

**DEPARTMENT OF HUMAN SERVICES, SENIORS AND PEOPLE
WITH DISABILITIES**

**DIVISION 346
CHILD FOSTER HOMES**

EFFECTIVE JANUARY 1, 2005

411-346-0100 Purpose and Statutory Authority
(Effective 01/01/2005)

- (1) Purpose. These rules prescribe the standards and procedures for the provision of care and services for children with developmental disabilities in child foster homes (CFH) certified by the Department of Human Services and Senior and People with Disabilities, as a condition for certification and payment. By these rules, the Department seeks to ensure that the health, safety and best interests of the children are served, through a partnership process with the Department, the family/guardian, and the foster family.

Stat. Auth.: ORS 443.830, 430.215, 409.050 and 410.070
Stats. Implemented: ORS 443.835

411-346-0110 Definitions
(Effective 01/01/2005)

- (1) "**Abuse of a child**" is defined in ORS 419B.005, 418.015, and includes but is not limited to:
 - (a) Any death caused by other than accidental or natural means, or occurring in unusual circumstances;
 - (b) Any physical injury including, but not limited to, bruises, welts, burns, cuts, broken bones, sprains, bites that are deliberately inflicted;
 - (c) Neglect including, but not limited to, failure to provide food, shelter, medicine, to such a degree that a child's health and safety are endangered;

- (d) Sexual abuse and sexual exploitation including; but not limited to, any sexual contact in which a child is used to sexually stimulates another person. This may include anything from rape to fondling to involving a child in pornography;
 - (e) Threat of harm including, but not limited to, any action, statement, written or non-verbal message that is serious enough to make a child believe he or she is in danger of being abused;
 - (f) Mental injury including, but not limited to, a continuing pattern of rejecting, terrorizing, ignoring, isolating, or corrupting a child, resulting in serious damage to the child; or
 - (g) Child selling including, but not limited to, buying, selling or trading for legal or physical custody of a child.
- (2) "**Administrator**" means the Assistant Director Department of Human Services and Administrator of Seniors and People with Disabilities, a cluster within the Department, or that person's designee.
- (3) "**Alternative Care**" is any person over the age of 18 having unsupervised contact with the child.
- (4) "**Aversive Stimuli**" is the use of any natural or chemical product to alter a child's behavior. Aversive stimuli can include, but not limited to the following: the use of hot sauce or soap in the mouth, spraying ammonia or lemon water in the face of a child.
- (5) "**Alternative Educational Plan**" (AEP) means any school plan that does not occur within the physical school setting.
- (6) "**Appeal**" is the process that the foster provider may petition the suspension, denial or revocation of their certificate or application under Chapter 183, Oregon Revised Statutes, by making a written request to the Department.
- (7) "**Applicant(s)**" is a person who wants to become a child foster provider and is applying for a child foster home certificate and lives at the residence where a child(ren) in care will live.
- (8) "**Service Coordinator**" means an employee of the Department, a Community Development Disability Program, or other agencies that contracts with the CDDP or the Department who is selected to plan,

procure, coordinate, and monitor individual support services and acts as a proponent for individuals with developmental disabilities. For purposes of this rule the term case manager is synonymous with services coordinator.

- (9) "**Case Plan**" is the goal-oriented, time-limited, individualized program of action for a child and the child's family developed by the Department of Human Services, Child Welfare (DHS-CW) and the family for promotion of the child's safety, permanency, and well being.
- (10) "**Case Worker**" is an employee of DHS-CW within CAF (Children, Adults, and Families).
- (11) "**Certificate**" is a document, that notes approval to operate a child foster home, for a period not to exceed one year, and is issued by the Department.
- (12) "**Certifier**" means an employee of The Department or CDDP who is authorized to gather required documentation for the issuance of a child foster home certificate.
- (13) "**Chemical Restraint**" means the use of a psychotropic drug or other drugs for punishment, or to modify behavior in place of a meaningful behavior or treatment plan.
- (14) "**Child**" means an individual under the age of 18 and who has a provisional eligibility determination of developmental disability.
- (15) "**Child Foster Home**" or "**CFH**" refers to a home certified by the Department that is maintained and lived in by the person named on the foster home certificate.
- (16) "**Child Foster Home Contract**" means an agreement between a provider and the Department that describes the responsibility of the foster care provider and the Department.
- (17) "**Child Placing Agency**" is the Department or CDDP, or DHS-CW, or Oregon Youth Authority (OYA).
- (18) "**Commercial Basis**" means providing temporary care for individuals not identified as members of the household, and receiving compensation for the care provided.

- (19) **"Community Development Disability Program" or "CDDP"** " means an entity that is responsible for planning and delivery of services for persons with mental retardation or other developmental disabilities in a specific geographic area of the state under a contract with the Department or a local mental health authority.
- (20) **"Denial"** is the refusal of the certifying agency to issue a certificate of approval to operate a foster home for children because the agency has determined that the home is not in compliance with one or more of these administrative rules.
- (21) **"Developmental Disability"** means:
- (a) For children five years and younger is always provisional and means the condition or impairment must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; and be expected to last indefinitely; AND
 - (A) There are standardized tests demonstrating adaptive impairment (more than two standard deviations below the norm) in at least two of the following areas of functioning: self care, receptive and expressive language, learning, mobility, and self-direction; OR
 - (B) There is a statement by a licensed medical practitioner that the child has a condition or syndrome that will likely cause significant adaptive impairment in at least two of the areas listed in (21)(a) above.
 - (b) For children six years and older is always provisional and means:
 - (A) There is a diagnosis of mental retardation; OR
 - (B) There is a diagnosis of developmental disability; AND
 - (i) There is a significant adaptive impairment (more than two standard deviations below the norm) in at least two of the following areas: self-care, receptive and expressive language, learning, mobility, and self-direction; AND

- (ii) The condition or impairment must be expected to last indefinitely and must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; and be expected to last indefinitely; AND
 - (iii) The individual is expected to need multiple, specialized supports indefinitely.
- (22) "**Department**" means the Department of Human Services, Seniors and People with Disabilities, an organizational unit within the Department, that focuses on the planning of services, policy development and regulation of programs for persons that have developmental disabilities.
- (23) "**Department-Approved Intervention Methods**" means the method or intervention used for behavior management currently approved by the Department. Currently the Department-approved intervention method is the Oregon Intervention System (OIS).
- (24) "**Department of Human Services, Child Welfare (DHS-CW)**" Child Welfare was formerly known as SCF (Services to Children and Families) and is part of Children, Adults and Families (CAF), which is within DHS.
- (25) "**Discipline**" for the purpose of this rule discipline is synonymous with Behavior Support.
- (26) "**Domestic Animals**" are any of various animals domesticated so as to live and breed in a tame condition. Examples of domestic animals are dogs, cats, and domesticated farm stock.
- (27) "**Direct Nursing Services**" means the provision of individual-specific advice, plans or interventions, based on nursing process as outlined by the Oregon State Board of Nursing, by a nurse at the home/facility. Direct nursing service differs from administrative nursing services. Administrative nursing services include non-individual-specific services, such as quality assurance reviews, authoring health related agency policies and procedures, or providing general training for the foster provider or alternative care givers.

- (28) "**Educational Surrogate**" means an individual who acts in place of a parent in safeguarding a child's rights in the special education decision-making process when; the parent cannot be identified or located after reasonable efforts; when there is reasonable cause to believe that the child has a disability and is a ward of the state; or at the request of a parent or adult student.
- (29) "**Exception**" is the process that the Department uses to determine that the subject individual possesses the qualifications to be a foster provider despite a record of criminal conviction or arrests.
- (30) "**Foster Care**" means 24-hour substitute care in a certified foster home for children placed away from their parents or guardians.
- (31) "**Foster Provider**" is not the parent or legal guardian and refers to the certified care provider who resides at the address listed on the foster home certificate. The "Foster Provider" for the purpose of this rule is synonymous with child foster parent relative care giver.
- (32) "**Founded Reports**" means the DHS-CW or Law Enforcement Authority (LEA) determination based on the evidence that there is reasonable cause to believe that conduct in violation of the child abuse statutes has occurred and such conduct is attributable to the person(s) alleged to have engaged in the conduct.
- (33) "**Guardian**" means a parent for individuals under 18 years of age or a person or agency appointed by the courts who is authorized by the court to make decisions about services for the foster child.
- (34) "**Health Care Provider**" means a person licensed, certified or otherwise authorized or permitted by law of this state to administer health care in the ordinary course of business or practice of a profession, and includes a health care facility.
- (35) "**Home Inspection**" means an on site, physical review of the applicant's home to assure the applicant meets all health and safety requirements within these rules.
- (36) "**Home Study**" is the assessment process used for the purpose of determining an applicant's abilities to care for children in need of foster care placement.
- (37) "**Incident Report**" means a written report of any injury, accident, acts of physical aggression, or unusual incident involving the foster child.

- (38) "**Individualized Education Plan**" or "**IEP**" means a written plan of instructional goals and objectives in conference with the teacher, parent or guardian, student, and a representative of the school district.
- (39) "**Individual Support Plan**" or "**ISP**" means the written details of the supports, activities and resources required for a child to meet the health, safety, financial and personal goals of the foster child. The ISP is the individual's Plan of Care for Medicaid purposes.
- (40) "**Individual Support Plan Team**" or "**ISP team**" in child foster care means a team composed of the child in foster care, when appropriate, the foster provider, the guardian, relatives of the child, the CDDP services coordinator and any other approved persons who are well liked by the child and approved by the child and the child's guardian to serve on the team.
- (41) "**Mandatory Reporters**" means any public or private official who, while acting in an official capacity, comes in contact with and has reasonable cause to believe that abuse or neglect has occurred as defined in ORS 419B.005. All foster providers' employees, independent contractors or volunteers are mandatory reporters under Oregon State law ORS 430.765 and must report suspected abuse and neglect to DHS-CW or law enforcement.
- (42) "**Mechanical Restraint**" means any mechanical device material, object or equipment that is attached or adjacent to an individual's body, that the individual cannot easily remove or easily negotiate around and restricts freedom of movement or access to the child's body.
- (43) "**Member of the Household**" means any adults and children living in the home, including any foster provider, employees or volunteers assisting in the care provided to children placed in the home, and excluding the foster children placed in the home.
- (44) "**Monitoring**" is the observation by The Department or designee of certified child foster home to determine continuing compliance with certification rules.
- (45) "**Nurse**" means a person who holds a valid, current license as a Registered Nurse (RN) or Licensed Practical Nurse (LPN) from the Oregon Board of Nursing.

- (46) **"Nursing Care Plan"** means a plan of care developed by a Registered Nurse (RN) that describes the medical, nursing, psychosocial, and other needs of the individual and how those needs will be met. It includes which tasks will be taught or delegated to the foster provider and alternative care givers.
- (47) **"Occupant"** means any person having official residence in a certified foster home.
- (48) **"Oregon Intervention System" or "OIS"** means a system of providing training to people who work with designated individuals to intervene physically or non-physically to keep individuals from harming self or others. The system is based on a proactive approach that includes methods of effective evasion, deflection and escape from holding.
- (49) **"Oregon Youth Authority" (OYA)** is an agency that has been given custody and supervision responsibilities over those youth offenders, by order of the juvenile court under ORS 137.124 or other statute until the time that a lawful release authority authorizes release or terminates the commitment or placement.
- (50) **"Permanent Foster Care Placement Agreement"** means a long term contractual placement agreement between the foster parent and DHS-CW, approved by the juvenile court, that specifies the responsibilities and authority of the foster parent and the commitment by the permanent foster parent to raise a child until the age of majority.
- (51) **"Physical Restraint"** means any manual physical holding of or contact with an individual that restricts the individual's freedom of movement.
- (52) **"Physical Intervention"** means the use of any physical action or any response to maintain the health and safety of an individual or others during a potentially dangerous situation or event.
- (53) **"Protected Health Information"** means any oral or written health information that identifies the child and relates to the child's past, present or future physical or mental health or condition, health care treatment provided or payment for health care treatment.
- (54) **"Psychotropic Medication"** means a medication whose prescribed intent is to affect or alter thought processes, mood, or behavior. This includes, but is not limited to, anti-psychotic, antidepressant,

anxiolytic (anti-anxiety), and behavior medications. Because a medication may have many different effects, its classification depends upon its stated, intended effect when prescribed.

- (55) "**Respite Care**" means short-term services for a period of up to 14 consecutive days. Respite care may include both day and overnight care.
- (56) "**Revocation**" is the action taken to rescind a foster home certificate of approval after the certifying agency has determined that the foster home is not in compliance with one or more of these administrative rules.
- (57) "**Specialized Diet**" means that the amount, type of ingredients or selection of food or drink items is limited, restricted, or otherwise regulated under a physician's order. Examples include, but are not limited to, low calorie, high fiber, diabetic, low salt, lactose free, low fat diets.
- (58) "**Suspension of Certificate**" is a temporary withdrawal of the approval to operate a foster home after the certifying agency determines that the foster home is not in compliance with one or more of these administrative rules.
- (59) "**30 Day Emergency Certificate**" refers to a foster care home certificate issued, not to exceed 30 days.
- (60) "**Unauthorized Absence**" is any length of time, as specified on the ISP, when a child is absent from the foster home, without prior approval.
- (61) "**Unusual Incident**" means those incidents involving serious illness or accidents, death of an individual, injury or illness of an individual requiring inpatient or emergency hospitalization, suicide attempts, a fire requiring the services of a fire department, or any incident requiring abuse investigation.
- (62) "**Unsupervised Contact**" is time the foster child is cared for, supported or monitored in the foster home without the direct supervision or presence of the certified foster provider.
- (63) "**Variance**" is a temporary exemption from a regulation or provision of these rules that may be granted by the Department, upon written application by the CDDP.

(64) "**Volunteer**" is any individual assisting in a foster home without pay to support the care provided to children placed in the foster home.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070

Stats. Implemented: ORS 443.835

411-346-0120 Certification Required

(Effective 01/01/2005)

(1) Any home that meets the definition of a CFC must be certified by one of the following agencies: the Department, DHS-CW, or the OYA.

(2) Children will only be placed in a CFC home that is certified.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070

Stats. Implemented: ORS 443.835

411-346-0130 Indian Child Welfare Act

(Effective 01/01/2005)

The Indian Child Welfare Act (ICWA) gives federally recognized Indian tribes the authority to select homes for children protected by the Act. Tribes and Alaskan Native Regional Corporations may license, approve or specify a foster home for children protected by the Act. The tribe is authorized to decide which of these three preferences to use, or whether to request that The Department or DHS-CW certify the home. When the tribe requests the Department to certify the home, the Department will use the Department standards for certification. Indian children placed in relative homes, whether licensed, certified or selected by the tribe are eligible for foster care payments when DHS-CW has legal custody. Preference will be given for placement with:

(1) A member of the Indian child's extended family;

(2) A foster home licensed, approved, or specified by the Indian child's tribe; or

(3) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070

Stats. Implemented: ORS 443.835

411-346-0140 Selection

(Effective 01/01/2005)

- (1) The Department or CDDP will select foster providers who have the abilities and commitment to carry out the responsibilities set forth in these rules and can meet the Department's specific need for homes. The Department will determine which applicants will undergo a complete certification study and which applicants will be certified. The CDDP staff will determine which home is best for a particular child.
- (2) The foster provider will be a responsible, stable, emotionally mature adult who exercises sound judgment and has the capacity to meet the mental, physical and emotional needs of children placed in foster care.
- (3) The foster provider will demonstrate the following traits: capacity to give and receive affection, kindness, flexibility, a sense of humor, and the ability to deal with frustration and conflict.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070

Stats. Implemented: ORS 443.835

411-346-0150 General Requirements for Certification

(Effective 01/01/2005)

- (1) The applicant or foster provider must participate in certification and certification renewal studies, and in the ongoing monitoring of their homes.
- (2) The applicant or foster provider must give the information required by the Department to verify compliance with all applicable rules, including change of address and change of number of persons in the household such as relatives, employees or volunteers of the applicant or foster provider.
- (3) The applicant seeking certification from the Department must complete the Department application forms. When two or more adults living in the home share foster provider responsibilities to any degree, they shall be listed on the application as applicant and co-applicant.

- (4) The applicant or foster provider may request in writing to withdraw their application any time during the certification process. Written documentation by the certifier of verbal notice can substitute for written notification.
- (5) Information provided by the applicants will include:
 - (a) Proposed number, gender, age range and disability/support needs of children to be served in foster care;
 - (b) School reports will be obtained for any child of school age living in the home at the time of initial application, and may be required for any child of school age living in the home within the last year.
 - (c) Names and addresses of at least four persons, three of whom are unrelated, who have known each applicant for two years or more and who can attest to their character and ability to care for children. The Department may contact schools, employers, adult children and other sources as references;
 - (d) A statement noting if each applicant has operated or currently is operating a licensed or certified care facility or foster home for children or adults, and reasons for any termination of such license or certification;
 - (e) Reports of all criminal charges, arrests or convictions, the dates of offenses, and the resolution of those charges for all employees or volunteers and persons living in the home. Applicants must list reports of all criminal or juvenile delinquency charges, arrests or convictions, the dates of offenses, and the resolution of those charges of Applicant's minor children living in the home.
 - (f) Founded reports of child abuse and neglect, with dates, locations and resolutions of those reports for all persons living in the home, as well as all applicant or provider employees, independent contractors and volunteers;
 - (g) Demonstration, upon initial certification, of income sufficient to meet their needs and to ensure the stability and financial security of the family, independent of the foster care payment;
 - (h) All child support obligations in any state, whether the obligor is current with payments or in arrears, and whether any

applicant's or foster provider's wages are being attached or garnished for any reason;

- (i) A physician's statement that each applicant is physically and mentally capable of providing care on a form provided by the Department;
 - (j) A floor plan of the house showing the location of rooms indicating the bedrooms for the foster child, caregiver, other occupants of the home; and the locations of windows, exit doors, smoke detectors and fire extinguishers and wheel chair ramps, if applicable;
 - (k) A diagram of the house and property showing safety devices for fire places, wood stoves, water features, outside structures and fencing;
 - (l) Falsification or omission of any of the information for certification may be grounds for denial or revocation of foster home certification.
- (6) Applicants must be at least 21 years of age. Applicants who are "Indian," as defined in the Indian Child Welfare Act, may be 18 years of age or older, if an Indian child to be placed is in the legal custody of DHS-CW.
- (7) Applicants, or providers, substitute caregivers, providers' employees or volunteers, other occupants in the home who are 18 years or older, and other adults having regular or unsupervised contact in the home with the foster children must consent to a criminal history check by the Department. The Department may require a criminal history on members of the household under 18 if there is reason to believe that a member may pose a risk to children placed in the home.
- (8) The Department will not issue or renew a certificate if an applicant or member of the household does not have an approved criminal record clearance by the Department as defined in the DHS Criminal History Check Rules OAR Chapter 410, Division 007.
- (9) The Department will not issue or renew a certificate if a applicant or member of the household has been found to have abused or neglected a child as defined in ORS 419B.005, 418.015,.

- (10) A Department employee may be a foster provider, or an employee of an agency that contracts with the Department as a foster provider, if the employee's position with the Department does not influence referral, regulation or funding of such activities. Prior to engaging in such activity, the employee must obtain written approval from the Department Administrator. The written approval must be on file with the Department Administrator and in the Department certification file.
- (11) An application is incomplete and void unless all supporting materials are submitted to the Department within 90 days from the date the application.
- (12) An application will not be considered complete until all required information is received and verified by the Department. Upon receipt of the completed application, a decision will be made by the Department to approve or deny certification within 60 days.
- (13) The Department will determine compliance with these rules based on receipt of the completed application material, an investigation of information submitted, an inspection of the home, a completed home study, and a personal interview with the provider. A certificate is valid for one year unless revoked or suspended.
- (14) The Department may attach conditions to the certificate that limit, restrict, or specify other criteria for operation of the CFC home.
- (15) A condition may be attached to the certificate, which limits the provider to the care of a specific individual. No other referrals will be made to a provider with this limitation.
- (16) A CFC home certificate is not transferable or applicable to any location or persons other than those specified on the certificate.
- (17) An application for a license or certification for a foster home or group home has been denied or revoked by any placing agency may not reapply for certification for a period of five years after the date of that action.
- (18) The foster provider who cares for children funded by the Department must enter into a contract with the Department and follow the Department rules governing reimbursement for services and refunds.

- (19) The foster provider cannot be the parent or legal guardian of any children placed in their home for foster care services funded by the Department.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070

Stats. Implemented: ORS 443.835

411-346-0160 Renewal of Certificate

(Effective 01/01/2005)

- (1) At least 90 days prior to the expiration of a certificate, the Department will send a reminder notice and application for renewal to the currently certified provider. Submittal of a renewal application prior to the expiration date will keep the certificate in effect until the Department takes action. If the renewal application is not submitted prior to the expiration date, the CFH will be treated as an uncertified home.
- (2) The renewal application will include the same information as required for a new application, except that a physician's or physician assistant's statement, financial statement, references and school reports will not be required if the Department or CDDP can reasonably assume this information has not changed or is not necessary.
- (3) The Department or CDDP may investigate any information in the renewal application and must conduct a home inspection.
- (4) The provider will be given a copy of the inspection form documenting any deficiencies and a time frame to correct deficiencies, but no longer than 60 days from the date of inspection. If documented deficiencies are not corrected within the time frame specified, the renewal application will be denied.
- (5) Applicants; providers; providers' substitute caregivers, employees, volunteers and any other occupants in the home 18 years of age and older must submit to an Oregon CHC and must continue to meet all certification standards as outlined in these rules.
- (6) Each foster provider must provide documentation of a minimum of 10 hours of Department approved training per year prior to annual renewal of the certificate. A mutually agreed upon training plan may be part of the re-certification process.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070
Stats. Implemented: ORS 443.835

411-346-0165 Emergency Certification

(Effective 01/01/2005)

- (1) An emergency certificate may be issued by the Department for up to 30 days, provided the following conditions are met:
 - (a) An Oregon Criminal History Check (CHC) indicates no immediate need for fingerprinting for all persons living in the home;
 - (b) A DHS-CW background check identifies no founded allegations of abuse or neglect committed by persons living in the home;
 - (c) Applicant has no previous revocations or suspensions of any license or certificate by any issuing agency for a foster, group home or any other care or support services;
 - (d) A review of support enforcement obligations and public assistance cases identifies no substantial financial concerns;
 - (e) Application and two references are submitted;
 - (f) An abbreviated Home Study is done; and
 - (g) A satisfactory home inspection and a Health and Safety Checklist are completed.
- (2) Emergency certificates may be issued if the renewal process is incomplete at the time of annual renewal.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070
Stats. Implemented: ORS 443.835

411-346-0170 Personal Qualifications of the Applicant and Foster Provider.

(Effective 01/01/2005)

The applicant and foster provider:

- (1) Will be responsible, stable, emotionally mature adults who exercise sound judgement;
- (2) Must have the interest, motivation, and ability to nurture, support and meet the mental, physical, developmental and emotional needs of children placed in the home;
- (3) Must be willing to receive training, and have the ability to learn and use effective child-rearing practices, to enable children placed in their home to grow, develop, and build positive personal relationships and self esteem;
- (4) Must demonstrate that they have the knowledge and understanding of positive non-punitive discipline and ways of helping children build positive personal relationships, self-control and self esteem;
- (5) Must respect the child's relationship with his or her parents and siblings and be willing to work in partnership with agencies and schools involved with the child to attain the goals as listed in the IEP, ISP and case plan;
- (6) Must respect the child's privacy in accordance with the child's age;
- (7) Must have supportive ties with others who might support, comfort and advise them. Supportive ties include but are not limited to: family, friends, neighborhood contacts, churches, and community groups;
- (8) Must demonstrate that they have lifestyles and personal habits free from abuse or misuse of alcohol or drugs;
- (9) Will be at least 21 years of age, unless otherwise specified through ICWA and placement of Indian Children requirements;
- (10) Must be able to realistically evaluate which children they can accept, work with, and integrate into their family.
- (11) **Health qualifications:**
 - (a) The applicant and foster provider will provide the Department with the health history of each member of the household, including physical and mental health services and treatment received. Within one working day, the foster provider will inform the Department if any member of the household has or develops a serious communicable disease or other serious

health condition that could affect the provider's ability to care for the child, or could affect the health and safety of the child.

- (b) The applicant, foster provider and other adults in the household caring for foster children must be physically and mentally able to perform the duties of foster provider as prescribed in these rules.
- (c) The applicant, foster provider and others in the household must be free from abuse or misuse of alcohol or drugs. In the case of alcoholism or substance abuse, the applicant, foster provider or others in the household must demonstrate that they have been substance-free and sober for at least two years prior to making application for certification.
- (d) When requested by the Department either during the application process or while certified, the applicant or foster provider must, at their expense and from a source acceptable to the Department, supply psychological, medical or physical, sex-offender, drug and alcohol, and psychiatric reports and evaluations to the Department.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070

Stats. Implemented: ORS 443.835

411-346-0180 Professional Responsibilities of the Foster Provider

(Effective 01/01/2005)

(1) Training and Development:

- (a) The foster provider must complete a minimum of 12 hours of pre-service training prior to certification, and 10 hours annually for certification renewal.
- (b) The foster provider must participate in training provided or approved by the Department or CDDP. Such training will include educational opportunities designed to enhance the foster provider's awareness, understanding and skills to meet the special needs of children placed in their home.
- (c) The foster provider must complete mandatory reporting training prior to initial certification and annually thereafter.

- (2) **Relationship with the Child Placing Agency.** The foster provider will:
- (a) Take part in planning, preparation, pre-placement and visitation for the children placed in their home;
 - (b) Participate as team members in developing and implementing the ISP when initiated by the CDDP Service Coordinator for the children placed in their home;
 - (c) Notify the certifier of changes likely to affect the life and circumstances of the foster family or the safety in the home, in advance or within one working day. The following must be reported including but not limited to:
 - (A) foster family illness;
 - (B) divorce;
 - (C) significant change in financial circumstances;
 - (D) new household members, placement of a foster child by another agency; including respite care;
 - (E) arrests or criminal involvement,
 - (F) the addition of fire arms;
 - (G) swimming pools;or
 - (H) pets.
 - (d) Immediately notify the child's CDDP Service Coordinator and guardian of injury, illness, accidents, or any unusual incidents or circumstances that may have a serious effect on the health, safety, physical or emotional well being of the foster child;
 - (e) Notify the legal guardian and CDDP staff within 12 hours, or other mutually agreed upon time, as determined by the ISP Team, of any unauthorized absence of a foster child;
 - (f) Sign and abide by the responsibilities described in the "Child Foster Home Contract or Agreement";
 - (g) Allow the certifying and placing agency reasonable access to their home and to the children placed in their care. This

includes access by family members when placement is voluntary. Reasonable access means with prior notice, unless there is cause for not giving such notice.

(3) Accepting Children for Care.

- (a) A single (one) certified foster provider in a home will not accept more than five children in foster care, including the foster provider's children. Two certified foster providers in a home will not accept more than eight children, including the foster provider's children. The foster provider will not care for more than two children under two years of age, including the foster provider's children. The number of children served in the child foster home cannot exceed the capacity of the child foster home certificate.
- (b) At the time of referral, the foster provider will be given available information about the child, including behavior, skill level, medical status and other relevant information. The foster provider will retain the right to decline any child, based on the referral information, if they feel the child cannot be supported safely or effectively in the foster home.
- (c) A foster provider may provide respite care in the provider's home for a child upon approval by the CDDP or Department.
- (d) A child who turns 18 may continue to reside in their current child certified foster home when it has been determined by the ISP team it is in the best interest of the child to remain in the same home. When it has been determined by the ISP team a child who is turning 18 will remain in their current child certified foster home the foster provider needs to complete the following:
 - (A) Submit a variance request to the Department in accordance to 411-346-0210 (1)(9);
 - (B) Submit to the Department and CDDP certifier, a copy of the ISP addendum signed by the ISP team noting it is in the best interest of the foster child to remain in the current certified foster home
- (e) Any variance to 411-346-0180 (3) (a)-(d) will take into consideration the maximum safe physical capacity of the home including:

- (A) sleeping arrangements;
 - (B) the ratio of adult to child;
 - (C) the level of supervision available;
 - (D) the skill level of the foster provider;
 - (E) individual plans for egress during fire;
 - (F) the needs of the other children in placement; and the desirability of keeping siblings placed together.
- (f) The foster provider will not care for unrelated adults on a commercial basis in their own home or accept children for day care in their own home while currently certified as a foster provider.
- (g) The foster provider may exit a foster child by giving 30 days written notice to the designated CDDP staff, except where undue delay will jeopardize the health, safety or well being of the child or others.
- (h) The foster provider must notify the Department prior to a voluntary closure of a child foster home, and give the foster child(ren)'s guardian and the CDDP 30 days written notice, except in circumstances where undue delay might jeopardize the health, safety or well-being of the foster child(ren), or foster provider.
- (4) **Relationship with the child's family.** In accordance with the child's ISP and the guardian the foster provider will:
- (a) Support the child's relationship with the child's family members, including siblings;
 - (b) Assist the CDDP staff, and the guardian in planning visits with the child and the child's family members; and
 - (c) Provide children reasonable opportunities to communicate with their family members.
- (5) **Confidentiality.**
- (a) The foster provider and the provider's family must treat personal information about a child or a child's family in a

confidential manner. Confidential information is to be disclosed on a need to know basis to law enforcement, CDDP staff, DHS-CW child protective services staff, DHS-CW case worker, and medical professionals who are treating or providing services to the child. The information shared must be limited to the health, safety and service needs of the child.

- (b) In addition to the requirements in (5) (a) above, the foster provider and the provider's family must comply with the provisions of ORS 192.518 to 192.523 and therefore may use or disclose a child's protected health information only:
 - (A) To law enforcement, CDDP staff, DHS-CW staff;
 - (B) As authorized by the child's personal representative, including but not limited to a guardian appointed under ORS 125.305, 419B.370, 419C.481 or 419C.555;
 - (C) For purposes of obtaining healthcare treatment of the child;
 - (D) For purposes of obtaining payment for health care treatment; or
 - (E) As permitted or required by state or federal law or by order of a court;
 - (c) The foster provider must keep all written records for each foster child in a manner that ensures their confidentiality
- (6) **Mandatory Reporting.**
- (a) The foster provider is a mandatory child abuse and neglect reporter under Oregon State law (ORS 419B.005). Upon reasonable cause to believe that abuse or neglect has occurred, all members of the household and any foster provider, employees, independent contractors or volunteers must report pertinent information to DHS-CW or law enforcement.
 - (b) Any restraint or intervention that results in an injury to the child must be reported by the foster provider. Same day verbal notification is required. The foster provider will notify DHS-CW in accordance with ORS 419B.005, and the child's CDDP Service Coordinator.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070
Stats. Implemented: ORS 443.835

411-346-0190 Standards and Practices for Care and Services
(Effective 01/01/2005)

(1) The foster provider will:

- (a) Provide structure and daily activities designed to promote the physical, social, intellectual, cultural, spiritual and emotional development of the foster children in their home.
- (b) Provide playthings and activities in the foster home, including games, recreational and educational materials, and books appropriate to the chronological age, culture, and developmental level of the child.
- (c) In accordance with the ISP and, if applicable, as defined the DHS-CW case plan encourage the children to participate in community activities with family, friends, and on their own when appropriate.
- (d) Help the children placed in their home develop skills and perform tasks that promote independence and self-sufficiency.
- (e) In accordance with the ISP and, if applicable, as defined in the DHS-CW case plan ask children placed in the provider's care to participate in household chores appropriate to the child's age and ability and commensurate with those expected of their own children.
- (f) Provide the child with reasonable access to a telephone and to writing materials.
- (g) In accordance with the ISP and, if applicable, as defined in the DHS-CW case plan, permit and encourage the child to have visits with family and friends.
- (h) Allow regular contacts and private visits or phone calls with the child's CDDP Service Coordinator and, if applicable, the DHS-CW case worker.

- (i) Not allow foster children to baby-sit in the foster home or elsewhere without permission of the CDDP Service Coordinator and the guardian.

(2) **Religious, ethnic, and cultural heritage**

- (a) The foster provider will recognize, encourage, and support the religious beliefs, ethnic heritage, cultural identity and language of a child and his/her family.
- (b) In accordance with the ISP and guardian preferences, the foster provider will participate with the ISP team to arrange transportation and appropriate supervision during religious services or ethnic events for a child whose beliefs and practices are different from of the provider.
- (c) The foster provider will not require a child to participate in religious activities or ethnic events contrary to the child's beliefs.

(3) **Education.** The foster provider will:

- (a) Enroll each child of school age in public school within five school days of the placement and arrange for transportation.
- (b) Comply with any alternative educational plan described in the foster child's Individualized Education Plan (IEP).
- (c) Be actively involved in the child's school program and will participate in the development of the child's Individualized Education Plan (IEP). The Foster provider may apply to be the child's educational surrogate, if requested by the parent or guardian.
- (d) To consult with school personnel when there are issues with the child in school, and report to the guardian and CDDP Service Coordinator any serious situations that may require agency involvement.

(4) **Alternate caregivers .**

- (a) The foster provider must arrange for safe and responsible child care.
- (b) The foster provider must have a child care plan approved by the Department, CDDP, or DHS-CW, as appropriate, if the

foster provider is employed outside of the home. When a child is cared for by a child care provider or child care center, the provider or center must be certified as required by the State Child Care Division (ORS 657A.280), or be a certified foster provider.

- (c) The foster provider, when absent overnight or using unsupervised alternate caregivers for any period of time, must have a respite plan approved by the CDDP or the Department.
- (d) The foster provider must assure the alternative caregiver is:
 - (A) 18 years of age or older, capable of assuming foster care responsibilities, present in the home;
 - (B) Physically and mentally able to perform the duties of the foster provider as prescribed in these rules;
 - (C) Cleared by a Criminal History Check including a DHS-CW background check (IIS);
 - (D) Able to communicate with the child, individuals, agencies providing care to the child, CDDP Service Coordinator and appropriate others;
 - (E) Trained on fire safety and emergency procedures;
 - (F) Trained on the child's ISP, BSP and any related protocols and able to provide the care needed for each child;
 - (G) Trained on the required documentation for health, safety and behavioral needs of the child;
 - (H) A licensed driver and with vehicle insurance in compliance with the Oregon DMV laws, when transporting children by motorized vehicle; and
 - (I) Not be a person who is placed in the foster home who needs care.
- (e) When the foster provider uses an alternate caregiver and the child will be staying at the alternate caregiver's home, the foster provider must assure the alternate caregiver's home meets the necessary health, safety and environmental needs of the child.

- (f) When the foster provider arranges for social activities of the child for less than 24 hours, including an overnight arrangement, the foster provider will assure that the person will be responsible and capable of assuming child care responsibilities, and be present at all times. The foster provider still maintains back-up responsibility for the child.

(5) Food and Nutrition

- (a) The foster provider must offer three nutritious meals daily at times consistent with those in the community. Daily meals will include food from the four basic food groups, including fresh fruits and vegetables in season, unless otherwise specified in writing by a physician or physician assistant. There will be no more than a 14-hour span between the evening meal and breakfast, unless snacks and liquids are served as supplements. Consideration will be given to cultural and ethnic background in food preparation.
- (b) The foster provider must implement special diets only as prescribed in writing by the child's physician or physician assistant.
- (c) The foster provider will prepare and served meals in the foster home where the child lives. Payment for meals eaten away from the foster home (e.g. restaurants) for the convenience of the foster provider is the responsibility of the foster provider.
- (d) A Child who must be bottle-fed and cannot hold the bottle must be held during bottle-feeding.

(6) Clothing and personal belongings

- (a) The foster provider will provide each child with his or her own clean, well-fitting, seasonal clothing appropriate to age, gender, culture, individual needs, and comparable to the community standards.
- (b) School-age children should participate in choosing their own clothing whenever possible.
- (c) The foster provider will allow children to bring and acquire appropriate personal belongings.

- (d) The foster provider must send all personal clothing and belongings with the child when the child leaves the foster home.

(7) Behavior Support and Discipline Practices

- (a) The foster provider will teach and discipline children with respect, kindness, and understanding, using positive behavior management techniques. Unacceptable punishments include, but are not limited to:
 - (A) Physical force, spanking or threat of physical force inflicted in any manner upon the child;
 - (B) Verbal abuse, including derogatory remarks about the child or his or her family that undermine a child's self-respect;
 - (C) Denial of food, clothing or shelter;
 - (D) Denial of visits or contacts with family members, except when otherwise indicated in the ISP or, if applicable, the DHS-CW case plan;
 - (E) Assignment of extremely strenuous exercise or work;
 - (F) Threatened or unauthorized use of physical interventions;
 - (G) Threatened or unauthorized use of mechanical restraints;
 - (H) Punishment for bed-wetting or punishment related to toilet training;
 - (I) Delegating or permitting punishment of a child by another child;
 - (J) Threat of removal from the foster home as a punishment;
 - (K) Use of shower or aversive stimuli as punishment; and
 - (L) Group discipline for misbehavior of one child.

- (b) The foster provider will set clear expectations, limits, and consequences of behavior in a non-punitive manner.
- (c) If time-out separation from others is used to manage behavior, it must be included on the child's ISP and the foster provider must provide it in an unlocked, lighted, well-ventilated room of at least 50 square feet. The ISP must include whether the child needs to be within hearing distance or within sight of an adult during the time-out. The time limit must take into consideration the child's chronological age, emotional condition and development level. Time-out is to be used for short duration and frequency as approved by ISP Team.
- (d) No foster child or other child in a foster home will be subjected to physical abuse, sexual abuse, sexual exploitation, neglect, emotional abuse, mental injury or threats of harm as defined in ORS 418.740 and OAR 413-030-0120. Sexual abuse and sexual exploitation include all sexual acts defined in ORS Chapters 163 and 167.
- (e) Behavior Support Plan (BSP). For children who have demonstrated a serious threat to self, others or property and for whom it has been decided a BSP is needed, the BSP must be developed with the approval of the ISP team.
- (f) Physical Restraint or Intervention. A physical restraint or intervention must be used only for health and safety reasons and under the following conditions:
 - (A) As part of the child's ISP team approved Behavior Support Plan.
 - (i) When physical restraint or intervention will be employed as part of the BSP the foster provider and alternative caregivers must complete OIS training prior to the implementation of the BSP.
 - (ii) The use of any modified OIS physical restraint or intervention must have approval from the OIS Steering Committee in writing prior to their implementation. Documentation of the approval must be maintained the child's records.
 - (B) As in a health-related protection prescribed by a physician, or qualified health care provider, but only if

absolutely necessary during the conduct of a specific medical or surgical procedure, or only if absolutely necessary for protection during the time that a medical condition exists;

- (C) As an emergency measure, if absolutely necessary to protect the child or others from immediate injury and only until the child is no longer an immediate threat to self or others.

(g) Mechanical Restraint

- (A) The foster provider must not use mechanical restraints on children in care other than car seat belts or normally acceptable infant safety products unless ordered by a physician, or health care provider and with an agreement of the ISP team.
- (B) The foster provider will maintain the original order in the child's records, and forward a copy to the CDDP Service Coordinator and guardian.

(h) Documentation and notification of use of restraint or intervention. The foster provider will document the use of all physical interventions or mechanical restraints in an incident report. A copy of the incident report is to be provided to the CDDP Service Coordinator and guardian.

- (A) If an approved restraint is used the foster provider is required to send a copy of the incident report within five (5) working days.
- (B) If an emergency or non ISP team approved restraint is used the foster provider is required to send a copy of the incident report within twenty-four hours (24 hours). The foster provider must make verbal notification to the CDDP Service Coordinator and guardian no later than the next working day.
- (C) The original incident report must be on file with the foster provider in the child's records.
- (D) The incident report must include:

- (i) The name of the child to whom the restraint was applied;
- (ii) The date, location, type and duration of restraint and of entire incident;
- (iii) The name of the provider and witnesses or persons involved in applying the restraint;
- (iv) The name and position of the person notified regarding the use of the restraint; and
- (v) A description of the incident, including precipitating factors, preventive techniques applied description of the environment, description of any physical injury resulting from the incident, and follow-up recommendations.

(8) Medical and Dental Care. The foster provider must:

- (a) Provide care and services, as appropriate to the child's chronological age, development level and condition of the child, and as identified in the ISP.
- (b) Assure that physician or qualified health care provider orders and those of other licensed medical professionals are implemented as written.
- (c) Inform the child's physicians or qualified health care providers of current medications and changes in health status and if the child refuses care, treatments or medications.
- (d) Inform the guardian and CDDP Service Coordinator of any changes in the child's health status except as otherwise indicated in the DHS-CW Permanent Foster Care Placement Agreement and as agreed upon in the Child's ISP.
- (e) Obtain the necessary medical, dental, therapies and other treatments of care, including but not limited to:
 - (A) Making appointments;
 - (B) Arranging for or providing transportation to appointments;
 - (C) Obtain emergency medical care.

- (f) Have prior consent from the guardian for medical treatment that is not routine, including surgery and anesthesia except in cases where an SOSCF Permanent Foster Care Placement Agreement exists.
- (9) **Medications and Physician or Qualified Health Care Provider Orders.**
- (a) There must be authorization by a physician or qualified health care provider in the child's file prior to the usage of or implementation of any of the following:
 - (A) All prescription medications;
 - (B) Non prescription medications except over the counter topicals;
 - (C) Treatments other than basic first aid;
 - (D) Therapies and use of mechanical restraint as a health and safety related protection;
 - (E) Modified or special diets;
 - (F) Adaptive equipment; and
 - (G) Aids to physical functioning.
 - (b) The foster provider must have a copy of an authorization in the format of a written order signed by a physician or a qualified health care provider; or
 - (c) Documentation of a telephone order by a physician or qualified health care provider with changes clearly documented on the medication administration record (MAR), including the name of the individual giving the order, the date and time, and the name of the person receiving the telephone order; or
 - (d) A current pharmacist prescription or manufacturer's label as specified by the physician's order on file with the pharmacy.
 - (e) A provider or substitute caregiver must carry out orders as prescribed by a physician or a qualified health care provider. Changes must not be made without a physician or a qualified health care provider's authorization.

- (f) Each child's medication, including refrigerated medication, must be clearly labeled with the pharmacist's label, or in the manufacturer's originally labeled container, and kept in a locked location, or stored in a manner that prevents access by children.
- (g) Unused, outdated or recalled medications must not be kept in the foster home and must be disposed of in a manner that will prevent illegal diversion into the possession of people other than for whom it was prescribed.
- (h) The foster provider must keep a medication administration record (MAR) for each child. The MAR must be kept for all medications administered by the foster provider or alternate caregiver to that child, including over the counter medications and medications ordered by physicians or qualified health care providers and administered as needed (PRN) for the child.
- (i) The MAR must include:
 - (A) The name of the individual;
 - (B) A transcription of the written physician's or licensed health practitioner's order, including the brand or generic name of the medication, prescribed dosage, frequency and method of administration;
 - (C) A transcription of the printed instructions from the package for topical medications and treatments without a physician's order;
 - (D) Times and dates of administration or self administration of the medication;
 - (E) Signature of the person administering the medication or the person monitoring the self administration of the medication;
 - (F) Method of administration;
 - (G) An explanation of why a PRN (i.e., as needed) medication was administered;

- (H) Documented effectiveness of any PRN (i.e., as needed) medication administration;
 - (I) An explanation of any medication administration irregularity; and
 - (J) Documentation of any known allergy or adverse drug reactions and procedures that maintain and protect the physical health of the children placed in the foster home.
- (j) Treatments, medication, therapies and special diets must be documented on the MAR when not used or applied according to the order
- (k) Self-administration of medication. For any child who is self-administering medication, the foster provider must:
- (A) Have documentation that a training program was initiated with approval of the child's ISP team or that training for the child was unnecessary;
 - (B) Have a training program that provides for retraining when there is a change in dosage, medication and time of delivery;
 - (C) Provide for an annual review, at a minimum, as part of the ISP process, upon completion of the training program; and
 - (D) Assure that the child is able to handle his/her own medication regime; and
 - (E) Keep medications stored in a locked area inaccessible to others.
 - (F) Maintain written documentation of all delegation training in the child's medical record.
- (l) Any medication, with the intent to alter behavior, and prescribed by a physician or qualified health care provider for a child with a developmental disability will be documented on the ISP.
- (m) Balancing test. When a psychotropic medication is first prescribed and annually thereafter, the foster provider must obtain a signed balancing test from the prescribing health care

provider using the DHS Balancing Test Form. Foster providers must present the physician or health care provider with a full and clear description of the behavior and symptoms to be addressed, as well as any side effects observed.

- (n) PRN (i.e., as needed) Psychotropic medication are prohibited. PRN orders will not be allowed for psychotropic medication.
 - (o) Within one working day of any new prescription for psychotropic medication the foster provider must notify the CDDP Service Coordinator, and if applicable the DHS-CW caseworker. This notification from the foster provider to the CDDP Service Coordinator will contain:
 - (A) The name of the prescribing physician, or qualified health care provider;
 - (B) The name of the medication;
 - (C) The dosage administration schedule prescribed; and
 - (D) The reason the medication was prescribed.
- (10) **Direct nursing services.** When direct nursing services are provided to a child the foster provider must:
- (a) Coordinate with the nurse and the ISP team to ensure that the services being provided are sufficient to meet the individual's health needs; and
 - (b) Implement the Nursing Care Plan, or appropriate portions therein, as agreed upon by the ISP team and the registered nurse.
 - (c) When nursing tasks are delegated, they must be delegated by a licensed Registered Nurse and in accordance with OAR 851-047-0000 through 851-047-0040.
- (11) **Child Records.**
- (a) General Information or Summary Record. The provider will maintain a record for each child in the home. The record must include:

- (A) The child's name, date of entry into the foster home, date of birth, gender, religious preference, and guardianship status;
 - (B) The names, addresses, and telephone numbers of the child's guardian, family, advocate, or other significant person;
 - (C) The name, address, and telephone number of the child's preferred primary health provider, designated back up health care provider and clinic, dentist, preferred hospital, medical card number and any private insurance information, and Oregon Health Plan choice;
 - (D) The name, address, and telephone number of the child's school program; and
 - (E) The name, address, and telephone number of the CDDP Service Coordinator and representatives of other agencies providing services to the child.
- (b) Medical and Behavioral Information will include:
- (A) History of physical, emotional and medical problems, accidents, illnesses or mental health status that may be pertinent to current care;
 - (B) Current orders for all medications, treatments, therapies, use of restraint or intervention, special diets and any known food or medication allergies;
 - (C) Completed Medication Administration Records (MAR) from previous months;
 - (D) Pertinent medical and behavioral information such as hospitalizations, accidents, immunization records including Hepatitis B status and previous TB tests, incidents or injuries affecting the health, safety or emotional well-being of the child; and
 - (E) Documentation or other notations of guardian consent for medical treatment that is not routine, including surgery and anesthesia.

- (c) Individual Support Plan. Within 60 days of placement the child's ISP is prepared by the ISP team and at a minimum is updated annually.
 - (A) The foster provider will participate with the ISP Team in the development and implementation of the ISP to address each child's behavior, medical, social, financial, safety and other support needs.
 - (B) Prior to or upon entry to or exit from the foster home, the foster provider will participate in the development and implementation of a transition plan for the foster child.
 - (i) The transition plan will include a summary of the services necessary to facilitate the adjustment of the child to the foster home or after care plan; and
 - (ii) Identify the supports necessary to ensure health, safety, and any assessments and consultations needed for ISP development.
- (d) Financial records.
 - (A) The foster provider must maintain a separate financial record for each child. The financial record must include:
 - (i) The date, amount and source of all income received on behalf of the child;
 - (ii) The room and board fee that is paid to the provider at the beginning of each month;
 - (iii) The date, amounts and purpose of funds disbursed on behalf of the child; and
 - (iv) The signature of the person making the entry.
 - (B) Any single item over \$25 purchased with the child's personal funds, unless otherwise indicated in the child's ISP, will be documented including receipts, in the child's financial record.
 - (C) The child's ISP team may address how the child's personal spending money will be managed.

- (D) If the child has a separate commercial bank account, records from that account must be maintained with the financial record.
- (E) The child's personal funds are to be maintained in a safe manner and separate from other members of the household funds.
- (e) **Personal Property Record.** The foster provider is to maintain a written record of each child's property that has significant personal value to the child, parent or guardian or as determined by the ISP team.
- (f) Personal property records are not required for children who have a court approved Permanent Foster Care Placement Agreement, unless requested by the child's guardian
- (g) The personal property record must include:
 - (A) The description and identifying number, if any;
 - (B) The date when the child brought in the personal property or made a new purchase;
 - (C) The date and reason for the removal from the record; and
 - (D) The signature of the person making the entry.
- (h) Child records will be available to representatives of the Department and DHS-CW conducting inspections or investigations, as well as to the child, if appropriate, and the guardian, or other legally authorized persons.
- (i) Child records will be kept for a period of three years. If a child moves or the foster home closes, copies of pertinent information will be transferred to the child's new home.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070
Stats. Implemented: ORS 443.835

411-346-0200 Environmental Standards
(Effective 01/01/2005)

(1) **General Conditions.**

- (a) The buildings and furnishings must be clean and in good repair and grounds will be maintained. Walls, ceilings, windows and floors will be of such character to permit frequent washing, cleaning, or painting. There will be no accumulation of garbage, debris, or rubbish.
- (b) The home must have a safe, properly installed, maintained, and operational heating system. Areas of the home used by a foster child will be maintained at normal comfort range during the day and during sleeping hours. During times of extreme summer heat, the provider will make reasonable effort to make the child comfortable using available ventilation, fans or air-conditioning.

(2) **Exterior Environment.**

- (a) The premises must be free from objects, materials and conditions that constitute a danger to the occupants; and
- (b) Swimming pools, wading pools, ponds, hot tubs, and trampolines must be maintained to assure safety, kept in clean condition, equipped with sufficient safety barriers or devices to prevent injury, and used by foster children only under direct supervision by the provider or approved alternate caregiver.
- (c) The home must have a safe outdoor play area on the property or within reasonable walking distance.

(3) **Interior Environment.**

- (a) Kitchen:
 - (A) Equipment necessary for the safe preparation, storage, serving and cleanup of meals must be available and kept in working and sanitary condition;
 - (B) Meals will be prepared in a safe and sanitary manner that minimizes the possibility of food poisoning or food-borne illness; and
 - (C) If the washer and dryer are located in the kitchen or dining room area, soiled linens and clothing must be

stored in containers in an area separate from food, and food storage prior to laundering.

- (b) Dining Area: The home will have a dining area so those children in placement can eat together with the foster family.
- (c) Living or Family Room: The home will have sufficient living or family room space that is furnished and accessible to all members of the family including the foster child.
- (d) Bedrooms used by children in care must:
 - (A) Have adequate space for the age, size and specific needs of each child;
 - (B) Be finished and attached to the house, and have walls or partitions of standard construction that go from floor to ceiling, and a door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom;
 - (C) Have windows that open and provide sufficient natural light and ventilation, with window coverings provided that take into consideration the safety, care needs and privacy of the child;
 - (D) Have no more than four children to a bedroom;
 - (E) Have safe and age appropriate furnishings provided for each child and including:
 - (i) A bed or crib including a frame unless otherwise documented by an ISP team decision, a clean comfortable mattress, a water proof mattress cover, if the child is incontinent;
 - (ii) A private dresser or similar storage area for personal belongings that is readily accessible to the child;
 - (iii) A closet or similar storage area for clothing that is readily accessible to the child;
 - (iv) An adequate supply of clean bed linens, blankets and pillows;

- (F) Be on the ground level for children who are non-ambulatory or have impaired mobility;
 - (G) The foster provider shall not permit the following sleeping arrangements for children placed in their home:
 - (i) Children of different sexes in the same room when either child is over the age of five years of age; and
 - (ii) Children over the age of 12 months sharing a room with an adult;
 - (H) Provide flexibility in the decoration for the personal tastes and expressions of the children placed in the provider's home;
 - (I) Be in close enough proximity to the provider to alert the provider to nighttime needs or emergencies, or be equipped with a working monitor;
 - (J) Have doors that do not lock;
 - (K) Have no three-tier bunk beds in bedrooms occupied by foster children;
 - (L) No child of the foster provider shall be required to sleep in a room also used for another purpose in order to accommodate a foster child.
- (e) Bathrooms
- (A) Have tubs or showers, toilets and sinks operable and in good repair with hot and cold water. A sink will be located near each toilet. There will be at least one toilet, one sink, and one tub or shower for each six household occupants, including the provider and family;
 - (B) Will have hot and cold water in sufficient supply to meet the needs of the child for personal hygiene. Hot water temperature sources for bathing/cleaning areas that are accessible by the foster child will not exceed 120 degrees F;

- (C) Will have grab bars and non-slip floor surfaces for toilets, tubs, and/or showers for the child's safety as necessary for the child's care needs; and
- (D) Will have barrier-free access to toilet and bathing facilities with appropriate fixtures if there is non-ambulatory child; alternative arrangements for the non-ambulatory child must be appropriate to the child's needs for maintaining good personal hygiene.
- (E) Foster provider will provide each child with the appropriate personal hygiene and grooming items that will meet each child's specific needs and minimize the spread of communicable disease.
- (F) Window coverings in bathrooms will take into consideration the safety, care needs, and privacy of the child.

(4) **General Safety.**

- (a) The foster provider will protect the child from safety hazards;
- (b) Stairways will be equipped with handrails. A functioning light will be provided in each room and stairway;
- (c) In homes with foster children age three or under, or children with impaired mobility, the stairways are protected with a gate or door;
- (d) Hot water heaters will be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location;
- (e) Adequate safeguards are taken to protect young children or children who may be at risk for injury from electrical outlets, extension cords, and heat-producing devices;
- (f) The foster provider will have a working telephone and service, with emergency phone numbers readily accessible in the home and in close proximity to the phone;
- (g) The foster provider will store all medications, poisonous chemicals, and cleaning materials in a way that prevents access by children;

- (h) The foster provider must restrict children's access to potentially dangerous animals. Only domestic animals will be kept as pets. Pets will be properly cared for and supervised;
- (i) Sanitation for household pets and other domestic animals must be adequate to prevent health hazards. Proof of rabies or other vaccinations as required by local ordinances will be available to the Department upon request;
- (j) The foster provider will take appropriate measures to keep the house and premises free of rodents and insects;
- (k) The foster provider and members of the household must store any ammunition and firearms, unloaded, in separate locked places. Trigger locks alone are not approved as the sole source of locking firearms. The foster provider must notify the certifier within one working day whenever a firearm is brought to the premises;
- (l) Loaded firearms must not be carried in any vehicle used while transporting a child in foster care unless a law enforcement officer is transporting the child;
- (m) Ammunition will be kept in a locked container while transporting the child;
- (n) The foster provider and members of the household, including law enforcement officers, who possess a concealed weapons permit must provide the Department or CDDP with a copy of the permit and a written plan to keep concealed weapons secure from foster children in the home and in vehicles;
- (o) The foster provider must have first aid supplies in the home in a designated place easily accessible to adults;
- (p) There must be emergency access to any room that has a lock;
- (q) An operable flashlight, at least one per floor, must be readily available in case of emergency;
- (r) House or mailbox numbers must be clearly visible and easy to read for easy identification by emergency vehicles; and
- (s) Use of video monitors will only be used as indicated in the ISP or BSP.

(5) Fire Safety.

- (a) Smoke detectors must be installed in accordance with manufacturer's instructions, equipped with a device that warns of low battery, and maintained to function properly.
 - (A) Smoke detectors must be installed in each bedroom, adjacent hallways, common living areas, basements, and at the top of every stairway in multi-story homes.
 - (B) Ceiling placement of smoke detectors is recommended. If wall-mounted, smoke detectors must be between 6" and 12" from the ceiling and not within 12" of a corner.
- (b) At least one class 2:A:10:B:C rated fire extinguisher must be visible and readily accessible on each floor, including basements. A qualified worker who is well versed in fire extinguisher maintenance must inspect every fire extinguisher at least once per year. All recharging and hydrostatic testing will be completed by a qualified agency properly trained and equipped for this purpose.
- (c) Use of space heaters is limited to only electric space heaters equipped with tip-over protection. Space heaters must be plugged directly into the wall. No extension cords are to be used with such heaters. No freestanding kerosene, propane or liquid fuel space heaters will be used in the foster home.
- (d) An emergency evacuation plan must be developed, posted and rehearsed at least once every 90 days with at least one drill practice per year occurring during sleeping hours. Alternate caregivers and other staff will be familiar with the emergency evacuation plan, and new children placed in care will be familiar with the emergency evacuation plan within 24 hours. Fire drill records must be retained for one year.
 - (A) Fire drill evacuation rehearsal will document the date, time for full evacuation, location of proposed fire, and names of all persons participating in the evacuation rehearsal.
 - (B) The foster provider must be able to demonstrate the ability to evacuate all children from the home within three minutes.

- (e) Foster homes must have two unrestricted exits in case of fire. A sliding door or window that can be used to evacuate children can be considered a usable exit.
 - (A) Barred windows used for possible exit in case of fire must be fitted with operable quick release mechanisms.
 - (B) Second, third or basement bedrooms must have a secondary exit that allows safe and direct exit to the ground.
 - (f) Every bedroom used by children in care must have at least one operable window, of a size that allows safe rescue, with safe and direct exit to the ground, or a door for secondary means of escape or rescue;
 - (g) Fireplaces and wood stoves must include barriers to keep children away from exposed heat sources;
 - (h) Solid or other fuel-burning appliances, stoves or fireplaces must be installed according to manufacturer's specifications and under permit, where applicable;
 - (i) Chimneys must be inspected at the time of initial certification and if necessary the chimney must be cleaned. Chimneys must be inspected annually, unless the fireplace and or solid fuel-burning appliance was not used through the year of certification and will not be used in the future.
 - (j) A signed statement by the foster provider and certifier assuring that the fireplace and or solid fuel burning appliance will not be in use must be submitted to the Department with the renewal application if a chimney inspection will not be completed.
 - (k) Flammable and combustible materials must be stored away from any heat source.
- (6) **Sanitation and Health.**
- (a) A public water supply must be utilized if available. If a non-municipal water source is used, it must be tested for coliform bacteria by a certified agent yearly, and records must be retained for two years; corrective action must be taken to ensure potability;

- (b) All plumbing must be kept in good working order. If a septic tank or other non-municipal sewage disposal system is used, it must be in good working order;
- (c) The foster provider must use only pasteurized liquid or powdered milk for consumption by children in care;
- (d) Garbage and refuse must be suitably stored in readily cleanable, rodent proof, covered containers, and pending weekly removal;
- (e) Smoking:
 - (A) The foster provider will not provide tobacco products in any form to children under the age of 18 placed in their home.
 - (B) Foster children will not be exposed to second hand smoke in the foster home or when being transported.

(7) Transportation Safety.

- (a) The foster provider must ensure that safe transportation is available for children to access schools, recreation, churches, medical care and community facilities;
- (b) The foster provider must maintain all vehicles used to transport children in a safe operating condition and must ensure that a first aid kit is in each vehicle;
- (c) All motor vehicles owned by the foster provider and used for transporting children must be insured to include liability;
- (d) Only licensed adult drivers will transport children in care in motor vehicles that are insured to include liability;
- (e) When transporting children in foster care, the driver must ensure that all children in foster care use seat belts or appropriate safety seats. Car seats or seat belts must be used for transporting all children in accordance with the Department of Transportation under ORS 815.055.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070
Stats. Implemented: ORS 443.835

411-346-0210 Variance

(Effective 01/01/2005)

- (1) **Criteria for a variance.** The Department may grant a variance to these rules based upon demonstration by the foster provider that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health, safety or rights of the child.
- (2) **Variance application.** The foster provider requesting a variance must submit, in writing, an application to the CDDP that contains the following:
 - (a) The section of the rule from which the variance is sought;
 - (b) The reason for the proposed variance;
 - (c) The alternative practice, service, method, concept or procedure proposed; and
 - (d) If the variance applies to an individual's services, evidence that the variance is consistent with a currently approved ISP.
- (3) **Community Developmental Disability Program review.** The CDDP shall forward the signed variance request form to the Department within 30 days of receipt of the request indicating its position on the proposed variance.
- (4) **Department review.** The Administrator or designee may approve or deny the request for a variance.
- (5) **Notification.** The Department must notify the foster provider and the CDDP of the decision. The Department will send this notice within 30 calendar days of receipt of the request with a copy to other relevant Department programs or offices.
- (6) **Grievance.** Any Grievance of a denial for a variance request must be made in writing within 30 days to the Administrator with a copy sent to the CDDP. The Administrator's decision will be final.
- (7) **Duration of variance.** The Department will determine the duration of the variance.

- (8) **Granting a variance.** Granting a variance does not set a precedent that must be followed by the child placing agency when evaluating subsequent requests for variances.
- (9) **Written approval.** The foster provider may implement a variance only after written approval from the Department.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070
Stats. Implemented: ORS 443.835

411-346-0220 Inactive Referral Status; Denial, Suspension, Revocation, Refusal to Renew
(Effective 01/01/2005)

- (1) **Inactive Referral Status.** The Department may require that a foster provider go on inactive referral status. Inactive Referral Status is a period, not to exceed 12 months, or beyond the duration of the foster provider's current certificate. During that time no agency will refer additional children to the home and the provider will not accept additional children. The foster provider may request to be placed on inactive referral status. The certifier may recommend that the Department initiate inactive referral status.
 - (a) The Department may place a foster provider on Inactive Referral Status for reasons including, but not limited to the following:
 - (A) The Department or DHS-CW is currently assessing an Allegation of Abuse in the home.
 - (B) The special needs of the children currently in the home require so much of the foster provider's care and attention that additional children should not be placed in the home.
 - (C) The foster provider has failed to meet individualized training requirements or the Department has asked the foster provider to obtain additional training to enhance his or her skill in caring for the children placed in the home.
 - (D) The family or members of the household are experiencing significant family or life stress that may be

impairing their ability to provide care. Examples include, but are not limited to:

- (i) Changes in physical or mental health conditions such as separation or divorce and relationship conflicts;
 - (ii) Marriage;
 - (iii) Death;
 - (iv) Birth of a child;
 - (v) Adoption;
 - (vi) Employment difficulties;
 - (vii) Relocation;
 - (viii) Law violation; or
 - (ix) Significant changes in the care needs of their own family members (children or adults).
- (b) The Department will notify the foster provider immediately upon placing them on inactive referral.
- (c) Within 30 days of initiating inactive referral status the Department will send a letter to the foster provider that confirms the inactive status, and states the reason for the status, and the length of inactive referral status.
- (d) When the foster provider initiates Inactive Referral Status, the inactive status ends at the request of the foster provider and when the Department has determined the conditions that warranted the Inactive Referral Status have been resolved.
- (A) There must be no conditions in the home that compromise the safety of the children already placed in the home.
 - (B) If applicable a mutually agreed upon plan, must be developed to address the issues prior to resuming active status.

(C) The foster provider must be in compliance with all certification rules, including training requirements, prior to a return to active status.

(2) Denial, Suspension, Revocation, Refusal to Renew.

- (a) Substantial failure to comply with rules. The Department will deny, suspend, revoke or refuse to renew a child foster care certificate where it finds there has been substantial failure to comply with these rules.
- (b) Failure to disclose requested information. Failure to disclose requested information on the application or providing incomplete or incorrect information on the application will constitute grounds for denial or revocation of the certificate.
- (c) Failure to implement a plan of correction or comply with a final order. The Department will deny, suspend, revoke or refuse to renew a certificate if the foster provider fails to implement a plan of correction or comply with a final order of the Department. Failure to submit a plan will constitute a withdrawal from certification.
- (d) Non Compliance with Fire Safety rules. Failure to comply with Fire Safety rules as outlined in OAR 411-346-0200 (5) may constitute grounds for denial, revocation, or refusal to renew.
- (e) Imminent danger to individuals. The Department may suspend the child foster home certificate where imminent danger to health or safety of individuals exists.
- (f) Suspension. Suspension will result in the removal of children placed in the foster home and no placements will be made during the period of suspension.
- (g) Denied or revoked certificates. The applicant or foster provider whose certificate has been denied or revoked may not reapply for certification for five years after the date of denial or revocation.
- (h) Written notice. The Department will provide the applicant or the foster provider a written notice of denial, suspension or revocation that states the reason for such action.

- (i) Revocation, suspension or denial done in accordance with ORS Chapter 183. Such revocation, suspension or denial will be done in accordance with rules of the Department and ORS Chapter 183 that governs notices, timelines, corrective actions, contested cases, and final orders.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070
Stats. Implemented: ORS 443.835

411-346-0230 Appeals *(Effective 01/01/2005)*

- (1) **Appeal Rights.** Upon written notice of denial, suspension, revocation or non-renewal of a certificate from the Department, an applicant or foster provider may request an informal conference to appeal the decision. The written request will be submitted to the Assistant Administrator, or designee, of the Department.
- (2) **Request for Informal Conference.** The written request must be submitted within ten days of the denial, suspension, revocation or non-renewal notification date and must specifically state the reasons for the appeal. The applicant or foster provider must submit documentation and explain the basis for the appeal at the informal conference. Following the informal conference, the Department will notify the applicant or foster provider of its decision by mail.
- (3) **Contested Case Hearing.** No judicial review is available following a decision from an informal conference and appeals process with the Department. If an applicant or foster provider is not satisfied with the decision rendered by the Department during the informal conference, the applicant or foster provider may request a contested case hearing pursuant to ORS 183.413-183.470. The applicant or foster provider must notify the Department in writing of the request for a contested case hearing within 60 days of the decision of the informal conference. The request for the contested case hearing must specifically state the reason for requesting the hearing.

Stat. Auth.: ORS 443.830; 430.215; 409.050 and 410.070
Stats. Implemented: ORS 443.835

