



NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 414

DEPARTMENT OF EARLY LEARNING AND CARE

FILED: 07/27/2026 4:06 PM

ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Defines key terms and processes for surrender, inactive status, administrative closure, and temporary inspection exceptions.

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 09/04/2026 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:

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HEARING(S)

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

DATE: 08/20/2026

TIME: 5:00 PM - 6:00 PM

OFFICER: Gabriela Hernandez

REMOTE HEARING DETAILS

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

PHONE NUMBER: 669-254-5252

CONFERENCE ID: 1653146228

SPECIAL INSTRUCTIONS:

For questions regarding the hearing and language supports, please contact:
DELC.RulesCoordinator@delc.oregon.gov

NEED FOR THE RULE(S):

Challenge: Currently, CCLD regularly encounters situations where child care programs stop operations without notifying DELC. This creates operational challenges in which licensing staff continue to treat the program as active but

cannot complete required monitoring visits and will continually make multiple unsuccessful attempts to locate or access a program which no longer provides care.

Complicating the operational challenge, our subsidy programs or grants (ERDC and PSP) depend on accurate licensing status designations to ensure payments are appropriate and aligned with care being actively delivered. The lack of clarity around current status of licenses creates three core risks:

- 1) CCLD may miss required inspections due to lack of children enrolled or attending, which impacts our ability to ensure health and safety standards when children do get enrolled
- 2) CCLD experiences administrative inefficiencies, with staff time spent on repeated, unsuccessful visits; and
- 3) Payments could be claimed even when care is no longer being provided, creating risk to payment integrity.

These challenges create confusion, internally for DELC and externally for families and system partners who rely on accurate information to make decisions, such as in the Find Child Care Oregon site. Without clear and timely operational status information safety, efficiency, and trust across the entire early learning system are at risk.

Approach: To address these challenges, DELC proposed temporary rules to the ELC in April to introduce two clear and complementary tools: Inactive Status and Administrative Closure. Inactive status is a provider-initiated process and designation, in which providers without children in care for more than 30 days must notify the department, informing DELC that care is paused. The provider license will remain active, but the provider is identified as not currently operating. While in inactive status, the provider is not eligible to receive subsidy payments. Administrative Closure is a DELC-initiated process when there is clear evidence that a provider is no longer operating due to licenses being abandoned, or if inactive status persists for long periods of time. Clear evidence may include confirmed closure events (e.g., evictions), repeated unsuccessful attempts to contact the provider, or when a program has remained in inactive status for six months or longer.

Benefit of Solution: Altogether, this rule will help DELC to effectively identify and act when a provider is not operational for a long period of time, while also supporting DELC's operational and financial integrity. This rule will help ensure that public child care funds are used appropriately and only for providers that are actively operating and serving children. Clear authority to identify inactive providers allows DELC to suspend payments, maintain compliance with federal fiscal integrity requirements, and reduce financial and programmatic risk. The rule strengthens accountability, supports consistent regulatory practices, and protects the stability of services for children and families.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

Washington Administrative Code <https://app.leg.wa.gov/WAC/default.aspx?cite=110-300-0016>.

Correspondence with Oregon Department of Justice

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

DELC does not anticipate major impacts from a racial equity perspective. This ruleset is not designed to be punitive or to require extensive action from providers, rather it primarily serves to improve data and payment accuracy and facilitate administrative processes. To this end, the financial benefits of using funds appropriately through greater financial oversight may make additional funds available for working families over time, further benefitting communities across the state.

However, nationwide, women of color are disproportionately represented as child care providers. Further, providers

tend to provide care to their local communities, making any changes to service delivery potentially impactful from a racial equity perspective. More details on the child care workforce and children in care are listed below for reference.

Child Care Workforce:

DELC can provide the voluntary, self-identification race and ethnicity information from the child care workforce as collected through DELC's partnership with Portland State University, Oregon Center for Career Development in Childhood Care and Education (PSU OCCD). In the last report received by DELC (February 2026), 77% of those in the child care workforce responded to requests for demographic information, of those about 23% did not give race and/or ethnicity information.

Race and Ethnicity Group	Workforce num.	% of workforce
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Asian	503	3%
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Black and/or African American	477	3%
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Hispanic/Latino/Spanish	3868	23%
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Multiracial	149	1%
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Native American and/or Alaskan Native	132	1%
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Native Hawaiian and/or Pacific Islander	121	1%
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Other	175	1%
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White	7515	45%
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None Given	3868	23%
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The following race and ethnicity information was acquired from the Early Learning Map of Oregon (ELMO)*. ELMO does not capture specific information on children in child care but does capture statewide demographic information listed below. In addition, ELMO indicates that 19.6% of children ages 5-17 years speak a primary language other than English.

Race/Ethnicity	Percentage of Children (Under 17 years)
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American Indian/Alaska Native	1.1%
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Asian	3.8%
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Black/African American	2.4%
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Hispanic	23.5%
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Native Hawaiian/Pacific Islander	0.5%
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Other Race	6.8%
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Two or more races	17.7%
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White/No Hispanic	60.2%
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Language other than English	18.5% (children 5-17)
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*ELMO includes almost 50 different data indicators that describe Oregon's children and families, early learning programs, and other factors.

Tribal Consultation

DELC has invited the 9 federally recognized tribes to engage in formal consultation on these rules. A letter initiating consultation was sent in June 2026. The letter included an overview of the policy concepts, an invitation to consult on policies, and an invitation to join the RAC.

By identifying facilities which are inactive and providing DELC with the authority to administratively close licenses, families will be able to more accurately identify when and where care is available. These steps will enhance DELC's data oversight, potentially making the agency a better resource for benefit recipients, and may support families in making informed financial decisions regarding their child care.

FISCAL AND ECONOMIC IMPACT:

DELIC may incur a few economic impacts from the implementation of this ruleset. The processes required to enact the rules were not built into the new ELMS system, meaning changes will need to be initiated following the system go-live date. The ELMS implementation team has been notified of these needs.

DELIC does not anticipate any economic impacts on other state agencies as a result of these rules.

DELIC anticipates all other process changes (including process management, training, and execution) can be managed within existing resources and staff capacity, meaning no further resources will be required. It is possible there will be positive impacts on DELIC staff time and capacity including a potentially reduced case load size for DELIC's licensing staff as non-active facilities do not require continual check-ins. Further, there may be fiscal integrity benefits associated with increased payment accuracy.

By identifying facilities which are inactive and providing DELIC with the authority to administratively close licenses, families will be able to more accurately identify when and where care is available. These steps will enhance DELIC's data oversight, potentially making the agency a better resource for benefit recipients, and may support families in making informed financial decisions regarding their child care.

The adoption of the permanent rules will enable DELIC to be better stewards of public funds, potentially increasing the amount of funding available to families by minimizing inaccurate outgoing payments and ensuring funding is reserved for providers who are providing services.

Providers should experience minimal economic impacts associated with the change. The only case DELIC anticipates economic impacts would be in the case which the agency administratively closes a license, which the provider later wishes to reopen. In this case, there would be fees associated with reapplying for the license and conducting initial inspections. These costs are further documented under small business impacts.

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) DELIC does not anticipate that local government units will be economically impacted by these changes. (2) The proposed rules will impact all child care programs including Certified Child care Centers, Certified Outdoor Nature-Based Programs, Certified Family Child Care Homes, Registered Family Child Care Homes, and Regulated Subsidy Programs. Child care providers often operate as small businesses. (2)(a) The specific number of which facilities across Oregon have over 100 employees is unknown. The total number of active child care programs in Oregon totals over 4000. The number of child care programs (licensed and regulated subsidy) across Oregon (as of 7/14/2026) are listed

below:

Registered Family: 1234

Certified Family: 1308

Certified Center: 1413

Outdoor Nature-Based: 2

Regulated Subsidy: 476

(2)(b) For Inactive Status, DELC does not anticipate compliance related costs to child care programs in the typical conduct of business. Inactive status and administrative closures will take place when there are no children in care and therefore should not have impacts on payment. No additional equipment or supplies are required with the implementation of these rules. Additionally, providers will have a choice of emailing, calling, or submitting a form to DELC indicating they are moving to an inactive status, meaning the only fiscal impact would be the limited staff time required to contact DELC. (2)(c) In situations in which providers have their license administratively closed, there is the possibility of some incurred costs to providers. Should a license be administratively closed, and should the provider wish to begin providing services again, they will have to go through the process of reapplying for a license which incurs a capacity-based fee, as well as the costs associated with pre-licensing inspections (e.g., lead testing). DELC anticipates the re-opening of an administratively closed license being a rare occurrence.

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

Both prior to and following adoption of the temporary rules, DELC conducted targeted outreach to impacted populations regarding this ruleset change. This included announcement and guidance regarding the temporary rules via mass mailing letters, emails, and translations. Additionally, the information has been distributed via CCR&R's channels.

Provider types have received notification of the temporary rule adoption, as well as explanatory resources in May, with the notification that DELC would be pursuing permanent rulemaking. Further, DELC has consulted with the child care provider union (AFSCME) who represented certified and registered family child care providers across Oregon.

As DELC continues towards permanent rule proposal, DELC will continue to engage the impacted populations using the same regular communications channels.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? NO IF NOT, WHY NOT?

The RAC for the Closures and Inactive Status Permanent rules will be a single two-hour long meeting held on August 12th, 2026. Fourteen RAC members are anticipated, including representatives of Registered Family (2), Certified Family (2), Certified Center (2), School-Age Center (2), Regulated Subsidy (1), Early Learning Hubs (1), families of children in care (2), and child care unions (2). Feedback received from the RAC will be reviewed for potential incorporation prior to presentation and adoption.

RULES PROPOSED:

414-075-0010, 414-075-0400, 414-075-0410

AMEND: 414-075-0010

RULE SUMMARY: 414-075-0010 is being amended to include definitions for Administrative Closure, Early Childhood Care and Education Program, Inactive status, and Voluntary Surrender.

CHANGES TO RULE:

Definitions

The following words and terms, when used in OAR 414-075-0000 through 414-075-0300, have the following meanings:¶

(1) "Administrative Closure" means an action taken by the Department to identify in its records that an Early Childhood Care and Education Program is no longer operating. Administrative closure is not:¶

(a) A denial, suspension, revocation, or revocation for cause; or¶

(b) A voluntary surrender of a license.¶

(2) "Certified Family Child Care Home" or "CF" means a child care facility operated in a building designed as a single family home or other dwelling that is certified to care for no more than 16 children at any one time. ¶

(23) "CCLD" means the Child Care Licensing Division in the Department of Early Learning and Care. ¶

(34) "Central Background Registry" or "CBR" means CCLD'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.¶

(45) "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 that is greater than that of their same aged peers, for whom a licensed or subsidized child care facility, or a facility for which a license is required, or a license-exempt child care facility as defined in this rule, has supervisory responsibility in the temporary absence of the parent.¶

(56) "Child Care Facility" means any facility that provides child care to children, including a certified child care center, certified school-aged child care center, certified outdoor nature-based child care program, certified family child care home, and registered family child care home. It may include those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before and after school care, or child development center, and does not include license-exempt child care or exempt care, as defined in this rule. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children. It does not include a license-exempt child care facility as defined in this rule. ¶

(67) "Child Abuse or Neglect" means as defined as "abuse" in ORS 419B.005 including but not limited to physical abuse, emotional abuse, sexual abuse, negligent treatment or maltreatment, and threat of subjecting a child to a substantial risk of harm to the child's health or welfare. ¶

(78) "Child Protective Services" or "CPS" means the program as defined in OAR 413-015-0115. ¶

(89) "Civil Penalty" means a fine imposed by CCLD for violation of one or more applicable rules or statutes. ¶

(910) "Complaint" means written or verbal information received from any source that a facility is providing or has provided care in a manner potentially in violation of a state law or administrative rule within the authority of CCLD. ¶

(101) "Early Childhood Care and Education Program" or "Program" means a program authorized to operate under any of the following:¶

(a) A certification or registration issued by the Department authorizing a provider to operate a child care facility; ¶

(b) A record authorizing a provider to operate a recorded program as defined in OAR 414-075-0010(37);¶

(c) An approval to receive payment for subsidized care issued to a license-exempt child care facility as defined in OAR 414-075-0010(26); or ¶

(d) An approval to receive payment for subsidized care issued to an exempt care facility as defined in OAR 414-075-0010(14).¶

(12) "Employee" means an individual engaged to work full or part time in a facility. This includes all caregivers and any individual who functions other than as a caregiver for children.¶

(143) "Exempt Care" is care provided by a caregiver that is within an exception to the definition of "child care" in ORS 329A.250(b)(A) through (H) or as otherwise provided by rule (see OAR 414-075-0250(17)(c)) and is not described in ORS 329A.250(4)(a)(A) or (B).¶

(124) "Exempt Care Facility" means a facility that provides only exempt care as defined in this rule. ¶

(135) "Exempt Prohibited Individual" means an individual who is by law prohibited to provide child care or exempt care, except to children related to the individual by blood or marriage within the fourth degree of sanguinity as determined by civil law, as defined in ORS 329A.252(1)(a) through (e) and described in OAR 414-075-0230. An exempt prohibited individual is ineligible for enrollment in the Central Background Registry except for limited enrollment as described in 414-061-0020(27)(b).¶

(146) "Facility" means an individual, group of individuals, or entity that is caring for or is alleged to be providing care for any child younger than 13 years or younger than 18 years with special needs who requires a level of care that is greater than that of their same-aged peers for whom the individual, group of individuals, or entity has responsibility in the temporary absence of the parent, legal guardian or custodian. ¶

(157) "Family" for purposes of determining if children are from the same family or if a child is in care by a member of the child's extended family as referred to in OAR 414-075-0250 means a group of individuals related by blood, marriage or adoption, or individuals whose functional relationships, such as residing together, are similar to those

found in such associations.¶¶

~~(168)~~ "Finding" means a written determination by CCLD staff with respect to information received, a complaint, or an observed noncompliance with a requirement in ORS 329A.030 or ORS 329A.250 through 329A.500 or rules adopted by the Early Learning Council pursuant to ORS 329A.030 or ORS 329A.250 through 329A.500. ¶¶

~~(172)~~ "For Cause" means that the reason for a denial or nonrenewal of a license or enrollment in the CBR or the revocation of a license or removal from the CBR was based on a determination that:¶¶

(a) With respect to a CBR application or enrollment, an individual was found not suitable after a review of history, including but not limited to criminal, child abuse and neglect, negative foster care certification, or negative adult protective services history, and of information related to the history; or¶¶

(b) With respect to a license, the licensee failed or fails to meet licensing requirements and is or has operated in a manner which is harmful to the health and safety or wellbeing to children. For purposes of this rule, "harmful" means posing a risk of or actually causing physical, emotional, or mental damage to child care children, and includes but is not limited to any violation of: ¶¶

(A) A requirement designed to protect children from physical hazards; ¶¶

(B) Applicable guidance and discipline rules involving inappropriate punishment;¶¶

(C) A requirement to exclude from the facility a person who has demonstrated behavior that may have a detrimental effect on children;¶¶

(D) A requirement to report suspected child abuse or neglect; ¶¶

(E) A requirement involving safe sleep for infants; or¶¶

(F) Applicable supervision rules resulting in:¶¶

(i) A child escaping the facility; ¶¶

(ii) A child being left behind from or on a field trip without supervision; or ¶¶

(iii) A child being injured when the injury could have been prevented with proper supervision. ¶¶

(20) "Inactive status" means a designation made by the Department to identify in its records that an Early Childhood Care and Education Program is experiencing a period of 30 days or more in which no children are attending the program. ¶¶

~~(218)~~ "Investigation" means the collection and review of information received by CCLD of prompted by an allegation of a rule or statute violation including but not limited to a cross-report of a child abuse and neglect received by law enforcement or the ODHS, or other information received by CCLD. An investigation includes but is not limited to a tandem investigation as defined in this rule and includes any activities as listed in ORS 329A.390(7) or OAR 414-075-0230.¶¶

~~(1922)~~ "Licensed" means the state of having an active registration or certification issued by CCLD.¶¶

~~(203)~~ "License" means an authorization from CCLD to operate a registered family child care home, a certified family child care home, a certified child care center, certified school-age child care center, or a certified outdoor nature-based child care program.¶¶

~~(244)~~ "Licensee" means an individual to whom a registration or certification has been issued by CCLD.¶¶

~~(225)~~ "License-Exempt Child Care" means child care that is not required to be licensed because it is provided as described in ORS 329A.250(5)(a) through (h). ¶¶

~~(236)~~ "License-Exempt Child Care Facility" means a facility that provides only license-exempt child care as defined in this rule. ¶¶

~~(247)~~ "Noncompliance" means being in violation of a requirement contained in statute or rule for the applicable type of facility.¶¶

~~(258)~~ "Observed Noncompliance" means a noncompliance observed by CCLD staff including information observed in a facility's records.¶¶

~~(262)~~ "Occasional care" means care that is provided for no more than 70 days in any calendar year for the purpose of the supervision and guidance by a person, sponsor, or organization not ordinarily engaged in providing child care for children, as defined in this rule, for not more than 70 days, or for enrichment activities that coincide with the non-school days in the Oregon public school system.¶¶

~~(2730)~~ "ODHS" means the Oregon Department of Human Services. ¶¶

~~(2831)~~ "Ordinarily engaged in providing care" means that the facility has been issued a current child care certification or registration, is a license-exempt child care facility as defined in this rule or represents or advertises to the public as available to provide care for children on an ongoing basis. ¶¶

~~(329)~~ "OTIS" means the Office of Training, Investigations and Safety in ODHS.¶¶

~~(303)~~ "Parent" means a parent, custodian, or guardian exercising physical care and having legal custody of the child.¶¶

~~(344)~~ "Person" means an individual human being, an entity to whom CCLD has issued a record or a license to operate a certified child care center or certified school-aged child care center, or an individual or entity operating a license-exempt child care facility.¶¶

~~(325)~~ "Premises" means the physical location used or alleged to be used by a facility to provide care subject to

regulation or investigation by CCLD, including all indoor and outdoor areas not directly used for child care. ¶
(336) "Provider" means an individual in whose name a license or approval to receive payment for subsidized care is issued. ¶

(347) "Recorded Program" means a facility to whom CCLD has issued a record to operate a preschool or school-aged recorded program. ¶

(358) "Registered Family Child Care Home" or "RF" or "Registered Facility" means the residence of a provider to whom CCLD has issued a license to operate a facility in the family living quarters pursuant to these rules and OAR 414-205-0000 to 414-205-0170. ¶

(369) "Regular operating hours" means the days and hours of operation as requested by a child care facility and approved by CCLD, except: ¶

(a) A registered family child care facility that has not requested and obtained approval by CCLD of regular operating hours: ¶

(A) Providing night care is considered to have operating hours of 24 hours per day, seven days a week, if providing night care. ¶

(B) Not providing night care is considered to have operating hours of 5:00 am to 9:00pm, Monday through Friday. ¶

(b) Regular operating hours also include any time that a child enrolled in or regularly attending a certified or registered facility is present at the facility including before or after the approved operating hours, unless: ¶

(A) The child resides in the facility; or ¶

(B) The child is present at a registered or certified family child care home for a social event as described in OAR 414-075-0250(16)(b). ¶

(3740) "Sensitive Allegations" means allegations that in the judgment of CCLD staff should not be discussed in the hearing of child care children who are present and old enough to understand a conversation that would necessarily include discussion of sexual activity or sex abuse or any individual's personal medical information or medical or disability diagnoses. ¶

(3841) "Staff" means, as applicable: ¶

(a) For a facility, the provider and any other individuals employed in the facility regardless of compensation, including a volunteer who is in the facility for more than a single activity; or ¶

(b) For CCLD, any individual employed by the agency or authorized to act on behalf of the agency, including but not limited to investigators, licensing specialists, managers, or other employees. ¶

(3942) "Subsidized Care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided during a part of the 24 hours of a day, paid for in whole or in part by public funds administered by the Department of Early Learning and Care. ¶

(403) "Subsidized Care Facility" means any facility that provides subsidized care to children, including a day nursery, nursery school, child care center, certified, registered or exempt family child care home or similar unit operating under any name including certified outdoor nature-based child care programs, for which payment for child care is made by the Department of Early Learning and Care. ¶

(414) "Superseding Finding" means a finding in a findings letter that replaces a finding included in a previously issued letter. ¶

(425) "Tandem Investigation" means an investigation conducted by CCLD jointly with representatives from partner agencies, including but not limited to ODHS and its divisions or units. ¶

(436) "Unlawful Care" means care provided by a person or entity who is not licensed or recorded when a license or record is required pursuant to ORS 329A.255, ORS 329A.280 or ORS 329A.330, and as described in OAR 414-075-0230. ¶

(447) "Unlicensed" means the status of providing care without an active license issued by CCLD including while providing license-exempt child care or exempt care. ¶

(48) "Voluntary Surrender" means the Department's approval of a licensee's or applicant's written decision to relinquish a child care license or withdraw a license application. A voluntary surrender may result in a licensee becoming an exempt prohibited individual under the circumstances described in OAR 414-075-0230(1)(c).

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

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

RULE SUMMARY: 414-075-0400 is being amended with permanent rule language which clarifies timelines, notification requirements, and conditions for programs regarding inactive status, administrative closure, abandoned operations, and voluntary surrender of licenses.

CHANGES TO RULE:

414-075-0400

Closures and Inactive Status

(1) At any time, an individual or entity may request to voluntarily surrender a license issued to them by the Department, or withdraw a pending application submitted by them to the Department. A request to surrender or withdraw a pending application on behalf of an entity may be made by the entity's owner or authorized representative. ¶

(2) The Department will not process a voluntary surrender or application withdrawal based on a verbal request. ¶

(a) The Department will close a license if a request is made or confirmed in writing by: ¶

(A) The provider of record for a Registered Family or Certified Family child care home; or ¶

(B) The owner or authorized representative of the owner of a Certified Child Care Center, Certified School-Age Center, or Certified Outdoor Nature-Based Program. ¶

(b) A request to rescind a voluntary surrender or withdrawal of a pending application may be made in writing by a person described in subparagraph (2)(a)(A) or (B) at any time before the Department has approved the request or prior to the effective date of a request specifying a future effective date. ¶

(3) A request for voluntary surrender must include sufficient information to identify the license requested to be closed, as determined by the Department. ¶

(4) Upon approval by CCLD, the Department will consider a license surrendered or an application withdrawn effective as of: ¶

(a) The date the Department receives the written request; or ¶

(b) A future date specified by the provider of record, owner, or authorized representative outlined in section (2) of this rule in their written request. ¶

(5) Upon the Department's approval of a voluntary surrender: ¶

(a) The license is closed; and ¶

(b) The provider may not operate as a licensed child care facility. ¶

(6) The Department may: ¶

(a) Cease payments to an Early Childhood Care and Education Program for which the license has been surrendered or has expired including as a result of a withdrawal of a timely renewal application, except for payments for care provided prior to the effective date of the surrender or expiration; and ¶

(b) Pause payments to an Early Childhood Care and Education Program which has inactive status or is subject to administrative closure, including subsidy payments and any other funds administered by the Department related to care provided under the program or the program's operation, including during the pendency of a contested case hearing requested in connection with a determination of administrative closure of the program. ¶

(7) If an Early Childhood Care and Education Program temporarily ceases or expects to temporarily cease operation of their program for more than thirty (30) consecutive calendar days, the program must submit a written notification of inactive status to the Department. ¶

(8) An Early Childhood Care and Education Program must notify the Department of inactive status no later than: ¶

(a) 5:00pm the next business day after temporarily ceasing operations either due to a planned inactive status, such as a summer closure, or due to an emergency or unexpected absence for more than thirty (30) consecutive calendar days; or ¶

(b) The thirty-first (31st) consecutive calendar day that no children are in care. ¶

(9) An Early Childhood Care and Education Program's notification of inactive status must include: ¶

(a) The date the program ceased or will cease operating; ¶

(b) The projected date the program will resume operating, if known; and ¶

(c) If the program operates more than one location, a statement of the specific locations that will have inactive status. ¶

(10) After receiving a notice of inactive status, the Department will: ¶

(a) Identify in its records that the program has inactive status for each location specified in the program's notice as required in section (7) of this rule; ¶

(b) Notify the program that the license for each location specified in the program's notice has inactive status; ¶

(c) Notify the Department's child care subsidy and grant administrators of the inactive status where applicable; and ¶

(d) Evaluate the license for administrative closure after a period of six consecutive months of inactive status or when a program notifies the Department that they have ceased or will cease operating for more than six consecutive months. ¶

(11) An Early Childhood Care and Education Program must notify parents and guardians of all enrolled children that the program has inactive status, to be made concurrently with or before the program submits the notification to the Department required by section (7) of this rule. The notification to parents and guardians must include the date the provider expects to resume operations, if known. ¶

(12) During inactive status, the Early Childhood Care and Education Program must notify the Department prior to any of the following changes, when applicable: ¶

(a) A decision to not resume program operations on the projected date: ¶

(b) The addition or removal of staff or household members: ¶

(c) Any changes in the projected date the program will resume operations; or ¶

(d) Other program changes that require DELC approval that will apply when the program resumes operations, including but not limited to installing new playground equipment, changes to drinking water systems requiring new lead testing, and an anticipated program change or alteration that impacts compliance with the requirements. ¶

(13) During inactive status, the Early Childhood Care and Education Program must continue to comply with all operating requirements that would normally apply if children were in care, including but not limited to: ¶

(a) Compliance with Central Background Registry enrollment: ¶

(b) Maintaining annual compliance requirements, such as ongoing training, that are relevant to the program; and ¶

(c) Meeting all license or renewal requirements. Inactive status does not exempt a license from meeting renewal requirements. ¶

(14) An Early Childhood Care and Education Program with inactive status, who has not provided a date they intend to resume operating, must notify the Department and receive confirmation from the Department prior to resuming operations. ¶

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

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

(15) Upon receipt of an Early Childhood Care and Education Program's notice of intent to resume operations after inactive status, or ahead of the program's confirmed date of resuming operations, the Department will: ¶

(a) Identify the program in the Department's records as operating effective as of the date indicated in provider's notice: ¶

(b) Notify the program regarding each location for which the program is resuming operations that the program has been returned to active status; and ¶

(c) Notify the Department's child care subsidy administrators and any other Department program administering funds granted or paid to child care or subsidized care facilities that the program has resumed operations, where applicable. ¶

(16) The Department may conduct an unannounced visit to an Early Childhood Care and Education Program, whether the Program is active or inactive, to verify it is in compliance with applicable requirements, including that all staff and household members must be enrolled in, and not suspended from, the CBR as of the date the program resumes operating. ¶

(17) The Department may apply administrative closure to an Early Childhood Care and Education Program if the program: ¶

(a) Has a period of inactive status for six or more consecutive months, subject to judicial review pursuant to ORS 183.482: ¶

(b) Intends to resume operations on a date exceeding six months of inactive status; or ¶

(c) Fails to resume operations on the date indicated in the notification of inactive status or the projected date of resumed operations. ¶

(18) The Department must apply administrative closure to an Early Childhood Care and Education Program when the program has been determined to have abandoned operations as described in section (19) of this rule. A program may appeal the Department's determination that the program has abandoned operations by requesting a contested case hearing pursuant to ORS 183.482. ¶

(19) The Department may determine an Early Childhood Care and Education Program has abandoned operations based on one or more of the following: ¶

(a) During a three-month period during which the Department does not otherwise observe the program to be operating, and the Department makes reasonable effort to contact the program using the contact information on file at least three times. While making reasonable effort to contact the program, the Department must: ¶

(A) Attempt to contact the program using at least three of the following five communication modes: mail, email, telephone, text message, and in-person; and ¶

(B) Consider any explanation or information from the program in response to the Department's contact and may

determine that the program has been abandoned, if the program indicates they are no longer operating.¶

(b) The program vacates or no longer maintains the premises without submitting an application to change locations. To establish this basis, the Department may rely on: ¶

(A) The program's statement that they no longer have access to the premises on a permanent basis: ¶

(B) Evidence of eviction of the program from the premises: ¶

(C) A lease for the premises to another person: ¶

(D) A sale of the property to another person who is observed to occupy the premises; or ¶

(E) Department staff's observations supporting the conclusion that the premises are completely vacated and unoccupied. ¶

(c) The provider in a Certified Family Child Care Home, as defined in OAR 414-360-0100, who is employed by the owner of the Certified Family Child Care Home, leaves the employment of the owner without providing notice to the Department that they have ceased operating the program and the Department is unable to obtain written voluntary surrender of the license from the provider; or ¶

(d) The program fails to notify the Department of program closure. ¶

(20) When the Department has determined that an Early Childhood Care and Education Program has abandoned operations, the Department will: ¶

(a) Identify in its records and notify the program at the program's mailing address on record and, if applicable, last known address that the program is administratively closed; and ¶

(b) Notify the program at the program's mailing address on record and, if applicable, last known address that the program may request a hearing to challenge the Department's determination that the program has been abandoned in a contested case before the Office of Administrative Hearings. ¶

(21) Notwithstanding voluntary surrender, inactive status, or administrative closure: ¶

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

(b) The department may issue any appropriate legal action with respect to the program, its license or record, or its operator, staff or residents.

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

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

ADOPT: 414-075-0410

RULE SUMMARY: 414-075-0410 is being introduced to clarify the conditions under which the Department may apply a temporary exception to required renewal inspections.

CHANGES TO RULE:

414-075-0410

Inspection Exception

The Department may initiate and apply a temporary exception for required inspections for a maximum of 60 days in the event of an untimely renewal application provided that the health, safety, and well-being of children or consumer interests of parents of children in care can be ensured.

Statutory/Other Authority: 329A.280

Statutes/Other Implemented: