



Rules for

CERTIFIED OUTDOOR NATURE-BASED CHILD CARE PROGRAMS

and

General Rules for

ALL CHILD CARE FACILITIES

Department of Early Learning and Care
Child Care Licensing Division
www.oregon.gov/DELCD
1-800-556-6616
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Department of Early Learning and Care
Child Care Licensing Division**

**Rules for Certified Outdoor Nature Based Child Care Programs, Division 320
Effective 07/01/2025**

And

**General Rules for Child Care Facilities, Division 075
Effective 12/7/2023**

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Rules for Certified Outdoor Nature Based Child Care Programs

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414-320-0100 Definitions

- (1) "Applicant" means a person, business entity, or governing body who submits the child care license application and in whose name the certificate will be issued.
- (2) "Behavior and Guidance" means the on-going process of helping children develop self-regulation and assume responsibility for their own behaviors and actions.
- (3) "Benefit-risk assessment" means, for purposes of outdoor nature-based programs, a process used to identify and document hazards and risky play elements associated with childhood outdoor play and making plans to mitigate the risk of injury to children while maintaining developmental benefits for children. This process includes identifying the types of risk present in a location or activity, the likelihood and severity of potential injury, the potential benefits to children, methods of mitigating hazards, e.g., elimination, substitution, isolation, safeguards, and managing risk, e.g., heightened supervision, scaffolding, intervention, and identifying who is responsible for implementing the appropriate methods and when.
- (4) "Biological needs" means, for purposes of outdoor nature-based programming, DELC approved toileting and handwashing activities for children and program staff.
- (5) "Body of water" or "bodies of water" is a natural area or human-made area or device that contains or holds a depth of more than four inches of water. Examples include swimming pools, ditches, canals, ponds, water retentions, excavations, quarries, streams, rivers, lakes, and ocean waters.
- (6) "Business Day" means Monday through Friday, but does not include any holiday as defined by ORS 187.010 and ORS 189.020, or any day that the central office of DELC is closed.
- (7) "Campfire" means an outdoor recreational fire that is used for cooking, personal warmth, lighting, or ceremonial or esthetic purposes. For the purposes of this chapter, "campfire" does not include a fire within any building, mobile home, motor vehicle, or recreational vehicle.
- (8) "Campfire activities" means ONB program activities in which enrolled children have access to a campfire that may pose a risk of burns to children.
- (9) "Capacity" means the total number of children in care at the certified ONB program or in care away from the ONB program at any one time.
- (10) "Caregiver" means any person in an ONB program, who works directly with the children, providing care, supervision, and guidance.
- (11) "CBR" (Central Background Registry) means DELC'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 an Oregon State Police records check and child abuse and neglect records check but prior to receipt by CCLD of the results of the required FBI records check.

(12) "Child Care" means the care, supervision, and guidance on a regular basis of a child, unaccompanied by a parent, guardian, or custodial parent, during a part of the 24 hours of the day, with or without compensation.

(13) "Child Care Child," for the purpose of certified ONB programs, means any child 36 months of age or older and under 13 years of age, or a child who is under the age of 18 with special needs or disabilities and who requires a level of care that is above normal for the child's age, for whom the certified ONB program has supervisory responsibility in the temporary absence of the parent.

(14) "Child with Specific Needs" means a child who requires specialized supports or other accommodations including some adaptation of the certified ONB program's standard program of care, activities or equipment to accommodate a physical, developmental, behavioral, mental or medical condition or disability which is either permanent or temporary.

(15) "Civil Penalty" means a fine imposed by DELC on a facility for violation of these rules.

(16) "Comparable Group Care Program" means a program which has the following elements:

- (a) Staff are supervised by knowledgeable professionals;
- (b) Training of staff is provided or required annually;
- (c) Group size is similar to a certified ONB program; and
- (d) Curriculum is developmentally appropriate.

(17) "Curriculum philosophy" means a written statement of principles developed by an ONB program to form the basis of the learning ONB program activities, including age appropriate developmental learning objectives for children.

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

(19) "Developmentally Appropriate" means:

- (a) Caregivers interact with each child in a way that respects the child's unique abilities;
- (b) Caregivers have knowledge about how children grow and learn;
- (c) Activities, materials, and curriculum reflect the interests and abilities of a specific child or group of children being served; and
- (d) Equipment is appropriately sized or adapted so that each child can participate fully and safely.

(20) "Director" means the individual serving as the on-site manager with the primary responsibility for the day-to-day operation, supervision, and administration of a child care ONB program as identified pursuant to OAR 414-320-0260(2)(e) and who meets the qualifications of director as provided in OAR 414-320-0320.

(21) "Disinfect" means to destroy or inactivate all germs from an inanimate surface. Disinfecting involves cleaning and rinsing followed by applying a disinfectant, such as:

- (a) A chlorine and water solution following the manufacturer's instructions; or

(b) An EPA-registered disinfectant, used according to the manufacturer's instructions including correct concentrations, contact time, drying or rinsing requirements, and suitability for the surface.

(22) "Family" means a group of individuals related by blood, marriage or adoption, or individuals whose functional relationships are like those found in such associations.

(23) "Field Trip" means an excursion or program activity with a specific destination away from the ONB program premises that begins when staff and children leave the ONB program's licensed premises, whether by vehicle or by walking. It does not include routine school or home pick-up and drop-offs provided by the ONB program.

(24) "Fire Code Official" means a Fire Inspector II, Fire Marshal, Deputy State Fire Marshal or designated person defined by ORS 476.030, ORS 476.060 and OAR 837-039-0016.

(25) "Hazard" means anything that may inflict injury or cause harm.

(26) "Inaccessible to children" means a method to prevent a child from reaching, entering, using, or getting to items, areas, or materials of an ONB program by one or more of the following means:

(a) Secured with a child safety device, such as a child safety cupboard lock or doorknob device:

(A) A device specifically manufactured as a child safety product; or

(B) For a product not manufactured as a child safety product, the device must have a multi-step opening process, or require two hands to open.

(b) Locked, such as in a locked room, cupboard, or drawer; or locks that do not use a key or combination, such as a deadbolt or hook-and-eye latch, only if they are installed at least 60 inches high;

(c) Behind a properly secured child safety gate;

(d) In a cupboard or on a shelf that is not within reach of any surface from where a child could stand or climb; or

(e) An alternate method approved by DELC.

(27) "Infestation" means the invasion of insects and worms that causes a disease to the host. These insects can be mites, ticks, fleas or lice. Worms can be roundworms, pinworms, flatworms or other helminths.

(28) "License" means the document that is issued by DELC to a certified ONB program. A license may also be referred to as a certificate. The holder of a license is a "licensee."

(29) "Licensing period" means the 12 months for which a certified ONB child care license is issued.

(a) For an initial license, the licensing period begins the day the temporary or regular license is issued and ends the same day the following year. For example, if a certified ONB program child care is issued a license on July 6, 2024, the licensing period is July 6, 2024 through July 6, 2025.

(b) For a renewal license for which the provider submitted a timely renewal application, the licensing period begins the day the prior licensing period ended and ends the same day the following year, regardless of the date the renewal license is issued, unless the provider and DELC agree to change the licensing period to begin on a different date.

(30) "Lockdown" means restricted to an interior room with few or no windows while the facility or building is secured from a threat or other DELC approved lockdown plan.

(31) "Natural Space" means an outdoor area that is natural, semi-natural, or planted and includes plants, animals, and other features and products of the earth.

(32) "Operator" means the person, group, corporation, partnership, governing body, association, or other public or private organization legally responsible for the overall operation of the ONB program and who has the authority to perform the duties necessary to meet certification requirements. If the operator is other than the owner, an individual must be appointed as the operator by the owner.

(33) "Oregon Registry" means the voluntary registry at the Oregon Center for Career Development in Childhood Care and Education at Portland State University that documents the training, education, and experience of individuals who work in childhood care and education.

(34) "Oregon Registry Online" (ORO) means the statewide database that stores all submitted training and education to be verified for use by CCLD

(35) "Outdoor classroom" means a central location on the ONB program's licensed premises that serves as the primary place for children's daily activities.

(36) "Outdoor nature-based (ONB) child care," "outdoor nature-based (ONB) program," "certified ONB program," or "ONB program" means a child care program certified under and subject to these rules that:

(a) Enrolls preschool through school-age children;

(b) Provides child care to children in a primarily outdoor natural space approved by the DELC. The program may have non-regular or emergency use of indoor space approved by the DELC; and

(c) Utilizes a philosophy where nature is central to children's learning and development, as demonstrated by curriculum requirements outlined in OAR 414-320-0525(4).

(37) "Outdoor nature-based tools" include, but are not limited to, peelers, whittling knives, small hammers, hand drills, pliers, child-sized saws, wrenches, screwdrivers, rope, or other sharp objects.

(38) "Owner" means the person, group, corporation, partnership, governing body, association, or other public or private organization legally responsible for the overall operation of the ONB program and who has the authority to perform the duties necessary to meet certification requirements.

(39) "Parent" means a child's parent, a guardian, or a person 18 years of age or older with supervisory responsibility of the child in the absence of the child's parent.

(40) "Physical barrier" or "barrier" means a non-climbable fence or wall that has no openings greater than two inches. Any gate or opening must have a locking mechanism, a self-closing or self-latching device, and a device used to open the locks which is inaccessible to children but readily available to staff

(41) "Physical boundary" or "boundary" means a way of marking the limits of an area consisting of, but not limited to, fences, barriers, ropes, large boulders or logs, or visual aids such as cones, tape, or ribbons.

(42) "Physical Restraint" means purposely limiting or obstructing the freedom of a person's bodily movement. Physical restraint does not include:

- (a) Holding a child to comfort the child when in distress;
- (b) Holding a child to move them safely from one area to another without the use of force (e.g. redirecting a preschool-age child to another activity);
- (c) Assisting a child to complete a task, if the child does not resist the physical contact (helping a child to tie their shoe or hold a pencil or tool, etc.); or
- (d) Any prohibited discipline or action listed in OAR 414-320-0710, Prohibited Discipline and Actions.

(43) "Potentially Dangerous Wildlife" means any animal that could cause injury or death to people or other animals. This could include animals that are part of a species or breed that is known to be dangerous, or animals that have exhibited dangerous behavior.

(44) "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.

(45) "Premises" means the physical space and building, or portions of a physical space or building, used by an ONB program, including all areas indoor or outdoor, directly accessible to the child care children and ONB program staff, and all areas not generally accessible if used for any purpose related to child care.

(46) "Preschool-Age Child" means a child who is at least 36 months of age but not yet eligible to be enrolled in kindergarten or above, before the first day of the current school year.

(47) "Regular Teaching Duties" means routinely scheduled, ongoing teaching responsibilities either on a part or full-time basis. Serving as a substitute teacher on an infrequent basis does not count as regular teaching duties.

(48) "Restrictable Disease" means an illness or infection as identified by the Oregon Health Authority Public Health Division in OAR 333-019-0010 that would prohibit the child from attending child care.

(49) "Risk," with regard to "risky play", means a situation that a child can recognize and evaluate challenges to decide on a course of action, although there may be a potential for injury.

(50) "Risk management policy" means a written policy or plan to mitigate children's risk of injury associated with risky play or learning activities.

(51) "Risky play" means physical activity and play that is challenging and involves a risk of physical injury. Risky play for ONB programs includes, but is not limited to, play involving heights, speed, tools, close proximity to dangerous elements, such as falling into something potentially hazardous, and risk of getting lost.

(52) "Sanitizing" means using a treatment that provides enough heat or concentration of chemicals for enough time to reduce germs, to a safe level on utensils, equipment, toys, and other non-porous surfaces. An appropriate test kit or strips are required to measure the concentration of sanitizing solutions. Any sanitizer used on food contact surfaces or toys must be labeled as "safe for food contact surfaces."

(53) "School-Age Child" means a child eligible to be enrolled in kindergarten or above on or before the first day of the current school year (also see ORS 329A.250(12)). This includes the months from the end of the prior school year to the start of the kindergarten school year.

(54) "Serious Complaint" and "Serious Violation" means an allegation or finding of noncompliance in which:

- (a) Children are in imminent danger;
- (b) There are more children in care than allowed by licensed capacity;
- (c) Disciplinary methods prohibited under OAR 414-320-0710, Prohibited Discipline and Actions, are being used;
- (d) Children are not being supervised;
- (e) Multiple or serious fire, health or safety hazards are present in the ONB program;
- (f) Extreme unsanitary conditions are present in the ONB program;
- (g) Adults are in the ONB program who are not enrolled in the CBR; or
- (h) An ONB program is providing child care without the appropriate certification.

(55) "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 or joint dislocation;
- (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; or
- (p) Near-drowning.

(56) "Shelter-in-Place" means staff and children staying at the ONB program due to an external threat such as a storm, chemical or gas leak or explosion, or other event that prohibits the occupants from safely leaving the building.

(57) "Staff" means an individual who is an employee, or a volunteer who is in the ONB program for more than a single activity.

(58) "Substitute Director" means the person in charge of the ONB program during the hours of operation when the director is not on site.

(59) "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 physical presence, knowledge of children's needs, and accountability for their care and well-being. Supervision also requires that caregivers be near and have ready access to children in order to intervene when needed.

(60) "Teacher" means a caregiver who plans and implements daily activities for a designated group of children and who meets the qualifications of teacher pursuant to OAR 414-320-0340.

(61) "Technical Assistance" means consultation and advice given to program staff to assist them in maintaining compliance.

(62) "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 qualified child care provider or staff with supervisory authority.

(63) "Visitor" means someone who is at the program for a single event, including but not limited to: a repair person, privately contracted professional working with an individual child, or librarian visiting the program. Visitors are not potential employees and are not counted in ratio.

(64) "Volunteer" includes any person who provides labor or services to a certified ONB program but is not compensated with employment pay or benefits. A volunteer must never have unsupervised access to a child unless the volunteer is the child's parent or if the volunteer is enrolled in the Central Background Registry.

(65) "Water activities" means ONB program activities in which child care children swim or play in a body of water that poses a risk of drowning for children. Water activities do not include using sensory tables, or playing in temporary puddles, standing near, but not entering water, or laying on the stomach where hands are the only body part accessing water.

414-320-0110 Purpose

(1) The purpose of OAR 414-320-0100 through 414-320-1620 is to protect the health, safety, and wellbeing of children when cared for outside their own homes by providing requirements for inspecting, certifying, monitoring, and otherwise regulating care in a certified Outdoor Nature Based (ONB) program.

- (2) "Certified Outdoor nature-based child care program" means a child care program that:
- (a) Enrolls preschool through school-age children;
 - (b) Provides child care to children in a primarily outdoor natural space approved by DELC. The program may have non-regular or emergency use of indoor space approved by DELC; and
 - (c) Utilizes a philosophy where nature is central to children's learning and development, as demonstrated by curriculum requirements outlined in OAR 414-320-0525(4).
- (3) A certified outdoor nature-based child care program may utilize indoor space of a building for non-regular use, or to utilize indoor bathroom facilities. The building and indoor space must be approved by environmental health and the fire marshal, where applicable, for that particular use. The program must submit all approvals to DELC when seeking approval for use of the indoor space.
- (4) "Non-regular use" is defined as other than regular, daily use and includes, but is not limited to:
- (a) Use due to severely inclement weather conditions; or
 - (b) "Emergency use" due to hazards, the need to shelter in place, or other conditions that prohibit normal outdoor program operations.
- (5) A person or entity may not operate an ONB program without a valid certificate issued by DELC, unless providing care not requiring a license as provided in OAR 414-075-0250.

414-320-0130 Application Process

- (1) An applicant must submit an original and complete application for a certificate on the forms provided by DELC:
- (a) For the initial certificate;
 - (b) For the annual renewal of the certificate;
 - (c) Whenever there is a change of owner;
 - (d) Whenever the certified ONB program moves to a new location; or
 - (e) For increase of capacity.
- (2) If an applicant is not an individual, the application must be signed by the chief executive officer or a person designated in writing to have the authority to sign the application. If an applicant is a partnership, the application must be signed by each partner.
- (3) An applicant that is not the owner of the certified ONB program must identify the owner on the application.
- (4) An applicant must submit a non-refundable filing fee with the application.
- (a) For the initial application, a change of owner, the reopening of a program after a lapse in certification, or a change of location, the fee is \$100 plus \$2 for each certified space. For example, the fee for an ONB program certified to care for 30 children is \$100 + \$60 = \$160.
 - (b) For a renewal application, the fee is \$2 for each licensed capacity space.

- (c) For an increase in capacity, the fee is \$2 for each additional capacity space.
- (5) An applicant or licensee must complete and submit an application to DELC at least:
 - (a) 45 days before the planned opening date of a new ONB program or change of owner or location; and
 - (b) 30 days prior to the expiration of the certificate for a renewal.
 - (A) If an application for renewal and payment of the required fee is received at least 30 days prior to the expiration date of the current certificate, the current certificate, unless officially revoked, remains in force until DELC 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 at least 30 days prior to the expiration date of the current certificate, the certificate will expire and the certified ONB program must cease operations unless the renewal is completed prior to the expiration date.
- (6) An applicant must provide the following items with the application for an initial certificate, change of owner, change of address and when the program indoor floor plan or outdoor areas change:
 - (a) Approval by an environmental health specialist registered under ORS chapter 700 or an authorized representative of the Oregon Health Authority;
 - (b) Initial or current lead testing results for each source of drinking water, as required in OAR 414-320-0820, Water Supply and Plumbing; and
 - (c) A diagram with all pertinent measurements of the premises, including outdoor classrooms, kitchens, toileting facilities, bodies of water, and permanently located natural hazards.
- (7) Additionally, an applicant must provide the following items for review prior to an application being approved for an initial certificate, change of owner, change of address, or changes to the program indoor floor plan or outdoor areas:
 - (a) If the certified ONB program uses a building for any purpose other than meeting the biological needs of children or staff, approval by a state or local fire code official prior to the initial certification date. If the ONB program does not utilize indoor space for any purpose, evidence of the ONB program's request for a fire safety consultation from state or local fire code official;
 - (b) For all applicable areas and activities, completed benefit-risk assessments that are in compliance with the requirements described in OAR 414-320-0215, ONB Benefit-Risk Assessments;
 - (c) A description of the proposed toileting facilities that will be used by children and staff, including a description of any alternative toileting policies and practices that may be implemented;
 - (d) A floor plan of any buildings or structures that may or will be used for any purpose that includes a description and diagram of all emergency exits and emergency exit pathways;

- (e) An emergency preparedness plan; and
- (f) Verification that the local emergency management system, fire district, and other applicable emergency response agencies have been provided notice of the location of the ONB program. The notice must be provided by the ONB program using a DELC approved form.

(8) An application for renewal of a certified ONB program certificate may be approved by DELC upon DELC's receipt of the following:

- (a) Written approval by an environmental health specialist registered under ORS chapter 700 or an authorized representative of the Oregon Health Authority;
- (b) Written approval by a state or local fire code official within the last 2 years of the renewal date, if applicable; and
- (c) DELC's Health and Safety inspection completed successfully with the ONB program's DELC licensor.

(9) If the certified ONB program utilizes a building for any purpose, the applicant must submit a floor plan to DELC, the environmental health specialist, the fire code official, and the local building department prior to initial construction, remodel, or change in location. An applicant is responsible for payment of any applicable fees for fire safety and sanitation inspections.

(10) An applicant must pay in full all civil penalties established by final order against the applicant or be compliant with a DELC approved payment plan before DELC will process an initial or renewal application.

(11) If DELC has not approved, issued a notice of intent to deny, or issued a final order by default or after a contested case hearing denying an application within 12 months of the date the application was submitted to DELC, the application may be closed, subject to the applicant's right to submit a new application at any time. This rule does not apply if:

- (a) The application is a timely renewal application; or
- (b) DELC has issued a notice of intent to deny the application that has not resulted in a final order or withdrawal.

414-320-0140 Issuance of Certification

(1) Upon receipt of a completed application, a certified ONB program will be evaluated by a representative of DELC to determine if it meets all certification requirements.

(2) DELC will issue a regular certified ONB program certification when the ONB program is determined to be in compliance with all of these rules. A regular certified ONB program certification is valid for no more than 12 months.

(3) DELC will issue a temporary certified ONB program certificate when the program is determined to be in compliance with most of these rules, DELC has not identified deficiencies that are hazardous to children, and the operator demonstrates an effort to be in full compliance.

- (a) DELC may issue a temporary certified ONB program certification when a renewal application is submitted less than 30 days prior to the certification expiration date or in response to an initial application.
 - (b) A certified ONB program may not operate under a temporary certification for more than 180 days in any 12-month period.
 - (c) DELC may deny an initial or renewal application or revoke a temporary certificate if deficiencies continue while the temporary certification is in effect.
- (4) A certified ONB program may not operate after expiration or revocation of a temporary certificate unless a prior regular certification is active due to a renewal application submitted more than 30 days before the regular certification expiration date.
- (5) A certified ONB program certificate cannot be transferred to any other location or to another organization or individual.
- (6) A certified ONB program must request in writing to DELC any changes in the conditions of the certificate such as ONB program capacity, age range of children, changes in use of licensed program space, location of outdoor classroom(s), or hours of operation. A certified ONB program must receive approval from DELC before making such changes.

414-320-0150 Certification Process

- (1) A certified ONB program must comply with the conditions of the certificate when admitting children, including, but not limited to, capacity, hours of operation, age range, and special conditions.
- (2) A certified ONB program must allow representatives of all agencies involved in certification to have immediate access to all areas of the ONB program and premises when child care children are present, including:
- (a) Areas deemed inaccessible to children, including areas not typically used for child care, second floors and other structures on the property;
 - (b) Records of children enrolled in the certified ONB program, and all records and reports related to the child care operation regarding compliance with these rules; and
 - (c) All staff.
- (3) A certified ONB program space must be located:
- (a) On a site that does not have any known environmental hazards, except for natural hazards that have not been created or caused by humans and are a part of the natural physical features of the outdoors; and
 - (b) In an area served by emergency fire, medical, and police during the hours the ONB program provides care to children.
- (4) A certified ONB program operating hours must be approved by DELC. Certified ONB programs shall not operate between the hours of 7:00pm and 6:00am.
- (5) An ONB program certification may be denied, suspended or revoked if the owner has been removed, denied or suspended from the CBR.

- (6) If a complaint alleges that a certified ONB program is not in compliance with these rules, DELC will conduct an investigation and assessment as provided in OAR 414-075-0130.
- (7) CCLD may conduct unannounced monitoring visits of a certified ONB program at least annually for the purpose of determining compliance with these rules and terms and conditions of certification.
- (8) In connection with a monitoring or investigation visit, DELC may offer technical assistance when appropriate to assist the certified ONB program in complying with these rules and provide technical assistance when requested by the provider.
- (9) Information provided by or on behalf of the certified ONB program provides to DELC on applications, in records or reports, or any other written or verbal communication must be current, complete, and accurate.
- (10) Parental request or permission to waive any of the rules for the certification of ONB programs does not give a certified ONB program permission to do so.
- (11) DELC certification records are open to the public on request, including findings of complaint investigations. However, information protected by state or federal law and the names of children and adults will not be disclosed.

414-320-0160 Exceptions to Rules

- (1) A certified ONB program may request an exception to a rule on a form provided by DELC for a specified period of time when:
 - (a) A requirement does not apply to the certified ONB program; or
 - (b) The intent of the requirement can be met by a method not specified in the applicable rule.
- (2) An exception request must include:
 - (a) A justification for the requested exception; and
 - (b) An explanation of how the certified ONB program will meet the intent of the rule.
- (3) An exception request will not be granted:
 - (a) If the requirement is established by state statute or federal law; or
 - (b) If the health, safety, and well-being of the children cannot be ensured.
- (4) A certified ONB program must remain in compliance with the rule as written until DELC approves the exception request.
- (5) In certain circumstances, a certified ONB program may be granted an ongoing exception that will be reviewed annually to confirm the ONB program is in compliance with all exception requirements.
- (6) Each exception request is unique to the applicable certified ONB program and is evaluated on its own merits. The granting of an exception to a rule does not set a precedent.
- (7) DELC may withdraw approval of an exception at any time, to ensure the health, safety and well-being of the children.

414-320-0200 Policies

(1) A certified ONB program must have written policies identified in 414-320-0200(2)(a) –(y) and provide them to:

- (a) Staff and volunteers at the time of hire and when policies change; and
- (b) Parents at the time of a child's enrollment and when policies change.

(2) A certified ONB program must provide the following written information to parents, staff, and volunteers:

- (a) Name, business address, physical location, and business telephone number of the person(s) who has immediate responsibility for the daily operation of the certified ONB program;
- (b) A program description including the licensed capacity, ages and number of children in care, hours, days and months of operation, closure dates and observed holidays, and staff-to-child ratios;
- (c) Arrival and departure procedures, including sign in and out requirements and individuals authorized for pick-up;
- (d) Parent responsibilities for providing current required information and what parents are expected to provide;
- (e) Health policies and procedures to include diaper changing and handwashing methods, immunization tracking, medication administration, use of insect repellent and sunscreen, care of bed linen, care of children who are ill and exclusion criteria, and response to injuries (also see OAR 414-320-1020), Injuries);
- (f) Safety measures including injury prevention, use of pesticides and other potentially toxic substances, animals, water activities, and prohibited substances;
- (g) A plan to ensure that any visitor or other adult not enrolled or conditionally enrolled in the CBR does not have unsupervised access to children;
- (h) Emergency preparedness plan (also see OAR 414-320-0210, Emergency Preparedness and Response);
- (i) ONB program curriculum philosophy on how children learn and develop in nature and how this philosophy is implemented;
- (j) Daily schedules that include planned activities, rest time, physical activity, and screen time;
- (k) Certified ONB program-sponsored religious and cultural activities, if any, including how holidays will be recognized;
- (l) Meals, snacks, and food service practices including food storage and handling, children's dietary needs and allergies, and food brought from the child's home;
- (m) Transportation and field trips including driver and vehicle requirements and supervision;
- (n) Behavior and guidance policies;

- (o) How staff must proceed if a child is displaying inappropriate behaviors that could endanger themselves or the safety of others;
- (p) Communication methods and notifications, including how parent grievances, questions, or concerns are handled by the certified ONB program;
- (q) Prevention of and duty to report suspected child abuse and neglect;
- (r) How to view inspection reports, access the Department of Early Learning and Care website and ONB program certification rules, and contact DELC and child abuse and neglect hotline;
- (s) A statement advising parents that they can access information about child care programs on the child care safety portal;
- (t) How the certified ONB program will ensure that children in care stay within the licensed premises;
- (u) The certified ONB program's benefit risk assessment policies and applicable procedures, per OAR 414-320-0215;
- (v) What clothing and additional equipment families must provide to ensure that children are appropriately attired for various weather conditions;
- (w) Policies and procedures for certified ONB program operations in weather conditions that may pose a health or safety risk for children and staff;
- (x) Toileting policies and applicable procedures for staff and children; and
- (y) How the certified ONB program will determine whether to cancel or alter the scheduled daily ONB program based on weather conditions and how staff will communicate any scheduling changes to families.

(3) A certified ONB program must have written personnel policies for staff and volunteers that include at a minimum:

- (a) Position descriptions, job duties assigned, and supervision of each position; and
- (b) Initial and ongoing training requirements.

(4) If a certified ONB program uses volunteers, the program must provide a copy of volunteer policies to any volunteers that includes procedures for ensuring training if the volunteer counts in the staff-to-child ratio, compliance with certification rules and ONB program procedures, and an understanding of emergency preparedness plans.

(5) A certified ONB program must have and follow risk management policies and procedures to address potential hazards and risks of the ONB program. These must include, but are not limited to, policies or procedures related to the following:

- (a) Encountering non-ONB program pets and wildlife pursuant to OAR 414-320-1400, Domestic Animals and Pets, and 414-320-1350, Encountering Wildlife Supervision and Safety;
- (b) Interacting with strangers, preventing unsupervised access to any child in care, pursuant to OAR 414-320-0500, Supervision of Children;

- (c) The shared use of public space or any outdoor space not under the exclusive control of the certified ONB program;
 - (d) Weather requiring the use of an emergency shelter;
 - (e) Required clothing and keeping children dressed for the weather pursuant to OAR 414-320-0940, Weather Conditions and Outdoor Hazards;
 - (f) Using public facilities or buildings;
 - (g) Encountering poisonous species; and
 - (h) All other potentially hazardous situations and natural features.
- (6) As required by state and federal civil rights laws and the Americans with Disabilities Act (ADA), a certified ONB program cannot discriminate against any child on the basis of race, religion, color, national origin, gender, marital status of parent, or because of a need for special care.
- (a) Suspected violations will be reported to the overseeing agency, with whom DELC may share any information available to it.
 - (b) DELC may deny an initial or renewal application or revoke a regular or temporary certification if a certified ONB program is determined to have discriminated in violation of this requirement by any authority with jurisdiction to make the determination.
- (7) A certified ONB program's decision whether to provide or continue care for a child known to have specific needs must be made after an individualized assessment is completed. The assessment must be based on information from parents, professionals who are knowledgeable about the child's care needs, and certified ONB program personnel. The assessment must be documented for each child and must include:
- (a) Reasonable accommodations the certified ONB program made to support the individual child's participation in the program, or an explanation of why the certified ONB program could not make reasonable accommodations;
 - (b) Reasonable modifications the certified ONB program made to their policies and practices to fully integrate the child into the program or an explanation of why the certified ONB program could not make reasonable modifications; and
 - (c) If applicable, any direct threats to the health and safety of others posed by the child's presence at the facility.

414-320-0210 Emergency Preparedness and Response

- (1) A certified ONB program must have a written plan for emergency preparedness that ONB program staff will follow, unless otherwise instructed by emergency personnel.
- (2) The emergency preparedness plan must be specific to the certified ONB premises and able to be implemented during hours of operation.
- (3) The emergency preparedness plan must address the following in all emergencies:
 - (a) Defining roles and responsibilities for all staff;

- (b) Ensuring that all children in attendance are supervised and accounted for during and after an emergency;
- (c) Addressing the needs of individual children, including children with disabilities or other specific needs, and children with chronic medical conditions;
- (d) Identifying methods for alerting staff of the emergency;
- (e) Ensuring children's emergency contact information and medical authorization and staff emergency contact information can be accessed during and after an emergency;
- (f) Notifying emergency authorities, including the poison control center, when necessary;
- (g) Notifying parents after the emergency ends and how children will be reunited with their families as the evacuation, relocation, or sheltering/lockdown is lifted;
- (h) Identifying a licensed physician, hospital, or clinic to be used for emergency medical care; and
- (i) Addressing what the certified ONB program must do if children are not able to be picked up for an extended period due to a natural or other disaster, including access to copies of records, documents, and computer files necessary for continued operation stored in either a portable file or at an off-site location.

(4) The emergency preparedness plan must address procedures for:

- (a) Evacuating children to a designated safe area, including the evacuation routes to be taken;
- (b) Moving children to a designated location for sheltering-in-place and lock down emergencies;
- (c) Relocating children to a nearby alternative shelter;
- (d) Medical emergencies, such as: serious illness, serious injury or death of a child or staff, including what the certified ONB program staff will do if a staff member has an emergency to ensure children are not left unsupervised;
- (e) Responding to natural and human-made disasters, including but not limited to:
 - (A) Fire or smoke;
 - (B) Earthquake;
 - (C) Lockdown notification ordered by a public safety authority;
 - (D) Sudden onset of extreme weather conditions that may pose a health and safety risk, such as:
 - (i) Heat in excess of 100°F, or pursuant to advice of the local authority;
 - (ii) Cold less than 20°F, or pursuant to advice of the local authority;
 - (iii) Lightning storm, tornado, blizzard, hurricane, tsunami, or flooding if there is immediate or likely danger;
 - (iv) Strong winds, including gusts over 25 mph;
 - (v) Falling trees or large branches;

(vi) Air quality emergency ordered by a local, state, or federal authority on air quality or public health; and

(vii) Other similar incidents.

(f) Incident response, including but not limited to:

(A) Response to a lost or missing child, including procedures for how staff members will immediately check for the missing child's presence at hazardous features, such as a ravine, cliff, road, or body of water within a quarter mile of the ONB program;

(B) Encounters with dangerous wildlife;

(C) Response to drowning child or other water related emergency;

(D) Response to hostile intruders; and

(E) Other similar incidents.

(g) Responding to suspected abuse of children, staff, volunteers, or family members occurring while they are on the premises of the ONB program.

(5) A certified ONB program must review the written plan and all emergency procedures at least once per licensing period and update the procedures as needed.

(6) A certified ONB program must review the written plan with program staff once per licensing period and whenever the plan is updated.

(7) A certified ONB program must practice evacuation drills monthly and one other aspect of the emergency plan every other month that:

(a) Varies in days and times when drills are conducted;

(b) Are documented including the type of drill, date, time of day, name of the person supervising the drill, number of children and staff in attendance, and length of time taken for all individuals to complete the drill;

(c) Includes a method to alert all staff and enrolled children of a fire, emergency situation or drill; and

(d) Includes staff taking emergency contact information, medical authorization, and current attendance records with them if leaving the child care area during a drill.

(8) An emergency evacuation drill must be conducted within the first 10 operating days after initial licensure.

(9) A certified ONB program must post a diagram of the ONB program premises showing the predetermined safe location where everyone will gather after evacuation, unless emergency personnel provide alternative instructions.

(10) A certified ONB program must have an emergency supply kit carried by at least one staff member per group of children in care, including during emergency evacuation. Supplies must include at a minimum:

(a) First aid supplies, as listed in OAR 414-320-1020, Injuries;

(b) Hand sanitizer, wet wipes, and tissue;

- (c) A whistle or air horn;
- (d) A working flashlight or headlamp and spare batteries;
- (e) A battery or solar powered radio; and
- (f) A functional telephone or other method of contacting emergency services.

414-320-0215 ONB Benefit Risk Assessments

Certified ONB programs must have and follow benefit-risk assessments and risk management plans approved by DELC. These assessments and plans must be submitted to DELC on a form provided by DELC and be available for DELC review at the time of initial licensing. An amended assessment or plan cannot be implemented until DELC has approved it. Benefit-risk assessments must include, but are not limited to, the following criteria:

- (1) Information about the site or sites that will be used by the certified ONB program on a regular basis.
- (2) Different seasons of the year such as summer versus winter plans, based on how conditions change within ONB sites and locations used by the certified ONB program on a regular basis.
- (3) Risky play activities including, but not limited to, the following:
 - (a) Climbing natural features pursuant to OAR 414-320-1320;
 - (b) Water activities pursuant to OAR 414-320-1300;
 - (c) Using tools pursuant to OAR 414-320-1340;
 - (d) Plant foraging pursuant to OAR 414-320-1310;
 - (e) ONB program pets pursuant to OAR 414-320-1400;
 - (f) Campfire activities pursuant to OAR 414-320-1330; and
 - (g) Activities near water, cliffs, steep slopes, or other potentially hazardous natural features.
- (4) Guidance for when increased staffing is necessary, and provide guidance for the development of the applicable risk management policies and procedures described in OAR 414-320-0200, Policies.

414-320-0220 Children's Records

- (1) A certified ONB program must obtain the following information for each child, in paper or electronic format, prior to the first day of attendance that includes the parent's signature:
 - (a) The child's name, date of birth, and home address;
 - (b) Date the child entered care;
 - (c) Name(s), home and business address(es) and telephone number(s) of the custodial parent(s) or legal guardian(s);
 - (d) Name and contact information of the person to be called in an emergency if the parent(s) cannot be reached;

- (e) Name and telephone number of person(s) to whom the child may be released;
- (f) The name and telephone number of the school that the child attends, if applicable;
- (g) Name and telephone number of child's medical provider(s) or emergency care facility, if applicable;
- (h) Immunization record or exemption that is updated when the child receives additional vaccines (also see OAR 414-320-0225, Immunizations);
- (i) Authorization to obtain emergency medical care and to transport the child for emergency medical treatment;
- (j) Developmental and health history of any problems that could affect the child's participation in child care;
- (k) Signed permission forms allowing the child to participate in risky play activities;
- (l) A written care plan for any child with a specific need as described in OAR 414-320-1050, Care of Children with Specific Needs. The written care plan must be readily accessible to caregivers caring for the individual child; and
- (m) Verification that parents have received a copy of the ONB program policies.

(2) A certified ONB program must ensure that all children's records are immediately accessible to caregivers during hours of operation for use in an emergency or for children with chronic health issues or specific care needs.

(3) A certified ONB program must permit parents, upon request, to review records and reports concerning the parent's own children, with the exception of child abuse and neglect reports.

(4) A certified ONB program must have the parent or guardian review, update, and sign or initial the enrollment form at least annually.

414-320-0225 Immunizations

(1) A certified ONB program must comply with Oregon Health Authority's administrative rules (see OAR 333-050-0040) relating to the immunization of children. If a child is enrolled in a public or private elementary school, immunizations are not required to be documented by the child care facility.

(2) A certified ONB program may provide care for children who are in foster care or experiencing homelessness while parents/guardians are taking necessary actions to comply with immunization requirements of the certified ONB program.

414-320-0230 Parental Permissions

(1) A certified ONB program must have the following current permissions from parent(s) when applicable:

- (a) Documentation of permission for an individual not listed in the child's records to pick up the child that includes:

- (A) Date and time of the permission;

- (B) Period of time the permission is valid;
- (C) Name of the individual providing permission;
- (D) Name of the individual permitted to pick up the child; and
- (E) Name of the program staff receiving the permission.

(b) Signed and dated parent permission for each medication, prior to administration, that includes:

- (A) The child's name;
- (B) The name of and reason for the medication;
- (C) The dosage, dates, and times to administer the medication, and how the medication will be given; and
- (D) Whether the medication needs to be refrigerated.

(c) For chronic medical conditions, a certified ONB program may obtain permission applicable for 12 months or less with specific instructions including when administration is needed, such inhalers (also see OAR 414-320-1030, Medications).

(d) Signed and dated parental permission for participation in any certified ONB program-sponsored religious or cultural event. Parental permission is also required for any special occasions where food is served;

(e) Signed and dated parental permission prior to the certified ONB program transporting a child that includes:

- (A) The child's name;
- (B) The purpose of transportation;
- (C) Whether a certified ONB program or personal vehicle is used and whether the driver is staff or a volunteer; and
- (D) A specific pick-up and drop-off plan that addresses the location, times, and transfer of supervision.

(f) Written parental permission for a school-age child to leave the certified ONB program premises on their own.

(2) A certified ONB program must have written parent permission prior to a field trip or other activity away from the licensed premises. Field trip permission must be specific with dates, times, and locations for each field trip.

(3) A certified ONB program must have signed and dated parental permission prior to allowing a child to participate in risky play activities, such as swimming, tool use, or climbing natural features, on or off the premises, and share the risk management policies or procedures with parents that includes:

- (a) Minimum ratios for the activity;
- (b) Conditions for the child's participation, such as their age and skill levels;
- (c) Special equipment necessary, such as safety helmets or specific clothing; and
- (d) Safety practices followed.

(4) A certified ONB program must obtain written parental permission prior to using photographs or recordings of a child publicly (e.g. social media, advertisements).

(5) If a family served by a certified ONB program is experiencing homelessness, the ONB program must make efforts to follow OAR 414-320-0230 (1) through (4). If a certified ONB program is unable to acquire written parental permissions, permissions may be received verbally, when documented by the certified ONB program, or electronically, such as through a text message or e-mail.

414-320-0235 Arrival and Departure

(1) A certified ONB program shall require that any individual bringing a child to the ONB program remain with the child until the child is accepted by staff.

(2) A certified ONB program may only release a child to a parent or another individual named and identified by the parent(s). An individual picking up the child must show identification if not known to staff.

(3) If a school-age child has parental permission to arrive or depart on their own (in accordance with OAR 414-320-0230(1)(f)), a staff member must sign the child in or out, as appropriate.

(4) Except as excluded by a court order, a parent must be permitted access to their child and all child care areas while their child is in care. Advance notice is not required.

414-320-0240 Staff Records

A certified ONB program must maintain current personnel records for each staff member, in paper or electronic format, which include:

(1) Name, address and telephone number of the staff member;

(2) Job title and duties;

(3) Dates of first and, if no longer a staff member, last day on the job;

(4) Emergency contact information;

(5) Completed employment application or resume;

(6) Evidence of education and qualifying work experience showing that the staff member meets the qualifications for the position held;

(7) The CBR confirmation letter sent from DELC to a certified ONB program. If a certified ONB program does not yet have a CBR confirmation letter for the staff member, a certified ONB program must have written documentation that the certified ONB program has verified with DELC that the staff member is enrolled in the CBR and linked to the ONB program in DELC's records. Documentation must include the date, time, and name of the DELC staff member the certified ONB program spoke with;

(8) Current first aid and CPR training certificate, per OAR 414-320-0370(3), and wilderness first aid training certificate, if wilderness first aid certification is required, per OAR 414-320-0300(4);

(9) Current food handler certification, if applicable, per OAR 414-320-0370(4);

- (10) Documentation of training and ability to properly build and extinguish a campfire, if applicable, per OAR 414-320-1330(4);
- (11) Documentation of training and ability to properly use ONB tools, if applicable, per OAR 414-320-1340 (9);
- (12) Driving record, driver's license number and expiration date if the staff member is to transport children;
- (13) Evidence of the staff member's participation in an orientation, as outlined in OAR 414-320-0370; and
- (14) A statement signed and dated by the staff member showing they have access to the certified ONB program's policies and the rules for the Certification of Outdoor Nature-Based Child Care Programs.

414-320-0250 Program Records

A certified ONB program must maintain the following program records, either in paper or electronic format:

- (1) The current day's attendance record for each group of children. All caregivers must have access to the attendance records to determine which children are in care during their work shift, changes in caregivers, and emergency evacuations. The daily attendance record must include:
 - (a) The child's full name; and
 - (b) Times recorded as children arrive and depart so that the record shows the children in attendance at any given time.
 - (c) If a group of children separates from the larger group, the responsible staff member must have a method to account for the children in the separate group, such as a written list of the children's names.
- (2) Daily staff attendance records to include:
 - (a) The staff member's name;
 - (b) Times recorded as staff arrive and depart so that the record shows the staff member in attendance at any given time; and
 - (c) Group assignment.
- (3) Written reports of injuries as identified in OAR 414-320-1020 (2), Injuries;
- (4) A visitor log to document all adults, excluding persons authorized to drop off and pick up a child, that includes name, relationship to ONB program (e.g., volunteer, vendor, guest, etc.), and recorded time in and out of the program.
- (5) Documentation of the administration of any medication that includes:
 - (a) The child's name;
 - (b) Medication administered;
 - (c) The date and time when medication was administered;
 - (d) The dosage or amount of medication administered;

(e) Any side effects exhibited by the child; and

(f) The signature of the person who administered the medication (also see OAR 414-320 - 1030, Medications).

(6) Written record of suspected child abuse and neglect reports made to the Department of Human Services Child Welfare or law enforcement.

(7) Written records regarding emergency preparedness and fire prevention such as dates of drills (also see OAR 414-320-0210, Emergency Preparedness and Response, and OAR 414-320-0860, Fire Protection).

414-320-0255 Record Retention and Access

(1) A certified ONB program must retain the following records for two (2) years:

(a) After their initial creation for identified Program Records in OAR 414-320-0250;

(b) After termination of employment for identified Staff Records in OAR 414-320-0240;

(c) After termination of care for Documentation of parent permissions listed in OAR 414-320-0230;

(d) After termination of care for identified Children's Records in OAR 414-320-0220; and

(e) After initial creation for identified Vehicle Records in OAR 414-320-1240.

(2) Menus for meals and snacks served by a certified ONB program must be retained for three (3) weeks.

(3) A certified ONB program may store records off site that are older than one (1) year but they must be made available within 48 hours, upon request. A certified ONB program must make all other records required by these rules available to DELC at all times.

(4) A certified ONB program must have at least one caregiver on site at all times who can access any records that are stored in paper or electronic formats.

(5) Electronic records must be portable for use during an emergency evacuation.

(6) If using electronic records, the certified ONB program must have procedures in place to ensure prompt access, including an on- or off-site electronic back-up method to ensure access in the event of data loss.

414-320-0260 Items Available to View

(1) A certified ONB program must post the following items in a prominent and frequently visited location for the parents and public to view:

(a) The most current certification issued by DELC;

(b) All serious valid complaints and serious non-compliance letters for 12 calendar months from the date of the letter;

(c) Notices of proposed legal actions, emergency orders of suspension or imposing conditions, and final orders, immediately upon receipt by the certified ONB program and while pending or in effect, including throughout any appeal period; and

(d) The Department of Early Learning and Care Website [<https://www.oregon.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.

(2) A certified ONB program must have the following items available in a prominent and frequently visited location for the parents and public to view:

(a) A notice that the most recent DELC inspection report and the current rules for certification of ONB programs are available upon request;

(b) The most recent water test results summary provided by DELC;

(c) Information on how to report a complaint to DELC regarding certification requirements;

(d) The Oregon Child Abuse and Neglect Hotline number and requirement to report suspected abuse or neglect;

(e) The certified ONB program director's full name and at least one additional personnel who is responsible for the program if the director is not present at the ONB program. When the individuals listed are not present, the appointed personnel in charge is identified in writing;

(f) A notice that parents must be permitted access to their child and all child care areas while their child is in care. Advance notice is not required;

(g) Certified ONB program closures (vacation days, holidays, etc.);

(h) The dated current week's menu of all snacks and meals served by the certified ONB program with any substitutions recorded;

(i) A notice of planned field trips showing the date, times, and place of each field trip and posted at least 48 hours in advance of the field trip;

(j) When all staff and children have left the outdoor classroom but are on the ONB program premises, a notice with staff contact information and approximate return time;

(k) A notice when any child or staff member has a child care restrictable disease, as defined in Oregon Health Authority administrative rule OAR 333-019-0010, or food poisoning (also see OAR 414-320-1010, Illness);

(l) The ONB program's behavior and guidance policy;

(m) Emergency numbers to include 9-1-1, where available, or local law enforcement, local mental health crisis line, fire department, and ambulance service; the certified ONB program name and address, with main cross streets or directions to the certified ONB program; child abuse reporting hotline and poison control (1-800-222-1222);

(n) Emergency evacuation and relocation diagram, including primary and secondary routes;

(o) Daily schedule and dated weekly lesson plan; and

(p) The applicable ratios and group sizes.

414-320-0270 Notifications

(1) A certified ONB program must notify DELC by 5:00pm the next business day of the following items:

- (a) A change of director;
- (b) A change in mailing address, when different from the physical address;
- (c) A change in phone number;
- (d) A known legal action or child abuse or neglect investigation, such as an arrest, criminal investigation or charge, or Victim Protection Order, involving any person for which a certified ONB program is required to request confirmation of Central Background Registry enrollment;
- (e) Any occurrence, including a natural disaster or contaminated water, that renders all or part of the licensed premises unsafe for a child;
- (f) An incident that exposes children to an imminent risk of harm, such as a child leaving the ONB program without the ONB program's knowledge or being left alone on or off site or in a vehicle;
- (g) An animal bite to an adult or child that occurs on site at any time or off site when participating in ONB program activities;
- (h) An accident involving transportation, unless there were no injuries and only minor damage to the vehicles;
- (i) Any serious injury or incident, as defined in OAR 414-320-0100 (55), involving a child;
- (j) A child who is given the incorrect dosage of any medication;
- (k) A child who took or received another person's medication;
- (l) The death of a child or staff member that occurred on the premises of the ONB program;
- (m) Other dangers or incidents requiring emergency response such as a fire or temporarily relocating children;
- (n) Any time prohibited discipline or prohibited actions occur (also see OAR 414-320 -0710, Prohibited Discipline and Actions); and
- (o) Any incident where physical restraint is used (also see OAR 414-320 -0720, Physical Restraint).

(2) A certified ONB program must notify DELC prior to any of the following:

- (a) An anticipated temporary or permanent certified ONB program closing, other than a scheduled closing identified in ONB program policy;
- (b) An anticipated temporary or permanent change in location of outdoor classroom or certified ONB program premises;

- (c) An anticipated certified ONB program change or alteration that impacts the amount of usable square footage or compliance with the requirements;
- (d) A change in licensed space; and
- (e) A change in ONB program name.

(3) Any staff member who has reason to believe a child has been abused or neglected is required to report the matter immediately to the Oregon Child Abuse Hotline (1-855-503-7233), Department of Human Services Child Welfare, or a law enforcement agency. This requirement applies 24 hours a day. This requirement applies to any suspected physical, sexual or emotional abuse; child neglect, child endangerment, or child exploitation; inappropriate sexual contact between two or more children; or attempted suicide or threats of suicide by a child.

(4) A certified ONB program must immediately notify the Oregon Health Authority of a known case, in individuals associated with the ONB program, of a child care-restrictable disease, as defined in Oregon Health Authority administrative rules, OAR 333-019-0010.

(5) A certified ONB program must immediately notify parents or an emergency contact if the parent cannot be reached and document if their child:

- (a) Does not arrive on their own at the certified ONB program as scheduled, such as when a school-age child is walking to the program or when a child is transported from another program;
- (b) Is not present at the pick-up location as scheduled;
- (c) Is involved in an incident that placed the child at risk such as being lost, missing or left alone on the certified ONB program premises, a field trip, or in a vehicle;
- (d) Has experienced any suspected allergic reactions, as well as the ingestion of or contact with the allergen even if a reaction did not occur;
- (e) Was not administered medication in accordance with directions;
- (f) Received emergency medication such as epinephrine for a life-threatening condition;
- (g) Sustains an injury that may need evaluation by a physician or any impact to a child's head;
- (h) Has been exposed to poison;
- (i) Has been exposed to poison oak, poison ivy, or other poisonous plant;
- (j) Is bitten by an animal, when the skin is broken or when an evaluation by a physician may be needed;
- (k) Is separated from the group due to an illness;
- (l) Dies while in care; or
- (m) Is involved in any incident where physical restraint is used.

(6) A certified ONB program must immediately notify parents in writing if a condition or restriction is placed on the license.

(7) A certified ONB program must notify parents upon child pick-up of:

- (a) Daily happenings;

- (b) Significant changes in their child's physical or emotional state;
- (c) Known minor injuries such as minor cuts, scratches, and bites from other children requiring first aid treatment by employees;
- (d) Their child being unsupervised at school or another location when not picked up on time;
- (e) Illness or infestation symptoms that developed or changed;
- (f) A child care restrictable disease or infestation exposure from staff or another child;
- (g) Administration of a medication for a non-life-threatening condition that is only administered as needed;
- (h) An animal bite to a child, when the skin is not broken;
- (i) Implemented emergency plans and procedures, except for drills; and
- (j) Anticipated closure of the certified ONB program.

414-320-0300 General Staffing Requirements

(1) A certified ONB program must ensure that all staff, including individuals not counted in the staff-to-child ratio and volunteers:

- (a) Know and comply with certification rules;
- (b) Recognize and act to correct hazards to physical safety, both indoors and outdoors;
- (c) Demonstrate good judgment as evidenced by responsible behavior that reasonably ensures the health and safety of children;
- (d) Have not consumed nor are under the influence of any substance that impairs their ability to care for children. "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others;
- (e) Relate to children with courtesy, respect, acceptance, and patience;
- (f) Demonstrate realistic expectations for behavior based on the age, abilities, and needs of children;
- (g) Recognize and respect the uniqueness and potential of all children, their families, and their cultures;
- (h) Report suspected abuse, neglect, and exploitation in accordance with Oregon law (also see OAR 414-320-0270, Notifications); and
- (i) Have the required training and experience for the position they are filling.

(2) A certified ONB program must ensure that employees counted in the staff-to-child ratios:

- (a) Individualize the care and learning opportunities to meet each child's needs based upon the child's age and abilities, including reviewing the information provided by parents while respecting confidentiality;
- (b) Have a method to identify each child for whom they are responsible; and
- (c) Are physically capable of performing duties related to child care.

(3) A certified ONB program must ensure that at least one individual who has current certification in pediatric Cardiopulmonary Resuscitation (CPR) and first aid is present with each group of children at the ONB program at all times, including during transportation, and on field trips.

(4) If a certified ONB program is operating in a location where it would take more than 30 minutes to reach emergency medical care, including the time it would take an emergency responder to walk from the trailhead or parking area to the potential location, there must be at least one staff person certified in wilderness first aid and CPR present with each group of children.

(5) A certified ONB program must ensure that any individual who is known to have demonstrated behavior that could endanger the health, safety or wellbeing of a child is not on the premises during child care hours nor has access to children in care.

(6) Any staff member with evidence of a child care-restrictable disease, as defined in OAR 333-019-0010, a symptom of physical illness as described in OAR 414-320-1010(2)(b)(A) through (K), or mental incapacity that poses a threat to the health or safety of children shall be relieved of their duties.

(7) A certified ONB program must ensure that each staff member is equipped with cell phones or walkie-talkies at all times for the purpose of communicating with other staff members.

414-320-0310 Central Background Registry Enrollment

A certified ONB program must ensure that:

(1) The operator, all ONB program staff, and any person 18 years of age or older who may have unsupervised access to children, are enrolled in DELC's Central Background Registry (CBR) prior to the issuance of an initial or renewal certification.

(2) An individual who is the owner or the principal of an entity that is the owner of a certified ONB program is enrolled in the CBR if on the ONB program premises or present with children off-site during child care hours.

(3) The program has obtained written confirmation from DELC that staff 18 years of age or older are enrolled or conditionally enrolled in the CBR before the staff are on the child care premises or present with children off-site during child care hours.

(4) All caregivers and other individuals that are required to be enrolled in the CBR and are on the premises maintain current enrollment in the CBR at all times while the certified ONB program license is active.

- (5) Individuals who are conditionally enrolled in the CBR may function in their staff position but shall not have unsupervised access to children until the certified ONB program has confirmed with DELC the individual is enrolled on a non-conditional basis.
- (6) Any visitor to the certified ONB program or other adult who is not enrolled in the CBR does not have unsupervised access to children.
- (7) Safeguards are in place to prevent a visitor's unsupervised access to children, including a sign-in and sign-out process that captures:
- (a) The individual's name and relationship to the ONB program (e.g. volunteer, vendor, guest, etc.);
 - (b) Arrival and departure times, recorded at the times of arrival and departure; and
 - (c) Name of qualified staff responsible for monitoring the individual's presence and accompanying the individual while on the premises.
- (8) Individuals whose CBR enrollment has been revoked, denied, or suspended are not on the premises during child care hours or have contact with children in care.
- (9) Additional information needed to assess an individual's ability to care for children or to have access to children, such as references, an evaluation by a physician, counselor, or other qualified person, or other information, is provided to DELC upon DELC's request.
- (10) Individuals 18 years of age and older that reside on the certified ONB program premises in living spaces, including but not limited to, homes, Accessory Dwelling Units (ADUs) or other alternative housing units, tiny homes, recreational vehicles (RVs), trailers, garage apartments, etc., are not required to enroll in the CBR if all of the following conditions are met:
- (a) Those residing in or visiting the living space are not known by the certified ONB program to be suspended or to have been denied or removed for cause from the CBR;
 - (b) Those residing in or visiting the living space have no opportunity for access to child care children without the permission of the certified ONB program and presence of a caregiver employed in the certified ONB program. For the purposes of this rule, an individual has opportunity for access to child care children if they are able to be close enough to touch or have a conversation with a child care child inside or outside the home;
 - (c) Child care is never conducted in the living space and child care children do not have access to the living space; and
 - (d) The home or living space's indoor bathrooms are not used to meet the biological needs of child care children and the home or living space is not used for the certified ONB program's emergency shelter.

414-320-0320 Duties and Qualifications of the Director

- (1) A certified ONB program must employ at least one individual who meets the qualifications of director as outlined in (5) below. The director is responsible for:
- (a) Maintaining compliance with all certified ONB program rules and all conditions placed on the certification;

- (b) Developing and implementing the ONB program's operational and personnel policies;
- (c) Supervising the personnel, volunteers, and other individuals providing services in the ONB program;
- (d) Overseeing the training and professional development of staff including setting educational goals, observation and mentoring;
- (e) Implementing program development;
- (f) Developing a curriculum philosophy, communicating the philosophy to all ONB program staff and parents, and training staff to ensure the philosophy serves all children in the ONB program;
- (g) Leading the development of benefit-risk assessments, and associated risk management policies and procedures, pursuant to OAR 414-320-0215, ONB Benefit Risk Assessments;
- (h) Overseeing parent communication and family engagement and sharing community resources with families including resources for children with specific needs; and
- (i) Managing administrative functions, including, but not limited to: maintaining records; financial management; budgeting; maintenance of grounds and any buildings used by the ONB program; meal planning and preparation; and transportation, if provided.

(2) The director must be on site at least half of the weekly operating hours or 40 hours per week, whichever is less, as documented by the certified ONB program. The director may only be responsible for one ONB program.

(3) A director may serve as a teacher, if qualified, and have regular teaching duties when 20 or fewer children are on site.

(4) A certified ONB program must have the director or a substitute director on the premises during all hours of operation.

(5) A certified ONB program director must:

- (a) Be at least 21 years of age;
- (b) Meet the initial (see OAR 414-320-0370) and annual training (see OAR 414-320-0380) requirements;
- (c) Have completed 20 hours or 2 college quarter credits of nature-based education training approved by DELC;
- (d) 250 hours of work experience in an outdoor education environment; and
- (e) Have attained one of these options:
 - (A) Achieved at least Step 9 in the Oregon Registry;
 - (B) For a single certified ONB program that has a licensed capacity of 20 or fewer, 1 year as a provider at a Certified Family Child Care home; or
 - (C) Have verifiable knowledge of management and supervision of adults and verifiable knowledge of child development for the primary ages served by the certified ONB program, evidenced by a combination of professional references, education, experience, or training as follows:

(i) Management and supervision:

(I) Seven (7) quarter credit hours in business administration or management at a college or university;

(II) Seventy (70) training hours in program management with an emphasis on the following subjects: financial management and budgeting; policy development; staff management, evaluation and training; record keeping; or

(III) Six hundred (600) hours of documented experience where there was an opportunity to participate in the following activities: financial management and budgeting, policy development, record keeping, staff management, evaluation and training.

(ii) Child development:

(I) Seven (7) quarter credit hours at a college or university in two of the following Core Knowledge Categories (CKC): Human Growth and Development (HGD), Learning Environments and Curriculum (LEC), Understanding and Guiding Behavior (UGB), Special Needs (SN), or Observation and Assessment (OA);

(II) Seventy (70) community based training clock hours in two of the following Core Knowledge Categories (CKC): Human Growth and Development (HGD), Learning Environments and Curriculum (LEC), Understanding and Guiding Behavior (UGB), Special Needs (SN), or Observation and Assessment (OA), relevant to the ages of the children served by the ONB program; or

(III) Six hundred (600) additional hours of qualifying teaching experience with children the same age as those served by the certified ONB program; or

(iii) Participate in a plan, approved by DELC, to substitute for a missing component (either management and supervision of adults OR knowledge of child development). The plan must address how the director will attain the required training, education, or experience in the missing component and how the program will operate until the director has met the missing component.

(6) A certified ONB program's substitute director must meet teacher qualifications, understand the director's responsibilities, be familiar with the certification requirements, have access to all records, and be authorized and able to correct deficiencies.

414-320-0340 Duties and Qualifications of Teachers

- (1) A certified ONB program's teachers are responsible for:
- (a) The supervision of their assigned group of children at all times; and
 - (b) The supervision of any aides or volunteers assigned to their group.
- (2) A certified ONB program's teachers must:
- (a) Be at least 18 years of age;
 - (b) Meet the initial (see OAR 414-320-0370) and annual training (see OAR 414-320-0380) requirements;
 - (c) Have completed 10 hours or 1 college quarter credit of nature-based education training approved by DELC; and
 - (d) If working with preschool-age only children, meet the experience and training qualification requirements for their assigned age group in one of the following options:
 - (A) At least 750 hours of qualifying teaching experience in a Certified Child Care Center or comparable group care program in the appropriate age level, of which 250 hours must be in an outdoor education environment;
 - (B) 1,500 hours of qualifying teaching experience in Registered Family or Certified Family child care;
 - (C) Documentation of attaining at least step 6 in the Oregon Registry;
 - (D) 9 quarter credits or 6 semester credits in at least two Core Knowledge Categories (3 quarter credits or 2 semester credits must be in HGD or UGB);
 - (E) A minimum of an associate's degree from a college or university with a major in early childhood education, child development, special education, elementary education, human development, child and family studies; or
 - (F) A state or nationally recognized credential, e.g. Child Development Associate (CDA); and
 - (e) If working with school-age children, meet the experience and/or training qualification requirements in one of the following options:
 - (A) 60 hours experience working with children in the certified ONB program classroom AND completion of 20 clock hours of training, completed within the last 5 years, focused on school-age child care that meets the following core knowledge areas criteria: 5 clock hours in UGB, 5 clock hours in LEC, 5 clock hours in HGD, and 5 clock hours in PM;
 - (B) At least 240 hours of qualifying experience working with school-age children in the last 5 years in licensed child care facility or comparable group care program, of which 80 hours must be in an outdoor education environment;
 - (C) At least an associate's degree in early childhood education, child development, elementary education, special education, physical education, recreation, human development, child and family studies, or home economics; or
 - (D) At least Step 6 in the Oregon Registry.

414-320-0350 Duties and Qualifications of Aides

(1) An aide I must:

- (a) Be at least 14 years old;
- (b) Meet the initial training requirements (also see 414-320-0370, Orientation and Initial Training);
- (c) If under 18 years of age, be within sight AND sound of a staff person who meets the qualifications of a teacher or aide II, as specified in 414-320-0350(3)(a), at all times with children. If under 18 years old, an aide I may never be left alone with a child or group of children;
- (d) If 18 years of age or older, be within sight OR sound of a staff member who meets the qualifications of a teacher or aide II, as specified in 414-320-0350(3)(a), at all times while with children, except when:
 - (A) Accompanying a child or a group of children to the bathroom;
 - (B) Providing minor medical attention to a child; or
 - (C) A child is ill and has been separated from the other children until the child leaves the ONB program.

(2) An aide II must:

- (a) Be at least 18 years of age;
- (b) Meet initial (see OAR 414-320-0370, Orientation and Initial Training) and annual training requirements (see OAR 414-320-0380); and
- (c) Have at least 240 documented hours of experience as an aide I or aide II, of which at least 80 hours must be at the certified ONB program where the individual is currently employed.

(3) An aide II may not be alone with a group of children except when:

- (a) Supervising a group of children and aide I to cover for staff breaks, provided staff-to-child ratios are maintained, and there is another staff who is teacher or director qualified present on the ONB program premises;
- (b) Times identified in 414-320-0350(2)(d)(A) through (C); or
- (c) Transporting children.

414-320-0360 Other Staff and Volunteers

(1) A certified ONB program must ensure that substitutes counted in the staff-to-child ratio meet qualifications and initial training requirements for the position they hold.

(2) If a certified ONB program uses a volunteer to meet staff-to-child ratios, the certified ONB program must document how the volunteer meets the qualifications of the position they are filling, including CBR enrollment.

- (3) A certified ONB program must ensure that all program staff and volunteers are aware of the policy that volunteers who do not meet staff requirements must be at least 13 years of age and not have unsupervised access to children.
- (4) Volunteers under the age of 14 must have written permission from their parent or guardian.
- (5) Unless participating in a structured volunteer program, volunteers under the age of 14 may be on the premises of the certified ONB program for no more than 4 hours per day.
- (6) A certified ONB program must identify the duties for each volunteer and share them with the volunteer and ONB program staff in writing prior to the volunteer beginning work at the certified ONB program.

414-320-0370 Orientation and Initial Training

(1) A certified ONB program must ensure that all staff, including substitutes, receive an orientation within the first 10 days of hire and before staff have unsupervised access to children. An orientation must include, but is not limited to:

- (a) A review of the rules for certified ONB programs;
- (b) The written plan for emergency preparedness that addresses evacuation, relocation, shelter-in-place and lockdown procedures and responding to medical emergencies, illness and injuries, allergic reactions, and other incidents;
- (c) The prevention and control of infectious diseases;
- (d) Premises safety including identification and protection from hazards such as electrical hazards, bodies of water, and vehicular traffic;
- (e) The handling and storage of hazardous materials and the appropriate disposal of bodily fluids;
- (f) Methods used to inform personnel of children's specific health, nutritional, and developmental needs;
- (g) Prevention of abusive head trauma and child maltreatment;
- (h) The administration of medication;
- (i) The ONB program policies, as required under OAR 414-320-0200, Policies;
- (j) Applicable ONB program benefit-risk assessments, and risk management policies and risk procedures;
- (k) The ONB program's curriculum philosophy; and
- (l) Procedures for reporting suspected child abuse or neglect.

(2) A certified ONB program must ensure staff, including substitutes, complete the following within 30 days of hire and prior to having unsupervised access to children:

- (a) Introduction to Child Care Health and Safety; and
- (b) A minimum of 2 hours of DELC approved training on recognizing and reporting child abuse and neglect that is specific to Oregon law.

(3) A certified ONB program's staff and substitutes, with the exception of cooks, must complete the following within 90 days of hire and prior to having unsupervised access to children:

(a) Have current certification in pediatric CPR and first aid. Online CPR training is only acceptable if it includes hands-on instruction. Pediatric CPR and first aid must be kept current during employment at the certified ONB program.

(b) Complete the Foundations for Learning child development training.

(4) If a certified ONB program is required to have staff certified in wilderness first aid as identified in OAR 414-320-0300(4), the certification must be kept current during employment at the ONB program.

(5) A certified ONB program must ensure the following staff, including substitutes, obtain an Oregon food handler's certification within 30 days of hire. Food handler's certification must be kept current during employment at the certified ONB program.

(a) Cooks and kitchen staff who handle food; and

(b) Staff who serve meals from a communal source or put away leftovers.

414-320-0380 Annual Training

A certified ONB program must ensure the following training requirements are met for each staff as follows:

(1) Each certified ONB program director, teacher, and aide II must have at least 15 clock hours of formal training or education annually related to child care, of which at least 8 clock hours is in child development and 1 hour is in health, safety, and nutrition (HSN).

(2) Substitute teachers and substitute aide IIs who provide care for 240 hours or more per licensing year must complete at least 15 clock hours of training or education annually related to child care, of which at least 8 clock hours is in child development or early childhood education, and 1 hour is in health, safety, and nutrition (HSN).

(3) Certified ONB program staff employed less than a year must complete training requirements prorated at 1.25 clock hours for each month worked in the current license period. If the 15 hours of training are pro-rated, the requirement to have 8 hours of training in child development or early childhood education does not apply.

414-320-0385 Training Criteria

(1) All staff employed by a certified ONB program must have an active account with ORO. Staff training must meet the following requirements:

(a) Be approved by ORO; and

(b) Be at least 1 hour in duration.

(2) Staff training that is a component of a staff meeting for the certified ONB program may be counted toward the required training hours.

(3) The following core knowledge categories (CKCs) will only meet the child development and early childhood education requirement (see OAR 414-320-0380, Annual Training): Diversity, Family and Community Systems, Human Growth and Development, Health Safety and Nutrition, Learning Environments and Curriculum, Observation and Assessment, Special Needs, and Understanding and Guiding Behavior.

(4) A certified ONB program may count the following initial required staff training toward the 15 clock hours of annual training during the first year of employment. These hours, with the exception of (g), cannot be applied toward the requirement of 8 hours in child development or early childhood education:

- (a) Up to 2 hours of orientation at the first renewal period after the staff person's hire date;
- (b) Pediatric first aid and CPR training;
- (c) Wilderness first aid;
- (d) Food handler's training;
- (e) DELC approved training on recognizing and reporting child abuse and neglect;
- (f) DELC Introduction to Child Care Health and Safety training; and
- (g) DELC approved Foundations for Learning child development training.

(5) During subsequent years of employment of staff members, a certified ONB program may count the following repeated training as part of the 15 clock hours of training for that staff member:

- (a) Up to 5 hours of pediatric CPR and first aid training, wilderness first aid training, and food handler's training;
- (b) Recognizing and reporting child abuse and neglect, but only repeated for credit to the training requirement once every 3 years; and
- (c) A Set 2 (intermediate) or Set 3 (advanced) training as described by ORO can be repeated once, provided it was not taken within the previous 2 years.

414-320-0400 Staff-to-Child Ratio and Group Size

(1) "Ratio" means the number of staff required to be physically present with a child or group of children.

(2) "Group" means a specific number of children assigned to specific staff.

(3) When more than one group of children is present on the child care premises at the same time, the following apply:

- (a) Each group is considered separate and operates independently. The group must have its own staff, program materials, and attendance records;
- (b) Children may not move freely between different groups; and

(c) The multiple groups can come together briefly for a specific activity (e.g., eating, napping, large muscle activities), but in general, the groups should remain separate throughout the day.

(4) A certified ONB program must meet the applicable staff-to-child ratio at all times as identified in OAR 414-320-0400(5). The certified ONB program must limit the number of children in each group to the maximum group size or fewer at all times, except as specified in 414-320-400(3)(c).

(5) Staff-to-Child Ratios and Maximum Group Sizes:

(a) Preschool Age (36 months through eligible for kindergarten):

(A) Staff-to-Child Ratio 1:8

(B) Maximum Group Size: 16

(b) School Age (Eligible for kindergarten through 12 years old)

(A) Staff-to-Child Ratio 1:10

(B) Maximum Group Size: 20

(c) In a mixed age group, a certified ONB program must meet the ratio and group size for the youngest child in the group.

(6) A certified ONB program must have at least one caregiver who meets the qualifications of a teacher, as required by OAR 414-320-0340(2), with each group of children.

(7) Certified ONB programs must have at least two staff members on the certified ONB program premises at all times.

(8) A certified ONB program must count all children in ratios, group size, and capacity with the following exceptions:

(a) Children visiting with a non-staff parent or a staff parent not being counted to meet staff-to-child ratios as long as the parent is directly supervising their child; and

(b) Minors who qualify as volunteers.

414-320-0500 Supervision of Children

(1) A certified ONB program must ensure that children have the full attention of the required number of staff at all times who must:

(a) Be aware of what each child is doing;

(b) Know and take into account the age of each child, the child's individual behaviors, interests, and abilities, the layout of indoor and outdoor space, and any potential hazards or risks from activities children are engaged in;

(c) Be near enough to children to assist and respond when needed;

(d) Be within sight and sound, without relying on audio or video monitoring devices, except as specified in OAR 414-320-0500(5); and

(e) Not participate in personal activities that could interfere with supervision, such as visitors, phone calls, or electronic device use.

- (2) A certified ONB program's staff must position themselves or outdoor equipment to allow supervision of children while playing on all equipment.
- (3) A certified ONB program must ensure that there is adequate natural or artificial lighting in all areas of the ONB premises being utilized by child care children to allow for ONB program activities, safety, and supervision at all times.
- (4) A certified ONB program must provide sufficient light in any space where children are napping or resting so that staff can clearly see each child's face from any point in the space.
- (5) With staff knowledge and permission, one school age child at a time may be out of sight and sound supervision, while on the premises of the ONB program, when using the restroom for a maximum of 5 minutes.
- (6) Certified ONB programs must always hike with staff in the front and the back of each group.

414-320-0510 Creating a Healthy Climate for Child Development

- (1) When communicating or interacting with children, a certified ONB program must ensure staff maintain a climate for healthy, culturally responsive child development such as:
 - (a) Using a calm and encouraging tone of voice;
 - (b) Using positive language to explain what children can do and give descriptive feedback;
 - (c) Having relaxed conversations with children by listening and responding to what they say. Adult conversations must not dominate the overall sound of the group;
 - (d) Greeting children upon arrival and acknowledging their departure;
 - (e) Using facial expressions such as smiling, laughing, and enthusiasm to match a child's mood;
 - (f) Using physical proximity in a culturally responsive way to speak to children at their eye level;
 - (g) Validating children's feelings and showing tolerance for mistakes;
 - (h) Being responsive, listening to children's requests and questions, and encouraging children to share experiences, ideas, and feelings;
 - (i) Observing children in order to learn about their families, cultures, individual interests, ideas, questions, and theories;
 - (j) Modeling and teaching emotional skills such as recognizing feelings, expressing them appropriately, accepting others' feelings, and controlling impulses to act out feelings;
 - (k) Being respectful of cultural traditions, values, religion and beliefs of enrolled families; and
 - (l) Interacting with staff and other adults in a positive, respectful manner.
- (2) A certified ONB program must ensure staff encourage positive interactions between and among children with techniques such as:

- (a) Giving children several chances a day to interact with each other while playing or completing routine tasks;
- (b) Modeling social skills;
- (c) Encouraging socially isolated children to find friends;
- (d) Helping children understand feelings of others; and
- (e) Encouraging interactions between children of all abilities.

414-320-0520 Program Schedule

(1) A certified ONB program must develop, publish, and follow a written daily schedule for each group of children, according to their ages, interests, and abilities.

- (a) The written schedule must include a consistent routine that allows for flexibility to respond to the needs of the individual children and group of children.
- (b) The schedule must:
 - (A) Cover all hours of operation;
 - (B) Provide a balance of active and quiet opportunities; and
 - (C) Include small and large group activities, free play, and snacks and meals.

(2) For preschool-age children, a certified ONB program must include one or more regularly scheduled rest periods.

- (a) Rest periods must include the opportunity for each child to lay down on a cot, mat, or other approved sleeping surface. Rest periods may take the form of children sleeping, being awake but inactive, or participating in alternative quiet activities.
- (b) If children are unable to sleep after 30 minutes, the program must provide alternative quiet activities. Activities may be in the same area where children are sleeping if it is not distracting to sleeping children.
- (c) A preschool-age program that operates up to 6 hours a day is not required to schedule nap or rest times.

(3) Napping or resting children must be protected from the sun, rain, and extreme weather, such as by the use of tarps or tents.

414-320-0525 Activity Plan for All Children

(1) A certified ONB program must make the emotional and physical needs of children the first priority of the certified ONB program, ensuring that children get adequate care and prompt attention.

(2) A certified ONB program must develop, publish, and follow written weekly activity plans for each classroom that:

- (a) Indicate anticipated activities planned for each day;

(b) Are designed to meet the children's developmental abilities, interests, cultural and individual needs; and

(c) Are inclusive for all children in the group regardless of disabling or limiting conditions.

(3) A certified ONB program must ensure the activity plan and available materials allow for a range of learning experiences to support each child's development of:

(a) Self-esteem, self-awareness, self-control, cooperation, problem-solving, and decision-making abilities;

(b) Social, emotional, cognitive, language, literacy, and physical growth; and

(c) Creativity, experimentation, and exploration.

(4) A certified ONB program must have a written curriculum philosophy that describes how the program supports child development through nature-based learning. The philosophy must address all age groups being served and must include, but is not limited to:

(a) How nature is central to their curriculum and how children can develop emotionally, socially, cognitively, and physically in nature and through nature-based experiences and reasonable risky play;

(b) How learning and being outdoors in a nature-based setting impacts the ONB program of daily activities;

(c) What ONB programming looks like or areas of focus for each age group being served;

(d) How the certified ONB program will provide an inclusive learning environment for all children in care;

(e) How to guide learning and social interactions; and

(f) The importance of nature-based play to a child's learning process.

(5) A certified ONB program must provide children with opportunities to choose from a variety of developmentally appropriate activities and experiences which include:

(a) Language and literacy development;

(b) Creative expression through the arts;

(c) Dramatic play;

(d) Gross motor development;

(e) Fine motor development;

(f) Music and movement;

(g) Opportunities to listen and speak;

(h) Concept development; and

(i) Sensory play.

(6) A certified ONB program must not provide or allow a child to have more than 2.5 hours of screen time per week.

(a) When the internet is accessible for children's use, the ONB program must ensure that children do not have access to inappropriate websites, email, instant messaging, or similar communication technology.

(b) Screen time is defined as time spent using electronic devices, including, but not limited to computers, television, tablets, phones and game consoles but does not include assistive or adaptive technology for children with disabilities.

(c) Usage times may be extended for physical activity guidance, special events, projects (i.e., coding lessons) and homework.

(d) All media exposure must be developmentally and age appropriate, non-violent, and culturally sensitive.

(e) When screen time is a group activity, at least one alternative activity must be available for children who do not want to participate.

(7) A certified ONB program must take precautions to protect children from excessive sun exposure, including but not limited to:

(a) Applying sunscreen to children. ONB programs must comply with requirements regarding sunscreen in OAR 414-320-1030(7), including parent permission;

(b) Ensuring access to shaded areas or having children wear protective clothing and hats; and

(c) Limiting direct sun exposure when children do not have sunscreen applied.

(8) A certified ONB program, in addition to carrying out benefit-risk assessments, pursuant to OAR 414-320-0215, must engage children in a developmentally appropriate assessment of risky play by:

(a) Providing additional instructional support when children engage in new levels of risky play;

(b) Helping children determine risks and identify ways to mitigate risk;

(c) Prohibiting staff from physically placing children into risky situations, such as in trees or on top of boulders; and

(d) Encouraging children to accept their current levels of ability while supporting opportunities for growth.

414-320-0530 School-Age Activity Plan

(1) A certified ONB program must provide an environment for children where adults' actions demonstrate respect for children's changing physical, emotional and intellectual needs.

(2) A certified ONB program must provide school-age children with the opportunity to take part, on a daily basis, in activities which support their need to practice and build skills in problem-solving, making responsible choices, cooperation, creativity, and appropriate social interactions.

(3) In addition to those activities specified in OAR 414-320-0520, a certified ONB program must provide school-age children with opportunities to choose from a variety of activities, including:

(a) Individual projects, which may include homework;

(b) Exposure to individual and team physical activities;

(c) Opportunities to rest if tired. The ONB program must provide a space that encourages rest for children who wish to rest.

414-320-0650 Diaper Changing

(1) A certified ONB program must change wet or soiled diapers promptly, checking children's diapers at a minimum of every 2 hours, or more frequently to meet the individual child's needs.

(2) A certified ONB program must have a designated diaper changing area, including stand-up diapering, for children who require diapering.

(a) The diaper changing area must be located so that handwashing can occur immediately after diapering without contact with other surfaces or other children.

(b) The diaper changing area must be located away and separate from all food preparation, food service, and food storage areas.

(c) The diaper changing surface must be sturdy, smooth, non-absorbent, easily cleanable and free of tears or repairs.

(d) The diaper changing surface must be kept free of all objects except for diapering items and not used for other purposes.

(e) If the changing surface is on an elevated surface:

(A) The surface must be large enough to accommodate the length of a child, with protective edges or barriers that prevent a child from rolling or falling from the surface.

(B) A safety strap or harness must not be used on the elevated diaper changing surface.

(C) Children must never be left unattended on an elevated changing surface.

(f) A disinfecting solution must be kept in each diaper-changing area ready for immediate use and stored in a manner so that it is inaccessible to children.

(3) A certified ONB program must follow the diaper-changing procedure, including stand-up diapering, that has been approved by the environmental health specialist.

(4) A certified ONB program must prevent the viewing of a partially or fully undressed child during diaper changes by members of the public. For the purpose of this subsection, "members of the public" means anyone not affiliated with the certified ONB program.

(5) A certified ONB program must discuss the toilet learning plan and progress with parents and ensure that the plan is relaxed and pressure free.

(6) A certified ONB program must place wet or soiled clothing or personal items in a sealed, labeled, moisture-proof bag to send home with the child.

(7) If a certified ONB program uses cloth or reusable diapers, the soiled diapers must:

(a) Not be rinsed;

(b) Be placed in a securely sealed, moisture-proof bag;

(c) Be stored in a separate disposal container; and

(d) Be cleaned by a commercial laundry service or given daily to the child's parent or guardian.

(8) A certified ONB program must provide a container designated for disposing of soiled diapers and diapering supplies only. The diaper disposal container must be:

- (a) Approved by the environmental health specialist;
- (b) Lined with a disposable plastic trash bag;
- (c) Within arm's reach of the diaper changing area; and
- (d) Emptied, cleaned and disinfected daily or more often as needed.

414-320-0700 Behavior and Guidance

(1) A certified ONB program must have a written policy on behavior and guidance of children that is simple and understandable to the child, the parent(s), and all staff (also see OAR 414-320-0200, Policies).

(2) A certified ONB program must have the behavior and guidance policy available in a prominent and frequently visited location for the parents and public to view.

(3) A certified ONB program's behavior and guidance policy must include the use of positive guidance to help children develop self-regulation, self-direction, and respect for others through these approaches:

- (a) Setting and teaching simple, consistent, clear and positive rules and limits that children can understand;
- (b) Setting up the environment for success with engaging activities that encourage positive behavior and self-regulation;
- (c) Following a predictable daily routine and schedule with planned transitions;
- (d) Reinforcing positive behaviors with encouragement and descriptive praise;
- (e) Supervising actively, taking steps to prevent problems before they occur and explaining safe, natural and logical consequences related to a child's behavior;
- (f) Helping children recognize and appropriately express their feelings and understand the feelings of others;
- (g) Modeling and teaching social skills such as taking turns, cooperation, waiting, treating others kindly, and problem solving; and
- (h) Redirecting or helping a child change their focus to something appropriate when their behavior is unacceptable.

(4) A certified ONB program must ensure that only staff shall provide guidance to a child.

(5) A certified ONB program must provide guidance that is fair, consistently applied, timely, and appropriate to the behavior, age, and development of the child.

- (6) If other methods have not been successful, a certified ONB program may remove a preschool or school-age child from an activity or group for the time needed to help them regulate their emotions or behavior. During this time, staff must use co-regulation strategies such as empathetic listening, guiding deep breathing, and offering a child access to a calming location. Once the child has regained emotional or physical regulation, they must be allowed to rejoin the group or ongoing activity.
- (7) A certified ONB program must have a policy that addresses how staff must proceed if a child is displaying inappropriate behaviors that could endanger themselves or the safety of others (see OAR 414-320-0200, Policies).
- (8) A certified ONB program must appropriately intervene to stop the unfair treatment of a child based on the individual child's family, gender, race, ethnicity, economic status, ability, religion, or cultural background. Interventions may include, but are not limited to:
- (a) Redirecting an inappropriate conversation or behavior;
 - (b) Being aware of situations that may involve unfair treatment of a child, responding appropriately, taking actions to prevent future occurrences; and
 - (c) Refusing to ignore the unfair treatment.

414-320-0710 Prohibited Discipline and Actions

A certified ONB program must not use or threaten to use any of the following prohibited actions even if requested or agreed to by parents:

- (1) Rough or harsh handling of children or use of corporal punishment in any form, including, but not limited to hitting, spanking, slapping, shaking, swatting, throwing, jerking, pinching, biting, or other measures that produce physical pain;
- (2) Bind or restrict a child's movement unless permitted under OAR 414-320-0720, Physical Restraint;
- (3) Using unauthorized prescription or non-prescription drugs or chemicals for discipline or to control behavior;
- (4) Confining or isolating a child in an enclosed or darkened area (e.g., a locked or closed room, bathroom, closet, or box for punishment);
- (5) Withdrawing, denying or forcing food, rest, or toileting;
- (6) Forcing or compelling a child to eat or placing soap, food, spices, or foreign substances in the child's mouth;
- (7) Exposing a child to extremes of temperature;
- (8) Yelling harshly or using profane or abusive language;
- (9) Punishing or demeaning a child for toileting accidents or refusing to eat food;
- (10) Allowing any form of mental or emotional punishment or verbal abuse, including but not limited to public or private humiliation, name calling, teasing, ridicule, intimidation, making derogatory or sarcastic remarks about a child's family, race, gender, religion, or cultural background, rejecting, frightening, neglecting, or corrupting a child;

- (11) Demanding excessive physical exercise, excessive rest, or strenuous postures; or
- (12) Requiring a child to remain silent or inactive or removing a child from all activities or the group for excessive periods of time.

414-320-0720 Physical Restraint

- (1) A certified ONB program may only use physical restraint after complying with all requirements of OAR 414-320-0700, Behavior and Guidance and OAR 414-320-0710, Prohibited Discipline and Actions, and in accordance with OAR 414-320-0200(2)(o).
- (2) Physical restraint must only be used if a child's safety or the safety of others is threatened and must be:
 - (a) Limited to holding a child as gently as possible to accomplish restraint;
 - (b) Limited to the minimum amount of time necessary to control the situation; and
 - (c) Developmentally appropriate.
- (3) A staff member must not use bonds, ties, blankets, straps, or weights (including an adult sitting on a child) to physically restrain children.
- (4) Certified ONB program staff must discontinue the use of physical restraint if they sense a loss of their own self-control or concern for the child when using physical restraint.
- (5) If physical restraint is used, a certified ONB program must:
 - (a) Report the use of physical restraint, pursuant to OAR 414-320-0270, Notifications;
 - (b) Assess any incident of physical restraint to determine if the decision to use physical restraint and its application were appropriate; and
 - (c) Document the incident in the child's file, including the date, time, duration, certified ONB program staff involved, and what happened before, during, and after the child was restrained.
- (6) If physical restraint is used more than once on a specific child, the certified ONB program must develop a written plan with input from individuals who have knowledge of the child's behaviors, including, but not limited to: the child's primary care provider, mental health provider, school counselor, and the parents or guardians, to address underlying issues and reduce the need for further physical restraint. A certified ONB program must notify DELC when a written plan has been developed.

414-320-0800 ONB Program Capacity

- (1) A certified ONB program may only care for children in areas approved by DELC.
- (2) A certified ONB program's licensed capacity is based on the licensed outdoor classroom space within the natural space licensed for use by children.
 - (a) There must be a minimum of 4,000 square feet of natural space per child to support a nature-based curriculum, unless otherwise approved by DELC.

(b) An outdoor classroom area must have a minimum of 75 square feet of space in that area per child, not including bathroom or diaper changing spaces or ground space occupied by shelves, sheds, or other equipment not intended to be accessible to children.

(3) For purposes of determining capacity, DELC will consider the factors and requirements described in this subsection.

(a) Unless otherwise approved by DELC, the licensed space of another certified ONB program or educational program that regularly operates at the same time will not be considered in the licensed space calculations for the area that is being licensed;

(c) The facilities on the premises, such as emergency shelters and toilets, must be sufficient to support the health, safety, and biological needs of all enrolled children;

(d) The age range of children requested or approved by DELC to attend the certified ONB program;

(e) If an indoor space will be used to meet the children's biological needs, those spaces:

(A) Must be inspected and approved by the appropriate fire code official and environmental health specialist; and

(B) May be used to provide children with transitional activities while the biological needs of other children are met in order to meet supervision requirements and keep children together.

(4) A certified ONB program must have DELC approval prior to using any new outdoor classroom space or natural space to care for children.

(5) A certified ONB program must not exceed its licensed capacity at any time, including the total number of children in care both at and away from the ONB program.

(6) The following spaces or areas must not be included in the capacity determination:

(a) Unlicensed space;

(b) Emergency shelter space that will only be used in case of emergency;

(c) Toileting facilities;

(d) Restricted land; and

(e) Roadways through parks.

414-320-0810 Utilities

(1) A certified ONB program must ensure that children do not have access to heating equipment such as furnaces, fireplaces, stoves, floor and wall furnace grates, steam and hot water pipes, electric space heaters, gas heaters, or cooling equipment such as, air conditioner compressors, and fans.

(2) A certified ONB program's heating equipment must be safe to operate.

(a) Flammable materials including papers, curtains, and furniture must be at least 3 feet from furnaces, fireplaces, or other heating devices, unless manufacture's specifications require a greater distance.

(b) Heating units that involve flame must be vented properly and supplied with a source of combustion air that meets the manufacturer's installation requirements.

(c) Portable electric and gas space heaters must:

- (A) Be attended while in use and be off when unattended;
- (B) Have an automatic shut off feature for tipping over and overheating
- (C) Have protective covering to keep hands and objects away from the electric heating element;
- (D) Bear the safety certification mark of a nationally recognized testing laboratory;
- (E) Be placed only on the floor;
- (F) Be properly vented, as required for proper functioning; and
- (G) Be used according to the manufacturer's instructions.

(d) Fireplaces, fireplace inserts, and wood/corn pellet stoves, if used, must:

- (A) Have a secure, stable protective safety screen;
- (B) Be installed in accordance with the local or regional building code and the manufacturer's installation instructions; and
- (C) Be inspected and cleaned annually.

(3) A certified ONB program's electrical system must not pose a risk to children.

(a) Unused electrical outlets accessible to preschool-age children must be tamper-resistant or have outlet covers that are not easily removed by children.

(b) Electrical wiring and power strips with surge protectors must be inaccessible to children.

(c) Electrical cords must be in good working condition, not torn or frayed, and not have any exposed wires.

(d) Extension cords may only be used for a brief, temporary purpose and must not replace direct wiring.

(e) Electrical products plugged into an outlet near a water source such as a sink, water table, or swimming pool, must use a special outlet called a ground fault circuit interrupter (GFCI).

(4) Except for certified ONB programs that operate on public park land or operate on public school premises, a certified ONB program must comply with all light fixture manufacturers' installation and use requirements, and must ensure compliance with the following requirements:

- (a) Light fixtures must have shatter-resistant light bulbs, covers, or both;
- (b) Lights or light fixtures used indoors must be designed for indoor use only;
- (c) Lights or light fixtures used outdoors must be designed for outdoor use only;
- (d) Free standing lamps must be attached or secured to prevent tipping; and
- (e) Halogen lamps and bulbs are prohibited.

(5) A certified ONB program must not use carpet in food preparation areas or restrooms.

414-320-0820 Water Supply and Plumbing

(1) A certified ONB program's water supply must be from a public water supply or well, and must be tested for lead, unless the certified ONB program uses a DELC approved alternative water source.

(2) Certified ONB programs operating entirely on public land may use public records of water testing for their location instead of using an accredited laboratory to conduct the testing described in this subsection.

(3) A certified ONB program must test each faucet used for drinking or food preparation for lead in the water, unless the program uses a DELC approved alternative water source.

(4) If the water supply does not meet applicable level established in (5) of this rule, the certified ONB program must obtain a sufficient supply of potable water, such as bottled water, to ensure compliance with rules for drinking and cooking until treatment or an alternate source is obtained. The faucet must not be used for consumption or food preparation until the lead levels have been mitigated.

(5) After initial testing, a program must test all drinking water faucets or fixtures for lead at least once every 6 years from the date of the last test. There must be no more than 15 parts per billion (ppb) of lead.

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

(7) A certified ONB program must submit all test results to DELC within 10 calendar days of receiving the results from the laboratory. The test results must be accompanied by a map of the facility that identifies the location of each drinking water faucet or fixture tested.

(8) If using a private well, additional testing must be completed prior to initial licensure and, at a minimum, annually after initial testing.

(a) Well water must be tested for:

(A) Coliform and E.coli bacteria;

(B) Nitrate; and

(C) Arsenic.

(b) Testing must be completed by an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited laboratory.

(c) Test results must be submitted to the local public health authority for evaluation.

(d) If the well water does not meet safety standards, the certified ONB program must discontinue use of the water source, as per recommendation of the local public health authority. The certified ONB program must establish and implement a mitigation plan under the guidance of the local public health authority, until such time that the well water is deemed safe for use.

- (9) If test results show that water from any drinking water faucet or fixture has unsafe levels of lead, the certified ONB program:
- (a) Must prevent access to that drinking water faucet or fixture immediately after receiving the test results and until mitigation is complete;
 - (b) Must use only bottled or packaged water to meet the requirements of this section;
 - (c) Must submit a corrective action plan to DELC 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;
 - (d) Must implement the mitigation method within 30 days of approval by DELC; and
 - (e) May consult with the Oregon Health Authority for technical assistance.
- (10) A certified ONB program must keep a copy of the most recent test results on site at all times.
- (11) If a certified ONB program does not use any of the on-site plumbing fixtures to obtain water for drinking, cooking, or preparing food, the certified ONB program must:
- (a) Submit a written statement annually at the time of renewal to DELC identifying the alternative source of water and confirming that the certified ONB program does not use any on-site plumbing fixtures for drinking, cooking, or preparing food; and
 - (b) Notify DELC in writing if the alternative source of water changes.
- (12) If a faucet has not been tested within 6 years, a certified ONB program must discontinue using that faucet until testing is completed and the results are below 15 parts per billion (ppb) of lead.
- (13) A certified ONB program must not attach drinking fountains to sinks or locate them in bathrooms, and the water from drinking fountains must:
- (a) Clear the mouth guard by at least one inch;
 - (b) Not be a "bubble type" fountain (the water flow must form an arc); and
 - (c) Be cleaned and sanitized daily, or more often as needed.

414-320-0830 Toilets and Sinks

- (1) A certified ONB program must ensure that any toileting options used by children in care are clean and safe prior to the children's use.
- (2) A certified ONB program must provide at least one of the following bathroom options and may use a combination of toileting options to ensure children and staff are able to meet their toileting needs:
- (a) An indoor bathroom in an approved facility, as indicated in OAR-320-0110(3).

- (A) If utilizing indoor bathroom space, the certified ONB program must ensure that the bathroom has smooth, washable, easily-cleaned walls and floors in the toileting and handwashing areas.
- (B) Indoor toilets must:
- (i) Be supplied with toilet paper;
 - (ii) Have doors that can be unlocked from the outside with an opening device readily accessible to staff, if equipped with doors; and
 - (iii) Provide privacy for school-age children, such as being screened, equipped with doors, or having children take turns while supervision is maintained.
- (C) Indoor bathrooms must have handwashing sinks that:
- (i) Have hot and cold running water;
 - (ii) If self-closing metered faucets are used, provide water flow for at least 15 seconds without the need to reactivate the faucet;
 - (iii) Have water that does not exceed 120°F;
 - (iv) Have liquid soap and paper towels within easy reach of children and dispensed in a sanitary manner with a trash container. Other hand drying options must be approved by the environmental health specialist; and
 - (v) Are not used for preparation of food or drinks, dish washing, rinsing soiled clothing, cleaning equipment that is used for toileting, or for the disposal of any wastewater used in cleaning the ONB program.
- (b) A portable chemical toilet designated for use by the certified ONB program. The portable chemical toilet must be emptied regularly and as needed. The portable chemical toilet surfaces must be cleaned at least once each day and more often if needed.
- (A) The waste container for the portable chemical toilet must be:
- (i) Fabricated from impervious materials, such as plastic, steel, fiberglass, or other equivalent material;
 - (ii) Water tight and capable of containing the chemical waste in a sanitary manner; and
 - (iii) Sufficient in size for the number of persons that will be using the toilet and consistent with the manufacturer's recommended use requirements. At a minimum, the portable chemical toilet must be of sufficient size that the container will normally be at no more than half of its volume capacity immediately before each regularly scheduled emptying of the waste.
- (B) Portable chemical toilets must:
- (i) Be supplied with toilet paper;
 - (ii) Have doors that can be unlocked from the outside with an opening device readily accessible to staff, if equipped with doors;

- (iii) Prevent children from accessing the chemicals or waste;
- (iv) Provide privacy for school-age children, such as being screened, equipped with doors, or having children take turns while supervision is maintained; and
- (v) Be serviced on a regular schedule. Portable chemical toilet service and maintenance must be performed in accordance with city, county, and state laws by approved servicing organizations.

(c) The use of toileting facilities on public lands, such as at a public park or nature center. Public toileting facilities must:

- (A) Be supplied with toilet paper;
- (B) Have doors that can be unlocked from the outside with an opening device readily accessible to staff, if equipped with doors; and
- (C) Provide privacy for school-age children, such as being screened, equipped with doors, or having children take turns while supervision is maintained.

(d) A portable toilet, with individual liners that allow for sanitary disposal after each use, and with surfaces cleaned at least once each day and more often if needed, pursuant to OAR 414-320-0850. Portable toilets must:

- (A) Be supplied with toilet paper; and
- (B) Provide privacy for school-age children, such as being screened, equipped with doors or other method of ensuring privacy, or having children take turns while supervision is maintained.

(e) A water conserving toilet, such as a composting or pit toilet, and greywater system that meets the requirements for health and sanitation as required by the Oregon Department of Environmental Quality and the environmental health specialist. Water conserving toilets must:

- (A) Be supplied with toilet paper;
- (B) Have doors that can be unlocked from the outside with an opening device readily accessible to staff, if equipped with doors; and
- (C) Provide privacy for school-age children, such as being screened, equipped with doors, or having children take turns while supervision is maintained.

(3) A certified ONB program may only utilize backcountry toileting:

- (a) When away from the outdoor classroom, and there are no other toileting options available;
- (b) With permission from the landowner; and
- (c) When in compliance with the following "Leave No Trace" principles:

- (A) Include that solid human waste is deposited and buried in catholes dug 6-8 inches deep at least 200 feet from water, water sources, campsites, and trails. Toilet paper must be either buried in the cathole or packed out with other hygiene products and disposed of properly.

(B) Occurs more than 200 feet from areas where children play or eat; and

(C) Includes handwashing with certified ONB program staff using gloves to assist children and to ensure the sanitary disposal of toilet paper. Both children and adults must wash their hands pursuant to OAR 414-320-1000, Handwashing.

(4) For all toileting options described in this section:

(a) To ensure successful toileting and handwashing practices, a certified ONB program must ensure children have independent access to sufficient toilets, urinals, toilet paper, handwashing equipment, and staff support;

(b) Certified ONB programs must provide an ONB toileting policy to staff and parents, pursuant to OAR 414-320-0200, Policies; and

(c) Certified ONB program staff must be trained in the proper use of alternative toileting options, and the certified ONB program's policies and procedures for supporting children, pursuant to OAR 414-320-0370, Orientation and Initial Training.

414-320-0840 Prevention and Management of Hazards

(1) A certified ONB program must ensure that all toxic or potentially dangerous items, such as cleaning supplies and equipment, poisonous and toxic materials, and flammable and corrosive materials, are inaccessible to children, as defined in OAR 414-320-0100(26).

(a) Toxic substances must be stored separately from medication, food service equipment, and food supplies.

(b) Sanitizing and disinfecting solutions must be inaccessible to children.

(c) Products including toxic substances must be stored and used according to the manufacturer's instructions, including not storing products near heat sources.

(d) Products must be stored in the original labeled containers. Any smaller containers or solutions mixed by staff must be labeled with the contents of the container.

(2) When an environmental concern, including potentially harmful environmental pollutants, is identified, a certified ONB program must evaluate and work collaboratively with appropriate agencies to mitigate the concern.

(3) If the certified ONB program operates on a site undergoing remedial work by the Oregon Department of Environmental Quality (DEQ), the certified ONB program must take additional steps to ensure children do not ingest contaminated soil.

(4) A certified ONB program must take steps to prevent children's exposure to the following, if they exist on the premises:

(a) Lead based paint. Any building or play structure constructed before 1978 that has peeling, flaking, chalking, or failing paint must be tested for lead. If lead-based paint is found, the certified ONB program must contact the Oregon Health Authority within five working days and follow their required procedures for remediation of the lead hazard.

(b) Plumbing and fixtures containing lead or lead solders;

(c) Asbestos;

(d) Toxic mold; and

(e) Other identified toxins or hazards.

(5) A certified ONB program and staff must recognize, address, or remove potentially dangerous items and situations, using protective barriers to prevent children's access, if determined by DELC to be necessary. A certified ONB program must:

(a) Inspect the outdoor play areas and equipment daily for hazards, such as missing parts or broken equipment, sharp edges, splinters, and trash. All equipment with broken parts or damage must be repaired as soon as possible and must be inaccessible to children until repairs are made according to the manufacturer's instructions, if available;

(b) Inspect and mitigate any hazards related to natural materials of a certified ONB program, such as removing broken limbs from climbing trees;

(c) Visually inspect meeting spaces and outdoor classrooms or other commonly used spaces prior to children arriving. A certified ONB program must have a method of removing or mitigating any hazard on ONB licensed space such as, but not limited to, loose overhead branches, hazardous materials or devices left in public spaces, wildlife, or wildlife droppings;

(d) Ensure open containers of water such as bathtubs, buckets, and mop pails are emptied immediately after use;

(e) Store personal items belonging to staff members according to applicable rules; and

(f) Ensure that all plastic bags that are large enough to fit over a child's head are inaccessible to children.

(6) A certified ONB program must not permit any tobacco products such as cigarettes, cigars, and smokeless or vaping devices, illegal drugs, drug paraphernalia, hemp, marijuana and marijuana infused products, or alcohol on the premises during operating hours or when children are present. This includes in any certified ONB program vehicles or on any field trips. If the certified ONB program is operated on public land and the law allows members of the public to smoke in the area, the certified ONB program must reasonably protect children from second-hand smoke.

(7) A certified ONB program must not permit the possession or storage of guns, firearms, weapons, or ammunition on the certified ONB program premises at any time, unless the certified ONB program operates on property containing a residential home and the residential home is under the control of the certified ONB program. In this case, firearms, ammunition, and other potentially hazardous equipment within the home shall be kept under lock, such as a key, combination, or biometric lock. A child safety lock or trigger lock does not meet this requirement. In addition:

(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.

- (8) A certified ONB program operating in natural environments must prevent and manage the children's exposure to toxic or infectious agents, such as potentially toxic animal waste, bee stings, and potentially toxic plants or fungi. When appropriate, certified ONB program staff must check children for ticks.
- (9) A certified ONB program must notify staff, parents, and guardians if pesticides or herbicides are applied on or near the ONB program space.
- (10) A certified ONB program operating on private or public land must work with the owners or park directors or their designees to comply with the following:
- (a) The certified ONB program must take steps to prevent attracting pests including, but not limited to, identifying and removing food and water sources that attract pests.
 - (b) Indoor and outdoor areas in and around the licensed space must be inspected for evidence of potentially hazardous pests. The certified ONB program must document the date and location if evidence is found and take appropriate pest mitigation measures.
 - (c) If pesticides or herbicides are used, except in the case of an emergency such as the discovery of a wasp nest, the certified ONB program must notify the parents or guardians of enrolled children at least 48 hours before application what pesticide or herbicide will be applied and where it will be applied.
 - (d) Pesticides or herbicides must not be applied to certified ONB program space when children are present. Children must be excluded from areas where pesticides or herbicides are applied per the pesticide or herbicide manufacturer's instructions.
- (11) A certified ONB program must take precautions to protect children from vehicular traffic including but not limited to:
- (a) Requiring drop off and pick up only at the curb or at an off-street location protected from traffic; and
 - (b) Ensuring that any adult who supervises drop-off and loading can see and ensure that children are clear of the perimeter of all vehicles before any vehicle moves.

414-320-0850 Maintenance and Sanitation

- (I) A certified ONB program must routinely clean, sanitize and disinfect surfaces and objects that are frequently touched, such as tables, as follows:
- (a) Clean surfaces with a soap and water solution or spray cleaner and rinse before sanitizing or disinfecting;
 - (b) Mix, use and store cleaners, sanitizers and disinfectants according to label directions;
 - (c) Prevent the contamination of food, food-contact items and surfaces when using cleaners, sanitizers or disinfectants;
 - (d) Ensure sanitizers or disinfectants have an Environmental Protection Agency registration number on the label; and
 - (e) Follow label directions or ensure sanitizers and disinfectants remain on the surface for 5 minutes.

(2) A certified ONB program may provide natural materials to children to support the nature-based curriculum that, as organic matter, may not be able to be sanitized, such as decomposing logs, leaves, or items in a mud kitchen. Such materials must be checked to confirm they are nonpoisonous and free of toxins or animal droppings prior to use in the certified ONB program.

(3) A certified ONB program must maintain any building, equipment, and vehicles in good repair, in a clean and sanitary condition, and free of clutter and litter. A certified ONB program must:

(a) Clean and sanitize or disinfect toilet rooms, toilets, and sinks as needed and as required in OAR 414-320-0830, Toilets and Sinks. Door knobs and cabinet pulls in toilet rooms must be sanitized when soiled and at least daily.

(b) Empty and sanitize water tables, similar containers, and water toys daily or more often if necessary.

(c) Clean and sanitize kitchen and food preparation areas as required in OAR 414-320-1100.

(4) Toys must be cleaned and sanitized as follows:

(a) When a toy comes into contact with a child's mouth or bodily fluids, it must be removed from use until it can be cleaned and sanitized prior to use by another child;

(b) Toys not coming into contact with a child's mouth or bodily fluids must be cleaned and sanitized weekly or more often as needed; and

(c) Cloth toys, if used, must be machine washed at least weekly and when soiled.

(5) A certified ONB program must immediately clean up any spills of bodily fluids, such as urine, feces, blood, vomit, saliva, nasal discharge, eye discharge, or other bodily fluids as follows:

(a) Staff must use disposable, nonporous gloves when handling bodily fluids;

(b) Surfaces must be cleaned and disinfected;

(c) Blood-contaminated material must be disposed of in a plastic bag with a secure tie or container with a disposable liner;

(d) Gloves must be removed immediately after use, placed in a tied, sealed, or otherwise closed plastic bag and discarded immediately; and

(e) Hands must be washed after using and disposing of the gloves.

(6) A certified ONB program must keep all garbage and bodily fluid waste in non-absorbent, easily washable containers with tight-fitting lids.

(7) Garbage cans and receptacles must be emptied on a daily basis and cleaned and disinfected as needed. Garbage and waste containers must be kept clean and minimize the presence of rodents, flies, roaches and other vermin.

(8) A certified ONB program must clean or sanitize bedding, sleeping equipment, and other soiled items as follows:

(a) Bedding must be cleaned at least weekly, or more often if soiled and before use by another child;

(b) Mats, cots, and other approved sleeping surfaces must be cleaned and sanitized at least once a week, or more often when soiled and before use by another child;

- (c) All clean linen and clothing must be stored in a sanitary manner and separate from dirty laundry;
- (d) Children's wet or soiled clothing to be sent home, must be stored in individual plastic or non-absorbent bags immediately after being removed from the child;
- (e) Containers for storing soiled non-disposable items, such as cloth diapers, washcloths, children's clothing, and bed linens must be non-absorbent, leakproof, have a leakproof, disposable liner and a tight-fitting lid and must:
 - (A) Be inaccessible to children; and
 - (B) Not be stored in food preparation or food storage areas.
- (f) A certified ONB program must keep cloths, both single use and multiple use, used for wiping food spills on utensils and food-contact surfaces clean and use them for no other purpose; and
- (g) Cloths that are reused must be stored in a sanitizing solution between uses and disposed of or laundered daily.

(9) Any area of the certified ONB program premises that contains a bodily fluid or other contaminant that cannot be cleaned or sanitized must be made inaccessible to children.

414-320-0860 Fire Protection

- (1) Certified ONB programs receiving a fire safety inspection or consultation as referenced in OAR 414-320-0130, Application Process, must follow the requirements and recommendations of the fire code official.
- (2) Certified ONB programs utilizing indoor space for any purpose, to include emergency shelter, must comply with the requirements of the Oregon Structural Specialty Code.
- (3) To ensure a safe environment for children in care, a certified ONB program must comply with all applicable fire safety requirements. A certified ONB program must also comply with the following:
 - (a) Combustible materials, which include, but are not limited to, gasoline, natural gas, diesel, fuel, propane, rags soaked in combustible materials, oils, chemicals, or solvents, must be properly discarded pursuant to requirements of the local jurisdiction and the currently adopted Oregon Fire Code, removed from the premises, or properly stored in closed containers specifically designed to hold such combustible materials and not be accessible to children in care. Gasoline and diesel fuels may be stored in plastic containers designed for that purpose.
 - (b) Furnaces and other heating devices:
 - (A) Paper, rubbish, or other combustible materials must be at least three feet from furnaces, fireplaces, campfires, or other heating devices, unless manufacturer specifications require a greater distance.

(B) An appliance or heating device that has a surface capable of burning a child or reaching 110 degrees Fahrenheit must be inaccessible to children in care unless a certified ONB program activity involves such appliances or devices and children are supervised at all times during the activity.

(c) Open flame devices, candles, matches, and lighters:

(A) A certified ONB program must not use open flame devices, other than gas kitchen ranges, camp stove used in compliance with OAR 414-320-1100, Kitchen and Food Service Areas, campfires used in compliance with OAR 414-320-1330, Campfire Activity Supervision and Safety, or the brief supervised use of candles.

(B) Matches, lighters, and other fire starters may only be used by certified ONB program staff and must be kept inaccessible to children.

(d) Portable heaters or fuel-powered generators must not be used on certified ONB program premises during operating hours, unless portable heaters are necessary to keep children warm in cold weather. If the heating device reaches over 110 degrees Fahrenheit, children must be supervised, and children must remain out of reach of the heater to avoid accidental burns.

(e) Chimneys, fireplaces, gas burning fireplaces, wood stoves or similar wood-burning devices and portable outdoor fireplaces must be inspected annually by a state or locally certified inspector, unless the certified ONB program submits to DELC a written statement that the chimney, fireplace, wood stove or similar wood-burning device or portable outdoor fireplace will not be used at any time. ONB programs operating on public land do not have to provide inspection certificates for publicly provided fire pits or wood burning barbeques.

(4) Certified ONB programs must have and maintain at least one working fire extinguisher with a minimum rating of 2A:10 BC in each outdoor classroom.

(a) If additional fire extinguishers are required by the currently adopted Oregon Fire Code, a certified ONB program must have the size, type, and number of fire extinguishers maintained and tested on an annual basis.

(b) Certified ONB programs operating with any approved indoor space or engaging in campfire or outdoor cooking activities must have and maintain working fire extinguishers that are marked with a minimum rating of 2A:10 BC.

(c) Fire extinguishers must be readily available for use in case of an emergency; and

(d) For certified ONB programs operating in a public park location that do not allow the use of fire extinguishers, alternative fire suppression equipment, such as buckets of water must be available.

(5) A certified ONB program must have smoke detectors that are installed, maintained, and tested as required by the fire code official in any approved indoor space.

(6) A carbon monoxide alarm or detector must be installed and tested in accordance with the manufacturer's recommended instructions and located in accordance with the applicable building and/or fire code in any approved indoor space.

414-320-0900 Furniture

(1) A certified ONB program operating with outdoor classrooms must have accessible and child-size furniture and equipment in sufficient quantity for the number of children in care. A certified ONB program may use picnic benches in sufficient quantity for the number of children in care, with adaptations to support children as needed, or provide alternative seating and surface options, such as blankets or logs.

(2) If utilized by a certified ONB program, furniture and equipment must be:

- (a) Installed, maintained, and used according to manufacturer's specification;
- (b) Safely constructed and lead free;
- (c) Maintained in a safe working condition;
- (d) Developmentally appropriate;
- (e) Subsection (a) through (d) of this section may not apply to certified ONB programs operating in public areas where the equipment is not the property of the certified ONB program and not intended for the use of the children.

(3) A certified ONB program must provide a safe, washable cot, rest mat or pad, or other approved sleeping surface for each preschool-age child at nap time, for each school-age child who wants to rest, and for any child that needs to be isolated due to illness.

- (a) Cots, mats, or pads must be assigned to individual children and used by one child at a time.
- (b) Cots, mats, or pads must be cleaned and sanitized when soiled and before use by another child.
- (c) Each mat or pad used for napping must be:
 - (A) Covered with a durable, washable, waterproof, form-fitting material;
 - (B) At least 1 inch thick; Inflatable sleeping pads must be suitable for the outdoor temperature according to the manufacturer's label. Sleeping pads intended for outdoor sleep, such as a backpacking pad, less than one inch thick must be approved by DELC.
 - (C) Free of rips, tears or tape.
- (d) Mats, cots, or pads must be arranged in a manner that allows for a direct, unobstructed passage to each child.
- (e) Mats, cots, pads and bed linen must be properly stored so that sleeping surfaces are not touching each other unless cleaned and sanitized after each use.

(4) A certified ONB program must ensure that each child is provided with individual bedding consisting of at least a sheet, blanket, or sleeping bag.

- (a) A sheet must cover the entire resting surface.
- (b) Bedding must either be marked for use by the identified child or laundered daily.
 - (A) All bedding must be thoroughly cleaned and sanitized before use by another child.

(B) If marked for use by the individual child, the bedding must be laundered weekly or more frequently if needed.

(5) A certified ONB program must provide designated storage space for each child's clothing and personal possessions as well as space for teaching equipment, records and files, and cleaning equipment and supplies.

(6) A certified ONB program must arrange furniture and play materials to promote and encourage independent access and use by children.

414-320-0910 Play Materials

(1) A certified ONB program must provide play equipment and materials that are:

- (a) Appropriate to the developmental needs, interests and abilities of the children;
- (b) Sturdy and free of protruding nails or bolts, loose or rusty parts, or paint that contains lead or other toxic materials;
- (c) Have smooth, nonporous surfaces or washable fabric surfaces that are easy to clean and sanitize, or be disposable;
- (d) In good condition; and
- (e) Easily accessible to the children.

(2) Certified ONB programs may provide natural materials to children to support the nature-based curriculum that may not be able to meet the requirements of OAR 414-320-0910(1)(c)-(d), for example decomposing logs, leaves, or items in a mud kitchen. Such materials must be nonpoisonous and free of toxins.

(3) A certified ONB program must offer a quantity and variety of play materials (i.e., toys, books, and games) for each age group that is sufficient to:

- (a) Avoid competition for popular items;
- (b) Provide a variety of choices to each child;
- (c) Provide a balance of:
 - (A) Active and quiet activities; and
 - (B) Individual and group activities;
- (d) Meet the developmental needs of each group of children; and
- (e) Provide the variety of activities required in OAR 414-320-0520, Activity Plan for All Children, as appropriate.

(4) A certified ONB program must provide a variety of developmentally appropriate toys, materials and equipment which give children choices such as:

- (a) Discovery of nature;
- (b) Fine motor activities;
- (c) Writing utensils and materials;
- (d) Books;

- (e) Sensory experiences;
- (f) Gross motor activities;
- (g) Music;
- (h) Art;
- (i) Dramatic play; and
- (j) Science and/or exploration.

(5) A certified ONB program must provide culturally and racially diverse learning opportunities within the ONB program's curriculum, activities, and materials that represent all children, families, and staff.

- (a) Equipment and materials that support diversity include, but are not limited to:
 - (A) Diverse dolls, books, pictures, games, or materials that do not reinforce stereotypes;
 - (B) Diverse music from many cultures in children's primary languages; and
 - (C) A balance of materials from or related to different ethnic and cultural groups, ages, abilities, family styles, and genders.
- (b) A certified ONB program must actively reflect on the learning opportunities provided in the program to broaden cultural understanding and representation of the cultural backgrounds of the children, families, and staff in the program.

414-320-0920 Outdoor Areas

- (1) Certified ONB program space must promote a variety of age and developmentally appropriate active play areas for children in care. Activities must encourage and promote both moderate and vigorous physical activity such as running, jumping, skipping, throwing, pedaling, pushing, pulling, kicking, and climbing.
- (2) A certified ONB program must have shaded areas in outdoor play space provided by trees, buildings, or shade structures. A certified ONB program engaging children in unshaded areas must notice and respond to the children's comfort and safety in all temperatures, pursuant to OAR 414-320-0940, Weather Conditions and Outdoor Hazards.
- (3) A certified ONB program must meet the following requirements when using natural spaces not enclosed by a fence, wall, or similar barrier:
 - (a) Establish boundaries with children in unenclosed spaces by using visual aids or cues, such as webbing or tying ribbons on trees. These visual aids must not create a tripping, confinement, or choking hazard.
 - (b) Certified ONB staff must teach children to stop and return, such as through words or use of other calls.
 - (c) Certified ONB staff must be positioned at locations within the ONB program space to ensure they are able to respond to dangerous situations.

(4) A certified ONB program with outdoor classroom space must create barriers between that space and any immediately adjacent hazardous features, such as a ravine, cliff, or body of water more than two feet deep and six feet in diameter. These barriers may be made by natural materials and must be at least 29 inches tall for certified ONB programs enrolling only preschool-age children and 38 inches tall for certified ONB programs that enroll school-age children. If public property used by a certified ONB programs do not meet these requirements, a certified ONB program must submit and follow supervision plans to be reviewed and approved by DELC.

(5) If utilizing outdoor playground equipment that is under the direct control of the certified ONB program, the certified ONB programs must comply with OAR 414-320-0920 (6) through (8).

(6) If utilizing outdoor playground equipment, certified ONB programs must ensure that use zones in which a child falling or exiting from play equipment are:

- (a) A minimum of 6 feet of clearance from walkways, buildings and the external perimeter of equipment;
- (b) Free of obstacles, other than the equipment itself, that a child could run into or fall on;
- (c) Arranged to prevent hazards from conflicting activities;
- (d) Extended at least 6 feet in all directions from the equipment perimeter unless the fall potential in that direction is minimal, such as play equipment with guardrails or the sides of swings;
- (e) Allowing for single-axis swings that move forward and backward, to extend a minimum distance of twice the vertical distance from the pivot point to the protective surface to the front and rear of the swing midpoint;
- (f) Allowing for multi-axis swings, such as tire swings that move in a circle, to extend 6 feet plus the distance of the height of the top of the swing set to the bottom on the swing's seat in every direction from the midpoint. At least a 30-inch clearance between a fully extended tire swing seat and the support structure is required.

(7) A certified ONB program must always maintain protective surfacing in use zones under and around all outdoor playground equipment of 18 inches or higher. Acceptable materials include wood mulch, double shredded bark mulch, shredded or recycled rubber, uniform wood chips, sand, pea gravel, rubber mats or poured in place rubber manufactured for such use. Hog fuel is not permitted.

(a) Rubber mats and poured in place rubber must:

- (A) Be tested to ASTM F1292;
- (B) Be installed and maintained according to manufacturer's specifications; and
- (C) Not have rips, tears, loose seams, or other conditions that may pose a hazard.

(b) Loose-fill materials must:

- (A) Have a minimum depth of 9 inches if using loose-fill material other than shredded/recycled rubber or 6 inches if using shredded/recycled rubber;
- (B) Remain loose at the required depth by replacing, leveling, or raking the material; and

(C) Not be installed over concrete or asphalt.

(8) A certified ONB program must securely anchor any non-portable piece of climbing or swinging equipment according to manufacturer's instructions.

(9) If utilizing playground equipment that is not under the direct control of the certified ONB program, the certified ONB program must have a written plan, approved by DELC, that describes how the certified ONB program will maintain the safety of children in care. The written plan must include the following:

- (a) Distance the alternate play area is located from the certified ONB program, if applicable;
- (b) Detailed description of how the children will reach the alternate play area;
- (c) Outdoor play area or playground equipment circumstances, hazards, and risks;
- (d) Availability of appropriate equipment with fall zones and protective surfacing;
- (e) Verification that parents have been made aware that their children will be using play equipment not under the direct control of the certified ONB program;
- (f) Safeguards the certified ONB program will be taking in order to ensure children are properly supervised while traveling to and from and while using the space;
- (g) Nature of other activities and persons who may be sharing the space;
- (h) Availability of restroom facilities; and
- (i) Ability to obtain assistance if needed when injury or illness occurs.

(10) Trampolines, other than rebounders, are prohibited. Rebounders are permitted only when used according to manufacturer's instructions.

(11) Inflatable equipment such as: bounce houses, moon walkers, and giant slides, etc., are permitted when used according to manufacturer's instructions. Staff must be physically positioned to respond if needed.

(12) A certified ONB program utilizing a treehouse or tree loft must ensure that the treehouse or tree loft is safely constructed. DELC may request that the certified ONB program obtain a building inspection from local authorities to verify safety.

(13) A provider must encourage the use of helmets and have them available for children while using a bicycle, tricycle, balance bike, kick scooter, skateboard, roller or in-line skates. Certified ONB programs must comply with Oregon bicycle laws while child care children are riding on public paths or roadways.

414-320-0930 Swimming Pools and Other Water Hazards

(1) A certified ONB program must not use a swimming pool unless it has been licensed by the Oregon Health Authority or delegated agent pursuant to Oregon Health Authority administrative rule Chapter 333, Division 60. (Also see OAR 414-320-0840, Prevention and Management of Hazards regarding access to pools and other bodies of water.)

- (a) A swimming pool must not be used if the main drain cover is missing.

(b) Swimming pools must be maintained, cleaned, and sanitized according to manufacturer instructions and Oregon Health Authority or local health jurisdiction guidelines.

(c) When a swimming pool is located on the certified ONB program premises, emergency telephone numbers and the program's address must be posted near an immediately accessible telephone in the pool area.

(2) The following bodies of water must be inaccessible to children in care by using a physical barrier at least four feet tall with a locking mechanism:

(a) Swimming pools when not in use as part of the certified ONB program; and

(b) Uncovered wells, septic tanks, wastewater, wastewater tanks, below grade storage tanks, farm manure ponds, or other similar hazards.

(3) A certified ONB program must not permit children to use or have access to a hot tub, spa, portable wading pool, or other similar equipment. Hot tubs and spas must be secured by a locking cover or physical barrier.

(4) A certified ONB program operating near a natural body of water must provide a physical barrier or physical boundary to adjacent bodies of water pursuant to OAR 414-320-0920(4), Outdoor Areas, and must provide supervision pursuant to OAR 414-320-0500, Supervision of Children.

414-320-0940 Weather Conditions and Outdoor Hazards

(1) A certified ONB program must observe weather conditions and other possible hazards to take appropriate action to protect and promote child health, safety, and well-being. A certified ONB program must identify policies and procedures for ONB program operations in weather conditions that may pose a health or safety risk for children and staff. These policies and procedures must be approved by DELC.

(2) A certified ONB program must ensure children are dressed for weather conditions during outdoor program time. A certified ONB program must ensure all children have appropriate clothing for the time spent outdoors and have extra clothing to meet children's comfort and safety needs throughout the day, as needed. This must include rainy or cold weather clothing such as waterproof boots, rain pants, rain jacket, a moisture-wicking layer, two sets of gloves, and a hat to keep the child's head dry and warm.

(3) A certified ONB program must have a policy regarding what clothing and equipment families are required to provide, pursuant to OAR 414-320-0200, Policies. The certified ONB program must work with families that require assistance in meeting their child's clothing needs and may loan appropriate clothing and other necessary equipment to children.

(4) A certified ONB program must remain aware of the children's verbal and nonverbal cues regarding their warmth and comfort and respond appropriately to ensure the children's health and safety. These responses may include, but are not limited to:

(a) Keeping children active and moving in cold weather;

(b) Resting in shaded areas to cool off; and

(c) Assisting children to remove or add layers of clothing, while supporting their development of self-regulation skills.

414-320-1000 Handwashing

(1) Staff and children must wash their hands with soap and running water:

- (a) After using the toilet;
- (b) After diaper changing;
- (c) After assisting someone with toileting;
- (d) Before handling food;
- (e) Before and after eating;
- (f) Before assisting with feeding;
- (g) After gardening activities; and
- (h) When switching between working with raw foods and ready-to-eat foods.

(2) Staff and children must either wash their hands with soap and running water or use hand sanitizer with alcohol content between 60-95%:

- (a) After wiping the nose;
- (b) After coughing or sneezing; and
- (c) After handling pet toys or touching animals, other than dogs and cats.

(3) Hand sanitizer must be stored in a manner where it is inaccessible to children.

(4) Application of hand sanitizer on preschool-age children must be supervised by an adult.

(5) When handwashing is not possible, but required by OAR 414-320-1000(1)(a) through (h), e.g. on field trips or hikes, moist towelettes and hand sanitizer with alcohol content between 60-95% may be used together instead of handwashing.

(6) For children who are not able to wash their own hands, staff may wash children's hands with a single-use cloth rather than under running water.

414-320-1010 Illness

(1) A certified ONB program must observe and monitor each child upon their arrival at the program and throughout the hours of care for symptoms of an illness and obvious signs of infestation or physical injuries.

- (a) A child's temperature is taken when there is a concern.
- (b) A child's temperature is not taken rectally at any age.
- (c) Mercury and glass thermometers are not used.

(2) A certified ONB program must not accept a child into care who:

- (a) Is diagnosed as having or being a carrier of a child care restrictable disease, as defined in Oregon Health Authority administrative rule OAR 333-019-0010, except with the written approval of the public health administrator or licensed health care provider; or
- (b) Has one or more of the following symptoms of illness, except with the written approval of the public health administrator or licensed health care provider:

- (A) Fever over 100.4°F. A child with a fever over 100.4°F may return if fever free for 24 hours without the aid of medication.

- (B) "Diarrhea", which means three or more watery, bloody, or loose stools in 24 hours, the sudden onset of loose stools, or a child is unable to control bowel function when previously able. A child with diarrhea may return 48 hours after diarrhea resolves or with written clearance from a licensed healthcare provider.

- (C) Vomiting at least one time, where there is no explanation for the vomiting. A child who vomits without explanation may return 48 hours after the last episode of vomiting or with written clearance from a licensed healthcare provider.

- (D) Severe or persistent coughing. A child with severe or persistent coughing may return after symptoms are improving for 24 hours or with written clearance from a licensed healthcare provider.

- (E) Unusual yellow color to skin or eyes. A child with unusual yellow color to skin or eyes may return to care with written clearance from a licensed healthcare provider.

- (F) Open sores or wounds discharging bodily fluids. A child with open sores or wounds discharging bodily fluids may return to care after rash is resolved, when sores and wounds are dry or can be completely covered with a bandage, or with written clearance from a licensed health care provider.

- (G) Stiff neck and headache with one or more of the symptoms listed above;

- (H) Uncharacteristic lethargy, decreased alertness, increased irritability, increased confusion, or a behavior change that prevents active participation in usual school activities. A child with any of the above symptoms may return to care when symptoms resolve, return to normal behavior, or with written clearance from a licensed health care provider.

- (I) Difficulty breathing or abnormal wheezing. A child with difficulty breathing or abnormal wheezing may return to care after symptoms are improving for 24 hours.

- (J) Complaints of severe pain. A child with complaints of severe pain may return to care after symptoms are improving.

- (K) Eye lesions that are severe, weeping, or pus filled. A child with eye lesions that are severe, weeping, or pus filled may return to care after symptoms resolve or with written clearance from a licensed healthcare provider.

(3) If a child who has been admitted into care shows signs of illness, as described in this rule, a certified ONB program must:

- (a) Separate the child from the other children in a location where the child can be seen and heard by staff and carefully observed at all times.
- (b) Notify the parent to remove the child from the premises as soon as possible.
- (c) Until the parent arrives, provide the child with an individual cot, mat, or bed that can be easily cleaned and disinfected after use.
- (d) Give extra attention to handwashing and sanitation including cleaning and disinfecting toys, equipment, and surfaces used by the ill child immediately after the child leaves.
- (e) Keep disposable items and used linens in a closed container in the isolation area until cleaned or thrown away.

(4) If any child, staff member or volunteer has a restrictable disease, as defined in Oregon Health Authority, Public Health Division Chapter 333, Division 19, Investigation and Control of Diseases: General Powers and Responsibilities, a certified ONB program must:

- (a) Immediately report the incident or illness to the local health department;
- (b) Follow the health department's recommendations on exclusion and readmission of children and staff; and
- (c) Post a notice for the parents of all children who attend the program.

(5) A certified ONB program must develop a written care plan 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 wellbeing. 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. In addition:

- (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 DELC must be notified by 5:00pm the next business day;
- (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; and
- (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.

414-320-1020 Injuries

(1) A certified ONB program must have and follow written procedures for handling injuries that are made known to all staff, including:

- (a) Procedure for requesting or taking a child to emergency medical care;
- (b) First aid measures for serious accidents;
- (c) Routine care for treatment of minor injuries;

(d) Standard precautions to handle potential exposure to blood and other potentially infectious fluids (also see OAR 414-320-0850(4), Maintenance and Sanitation);

(e) Notification of parents:

(A) Any injury that may need evaluation by a physician or impact to a child's head must be reported to the child's parent(s) immediately and documented.

(B) Any injury requiring first aid or requiring observation must be reported to the child's parent(s) on the day of occurrence.

(f) Ensuring supervision of other children in the group.

(2) A certified ONB program must complete a report of any serious injury or incident, as defined in OAR 414-320-0100(55) and include:

(a) The child's full name and age;

(b) The date of occurrence, time, type, circumstances, witnesses, and location at the ONB program or off-site;

(c) Time and date of notification of parents;

(d) The signatures of the reporting staff and director;

(e) Action taken to prevent reoccurrence; and

(f) The signature of the parent indicating that they reviewed it or received a copy of the report within 48 hours of when the incident occurred. An email or text with confirmation of receipt will count as a parent signature.

(3) A certified ONB program must maintain, at a minimum, the following first aid supplies at the program, in any vehicle used to transport children in care, and for group activities away from the ONB program:

(a) Non-medicated adhesive bandages (assorted sizes);

(b) Adhesive tape;

(c) Sterile gauze pads (various sizes);

(d) A sling, or a large triangular bandage;

(e) Bottled water (for cleaning wounds or eyes);

(f) Liquid handwashing soap or handwashing gel;

(g) Sealed antiseptic towelettes or solution to be used as a wound cleaning agent;

(h) Scissors;

(i) Tweezers;

(j) Disposable latex-free, powder-free gloves;

(k) Plastic bags (for disposing of blood and other body fluids);

(l) Mercury-free and glass-free thermometer;

(m) Cold pack;

(n) Chlorine bleach or other disinfectant for cleaning of blood and other bodily fluids;

(o) Flexible rolled gauze;

- (p) A fire suppression blanket for ONB programs that engage in campfire activities;
- (q) Hand-warmers and a method to prevent direct skin contact for hand-warmers that reach temperatures above 120 degrees Fahrenheit;
- (r) Emergency thermal blanket; and
- (s) A chart or handbook of first aid instructions.

(4) A certified ONB program must ensure that the first aid supplies are readily available to staff and kept inaccessible to children.

(5) A certified ONB program must maintain the first aid supplies in a clean and sanitary manner and replace them as needed, including expired items.

414-320-1030 Medications

(1) Before a certified ONB program gives a child any prescription or non-prescription medication, including, but not limited to, pain relievers, cough syrup, and nose drops, the certified ONB program must:

- (a) Have a signed, dated, written authorization by the parent(s) on file (also see OAR 414-320-0230, Parental Permissions);
- (b) For chronic medical conditions, a certified ONB program may obtain permission for 12 months or less with specific instructions including when administration is needed, such as inhalers.
- (c) Parental authorization over the phone is permitted for single dose administration of non-prescription medication. The date and time of the consent must be documented and signed by the parent upon picking up their child.
- (d) Ensure that the original container is labeled with the name of the medication, dosage, and directions for administration and storage.
- (e) For prescription medication, the label must include the child's name, the date the prescription was filled, the prescribing physician's name, and length of time to give the medication.
- (f) If parent instructions differ from the container instructions, a certified ONB program must have a licensed physician's written instructions for that medication.
- (g) Medication must not be administered after the expiration date.
- (h) Any medication provided by the parents must be labeled with the child's name.
- (i) Ensure that cleaned and sanitized medication measuring devices are used when providing medication to a child care child, if applicable.

(2) A certified ONB program must immediately document any medication administered, listing the name of the child, type of medication, date, time, and dosage given, any side effects exhibited by the child, and the signature of the person administering the medication.

(3) A certified ONB program must inform parent(s) daily of all medications administered to their child.

(4) If medication is provided by the parent, a certified ONB program must administer medication only to the child for whom it is intended, and follow the directions on the label.

(5) A certified ONB program must ensure that all medications are inaccessible to children, with child-resistant caps when available, and stored away from food.

(a) If only stored per OAR 414-320-0100 (26)(d), the medication bottle or package must be stored in a container with a tight-fitting lid.

(b) Emergency medication may be kept with a staff member. Emergency medication may not be left unattended at any time.

(6) A certified ONB program must keep medications requiring refrigeration in a separate tightly-covered, leakproof container clearly marked "medication" and inaccessible to children. A certified ONB programs may use coolers and reusable water-activated cooling packs for medication storage if the medication's manufacturer directions require the medication to be stored at a temperature below the indoor or outdoor temperature. Coolers must contain an accurate thermometer, as outlined in OAR 414-320-1100 (8).

(7) The application of sunscreen and diaper cream does not need to be documented, but a certified ONB program must:

(a) Have annual written parental authorization;

(b) Use only as needed and according to manufacturer's instructions;

(c) Inform parents of the type of sunscreen used if provided by the program;

(d) Label the item with the child's name if provided by the parent, and use only for that child; and

(e) Allow children to apply sunscreen to themselves with direct staff supervision and written parental approval.

414-320-1050 Care of Children with Specific Needs

When caring for a child who has, or is at increased risk for a chronic physical, developmental, behavioral, or emotional condition, and who requires health and related services of a type or amount beyond that required by children generally, a certified ONB program must have a written care plan. The written care plan must include the following, when applicable:

(1) A list of the child's diagnosis/diagnoses;

(2) Contact information for the primary care provider and any relevant sub-specialists (i.e., endocrinologists, oncologists, etc.);

(3) Medications to be administered on a scheduled basis;

(4) Medications to be administered on an emergency basis with clearly stated parameters, signs, and symptoms that warrant giving the medication written in language that is easy to understand;

(5) Procedures to be performed and person responsible for training staff members;

(6) Allergies;

- (7) Dietary modifications required for the health of the child;
- (8) Activity modifications;
- (9) Environmental modifications;
- (10) Placement with another age group, if recommended by the child's healthcare professional or other qualified professional;
- (11) Stimulus that initiates or precipitates a reaction or series of reactions (triggers) to avoid;
- (12) Symptoms for staff to observe;
- (13) Behavioral modifications;
- (14) Emergency response plans, both if the child has a medical emergency, and special factors to consider in a programmatic emergency, like a fire.
- (15) Any necessary special skills training and education for staff and the person responsible for training staff members; and
- (16) Any individualized services (e.g. occupational therapy, speech services) that will be provided at the ONB program. If the individualized service required the child be out of direct supervision of child care staff, parental permission is required.

414-320-1100 Kitchen and Food Service Areas

- (1) If there is no kitchen on the premises of the certified ONB program and if meals or snacks are not catered, a certified ONB program must observe the requirements under OAR 414-320-1110, Food Service.
- (2) A certified ONB program must ensure that staff clean and sanitize food preparation areas and eating surfaces before and after each use, pursuant to OAR 414-320-0850, Maintenance and Sanitation.
- (3) A certified ONB program's kitchen or food preparation areas must be separate from any child care activities and not allow access by children except for supervised learning activities.
- (4) If a certified ONB program's kitchen is indoors, the walls, floors, and ceilings must be smooth, washable and easily cleanable in all rooms in which food or drink is prepared or stored, or utensils are washed or stored.
- (5) If using an indoor kitchen, a certified ONB program must maintain all stove vents and filters free of grease build-up and food spatters and in good repair.
 - (a) A certified ONB program using commercial cooking equipment to prepare meals, ventilation must be equipped with an exhaust system in compliance with the applicable building, mechanical, and fire codes.
 - (b) All gas ranges in certified ONB program kitchens must be mechanically vented and fumes filtered prior to discharge to the outside.
- (6) A certified ONB program must ensure that all equipment and utensils used for food service, including shelving and food-contact surfaces, are:
 - (a) Easily cleanable, including beneath, between and behind each piece of equipment;

- (b) Durable and in good repair;
- (c) Non-toxic;
- (d) Smooth and nonabsorbent with no unsealed chips, cracks or seams; and
- (e) Maintained in a clean and sanitary condition.

(7) If storing, preparing, and serving food outdoors without an outdoor kitchen area, a certified ONB program must:

- (a) Use a cooler with ice from an approved source, or ice packs, as needed to maintain food below 41° F, as approved by an environmental health specialist. Coolers must contain an accurate thermometer, as outlined in OAR 414-320-1100 (8).
- (b) Use temporary food preparation surfaces, such as a cutting board on a clean tarp or plastic tablecloth, that are:
 - (A) Approved by an environmental health specialist;
 - (B) Maintained in good repair including, but not limited to, being properly sealed without chips, cracks, or tears; and
 - (C) Moisture resistant.

(8) A certified ONB program must provide accurate thermometers designed to measure cold storage temperature in refrigerators, coolers, and freezers that are clearly visible and easy to read. Thermometers in refrigerators must show a reading of 41°F or below, and thermometers in freezers must show a reading of 0°F or below.

(9) An outdoor kitchen area may be used to prepare and serve food. The outdoor kitchen area must:

- (a) Be maintained in good repair including, but not limited to, ensuring that the surfaces are moisture resistant, and are properly sealed without chips, cracks, or tears;
- (b) Sinks must be cleaned and sanitized immediately before preparing food for child care children.
- (c) Have a colander or other method that is used to prevent food and kitchen utensils from touching the sink basin;
- (d) Include clean dishes, pans, and kitchen utensils.; and
- (e) Provide overhead protection if food is not covered at all times. The overhead protection may consist of, but not be limited to, roofing, ceilings, awnings, pop-up canopies, or umbrellas. Overhead protection is not required for cooking units that have a lid or covering that will protect foods from contamination. The overhead protection must be easily cleanable.

(10) A certified ONB program may use camp stoves that comply with applicable regulations to heat or cook food for children. Supervision for any child engaged in a cooking activity must be based on a one-to-one (1:1) staff-to-child ratio; and the staff member must remain within arms' reach of the child at all times. Only adults may light camp stoves and other cooking equipment.

(11) A certified ONB program that prepares or serves food must have a method to wash, rinse, and sanitize dishes, pans, kitchen utensils, and equipment. At a minimum, dishes, pans, utensils, and kitchen equipment must be:

- (a) Washed with soap and water;
- (b) Rinsed with clean water; and
- (c) Sanitized with a sanitizing solution, ensuring a contact time as specified by the manufacturer's instructions.
- (d) and allowed to air dry; or
- (e) Washed and rinsed using an automatic dishwasher that sanitizes with heat or chemicals and allowed to air dry.

(12) A certified ONB program must dispense soap and paper towels in a sanitary manner.

(13) A certified ONB program must store food waste in leak-proof, non-absorbent containers, covered with a tight-fitting lid, that are emptied, cleaned, and sanitized or disinfected daily.

(14) A certified ONB program must provide adequate space for the storage of food and food-contact items that is dry, clean, above the floor, and protected from splash and other contamination.

- (a) Containers for food storage other than the original container or package in which the food was obtained, must be impervious and non-absorbent, have tight-fitting lids or covers, and labeled as to contents.
- (b) Poisonous or toxic materials and cleaning supplies must not be stored with food.

414-320-1110 Food Service

(1) A certified ONB program's food service must include the following:

- (a) Children in care for more than 3 ½ consecutive hours must be served a meal or snack every 3 ½ hours;
- (b) Children arriving after school must be served a snack; and
- (c) Children scheduled to attend prior to 7:00 a.m. or after 6:30 p.m. must be offered breakfast or dinner.

(2) A certified ONB program must make sure drinking water is always available to children and after active play and served in a sanitary manner that prevents contamination.

(3) A certified ONB program must provide each child with individual dishes, cups, and utensils for eating and drinking.

(4) Single service items such as paper plates, cups and napkins, and plastic utensils may be used only once and must be discarded after use.

(5) A certified ONB program must make additional servings available if a child remains hungry.

(6) A certified ONB program must maintain staff-to-child ratios during meal and snack service and while children are eating.

(7) A certified ONB program must provide an eating environment that is socially engaging and provides opportunities for learning. Caregivers must:

- (a) Sit with children during meals;
- (b) Encourage children to try new foods but not force them to eat;
- (c) Be respectful of each child's cultural food practices;
- (d) Serve each child individually or serve family style dining, allowing each child the opportunity to practice skills such as passing shared serving bowls and serving themselves; and
- (e) Not use food as a reward or punishment.

(8) If a certified ONB program serves family style meals, where food is brought to the table in larger quantities and served to the plates from the table, the ONB program must have a written plan, approved by DELC and available for review by the environmental health specialist, which includes at least the following elements:

- (a) Separate serving portions for each table;
- (b) Serving utensils distinct from eating utensils;
- (c) Staff oversight to ensure sanitary practices; and
- (d) Provision for serving mildly ill children to prevent the spread of the illness.

(9) A certified ONB program may serve a child food provided by the parent of the child only when:

- (a) Food is brought on a daily basis and is ready to eat, requiring no preparation;
- (b) All food and beverage containers are labeled with the child's name;
- (c) Each child's food is monitored daily by a staff member to ensure that the food meets nutritional requirements as specified in OAR 414-320-1140, Meals and Snacks; and
- (d) The certified ONB program has sufficient food available to supplement any meal or snack provided by the parent that does not meet nutritional requirements as specified in OAR 414-320-1140, Meals and Snacks.

(10) A certified ONB program must ensure that any catered foods are:

- (a) Prepared in a kitchen approved by the Oregon Health Authority or a county health department;
- (b) Transported and delivered in a safe, sanitary manner with hot food maintained at temperatures not lower than 135°F and cold foods maintained at 41°F or lower; and
- (c) Received, held, and served through a process approved by the environmental health specialist.

(11) If a certified ONB program does not have a kitchen, food preparation area, or catered meals, the ONB program must:

- (a) Use only single service utensils;
- (b) Serve either commercially-prepared, individually-packaged, single-serving foods, or the serving of bulk food complies with standards in Oregon's Food Handler certification;

(c) Not use or store utensils on site that require washing; and

(d) Store food in a space used only for food, beverages and single-service utensils.

(12) On special occasions, such as birthdays, a certified ONB program may allow parents or guardians to provide snacks that may not satisfy the nutritional requirements for all children. The certified ONB program may serve the snacks:

(a) To a child only if that child's parent has provided permission for the child to participate in special occasions where food is served (also see OAR 414-320-0230, Parental Permissions); and

(b) When the snacks consist of store purchased fruits and vegetables (uncut) or prepackaged foods in the original manufacturer containers.

414-320-1130 Food Storage and Preparation

(1) A certified ONB program must store, prepare, and serve all food and drink provided by the program in a sanitary manner and protected from contamination.

(2) Water for preparing food, drinking, or cooking shall be obtained from an approved source and not from handwashing sinks.

(3) A certified ONB program must ensure that food-contact surfaces and items, such as kitchenware, utensils, tableware, service items, and storage items that come into contact with food, are designed and constructed of safe, non-toxic materials and are smooth, nonabsorbent, easily cleanable, durable, and in good repair.

(4) A certified ONB program must keep potentially hazardous foods cold and at a safe temperature. This includes all foods requiring refrigeration including food that children bring from home, except during preparation and service.

(a) Milk and food must not sit out for longer than 15 minutes prior to the beginning of the meal or snack.

(b) All food stored in the refrigerator or cooler must be tightly covered, wrapped, or otherwise protected from direct contact with other food to prevent cross contamination.

(c) To keep food below a temperature of 41°F, an ONB program may store food in a cooler using ice from an approved source or icepacks.

(5) A certified ONB program must thaw frozen food by one of the following methods:

(a) In a refrigerator;

(b) Under cool running drinking water inside a pot that extends above the top of the flood rim of the sink. The drain plug must be removed from the sink;

(c) In a microwave if the food is to be cooked as part of the continuous cooking process; or

(d) As part of the cooking process.

(6) A certified ONB program must serve food promptly after preparation or cooking or maintain it at safe temperatures of 41°F or below for cold foods or 135°F or above for hot foods.

- (a) A small diameter probe thermometer must be used to measure the temperature of food.
 - (b) Foods that have been cooked, and then refrigerated, must be reheated rapidly to at least 165°F before being served or placed in a hot food storage unit.
- (7) A certified ONB program must ensure that foods heated in a microwave are not too hot before it is served to children.
- (8) A certified ONB program must prepare food according to the minimum standards identified in food handler certification including:
- (a) Using gloves, utensils, or tongs to serve food;
 - (b) Washing raw fruits and vegetables in water to remove soil and other contaminants before being cut, combined with other ingredients, cooked, served, or offered for human consumption in ready-to-eat form; and
 - (c) Preparing food on food-contact surfaces and with utensils that are cleaned and sanitized after each use and whenever there is a change in processing from raw to ready-to-eat foods.
- (9) A certified ONB program must protect food from contamination by:
- (a) Transferring prepared food to each child's plate or bowl using a suitable dispensing utensil that is not used for eating or any other purpose.
 - (b) Washing and sanitizing bowls, platters, pitchers, and utensils used for serving food or drink before reusing.
 - (c) Dispensing milk from commercial one-gallon or smaller plastic containers, individual half-pint containers, or from a refrigerated bulk container equipped with an approved dispensing device, and:
 - (A) Opening milk containers immediately before pouring;
 - (B) Returning any unused portions left in the original container to refrigeration; and
 - (C) Discarding any unused portions of milk left in a serving pitcher or open individual serving containers.
 - (d) Discarding all food removed from the kitchen after meal service.
 - (e) Labeling, dating, and refrigerating any prepared food which has not been removed from the kitchen and used within 48 hours or immediately freeze for later use.
 - (f) Washing, rinsing, and sanitizing multi-use dishes, cups, serving and eating utensils, and tables after each use according to the Oregon Health Authority's Chapter 333, Division 150 Food Sanitation administrative rules.
 - (g) Air drying all tableware, equipment, and utensils after being sanitized.

414-320-1140 Meals and Snacks

- (I) Meals and snacks for children must be:
- (a) Prepared on site;

(b) Obtained from an approved source as specified in OAR 333-150-0000; or

(c) Provided by parents.

(2) A certified ONB program must ensure that all meals, snacks and beverages follow the current USDA Child and Adult Care Food Program (USDA-CACFP) meal pattern requirements, including portion sizes.

(3) A certified ONB program must develop weekly or monthly written menus that show all foods to be served during that period and make the menus available to parents.

(a) Substitutions that meet nutritional requirements are permitted but must be recorded and made available to parents.

(b) Menus may be rotated if there is a record of which menu was used for each date.

(4) A certified ONB program must select and serve food that is safe and has nutritional value.

(a) Foods of minimal nutritional value, such as gelatin or desserts, may only be served occasionally and cannot replace nutritious foods.

(b) All food products served by the certified ONB program or brought from individual homes for a group of children must have been inspected and come from commercial suppliers, except for:

(A) Fresh or frozen fruits and vegetables; and

(B) Foods brought by parents and only consumed by their child.

(c) The certified ONB program must serve beverages consisting only of water, milk or nutritionally equivalent milk substitute, and fruit or vegetable juice.

(A) Fruit and vegetable juice must be pasteurized 100 percent juice.

(B) Milk must be Grade A pasteurized and fortified milk.

(C) Pasteurized powdered milk and evaporated milk must only be used in cooking.

(D) A parent may request that their child not be served milk. A certified ONB program must obtain written parental permission to not serve milk to a specific child. This must be at the parent's request, on a case-by-case basis, and not an ONB program-wide policy.

(d) The following foods must not be served or offered in uncooked food, or served or offered in a ready-to-eat form:

(A) Raw animal foods such as raw fish, raw meat or raw eggs;

(B) Partially cooked animal food such as lightly cooked fish, rare meat, soft cooked eggs and meringue;

(C) Raw seed sprouts;

(D) Home canned food;

(E) Eggs laid by chickens as part of the certified ONB program;

(F) Food additives and preservatives that are not FDA approved.

(e) Preschool-age children may be served the following foods associated with young children's choking incidents provided that the foods are cut in such a way as to minimize choking hazard. These foods include, but are not limited to: hot dog slices, raw carrots, grapes, hard candy, gum, nuts, peanuts, popcorn, rice cakes, chips, gel candies, and marshmallows.

(f) Nutrient concentrates and supplements (protein powders, liquid proteins, vitamins, minerals, and other nonfood substances) must not be served to a child without a written statement of parental consent and written instructions from a medical practitioner.

(g) Special diets, not including vegetarian diets, may only be served to a child with written instructions from a registered dietician or medical practitioner and written parental consent.

414-320-1200 Transportation Overview

(1) If a certified ONB program transports children, the certified ONB program must be in compliance with all applicable state laws, including current vehicle insurance that covers the driver, the vehicle, and all occupants.

(a) If a certified ONB program contracts for transportation for children while they are in care, the certified ONB program is responsible for ensuring the contracted entity meets DELC's transportation requirements including OAR 414-320-1200 through OAR 414-320-1240. The use of public school transportation on behalf of the certified ONB program is exempt from OAR 414-320-1200 through OAR 414-320-1240.

(b) Documentation must be maintained as specified in OAR 414-320-0250 , Program Records.

(c) A certified ONB program must not transport children in vehicles or parts of vehicles not designed for transporting people, such as truck beds, campers, and trailers.

(2) When children are taken on field trips, the certified ONB program must ensure that:

(a) When children are transported for long distances, the program provides rest and stretch stops as needed;

(b) Staff check a written list of children on the field trip frequently to account for the presence of all children and:

(A) Prior to boarding and exiting the vehicle; and

(B) Any time the group changes locations on site (e.g. when moving from one exhibit to the next);

(c) Each child wears an easily identifiable item, such as a label, shirt or wristband, listing the name and telephone number of the ONB program;

(d) Caregivers are easily identifiable; and

(e) A notice of field trips, including the date, destination, and estimated times of departure and return, is posted at least 48 hours in advance of a field trip in a prominent place where parents and others may view it (also see OAR 414-320-0230, Parental Permissions and OAR 414-320-0260, Items Available to View).

414-320-1210 Transportation Staffing

- (1) If a driver is the only adult in the vehicle, a certified ONB program must ensure that the driver:
 - (a) Meets teacher or aide II qualifications and training requirements; and
 - (b) Meets additional driver and ratio requirements under OAR 414-320-1210(2) through (3), Transportation Staffing.
- (2) A certified ONB program must ensure that drivers of a vehicle used to transport children:
 - (a) Are at least 21 years of age;
 - (b) Have a valid driver's license appropriate for the type of vehicle driven;
 - (c) Are certified in first aid and CPR or accompanied by someone with certification;
 - (d) Do not have any medical condition or use alcohol, drugs, tobacco or any medication that could compromise driving, supervision, or evacuation abilities;
 - (e) Operate the vehicle in a legal and safe manner; and
 - (f) Eliminate distractions such as the use of earphones or cell phones.
- (3) A certified ONB program must ensure that there are sufficient staff to meet the required staff-to-child ratios for each age group of children being transported.
 - (a) The driver may count in the staff-to-child ratios (also see OAR 414-320-0400, Staff-to-Child Ratios and Group Size).
 - (b) One staff member must be at least aide II qualified (also see OAR 414-320-0350 Duties and Qualifications of Aides).
 - (c) A certified ONB program may allow a parent to transport children other than the parent's own children without a qualified staff member present in the vehicle, only if the parent meets aide II qualifications and transportation requirements as provided in these rules, and is enrolled in the CBR.
- (4) A certified ONB program must provide adequate supervision to protect children during transportation. A certified ONB program must:
 - (a) Never leave children unattended inside or outside the vehicle;
 - (b) Immediately document attendance each time a child enters and exits the vehicle; and
 - (c) Follow notification requirements listed in OAR 414-320-0270(5)(b) if a child is not at a designated pick-up location.

414-320-1220 Transportation Safety

(1) A certified ONB program must maintain the following items in the vehicle as well as on the premises of the certified ONB program:

- (a) An operable phone;
- (b) Program information including ONB program name, address, and phone number;
- (c) Proof of vehicle insurance;
- (d) A checklist of all children being transported with any pick-up and delivery times and locations;
- (e) Emergency medical information on each child including parents' contact information, special medical needs, medications, allergies, the name and phone number of the child's doctor, and emergency medical authorization forms;
- (f) When transporting children with chronic medical conditions (such as asthma, diabetes, or seizures), their emergency care treatment plans, supplies and medication; and
- (g) A first aid kit that is easily accessible to staff and not children, and with contents specified in OAR 414-320-1020, Injuries.

(2) A certified ONB program must ensure the following safety practices are followed:

- (a) The vehicle doors are locked when the vehicle is moving and when not in use.
- (b) The motor is turned off, the brake set, and the keys removed whenever the driver leaves the vehicle.
- (c) No vehicle window, except that of the driver, is opened to more than 50 percent of its capacity when children are on board.
- (d) Children's entire bodies remain in the vehicle.
- (e) Safe conduct to and from the vehicles and safe off-street loading spaces is provided.
 - (A) Children must be loaded and unloaded only at the curb or at an off-street area protected from traffic on the same side of the street as the building they will enter; and
 - (B) If children must cross a street, they must be accompanied by an adult.
- (f) Staff must have clear instructions on handling emergency breakdowns and accidents, including vehicle evacuation procedures, supervision of the children, and contacting emergency help.
- (g) Staff at the certified ONB program must know the routine arrival and departure times of the vehicle and take action if the vehicle does not return at a scheduled time.
- (h) Before leaving the vehicle, the driver or the last personnel in the vehicle must inspect all areas of the vehicle to prevent a child from being left in the vehicle.

414-320-1230 Passenger Restraints and Seating

A certified ONB program must meet the following passenger restraint and seating rules to ensure children's safety during transportation:

(1) The manufacturer's maximum seating capacity for the vehicle is not exceeded;

- (2) Child passenger restraint systems and seat belts must be used according to law, meet federal motor vehicle standards and installed in accordance with the manufacturer's instructions;
- (3) Restraint systems are properly maintained, such as not expired, recalled, or previously involved in a crash;
- (4) Child care children are not permitted to ride in the front seat of a vehicle;
- (5) All adult passengers in a vehicle transporting children, other than a large school bus, must be properly restrained by safety belts before starting the vehicle and at all times the vehicle is in motion; and
- (6) Vehicles that meet the definition of a school bus that transport passengers in wheelchairs must comply with manufacturer's instructions and specifications.

414-320-1240 Vehicles

A certified ONB program must ensure that all vehicles used for transportation meet the following:

- (1) Vehicles are identified with the ONB program or business entity name that is easily read by the public (e.g. a small sign in the rear window or a bumper sticker), unless using contracted transportation or a vehicle not owned by the certified ONB program.
- (2) Vehicles, including school buses, are in compliance with all applicable state and local motor vehicle laws;
- (3) If an ONB program uses vans designed for 10 or more passengers and manufactured prior to 2010:
 - (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 DELC or on a form provided by the inspector which contains the same information;
- (4) Vehicles have a current license plate and registration as required by Oregon state transportation laws, including vehicles driven by volunteers;
- (5) Vehicles are maintained in good repair and safe operating condition at all times;
- (6) The vehicle receives regular maintenance in accordance with the vehicle maintenance mileage schedule. This includes, but is not limited to, regular inspections of interior safety features like airbags, seatbelts and car seat latch systems. All deficiencies must be corrected before the vehicle can be used for child care transportation;
- (7) The vehicle interior is clean, in safe repair, and free of hazardous items that could impede the children's movement or cause injury if the items were thrown about the vehicle as a result of a collision; and
- (8) Stationary padded seats with a back are securely anchored to the vehicle.

414-320-1300 Swimming and Water Activities

- (1) A certified ONB program must have written permission from each child's parent before engaging in any swimming or water activities.
- (2) A certified ONB program must provide supervision of children around any bodies of water.
- (3) A certified ONB program located within a quarter mile of an accessible body of water must obtain from the parent or guardian a signed water hazard acknowledgement.
- (4) For water activities that involve a water depth that is more than 24 inches deep, a certified ONB program must ensure that:
 - (a) A certified lifeguard must be present and on-duty. A staff member or volunteer may be included in the staff-to-child ratio who is also the on-duty certified lifeguard; and
 - (b) All children must wear approved water life jackets or approved water life vests.
- (5) For each body of water more than 6 feet in width, length, or diameter and when the depth of any portion of the body of water more than 24 inches, a certified ONB program must have immediate access to lifesaving equipment, e.g., a ring buoy and rope, a rescue tube, or a throwing line and a shepherd's hook that is long enough to reach the center of the body of water from the edge of the body of water.
- (6) At least one ONB staff member in attendance must be able to swim when children are within one quarter mile of an accessible body of water, such as a park located near a lake or stream regardless of whether or not the children are actively engaging in a water activity.
- (7) If children are at or near a moving body of water, an ONB staff member who can swim or a certified lifeguard must be positioned downstream of where the children are playing or otherwise take into account how water moves and their access to the body of water.
- (8) If a certified ONB program has on-site swimming or is responsible for off-site swimming, the program's written emergency plan (required by OAR 414-320-0210, Emergency Preparedness and Response) must also include water and swimming safety.
- (9) At all times when children are engaged in swimming and wading activities on or off the premises, a certified ONB program must:
 - (a) Ensure that staff are in or at the water and prepared to enter;
 - (b) Meet the following staff-to-child ratios:
 - (A) Preschool-age – 1:6
 - (B) School-age – 1:10
 - (C) The age of the youngest child in a mixed-age group determines the staff-to-child ratio.
 - (c) Verify that all adults counted in the staff-to-child ratios are able to swim if the water is more than 48 inches deep;
 - (d) Ensure that a certified lifeguard is present and on duty at all times. ONB program staff lifeguards may not count in staff-to-child ratios when more than 10 children are present; and
 - (e) Review safety rules with children each time they participate.

(10) Children in diapers or toilet training must wear swim pants to lower the risk of contaminating the water.

414-320-1310 Plant Foraging Activities

(1) A certified ONB program must have written permission from each child's parent before children may consume foraged plant materials.

(2) All plants gathered by children or staff that are intended to be consumed by children must be clean and safe to eat. The requirements described in OAR 414-320-1130, Food Storage and Preparation, through OAR 414-320-1140, Meals and Snacks, apply to plants gathered by children or staff that are intended to be consumed by children.

(3) Certified ONB program staff must be able to demonstrate they have the level of knowledge necessary to:

(a) Properly identify the different plant species that are native to the area and region where the ONB program is located;

(b) Identify and avoid poisonous plants and plants that look similar to poisonous plants; and

(c) Ensure that plants are harvested during the correct time of year and season.

(4) A certified ONB program must ensure the area where plants are being harvested, for example an adjacent road or field, has not been sprayed with pesticides, herbicides, or other pollutants. If ONB program staff do not know or cannot determine if areas have been sprayed with pesticides, herbicides, or other pollutants, plants should not be harvested from those areas.

(5) Mushrooms and other fungi of any variety must not be touched, picked, harvested, or consumed by children.

(6) A certified ONB program must ensure that children do not touch, pick, harvest, or consume plants without the permission of ONB program staff. Before a child eats any type of wild vegetation, ONB program staff must ensure the vegetation has been approved for consumption by a staff person who is able to correctly identify the source plant. Prior approval by the appropriate ONB program staff person is required even if a child thinks they can correctly identify the plant.

414-320-1320 Climbing Natural Feature Activities

(1) Certified ONB programs may allow children to climb natural features, including trees and boulders.

(2) Before allowing children to climb natural features, a certified ONB program must follow the program's written policies and procedures to determine the appropriate methods to remove or mitigate the possibility of injury.

(3) To prevent injury to children, a certified ONB program must comply with the requirements described in this subsection.

(a) ONB Staff members must remove hazardous objects and mitigate hazards whenever possible from the surrounding area where children might fall. This includes, but is not limited to, removing rocks and covering sharp edges or potentially harmful protrusions including harmful protrusions or branches that may extend from trees or stumps.

(b) Before a child or children climb on trees, a certified ONB program must inspect the trees for weak or loose branches or other potential hazards.

(c) ONB staff members must be able to provide immediate assistance to any climbing child. To ensure adequate supervision and after conducting the benefit risk assessments described in OAR 414-320-0215, it may be necessary for ONB programs to limit the number of children climbing at one time.

(d) At all times, an ONB staff member must be within reach of the midriff of a child who is climbing a natural feature 30 inches above the ground. A climbing child must not be allowed to climb out of reach of staff.

(4) For school-age children and activities that involve climbing natural features or challenge courses 48 inches or higher from the ground, certified ONB programs must comply with the requirements described in the American National Standard Institute/Association for Challenge Course Technology (ANSI/ACCT) Challenge Course Standards. ONB program staff that provide climbing and challenge course activities must possess a valid and current Association for Challenge Course Technology (ACCT) Practitioner Certification.

414-320-1330 Campfire Activity Supervision and Safety

(1) To engage in a campfire activity, certified ONB programs must comply with this section and have permission from the landowner or park personnel to engage in campfire activities.

(2) A certified ONB program must have signed written permission for campfire activities from each child's parent or guardian prior to children participating in campfire activities. Parents must be provided a copy of the ONB program's campfire activity policies and procedures.

(3) Certified ONB program staff must receive training on ONB program campfire policies and procedures before the staff may lead any campfire activity. To ensure the staff are able to properly build and extinguish a fire as described in this section, the ONB program director must observe staff members' ability to properly build and extinguish a fire before the staff member may lead any campfire activities. Documentation of staff members' training and ability to properly build and extinguish a campfire must be documented per OAR 414-320-0240, Staff Records.

(4) For each campfire activity, a certified ONB program staff member must prepare and retain a record that the safe campfire practices required under this section were followed. Compliance with this subsection may include the creation of a checklist by the certified ONB program that describes the safe campfire practices that were followed before and after each campfire activity.

(5) A certified ONB program must have and properly maintain a fire safety kit near the campfire that contains first-aid supplies made specifically to treat fire related injuries including, but not limited to, a fire blanket and sterile, non-adhesive bandages. ONB program staff must be prepared to smother a fire on a child's clothing or hair using equipment including, but not limited to, water, a fire suppression blanket, or 2A:10 BC fire extinguisher.

(6) A certified ONB program must create a clearly visible boundary at least three feet away from the outer edge of the structure containing the fire. A certified ONB program must ensure that:

(a) The area within the three-foot boundary is clear of tripping hazards such as bags or other materials; and

(b) Seating is outside of the three-foot boundary and arranged so that children and adults may easily move into and out of the seating area.

(7) Prior to any campfire activity, a certified ONB program must use developmentally appropriate teaching practices to ensure children understand safe behavior around a campfire.

(8) Campfires must be built and extinguished according to safe fire practices provided by the U.S. Forest Service. Campfires:

(a) Must not be built during periods of high, very high, or extreme fire danger in the area, or when local authorities have fire restrictions in place;

(b) Must not be more than two feet in diameter;

(c) Must be in a fire pit or structure that is designed for the express purpose of safely containing a campfire including, when applicable, the fire pit or structure must contain an approved bottom; and

(d) Must not burn materials that release toxic substances, such as chemically treated wood, rubber, or plastics.

(9) Campfires must not be left unattended for any length of time.

(10) Each ONB program group may only have one campfire activity at any time.

(11) Before starting a campfire activity, a certified ONB program must have the necessary equipment and supplies to safely extinguish a campfire. For purposes of this subsection, equipment and supplies include, but are not limited to, sufficient water and a shovel. Fire extinguishers must be kept on-site and comply with the requirements described in OAR 414-320-320-0860, Fire Protection.

(12) While campfires are burning, ONB program staff must remain within the three-foot boundary around the fire to respond to any fire-tending needs and to prevent children from coming into close contact with the fire.

(13) There must be a one-to-one (1:1) staff-to-child ratio for any child within the three-foot boundary around the fire. A staff member must remain within arms' reach of that child and the child may only assist in setting up or tending to the fire in a developmentally appropriate way, such as by placing kindling or small sticks before the fire is started.

(14) Adults and children who tend to the fire must tie back long hair and secure loose clothing to reduce the risk of catching fire.

- (15) A certified ONB program must prevent children from:
- (a) Entering the three-foot boundary around the campfire without one-to-one supervision; and
 - (b) Running or pushing within six feet of the edge of the fire-pit.

414-320-1340 Tool Activity Supervision and Safety

- (1) During tool activities, a certified ONB program must comply with all supervision requirements described in this section.
- (2) A certified ONB program using developmentally appropriate outdoor nature based tools or equipment as part of their curriculum must make such tools inaccessible to children when not in use.
- (3) Before a child can participate in tool activities, a certified ONB program must obtain written permission from the children's parents or guardians that allows them to participate in such activities.
- (4) Power tools may not be used by children and must be kept inaccessible to children.
- (5) Folding whittling knives must be equipped with a locking feature to keep knives open when in use.
- (6) There must be a one-to-one (1:1) staff-to-child ratio for:
 - (a) Any preschool-age child who is engaged in a tool activity; and
 - (b) Any school-age child who is not proficient in using the tool for the activity.
- (7) There must be a one-to-three (1:3) staff-to-child ratio for any school-age children who have previously demonstrated proficiency in specific tool use.
- (8) Before engaging in and leading a tool activity, staff must be trained in the ONB program's tool use policies and procedures and benefit-risk assessments.
- (9) The ONB program director must observe, confirm, and document staff members' ability to properly use ONB tools before the staff member may lead tool use activities.
- (10) A certified ONB program must have a first-aid kit near the tool activity that is in compliance with the requirements described in OAR 414-320-1020, Injuries, and is equipped with first-aid supplies made specifically to treat sharp cuts, punctures, or other injuries related to the use of tools.
- (11) Prior to any tool use activity, a certified ONB program must use developmentally appropriate teaching practices to ensure children understand and can demonstrate safe tool use. Teaching techniques must include, but not be limited to:
 - (a) Safe whittling practices, including using a push stroke away from the body and hand holding the piece of wood;
 - (b) Holding a piece of wood past one's knees, to the side of one's body, or on the top of a table;
 - (c) Wearing work or gardening gloves, especially on the hand that is not holding the tool;

- (d) Wearing safety goggles and other protective clothing, when appropriate;
- (e) Children sitting on their knees with their legs tucked under, sitting cross-legged, or at a table;
- (f) Allowing appropriate space between children using tools; and
- (g) Demonstrated understanding and proficiency of less risky tools prior to the use of tools that may pose a greater risk.

(12) When using tools, the children must remain in an area designated for tool activities.

414-320-1350 Encountering Wildlife Supervision and Safety

(1) A certified ONB program must have and follow policies that describe how to safely encounter wildlife. These policies must identify potentially dangerous wildlife in the ONB program area or location and how children and ONB program staff should appropriately respond to both wildlife and potentially dangerous wildlife.

(2) A certified ONB program must supervise children and immediately respond when potentially dangerous wildlife is seen or heard, or other signs are discovered or noticed.

(3) A certified ONB program must be in contact with local rangers, park officials, or other emergency response agencies if dangerous wildlife is in the area and follow all state and national agency protocols and requirements.

(4) A certified ONB program must relocate to an approved alternate location or temporarily close while dangerous wildlife is in the area, unless the certified ONB program can ensure the safety of children in care.

(5) A certified ONB program must manage property and dispose of waste to prevent attracting wildlife.

(6) A certified ONB program must conduct encountering wildlife drills with children.

414-320-1400 Domestic Animals and Pets

(1) A certified ONB program may have pets or other animals on the ONB program premises subject to the requirements of this rule.

(2) Pets or other animals controlled by ONB programs that have or may have contact with children must:

- (a) Have all required vaccinations, pursuant to local and county regulations;
- (b) Be in good health and show no signs of illness, disease, worms, or parasites. If these symptoms appear, the pet or animal must be removed from the licensed space until appropriately treated for the condition;
- (c) Be friendly towards children with no signs or history of aggression; and
- (d) Not be permitted in food preparation areas or on children's resting surfaces.

- (3) A certified ONB program may not allow an animal with any history of biting to be on the premises of the ONB program.
- (4) A certified ONB program must prevent any direct contact by children with any domestic animals unfamiliar to the program, such as a stray.
- (5) A certified ONB program must ensure that all contact between an animal and a child is supervised by staff who are close enough to remove the child immediately if the animal shows signs of aggression or distress or the child shows signs of treating the animal inappropriately.
- (6) A certified ONB program must inform parents of any animals the ONB program or staff have on the premises by a clearly viewed notice or bulletin, policy handbook, parent flier, or a statement included on the enrollment form (also see OAR 414-320-0200, Policies).
- (7) A certified ONB program must have and follow written procedures for the care and maintenance of any animals in the ONB program. The procedures must address:
- (a) Responsibility for the handling, care, and feeding of the animal(s). With close staff supervision, children may participate in the care of animals;
 - (b) At least weekly cleaning and disinfection of pet cages performed in areas not used for food storage or preparation and only when children are not present; and
 - (c) Prevention of debris spilling out of a container or cage used for pets and animals, if applicable.
- (8) Animal waste and litter must be disposed of as soon as possible and the area disinfected. A certified ONB program must prevent children from handling animal waste, and must ensure children wash their hands and change clothing if they come into contact with animal waste.
- (9) Litter boxes, pet training pads, and other animal waste items must be located in areas not accessible to children or used for food storage or preparation.
- (10) A certified ONB program must keep animal food supplies out of the reach of children and store them separately from food supplies and equipment.
- (11) Animal food must be stored in a manner that does not attract rodents or insects.
- (12) A certified ONB program must require that chickens, ducks, turkeys, doves, pigeons, or other birds that are part of the ONB program:
- (a) Are caged, cooped, or penned when they are not a part of a supervised ONB program activity so that they are inaccessible to children; and
 - (b) Are kept at a distance that prevents children from having direct access to the animal's enclosures or waste when they are not a part of a supervised ONB program activity.
- (13) A certified ONB program may allow an animal, other than a cat or dog, such as a poisonous animal, reptile, amphibian, monkey, hook-beaked bird, hermit crab, rodent or ferret on the premises only if:
- (a) The animal is housed in and remains in a cage, tank or other measure which precludes any direct contact with children; or

(b) The animal is present as part of an educational program run by a zoo, museum or another professional animal handler.

414-320-1610 Sanctions-Suspension, Denial and Revocation

(1) DELC may immediately, and without prior notice, suspend a certified ONB program's certification when, in the opinion of DELC, 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.

(2) If a certified ONB program's certification has been suspended, the program must:

- (a) Immediately notify, verbally or in writing, all parents of the suspension;
- (b) Immediately provide DELC with all names, work and home telephone numbers and addresses of the parent(s) or legal guardian(s) for each child; and
- (c) Post the suspension on the main entry door where it can be viewed by parents and others for the duration of the suspension.

(3) If necessary to protect children, DELC may give public notice of denial, suspension or revocation action taken with respect to an ONB program's certification. The type of notice will depend on individual circumstances.

(4) If a certified ONB program does not request a hearing and the conditions which resulted in suspension have not been corrected, the ONB program's certification shall be revoked.

(5) Certification may be denied or revoked if a certified ONB program:

- (a) Fails to meet requirements or correct deficiencies;
- (b) Fails to correct conditions which resulted in suspension;
- (c) Fails to provide DELC with information requested;
- (d) Refuses to allow an inspection or allows an inspection only after DELC has obtained a warrant;
- (e) Is operated or maintained in a manner which is harmful to the health, safety or wellbeing of children in care;
- (f) Employs staff or has an operator who is not enrolled in the CBR or whose CBR enrollment is suspended;
- (g) Is owned by an individual who has denied or suspended enrollment in the CBR unless the program establishes that the owner will not be on the premises while children are in care or have access to child care children;
- (h) Knowingly provides inaccurate information to DELC or causes staff to do so;
- (i) Interferes with the good faith disclosure of information by staff or a volunteer concerning the abuse or mistreatment of a child in the certified ONB program, violations of certification requirements, criminal activity at the program, violations of state or federal law or any practice that threatens the health and safety of child care children, or otherwise engages in conduct prohibited by ORS 329A.348.

- (6) If a certified ONB program's certification has been denied or revoked by final order, whether or not the ONB program is appealing the final order, the ONB program 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.
- (7) A certified ONB program may appeal any decision to suspend, deny or revoke the certification, subject to the provisions of chapter 183, Oregon Revised Statutes.
- (8) DELC may report any action to deny, suspend, or revoke a certified ONB program's certification to the Department of Human Services, USDA Child Care Food Programs, or Child Care Resource and Referral System.
- (9) If a certified ONB program's certification has been denied or revoked for cause as defined in OAR 414-075-0010, Definitions, the ONB program is not eligible to reapply for a certified ONB program certification for 5 years after the date of DELC's final order denying or revoking the certification for cause.
- (10) 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 DELC has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, certification of such person to own or operate a certified ONB program may be denied or suspended or revoked until the charge, arrest, or warrant has been resolved if the person continues to own, operate, be employed in or reside in the program, or have access to children in the program.
- (11) A certified ONB program's certification may be denied, suspended or revoked if an individual who is or is identified in an application as the owner, director, or operator has child abuse or neglect history or an open child protective services, child abuse or neglect, or law enforcement case that would make the individual ineligible for enrollment in the CBR.

414-320-1620 Civil Penalty

- (1) DELC may assess a civil penalty of up to \$2500 per violation of these rules or terms and conditions of the ONB program certification.
- (2) DELC may assess a civil penalty in addition to any other appropriate legal action, considering:
- (a) Numbers of previous violations of the same rule;
 - (b) Circumstances surrounding the rule violations; and
 - (c) Prior warnings, technical assistance, or legal actions regarding the certified ONB program's compliance with the rule.
- (3) For a serious violation, as defined in OAR 414-320-0100(54), a certified ONB program may be subject to a civil penalty not to exceed \$2500 for each violation.
- (4) For a non-serious violation, a certified ONB program may be subject to a civil penalty of \$800 for each violation.

- (5) DELC may assess a separate civil penalty for each day for which DELC has made a valid finding that a certified ONB program is in violation of ORS 329A.250 to ORS 329A.450, these rules, or the terms and conditions of certification. DELC may assess civil penalties for multiple days in a single action.
- (6) An individual or entity that provides child care subject to registration or certification in a home or facility that is not registered or certified with DELC may be subject to a civil penalty not to exceed \$1,500 per day of operation of the uncertified facility, as provided in OAR 414-075-0230.
- (7) Notwithstanding DELC's decision to impose or not to impose a civil penalty for one or more rule violations, DELC may take action at any time to deny, suspend or revoke a certification for the same rule violation or violations.
- (8) A certified ONB program may 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 DELC has issued a final order by default or a final order after a contested case hearing shall be grounds for denial or revocation of a certified ONB program certification.



General Rules for All Child Care Facilities

Child Care Licensing Division
Oregon Department of Early Learning and Care (DELIC)
General Rules for All Child Care Facilities
Effective December 7, 2023

These rules apply to all child care facilities including certified centers, family child care homes, exempt child care providers, recorded programs, regulated subsidy programs, and those who may be conducting unlawful care. This ruleset covers the processes and policy which governs how CCLD/DELC proceeds in regulatory matters such as investigations, unlawful care, allowable exempt care, when a provider may be represented by their union in a contested case hearings process, or procedures for when an individual is prohibited from providing care. These rules help to provide transparency and a road map for providers and the public in understanding how the agency proceeds in these important matters. These rules are reflective of the regulatory authority given to DELC in ORS 329A and ORS 326.430.

Oregon Administrative Rules (OAR) Chapter 414, Division 075

General Rules for Child Care Facilities

December 7, 2023

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Department of Early Learning and Care
Child Care Licensing Division

This copy of the rule book is available on the Department of Early Learning and Care website. Additional copies may be downloaded at any time.

For more information or the latest updates, visit
www.oregon.gov/delc

Questions? Email CCLD.CustomerService@delc.oregon.gov
Call 1-800-556-6616

You are entitled to language assistance services and other accommodation at no cost. If you need help in your language or other accommodations, please contact the Office of Child Care at 503-947-1400.

DEPARTMENT OF EARLY LEARNING AND CARE
Chapter 414, Division 075

General Rules for All Child Care Facilities

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414-075-0000 Applicability of Rules

- (1) Except as otherwise specified, these rules apply to all licensed license-exempt, exempt, and unlicensed child care providers and facilities including:
- (a) All licensed facilities including registered family child care homes, certified family child care homes, certified child care centers, and certified school-aged child care centers and certified outdoor nature-based child care programs;
 - (b) License-exempt child care and exempt care facilities that are required by statute to only employ or contain individuals who are enrolled in the Central Background Registry, including but not limited to, recorded programs and subsidized care facilities;
 - (c) Exempt care facilities providing or claiming to be providing care defined to not be child care in ORS 329A.250(4)(b)(A) through (H); and
 - (d) Facilities, providers, and persons providing or alleged to be providing unlawful care as defined in OAR 414-075-0230.
- (2) These rules supplant and do not supersede the rules contained in Chapter 414, Divisions, 61, 175, 180, 205, 305, 310, 350, 425, and 450 and pertaining to specific child care program types. In the event of a conflict between such rules and these rules, these rules control.
- (3) 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.

414-075-0010 Definitions

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

- (1) **"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.
- (2) **"CCLD"** means the Child Care Licensing Division in the Department of Early Learning and Care.
- (3) **"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.
- (4) **"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.
- (5) **"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 programs, 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.
- (6) **"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.
- (7) **"Child Protective Services"** or "CPS" means the program as defined in OAR 413-015-0115.
- (8) **"Civil Penalty"** means a fine imposed by CCLD for violation of one or more applicable rules or statutes.
- (9) **"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.
- (10) **"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.
- (11) **"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(3) and is not described in ORS 329A.250(4)(a)(A) or (B).
- (12) **"Exempt Care Facility"** means a facility that provides only exempt care as defined in this rule.

- (13) **"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 414-075-230. 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).
- (14) **"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 .
- (15) **"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.
- (16) **"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.
- (17) **"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.

- (18) **"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 414-075-0130.
- (19) **"Licensed"** means the state of having an active registration or certification issued by CCLD.
- (20) **"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, or certified school-age child care center or a certified outdoor nature-based child care program.
- (21) **"Licensee"** means an individual to whom a registration or certification has been issued by CCLD.
- (22) **"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 (i).
- (23) **"License-Exempt Child Care Facility"** means a facility that provides only license-exempt child care as defined in this rule.
- (24) **"Noncompliance"** means being in violation of a requirement contained in statute or rule for the applicable type of facility.
- (25) **"Observed Noncompliance"** means a noncompliance observed by CCLD staff including information observed in a facility's records.
- (26) **"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.
- (27) **"ODHS"** means the Oregon Department of Human Services.
- (28) **"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.
- (29) **"OTIS"** means the Office of Training, Investigations and Safety in ODHS.
- (30) **"Parent"** means a parent, custodian, or guardian exercising physical care and having legal custody of the child.
- (31) **"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.
- (32) **"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.
- (33) **"Provider"** means an individual in whose name a license or approval to receive payment for subsidized care is issued.

- (34) **"Recorded Program"** means a facility to whom CCLD has issued a record to operate a preschool or school-aged recorded program.
- (35) **"Registered Family Child Care Home"** or "RF" or "Registered Facility" means in a 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.
- (36) **"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(2)(b).
- (37) **"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.
- (38) **"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.
- (39) **"Subsidized Care"** means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to 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.
- (40) **"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.
- (41) **"Superseding Finding"** means a finding in a findings letter that replaces a finding included in a previously issued letter.

- (42) **"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.
- (43) **"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.
- (44) **"Unlicensed"** means the status of providing care without an active license issued by CCLD including while providing license-exempt child care or exempt care.

414-075-0130 Complaints and Investigations

- (1) Unless already open regarding the same allegations, a complaint will be opened based on CCLD's receipt of any of the following concerning licensed facilities, recorded programs, or unlicensed facilities alleged to be providing care for which a license or record is required:
 - (a) A cross-report of child abuse or neglect from law enforcement agencies, ODHS, or OTIS, including a report that was closed at screening;
 - (b) A report or information from or forwarded by another state or local agency or governmental unit;
 - (c) A report or information from facility staff; or
 - (d) Information received from the general public.
- (2) CCLD will encourage an individual or entity making a complaint to provide CCLD with their identity and contact information, subject to ORS 329A.390(4) prohibiting CCLD from disclosing the name, address, or other identifying information about the individual or entity that made the complaint, except as follows:
 - (a) CCLD may share contact information for the individual or entity that made a complaint within the CCLD or with any agency or individual performing a tandem investigation with CCLD related to the complaint for purposes of confirming factual information or obtaining additional information; and
 - (b) CCLD may disclose to an individual that it received a cross-report from law enforcement agencies, ODHS, or OTIS when such cross report is the child abuse or neglect history that has triggered a review of the individual's suitability for enrollment in the Central Background Registry, but may not disclose the name, address or other identifying information about the individual or entity that made the report to law enforcement, ODHS, or OTIS.
- (3) CCLD may investigate any complaint that alleges a violation of a health and safety requirement received regarding any facility, including licensed facilities, recorded programs, and subsidized care facilities, as provided by these rules when the allegations indicate noncompliance with a provision in ORS 329A.250 to 329A.500 or a provision in Oregon Administrative Rules Chapter 414, Divisions, 175, 180, 205, 305, 310, 350, 425 or 450.
- (4) CCLD may investigate any complaint that a facility as defined by these rules and including but not limited to individuals providing or claiming to be providing exempt care, is providing unlawful care as described in OAR 414-075-0230.

- (5) CCLD may investigate any facility for which CCLD has reason to believe or has received information that child care is being provided without a required certification, registration, or record.
 - (a) For purposes of determining if the child care requires a certification, registration, or record, CCLD may request the facility to provide information concerning the identities of the children in care and how they are related to the caregiver and to each other.
 - (b) If the facility does not provide CCLD with the information concerning the identities and relationships of the children in care as requested, CCLD may assume that care for a group of more than three children requires a certification, registration, or record from CCLD.
- (6) CCLD may conduct an in-person visit at any reasonable time of any facility to investigate a complaint.
 - (a) An in-person visit is at a reasonable time at any time at least one child care child is in care at a licensed facility or is alleged to be in care at the facility.
 - (b) An in-person visit is at a reasonable time at any time CCLD reasonably believes a child may be in care at an unlicensed facility.
- (7) CCLD staff may, but is not required to, use any method of investigation authorized by ORS 329A.390(7). In conducting an investigation CCLD staff may:
 - (a) Make one or more visits to the facility under investigation to inspect the premises.
 - (b) Receive, take, record, document, and review evidence.
 - (c) Interview staff, volunteers, parents of child care children, or other individuals who have relevant information.
 - (d) Request documents related to the matter under investigation.
 - (e) Inspect and observe the operations of the facility.
 - (f) Investigate collaboratively with partners.
 - (g) Take the depositions of witnesses, including the person under investigation, in the manner prescribed by law for depositions in civil actions;
 - (h) Compel the appearance of witnesses, including the person under investigation, in the manner prescribed by law for appearances in civil actions;
 - (i) Require answers to interrogatories;
 - (j) Compel the production of books, papers, accounts, documents or testimony that pertains to the matter under investigation; and
 - (k) Issue subpoenas.
- (8) A registered, certified, recorded, or subsidized care facility must provide records or other documentation, and allow CCLD access to the facility for the purpose of conducting an investigation as required or permitted by ORS 329A.390 or these rules. CCLD or the Department as applicable:
 - (a) May revoke for cause or deny for cause renewal of a registration, certification, record, or approval of subsidized care facility if access to the facility or its records has not been permitted.

- (b) May obtain a search warrant to obtain access to a facility as provided by ORS 329A.410 when access has not been permitted.
 - (c) May revoke for cause or deny for cause renewal of a registration, certification, record, or approval of subsidized care facility when access was denied and later permitted only pursuant to a search warrant.
- (9) If the provider denies CCLD access to the premises or to facility staff for purposes of conducting an investigation of a complaint, CCLD may reach a valid finding based solely on other evidence independently obtained and that reasonably could have been corroborated or contradicted by information from the visit or interviews that the provider did not allow.
- (10) A provider or licensee must provide truthful, complete, and accurate information to CCLD staff in connection with any application, records or reports including attendance records, written or verbal communication, inspection, visit, or investigation.
- (a) When an applicable rule requires information to be provided immediately, it must be provided during the visit or if not in connection with a visit within 24 hours of CCLD's request.
 - (b) Information not required by rule to be provided immediately must be provided within 48 hours of CCLD's request for it to be considered in the investigation. CCLD may issue a finding without reviewing information provided more than 48 hours after CCLD's request.
- (11) An individual who is questioned by CCLD in connection with an investigation of a complaint may refuse to answer specific questions or provide documents by stating that the refusal is based on the privilege against self-incrimination, including when the answer to the question or the documents, if produced by the individual, would furnish a link in the chain of evidence needed for a criminal prosecution. CCLD is not required to inform an individual of this rule prior to questioning the individual.
- (12) CCLD may conduct compliance verification visits to a facility for the purposes of confirming compliance or continued compliance.
- (13) CCLD may conduct an unannounced complaint or compliance verification visit at any reasonable time. When deemed appropriate in the judgment of CCLD staff, including when the complaint contains sensitive allegations as defined in these rules, CCLD may choose to conduct interviews or portions of interviews during the complaint or compliance verification process by telephone, video-conference, or email in addition to an in-person visit.
- (14) The facility must prioritize children's needs during any in-person visit and may not rely on the presence of CCLD staff at the facility to justify noncompliance with any requirement.
- (15) CCLD staff are not required to assist the facility in achieving compliance in response to an observed noncompliance and CCLD staff:
- (a) May not be counted by the facility for purposes of meeting ratio requirements.
 - (b) May not contact parents to pick up children for purposes of achieving compliance with capacity, ratio, or group size or composition requirements.
 - (c) May suggest to the facility specific actions to achieve compliance, including sending children home to achieve compliance with capacity, ratio, or group size or composition requirements.

- (d) May document whether a facility took immediate steps to achieve compliance or refused to do so.
- (16) The CCLD staff assigned to investigate a complaint must review and consider all evidence and documentation timely submitted by the facility as required by 414-075-0130(10) prior to issuing findings.
- (17) When the requirements for issuance of an emergency order of suspension or conditions are met, CCLD may take action prior to completion of an investigation based on facts confirmed in the pending investigation.
- (18) A CCLD investigation of a complaint is ongoing until CCLD staff has issued findings with respect to all potential noncompliances alleged in the complaint or identified in the investigation.
- (19) Unless the facility has closed before CCLD issues a finding on a complaint, CCLD staff may issue one of the following findings with respect to each complaint investigated by CCLD, and may issue separate findings with respect to each potential regulatory or statutory violation based on the fact(s) confirmed in the investigation:
 - (a) Valid, when a reasonable person could conclude the noncompliance occurred based on the evidence; or
 - (b) Invalid, when a reasonable person could not conclude that the noncompliance occurred based on the evidence; or
 - (c) Unable to Substantiate, when a reasonable person could not decide whether the noncompliance occurred because of conflicting evidence or because information is not available.
- (20) An individual may become an exempt prohibited individual if they surrender their registration, certification or CBR enrollment during a CCLD investigation. See OAR 414-075-0230.
- (21) If a facility has closed before CCLD has issued a finding on a complaint because of a voluntary surrender or lapse of the license including because a timely renewal application was withdrawn, CCLD may complete the investigation and issue findings or may close the investigation as incomplete. If CCLD has closed an investigation as incomplete, CCLD may resume the investigation at any time including if the licensee applies to reopen the license or for another license.
- (22) A CCLD investigation for which findings on all allegations have been issued to the facility will be reopened only as follows:
 - (a) CCLD will reopen an investigation if it has information that was not considered in the initial investigation that if confirmed could change the outcome, and CCLD has determined that reopening the investigation is necessary.
 - (b) CCLD must notify the facility when it has reopened an investigation.
 - (c) CCLD staff conducting the reopened investigation must issue superseding findings following the investigation that is reopened whether or not the outcome of the original finding is changed.
- (23) A child care facility may not interfere, discourage, or attempt to prevent a parent, legal guardian, current or former employee or volunteer from disclosing information to CCLD, law

enforcement, any other entity with legal or regulatory authority over the facility, or to a child's parent concerning allegations of any of the following as provided by ORS 329A.348:

- (a) Abuse or mistreatment of a child in the child care facility;
- (b) Violations of licensing requirements;
- (c) Criminal activity at the facility;
- (d) Violations of state or federal laws, or
- (e) Any practice that threatens the health and safety of a child in the child care facility.

(24) Interference with good faith disclosures as described in section (23) of this rule includes:

- (a) Terminating or threatening to terminate care of a child if the parent or legal guardian of child discloses the information; or
- (b) Asking a parent or legal guardian of a child or, employee or volunteer to sign a nondisclosure or similar agreement prohibiting the disclosure of the information; or
- (c) Communicating to or training a current or former staff, volunteer, parent, or legal guardian that they may not or should not disclose information.

414-075-0230 Exempt Prohibition, Unlawful Care, Civil Penalties

(1) An individual is an exempt prohibited individual as a result of any of the following circumstances as provided by ORS 329A.252:

- (a) The individual has had their registration, certification, or record denied for cause or revoked for cause.
- (b) The individual is not enrolled in the Central Background Registry because of removal for cause or denial for cause.
- (c) The individual voluntarily surrendered their child care license or enrollment in the Central Background Registry during a CCLD investigation or after CCLD has given the individual notice of an administrative action against the individual or the individual's facility.
- (d) The individual is suspended from the Central Background Registry.
- (e) The individual is licensee of a license that is suspended.
- (f) The individual has been issued a final order to cease and desist by CCLD after a contested proceeding or that has become effective because the individual did not request a hearing.

(2) An exempt prohibited individual may not provide child care or exempt care as defined in these rules except for their own children or children related to them within the fourth degree of sanguinity as determined by civil law.

(3) An exempt prohibited individual:

- (a) Remains an exempt prohibited individual for five years after the most recent dates of a circumstance resulting in the status as described in section (1) (a) through (c) and (f) of this rule and continues to be an exempt prohibited individual unless and until re-enrolled in the Central Background Registry.

- (b) Is no longer an exempt prohibited individual if the sole basis for the status is a suspension as described in section (l) (d) or (e) of this rule and CCLD has withdrawn the suspension by final order.
 - (c) May be enrolled in the Central Background Registry with a limited enrollment as defined by OAR 414-061-0020(27)(b) if meeting all requirements for a limited enrollment.
- (4) "Unlawful Care" means care provided by the following to a child not related to the person within the fourth degree of sanguinity as determined by civil law:
- (a) By a person who is not licensed or recorded when a license or record is required pursuant to ORS 320A.255, ORS 329A.280 or ORS 329A.330.
 - (b) By an exempt prohibited individual as provided by ORS 329A.252(2)(b).
 - (c) By a person who is not licensed or recorded when a license or record is required pursuant to ORS 320A.255, ORS 329A.280 or ORS 329A.330.
 - (d) By a person enrolled in the CBR under a limited enrollment:
 - (A) As defined in OAR 414-061-0020(25)(a) when the care violates a restriction or condition agreed to by the person; or
 - (B) As defined in OAR 414-061-0020(25)(b) when providing care while having unsupervised access to a child care child who is not the child of the person.
 - (e) In the home of a child, to children all from only one family in addition to children who reside with the person, or to no more than three children in addition to children who reside with the person, by an individual who is not enrolled in the CBR and was issued a founded or substantiated disposition for child abuse:
 - (A) On or after January 1, 2017 involving a child who died or suffered serious injury as defined in ORS 161.015.
 - (B) On or after September 1, 2019 and in the last seven years, when the founded or substantiated disposition of a child abuse or neglect report involved any child for whom the individual was providing care in the following settings:
 - (i) In a licensed or license-exempt child care facility as defined in these rules;
 - (ii) By a babysitter or other person in the home of the child;
 - (iii) By a person related to the child within the fourth degree of sanguinity as determined by civil law;
 - (iv) By a person who cares for children from only one family in addition to children who reside with the person;
 - (v) By a person who cares for no more than three children in addition to any children who reside with the person; or
 - (vi) By a person who is a member of the child's extended family, as determined by CCLD on a case-by-case basis.
- (5) A person who has provided unlawful care as defined in these rules, including but not limited to unlawful care by an exempt prohibited individual, may be subject to a civil penalty of not more than \$1,500 per violation.

- (a) CCLD may provide a warning rather than assess a civil penalty for a person's first instance of providing unlawful care if CCLD determines the person was not aware that the care was unlawful care as described in section (4) of this rule or that a license was required.
- (b) The civil penalty assessed against a person determined by final order to have provided unlawful care on a single day will be \$750 for the first instance of unlawful care for which a penalty is assessed.
- (c) Each additional day that person provides unlawful care is a separate violation for which CCLD may assess a civil penalty of not more than \$1,500 for each day the person is determined by final order on default or after a contested case hearing to have provided unlawful care.

414-075-0250 Operating Hours and Care Not Requiring a License

- (l) A facility may provide care without a license if the facility:
 - (a) Provides care in the home of the child by a babysitter or other person;
 - (b) Is the child's parent, legal guardian or custodian;
 - (c) Is related to the child by blood or marriage within the fourth degree;
 - (d) Is a member of the child's extended family unit, as determined by CCLD on a case-by-case basis;
 - (e) Provides only occasional care as defined in these rules;
 - (f) Is a provider of medical services;
 - (g) Provides care for children from only one family, in addition to any children who reside with the person;
 - (h) Provides care for three or fewer children, in addition to any children who reside with the person;
 - (i) Provides care for preschool-age children that is primarily educational for 4 hours or less per day and where no preschool-age child is present at the center for more than 4 hours per day;
 - (j) Provides care for school-age children that is not intended for child care purposes and is primarily a single enrichment activity, such as swimming lessons, dance lessons, tutoring, music lessons, sports practice, or any single class in any subject, where no child attends for more than 8 hours per week;
 - (k) Provides group athletic or social activities sponsored by or under the supervision of an organized club or hobby group. This exclusion applies only to the time engaged in the group athletic or social activities;
 - (l) Is operated by a school district, charter school, political subdivision of this state, or a government agency;
 - (m) Operates as a parent cooperative for no more than 4 hours a day and:
 - (A) Care is provided on a rotating basis by parents that are members of the cooperative; and

- (B) Are overseen by a board of directors responsible for developing written program policies and procedures that are shared with all members.
- (n) Provides care while the child's parent for the child remains on the premises and is engaged in an activity on-site, and:
 - (A) The facility informs the parent that the facility's program is not licensed by the state;
 - (B) Activities in which the parent is engaged do not include work; and
 - (C) Caregivers are always able to contact the parent.
- (o) Provide youth development activities, as defined in ORS 329A.250(14), to school-age children during hours that school is not in session and which does not take the place of a parent's care.
- (2) Care provided to children who do not reside in a licensed facility requires a license if provided by a licensed facility during the licensed facility's regular operating hours, as defined in these rules.
 - (a) Care provided to a child who is enrolled in a licensed facility who arrives before or remains after the facility's regular operating hours and is in care for any part of the facility's regular operating hours requires and is subject to all requirements of the facility's license.
 - (b) A child who ordinarily receives care at a registered or certified child care home facility and is present at the facility outside of the facility's regular operative hours for a social event is not subject to the requirements of the facility's license only if the facility has informed the parent that that the facility is not providing child care and that the care is not subject to license requirements.
 - (A) Care described in paragraph (2)(b) of this rule is not eligible for payment from the Employment Related Day Care program.
 - (B) Care for a child who is enrolled in a licensed child care is subject to all requirements of the facility's license if any of following exist regardless of whether the facility has informed the parent that the care is not subject to license requirements:
 - (i) The parent pays the facility for the care;
 - (ii) The child is in care for the purpose of providing care, supervision and guidance while the child's parent is unavailable due to work, school, or another activity; or
 - (iii) The child is in care outside the facility's regular operating hours on a regular basis. A facility regularly providing care outside its regular operating hours must notify CCLD and request approval to change the operating hours to include the days and hours that care is regularly provided.
- (3) Care may be provided without a license:
 - (a) At the location of a license-exempt child care facility, as defined in these rules, by a caregiver operating or employed by a license-exempt child care facility, for their own child or any child who resides with the caregiver before, during, or after their hours of employment at the license-exempt child care facility, as allowed by the license-exempt child care facility.

- (b) By a person, including a person who operates an exempt care or license-exempt child care facility, providing occasional care as defined in these rules during summer, winter and spring school breaks if the facility is ordinarily closed during such breaks. A licensed facility may not provide occasional care during periods that the facility is closed unless the license has been surrendered or has expired.
- (c) In the following combinations of exempt care:
 - (A) Care by a babysitter or other person in the home of the child, in addition to one or more children who reside with the babysitter or other person.
 - (B) Care by a child's parent, legal guardian, or custodian, in addition to children who are related to the child's parent, legal guardian, or custodian by blood or marriage within the fourth degree as determined by civil law.

414-075-0300 Union Representation in Contested Case Hearings

- (1) A labor union representative who is not an attorney holding an active license issued by the Oregon State Bar may represent the following providers in a contested case hearing conducted by the CCLD or the Department:
 - (a) The licensee under a registered or certified family child care home license; or
 - (b) An individual who provides subsidized care in the home of the individual or the home of the child that is not required to be licensed.
- (2) When representing a provider, a labor union representative may present evidence, examine and cross-examine witnesses and make arguments relating to the:
 - (a) Application of statutes and rules to the facts in the contested case;
 - (b) Actions taken by CCLD in the past in similar situations;
 - (c) Literal meaning of the statutes or rules at issue in the contested case;
 - (d) Admissibility of evidence; and
 - (e) Proper procedures to be used in the contested case hearing.
- (3) A labor union representative may not make legal argument on behalf of the provider.
 - (a) "Legal argument" does not include arguments listed in section (2)(a) through (e) of this rule.
 - (b) "Legal argument" includes arguments on:
 - (A) The jurisdiction of CCLD to hear the contested case;
 - (B) The constitutionality of a statute or rule or the application of a constitutional requirement to the CCLD; and
 - (C) The application of court precedent to the facts of the particular contested case proceeding.
- (4) Union representatives must read and be familiar with the Code of Conduct for Non-Attorney Representatives at Administrative Hearings, which is maintained by the Oregon Department of Justice and available on its website at: https://www.doj.state.or.us/wp-content/uploads/2017/06/code_of_conduct_oah_contested.pdf (Amended October 1, 2011).

- (5) If the administrative law judge determines that statements or objections made by the labor union representative appearing under section (1) of this rule involve legal argument as defined in this rule, the administrative law judge shall provide a reasonable opportunity for counsel for the provider to appear and present argument at the hearing or to file written legal argument within a reasonable time after conclusion of the hearing.
- (6) A labor union representative must obtain and provide to CCLD and to the Office of Administrative Hearings (OAH) the written authorization of the provider to being represented by the labor union representative prior to beginning representation or communicating with CCLD or the OAH on behalf of the provider regarding the contested case.
- (7) An authorized labor union's representation of a provider in a hearing may include the activities described in section (3) of this rule and:
 - (a) Communicating with CCLD without the presence of the provider regarding procedural matters including but not limited to scheduling;
 - (b) Assisting the provider in preparing and filing proposed exhibits and witness list;
 - (c) Making stipulations of fact;
 - (d) Agreeing or objecting to the admissibility of evidence based on relevance; or
 - (e) Being with the provider during any settlement negotiations including by telephone or video-conference.
- (8) An authorized labor union's representation of a provider in a hearing may not include:
 - (a) Entering into binding settlement agreements on behalf of the provider;
 - (b) Issuing subpoenas for witness attendance at the hearing.
 - (A) If a provider determines that a necessary witness is unwilling to testify, the provider or an authorized labor union representative may request that CCLD subpoena the witness by submitting a written request including the name, phone number, physical address, and description of anticipated testimony to CCLD no less than 30 calendar days before the date scheduled for hearing.
 - (B) CCLD is not required to subpoena witnesses on behalf of the provider unless CCLD agrees that the testimony of the witness is necessary for a full and fair hearing.
 - (C) CCLD is not required to subpoena witnesses on behalf of the provider for a hearing on an emergency order suspending a license or Central Background Registry enrollment or imposing a condition on a license.
 - (D) CCLD will notify the provider or authorized labor union representative of whether it will issue a subpoena pursuant to the request within 10 business days of receipt of the request.
 - (E) If CCLD does not agree to subpoena the witness as requested pursuant to this subparagraph, the provider may retain counsel to represent them in the hearing and issue the subpoena.
- (9) A provider who is or becomes represented by an attorney in a contested case hearing may not be simultaneously represented by an authorized labor union representative, and the

notification of representation by an attorney shall operate to rescind any prior authorization for a labor union representative to represent the provider.

- (10) Sections (3) through (8) of this rule do not apply to an attorney who appears as counsel for the provider in a contested case before CCLD or the Department.