

**OREGON DEPARTMENT OF HUMAN SERVICES  
OFFICE OF DEVELOPMENTAL DISABILITIES SERVICES  
OREGON ADMINISTRATIVE RULES**

**CHAPTER 411  
DIVISION 346**

**FOSTER HOMES FOR CHILDREN WITH INTELLECTUAL OR  
DEVELOPMENTAL DISABILITIES**

**EFFECTIVE SEPTEMBER 17, 2020**

**411-346-0100 Statement of Purpose**

*(Amended 08/20/2016)*

(1) The rules in OAR chapter 411, division 346, prescribe the standards and procedures for the provision of Developmental Disabilities-funded foster care services for children with intellectual or developmental disabilities in child foster homes certified by the Department of Human Services as a condition for certification and payment.

(2) These rules incorporate the provisions for home and community-based services and settings and person-centered service planning set forth in OAR chapter 411, division 004. These rules and the rules in OAR chapter 411, division 004, ensure children with intellectual or developmental disabilities receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving home and community-based services.

(a) A foster provider initially certified on or after January 1, 2016, must meet the requirements in OAR chapter 411, division 004, prior to being certified.

(b) A foster provider certified prior to January 1, 2016, must make measurable progress toward compliance with the rules in OAR chapter 411, division 004, and be in full compliance by September 1, 2018.

Stat. Auth.: ORS 409.050, 443.835

Stats. Implemented: ORS 430.215, 443.830, 443.835

## **411-346-0110 Definitions and Acronyms**

*(Amended 02/15/2019)*

In addition to the following definitions, OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 346. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

(1) "Alternate Caregiver" means any person 18 years of age and older responsible for the care or supervision of a child in foster care.

(2) "Alternative Educational Plan" means any school plan that does not occur within the physical school setting.

(3) "Appeal" means the process for a contested hearing under ORS chapter 183 that a foster provider may use to petition the suspension, denial, non-renewal, or revocation of their certificate or application.

(4) "Applicant" means a person who wants to become a foster provider, lives at the residence where a child in foster care is to live, and is applying for, or renewing, a certificate for a child foster home.

(5) "Aversive Stimuli" means the use of any natural or chemical product to alter the behavior of a child, such as the use of hot sauce or soap in the mouth and spraying ammonia or lemon water in the face of a child. Psychotropic medications are not considered aversive stimuli.

(6) "Case Plan" means the goal-oriented, time-limited, individualized plan of action for a child and the family of the child developed by the family and DHS-CW for promotion of the safety, permanency, and well-being of the child.

(7) "Case Worker" means an employee of DHS-CW.

(8) "CDDP" means "Community Developmental Disabilities Program".

(9) "Certificate" means the document issued by the Department that notes approval to operate a child foster home for a period not to exceed two years.

(10) "Certifying Agency" means the Department, CDDP, or an agency approved by the Department who is authorized to gather required documentation to issue or maintain a certificate.

(11) "Child" means:

(a) An individual who is less than 18 years of age who has a provisional determination of an intellectual or developmental disability by the CDDP; or

(b) An individual 18 to 21 years of age with an intellectual or developmental disability who is remaining in their current child foster home for the purpose of completing their IEP based on the recommendation of their ISP team and an approved certification variance.

(12) "Child Foster Home" means a home certified by the Department that is maintained and lived in by the person named on the certificate. A child foster home is considered a provider owned, controlled, or operated residential setting.

(13) "Child Foster Home Contract" means the agreement between a foster provider and the Department that describes the responsibility of the foster provider and the Department.

(14) "Child Placing Agency" means the Department, CDDP, or the OYA.

(15) "Clinical Criteria" means the criteria used by the Department or the Medically Fragile Children's Unit as described in OAR 411-300-0150 to assess the private duty nursing support needs of a child.

(16) "Commercial Basis" means providing and receiving compensation for the temporary care of individuals not identified as members of the household.

(17) "Community Nursing Services" mean the nursing services that focus on the chronic and ongoing health and safety needs of a child. Community nursing services include an assessment, monitoring, delegation, training, and coordination of services. Community nursing services are provided

according to the rules in OAR chapter 411, division 048 and the Oregon State Board of Nursing rules in OAR chapter 851.

(18) "Denial" means the refusal of the certifying agency to issue a certificate to operate a child foster home because the certifying agency has determined that the home or the applicant is not in compliance with one or more of these rules.

(19) "Department" means the Department of Human Services.

(20) "DHS-CW" means the child welfare program area within the Department.

(21) "Educational Surrogate" means the person who acts in place of a parent in safeguarding the rights of a child in the public education decision-making process:

(a) When the parent of the child cannot be identified or located after reasonable efforts;

(b) When there is reasonable cause to believe that the child has a disability and is a ward of the state; or

(c) At the request of the parent of the child or young adult student.

(22) "Emergency Certificate" means a certificate issued for 30 calendar days.

(23) "Foster Care" means a child is placed away from their parent or guardian in a certified child foster home.

(24) "Foster Provider" means the certified care provider who resides at the address listed on a certificate. A foster provider is a mandatory reporter.

(25) "Home Inspection" means the on-site, physical review of the home of an applicant to assure the applicant and the home meets all health and safety requirements within these rules.

(26) "Home Study" means the assessment process used for the purpose of determining the ability of an applicant to care for a child in need of foster care placement.

(27) "ICWA" means the Indian Child Welfare Act.

(28) "IEP" means "Individualized Education Program".

(29) "ISP" means "Individual Support Plan".

(30) "Licensed Medical Practitioner" means a person who meets the following:

(a) Holds at least one of the following valid licensures or certifications:

(A) Physician licensed to practice in Oregon;

(B) Nurse practitioner certified by the Oregon State Board of Nursing according to ORS 678.375; or

(C) Physician's assistant licensed to practice in Oregon; and

(b) Whose training, experience, and competence demonstrate expertise in children's mental health and the ability to conduct a mental health assessment and provide psychotropic medication management for a child in foster care.

(31) "MAR" means medication administration record.

(32) "Member of the Household" means any adult or child living in a child foster home, including an employee or volunteer assisting in the care provided to a child placed in the child foster home. A child in foster care is not considered a member of the household.

(33) "Mental Health Assessment" means the assessment used to determine the need for mental health services by interviewing a child and obtaining all pertinent biopsychosocial information as identified by the child, the family of the child, and collateral sources. A mental health assessment:

(a) Addresses the condition presented by the child;

(b) Determines a diagnosis; and

(c) Provides treatment direction and individualized services and supports.

(34) "Misuse of Funds" includes, but is not limited to, a foster provider or employee:

(a) Borrowing from, or loaning money to, a child in foster care;

(b) Witnessing a will in which the foster provider or employee is a beneficiary;

(c) Adding the name of the foster provider or employee to the bank account of a child or other titles for personal property without approval of the child when of age to give legal consent, or the guardian of the child and authorization of the ISP team;

(d) Inappropriately expending or theft of the personal funds of a child;

(e) Using the personal funds of a child for the benefit of the foster provider or employee; or

(f) Commingling the funds of a child with the funds of the foster provider or the funds of another child.

(35) "Monitoring" means:

(a) The observation of a certified child foster home by the Department or the designee of the Department to determine continuing compliance with these rules; and

(b) The periodic review of the implementation of services and supports identified in an ISP and the quality of services delivered.

(36) "Nursing Services" mean the provision of individual-specific advice, plans, or interventions by a nurse at a child foster home based on the nursing process as outlined by the Oregon State Board of Nursing.

(37) "Occupant" means any person having official residence in a certified child foster home.

(38) "OHA" means "Oregon Health Authority".

(39) "OIS" means "Oregon Intervention System".

(40) "OYA" means "Oregon Youth Authority". OYA is the agency that has been given commitment and supervision responsibilities over a youth offender by order of the juvenile court according to ORS 137.124 or other statute, until the time that a lawful release authority authorizes release or terminates the commitment or placement.

(41) "Permanent Foster Care" means the long term contractual agreement between a foster provider and DHS-CW, approved by the juvenile court that specifies the responsibilities and authority of the foster provider and the commitment by the permanent foster provider to raise a child until the age of majority or until the court determines that permanent foster care is no longer the appropriate plan for the child.

(42) "Private Duty Nursing" means the state plan nursing services described in OAR chapter 410, division 132 and OAR 411-300-0150, that are determined medically necessary to support a child or young adult in a child foster home.

(43) "Protected Health Information" means any oral or written health information that identifies a child and relates to the past, present, or future physical or mental health condition, health care treatment, or payment for health care treatment.

(44) "Punishment" means the imposition of a penalty as retribution for an offense or unwanted behavior.

(45) "Qualified Mental Health Professional" means a licensed medical practitioner or any other meeting the minimum qualifications specified in OAR 309-019-0125.

(46) "Revocation" means the action taken by the certifying agency to rescind a certificate after the certifying agency has determined that a foster

provider or a child foster home is not in compliance with one or more of these rules.

(47) "Significant Medical Needs" includes, but is not limited to, total assistance required for all activities of daily living, such as access to food or fluids, daily hygiene that is not attributable to the chronological age of a child, and frequent medical interventions required by a Nursing Service Plan or ISP for health and safety of the child.

(48) "Suspension" means an immediate, temporary withdrawal of the approval to operate a child foster home after the certifying agency determines a foster provider or the child foster home is not in compliance with one or more of these rules or there is a threat to the health, safety, or welfare of a child.

(49) "These Rules" mean the rules in OAR chapter 411, division 346.

(50) "Unauthorized Absence" means any length of time when a child is absent from a child foster home without prior approval as specified in the ISP for the child.

(51) "Urgent Medical Need" means the onset of psychiatric or medical symptoms requiring attention within 48 hours to prevent a serious deterioration in the mental or physical condition of a child.

(52) "Variance" means the temporary exemption from a regulation or provision of these rules that may be granted by the Department upon written application by the certifying agency.

Stat. Auth.: ORS 409.050, 427.104, 443.835

Stats. Implemented: ORS 427.007, 427.104, 430.215, 443.830, 443.835

### **411-346-0120 Certification Required**

*(Amended 12/28/2013)*

(1) Any home that meets the definition of a child foster home must be certified by one of the following agencies:

(a) The Department;



(b) DHS-CW; or

(c) The OYA.

(2) A child in foster care shall only be placed in a certified child foster home.

Stat. Auth.: ORS 409.050 and 443.835

Stats. Implemented: ORS 430.215, 443.830, and 443.835

### **411-346-0130 Indian Child Welfare Act**

*(Amended 11/01/2019)*

The Indian Child Welfare Act (ICWA) gives federally recognized Native American tribes the authority to select a home for a child protected by the ICWA. Tribes and Alaskan Native Regional Corporations may license, approve, or specify a foster home for a child protected by the ICWA. The tribe is authorized to decide which of the following 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 shall use these rules for certification. Native American 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 shall be given for placement with:

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

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

(3) A Native American foster home licensed or approved by an authorized non-Native American licensing authority.

Stat. Auth.: ORS 409.050, 427.104, 443.835

Stats. Implemented: ORS 427.007, 427.104, 430.215, 443.830, 443.835

### **411-346-0140 Selection**

*(Amended 12/28/2013)*

(1) The Department or the CDDP shall recruit foster providers who have the abilities and commitment to carry out the responsibilities set forth in

these rules to meet the Department's specific need for homes. The Department shall determine which applicants are certified. The CDDP staff shall determine which home is best for a particular child.

(2) A foster provider must be a responsible, stable, emotionally mature adult who exercises sound judgment and has the capacity to meet the mental, physical, and emotional needs of a child placed in foster care.

(3) A foster provider must demonstrate the following traits:

- (a) Capacity to give and receive affection;
- (b) Kindness;
- (c) Flexibility;
- (d) A sense of humor; and
- (e) The ability to deal with frustration and conflict.

Stat. Auth.: ORS 409.050 and 443.835

Stats. Implemented: ORS 430.215, 443.830, and 443.835

#### **411-346-0150 General Requirements for Certification**

*(Amended 11/01/2019)*

(1) An applicant or foster provider must participate in certification and certification renewal studies and in the ongoing monitoring of their home.

(2) An 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 people in the household, such as relatives, employees, or volunteers.

(3) An applicant seeking certification from the Department must complete the applicable Department forms. When two or more adults living in a home share foster provider responsibilities to any degree, each adult must be listed on the application as applicant and co-applicant.

(4) An applicant must disclose each state or territory the applicant has lived in the last five years and for a longer period if requested by the certifying agency. The disclosure must include the address, city, state, and zip code of previous residences.

(5) An applicant must provide the following information:

(a) Names and addresses of any agencies in the United States where any occupant of the home has been licensed or certified to provide care to children or adults and the status of such license or certification, such as licenses or certificates for residential care, nurse, nurse's aide, and foster care.

(b) Proposed number, gender, age range, disability, and support needs of children to receive services in foster care.

(c) School reports for any school-age child living in the home at the time of initial application. School reports for any school-age child living in the home within the last year may also be required.

(d) Names and addresses of at least four people, three of whom are unrelated, who have known each applicant for two years or more and who can attest to the character of the applicant and the ability of the applicant to care for children. The Department may contact schools, employers, adult children, and other sources as references.

(e) Reports of all criminal charges, arrests, or convictions, including the date of offense and the resolution of those charges, for all people living in the home, as well as all employees and volunteers. If the minor children of the applicant are living in the home, the applicant must also list reports of all criminal or juvenile delinquency charges, arrests, or convictions, including the date of offense and the resolution of those charges.

(f) Founded reports of child abuse or substantiated abuse, including dates, locations, and resolutions of those reports, for all people living in the home, as well as all employees, independent contractors, and volunteers.

(g) Demonstration, upon initial certification, of successful completion of 15 hours of pre-service training.

(h) Demonstration, upon initial certification, of income sufficient to meet the needs and to ensure the stability and financial security of the family independent of the foster care payment.

(i) All child support obligations in any state, including whether the obligor is current with payments or in arrears, and whether any wages of the applicant or foster provider are being attached or garnished for any reason.

(j) A statement from a physician, on the applicable Department form, that each applicant is physically and mentally capable of providing care.

(k) A floor plan of the house showing the location of all of the following:

(A) Rooms, indicating the bedroom for the child in foster care, caregiver, and other occupants of the home;

(B) Windows;

(C) Exit doors;

(D) Smoke alarms and fire extinguishers; and

(E) Wheel chair ramps, if applicable.

(l) A diagram of the house and property showing safety devices for fire places, wood stoves, water features, outside structures, and fencing.

(6) Falsification or omission of any of the information for certification may be grounds for denial or revocation of the certificate.

(7) Applicants must be at least 21 years of age. Applicants who are "Indian" as defined in the ICWA may be 18 years of age or older if an Indian child to be placed is in the legal custody of DHS-CW.

(8) Applicants, foster providers, alternate caregivers, employees of foster providers, volunteers, other occupants in the child foster home who are 18 years of age or older, other adults having regular contact in the child foster home with a child in foster care, and any subject individual as defined in OAR 407-007-0210, must consent to a background check by the Department in accordance with OAR 407-007-0200 through 407-007-0370 and under ORS 181A.195. The Department may require a background check on a member of the household less than 18 years of age if there is reason to believe that a member of the household may pose a risk to a child placed in the home. All people subject to a background check are required to complete an Oregon background check and a national background check as described in OAR 407-007-0200 through 407-007-0370, including the use of fingerprint cards.

(a) Alternate caregivers, employees of foster providers, and volunteers may be approved to work in multiple homes within a county only when working in the same employment role at each home. The indication of worksite location must be included in the background check request for each alternate caregiver, employee of the foster provider, or volunteer who intends to work at various child foster homes within the licensing jurisdiction of the county.

(b) Effective July 28, 2009, public funds may not be used to support, in whole or in part, a person described in section (8) of this rule in any capacity who has been convicted of any of the disqualifying crimes listed in ORS 443.004.

(c) A person does not meet qualifications as described in this rule if the person has been convicted of any of the disqualifying crimes listed in ORS 443.004.

(d) Sections (8)(b) and (c) of this rule do not apply to employees hired prior to July 28, 2009 that remain in the current position for which the employee was hired.

(e) Any person as described in section (8) of this rule must self-report any potentially disqualifying crimes in OAR 125-007-0270 and potentially disqualifying conditions in OAR 407-007-0290. The person

must notify the Department or the designee of the Department within 24 hours.

(9) The Department may not issue or renew a certificate if an applicant or member of the household meets any of the following:

(a) After completing the background check, a fitness determination of "denied".

(b) Been convicted of a felony in Oregon or any jurisdiction that involves:

(A) Child abuse;

(B) Spousal abuse;

(C) Criminal activity against a child, including child pornography; or

(D) Rape, sexual assault, or homicide.

(c) Within the past five years from the date the background check was signed, been convicted of a felony in Oregon or any jurisdiction that involves:

(A) Physical assault or battery (other than against a spouse or child); or

(B) Any drug-related offense.

(d) Determined by the Department to be responsible for abuse as defined in OAR 411-317-0000.

(e) Within the past five years from the date the child foster home application was signed, been found to have abused a child or adult in the United States as defined by that jurisdiction or any other jurisdiction.

(10) An applicant or foster provider may request to withdraw an application any time during the certification process by notifying the certifying agency

in writing. Written documentation by the certifying agency of oral notice may substitute for written notification.

(11) The Department may suspend or revoke a certificate or may not issue or renew a certificate for at least five years, if an applicant or foster provider is found to have a license or certificate to provide care to children or adults suspended, revoked, or not renewed by other than voluntary request.

(12) The Department may not issue or renew a certificate based on an evaluation of any negative references, school reports, statement of a physician, or previous licensing or certification reports from other agencies or states.

(13) A Department employee may be a foster provider, or an employee of an agency that contracts with the Department as a foster provider, if their 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 Director of the Department. The written approval must be on file with the Director of the Department and in the certification file maintained by the Department.

(14) An application is incomplete and void unless all supporting materials are submitted to the Department within 90 calendar days from the date of the application.

(15) An application may not be considered complete until all required information is received and verified by the Department. A decision to approve or deny certification is made by the Department within 60 calendar days from the receipt of the completed application.

(16) Compliance with these rules is determined by the Department 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 foster provider. A certificate issued on or after February 1, 2010 is valid for a maximum of two years unless revoked or suspended.

(17) A child foster home certificate is not transferable or applicable to any location or people other than those specified on the certificate.

(18) A foster provider who cares for a child funded by the Department must enter into a Child Foster Home Contract with the Department and follow the Department rules governing reimbursement for services and refunds.

(19) A foster provider may not be the parent or guardian of any child placed in their home for foster care services funded by the Department.

(20) If an applicant or foster provider intends to provide care for a child with significant medical needs, the applicant or foster provider must have the following:

(a) An equivalent of one year of full-time experience in providing direct care to individuals;

(b) Health care professional qualifications, such as a registered nurse (RN) or licensed practical nurse (LPN), or the equivalent of two additional years full-time experience providing care and support to an individual who has a medical condition that is serious and may be life-threatening;

(c) Copies of all current health-related licenses or certificates and provide those documents to the certifying agency;

(d) Current certification in First Aid and Cardiopulmonary Resuscitation (CPR). The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the age of the child with significant medical needs;

(e) Current satisfactory references from at least two health care providers, such as a physician and registered nurse, who have direct knowledge of the ability of the applicant or foster provider and their past experiences as a caregiver. The health care providers' references may serve as two of the four references in section (5)(d) of this rule; and

(f) Positive written recommendation from the Medically Fragile Children's Unit (MFCU) of the Department if the foster provider or applicant has provided services through the MFCU or if the foster provider or applicant has a child in the family home or child foster home that has historically received services through the MFCU.



(21) A foster provider may not accept a child with significant medical needs unless an initial Nursing Service Plan for the child is in place at the time of placement that addresses the health and safety supports for the child.

Stat. Auth.: ORS 409.050, 427.104, 443.835

Stats. Implemented: ORS 427.007, 427.104, 430.215, 443.830, 443.835

#### **411-346-0160 Renewal of Certificate**

*(Amended 12/28/2013)*

(1) At least 90 days prior to the expiration of a certificate, the Department shall send a reminder notice and application for renewal to the currently certified provider. Submittal of a renewal application prior to the expiration date keeps the certificate in effect until the Department takes action. If the renewal application is not submitted prior to the expiration date, the child foster home shall be treated as an uncertified home.

(2) The certification renewal process includes the renewal application and the same supporting documentation as required for a new certification. With the discretion of the certifying agency, a financial statement, physician statement, and floor plan may not be required.

(3) A copy of the services coordinator's monitoring check list or recommendations from the services coordinators who have had children in the home within the last year may be requested at the time of certification renewal.

(4) School reports may not be required if the Department or the certifying agency reasonably assumes this information has not changed or is not necessary.

(5) The Department or the certifying agency may investigate any information in the renewal application and shall conduct a home inspection.

(6) The provider shall be given a copy of the inspection form documenting any deficiencies and a time frame to correct deficiencies. Deficiencies must be corrected no longer than 60 days from the date of inspection. If documented deficiencies are not corrected within the time frame specified, the renewal application shall be denied.

(7) 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 background check and must continue to meet all certification standards as outlined in these rules.

(8) Each foster provider must provide documentation of a minimum of 10 hours of Department approved training per year prior to the renewal of the certificate. A mutually agreed upon training plan may be part of the re-certification process.

(9) When serving children with significant medical needs, the foster provider must have a minimum of 6 of the 10 hours of annual training requirements in specific medical training beyond First Aid and CPR. The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the ages of the children served in the foster home.

Stat. Auth.: ORS 409.050 and 443.835

Stats. Implemented: ORS 430.215, 443.830, and 443.835

#### **411-346-0165 Emergency Certification**

*(Amended 12/28/2013)*

(1) An emergency certificate may be issued by the Department for up to 30 days, provided the following conditions are met:

(a) An Oregon background check indicates no immediate need for fingerprinting for all persons living in the home;

(b) A DHS-CW background check identifies no founded reports of child abuse 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 home, 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) An 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) When a child with significant medical needs shall be living in the foster home, the following additional requirements must be met before an emergency certificate may be issued:

- (a) Current satisfactory references from at least two medical professionals, such as a physician and registered nurse who have direct knowledge of the applicant's ability and past experiences as a caregiver;
- (b) A positive written recommendation from the Department's Medically Fragile Children's Unit (MFCU) if the provider or applicant has provided services through the MFCU or has historically received services through the MFCU for a child in their family home or foster home;
- (c) Current certification in First Aid and CPR. The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the ages of the children served in the foster home;
- (d) Copies of all current medical related licenses or certificates must be provided to the certifying agency; and
- (e) Six hours of medical training beyond CPR and First Aid training as appropriate to the ages of the children served in the foster home; or
- (f) Licensed as a registered nurse, licensed practical nurse, emergency medical technician, nurse practitioner, or physician's assistant.

(3) Emergency certificates may be issued if the renewal process is incomplete at the time of the renewal.

Stat. Auth.: ORS 409.050 and 443.835

Stats. Implemented: ORS 430.215, 443.830, and 443.835

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

*(Amended 08/20/2016)*

(1) The applicant and foster provider must:

(a) Be responsible, stable, emotionally mature adults who exercise sound judgment;

(b) Have the interest, motivation, and ability to nurture, support, and meet the mental, physical, developmental, and emotional needs of a child placed in the foster home;

(c) Be willing to receive training and have the ability to learn and use effective child-rearing practices to enable a child placed in the foster home to grow, develop, and build positive personal relationships and self-esteem;

(d) Demonstrate the knowledge and understanding of positive supports and ways of helping a child in foster care build positive personal relationships, self-control, and self-esteem;

(e) Respect the child's relationship with his or her parents and siblings and be willing to work in partnership with family members, agencies, and schools involved with the child to attain the goals as listed in the IEP, ISP, and Case Plan;

(f) Respect the child's privacy in accordance with the child's age;

(g) Have supportive ties with others who might support, comfort, and advise them, such as family, friends, neighborhood contacts, churches, or community groups;

(h) Demonstrate a lifestyle and personal habits free from abuse or misuse of alcohol or drugs;

(i) Be at least 21 years of age, unless otherwise specified through ICWA and requirements for placement of Native American children; and

(j) Be able to realistically evaluate which children they may accept, work with, and integrate into their family.

## (2) HEALTH QUALIFICATIONS.

(a) The applicant and foster provider must 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 must inform the Department if any member of the household has or develops a serious communicable disease or other serious health condition that may affect the provider's ability to care for the child, or may affect the health and safety of the child.

(b) The applicant, foster provider, and other adults in the household caring for a child in foster care must be physically and mentally able to perform the duties of a foster provider as described 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 409.050, 443.835

Stats. Implemented: ORS 430.215, 443.830, 443.835

**411-346-0180 Professional Responsibilities of a Foster Provider**  
(Amended 11/01/2019)

(1) TRAINING AND DEVELOPMENT. A foster provider must:

- (a) Complete at least 15 hours of pre-service training prior to initial certification and 10 hours annually for certification renewal. The Department or certifying agency may require the foster provider to complete additional training based on the needs of a child receiving services in their child foster home.
- (b) Participate in training provided or approved by the Department or certifying agency. Such training must include educational opportunities designed to enhance the awareness, understanding, and skills of the foster provider to support the needs of a child placed in their child foster home.
- (c) Complete mandatory reporter training prior to initial certification and annually thereafter. Mandatory reporter training must be appropriate to the ages of the individuals living in the child foster home.

(2) RELATIONSHIP WITH THE CHILD PLACING AGENCY. A foster provider must:

- (a) Take part in planning, preparation, pre-placement activities, and visitation for a child placed in their child foster home.
- (b) Participate as a team member in developing and implementing a child's ISP when initiated by the child's CDDP services coordinator.
- (c) In advance or within one business day, notify the certifying agency of changes likely to affect the life and circumstances of the foster provider's family or the safety in the child foster home including, but not limited to, any of the following:
  - (A) Foster family illness.
  - (B) Divorce, legal separation, or loss of a member of the household.
  - (C) Significant change in financial circumstances.

(D) New members of the household or placement of a child in foster care by another agency, including relief care.

(E) Arrests or criminal involvement.

(F) The addition of hunting equipment and weapons.

(G) The addition of a swimming pool.

(H) The addition of a pet.

(d) Sign and abide by the responsibilities described in a Child Foster Home Contract.

(e) Allow a certifying agency and child placing agency reasonable access to the child foster home and to a child placed in the care of the foster provider. Allow a child's family members reasonable access to the child foster home and the child when placement is voluntary. For the purpose of these rules, reasonable access means with advance notice unless there is cause for not giving such notice.

(f) Allow the Department, designee of the Department, or certifying agency access to:

(A) Investigate reports of abuse and violations of a regulation or provision of these rules;

(B) Inspect or examine the child foster home, the records and accounts of a child, and the physical premises including the buildings, grounds, equipment, and any vehicles; and

(C) Interview the child, adult, or alternate caregivers.

(g) Participate in interviews conducted by the Department or the certifying agency.

(h) Authorize alternate caregivers to permit entrance by the Department or the certifying agency for the purpose of inspection and investigation.

### (3) CAPACITY.

(a) The capacity of a certified child foster home includes all children living in the home and may not exceed the following, except as described in subsection (c) of this section:

(A) A total of four children when one certified adult lives in the child foster home.

(B) A total of seven children when two certified adults live in the child foster home.

(b) The capacity of a child foster home is limited to two children less than three years of age.

(c) A foster provider certified prior to July 1, 2007 with a capacity greater than the numbers listed in subsection (a) of this section must meet the standard through attrition as children move out of the child foster home.

(d) At the time of a child's referral, a foster provider must be given available information about the child including, but not limited to, the child's strengths and what is important to the child, as well as behavior, skill level, medical status, and other relevant information. A foster provider is obligated to decline the referral of any child based on the referral information, parameters of the certification of the child foster home, or if the foster provider feels their skill level may not safely or effectively support the child.

(e) A foster provider may provide relief care in the child foster home for a child upon approval by the certifying agency or the Department.

(f) A child who turns 18 years of age may continue to reside in their current child foster home until turning 21 years of age under the following conditions:

(A) The child is working on completion of the IEP.



(B) The child's ISP team signed an ISP addendum noting the ISP team's agreement that it is in the child's best interest to remain in their current child foster home.

(C) A variance request is completed and submitted to the Department in accordance with OAR 411-346-0210. A copy of the ISP addendum must be included with the variance request.

(D) The Department has approved the variance request.

(g) Any variance to subsections (a) through (f) of this section must take into consideration the maximum safe physical capacity of a child foster home including, but not limited to, the following:

(A) Sleeping arrangements.

(B) The ratio of adults to children.

(C) The level of available supervision.

(D) The foster provider's skill level.

(E) Individual plans for egress during fire.

(F) The needs of other children in the child foster home.

(G) The desirability of keeping siblings placed together.

(h) A foster provider may not care for unrelated adults on a commercial basis in the child foster home and the child foster home may not be used as a site type of shelter or day care without the written approval of the Department.

(4) RELATIONSHIP WITH A CHILD'S FAMILY. In accordance with a child's ISP and the child's guardian, a foster provider must:

(a) Support the child's relationship with their 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 the child reasonable opportunities to communicate with the child's family members.

(5) CONFIDENTIALITY.

(a) A foster provider and the foster provider's family must treat personal information about a child or the child's family in a confidential manner. Confidential information is to be disclosed on a need to know basis to law enforcement, certifying agency staff, CDDP staff, DHS-CW child protective services staff, DHS-CW case workers, and licensed health care providers who are treating or providing services to the child. The information shared must be limited to the child's health, safety, and service needs.

(b) In addition to the requirements in subsection (a) of this section, a foster provider and the foster provider's family must comply with the provisions of ORS 192.553 through 192.568 and therefore may use or disclose a child's protected health information only:

(A) To law enforcement, certifying agency staff, CDDP staff, and DHS-CW staff;

(B) As authorized by the child's personal representative or guardian appointed under ORS 125.305, 419B.372, 419C.481, or 419C.555;

(C) For purposes of obtaining health care treatment for 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) A foster provider must keep all written records for each child in a manner that ensures their confidentiality.

Stat. Auth.: ORS 409.050, 427.104, 443.835

Stats. Implemented: ORS 427.007, 427.104, 430.215, 443.830, 443.835

## **411-346-0185 Abuse and Incident Handling and Reporting**

*(Adopted 11/01/2019)*

### **(1) ABUSE REPORTING.**

(a) A foster provider and their employees, alternate caregivers, and volunteers are mandatory reporters according to ORS 419B.005 through 419B.015. Mandatory reporters are required to immediately report to DHS-CW or the local law enforcement agency suspected abuse as defined by ORS 419B.005. Complying with this requirement is a condition of certification of a child foster home.

(b) A foster provider and their employees, alternate caregivers, and volunteers are also required to immediately report to DHS-CW suspected abuse as defined by ORS 418.257. Complying with this requirement is a condition of certification of a child foster home.

(c) When a foster provider makes a report of abuse under this section, the foster provider must immediately notify all of the following:

(A) The child's case management entity.

(B) The local law enforcement agency if there is reason to suspect a crime has occurred.

(C) The Child Welfare caseworker if the child is in the legal custody of DHS-CW

(d) A foster provider who has an employee must provide the employee annual training and written materials on abuse reporting requirements.

(2) In the case of a serious illness, serious injury, or death of a child, a foster provider must immediately, but not later than one business day, notify all of the following (as applicable):

- (a) The child's guardian and designated contact person.
- (b) The child's case management entity.
- (c) Any other agency responsible for, or delivering services to, the child.

(3) A foster provider must immediately, but not later than one business day, notify a child's case management entity of:

- (a) The use of an emergency physical restraint. Timelines for notification included in a Temporary Emergency Safety Plan supersede the timeline established by this section.
- (b) The use of a safeguarding intervention or safeguarding equipment resulting in an injury to the child.

(4) A foster provider must immediately notify all of the following of a child's unauthorized absence:

- (a) The child's guardian and nearest responsible relative (if applicable).
- (b) The local law enforcement agency.
- (c) The child's case management entity.

(5) A notification required by sections (1)(c), (2), (3), or (4) of this rule must occur by phone, in-person, email, writing, or verbally and maintain confidentiality.

(6) INCIDENT REPORTS.

(a) A foster provider must complete a written incident report for any of the following:

- (A) Serious incident.
- (B) Allegation of abuse.

(C) Use of a safeguarding intervention.

(D) Use of an emergency crisis strategy when a child has a Temporary Emergency Safety Plan.

(E) Fire requiring the services of a fire department.

(F) Unauthorized absence.

(b) An incident report, when completed as required in subsection (a) of this section, must be:

(A) Submitted to the child's case management entity within five business days of the incident.

(B) Maintained by the foster provider in the child's record.

(C) If requested, provided to the child's guardian within five business days of the request. A copy of an incident report may not be provided to a child's guardian when the report is part of an abuse investigation.

(c) A copy of an incident report provided to a child's guardian or other service providers must have confidential information removed or redacted as required by federal and state privacy laws.

Stat. Auth.: ORS 409.050 427.104, 443.835

Stats. Implemented: ORS 427.007, 427.104, 430.215, 443.830, 443.835

#### **411-346-0190 Standards and Practices for Care and Services**

*(Temporary Effective 07/23/2020 - 01/18/2021)*

(1) A foster provider is responsible for supervision and must:

(a) Provide structure and daily activities designed to promote a child's physical, social, intellectual, cultural, spiritual, and emotional development.

(b) Provide playthings and activities in the child foster home, including games, recreational and educational materials, and books, appropriate to a child's chronological age, culture, and developmental level.

(c) In accordance with a child's ISP and as defined in a DHS-CW Case Plan (if applicable), encourage the child to participate in age-appropriate and developmentally-appropriate activities including, but not limited to, extracurricular, enrichment, cultural, and social activities, and support the child's participation in such activities with the child's family, friends, and on the child's own when appropriate.

(d) Promote a child's independence and self-sufficiency by encouraging and assisting the child to develop new skills and perform age-appropriate tasks.

(e) In accordance with a child's ISP and as defined in a DHS-CW Case Plan (if applicable), ask the child to participate in household chores appropriate to the child's age and ability that are commensurate with household chores expected of the foster provider's children.

(f) Provide a child with reasonable access to a telephone and to writing materials.

(g) In accordance with a child's ISP and as defined in a DHS-CW Case Plan (if applicable), permit and encourage the child to have visits with the child's family and friends.

(h) Allow a child regular contact and private visits or phone calls with their CDDP services coordinator and DHS-CW case worker (if applicable).

(i) Not allow a child in foster care to baby-sit in the child foster home or elsewhere without the permission of their CDDP services coordinator and guardian.

(2) RIGHTS OF A CHILD. The rights of a child are described in OAR 411-318-0010.

### (3) FREEDOM FROM RESTRAINT.

(a) A foster provider may not place any limitations on a child's freedom from restraint without an individually-based limitation, except in accordance with the standards for developmental disabilities services set forth in OAR chapter 411 or the relevant Title XIX Medicaid-funding authority.

(b) When a child's freedom from restraint may not be met due to a threat to the health and safety of the child or others, an individually-based limitation must be authorized and documented in the child's ISP in accordance with OAR 411-415-0070.

(c) A foster provider is responsible for all of the following:

(A) Maintaining a copy of the completed and signed form documenting informed consent to the individually-based limitation.

(B) Regular collection and review of data to measure the ongoing effectiveness of, and the continued need for, the individually-based limitation.

(C) Requesting a review of the individually-based limitation when a change or removal of the individually-based limitation is needed.

### (4) RELIGIOUS, ETHNIC, AND CULTURAL HERITAGE.

(a) A foster provider must recognize, encourage, and support the religious beliefs, ethnic heritage, cultural identity, and language of a child and their family.

(b) In accordance with a child's ISP and the preferences of their guardian, a foster provider must participate with the child's ISP team to arrange transportation and appropriate supervision during religious services or ethnic events for a child whose beliefs and practices are different from those of the foster provider.

(c) A foster provider may not require a child to participate in religious activities or ethnic events contrary to the child's beliefs.

(5) PUBLIC EDUCATION. A foster provider:

(a) Must enroll each school-age child in public school within five school days of their placement and arrange for the child's transportation to school.

(b) Must comply with any Alternative Educational Plan described in a child's IEP.

(c) Must be actively involved in a child's school program and must participate in the development of the child's IEP. A foster provider may apply to be a child's educational surrogate if requested by the child's parent or guardian.

(d) Must consult with school personnel when there are issues with a child in school and report to the child's guardian and CDDP services coordinator any serious situations that may require Department involvement.

(e) Must support a child in the child's school or educational placement.

(f) Must assure a child regularly attends school or educational placement and monitor the child's educational progress.

(g) May sign consent to any of the following school-related activities:

(A) School field trips within Oregon.

(B) Routine social events.

(C) Sporting events.

(D) Cultural events.

(E) School pictures for personal use only, unless prohibited by the court or a child's guardian.



(h) Must support the involvement of a child's parent (unless limited by court order) and CDDP services coordinator in the child's public education decision-making process.

(6) ALTERNATE CAREGIVERS.

(a) A foster provider must arrange for safe and responsible alternate care.

(b) A child care plan for a child in foster care must be approved by the Department, the CDDP, or DHS-CW, before the child care plan may be implemented. When a child is cared for by a child care provider or child care center, the child care provider or child care center must be certified as required by the State Child Care Division (ORS 329A.280) or be a certified foster provider.

(c) A foster provider must have a Relief Care Plan approved by a certifying agency or the Department when using alternate caregivers.

(d) A foster provider must assure alternate caregivers, consultants, and volunteers meet the following requirements:

(A) 18 years of age or older.

(B) Capable of assuming foster care responsibilities.

(C) Present in the home.

(D) Physically and mentally capable to perform the duties of the foster provider as described in these rules.

(E) Cleared by a background check as described in OAR 411-346-0150, including a DHS-CW background check.

(F) Able to communicate with the child, agencies delivering services to the child, the CDDP services coordinator, and appropriate others.

(G) Trained on fire safety and emergency procedures.

(H) Trained on the child's ISP, Positive Behavior Support Plan, and any related protocols.

(I) Able to provide the care needed for the child.

(J) Trained on the required documentation for the child's health, safety, and behavioral needs.

(K) A driver's license and vehicle insurance in compliance with the laws of the Driver and Motor Vehicle Services Division when transporting a child by motorized vehicle.

(L) Not be a person who requires care in a foster care or group home.

(M) Not be the child's parent or guardian.

(e) When a foster provider uses an alternate caregiver and a child is staying at the alternate caregiver's home, the foster provider must assure the alternate caregiver's home meets the child's necessary health, safety, and environmental needs.

(f) When a foster provider arranges for a child's social activities for less than 24 hours, including an overnight arrangement, the foster provider must assure the person is responsible and capable of assuming child care responsibilities and is present at all times. The foster provider still maintains primary responsibility for the child.

## (7) FOOD AND NUTRITION.

(a) A foster provider must offer three nutritious meals daily at times consistent with those in the community.

(A) Daily meals must include food from the four basic food groups, including fresh fruits and vegetables in season, unless otherwise specified in writing by a health care provider.

(B) There must be no more than a 14-hour span between the evening meal and breakfast, unless snacks and liquids are served as supplements.

(C) Consideration must be given to cultural and ethnic background in food preparation.

(b) A child must be permitted to acquire, store, and access personal food in the child foster home in a manner consistent with age-typical practices for children living in the community and in accordance with the child's ISP.

(c) Any home canned food used must be processed according to the guidelines of Oregon State University extension services (<http://extension.oregonstate.edu/fch/food-preservation>).

(d) All food items must be used prior to their expiration date.

(e) A foster provider must implement special diets only as prescribed in writing by a health care provider.

(f) A foster provider must prepare and serve meals in the child foster home. Payment for meals eaten away from the child foster home (e.g. restaurants) for the convenience of the foster provider is the foster provider's responsibility.

(g) When serving milk, a foster provider must only use pasteurized liquid or powdered milk for consumption by a child in foster care.

(h) A child who must be bottle-fed and cannot hold the bottle, or is 11 months or younger, must be held during bottle-feeding.

## (8) CLOTHING AND PERSONAL BELONGINGS.

(a) A foster provider must assure each child has their own clean, well-fitting, seasonal clothing appropriate to age, gender, culture, individual needs, and comparable to the community standards.

(b) A school-age child must participate in choosing their own clothing whenever possible.

(c) A foster provider must allow a child to bring and acquire appropriate personal belongings.

(d) A foster provider must assure when a child leaves their child foster home, the child's belongings, including all personal funds, medications, and personal items, remain with the child. This includes all items brought with the child and obtained while living in the child foster home.

#### (9) BEHAVIOR SUPPORT PRACTICES.

(a) A foster provider must teach and support a child with respect, kindness, and understanding, using positive behavior theory and practice. Unacceptable practices include, but are not limited to, any of the following:

(A) Physical force, spanking, or threat of physical force inflicted in any manner upon a child.

(B) Verbal abuse, including derogatory remarks about a child or their family that undermine the 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 child's ISP or the DHS-CW Case Plan (if applicable).

(E) Assignment of extremely strenuous exercise or work.

(F) Threatened or unauthorized use of safeguarding intervention.

(G) Use or threatened 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 child foster home as a punishment

(K) Use of shower as punishment.

(L) Group punishment for misbehavior of one child.

(M) Locking a child in a room or area inside or outside of the child foster home.

(N) Involuntary isolation or seclusion of a child from others.

(O) Punishing a child by intentionally inflicting emotional or physical pain or suffering.

(P) Use of aversive stimuli.

(b) A foster provider must set clear expectations, limits, and consequences of behavior in a non-punitive manner.

(c) A foster provider may use a time-out only for the purpose of giving a child a short break for the child to regain control. If a foster provider uses time-out, all of the following conditions apply:

(A) Use of time-out must be approved by the child's ISP team and documented in their ISP.

(B) Only common-use living areas of the home are to be used for time-out.

(C) Time-out is to be used for short duration and frequency as approved by the child's ISP team. The duration must be appropriate to the child's chronological age, emotional condition, and developmental level.

(d) POSITIVE BEHAVIOR SUPPORT PLAN. For a child who has demonstrated a serious threat to self, others, or property and for

whom it has been decided a Positive Behavior Support Plan is needed, the Positive Behavior Support Plan must be developed by a behavior professional in accordance with OAR chapter 411, division 304 with the approval of the child's ISP team.

(10) SAFEGUARDING INTERVENTIONS AND SAFEGUARDING EQUIPMENT. For the purpose of this rule, a designated person is the person implementing the behavior supports identified in a child's Positive Behavior Support Plan.

(a) A designated person must only use a safeguarding intervention or safeguarding equipment when:

(A) BEHAVIOR. Used to address a child's challenging behavior, the safeguarding intervention or safeguarding equipment is included in the child's Positive Behavior Support Plan written by a qualified behavior professional as described in OAR 411-304-0150 and implemented consistent with the child's Positive Behavior Support Plan.

(B) MEDICAL. Used to address a child's medical condition or medical support need, the safeguarding intervention or safeguarding equipment is included in a medical order written by the child's health care provider and implemented consistent with the medical order.

(b) Prior to the use of a safeguarding intervention or safeguarding equipment described in subsections (a)(A) and (a)(B) of this section, a foster provider must have a copy of a completed and signed form documenting informed consent for an individually-based limitation in accordance with OAR 411-415-0070.

(c) Prior to using a safeguarding intervention or safeguarding equipment, a designated person must be trained.

(A) For a safeguarding intervention, the designated person must be trained in intervention techniques using an ODDS-approved behavior intervention curriculum and trained to the child's specific needs. Training must be conducted by a person

who is appropriately certified in an ODDS-approved behavior intervention curriculum.

(B) For safeguarding equipment, the designated person must be trained on the use of the identified safeguarding equipment.

(d) A designated person must not use any safeguarding intervention or safeguarding equipment not meeting the standards set forth in this rule even when the use is directed by the child or their parent, guardian, or representative, regardless of the child's age.

#### (11) EMERGENCY PHYSICAL RESTRAINTS.

(a) The use of an emergency physical restraint when not written into a Positive Behavior Support Plan, not authorized in a child's ISP, and not consented to in an individually-based limitation, must only be used when all of the following conditions are met:

(A) In situations when there is imminent risk of harm to the child or others or when the child's behavior has a probability of leading to engagement with the legal or justice system;

(B) Only as a measure of last resort; and

(C) Only for as long as the situation presents imminent danger to the health or safety of the child or others.

(b) The use of emergency physical restraints must not include any of the following characteristics:

(A) Abusive.

(B) Aversive.

(C) Coercive.

(D) For convenience.

(E) Disciplinary.

- (F) Demeaning.
- (G) Mechanical.
- (H) Prone or supine restraint.
- (I) Pain compliance.
- (J) Punishment.
- (K) Retaliatory.

(12) MEDICAL AND DENTAL CARE. A foster provider must:

- (a) Provide care and services as appropriate to a child's chronological age, developmental level, and condition, and as identified in the child's ISP.
- (b) Assure the orders of a health care provider are implemented as written;
- (c) Inform health care providers of a child's current medications, changes in health status, and if the child refuses care, treatments, or medications.
- (d) Inform the guardian and CDDP services coordinator of any changes in a child's health status, except as otherwise indicated in the DHS-CW Permanent Foster Care contract 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, all of the following:
  - (A) Making appointments.
  - (B) Arranging for or providing transportation to appointments.
  - (C) Obtaining emergency medical care.



(f) Have prior consent from a child's guardian for medical treatment that is not routine, including surgery and anesthesia, except in cases where a DHS-CW Permanent Foster Care contract agreement exists;

(g) Keep current medical records. The records must include all of the following, when applicable:

(A) Any history of physical, emotional, and medical problems, illnesses, and mental health status.

(B) Current orders for all medications, treatments, therapies, use of safeguarding intervention, safeguarding equipment, special diets, adaptive equipment, and any known food or medication allergies.

(C) Completed medication administration record (MAR) from previous months.

(D) Pertinent medical and behavioral information, such as hospitalizations, accidents, immunization records, including Hepatitis B status and previous TB tests, and incidents or injuries affecting the child's health, safety, or emotional well-being.

(E) Documentation or other notations of guardian consent for medical treatment that is not routine, including surgery and anesthesia.

(F) Record of medical appointments.

(G) Medical appointment follow-up reports provided to the foster provider.

(H) Copies of previous mental health assessments, assessment updates including multi-axial DSM diagnosis and treatment recommendations, and progress records from mental health treatment services.

(h) Provide, when requested, copies of medical records and medication administration records to the child's guardian, CDDP services coordinator, and DHS-CW caseworker.

(i) Provide copies, as applicable, of the medical records described in subsection (g)(H) of this section to a licensed health care provider prior to a medical appointment or no later than the time of the appointment.

(j) Support the involvement of the child's parent (unless limited by court order) and CDDP services coordinator in the child's medical and dental care coordination.

### (13) MEDICATIONS AND MEDICAL ORDERS.

(a) An authorization by a licensed health care provider must be in a child's file prior to the usage of, or implementation of, any of the following:

(A) All prescription medications.

(B) Nonprescription medications except over the counter topicals.

(C) Treatments other than basic first aid.

(D) Therapies and use of safeguarding equipment as a health and safety related protection.

(E) Modified or special diets.

(F) Prescribed adaptive equipment.

(G) Aids to physical functioning.

(b) A foster provider must have any of the following:

(A) A copy of the authorization in the format of a written order signed by a licensed health care provider.

(B) Documentation of a telephone order by a licensed health care provider with changes clearly documented on the MAR, including the name of the person giving the order, the date and time, and the name of the person receiving the telephone order.

(C) A current prescription or label from the manufacturer as specified by the order of a licensed health care provider on file with the pharmacy.

(c) A foster provider or alternate caregiver must carry out orders as prescribed by a licensed health care provider. Changes may not be made without the authorization of a licensed health care provider.

(d) Each medication for a child, including refrigerated medication, must be clearly labeled with the label of the pharmacist or in the originally labeled container from the manufacturer and kept in a locked location or stored in a manner that prevents access by children.

(e) Unused, outdated, or recalled medications may not be kept in the child foster home and must be disposed of in a manner that prevents illegal diversion into the possession of people other than for which the medication was prescribed.

(f) A foster provider must keep a 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 licensed health care providers and administered as needed (PRN) for the child.

(g) The MAR must include all of the following:

(A) The name of the child in foster care.

(B) A transcription of the written order of the licensed health care provider, 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 an order from a licensed health care provider.

(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 medication was administered.

(H) Documented effectiveness of any PRN medication administration.

(I) An explanation of all medication administration or documentation irregularities.

(J) Any known allergy or adverse drug reactions and procedures that maintain and protect the child's physical health.

(h) Any errors in the MAR must be corrected by circling the error and then writing on the back of the MAR what the error was and why.

(i) Treatments, medication, therapies, and special diets must be documented on the MAR when not used or applied according to the order of licensed health care provider.

(j) SELF-ADMINISTRATION OF MEDICATION. For any child who is self-administering medication, a 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 least as part of the ISP process, upon completion of the training program;

(D) Assure the child is able to handle the child's own medication regime;

(E) Keep medications stored in a locked area inaccessible to others; and

(F) Maintain written documentation of all training in the child's medical record.

(k) A foster provider may not use alternative medications intended to alter or affect mood or behavior, such as herbals or homeopathic remedies, without direction and supervision of a licensed health care provider.

(l) Any medication used with the intent to alter a child's behavior must be documented in the child's ISP.

(m) BALANCING TEST. When a psychotropic medication is first prescribed and annually thereafter, a foster provider must obtain a signed balancing test from the prescribing health care provider using the Balancing Test Form (form 4110). A foster provider must present the licensed 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 prescribed psychotropic medication is prohibited.

(o) A mental health assessment by a qualified mental health professional or licensed medical practitioner must be completed, except as noted in subparagraph (A) of this subsection, prior to the administration of a new medication for more than one psychotropic or any antipsychotic medication to a child in foster care.

(A) A mental health assessment is not required in any of the following situations:

(i) In a case of urgent medical need.

(ii) For a substitution of a current medication within the same class.

(iii) A medication order given prior to a medical procedure.

(B) When a mental health assessment is required, a foster provider:

(i) Must notify the DHS-CW caseworker when a child is in legal custody of DHS-CW; or

(ii) Must arrange for a mental health assessment when a child is a voluntary care placement.

(C) The mental health assessment:

(i) Must have been completed within three months prior to the prescription; or

(ii) May be an update of a prior mental health assessment that focuses on a new or acute problem.

(D) Whenever possible, information from the mental health assessment must be communicated to the licensed health care provider prior to the issuance of a prescription for psychotropic medication.

(p) Within one business day after receiving a new prescription or knowledge of a new prescription for psychotropic medication for a child in foster care, a foster provider must notify:

(A) The CDDP services coordinator; and

(B) The child's parent when the parent retains legal guardianship or the child's guardian; or

(C) DHS-CW when DHS-CW is the child's guardian.

(q) A foster provider's notification to a child's parent or guardian and their CDDP services coordinator must contain all of the following:

(A) Name of the prescribing licensed health care provider.

(B) Name of the medication.

(C) Dosage, any change of dosage, suspension, or discontinuation of the current psychotropic medication.

(D) Dosage administration schedule prescribed.

(E) Reason the medication was prescribed.

(r) A foster provider must get a written informed consent prior to filling a prescription for any new psychotropic medication except in a case of urgent medical need from DHS-CW when DHS-CW is a child's guardian.

(s) A foster provider must cooperate as requested when a review of psychotropic medications is indicated.

(14) NURSING SERVICES. When nursing services are provided to a child, a foster provider must:

(a) Coordinate with a registered nurse and the child's ISP team to ensure the nursing services being delivered are sufficient to meet the child's health needs; and

(b) Implement the child's Nursing Service Plan, or appropriate portions therein, as agreed upon by the ISP team and the registered nurse.

(15) COMMUNITY NURSING SERVICES.

(a) Community nursing services include all of the following:

(A) Nursing assessments, including medication reviews.

(B) Care coordination.

(C) Monitoring.

(D) Development of a Nursing Service Plan.

(E) Delegation and training of nursing tasks to a foster provider or alternate caregiver.

(F) Teaching and education of a foster provider and identifying supports that minimize health risks while promoting a child's autonomy and self-management of healthcare.

(G) Collateral contact with a CDDP services coordinator regarding the community health status of a child to assist in monitoring safety and well-being and to address needed changes to the child's ISP.

(b) Community nursing services exclude direct nursing services.

(c) When Department funds are used for community nursing services, prior authorization for community nursing services must be in accordance with OAR 411-048-0180.

(d) After an initial nursing assessment, a nursing reassessment must be completed every six months or sooner if a change in medical condition requires an update to a Nursing Service Plan.

(e) When community nursing services are provided to a child, a foster provider must:

(A) Coordinate with a registered nurse and the child's ISP team to ensure the nursing services being delivered are sufficient to meet the child's health needs; and

(B) Implement the Nursing Service Plan, or appropriate portions therein, as agreed upon by the child's ISP team and registered nurse.

(f) A registered nurse providing community nursing services must:



(A) Be enrolled in the Long Term Care Community Nursing Program as described in OAR chapter 411, division 048;

(B) Meet the qualifications described in OAR 411-048-0210; and

(C) Submit a resume to the CDDP indicating the education, skills, and abilities necessary to provide nursing services in accordance with Oregon law, including at least one year of experience with individuals with intellectual or developmental disabilities.

(g) A registered nurse providing community nursing services must comply with:

(A) Provider record and documentation requirements referenced in OAR 407-120-0100 through 407-120-1505 for financial, clinical, and other records including the Provider Enrollment Agreement and electronic billing procedures;

(B) Department direct contracts (if applicable); and

(C) Service record requirements outlined in this rule.

(16) PRIVATE DUTY NURSING. As defined in OAR chapter 410, division 132 and the Medicaid State Plan, a child or young adult aged 0 through 20 that resides in a child foster home may receive private duty nursing services in accordance with OAR 411-300-0150.

(a) When private duty nursing services are provided, a foster provider must:

(A) Coordinate with a registered nurse and a child's ISP team to ensure the nursing services being provided are sufficient to meet the child's health needs; and

(B) Implement the Nursing Service Plan, or appropriate portions therein, as agreed upon by the ISP team and registered nurse.

(b) A nurse providing private duty nursing services must be an enrolled Medicaid Provider as described in OAR 410-132-0200.

(17) DELEGATION AND SUPERVISION OF NURSING TASKS. Nursing tasks must be delegated by a registered nurse to a foster provider or alternate caregiver in accordance with the rules of the Oregon State Board of Nursing in OAR chapter 851, division 047.

(18) CHILD RECORDS.

(a) GENERAL INFORMATION OR SUMMARY RECORD. A foster provider must maintain a record for each child receiving foster care services in their child foster home. The record must include all of the following:

(A) Child's name, date of entry into the child foster home, date of birth, gender, religious preference, and guardianship status.

(B) Names, addresses, and telephone numbers of the child's guardian, family, or other significant person.

(C) Name, address, and telephone number of the child's preferred primary health care 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) Name, address, and telephone number of the child's school program.

(E) Name, address, and telephone number of the child's CDDP services coordinator and representatives of other agencies providing services to the child.

(b) EMERGENCY INFORMATION. A foster provider must maintain emergency information for each child receiving foster care services in their child foster home. The emergency information must be kept current and must include all of the following:

(A) The child's name.

(B) The child's address and telephone number.

(C) The child's physical description, which may include a picture and the date it was taken, and identification of the following:

(i) Race, gender, height, weight range, and color of hair and eyes.

(ii) Any other identifying characteristics that may assist in identifying the child if the need arises, such as marks or scars, tattoos, or body piercing.

(D) Information on the child's abilities and characteristics including, but not limited to, the following:

(i) How the child communicates.

(ii) The language the child uses or understands.

(iii) The child's ability to know how to take care of bodily functions.

(iv) Any additional information that may assist a person not familiar with the child to understand what the child may do for himself or herself.

(E) The child's health support needs including, but not limited to the following:

(i) Diagnosis.

(ii) Allergies or adverse drug reactions.

(iii) Health issues that a person needs to know when taking care of the child.

(iv) Special dietary or nutritional needs, such as requirements around textures or consistency of foods and fluids.

(v) Food or fluid limitations due to allergies, diagnosis, or medications the child is taking that may be an aspiration risk or other risk.

(vi) Additional special requirements the child has related to eating or drinking, such as special positional needs or a specific way foods or fluids are given to the child.

(vii) Physical limitations that may affect the child's ability to communicate, respond to instructions, or follow directions.

(viii) Specialized equipment needed for mobility, positioning, or other health-related needs.

(ix) The child's emotional and behavioral support needs including, but not limited to, the following:

(I) Mental health or behavioral diagnosis and the behaviors displayed by the child.

(II) Approaches to use when supporting the child to minimize emotional and physical outbursts.

(x) Any court ordered or guardian authorized contacts or limitations.

(xi) The child's supervision requirements and why.

(xii) Any additional pertinent information the foster provider has that may assist in the child's care and support if a natural or man-made disaster occurs.

(c) **EMERGENCY PLANNING.** A foster provider must post emergency telephone numbers in close proximity to all phones used by the foster provider or alternate caregivers. The posted emergency telephone numbers must include, but not be limited to, all of the following:

(A) Telephone numbers of the local fire, police department, and ambulance service if not served by 911 emergency services.

(B) The telephone number of any emergency health care providers and additional people to be contacted in the case of an emergency.

(d) WRITTEN EMERGENCY PLAN. A foster provider must:

(A) Develop, maintain, update, and implement a written Emergency Plan for the protection of all children in foster care in the event of an emergency or disaster. The Emergency Plan must:

(i) Be practiced at least annually. The Emergency Plan practice may consist of a walk-through of the responsibilities of the foster provider and alternative caregiver.

(ii) Consider a child's needs and address all natural and human-caused events identified as a significant risk for the child foster home, such as a pandemic or an earthquake.

(iii) Include provisions and sufficient supplies, such as sanitation and food supplies, to shelter in place when unable to relocate for at least three calendar days under the following conditions:

(I) Extended utility outage.

(II) No running water.

(III) Inability to replace food supplies.

(IV) An alternate caregiver is unable to provide relief care or additional support and care.

(iv) Include provisions for evacuation and relocation that identifies all of the following:

(I) The duties during evacuation, transporting, and housing of a child, including instructions to notify the child's parent or guardian, the Department or the Department's designee, the CDDP services coordinator, and DHS-CW as applicable, of the plan to evacuate or the evacuation of the child foster home as soon as the emergency or disaster reasonably allows.

(II) The method and source of transportation.

(III) Planned relocation sites that are reasonably anticipated to meet a child's needs.

(IV) A method that provides people unknown to the child the ability to identify each child by name and to identify the name of the child's supporting provider.

(V) A method for tracking and reporting to the Department or the Department's designee and the local CDDP, the physical location of each child in foster care until a different entity resumes responsibility for the child.

(v) Address a child's needs including provisions for all of the following:

(I) Immediate and continued access to medical treatment, information necessary to obtain care, treatment, food, and fluids for the child during and after an evacuation and relocation.

(II) Continued access to life-sustaining pharmaceuticals, medical supplies, and equipment during and after an evacuation and relocation.

(III) Behavior support needs anticipated during an emergency.

(IV) The supports needed to meet a child's life-sustaining and safety needs.

(B) Provide and document all training to alternate caregivers regarding the alternate caregiver's responsibilities for implementing the Emergency Plan.

(C) Re-evaluate and revise the Emergency Plan at least annually or when there is a significant change in the child foster home.

(D) Complete the Emergency Plan Summary, on the form supplied by the Department, and send the Emergency Plan Summary to the Department annually and upon change of foster provider or location of the child foster home.

(e) INDIVIDUAL SUPPORT PLAN (ISP). Within 60 calendar days of placement, the ISP for a child must be prepared and updated at least annually.

(A) If requested by a child or the child's guardian, a foster provider must participate with an ISP team in the development and implementation of the child's ISP to address the child's behavior, medical, social, financial, safety, and other support needs.

(B) Prior to, or upon entry to, or exit from a child foster home, a foster provider must participate in the development and implementation of a Transition Plan for the child.

(i) The Transition Plan must include a summary of the services necessary to facilitate a child's adjustment to the child foster home or after care plan; and

(ii) Identify the supports necessary to ensure the child's health, safety, and any assessments and consultations needed for ISP development.

(f) FINANCIAL RECORDS.

(A) A foster provider must maintain a separate financial record for each child in foster care. Errors must be corrected with a single strike through and initialed by the person making the correction. The child's financial record must include all of the following:

(i) Date, amount, and source of all income received on the child's behalf.

(ii) Room and board fee paid to the foster provider at the beginning of each month.

(iii) Date, amount, and purpose of funds disbursed on the child's behalf.

(iv) Signature of the person making the entry.

(B) Any single transaction more than \$25 purchased with a child's personal funds, unless otherwise indicated in the child's ISP, must be documented in the child's financial record and include the receipt.

(C) A child's ISP team may address how the personal spending money of a child is managed.

(D) If a child has a separate commercial bank account, records from the account must be maintained with the child's financial record.

(E) A child's personal funds must be maintained in a safe manner and separate from the funds of other members of the household.

(F) Misuse of funds may be cause for suspension, revocation, or denial of renewal of a certificate.

(g) PERSONAL PROPERTY RECORD.

(A) A foster provider must maintain a written record of a child's property with a monetary value of more than \$25 or that has



significant personal value to the child, parent, or guardian, or as determined by the ISP team. Errors must be corrected with a single strike through and initialed by the person making the correction.

(B) Personal property records are not required for a child who has a court approved DHS-CW Permanent Foster Care contract agreement, unless requested by the child's guardian.

(C) The personal property record must include all of the following:

(i) A description and identifying number, if any.

(ii) The date the personal property was brought into the child foster home or purchased.

(iii) The date and reason for the removal of a child's personal property from the record.

(iv) The signature of the person making the entry.

(h) EDUCATIONAL RECORDS. A foster provider must maintain the following educational records when available:

(A) A child's report cards.

(B) Any reports received from a child's teacher or the school.

(C) Any evaluations received as a result of educational testing or assessment.

(D) A child's disciplinary reports.

(i) Child records must be available to representatives of the Department, the certifying agency, and DHS-CW conducting inspections or investigations, as well as to the child, if appropriate, and the child's guardian or other legally authorized people.

(j) Child records must be kept for a period of three years. If a child moves or the child foster home closes, copies of pertinent information must be transferred to the new home of the child.

(19) COVID-19. A foster provider must implement all directives related to a child foster home to reduce the spread of the Coronavirus (COVID-19) issued by any of the following:

(a) Governor's Executive Order.

(b) Written instruction to the foster provider from the Local Public Health Authority or the Oregon Health Authority Public Health Division.

(c) Written guidance directed at the foster provider through Department policy.

Stat. Auth.: ORS 409.050, 427.104, 443.835

Stats. Implemented: ORS 409.010, 427.007, 427.104, 430.215, 443.830, 443.835

#### **411-346-0200 Environmental Standards**

*(Amended 11/01/2019)*

##### **(1) GENERAL CONDITIONS.**

(a) The buildings and furnishings must be clean and in good repair and grounds must be maintained and accessible according to the needs of the children residing in the home.

(b) Walls, ceilings, windows, and floors must be of such character to permit frequent washing, cleaning, or painting.

(c) There must be no accumulation of garbage, debris, or rubbish.

(d) The home must have a safe, properly installed, maintained, and operational heating system. Areas of the home used by the child in foster care must be maintained at normal comfort range during the day and during sleeping hours. During times of extreme summer

heat, the foster provider must 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.

(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 a child in foster care only under direct supervision by the foster 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 must be prepared in a safe and sanitary manner that minimizes the possibility of food poisoning or food-borne illness.

(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 must have a dining area so the child in foster care may eat together with the foster family.

(c) LIVING OR FAMILY ROOM. The home must have sufficient living or family room space that is furnished and accessible to all members of the household, including the child in foster care.

(d) BEDROOMS. Bedrooms used by the child in foster care must:

(A) Have adequate space for the age, size, and specific needs of each child;

(B) Be finished and attached to the house, have walls or partitions of standard construction that go from floor to ceiling;

(C) Have an entrance door that:

(i) Opens directly to a hallway or common use room without passage through another bedroom or common bathroom; and

(ii) Meets the following requirements for the use of locks:

(I) Locks must be single action release; and

(II) For a child under the age of 18, a lock is only permitted when the ISP team has determined that a lock is a safe and appropriate means to support the privacy and independence of the child; or

(III) For a child age 18 or older, a lock is required unless there is a health or safety risk and an individually-based limitation has been implemented in accordance with OAR 411-004-0040.

(D) Have windows that open, provide sufficient natural light, and ventilation with window coverings that take into consideration the safety, care needs, and privacy of the child;

(E) Have no more than four children to a bedroom;

(F) Have safe, age appropriate furnishings that are in good repair provided for each child, including:

(i) A bed or crib with a frame unless otherwise documented by an ISP team decision, a clean

comfortable mattress, and 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; and

(iv) An adequate supply of clean bed linens, blankets, and pillows. Bed linens are to be properly fitting and provided for each child's bed.

(G) Be on the ground level for a child who is non-ambulatory or has impaired mobility;

(H) Provide flexibility in the decoration for the personal tastes and expressions of the child;

(I) Be in close enough proximity to the foster provider to alert the foster provider to nighttime needs or emergencies or be equipped with a working audio monitor;

(J) Have no three-tier bunk beds in bedrooms occupied by a child in foster care; and

(K) Not be located on the third floor or higher from the ground level.

(e) A child of the foster provider may not be required to sleep in a room also used for another purpose in order to accommodate a child in foster care.

(f) The foster provider may not permit the following sleeping arrangements for a child placed in their home:

(A) Children of different sexes in the same room when either child is over five years of age; and

(B) Children over the age of 12 months sharing a room with an adult.

(g) BATHROOMS.

(A) Bathrooms must have:

(i) Bathtubs or showers, toilets, and sinks operable and in good repair;

(ii) Bathtubs, showers, and sinks with hot and cold water;

(iii) A sink located near each toilet;

(iv) At least one toilet, one sink, and one bathtub or shower for each six household occupants, including the foster provider and family;

(v) Hot and cold water in sufficient supply to meet the needs of the child for personal hygiene. Hot water temperature sources for bathing and cleaning areas that are accessible by the child in foster care may not exceed 120 degrees F;

(vi) Grab bars and non-slip floor surfaces for toilets, bathtubs, or showers for the child's safety as necessary for the child's care needs; and

(vii) Barrier-free access to toilet and bathing facilities with appropriate fixtures for a child who uses a wheel chair or other mechanical equipment for ambulation. Barrier free must be appropriate for the non-ambulatory child's needs for maintaining good personal hygiene.

(B) The foster provider must provide each child with the appropriate personal hygiene and grooming items that meet each child's specific needs and minimize the spread of communicable disease.

(C) Window coverings in bathrooms must take into consideration the safety, care needs, and privacy of the child.

(4) GENERAL SAFETY.

(a) The foster provider must protect the child from safety hazards.

(b) Stairways must be equipped with handrails.

(c) A functioning light must be provided in each room and stairway.

(d) Stairways must be protected with a gate or door if a child in foster care is three years of age or less or has impaired mobility.

(e) Hot water heaters must be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location.

(f) Adequate safeguards must be taken to protect a child who may be at risk for injury from electrical outlets, extension cords, and heat-producing devices.

(g) The child foster home must have operable phone service at all times that is available to all persons in the child foster home, including when there are power outages. The home must have emergency phone numbers readily accessible and in close proximity to the phone.

(h) The foster provider must store all medications, poisonous chemicals, and cleaning materials in a way that prevents access by a child.

(i) The foster provider must restrict a child's access to potentially dangerous animals. Only domestic animals may be kept as pets. Pets must be properly cared for and supervised.

(j) 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 must be made available to the Department upon request.

(k) The foster provider must take appropriate measures to keep the house and premises free of rodents and insects.

(l) To protect the safety of a child in foster care, the foster provider must store hunting equipment and weapons in a safe and secure manner inaccessible to the child.

(m) The foster provider must have first aid supplies in the home in a designated place easily accessible to adults.

(n) There must be emergency access to any room that has a lock.

(o) An operable flashlight, at least one per floor, must be readily available in case of emergency.

(p) House or mailbox numbers must be clearly visible and easy to read for easy identification by emergency vehicles.

#### (5) FIRE SAFETY.

(a) Smoke alarms must be installed in accordance with manufacturer's instructions, equipped with a device that warns of low battery, and maintained to function properly.

(A) A smoke alarm must be installed in each bedroom, adjacent hallways leading to the bedrooms, common living areas, basements, and at the top of every stairway in multi-story homes.

(B) Ceiling placement of smoke alarms is recommended. If wall-mounted, smoke alarms must be mounted as per the manufacturer's instructions.

(b) At least one fire extinguisher, minimally rated 2:A:10:B:C, must be visible and readily accessible on each floor, including basements. A qualified professional who is well versed in fire extinguisher maintenance must inspect every fire extinguisher at least once per year. All recharging and hydrostatic testing must be completed by a qualified entity properly trained and equipped for this purpose.



(c) Use of space heaters must be limited to only electric space heaters equipped with tip-over protection. Space heaters must be plugged directly into the wall. Extension cords may not be used with space heaters. Freestanding kerosene, propane, or liquid fuel space heaters may not be used in a child foster home.

(d) An Emergency Evacuation Plan must be developed, posted, and rehearsed at least once every 90 calendar days with at least one drill practice per year occurring during sleeping hours. Alternate caregivers and other employees must be familiar with the Emergency Evacuation Plan and a new child placed in foster care must be familiar with the Emergency Evacuation Plan within 24 hours. Fire drill records must be retained for one year.

(A) Fire drill evacuation rehearsal must 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 in foster care from the home within three minutes.

(e) A child foster home must have two unrestricted exits in case of fire. A sliding door or window that may be used to evacuate a child may be considered a usable exit.

(f) Barred windows or doors used for possible exit in case of fire must be fitted with operable quick release mechanisms.

(g) Every bedroom used by a child in foster 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.

(h) All external and inside doors must have simple hardware with an obvious method of operation that allows for safe evacuation from the home. A home with a child that is known to leave their place of residence without permission must have a functional and activated alarm system to alert the foster provider.

(i) Fireplaces and wood stoves must include secure barriers to keep a child safe from potential injury and away from exposed heat sources.

(j) Solid or other fuel-burning appliances, stoves, or fireplaces must be installed according to manufacturer's specifications and under permit, where applicable. All applicants applying for a new certificate after July 1, 2007 must have at least one carbon monoxide sensor installed in the child foster home in accordance with manufacturer's instructions if the child foster home has solid or other fuel-burning appliances, stoves, or fireplaces. All foster providers certified prior to July 1, 2007 and moving to a new location that uses solid or other fuel-burning appliances, stoves, or fireplaces, must install a carbon monoxide sensor in the child foster home in accordance with manufacturer's instructions prior to being certified at the new location.

(k) 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 certification period and may not be used in the future. Required annual chimney inspections must be made available to the certifying agency during the certification renewal process.

(l) A signed statement by the foster provider and certifying agency assuring that the fireplace, or solid fuel-burning appliance, or both may not be in use must be submitted to the Department with the renewal application if a chimney inspection is not completed.

(m) Flammable and combustible materials must be stored away from any heat source.

## (6) SANITATION AND HEALTH.

(a) A public water supply must be used if available. If a non-municipal water source is used, the water source 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) Garbage and refuse must be suitably stored in readily cleanable, rodent proof, covered containers, and removed weekly.

(d) SMOKING.

(A) A foster provider may not provide tobacco products in any form to a child under the age of 21.

(B) A child in foster care may not be exposed to second hand smoke in the child 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, scheduled medical care, community facilities, and urgent care.

(b) If there is not a licensed driver and vehicle at all times there must be a plan for urgent and routine transportation.

(c) The foster provider must maintain all vehicles used to transport a child in a safe operating condition and must ensure that a first aid kit is in each vehicle.

(d) All motor vehicles owned by the foster provider and used for transporting a child must be insured to include liability.

(e) Only licensed adult drivers may transport a child in foster care in a motor vehicle. The motor vehicle must be insured to include liability.

(f) When transporting a child in foster care, the driver must ensure that the child uses seat belts or appropriate safety seats. Car seats or seat belts must be used for transporting a child in accordance with the Department of Transportation according to ORS 815.055.

Stat. Auth.: ORS 409.050, 427.104, 443.835

Stats. Implemented: ORS 427.007, 427.104, 430.215, 443.830, 443.835

### **411-346-0210 Variance**

*(Amended 12/28/2014)*

(1) The Department may grant a variance to these rules based upon a 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 a child or violate state or federal laws.

(2) The foster provider requesting a variance must submit to the certifying agency, a Department variance request form 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 the services of a child, evidence that the variance is consistent with the currently approved ISP for the child.

(3) The certifying agency must forward the signed variance request form to the Department within 30 days from the receipt of the request indicating the position of the certifying agency on the proposed variance.

(4) The request for a variance is approved or denied by the Department. The decision of the Department is sent to the foster provider, the certifying agency, and to all relevant Department programs or offices within 30 days from the receipt of the variance request.

(5) The foster provider may request an administrative review of the denial of a variance request within 30 days from the receipt of the denial by sending a written request for review to the Director and a copy of the request to the certifying agency. The decision of the Director is the final response from the Department.

(6) The Department determines the duration of the variance.

(7) Granting a variance does not set a precedent that must be followed by the child placing agency when evaluating subsequent requests for variances.

(8) The foster provider may implement a variance only after written approval from the Department.

Stat. Auth.: ORS 409.050, 443.835

Stats. Implemented: ORS 430.215, 443.830, 443.835

**411-346-0220 Conditions, Denial, Suspension, Revocation, Refusal to Renew, and Civil Penalties**

*(Temporary Effective 07/23/2020 - 01/18/2021)*

(1) CONDITIONS.

(a) The Department may attach conditions to a certificate that limit, restrict, or specify other criteria for the operation of a child foster home. The type of condition attached to a certificate must directly relate to the risk of harm or potential risk of harm to children.

(b) The Department may attach conditions to a certificate upon any of the following findings:

(A) Information on the application or initial inspection requires a condition to protect the health, safety, or welfare of children.

(B) A threat to the health, safety, or welfare of a child exists.

(C) There is evidence of abuse.

(D) The child foster home is not being operated in compliance with these rules or the rules in OAR chapter 411, divisions 004, 304, and 318.

(c) Conditions the Department may impose on a certificate include, but are not limited to, the following:

(A) Restricting the total number of children in the child foster home based upon the ability and capacity of the foster provider to meet the health and safety needs of the children.

(B) Requiring alternate caregivers to meet the needs of the children.

(C) Requiring additional qualifications or training of the foster provider and alternate caregivers.

(D) Restricting a foster provider from allowing a person on the premises who may be a threat to the health, safety, or welfare of a child.

(E) Requiring additional documentation.

(F) Restricting a foster provider from opening an additional foster home setting.

(G) Limiting a foster provider to the care of a specific child. A foster provider with this condition does not receive referrals.

(H) Restricting entry.

(d) The Department shall impose a condition prohibiting new entry or transfer into a child foster home when there is a death of a child served by the foster provider that results in a protective services investigation and the foster provider was responsible for delivering supports to the child during the time associated with the child's death.

(A) A new entry or transfer may be accepted while the condition is in place, if the entry or transfer approval is granted by the Department and the case management entity.

(B) The condition may be terminated:

(i) Following the protective services investigation determination that abuse was not a factor in the child's death; or

(ii) At the discretion of the Department upon satisfactory demonstration by the foster provider that:

(I) There are adequate protections in place to prevent or minimize risk of harm to other children receiving the same or similar type of services; and

(II) Entry of additional children into the child foster home does not negatively impact the foster provider's ability to safely serve children.

(e) The Department issues a written notice to the foster provider when the Department imposes conditions to a certificate. The written notice of conditions includes the conditions imposed by the Department, the reason for the conditions, and the opportunity to request a hearing under ORS chapter 183.

(A) Conditions take effect immediately upon issuance of the written notice of conditions or at a later date as indicated on the notice and are a Final Order of the Department unless later rescinded through the hearing process.

(B) The conditions imposed remain in effect until the Department has sufficient cause to believe the situation which warranted the condition has been remedied.

(f) The foster provider may request a hearing in accordance with ORS chapter 183 and this rule upon written notice of conditions. The request for a hearing must be in writing.

(A) The foster provider must request a hearing within 21 calendar days from the receipt of the written notice of conditions.

(B) In addition to, or in lieu of a hearing, the foster provider may request an administrative review as described in subsection (g) of this section. The request for an administrative review must be in writing. The administrative review does not diminish the right of the foster provider to a hearing.

(C) The Department shall be allowed reasonable requests for setting or postponement of any hearing to allow for the conclusion of a protective services investigation when a condition is imposed related to the protective services investigation.

(g) ADMINISTRATIVE REVIEW.

(A) In addition to the right to a hearing, a foster provider may request an administrative review by the Director of the Department for imposition of conditions. The request for an administrative review must be in writing.

(B) The Department must receive a written request for an administrative review within 10 business days from the date of the notice of conditions. The foster provider may submit, along with the written request for an administrative review, any additional written materials the foster provider wishes to have considered during the administrative review.

(C) The determination of the administrative review is issued in writing within 10 business days from the date of the written request for an administrative review, or by a later date as agreed to by the foster provider.

(D) The foster provider may request a hearing if the decision of the Department is to affirm the condition. The request for a hearing must be in writing. The Department must receive the written request for a hearing within 21 calendar days from the date of the original written notice of conditions.

(h) A foster provider may send a written request to the Department to remove a condition if the foster provider believes the situation that warranted the condition has been remedied.

(i) Conditions must be posted with the certificate in a prominent location and be available for inspection at all times.

(2) DENIAL, SUSPENSION, REVOCATION, REFUSAL TO RENEW.



(a) The Department shall deny, suspend, revoke, or refuse to renew a certificate where it finds there has been substantial failure to comply with these rules.

(b) Failure to disclose requested information on the application or providing falsified, incomplete, or incorrect information on the application shall constitute grounds for denial or revocation of the certificate.

(c) The Department shall deny, suspend, revoke, or refuse to renew a certificate if the foster provider fails to submit a plan of correction, implement a plan of correction, or comply with a final order of the Department.

(d) Failure to comply with OAR 411-346-0200(5) may constitute grounds for denial, revocation, or refusal to renew.

(e) The Department may deny, suspend, revoke, or refuse to renew the child foster home certificate where imminent danger to health or safety of a child exists, including any founded report or substantiated abuse.

(f) The Department shall deny, suspend, revoke, or refuse to renew a certificate if the foster provider has been convicted of any crime that would have resulted in an unacceptable background check as defined in OAR 407-007-0210 upon certification.

(g) Suspension shall result in the removal of a child placed in the foster home and no placements shall be made during the period of suspension.

(h) 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.

(i) The Department shall provide the applicant or the foster provider a written notice of denial, suspension, or revocation that states the reason for such action.

(j) Such revocation, suspension, or denial shall be done in accordance with the rules of the Department and ORS chapter 183 that govern contested cases.

### (3) CIVIL PENALTIES.

(a) The Department may impose a civil penalty under ORS 427.900 on a foster provider for a violation of OAR 411-346-0190(19).

(b) A civil penalty of not less than \$100 and not more than \$250 per violation, except as otherwise provided in this rule, may be imposed on a foster provider for a violation of OAR 411-346-0190(19).

(c) When a foster provider receives notification from the Department of a violation for which a civil penalty may be imposed, the foster provider must take action to immediately eliminate the violation.

(d) The Department shall give the foster provider written notice of the imposition of a civil penalty consistent with ORS 183.415 including all of the following:

(A) A statement of the foster provider's right to a hearing, with a description of the procedure and time to request a hearing, or a statement of the time and place of the hearing.

(B) A statement of the authority and jurisdiction under which the hearing is to be held.

(C) A reference to the specific sections of the statutes and rules involved.

(D) A short and plain statement of the matters asserted or charged.

(E) A statement indicating whether and under what circumstances an order by default may be entered.

(F) A statement that active duty servicemembers have a right to stay proceedings under the federal Servicemembers Civil Relief Act and may contact the Oregon State Bar or the Oregon

Military Department for more information. The statement must include the toll-free telephone numbers for the Oregon State Bar and the Oregon Military Department and the Internet address for the United States Armed Forces Legal Assistance Legal Services Locator website.

(e) The foster provider has 20 calendar days after receipt of the notice of civil penalty in which to make a written application for a hearing before the Department.

(f) If the foster provider fails to request a hearing within 20 calendar days, a final order may be entered by the Department assessing a civil penalty.

(g) All hearings are conducted pursuant to the applicable provisions of ORS chapter 183.

(h) If, after a hearing, the foster provider is found to be in violation of OAR 411-346-0190(19), an order may be entered by the Department assessing a civil penalty.

(i) If the order is not appealed, the amount of the civil penalty is payable within 10 calendar days after the order is entered. If the order is appealed and is sustained, the amount of the civil penalty is payable within 10 calendar days after the court decision. The order, if not appealed or sustained on appeal, constitutes a judgment and may be filed in accordance with the provisions of ORS 183.745. Execution may be issued upon the order in the same manner as execution upon a judgment of a court of record.

(j) Judicial review of civil penalties imposed under ORS 427.900 are provided under ORS 183.480, except that the court may, in its discretion, reduce the amount of the civil penalty.

(k) Unless otherwise directed by statute, all civil penalties recovered under ORS 427.900 are paid into the State Treasury and shall be deposited to the Department of Human Services Account established under ORS 409.060 and may be used by the division of the Department that provides developmental disabilities services for system improvements and the implementation of policies.

Stat. Auth.: ORS 409.050 427.104, 427.900, 443.835  
Stats. Implemented: ORS 183.745, 409.010, 409.050, 427.007, 427.104,  
427.900, 430.215, 443.830, 443.835

**411-346-0230 Appeals**  
(Amended 12/28/2013)

(1) Upon written notice of denial, suspension, revocation, or non-renewal of a certificate from the Department, an applicant or foster provider may request a contested case hearing to appeal the decision pursuant to ORS 183.413 to 183.470.

(2) The written request must be submitted within 10 days of the denial, suspension, revocation, or non-renewal notification date and must specifically state the reasons for the appeal.

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

**411-346-0240 Standards for Entry, Transfer, Exit, and Closure**  
(Adopted 11/01/2019)

(1) NON-DISCRIMINATION. A child considered for Department-funded services may not be denied services or otherwise discriminated against on the basis of race, color, religion, sex, gender identity, sexual orientation, national origin, marital status, age, disability, source of income, duration of Oregon residence, or other protected classes under federal and Oregon Civil Rights laws.

(2) QUALIFICATIONS FOR DEPARTMENT-FUNDED SERVICES. A child who enters a child foster home is subject to eligibility as described in this section. To be eligible for services in a child foster home, a child must meet the following requirements:

(a) Be an Oregon resident.

(b) Be receiving a Medicaid Title XIX (OHP) benefit package through OSIPM or the OCCS Medical Program.

(c) Be determined eligible for:

(A) Developmental disabilities services by the CDDP of the county of origin as described in OAR 411-320-0080; or

(B) Services for Aging and People with Disabilities as described in OAR chapter 411, division 015.

(d) Meet the level of care as defined in OAR 411-317-0000.

(e) Not receive other Department-funded in-home, community living support, or other services in another residential setting.

(3) ENTRY.

(a) A foster provider considering a child for entry into the child foster home must:

(A) Provide notification to the local CDDP of the intended entry prior to the child moving into the home.

(B) Be prior authorized to provide Medicaid-funded services to the child if the child is not private pay.

(C) Receive written permission from the Department prior to:

(i) A child under age 18 moving into a child foster home with individuals age 18 or older; or

(ii) An individual who turns 18 and continues to reside in a child foster home with children under the age of 18.

(D) Gather sufficient information to make an informed decision about the foster provider's ability to safely and adequately support the child.

(b) A foster provider must participate in an entry meeting with a child's case manager prior to delivering services to the child for services to be funded in the home.

(c) Prior to or upon an entry, a foster provider must demonstrate diligent efforts to acquire the following information about the child from the referring case management entity:

(A) A copy of the eligibility determination document.

(B) A statement indicating the safety skills, including the ability of the child to evacuate from a building when warned by a signal device and adjust water temperature for bathing and washing.

(C) A brief written history of any behavioral challenges, including supervision and support needs.

(D) A medical history and information on health care supports that includes (when available):

(i) The results of the most recent physical exam;

(ii) The results of any dental evaluation;

(iii) A record of immunizations;

(iv) A record of known communicable diseases and allergies; and

(v) A record of major illnesses and hospitalizations.

(E) A written record of any current or recommended medications, treatments, diets, and aids to physical functioning.

(F) A copy of the most recent functional needs assessment and previous functional needs assessment if the needs of the child have changed over time.

(G) Copies of protocols, the risk tracking record, and any support documentation (if available).

(H) Copies of documents relating to the guardianship, conservatorship, health care representation, power of attorney,

court orders, probation and parole information, or any other legal restrictions on the rights of the child (if applicable).

(I) Copies of medical decision-making documents, if applicable.

(J) Written documentation that the child is participating in out of residence activities, including public school enrollment for children or individuals less than 21 years of age.

(K) Written documentation to explain why preferences of the child or the child's guardian may not be implemented.

(L) A copy of the most recent Functional Behavior Assessment, Positive Behavior Support Plan, ISP or Service Agreement, Nursing Service Plan, and Individualized Education Plan (if available).

(d) If a child is being admitted from the child's family home and the information required in subsection (c) of this section is not available, the foster provider must assess the child upon entry for issues of immediate health or safety and document a plan to secure the remaining information no later than 30 calendar days after entry. The plan must include a written justification as to why the information is not available.

(e) A foster provider retains the right to deny entry of any child if the foster provider determines the support needs of the child may not be met by the foster provider or for any other reason not specifically prohibited by these rules.

#### (4) VOLUNTARY TRANSFERS AND EXITS.

(a) A foster provider must promptly notify a child's case manager if the child's guardian gives notice of the intent to exit or abruptly exits services. A child's guardian is not required to give notice to a foster provider if the child's guardian chooses to exit the child from the child foster home.

(b) A foster provider must notify a child's case manager prior to moving a child from one child foster home operated by the foster provider to a new residence operated by the same foster provider.

(c) Notification and authorization of the voluntary transfer or exit of the child must be documented in the record for the child.

(d) A foster provider is responsible for the provision of services until a child exits the child foster home when the exit is a voluntary exit from the child foster home.

#### (5) INVOLUNTARY REDUCTIONS, TRANSFERS, AND EXITS.

(a) A foster provider must only reduce services, transfer, or exit a child involuntarily for one or more of the following reasons:

(A) The behavior of the child poses an imminent risk of danger to self or others.

(B) The child experiences a medical emergency that results in the child requiring substantially increased ongoing support that the foster provider is unable to meet.

(C) The service needs of the child exceed the ability of the foster provider.

(D) Payment is not available from Medicaid or other third-party reimbursement.

(E) The foster provider's certificate for the home is suspended, revoked, not renewed, or voluntarily surrendered.

(F) The foster provider's Medicaid provider enrollment agreement or contract has been terminated.

(b) NOTICE OF INVOLUNTARY REDUCTION, TRANSFER, OR EXIT. A foster provider must not reduce services, transfer, or exit a child involuntarily without giving advance written notice 30 calendar days prior to the reduction, transfer, or exit. The notice of involuntary reduction, transfer, or exit must be provided to the child's guardian



and case manager, except in the case of a medical emergency or when a child is engaging in behavior that poses an imminent danger to self or others in the child foster home as described in subsection (c) of this section.

(A) The written notice must be provided on the applicable Department form and include:

(i) The reason for the reduction, transfer, or exit; and

(ii) The right of the child or the child's guardian on behalf of the child to a hearing as described in section (7) of this rule.

(B) A notice is not required when a child's guardian requests the reduction, transfer, or exit.

(c) A foster provider may give advance written notice less than 30 calendar days prior to an exit or transfer only in a medical emergency or when a child is engaging in behavior that poses an imminent danger to self or others in the child foster home and undue delay in moving the child increases the risk of harm. The notice must be provided to the child's guardian and case manager immediately upon the foster provider's determination of the need for a reduction, transfer, or exit.

(d) A foster provider must demonstrate through documentation, attempts to resolve the reason for the involuntary reduction, transfer, or exit, including consideration of alternatives to the reduction, transfer, or exit and engagement of the case manager in this process.

(e) A foster provider is responsible for the provision of services until the date of reduction, transfer, or exit identified in the notice, or when a child's guardian requests a hearing, until the hearing is resolved.

## (6) HEARING RIGHTS.

(a) A child, or child's guardian on behalf of the child, must be given the opportunity for a hearing under ORS chapter 183 and OAR 411-318-0030 to dispute an involuntary reduction, transfer, or exit, except

when a foster provider's certificate is revoked, not renewed, voluntarily surrendered, or the foster provider's Medicaid contract is terminated.

(b) If a child's guardian requests a hearing within 15 calendar days after the date of the notice and requests continuation of services, the child must receive the same services until the hearing is resolved.

(c) When a child has been given written notice less than 30 calendar days in advance of a transfer or exit as described in section (5)(c) of this rule and the child's guardian has requested a hearing, the foster provider must reserve the room of the child and avail services in accordance with the child's needs until receipt of the Final Order.

(d) A child's guardian may request an expedited hearing in accordance with OAR 411-318-0030.

(7) EXIT MEETING. A foster provider must participate in an exit meeting before any decision to exit a child is made, unless the exit meeting is waived in accordance with OAR 411-415-0080.

(8) CLOSURE. A foster provider must notify the Department and case management entity in writing prior to announcing a voluntary closure of a child foster home to the children and the children's guardians.

(a) The foster provider must give each child's guardian and the case management entity written notice 30 calendar days in advance of the planned closure, except in circumstances where undue delay might jeopardize the health, safety, or welfare of the children, the foster provider, or alternate caregivers.

(b) If the foster provider is moving the child foster home to a new residence, a child may not be moved without providing each child's guardian and the case management entity written notice 30 calendar days in advance of the planned move, unless prior approval is given and agreement obtained from the child's guardian and the case management entity.

(c) A foster provider must return the certificate for a child foster home to the Department if the child foster home closes prior to the expiration of the certificate.

Stat. Auth.: ORS 409.050 427.104, 443.835

Stats. Implemented: ORS 427.007, 427.104, 430.215, 443.830, 443.835

**411-346-0250 Foster Provider Eligibility for Medicaid Service Payment**  
*(Temporary Effective 09/17/2020 - 03/15/2021)*

(1) A foster provider must have an approved prior authorization for services in the Department's electronic payment and reporting system prior to entering a claim for a day of service. The prior authorization includes the dates of authorized services and the funding amount allocated for the services.

(2) A foster provider may only enter a claim for a day of service when:

(a) A child sleeps in the child foster home overnight; or

(b) A child does not sleep in the child foster home overnight, but intends to return to the child foster home, and the foster provider was responsible for an accumulated period of eight hours for the primary care, support, safety, and well-being of the child, including any of the following:

(A) Providing intermittent physical support or care.

(B) Providing stand-by support with the ability to respond in person within the response times agreed upon by the ISP team.

(C) Being responsible to communicate reciprocally within the response times agreed upon by the ISP team based on a child's identified support need and as documented in the child's most current ISP.

(3) A foster provider is not eligible to enter a claim for a day of service when a child:

(a) Has been admitted to an acute care hospital unless the child's ISP authorizes attendant care for the child in an acute care hospital and the day of service criteria in section (2)(b) of this rule is met. An ISP may only authorize attendant care for a child who has been admitted to an acute care hospital when the child has one of the following:

(A) Challenging behavior that interferes with getting medical care. The challenging behavior must require specific training or experience to support and must be able to be mitigated by the foster provider to an extent that medical care is improved.

(B) An inability to independently communicate with hospital staff that interferes with getting medical care. This must not be solely due to limited or emerging English proficiency.

(C) Support with one or more activities of daily living that may only be adequately met by someone familiar with the child.

(b) Has been admitted to a nursing facility;

(c) Has been admitted to a mental health facility;

(d) Is held in detention or jail; or

(e) Is outside the United States.

Stat. Auth.: ORS 409.050, 427.104, 443.835

Stats. Implemented: ORS 409.010, 427.007, 427.104, 430.215, 443.830, 443.835