NOTICE OF PROPOSED RULEMAKING FILING
INCLUDING STATEMENT OF NEED & FISCAL IMPACT
For internal agency use only.

Oregon Department of Human Services (ODHS)
Office of Developmental Disabilities Services (ODDS) — 411

Agency and Division Name — Administrative Rules Chapter Number

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FILING CAPTION

ODDS: Restraints in Foster Homes for Children with Developmental Disabilities (SB 710)

Last Date and Time for Public Comment: [March 29, 2022 at 11:00 p.m.]

Hearing Date	Time	Address/Teleconference	Hearings Officer
March 21, 2022	10:00 a.m.	Microsoft Teams Meeting 1-971-277-2343, 458 113 222# Click here to join the meeting	Staff
March 21, 2022	6:00 p.m.	Microsoft Teams Meeting 1-971-277-2343, 864 050 004# Click here to join the meeting	Staff

HEARING NOTES: Everyone has a right to know about and use ODHS programs and services. ODHS provides free help. Some examples of the free help ODHS can provide are sign language and spoken language interpreters, real-time captioning, written materials in other languages, braille, large print, audio, and other formats. If you need help or have questions, please contact Christina Hartman at 971-413-4225, 711 TTY, christina.hartman@dhsoha.state.or.us. If you need accommodations to participate in the public hearing, please request accommodations by March 14, 2022.

RULEMAKING ACTION

List each rule number separately (000-000-0000) below. Attach proposed, tracked changed text for each rule at the end of the filing.

ADOPT:
411-346-0195

AMEND:
411-346-0110, 411-346-0185, 411-346-0190

RULE SUMMARY

Include a summary for each rule included in this filing.

The Oregon Department of Human Services (ODHS), Office of Developmental Disabilities Services (ODDS) is proposing to make permanent changes to the following rules in OAR chapter 411, division 346 to implement the requirements of Senate Bill (SB) 710 (2021 Regular Session) about restraints in foster homes for children with developmental disabilities (CFH-DD):

- OAR 411-346-0110 about Definitions and Acronyms.
- OAR 411-346-0185 about Abuse and Incident Handling and Reporting.
- OAR 411-346-0190 about Standards and Practices for Care and Services.
- OAR 411-346-0195 about Restraint and Involuntary Seclusion.

Other changes may be made to these rules to correct grammatical errors, ensure consistent terminology, address issues identified during the public comment period, and improve the accuracy, structure, and clarity of the rule.

STATEMENT OF NEED

ODDS needs to make permanent changes to the following rules in OAR chapter 411, division 346 to implement the requirements of SB 710 about restraints in CFH-DDs:

- OAR 411-346-0110 about Definitions and Acronyms.
- OAR 411-346-0185 about Abuse and Incident Handling and Reporting.
- OAR 411-346-0190 about Standards and Practices for Care and Services.
- OAR 411-346-0195 about Restraint and Involuntary Seclusion.

Documents Relied Upon, and where they are available:

1. Senate Bill 710 (2021 Regular Session). Available at:
https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/SB710/Enrolled
2. 2021 Oregon Law, Chapter 672. Available at:
https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2021orlaw0672.pdf
3. ORS 418.519-418.529. Available at:
https://www.oregonlegislature.gov/bills_laws/ors/ors418.html

Statement Identifying How Adoption of Rule(s) Will Affect Racial Equity in this state:

Adoption of the proposed rule changes will advance racial equity in Oregon through increased provider training and accountability regarding the use of restraints, which will increase the protections for all children in Oregon receiving foster care services in CFH-DDs.

FISCAL IMPACT

Fiscal and Economic Impact:

The fiscal and economic impact is stated below in the cost of compliance statement. The fiscal and economic impact was evaluated as part of the Administrative Rules Advisory Committee process.

Cost of Compliance:
(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s).

The Department estimates the proposed rule changes to OAR chapter 411, division 346 will have the following fiscal and economic impact:

ODDS: No fiscal impact is expected. The proposed rule changes reflect the requirements of SB 710. Unlike other out-of-home settings, SB 710 does not require CFH-DD providers to submit data to ODDS. Therefore, there are no costs to ODDS associated with receiving and processing data.

Other State Agencies: No fiscal impact is expected. The proposed rule changes reflect statutory changes implemented by SB 710. Although SB 710 impacts other state agencies including Child Welfare and Child Caring Agencies, the ODDS rule changes do not direct action of these other state agencies and therefore, should not have a direct fiscal impact.

Case Management Entities (units of local government): The proposed rule changes require CFH-DD providers to submit an incident report to Case Management Entities (CMEs) when a restraint is used. Therefore, there may be a minor fiscal impact to CMEs associated with receiving and reviewing incident reports, as well as any necessary follow-up related to the incidents.

The CME Workload Model will be revisited on a regular basis to determine which measurements have been impacted by these changes. Until the CME Workload Model is revisited, ODDS is unable to estimate the overall impact of these rule changes.

Individuals Receiving Services: No fiscal impact is expected. The proposed rule changes provide additional protections to children receiving foster care services in CFH-DDs.

Providers: CFH-DD providers and their alternate caregivers are currently responsible for absorbing the costs of being trained in intervention techniques using an ODDS-approved behavior intervention curriculum. The proposed rule changes may have some fiscal impact to CFH-DD providers and their alternate caregivers due to the enhanced training requirements (potential increase in cost and time commitment) implemented by SB 710.

Members of the Public: No fiscal impact is expected.

(2) Effect on Small Businesses:
(a) Estimate the number and type of small businesses subject to the rule(s);

ODDS has determined the proposed rule changes may impact providers as described in the cost of compliance statement. There are approximately 286 CFH-DD providers, most of which may be considered a small business as defined in ORS 183.310.

(b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s);

The impact of the proposed rule changes is described in the cost of compliance statement.

(c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

The impact of the proposed rule changes is described in the cost of compliance statement.

Describe how small businesses were involved in the development of these rule(s)?

Small businesses as defined in ORS 183.310 are included in the public review and comment period.

Was an Administrative Rule Advisory Committee consulted? Yes or No?
If not, why not?

Yes. Solicitation for Administrative Rule Advisory Committee (RAC) participants was posted to the ODDS Engagement and Innovation website on November 15, 2021. The RAC was held on December 15, 2021.

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

411-346-0110 Definitions and Acronyms

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~~5) "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~~6) "Case Worker" means an employee of DHS-CW.

(~~8~~7) "CDDP" means "Community Developmental Disabilities Program".

(~~9~~8) "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~~9) "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~~10) "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~~11) "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~~12) "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~~13) "Child Placing Agency" means the Department, CDDP, or the OYA.

(~~15~~14) "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~~15) "Commercial Basis" means providing and receiving compensation for the temporary care of individuals not identified as members of the household.

(~~17~~16) "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~~17) "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~~18) "Department" means the Oregon Department of Human Services.

(~~20~~19) "DHS-CW" means the child welfare program area within the Department.

(~~21~~20) "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~~21) "Emergency Certificate" means a certificate issued for 30 calendar days.

(~~23~~22) "Foster Care" means a child is placed away from their parent or

guardian in a certified child foster home.

(~~24~~23) "Foster Provider" means the certified care provider who resides at the address listed on a certificate. A foster provider is a mandatory reporter.

(~~25~~24) "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~~25) "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~~26) "ICWA" means the Indian Child Welfare Act.

(~~28~~27) "IEP" means "Individualized Education Program".

(28) "Involuntary Seclusion" means the confinement of a child alone in a room from which the child is prevented from leaving by any means. Involuntary seclusion does not include time-out if the time-out is in a common area of the home from which the child is not prevented from leaving and used as a positive behavior support practice that meets the requirements in OAR 411-346-0190(9)(c)(A)-(C).

(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) "ODDS" means the Oregon Department of Human Services, Office of Developmental Disabilities Services.

(~~38~~39) "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) "Prone Restraint" means a restraint in which a child is held face down on the floor or other surface.

(~~43~~44) "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~~45) "Punishment" means the imposition of a penalty as retribution for an offense or unwanted behavior.

(~~45~~46) "Qualified Mental Health Professional" means a licensed medical practitioner or any other meeting the minimum qualifications specified in OAR 309-019-0125.

(47) "Restraint" means the physical restriction of a child's actions or movements by holding the child, using pressure, or other means.

(~~46~~48) "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.

(49) "Serious Bodily Injury" means any significant impairment of the physical condition of a child or others, as determined by qualified medical personnel, whether self-inflicted or inflicted by someone else.

(~~47~~50) "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.

(51) "Supine Restraint" means a restraint in which a child is held face up on the floor or other surface.

(~~48~~52) "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~~53) "These Rules" mean the rules in OAR chapter 411, division 346.

(~~50~~54) "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~~55) "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~~56) "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 409.010, 418.519-418.523, 427.007, 427.104, 430.215, 443.830, 443.835

411-346-0185 Abuse and Incident Handling and Reporting

(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 the use of a restraint.~~:~~

~~(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 a restraint.

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

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

(~~F~~G) 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 409.010, 418.519-418.523, 427.007, 427.104, 430.215, 443.830, 443.835

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

(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~~INDIVIDUALLY-BASED LIMITATIONS.

(a) A foster provider may not place any limitations on a child's home and community-based freedoms described in OAR 411-004-0020 without an individually-based limitation consistent with OAR 411-415-0070(3), except when all of the following conditions have been met:

(A) The child is under the age of 18.

(B) The limitation is consistent with community parenting standards for children of the same age who do not experience

disabilities.

(C) The foster provider, child's parent or legal guardian, and the ISP team identify and agree upon the limitation appropriate for the child.

(~~a~~b) 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, or OAR 411-346-0195(2).

(~~b~~c) ~~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, a~~Prior to implementation, an individually-based limitation must be authorized and documented in the child's ISP in accordance with OAR 411-415-0070.

(~~c~~d) When an individually-based limitation is implemented for a child, ~~A~~ 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~~Behavior support practices must not include 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 or isolation of a child from others.

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

~~(P) Use of aversive stimuli.~~

(P) Use or threatened use of a prone restraint.

(Q) Use or threatened use of a supine restraint.

(R) Use of practices that are abusive, aversive, coercive, disciplinary, demeaning, retaliatory, or for convenience.

(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 safeguarding intervention must meet the requirements of OAR 411-346-0195.

(~~a~~b) A designated person must only use a safeguarding intervention or safeguarding equipment ~~when:~~according to OAR 411-346-0195.

~~(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~~c) 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(3) and section (3) of this rule.

(~~c~~d) 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~~e) A designated person must not use any safeguarding intervention or safeguarding equipment not meeting the standards set forth in this rule or OAR 411-346-0195 even when the use is directed by the child or ~~their~~ the child's parent, guardian, or representative, regardless of the child's age.

(11) RESTRAINT. The use of a restraint must meet the requirements in OAR 411-346-0195.

~~(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, 418.519-418.523, 427.007, 427.104, 430.215, 443.830, 443.835

411-346-0195 Restraint and Involuntary Seclusion

(1) PROHIBITIONS

(a) A child may not be placed in involuntary seclusion.

(b) A child may not be placed in a restraint except as described in section (2) of this rule.

(c) The use of any of the following types of restraint of a child is prohibited:

(A) A restraint with any of the following characteristics:

(i) Abusive.

(ii) Aversive.

(iii) Coercive.

(iv) Demeaning.

(v) Disciplinary.

(vi) For convenience.

(vii) Punishment.

(viii) Retaliatory.

(B) Chemical restraint.

(C) Mechanical restraint.

(D) Prone restraint.

(E) Supine restraint.

(F) Any restraint that includes the intentional use of a solid object, including the ground, a wall, or the floor, to impede a child's movement, unless the restraint is necessary to gain control of a weapon. The use of a solid object is not prohibited when the object is used solely for the stability and support of the person placing the child in a restraint and the object does not apply pressure to the child's body.

(G) Any restraint that places, or creates a risk of placing, pressure on a child's neck or throat.

(H) Any restraint that places, or creates a risk of placing, pressure on a child's mouth, unless the restraint is necessary for the purpose of extracting a body part from a bite.

(I) Any restraint that impedes, or creates a risk of impeding, a child's breathing.

(J) Any restraint that involves the intentional placement of hands, feet, elbows, knees, or any object on a child's neck, throat, genitals, or other intimate parts.

(K) Any restraint that causes pressure to be placed, or creates a risk of causing pressure to be placed, on a child's stomach, chest, joints, throat, or back by a knee, foot, or elbow.

(L) Any other restraint, the primary purpose of which is to inflict pain.

(2) PERMISSIBLE USE OF RESTRAINT.

(a) Except as otherwise provided in this rule, a child may only be placed in a restraint if the child's behavior poses a reasonable risk of imminent serious bodily injury to the child or others and less restrictive interventions would not effectively reduce that risk.

(b) A restraint may only be used on a child if:

(A) The restraint is necessary to break up a physical fight or to effectively protect a person from an assault, serious bodily injury, or sexual contact;

(B) The restraint uses the least amount of physical force and contact possible; and

(C) The restraint is not a prohibited restraint described in section (1)(c) of this rule.

(c) The following restraints are not subject to the requirements described in subsection (b) of this section.

(A) Holding the child's hand or arm to escort the child safely and without the use of force from one area to another.

(B) Assisting the child to complete a task if the child does not resist the physical contact.

(C) The use of safeguarding equipment to address a child's medical condition or medical support need when the safeguarding equipment is included in a medical order written

by the child's licensed health care provider and implemented consistent with the medical order.

(D) The use of safeguarding equipment to address a child's behavior support need when the safeguarding equipment is included in the child's Positive Behavior Support Plan.

(E) The use of acceptable infant safety products.

(F) The use of car safety systems, consistent with applicable state law.

(3) TRAINING REQUIREMENTS. With the exception of restraints described in section (2)(c) of this rule, each person placing a child in a restraint must be trained by a certified trainer using an ODDS-approved behavior intervention curriculum, to administer the type of restraint used.

(4) EFFECTIVE DATE. This rule implements the requirements of Senate Bill 710 (2021 Oregon Law, Chapter 672) that took effect on September 1, 2021.

Stat. Auth.: ORS 409.050, 427.104, 443.835
Stats. Implemented: ORS 409.010, 418.519-418.523, 427.007, 427.104, 430.215, 443.830, 443.835