting the child care business:¶
 - (a) OCCLD staff shall have the right to inspect all areas of the facility that are accessible to child care children, and to conduct a health and safety review of other areas of the facility to ensure the health and safety of child care children. This includes access to all caregivers, records of children enrolled in the home, and all records and reports related to the child care operation regarding compliance with these rules; and¶
 - (b) Representatives of the Department of Human Services Child Welfare (DHS) and the State Fire Marshal have the right to enter and inspect the home when an inspection has been requested by OCCLD.¶
- (8) Custodial parents of all children enrolled shall have access to the home during the hours their child(ren) are in care.¶
- (9) The provider shall develop the following information in writing and shall make it available to OCCLD, to staff, and to parent(s) at the time of enrollment:¶
 - (a) Guidance and discipline policy;¶
 - (b) Information on transportation, when provided by the provider or other caregiver; and¶
 - (c) The plan for handling emergencies and/or evacuations, including, but not limited to, acute illness of a child or staff, natural disasters (e.g. fire, earthquake, etc.), man-caused events, such as violence at a child care facility, power outages, and situations which do not allow reentry to the home after evacuation.¶
- (10) The provider shall comply with the Department of Human Services' administrative rules relating to:¶

- (a) Immunization of children (OAR 333-050-0010 through 333-050-0140);¶
- (b) Reporting communicable diseases (OAR 333-018-0000); and¶
- (c) Child care restrictable diseases (OAR 333-019-0010).¶
- (11) The provider shall report to OCCLD:¶
 - (a) Any death of a child while in care, within 24 hours;¶
 - (b) Within 24 hours:¶
 - (A) Any child that is lost or missing from the premises;¶
 - (B) Any child that is left behind on a facility excursion;¶
 - (C) Any child that is left unattended on the premises;¶
 - (D) Any child that is left alone on the playground; or¶
 - (E) Any child that is left alone in a vehicle.¶
 - (c) Any serious injury or incident, as defined in OAR 414-350-0010(323) within 5 calendar days after the occurrence. This does not include:¶
 - (A) Injuries for which a child is evaluated by a professional as a precaution;¶
 - (B) Injuries for which first aid is administered at the facility, but no further treatment by a medical professional is warranted; or¶
 - (C) Medical events due to routine, ongoing medical issues, such as asthma or seizures.¶
 - (d) Any damage to the building that affects the provider's ability to comply with the rules for Certified Family Child Care Homes within 48 hours of the occurrence.¶
 - (e) Any animal bites to a child within 48 hours of occurrence.¶
 - (f) Any change in provider prior to being on site. Such notification must include the replacement person's qualifications for the position and documentation that the person is enrolled in the Central Background Registry. A phone call, followed by written documentation, an e-mail or a FAX will serve as notification.¶
- (12) Documentation of meals and snacks provided by the certified family child care home shall be made available to OCCLD upon request, if the home does not participate in the USDA Child and Adult Care Food Program. Documentation is limited to the three weeks prior to the request.¶
- (13) The provider is responsible for compliance with these requirements (OAR 414-350-0000 through 414-350-0405).¶
- (14) Facilities must have parent(s) or guardian(s) of each child enrolled in the certified family child care home, sign a declaration form approved by the ~~Office of Child Care~~ Licensing Division verifying they have reviewed a copy of the current license certificate. The declaration shall be updated any time there has been an exception or condition added to the license.¶
- (15) Parental request or permission to waive any of the rules for certified family child care homes does not give the provider permission to do so.¶
- (16) The written emergency plan must be given to parents of children in care.¶
- (17) The ~~Office of Child Care~~ Licensing Division may notify parent(s) or guardian(s) of children under 12 months of age enrolled in the certified family child care home of any valid non-compliance with regulations for safe sleep included in OAR 414-350-0220(7).

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A.290, 329A.300, 329A.390, ORS 329A.260, 329A.280, 329A.400

AMEND: 414-350-0080

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0080

Records ¶

(1) The provider shall keep the following records:¶

(a) Complete and current information on each child, as required in OAR 414-350-0060(3) and (4);¶

(b) Daily attendance record for each child, including dates each child attended and arrival and departure times each day;¶

(c) Daily attendance record for the provider and each caregiver, including dates worked and arrival and departure times each day;¶

(d) Medication administered, as specified in OAR 414-350-0180(9);¶

(e) Emergency plan practice sessions and evacuations, as specified in OAR 414-350-0170(15);¶

(f) An injury to or death of a child, as specified in OAR 414-350-0180(8);¶

(g) Child abuse reports made to the Department of Human Services Child Welfare (DHS) or a law enforcement agency;¶

(h) The general routine, as specified in OAR 414-350-0220(3);¶

(i) Verification of the provider's and each caregiver's:¶

(A) Qualifications for the position, as specified in OAR 414-350-0100 and 414-350-0110;¶

(B) Current health-related training, such as CPR and First Aid, as specified in OAR 414-350-0100(3);¶

(C) Training as required in OAR 414-350-0115;¶

(D) Current enrollment in the Central Background Registry;¶

(E) Current food handler's certification pursuant to ORS 624.570, when required; and¶

(F) Caregiver participation in an orientation to the provider's policies and practices and these administrative rules.¶

(j) Lead testing results for drinking water for the past six (6) years.¶

(2) A provider shall allow custodial parent(s), upon request, to review all records and reports, except for child abuse reports, maintained on their own children.¶

(3) Records, except those specified in OAR ~~414-350-0165~~7080(1)(aj), shall be kept for at least two years, and caregivers' and children's records for two years after termination of employment or care. These records shall be available at all times to ~~OCCLD~~.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A.260, 329A.290

CHANGES TO RULE:

414-350-0090

General Requirements ¶¶

- (1) As required by Oregon civil rights law, ORS Chapter 659, the provider shall not discriminate in employment on the basis of race, color, gender, marital status, religion, national origin, age, or because of a mental or physical handicap unrelated to specific job performance.¶¶
 - (2) All caregivers, including the provider, shall:¶¶
 - (a) Have competence, sound judgment, and self-control in working with children;¶¶
 - (b) Be mentally, physically, and emotionally capable of performing duties related to child care; and¶¶
 - (c) Have the required training and/or experience for the positions they hold, as specified in OAR 414-350-0100 and 0110.¶¶
 - (3) If additional information is needed to assess a person's ability to care for children or to have access to children, OCCLD may require references, an evaluation by a physician, counselor, or other qualified person, or other information.¶¶
 - (4) No one shall have access to child care children who has demonstrated behavior that may have a detrimental effect on a child. Residents of the home are considered to have access to the child care children even if they are not generally at home during hours of operation. This does not apply to persons authorized to drop off and pick up a child care child.¶¶
 - (a) The owner, the provider, all caregivers and other residents of the premises 18 years of age or older must be enrolled in OCCLD's Central Background Registry prior to the issuance of an initial or renewal certificate. ¶¶
 - (b) The provider must receive confirmation from OCCLD that an individual 18 years of age or over, is enrolled or conditionally enrolled in the CBR before the individual can:¶¶
 - (A) Reside on the premises;¶¶
 - (B) Stay overnight on the premises for longer than 14 consecutive days, not to exceed a total of 30 days in a calendar year;¶¶
 - (C) Assist the provider; or¶¶
 - (D) Volunteer in the child care program.¶¶
 - (c) If any person listed in section (4)(a) & (b) of this rule has been charged with, arrested for, or a warrant is out for any of the crimes which OCCLD has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, certification may be denied or suspended until the charge, arrest, or warrant has been resolved if the person continues to operate, be employed in or reside in the home, or have access to children in the home.¶¶
 - (d) If a criminal record check shows that a warrant has been issued for any person checked, OCCLD will inform the originating law enforcement agency of the person's name, employment address and telephone number.¶¶
 - (e) Any visitor to the home or other adult who is not enrolled in the Central Background Registry shall not have unsupervised access to children.¶¶
- (5) Individuals conditionally enrolled in the CBR shall not have unsupervised access to children until the provider has confirmed with OCCLD the individual is enrolled, but may count in staff to child ratio.¶¶
 - (6) The provider shall have a written plan to ensure that individuals who are not enrolled or conditionally enrolled in the CBR and are on the child care premises shall not have unsupervised access to children.¶¶
 - (7) The provider shall maintain a log of arrival and departure times of all individuals 18 and older who are not enrolled or conditionally enrolled in the CBR and enter the home while child care children are present, excluding persons authorized to drop off and pick up a child care child.¶¶
 - (8) The provider, caregivers and other individuals that are required to be enrolled in the CBR and are on-site must maintain current enrollment in the CBR at all times while the certified family child care license is active.¶¶
 - (9) Individuals whose CBR enrollment has been revoked, denied or suspended, may not live in the home; be on the premises during child care hours; or have contact with child care children.¶¶
 - (10) If additional information is needed to assess a person's ability to care for children or to have access to children, OCCLD may require references, an evaluation by a physician, counselor, or other qualified person, or other information.¶¶
 - (11) Volunteers must meet the following requirements:¶¶
 - (a) If volunteers are counted in determining the staff/child ratios, they must meet the qualifications of the position they are filling and be enrolled in the Central Background Registry.¶¶
 - (b) If volunteers may have unsupervised access to children, they must be enrolled in the Central Background

Registry.¶

(c) If volunteers do not have unsupervised access to children at any time, including during emergencies, the provider must have a written policy to this effect, the policy must be known to all caregivers and volunteers, and the volunteers do not have to be enrolled in the Central Background Registry.¶

(12) No person shall smoke or carry any lighted smoking instrument, including an e-cigarette or vaporizer in the certified family child care home or within ten feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area, during child care hours or when child care children are present. No person shall use smokeless tobacco in the certified family child care home during child care hours or when child care children are present. No person shall smoke, carry any lighted smoking instrument, including an e-cigarette or vaporizer or use smokeless tobacco in motor vehicles while child care children are passengers.¶

(13) No one shall consume alcohol on the certified family child care home premises during the hours the child care business is conducted or when child care children are present. No one shall be under the influence of alcohol on the family child care home premises during the hours the child care business is conducted or when child care children are present.¶

(14) Notwithstanding OAR 414-350-0000(~~67~~), no one shall possess, use or store illegal controlled substances on the certified family child care home premises. No one shall be under the influence of illegal controlled substances on the certified family child care home premises.¶

(15) Notwithstanding OAR 414-350-0000(~~67~~), no one shall grow or distribute marijuana on the premises of the certified family child care home. No adult shall use marijuana on the certified family child care home premises during child care hours or when child care children are present.¶

(16) No adult under the influence of marijuana shall have contact with child care children.¶

(17) Secure Storage:¶

(a) All medical marijuana obtained from a dispensary must be kept in its original container and stored under child safety lock. All medical marijuana derivatives and associated paraphernalia must be stored under lock.¶

(b) Effective July 1, 2015 all marijuana, marijuana derivatives and associated paraphernalia must be stored under child safety lock.¶

(18) Notwithstanding OAR 414-350-0000(~~67~~), marijuana plants shall not be grown or kept on the certified family child care home premises.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A

AMEND: 414-350-0100

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD. Updated OAR reference.

CHANGES TO RULE:

414-350-0100

The Provider ¶

(1) The provider shall be:¶

(a) At least 18 years of age if the facility is certified for 12 children; or at least 21 years of age if the facility is certified for more than 12 children; and¶

(b) Responsible for the operation of the certified family child care home, including those duties ordinarily considered to be administrative. These include, but are not limited to, financial management, maintaining records, maintenance of the building and grounds, meal planning and preparation, compliance with certification requirements, communication with OCCLD, and correcting deficiencies.¶

(2) The provider shall have:¶

(a) At least one year of qualifying teaching experience, as specified in OAR 414-350-0010(289), in the care of a group of children in an ongoing group setting such as a kindergarten, preschool, child care center, certified family child care home, registered family child care home, or Head Start program; or prior to applying to be certified for up to 16 children, completed one year of successful operation as a certified family child care facility for 12 children if the qualifying teaching experience is based on registered family child care; or¶

(b) Completion of 20 credits (semester system) or 30 credits (quarter system) of training in a college or university in early childhood education or child development; or¶

(c) Documentation of attaining at least step eight in the Oregon Registry.¶

(3) The provider shall provide evidence of the following training prior to being certified:¶

(a) A current certification in first aid and infant and child cardiopulmonary resuscitation. CPR training must have practical hands-on instruction, therefore, strictly online training is not acceptable. CPR courses that involve an on-line component with hands-on instruction may be acceptable.¶

(b) A current food handler certification; ¶

(c) Have completed a minimum of two hours of training on child abuse and neglect that is specific to Oregon law; and¶

(d) Completed OCCLD approved safe sleep training.¶

(4) Prior to a facility providing care to more than two children under 24 months of age, the provider shall have at least 30 clock hours of training specific to infant and toddler care. The provider of facilities certified on October 15, 2002, who are providing care for more than two children under 24 months of age must have documentation of 30 hours of prior training in infant and toddler care or a plan, approved by OCCLD, that shows how the training will be attained.¶

(5) The provider/operator shall be on-site at least half of the hours of operation that are reflected on the certificate. If the facility is certified for more than 12 children, the provider shall be on site at least 2/3 of the hours of operation that are reflected on the certificate. The hours shall be calculated on a weekly basis, except for planned vacations and emergency absences.¶

(6) The provider shall have no other employment, either in or out of the home, during the hours the provider is directly caring for children.¶

(7) The provider, or a substitute caregiver, shall be present during all the hours the certified family child care business is conducted.¶

(8) A caregiver substituting for the provider shall:¶

(a) Be at least 18 years old;¶

(b) Have current certification in first aid and infant and child cardiopulmonary resuscitation (CPR). Training must have practical hands-on instruction; therefore, online training is not acceptable.¶

(c) Have current food handler certification pursuant to ORS 624.570, if the substitute will be preparing or serving food;¶

(d) Be familiar with the provider's policies and procedures and with these requirements (OAR 414-350-0000 through 414-350-0405);¶

(e) Be authorized and able to correct a deficiency that might be an immediate threat to children; and¶

(f) Have on file documentation of an orientation and training in these administrative rules and the functions and duties of a provider;¶

(g) Have completed a minimum of two hours of training on child abuse and neglect that is specific to Oregon law before they can have unsupervised access to children; and¶

(h) Have worked in the home at least 60 hours when substituting for the provider in a home certified to care for more than 12 children.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A.260, 329A.280, 329A.290

AMEND: 414-350-0110

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0110

Assistants ¶

- (1) Assistants may be included in the caregiver/child ratio calculation.¶
- (2) An Assistant I shall:¶
 - (a) Be at least 15 years of age;¶
 - (b) Have current certification in first aid and pediatric CPR;¶
 - (A) CPR courses must have practical hands-on instruction; ¶
 - (B) CPR courses that involve an on-line component with hands-on instruction may be accepted; ¶
 - (C) Strictly on-line CPR training is not acceptable; and¶
 - (D) New Assistant I's must complete the training within 90 days of employment.¶
- (c) Have on file documentation of an orientation and be familiar with the provider's policies and procedures and these requirements (OAR 414-350-0000 through 414-350-0405). ¶
- (d) Have completed a minimum of 2 hours of training on child abuse and neglect that is specific to Oregon law within 30 days of employment; ¶
- (e) Have a current food handler certification approved by the Oregon Health Authority or OCCLD before preparing or serving food;¶
- (f) Have completed OCCLD approved health and safety training within 30 days of employment; and¶
- (g) Have completed OCCLD approved safe sleep training within 30 days of employment.¶
- (3) An Assistant I, who is not enrolled in the CBR because they are under the age of 18, must be supervised within sight AND sound of the provider or substitute provider.¶
- (4) An assistant I, who is enrolled in the CBR, must be supervised within sight OR sound of the provider or substitute provider.¶
- (5) An Assistant II shall:¶
 - (a) Be at least 18 years of age;¶
 - (b) Have on file documentation of an orientation and be familiar with the provider's policies and procedures and these requirements (OAR 414-350-0000 through 414-350-0405);¶
 - (c) Have worked at least 60 hours at the certified family child care home, in a minimum of 3-4 hour blocks of time;¶
 - (d) Have current certification in first aid and CPR. Training must have practical hands-on instruction; therefore, online training is not acceptable; ¶
 - (e) With the approval of the provider, may be out of sight and sound of the provider with a group of children; and¶
 - (f) Have completed OCCLD approved safe sleep training.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A.260, 329A.280, 329A.290

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0115

Training Requirements ¶¶

(1) All staff shall receive an orientation within the first two weeks of employment and before they can have unsupervised access to children. Orientation shall ensure that staff are familiar with the contents of the orientation, as described below, and shall include, but is not limited to:¶¶

(a) Individual responsibilities in the event:¶¶

(A) The home must be evacuated (e.g. fire);¶¶

(B) An emergency requiring staff and children to remain inside under unusual circumstances (e.g. power outage, environmental hazard); or¶¶

(C) A child or staff is injured or becomes ill;¶¶

(b) These requirements (OAR 414-350-0000 through 414-350-0405);¶¶

(c) The facility policies, as required in OAR 414-350-0050; and¶¶

(d) Procedures for reporting suspected child abuse or neglect.¶¶

(2) The provider and all caregivers who function as substitute providers and Assistant II staff, including volunteers, shall participate yearly in at least 15 clock hours of training related to child care, of which at least eight clock hours shall be in child development or early childhood education. Substitute providers and volunteers who provide care in the home for less than 20 hours in a calendar year are not required to participate in the 15 clock hours of training. If an individual has worked in the facility less than a year, the training requirements will be prorated as follows: At least 1.25 clock hours for each month worked in the current license period.¶¶

(a) The following core knowledge categories are accepted for the child development and early childhood education requirement: Diversity (D), Family and Community Systems (FCS), Human Growth and Development (HGD), Health Safety and Nutrition (HSN), Learning Environments and Curriculum (LEC), Observation and Assessment (OA), Special Needs (SN), and Understanding and Guiding Behavior (UGB).¶¶

(b) Training may include correspondence courses, conferences, workshops and audio-visual programs.¶¶

(c) An approved planned reading program of professional materials may count for up to six hours of the 15 clock hours of training and must include a written assessment of reading materials completed by each participating staff person.¶¶

(d) OCCLD will accept duplicate training one additional time if it is a Set 2 (intermediate) or Set 3 (advanced) training or above as described by the Oregon Center for Career Development in Childhood Care and Education; and it is not taken within the same license period.¶¶

(3) During the first year of certification and the first year of employment staff may count up to two hours of orientation and their most recent training in first aid and CPR, food handler's and recognizing and reporting child abuse and neglect training, as part of the 15 clock hours of training required in OAR 414-350-0115(2), but may not use these toward the eight hours required in child development or early childhood education.¶¶

(a) Recognizing and reporting child abuse and neglect training must be based on Oregon law and practice so information is relevant to reporting in Oregon.¶¶

(b) Recognizing and reporting child abuse and neglect training must be two clock hours or more in duration to be accepted.¶¶

(4) During subsequent years of certification and subsequent years of employment staff may count five hours of first aid and CPR training or food handler's training as part of the 15 clock hours of training. Duplicate training on recognizing and reporting child abuse and neglect training can be accepted again after three years, and every three years thereafter towards the 15 clock hours of staff training required for licensing.¶¶

(5) The provider shall document each caregiver's training, showing the subject matter, the date completed, and the number of clock hours of training in each certification year.¶¶

(6) The provider and all staff, with the exception of Assistant I's, who count in staff to child ratios must complete OCCLD approved training on recognizing and reporting child abuse and neglect and health and safety, prior to having unsupervised access to children and functioning in their position. Assistant I's must complete the training within the first 30 days of employment.¶¶

(7) The provider and all staff, with the exception of Assistant I's, who count in staff to child ratios must complete OCCLD approved training on safe sleep prior to having unsupervised access to children. Assistant I's must complete the training within the first 30 days of employment.¶¶

(8) Prior to issuance of the license, the provider must complete OCCLD-approved child development training. If training is completed prior to issuance of the initial license, it will count as two hours of ongoing training for the

first license period.¶

(9) After September 30, 2022, staff members must complete OCCLD-approved child development training within 90 days of employment unless the training was completed previously.¶

(10) All staff must complete OCCLD-approved child development training by December 31, 2022, or within 90 days of hire, whichever is later.¶

(11) When a reopen or address change application is submitted, OCCLD shall, prior to approving it, receive evidence that the provider and all staff have completed OCCLD-approved safe sleep training. ¶

(12) Notwithstanding OAR 414-350-0100(3)(a), 414-350-0100(8)(b), 414-350-0110(2)(b)(A)(C), 414-350-0110(5)(d), an online-only CPR certification obtained between March 24, 2020 and June 30, 2022 will be accepted to meet the training requirement until the certification expires.¶

(13) All providers, substitute providers, and Assistant IIs must complete one hour of training in the core knowledge category of Health, Safety, and Nutrition each year.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A.260, 329A.280

AMEND: 414-350-0120

RULE SUMMARY: Implement HB2468, amendments to ORS 329A.330(2). Establishing capacity and adult to child ratio requirements, which must be established without taking into consideration the provider's children if the children are between 10 and 12 years of age, unless a child has special needs or disabilities and requires a level of care that is above normal for the child's age. Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0120

Caregiver/Child Ratios and Supervision ¶

(1) The number of caregivers and group size shall be determined by the number and ages of the children in attendance. ~~The required caregiver/child ratios shall be met at all times. This includes:¶~~

~~(a) All children in the home, including the provider's or care children, as defined in OAR 414-350-0010(9);¶~~

~~(b) The provider's own child(ren), including foster child(ren), 9 years of age or younger;¶~~

~~(c) All other caregivers' own children, shall be counted in determining the caregiver/child ratio and group size; age 12 years or younger;¶~~

~~(d) Any other children age 12 years or younger for whom the provider is responsible; and¶~~

~~(be) Any child(ren) visiting the home on a regular basis will count in capacity. Children attending with a parent do not count as enrolled as long as age 17 years or younger, including the provider's own children, foster children, child care children, or other children for whom the provider is responsible, with special needs or disabilities who require a level of care that is above normal for the child's age.¶~~

~~(2) Other children, including but not limited to relatives, neighborhood children or friends of the provider's children, are included in the maximum number of children allowed in care if their parent remains with and is responsible for non-enrolleds or other adults responsible for supervising them are not present in the home or are not directly supervising their own child(ren);. ¶~~

~~(e3) The required caregiver/child ratios shall be met at all times. Visiting children and their parents or others directly supervising them can be in the family child care home only on an occasional basis. ¶~~

~~(24) Children shall at all times have the full attention of and be supervised by the required number of caregivers:¶~~

~~(a) Children shall be within sight and/or sound of a caregiver at all times;¶~~

~~(b) A caregiver shall be near enough to children to respond when needed. Children out of direct visual contact shall be monitored regularly and frequently and must be in approved activity areas;¶~~

~~(c) Children may not be on a floor level of the home unless a caregiver is on the same floor level, except as specified in OAR 414-350-0120(2)(d);¶~~

~~(d) When bathroom facilities are not on the same floor level, a written plan for adequate supervision of both bathroom and child care areas shall be developed and implemented.¶~~

~~(35) The number of caregivers is determined by the age and number of the youngest child(ren) in the group. If the provider is certified to care for more than 12 children and plans to care for more than 8 infants and/or toddlers, the provider must develop a plan showing how infants and toddlers will be limited to a group size of not more than eight. The plan must be approved by OCCLD:¶~~

~~(a) If all children are in the same age group, the following table determines the staff/child ratio; ¶~~

~~(b) If children in care include any infants and/or toddlers, the following table determines the staff/child ratio; ¶~~

~~(c) If children in care include a mix of only preschool and school aged children, the following table determines the staff/child ratio; ¶~~

~~(d) Even though staff/child ratios are specified in (a) and (b) above, a certified family child care provider may care for 10 children ages 6 weeks to school-age if:¶~~

~~(A) No more than 6 children are pre-school age or younger, including the provider's own children and any staff children;¶~~

~~(B) Of the 6, only 2 children are under 24 months of age; and¶~~

~~(C) Four of the children are school-age.¶~~

~~(46) The maximum number of children allowed in a certified family child care home at any one time is 16.¶~~

~~(57) If the home is certified to care for more than 12 children and the age blend is such that group separation is required:¶~~

~~(a) Groups may be joined for: meals, naps, outdoor play, and limited quiet activities such as a video or circle time;¶~~

~~(b) Provider must develop a plan that shows how the groups will be separated without requiring remodeling of the home. The plan must be approved by OCCLD.¶~~

~~(68) If the facility provides care to more than two children under 24 months of age, the provider shall meet the requirements specified in OAR 414-350-0100(4).¶~~

(79) Prior to a facility providing care to more than four children under 24 months of age, at least one caregiver other than the provider shall meet the requirements specified in OAR 414-350-0100(4). In addition, the provider shall have an extra 20 clock hours of training specific to infant and toddler care above and beyond the original requirements. If the facility is certified to care for more than 12 children, there must be someone who meets the training requirements of OAR 414-350-100(4) on site at all times that five or more children under 24 months of age are in care.¶

[ED NOTE: Tables referenced are available from the agency.]

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A.260, 329A.290, HB2468 (2023)

AMEND: 414-350-0130

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0130

General Requirements ¶¶

(1) The certified family child care home shall be:¶¶

(a) Located in an area zoned residential or commercial:¶¶

(A) "Residential zone" means any zone within an acknowledged urban growth boundary or an acknowledged residential exception area that allows a dwelling unit as a use permitted outright.¶¶

(B) "Commercial Zone" means any zone within an acknowledged urban growth boundary or an acknowledged commercial exception area that allows sales or service or commercial and professional offices as uses permitted outright.¶¶

(b) A building constructed as a single family dwelling; and¶¶

(c) In space designed or remodeled for living quarters.¶¶

(2) A home that is not the residence of the provider or a home located in a zone other than residential or commercial shall meet all state and local planning and zoning, occupancy, and building code requirements for a child care facility.¶¶

(3) If there is a structural or maintenance problem that could present a health or safety hazard to children, CCLD may request that the provider have the home inspected by the appropriate authority and the provider shall comply with the request.¶¶

(4) The provider is responsible for payment of any applicable fees for inspections.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A.260, 329A.280, 329A.290, 329A.390

AMEND: 414-350-0140

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0140

Indoor Area ¶

(1) The indoor area used for child care shall meet the following requirements:¶

(a) If the provider is certified to care for 12 children or fewer, there shall be a minimum of 35 square feet of indoor activity area, as defined by OAR 414-350-0010(1), per child. If the provider is certified to care for more than 12 children, there shall be a minimum of 35 square feet of indoor activity area per child for 12 or fewer children, and 50 square feet of indoor activity area available per child for each of the additional four children. This space, considered in determining capacity of the home, shall be available for use by children at all times. The following shall not be counted as part of the 35 square feet per child requirement: heating units, storage areas; large permanent equipment; any space not useable by children.¶

(b) There shall be a designated area for children under 24 months of age that is developmentally appropriate and safe.¶

(c) If the facility is certified to care for more than 12 children, the provider must develop a written plan showing that the space accessible to the children meets their safety needs, there is adequate supervision and there is adequate availability of toileting and hand washing for the children in care. ~~OCCLD~~ must approve the plan.¶

(d) Activity areas shall be adequately lighted and ventilated. Room temperature shall be at least 68 degrees F. (20 degrees C.) and not so warm as to be dangerous or unhealthy to children in care.¶

(2) Indoor fixtures and equipment shall meet the following requirements:¶

(a) There shall be at least one flush toilet and one hand washing sink with mixing faucets available to the children at all times. If the facility is certified to care for more than 12 children, the provider must have a second flush toilet somewhere in the facility if: there are more than 15 children in care or if there are more than 12 toddlers in care. Homes with certification in effect on September 15, 2002, shall comply with the requirement for mixing faucets when bathroom facilities are remodeled.¶

(b) Easily cleanable steps or blocks shall be provided so that children can use the toilets and sinks without adult assistance.¶

(c) If bathroom facilities are not on the same floor level as the activity areas, the provider must comply with OAR 414-350-0120(2)(d).¶

(d) Telephone service shall be available in the home at all times when children are in care.¶

(e) Telephone numbers for fire, emergency medical care, and poison control, as well as the facility address, shall be posted on or near the telephone. Portable telephones must have emergency numbers and the facility address on the phone.¶

(f) There must be a system in place to ensure that parents can have contact with the provider and staff when children are in care.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A.260, 329A.280, 329A.290

AMEND: 414-350-0150

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0150

Outdoor Area ¶¶

(1) There shall be an outdoor activity area that children can reach safely. If the outdoor activity area is not under the control of the provider during the hours of operation of the home, written approval to use the area by OCCLD is required.¶¶

(2) A home shall have an outdoor play area of no less than 75 square feet for each child using the area at one time.¶¶

(3) The outside activity area shall be:¶¶

(a) Suitably surfaced and well drained. Playground equipment, such as slides, swings, climbing structures and other elevated equipment, shall be surrounded by a resilient surface of an acceptable depth or by rubber mats manufactured for such use, according to standards of the US Consumer Product Safety Commission;¶¶

(b) Kept free of litter, solid waste and refuse, ditches, or other conditions presenting a potential hazard; and¶¶

(c) Equipped to provide age-appropriate activities for gross motor development.¶¶

(4) The outdoor activity area of the home designated for use by child care children shall be enclosed by a barrier (fence, wall, or building) at least four feet high. Certified family child care homes with certification in effect on September 15, 2002, must comply with a barrier at least three feet high until such time as the existing barrier is replaced. Spacing between vertical slats of a fence shall be no greater than 4 inches. Fences must meet applicable local codes.¶¶

(5) The provider shall be aware of and protect children from any toxic or other harmful plants, shrubs, or trees.¶¶

(6) The use of swimming pools shall comply with OAR 414-350-0380. As specified in 414-350-0380(2)(h), portable-style wading pools are not permitted.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A.260, 329A.280, 329A.290

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0165

Testing for Lead in Drinking Water

(1) For purposes of this rule, "drinking water faucet or fixture" ¶

(a) means any plumbing fixture on the premises used to obtain water for drinking, cooking, preparing infant formula, or preparing food; and ¶

(b) does not include any plumbing fixture used to obtain water for handwashing, bathing, or diaper changing. ¶

(2) Water obtained from fixtures identified in subsection (1)(b) of this rule cannot be used for drinking, cooking, preparing infant formula, or preparing food. ¶

(3) Initial Testing ¶

(a) Any provider with an active certificate as of September 30, 2018 must test each drinking water faucet or fixture for lead by November 30, 2018. ¶

(b) The following providers must test each drinking water faucet or fixture for lead in the water prior to being eligible to receive a license from OCCLD: ¶

(A) Any provider with a pending certificate application as of September 30, 2018; and ¶

(B) Any provider applying for a certificate on or after September 30, 2018, including, but not limited to, initial applications, renewal applications, and reopen applications. ¶

(c) A provider identified in subsection (3)(a) or (b) does not need to conduct the initial testing if: ¶

(A) All drinking water faucets or fixtures have been tested within 6 years prior to the effective date of this rule; and ¶

(B) The testing was conducted in accordance with the requirements of subsection (5) of this rule. ¶

(d) A provider identified in subsection (3)(a) must submit all test results to OCCLD no later than November 30, 2018. The test results must be accompanied by a floor plan or map of the facility that identifies the location of each drinking water faucet or fixture tested. ¶

(e) A provider identified in (3)(b) must submit test results to OCCLD within 10 calendar days of the facility receiving the results from the laboratory. The test results must be accompanied by a floor plan or map of the facility that identifies the location of each drinking water faucet or fixture tested. ¶

(4) Ongoing Testing ¶

(a) After a provider conducts the initial testing under subsection (3) of this rule, the provider must test all drinking water faucets or fixtures at least once every six years from the date of the last test. ¶

(b) All test results obtained in accordance with subsection (4)(a) of this rule must be submitted to OCCLD within 10 calendar days of the provider receiving the results from the laboratory. The test results must be accompanied by a floor plan or map of the facility that identifies the location of each drinking water faucet or fixture tested. ¶

(5) Sampling and Testing ¶

(a) All sample collection and testing must be in accordance with the Environmental Protection Agency (EPA)'s 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by reference. ¶

(b) All testing must be performed by a laboratory accredited by the Oregon laboratory Accreditation Program according to standards set under OAR chapter 333, division 64 in effect as of September 30, 2018. ¶

(c) If a facility does not use any of the on-site plumbing fixtures to obtain water for drinking, cooking, preparing infant formula, or preparing food, the provider must: ¶

(A) Submit a written statement to OCCLD identifying the alternative source of water and confirming that the provider does not use any on-site plumbing fixtures for drinking, cooking, preparing infant formula, or preparing food; and ¶

(B) Notify OCCLD in writing if the alternative source of water changes. ¶

(6) Results ¶

(a) If test results show that water from any drinking water faucet or fixture has 15 parts per billion (ppb) or more of lead, the provider must: ¶

(A) Prevent access to that drinking water faucet or fixture immediately after receiving the test results; and ¶

(B) Continue to prevent access to that drinking water faucet or fixture until mitigation is completed in accordance with subsection (6)(b) of this rule. ¶

(b) Following receipt of test results showing that water from any drinking water faucet or fixture has 15 parts per billion (ppb) or more of lead, the provider must: ¶

(A) Submit a corrective action plan to OCCLD for approval within 60 days of receiving the test results. The corrective action plan must identify an appropriate mitigation strategy in accordance with Module 6 of the EPA's

3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by reference; and¶

(B) Implement the mitigation method within 30 days of approval by OCCLD.¶

(7) Recordkeeping and Posting¶

(a) The provider must keep a copy of the most recent lead test results on-site at all times.¶

(b) The provider must post the most recent lead test results summary provided by OCCLD in an area of the facility where the summary can be clearly viewed by parents. The provider must post the lead test results summary immediately after receiving the summary from OCCLD.¶

(8) Providers must follow the routine practices identified in Module 6 of the EPA's 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by reference, at all times.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A

AMEND: 414-350-0170

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD. Update ORS references.

CHANGES TO RULE:

414-350-0170
Home Safety ¶¶

- (1) All floor levels used by children for play and napping shall have two usable exits to ground level.¶¶
- (2) All rooms used by children for play and napping shall have two usable exits.¶¶
- (3) Obstructions, including furniture, storage of supplies, or any other items shall not be placed in a manner that blocks usable exits. The provider must complete a daily inspection to ensure that evacuation routes are clear and usable exits, including doors and escape windows, are operable.¶¶
- (4) There shall be at least one 2-A-10 BC rated fire extinguisher on each floor of the home, unless the floor is not under the direct control of the provider. ¶¶
- (a) Fire extinguishers on floors where child care occurs must be designated on the floor plan required in OAR 414-350-0050 and either mounted or stored along the primary evacuation route. Fire extinguishers must be easily accessible and visible.¶¶
- (b) If fire extinguishers are stored in a cabinet or closet, they must be mounted and there must be a sign indicating that the fire extinguisher is located inside. Obstructions, including furniture, storage of supplies, or any other items shall not be placed in a manner that blocks access to the cabinet or closet.¶¶
- (5) The provider must inspect the fire extinguishers monthly and the inspection must be documented.¶¶
- (6) Smoke alarms and carbon monoxide detectors shall be:¶¶
- (a) Installed on each floor level of the home and in any area where children nap; ¶¶
- (b) Maintained in operating order; and¶¶
- (c) Tested monthly to ensure they are in working order. The provider must document each test. ¶¶
- (7) Candles or other open flame decorative devices are prohibited, except for the brief use of celebratory candles.¶¶
- (8) Matches and lighters shall be kept in locked storage when not in use.¶¶
- (9) A portable light source, to be used in emergencies, shall be:¶¶
- (a) Available in all activity areas used by children;¶¶
- (b) In working condition; and¶¶
- (c) Stored in an easily accessible place.¶¶
- (10) Items of potential danger (e.g., cleaning supplies and equipment, paints, poisonous and toxic materials, plastic bags, aerosols, detergents) shall be:¶¶
- (a) Kept in the original container or labeled;¶¶
- (b) Stored under child-proof lock; and¶¶
- (c) Kept away from food service supplies.¶¶
- (11) The provider shall protect children from safety hazards, including but not limited to:¶¶
- (a) A rigid screen or guard shall be installed to prevent children from falling into a fireplace or against a heater or wood stove;¶¶
- (b) A movable barrier, such as mesh-type gate, shall be placed at the top and/or bottom of all stairways accessible to infants and toddlers. Gates and enclosures should have the Juvenile Products Manufacturers Assn. (JPMA) certification seal to ensure safety;¶¶
- (c) Child-proof latches shall be installed on all cupboards, closets, and drawers that contain hazardous objects and may be accessible to preschool-age and younger children;¶¶
- (d) Firearms, ammunition, and other potentially hazardous equipment, such as darts, other projectiles, power tools, and knives shall be kept under lock:¶¶
- (A) Firearms, pellet or BB guns must be unloaded and kept in areas not used by child care children; and¶¶
- (B) Ammunition shall be stored separately from firearms;¶¶
- (e) Hot water heaters shall be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location;¶¶
- (f) Unused appliances, such as old refrigerators or freezers, that present a risk for entrapment, shall be secured so as to prevent entry by children;¶¶
- (g) Clear glass panels in doors shall be clearly marked at child level;¶¶
- (h) All exposed electrical outlets in rooms used by preschool or younger children shall have hard-to-remove protective caps or safety devices when not in use;¶¶
- (i) Extension cords shall not be used as permanent wiring. All appliance cords will be in good condition and multiple

connectors for cords will not be used. A grounded power strip outlet with built-in over-current protection may be used;¶

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

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

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

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

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

(14) The use of unvented, fuel-fired space heaters is prohibited.¶

(15) Flammable and combustible materials: ¶

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

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

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

(16) Fire drills shall be practiced monthly at various times during child care operation hours:¶

(a) Fire drills must include a drill using an alternate evacuation route at least once per year.¶

(b) An evacuation drill must be conducted when requested by OCCLD during an announced visit.¶

(c) The provider must have an alert method (for example, a smoke alarm, strobe light, loud bell or whistle) to warn the occupants of the home of an emergency or drill.¶

(d) The provider must demonstrate efforts to complete full evacuation of staff and child care children within three minutes. If unable to evacuate within three minutes, the provider must engage in additional efforts including one or more of the following:¶

(A) Using evacuation cribs, strollers/buggies, or wagons;¶

(B) Providing staff with additional training;¶

(C) Giving children specific tasks to complete during the drill, such as holding onto a safety walking rope;¶

(D) Providing children with clear and direct instructions that are age-appropriate about what is happening during the drill;¶

(E) Reviewing and editing emergency plans and evacuation routes;¶

(F) Conducting additional evacuation drills;¶

(G) Incorporating fire safety planning into curriculum; and¶

(H) Other strategies identified by OCCLD.¶

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

(a) The date and time;¶

(b) The exits used; ¶

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

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

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

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

(g) The alert method used.¶

(18) One other aspect of the emergency plan in addition to the monthly fire drills shall be practiced at least every other month and must follow the recording requirements listed in OAR 414-350-0170(17)(a-g).¶

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

(a) Procedures for notifying parents or other adults responsible for the children, of the relocation and how children will be reunited with their families;¶

(b) Procedures to address the needs of individual children, including infants and toddlers, children with special needs, and children with chronic medical conditions;¶

(c) An acceptable method to ensure that all children in attendance are accounted for;¶

(d) Procedures in the event that children must shelter-in-place or if the child-care home must be locked-down so that no one can enter or leave; and¶

(e) Procedures for maintaining continuity of child-care operations.¶

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

(a) Require drop off and pick up only at the curb or at an off-street location protected from traffic.¶

(b) Assure that any adult who supervises drop-off and loading can see and assure that children are clear of the perimeter of all vehicles before any vehicle moves.¶

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

Statutory/Other Authority: ORS 657329A.260

Statutes/Other Implemented: ORS ~~657329A~~.260, ~~657329A~~.280, ~~657329A~~.290, ~~657329A~~.420

AMEND: 414-350-0180

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD. Correct spelling errors in (7)(a) and (12)(e).

CHANGES TO RULE:

414-350-0180

Illness or Injury ¶

- (1) A provider shall not admit, or retain in care, a child who:¶
 - (a) Is diagnosed as having or being a carrier of a child care-restrictable disease, as defined in Department of Human Services administrative rules, OAR 333-019-0010; or¶
 - (b) Has one of the following symptoms, or combination of symptoms, of illness:¶
 - (A) Diarrhea (more than one abnormally loose, runny, watery or bloody stool);¶
 - (B) Vomiting;¶
 - (C) Fever over 100 degrees F taken under the arm;¶
 - (D) Severe cough;¶
 - (E) Unusual yellow color to skin or eyes;¶
 - (F) Skin or eye lesions or rashes that are severe, weeping, or pus-filled;¶
 - (G) Stiff neck and headache with one or more of the symptoms listed above;¶
 - (H) Difficult breathing or abnormal wheezing; or¶
 - (I) Complaints of severe pain.¶
- (2) A child who, after being admitted, shows signs of illness, as defined in subsection (1) of this rule, shall be isolated and the parent(s) notified and asked to remove the child from the home as soon as possible.¶
- (3) If a child has mild cold symptoms that do not impair his/her functioning, the child may remain in the home and the parent(s) notified when they pick up the child.¶
- (4) A specific place for isolating a child who becomes ill shall be provided. The isolation area shall be:¶
 - (a) Located where the child can be seen and heard by a caregiver; and¶
 - (b) Equipped with a cot, mat, or bed for each sick child.¶
- (5) All caregivers shall take appropriate precautions to prevent shaken baby syndrome and abusive head trauma.¶
- (6) The provider shall identify a licensed physician, hospital, or clinic to be used for emergency medical care:¶
 - (a) The provider shall have written procedures for taking a child to emergency medical care;¶
 - (b) In the event of an illness or injury which requires immediate medical care, the provider is responsible for securing such care and notifying the parent(s).¶
- (7) First aid supplies and a chart or handbook of first aid instructions shall be maintained in one identified place but kept out of reach of children:¶
 - (a) The first aid supplies shall include bandaids, adhesive tape, sterile gauze pads, soap or sealed antiseptic towelettes or solution to be used as a wound cleaning agent, scissors, disposable plastic gloves for handling blood spills, chlorine bleach for sanitizing after a blood spill, a sanitary temperature taking device, and CPR mouthguards; and¶
 - (b) First aid supplies shall be taken on all field trips.¶
- (8) Injuries or accidents shall be reported to the child's parent(s) on the day of occurrence:¶
 - (a) A written report of the injury or accident shall be maintained on file;¶
 - (b) The report shall include the date, child's full name, nature of the injury, witnesses, action taken, and the signatures of the provider and parent(s); and¶
 - (c) The injury to or death of a child shall be reported to OCCLD in accordance with OAR 414-350-0050(11)(a) and (c).¶
- (9) No prescription or non-prescription medication, including, but not limited to, pain relievers, sunscreen, cough syrup, diapering and first aid ointments or nose drops, shall be given to a child except under the following conditions:¶
 - (a) A signed, dated, written authorization from the parent(s) is on file;¶
 - (b) Prescription medication is in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, date and physician's name;¶
 - (c) Non-prescription medication is in the original container, labeled with the child's name, the dosage, and directions for administering;¶
 - (d) A written record of all medications administered, listing, as a minimum, the name of the child, type of medication, the signature of the caregiver administering the medication, date, time, and dosage given, shall be kept;¶
 - (e) All medications shall be secured in a tightly-covered container with a child-proof lock or latch and stored so

that they are not accessible to children;¶

(f) Medications requiring refrigeration shall be kept in the refrigerator in a separate, tightly-covered container, with a child-proof lock or latch, clearly marked "medication"; and¶

(g) Parent(s) shall be informed daily of medication administered to their child.¶

(10) Sunscreen is considered a non-prescription medication and may be used for child care children under the following conditions:¶

(a) Providers must obtain written parental authorization prior to using sunscreen.¶

(b) One container of sunscreen may be used for child care children unless a parent supplies an individual container for their child. The sunscreen shall be applied in a manner that prevents contaminating the container.¶

(A) Parents must be informed of the type of product and the sun protective factor (SPF).¶

(B) Parents must be given the opportunity to inspect the product and active ingredients.¶

(c) If sunscreen is supplied for an individual child care child, the sunscreen must be labeled with the child's first and last name and must be used for only that child.¶

(d) Providers must reapply sunscreen every two hours while the child care children are exposed to the sun.¶

(e) Providers shall use a sunscreen with an SPF of 15 or higher and must be labeled as "Broad Spectrum".¶

(f) Providers shall not use aerosol sunscreens on child care children.¶

(g) Sunscreen shall not be used on child care children younger than six months.¶

(h) Child care children over six years of age may apply sunscreen to themselves under the direct supervision of the provider or staff member.¶

(11) Parents of all children enrolled in the certified family child care home shall be informed of any outbreak of communicable disease within the facility.¶

(12) A written care plan must be developed at the time of enrollment, or when an allergy is identified for each enrolled child who has an allergy that poses a threat to the child's health, safety, and well-being. The plan must include instructions regarding the allergen and steps to be taken to avoid the allergen; signs and symptoms of an allergic reaction; and a detailed treatment plan including the names, doses, and methods of prompt administration of any medication in response to allergic reactions.¶

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

(b) If epinephrine is administered, emergency medical services must be contacted immediately, and ~~Office of Child Care~~ Licensing Division must be notified within five calendar days of the occurrence.¶

(c) All staff involved in care of the child must be trained on the written care plan.¶

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

(e) A list of each child's allergies should be easily accessible for staff but not visible to those who are not parents or guardians of the enrolled child.

Statutory/Other Authority: ORS 657329A.260

Statutes/Other Implemented: ORS 657329A.260, 657329A.280, 657329A.290

CHANGES TO RULE:

414-350-0210

Meals and Snacks ¶¶

(1) The provider shall provide or ensure the availability of adequate and nutritious meals and snacks appropriate for the ages and needs of the children served. USDA guidelines will be used to determine if meals and snacks are adequate and nutritious. Foods of minimal nutritional value (e.g., Jell-O, popcorn, desserts, potato chips) shall only be served occasionally and not replace nutritious foods.¶¶

(a) Every meal shall meet USDA guidelines and shall include at least one serving from each of the following food groups: fluid milk; breads and grains; meat, fish, poultry or meat alternatives (e.g., dried beans, peanut butter, yogurt or cheese). Each meal shall include two servings of fruits or vegetables. No liquids other than milk and 100% fruit juice shall be counted as part of the daily nutrition.¶¶

(b) Snacks shall meet USDA guidelines and shall consist of food or beverage from at least two of the following food groups: fluid milk, breads and grains; meat, fish, poultry or meat alternatives (e.g., dried beans, peanut butter, yogurt or cheese); vegetables and fruits. No liquids other than milk and 100% fruit juice shall be counted as part of the daily nutrition. A snack shall not consist of only two beverages.¶¶

(c) Nutrient concentrates and supplements (protein powders, liquid proteins, vitamins, minerals, and other nonfood substances) shall not be served to a child without a written statement of parental consent and written instructions from a medical practitioner. Special diets, not including vegetarian diets, shall not be served to a child without written instructions from a registered dietician or medical practitioner and written parental consent.¶¶

(2) Meals and snacks provided to children shall meet the following requirements:¶¶

(a) In certified family child care homes open morning through afternoon, lunch and morning and afternoon snacks shall be served to the children in care. If breakfast is served to all children, a midmorning snack is not required;¶¶

(b) School-age children arriving after school shall be served a snack;¶¶

(c) When the planned attendance is prior to 7 a.m. or after 6:30 p.m., a child shall be offered a complete meal if it is not provided by the parent(s); and¶¶

(d) There shall be no more than 3-1/2 hours between meals and snacks.¶¶

(3) Meals and snacks for children shall be:¶¶

(a) Prepared by the provider;¶¶

(b) Prepared by the parent of the child; or¶¶

(c) Prepared from a source approved by the Department of Human Services.¶¶

(4) When the parent of a child provides food for the child's meal:¶¶

(a) The provider shall be responsible for at least one serving of milk or a milk product to each child at meals;¶¶

(b) Each child's food shall be monitored daily by a caregiver to ensure that the food meets nutritional requirements as defined in section (1) of this rule; and¶¶

(c) The provider shall have sufficient food available to supplement any meal that does not meet nutritional requirements as defined in section (1) of this rule.¶¶

(5) Meals shall be served in a manner that supports safe and sanitary eating and allows socialization to occur.¶¶

(6) Nutrient concentrates and supplements shall not be served to a child without a written statement of consent from the parent and a medical practitioner. Special diets, not including vegetarian diets, shall not be served to a child without a written statement of consent from the parent and a registered dietician or medical practitioner.¶¶

(7) To serve family style meals, where food is brought to the table in larger quantities and served to the plates from the table, a certified home must have a written plan, approved by the environmental health specialist and OCCLD, which includes at least the following elements:¶¶

(a) Provision for handwashing immediately prior to eating;¶¶

(b) Separate serving portions for each table, if more than one table is used;¶¶

(c) Serving utensils distinct from eating utensils;¶¶

(d) Provision for serving mildly ill children so as to prevent the spread of the illness;¶¶

(e) The discarding of any food brought to the table and not eaten; and¶¶

(f) Food brought to the table must be covered until a caregiver is seated with the children.¶¶

(8) A certified family child care home serving children under 12 months of age shall comply with the following requirements for those children:¶¶

(a) Each child shall be fed on his/her own feeding schedule.¶¶

(b) When formula is furnished by the provider, it shall be either the commercially prepared, iron-enriched, ready-to-feed type or shall be prepared from powder or concentrate and diluted according to manufacturers'

instructions. When formula is prepared on site, the provider must have a written plan for mixing formula and sanitizing bottles and nipples. The plan must be approved in writing by the environmental health specialist.¶¶

(c) Formula, breast milk, and food provided by the parent shall be clearly marked with the child's name and refrigerated if required.¶¶

(d) No liquids, other than milk, formula, water, and 100 percent fruit juice, shall be served.¶¶

(e) Whole milk, skim milk, 1%, and 2% milk shall not be served unless requested in writing by the child's parent(s) and with a medical provider's written permission.¶¶

(f) Solid foods fed to infants shall be selected from the USDA Infant Food Chart.¶¶

(A) Solid foods shall not be fed to infants less than four months of age without parental consent.¶¶

(B) Solid food shall not be served directly from the container unless the child consumes the entire contents of the container or any remaining food in the container is discarded.¶¶

(C) If a portion of solid food from a container is placed in a clean, sanitized dish and served from the dish, any food remaining in the dish shall be discarded.¶¶

(D) Open containers of food, from which a portion has been removed, must immediately be refrigerated at 41 degrees F or less.¶¶

(E) Solid foods, with the exception of finger foods, shall be fed with a spoon.¶¶

(g) Honey or foods containing honey shall not be served; and¶¶

(h) Children who cannot feed themselves shall be held or, if able to sit alone, fed in an upright position.¶¶

(A) Infants up to six months of age shall be held or sitting up in a caregiver's lap for bottle feeding.¶¶

(B) Bottles shall never be propped. The child or a caregiver shall hold the bottle.¶¶

(C) Infants no longer being held for feeding shall be fed in a manner that provides safety and comfort.¶¶

(9) Children of any age shall not be laid down with a bottle.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: ORS 329A.260, 329A.280, 329A.290

AMEND: 414-350-0235

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0235

Infant and Toddler Furniture and Equipment ¶¶

- (1) Each infant shall have a crib, portable crib, or playpen with a clean, non-absorbent mattress that meets the following requirements:¶¶
- (a) Each crib shall be of sturdy construction with vertical slats no more than 2 3/8" apart;¶¶
 - (b) Locks and latches on the dropside of the crib shall be safe and secure from accidental release or release by the infant inside the crib;¶¶
 - (c) Each mattress shall fit snugly; and¶¶
 - (d) Sleeping arrangements shall be appropriate to the cultural background of the infant, with individual bedding appropriate to the season.¶¶
- (2) If infants and toddlers are in care there shall be:¶¶
- (a) A bathtub, bathinette, plastic basin, or similar size shallow sink available for bathing children; and¶¶
 - (b) A diaper-changing area. The area shall be located so that handwashing can occur immediately after diapering without contact with other surfaces or other children.¶¶
 - (c) If the provider is certified to care for more than 12 children and more than 8 infants and toddlers are regularly in care, there must be a second diaper-changing area available.¶¶
- (3) The diaper-changing table or area shall comply with the requirements specified in OAR 414-350-0160(3)(a)(G).¶¶
- (4) If high chairs are used, they shall have:¶¶
- (a) A broad base to prevent tipping;¶¶
 - (b) A latch to keep a child from raising the tray; and¶¶
 - (c) Straps to prevent a child from sliding out.¶¶
- (5) Cribs, portable cribs, playpens, and high chairs must meet US Consumer Product Safety Commission or equivalent standards.¶¶
- (6) The use of baby equipment shall not substitute for providing a variety of stimulating experiences.¶¶
- (7) The use of infant walkers is prohibited.¶¶
- (8) The use of potty chairs must be approved by the environmental health specialist and/or by OCCLD.

Statutory/Other Authority: ORS 329A

Statutes/Other Implemented: ORS 329A.260, 329A.280

AMEND: 414-350-0250

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0250

Transportation ¶¶

When transportation is provided by or arranged for by the certified family child care home, the following requirements must be met.¶¶

(1) Drivers shall be at least 18 years of age and hold a current driver's license.¶¶

(2) The vehicle shall be:¶¶

(a) In compliance with all applicable state and local motor vehicle laws, and¶¶

(b) Maintained in a safe operating condition.¶¶

(3) If transportation is provided between the certified family child care home and the child's school or other destination, the provider shall have in writing an acknowledgment from the parent(s) that they are aware of the time of day their child is to be picked up and/or delivered by the provider. If the pick-up schedule results in children being unsupervised at school or other location, the provider shall notify parents of this fact.¶¶

(4) When transporting children:¶¶

(a) The emergency information for each child who is being transported shall be in the vehicle.¶¶

(b) Children shall be transported only in sections of vehicles designed for and equipped to carry passengers.¶¶

(c) A seat that fully supports the passenger shall be provided for each child.¶¶

(d) The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle.¶¶

(e) All children shall be transported in accordance with ORS 811.210. The child safety system and safety belts shall comply with ORS 815.055 and the standards adopted by the Oregon Department of Transportation. A child under four years of age and weighing 40 pounds or less shall be in an approved child safety system. A child between the ages of 4 and 6 years AND children who weigh between 40 and 60 pounds, regardless of age, must use a booster seat.¶¶

(f) Staff/child ratios, as specified in OAR 414-350-0120, shall be maintained in vehicles, as well as in the certified family child care home, when one caregiver is transporting children.¶¶

(g) Infants, toddlers, and preschool age children shall leave the vehicle on the same side of the street as the building they will enter.¶¶

(h) Drivers delivering children to their homes shall not depart until the child has been received by an authorized person.¶¶

(i) No child shall be left unattended inside or outside a vehicle.¶¶

(j) If firearms and ammunition are stored in a vehicle, they must be stored as specified in OAR 414-350-0170(10)(d).¶¶

(5) The following vehicles may be used to transport child care children:¶¶

(a) A vehicle manufactured to carry fewer than ten passengers;¶¶

(b) A school bus or a multi-function school activity bus;¶¶

(c) A vehicle manufactured to carry ten or more passengers that was manufactured in 2010 or after; or¶¶

(d) A vehicle manufactured to carry ten or more passengers that was manufactured before 2010, with the following conditions:¶¶

(A) Travel speed may not exceed 50 mph; and¶¶

(B) The vehicle must have an annual safety inspection by a garage, dealership or auto repair shop. Proof of inspection must be on the form provided by the ~~Early Learn~~ Child Care Licensing Division or on a form provided by the inspector which contains the same information.

Statutory/Other Authority: ORS 329A.250 - 329A.450, 326.425

Statutes/Other Implemented: ORS 329A.250 - 329A.450

AMEND: 414-350-0375

RULE SUMMARY: Update OAR reference in (3)(b). Update ORS reference

CHANGES TO RULE:

414-350-0375

Night Care ¶¶

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

~~(2)~~ Staffing:¶¶

(a) During the hours of night care, the required staff/child ratios, as specified in OAR 414-350-0120 shall be maintained.¶¶

(b) A caregiver must be present on the same floor level as the child care children who are sleeping.¶¶

(c) A caregiver must be awake for the arrival and departure of each child in night care. A caregiver must be awake during night care hours if more than six(6) children are in care.¶¶

(d) All persons 18 years of age and older, inclusive of guests sleeping in the home during night care hours, shall comply with OAR 414-350-0090(4).¶¶

~~(3)~~ Activities:¶¶

(a) There shall be quiet activities, such as story-time, games, arts and crafts, and reading, for each child arriving before bedtime. These activities shall be appropriate to the child's age, interests and abilities.¶¶

(b) The use of television, videos, and computer or electronic games shall comply with OAR 414-350-0220(5).¶¶

(c) The provider shall have a written plan for night care which includes:¶¶

(A) Regular routines;¶¶

(B) Supervision of children;¶¶

(C) Evacuation procedures for awake and sleeping children, ~~including how the evacuation route will be illuminated;~~¶¶

(D) Sleeping arrangements; and¶¶

(E) Arrival and departure procedures.¶¶

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

(3) Sleeping Arrangements:¶¶

(a) Space shall be available so that children may go to sleep at various times, based on their age and need for rest.¶¶

(b) All sleeping rooms used by children shall have two useable exits. A sliding door or window can be considered a useable exit if it meets the definition, as specified in OAR 414-350-0010(~~389~~).¶¶

(c) Beds and bedding shall comply with OAR 414-350-0230(3) and 414-350-0235(1).¶¶

(4) Personal Hygiene:¶¶

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

(A) Individual washcloths and towels for each child;¶¶

(B) Individual bathing opportunities for each child, unless a parent(s) has given permission for siblings to bath together;¶¶

(C) Safety glass in glass shower doors or glass tub enclosures;¶¶

(D) Appropriate cleaning and sanitizing procedures implemented after each child has used the shower or tub; and¶¶

(E) Appropriate equipment in bathtubs and showers to prevent slipping.¶¶

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

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

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

Statutory/Other Authority: ORS ~~657329A~~

Statutes/Other Implemented: ORS ~~657329A~~.260, ~~657329A~~.280

AMEND: 414-350-0390

RULE SUMMARY: Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0390

Suspension, Denial and Revocation

- (1) Certification may be denied or revoked if a certified family child care home fails to meet requirements, provide OCCLD with information requested, allow an inspection, correct deficiencies, or is operated or maintained in a manner which is harmful to the health, safety or well-being of children in care.¶
- (2) The provider has the right to appeal any decision to suspend, deny or revoke the certification, subject to the provisions of Chapter 183, Oregon Revised Statutes.¶
- (3) A provider whose certification has been denied for cause (e.g. health and safety concerns, criminal activity or child abuse and neglect involvement) or revoked shall not be eligible to reapply for 5 years after the effective date of the closure.¶
- (4) If necessary to protect children, OCCLD may give public notice of denial, suspension or revocation action taken. The type of notice will depend on individual circumstances.¶
- (5) OCCLD may immediately, and without prior notice, suspend the child care certification when, in the opinion of OCCLD, such action is necessary to protect the children from physical or mental abuse or a substantial threat to health, safety or well-being. Such action may be taken before an investigation is completed.¶
- (6) A provider whose certification has been suspended must immediately notify, verbally or in writing, all parents of the suspension.¶
- (7) A provider whose certification has been suspended must post the suspension in the home where it can be viewed by parents and others for the duration of the suspension.¶
- (8) If the provider does not request a hearing and the conditions which resulted in suspension have not been corrected, the certification shall be revoked.¶
- (9) An owner whose certification has been suspended must immediately provide OCCLD with all names, work and home telephone numbers and addresses of the parent(s) or legal guardian(s) for each child.¶
- (10) A certified family child care home whose certification has been denied or revoked must immediately notify all parents of the closure and shall post a notice of the closure where it can be viewed by parents and others. The notice shall remain posted for a minimum of 2 weeks.¶
- (11) Any action taken by OCCLD to deny, suspend, or revoke certification may be reported to the Department of Human Services, USDA Child Care Food Programs, child care resource and referral system.¶
- (12) If any person, who is enrolled in the CBR, has been charged with, arrested for, or a warrant is out for any of the crimes which OCCLD has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, certification may be denied or suspended or revoked until the charge, arrest, or warrant has been resolved if the person continues to operate, be employed in or reside in the home, or have access to children in the home.¶
- (13) Certification may be denied, suspended or revoked if an individual listed in OAR 414-350-0080(5) has a child abuse and neglect history or an open child abuse and neglect or law enforcement case that would disqualify the individual from the CBR.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented:

AMEND: 414-350-0405

RULE SUMMARY: Update OAR reference in (3). Division name change: Office of Child Care/OCC to Child Care Licensing Division/CCLD.

CHANGES TO RULE:

414-350-0405

Civil Penalty ¶¶

- (1) Violations of these rules or terms and conditions of certification under these rules may be subject to a civil penalty up to \$1200 per violation.¶¶
- (2) Whenever the ~~Office of Child Care~~ OCCLicensing Division (CCLD) investigates an alleged complaint at a certified facility, or a facility that may be operating in violation of the requirements of ORS 329A.250 through 329A.450, OCC shall:¶¶
 - (a) Provide technical assistance as appropriate;¶¶
 - (b) Send written notice of the complaint visit to the facility with a finding of valid, unable to substantiate, or invalid; and¶¶
 - (c) OCCLD shall assess whether additional legal actions are appropriate, including but not limited to civil penalties, denials, revocations or suspensions, depending upon:¶¶
 - (A) Numbers of previous violations of the same rule; or¶¶
 - (B) Circumstances surrounding the rule violation.¶¶
- (3) For a serious violation, as defined in OAR-414-350-0010-(~~324~~), an owner may be subject to a civil penalty not to exceed \$1200 for each violation.¶¶
- (4) For a non-serious violation, an owner may be subject to a civil penalty of \$400 for each violation.¶¶
- (5) Each day that a child care facility is operating in violation of any of the rules and conditions of certification is a separate violation of the rules.¶¶
- (6) An individual or entity that provides child care subject to licensing in a home or facility that is not certified with the ~~Office of Child Care~~ Licensing Division, may be subject to a civil penalty not to exceed \$1,500 per day of operation of the uncertified facility.¶¶
- (7) Notwithstanding the ~~Office of Child Care~~ Licensing Division's (OCCLD) decision to impose a civil penalty for one or more rule violations, OCCLD may also take action to deny, suspend or revoke a certification for the same rule violation or violations.¶¶
- (8) The provider has the right to appeal any decision to impose a civil penalty, subject to the provisions of Chapter 183, Oregon Revised Statutes.¶¶
- (9) Failure to pay a civil penalty in which the ~~Office of Child Care~~ Licensing Division has issued a final order by default or a final order after a contested case hearing shall be grounds for denial or revocation of the facility's certification.

Statutory/Other Authority: ORS 329A.260

Statutes/Other Implemented: