

**TEMPORARY FILING  
INCLUDING STATEMENT OF NEED & JUSTIFICATION**

*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**

*(15 words or less)*

ODDS: Restraints for Children in 24-Hour Residential and Host Home Settings (SB 710)

Agency Approved Date: [ October 19, 2021 ]

Effective Date: [ October 20, 2021 ] through [ April 17, 2022 ]

**RULEMAKING ACTION**

*List each rule number separately (000-000-0000). Attach clean text for each rule at the end of the filing*

**ADOPT:**

411-325-0352, 411-325-0355, 411-348-0355

**AMEND:**

411-325-0020, 411-325-0350, 411-348-0020, 411-348-0350

**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 immediately updating the following rules in OAR chapter 411, divisions 325 and 348 to implement the requirements of Senate Bill 710 (2021 Oregon Law, Chapter 672) about restraints for children in 24-hour residential and host home settings that took effect on September 1, 2021:

- OAR 411-325-0020 about Definitions and Acronyms for 24-Hour Residential Settings.
- OAR 411-325-0350 about Behavior Supports and Physical Restraints for Adults in 24-Hour Residential Settings.
- OAR 411-325-0352 about Behavior Supports for Children in 24-Hour Residential Settings.
- OAR 411-325-0355 about Restraint and Involuntary Seclusion of a Child in a 24-Hour Residential Setting.
- OAR 411-348-0020 about Definitions and Acronyms for Host Home Settings.

- OAR 411-348-0350 about Behavior Supports for Host Home Settings.
- OAR 411-348-0355 about Restraint and Involuntary Seclusion for Host Home Settings.

### **STATEMENT OF NEED AND JUSTIFICATION**

**Need for the Rule(s):**

ODDS needs to temporarily update the following rules in OAR chapter 411, divisions 325 and 348 to implement the requirements of Senate Bill 710 (2021 Oregon Law, Chapter 672) about restraints for children in 24-hour residential and host home settings that took effect on September 1, 2021:

- OAR 411-325-0020 about Definitions and Acronyms for 24-Hour Residential Settings.
- OAR 411-325-0350 about Behavior Supports and Physical Restraints for Adults in 24-Hour Residential Settings.
- OAR 411-325-0352 about Behavior Supports for Children in 24-Hour Residential Settings.
- OAR 411-325-0355 about Restraint and Involuntary Seclusion of a Child in a 24-Hour Residential Setting.
- OAR 411-348-0020 about Definitions and Acronyms for Host Home Settings.
- OAR 411-348-0350 about Behavior Supports for Host Home Settings.
- OAR 411-348-0355 about Restraint and Involuntary Seclusion for Host Home Settings.

ODDS needs to proceed by filing temporary rule changes to immediately comply with Oregon Law.

**Justification of Temporary Filing:**

Failure to act promptly and temporarily update the rules in OAR chapter 411, divisions 325 and 348 will result in serious prejudice to children receiving developmental services in 24-hour residential or host home settings, agencies delivering services in 24-hour residential or host home settings, and ODDS.

Failure to act promptly and temporarily update the rules in OAR chapter 411, divisions 325 and 348 will prevent ODDS from complying with recent changes to Oregon Law.

The rules in OAR chapter 411, divisions 325 and 348 need to be temporarily updated to immediately:

- Implement Senate Bill 710 (2021 Oregon Law, Chapter 672) that took effect on September 1, 2021; and
- Provide additional protections for children receiving services in 24-hour residential or host home settings.

**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](https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2021orlaw0672.pdf)

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

**CHAPTER 411  
DIVISION 325**

**24-HOUR RESIDENTIAL PROGRAMS AND SETTINGS FOR CHILDREN  
AND ADULTS WITH INTELLECTUAL OR DEVELOPMENTAL  
DISABILITIES**

**411-325-0020 Definitions and Acronyms**

*(Temporary Effective 10/20/2021 - 04/17/2022)*

In addition to the following definitions, OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 325. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

- (1) "24-Hour Residential Program" means the distinct method for the delivery of home and community-based services in a 24-hour residential setting by a provider certified and endorsed according to the rules in OAR chapter 411, division 323.
- (2) "24-Hour Residential Setting" means a residential home, apartment, or duplex, licensed by the Department under ORS 443.410, where home and community-based services are provided to individuals with intellectual or developmental disabilities. A 24-hour residential setting is considered a provider owned, controlled, or operated residential setting.
- (3) "Apartment" means "24-hour residential setting" as defined in this rule.
- (4) "Applicant" means a person, agency, corporation, or governmental unit, who applies for a license to deliver home and community-based services in a 24-hour residential setting.
- (5) "CDDP" means "Community Developmental Disabilities Program".
- (6) "Certificate" means the document issued by the Department to a provider that certifies the provider is eligible under the rules in OAR chapter

411, division 323 to receive state funds for the delivery of services through an endorsed 24-hour residential setting.

(7) "Denial" means the refusal of the Department to issue a certificate, endorsement, or license to operate a 24-hour residential program or 24-hour residential setting because the Department has determined the provider or the home is not in compliance with these rules or the rules in OAR chapter 411, division 323.

(8) "Duplex" means "24-hour residential setting" as defined in this rule.

(9) "Educational Surrogate" means the person who acts in place of the parent of a child in safeguarding the rights of the 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 the child has a disability and is a ward of the state.

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

(10) "Endorsement" means the authorization to deliver services in a 24-hour residential setting. An endorsement is issued by the Department to a certified provider that has met the qualification criteria outlined in these rules and the rules in OAR chapter 411, division 323.

(11) "Executive Director" means the person designated by a board of directors or corporate owner responsible for the operation of a 24-hour residential program and the delivery of services in a 24-hour residential setting.

(12) "Home" means "24-hour residential setting" as defined in this rule.

(13) "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 age-appropriate time-out if the time-out is in a setting from which the child is not prevented from leaving.

(~~1314~~) "ISP" means "Individual Support Plan".

(~~1415~~) "License" means a document granted by the Department to an applicant who is in compliance with the requirements of these rules and the rules in OAR chapter 411, division 323.

(~~1516~~) "Licensee" means the person or organization to whom a certificate, endorsement, and license is granted.

(~~1617~~) "Modified Diet" means the texture or consistency of food or drink is altered or limited, such as no hard foods, thickened fluids, mechanical soft, finely chopped, pureed, or bread only soaked in milk.

(~~1718~~) "Nursing Services" means the provision of individual-specific advice, plans, or interventions by a nurse at a home based on the nursing process as outlined by the Oregon State Board of Nursing. Nursing services differ from administrative nursing services.

(~~1819~~) "OCCS" means the "Office of Client and Community Services".

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

(~~1921~~) "OIS" means "Oregon Intervention System".

(~~2022~~) "Oregon Core Competencies" means:

(a) The list of skills and knowledge required for newly hired staff in the areas of health, safety, rights, values and personal regard, and the mission of the provider.

(b) The associated timelines in which newly hired staff must demonstrate the competencies.

(~~2123~~) "OSIPM" means "Oregon Supplemental Income Program-Medical".

(24) "Program Supervisor" is a trained program provider staff person who is designated by the Executive Director to authorize the ongoing application of the restraint of a child according to OAR 411-325-0355.

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

(26) "Reportable Injury" means any type of injury to a child from the use of a restraint, including but not limited to, a rug burn, fracture, sprain, bruising, pain, soft tissue injury, puncture, scratch, concussion, abrasion, dizziness, loss of consciousness, loss of vision, visual disturbance, or death.

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

(~~2228~~) "Revocation" means the action taken by the Department to rescind a certificate, endorsement, or license to operate a 24-hour residential program or 24-hour residential setting after the Department determines a provider or home is not in compliance with one or more of these rules or the rules in OAR chapter 411, division 323.

(29) "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.

(~~2330~~) "Special Diets" means the specially prepared food or particular types of food specific to the medical condition or diagnosis of an individual and in support of an evidence-based treatment regimen. Examples of special diets include, but are not limited to, low calorie, high fiber, diabetic, low salt, lactose free, or ~~low fat~~low-fat diets. Special diets do not include a diet where extra or additional food is offered without the order of a physician but may not be eaten, such as offering prunes each morning at breakfast or including fresh fruit with each meal.

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

(~~2432~~) "Suspension" means an immediate temporary withdrawal of the approval to operate a 24-hour residential program or 24-hour residential setting after the Department determines a provider or home is not in compliance with one or more of these rules or the rules in OAR chapter 411, division 323.

(~~2533~~) "These Rules" mean the rules in OAR chapter 411, division 325.

Stat. Auth.: ORS 409.050, [427.104](#), 441.715, 443.450, 443.455, [SB 710 \(2021 OR Law, Ch. 672\)](#)

Stats. Implemented: ORS [409.010](#), [427.007](#), [427.104](#), 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991, [SB 710 \(2021 OR Law, Ch. 672\)](#)

**411-325-0350 Behavior Supports and Physical Restraints [for Adults](#)**  
(Temporary Effective 10/20/2021 - 04/17/2022)

For the purpose of this rule, a designated person is the person implementing the behavior supports identified in an [individual's-adult's](#) Positive Behavior Support Plan.

(1) BEHAVIOR SUPPORTS. Professional behavior services and behavior supports must be delivered in accordance with OAR 411-323-0060(4).

(2) SAFEGUARDING INTERVENTIONS AND SAFEGUARDING EQUIPMENT.

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

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

(B) MEDICAL. Used to address an [individual's-adult's](#) medical condition or medical support need, the safeguarding intervention or safeguarding equipment is included in a medical order written by the [individual's-adult's](#) licensed health care provider and implemented consistent with the medical order.

(b) The [individual adult](#), or as applicable their legal representative, must provide consent for the safeguarding intervention or safeguarding equipment through an individually-based limitation in



accordance with OAR 411-325-0430.

(c) Prior to utilizing 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 ~~individual's~~ adult'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 utilize any safeguarding intervention or safeguarding equipment not meeting the standards set forth in this rule even when the use is directed by the ~~individual~~ adult or their legal or designated representative, ~~regardless of the individual's age.~~

### (3) EMERGENCY PHYSICAL RESTRAINTS.

(a) The use of an emergency physical restraint when not written into a Positive Behavior Support Plan, not authorized in an ~~individual's~~ adult's ISP, and not consented to by the ~~individual~~ adult 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 ~~individual~~ adult or others or when the ~~individual's~~ adult'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 ~~individual~~ adult or others.

(b) The use of an emergency physical restraint 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.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455

Stats. Implemented: ORS 409.010, 427.007, 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991

**411-325-0352 Behavior Supports for Children**  
*(Temporary Effective 10/20/2021 - 04/17/2022)*

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.

(1) BEHAVIOR SUPPORTS. Professional behavior services and behavior supports must be delivered in accordance with OAR 411-323-0060(4).

(2) Behavior supports must not include any of the following characteristics:

- (a) Abusive.
- (b) Aversive.
- (c) Coercive.
- (d) For convenience.
- (e) Disciplinary.
- (f) Demeaning.
- (g) Mechanical restraint.
- (h) Prone or supine restraint.
- (i) Pain compliance.
- (j) Punishment.
- (k) Retaliatory.

(3) PROFESSIONAL BEHAVIOR SERVICES. Professional behavior services may be provided to a child based on the child's specific identified need for services to address challenging behavior in accordance with OAR chapter 411, division 304.

(a) When professional behavior services are provided to a child, a program provider must:

(A) Coordinate with the behavior professional and the child's ISP team to ensure the professional behavior services and behavior supports being provided are sufficient to meet the behavioral support needs of the child; and

(B) Implement the Positive Behavior Support Plan, or appropriate portions therein, as agreed upon by the child's ISP team.

(b) A program provider may deliver professional behavior services to a child under the following conditions:

(A) The 24-hour residential program must be endorsed to OAR chapter 411, division 304 for professional behavior services in accordance with OAR chapter 411, division 323;

(B) The behavior professional must meet the qualifications described in OAR 411-304-0170;

(C) The behavior professional must be the choice of the child's parent or guardian for professional behavior services;

(D) Professional behavior services are not delivered to children enrolled to receive services in a 24-hour residential program for the convenience of the behavior professional or program provider; and

(E) The 24-hour residential program meets the requirements as an enrolled Medicaid Provider as described in OAR chapter 411, division 370, and has a separate and distinct Medicaid Provider number for the provision of professional behavior services.

(c) A Positive Behavior Support Plan must be developed and implemented when Department funds are used for professional behavior services. The provision of professional behavior services must be authorized by a child's case manager and identified in the child's ISP.

#### (4) SAFEGUARDING INTERVENTIONS AND SAFEGUARDING EQUIPMENT.

(a) A safeguarding intervention is also a restraint and must meet the requirements of OAR 411-325-0355.

(b) A designated person must only utilize a safeguarding intervention or safeguarding equipment according to OAR 411-325-0355.

(c) The child's parent or guardian must provide consent for the

safeguarding intervention or safeguarding equipment through an individually-based limitation in accordance with OAR 411-325-0430.

(d) Prior to utilizing 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.

(e) A designated person must not utilize any safeguarding intervention or safeguarding equipment not meeting the standards set forth in this rule or OAR 411-325-0355 even when the use is directed by the child or the child's parent or guardian, regardless of the child's age.

(5) RESTRAINT. The use of a restraint must meet the requirements in OAR 411-325-0355.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455, SB 710 (2021 OR Law, Ch. 672)

Stats. Implemented: ORS 409.010, 427.007, 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991, SB 710 (2021 OR Law, Ch. 672)

**411-325-0355 Restraint and Involuntary Seclusion of a Child**  
*(Temporary Effective 10/20/2021 - 04/17/2022)*

(1) PROHIBITIONS.

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

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

(c) The use of the following types of restraint of a child are 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 nonincidental 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.

(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 the 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) In addition to the restraints described in subsection (b) of this section, a child may be placed in a restraint if:

(A) The restraint is used only for as long as the child's behavior poses a reasonable risk of imminent serious bodily injury;

(B) The person placing the child in the restraint is trained, as described in section (3) of this rule, in the use of the type of restraint used;

(C) The program provider continuously monitors the child for the duration of the restraint; and

(D) The restraint is performed in a manner that is safe, proportionate, and appropriate, taking into consideration the child's:

(i) Chronological and developmental age;

(ii) Size;

(iii) Gender identity;

(iv) Physical, medical, and psychiatric condition; and

(v) Personal history, including any history of physical or sexual abuse.

(d) The following restraints are not subject to the requirements outlined in subsections (b) or (c) 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 acceptable infant safety products.

(E) The use of car safety systems, consistent with applicable



state law.

(e) In addition to the requirements described in subsection (c) of this section, if a program provider places a child in a restraint for more than 10 minutes, the program provider must:

(A) Provide the child with adequate access to the bathroom and water at least every 30 minutes; and

(B) Receive authorization for the continuation of the restraint by a Program Supervisor every five minutes after the first 10 minutes of the restraint.

(i) The Program Supervisor must be trained in the ODDS-approved behavior intervention curriculum, specifically in the type of restraint being used.

(ii) If the Program Supervisor is not on-site at the time the restraint is used, the Program Supervisor may provide the written authorization electronically. The written authorization must document why the restraint continues to be the least restrictive intervention to reduce the risk of imminent serious bodily injury in the given circumstances.

(3) TRAINING REQUIREMENTS. With the exception of restraints described in section (2)(d) 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) POLICY AND PROCEDURE. A program provider must develop and implement written policies and procedures when a child is placed in a restraint according to this rule.

(5) NOTIFICATION OF RESTRAINT.

(a) If a program provider places a child in a restraint, except as provided in section (2)(d) of this rule, the program provider must provide the child's case manager, attorney, court appointed special advocate, and parents or guardians with:

(A) Verbal or electronic notice that a restraint was used as soon as practicable following the restraint but not later than the end of the next business day; and

(B) Written notice as described in subsection (b) of this section as soon as practicable following the incident but not later than the end of the next business day.

(b) WRITTEN NOTICE. The written notice must include:

(A) A description of the restraint including all of the following:

(i) The date of the restraint.

(ii) The times when the restraint began and ended.

(iii) The location of the restraint.

(B) A description of the child's activity that necessitated the use of the restraint.

(C) The efforts the program provider used to deescalate the situation and the alternatives to restraint attempted before placing the child in the restraint or involuntary seclusion.

(D) The names of each person who placed the child in the restraint and who monitored or approved the placement of the child in the restraint including all of the following:

(i) Whether the person was trained as required by this rule in the use of the type of restraint used, the date of the person's most recent training, and a description of the types of restraint the person is trained to use, if any.

(ii) If a person was not trained in the type of restraint, or if the person's training was not current, a description of the person's training deficiency and the reason the person without the proper training was involved in the restraint.

(c) DEBRIEFING MEETING.

(A) When notification is required as described in subsection (b) of this section, the program provider must hold a debriefing meeting with each person involved in the restraint and with any other appropriate staff.

(B) The debriefing meeting must be held no later than two business days following the date of the restraint.

(C) Written notes of each debriefing meeting must be taken and provided to the child's case manager, attorney, court appointed special advocate, and parent or guardian.

(d) If serious bodily injury or the death of staff occurs in connection to the use of a restraint, the program provider must provide ODDS with written notification of the incident not later than 24 hours following the incident.

#### (6) REPORTABLE INJURY.

(a) A program provider must maintain a record for each incident in which a reportable injury arises from the use of a restraint.

(b) If a program provider places a child in a restraint and the child suffers a reportable injury arising from the restraint, the program provider must immediately provide ODDS and the child's attorney, court appointed special advocate, and parent or guardian with written notification of the incident and upon request, access to copies of all records related to the restraint or involuntary seclusion, including any photographs.

(7) INCIDENT REPORTING. In addition to the notice requirements in section (5)(b) of this rule, all incidents involving restraint must be documented in an incident report as required by OAR 411-323-0063.

(8) QUARTERLY REPORTING. Beginning September 1, 2021, a program provider must provide to ODDS data regarding the use of restraints in a quarterly report. The report must be thoroughly and accurately completed using the ODDS approved form and submitted quarterly.

(a) If a program provider delivers services in more than one 24-hour residential setting, the quarterly reports must separate the data for each 24-hour residential setting that serves five or more children.

(b) If the site-specific data for a given 24-hour residential setting is not included in the quarterly report because the program provider serves fewer than five children in that setting, the quarterly report must include the aggregate number of children served by the program provider across all of its 24-hour residential settings and the reporting requirements described in this section still apply to any of the program provider's other settings serving five or more children.—

(c) ODDS shall make the quarterly report available on ODDS' website.

(d) Each program provider that submits a quarterly report under this section shall make the quarterly report available to the public upon request at the program provider's main office and on the program provider's website if the program provider maintains a website.

(e) Each program provider shall provide notice regarding how to access the quarterly reports to the parents or guardians of children in the 24-hour residential program. The program provider shall provide the notice upon the child's admission and at least two times each year thereafter.

(f) Restraints described in section (2)(d) of this rule are not subject to the reporting requirements of this section.

(9) 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, 441.715, 443.450, 443.455, SB 710 (2021 OR Law, Ch. 672)

Stats. Implemented: ORS 409.010, 427.007, 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991, SB 710 (2021 OR Law, Ch. 672)

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

**CHAPTER 411  
DIVISION 348**

**HOST HOME PROGRAMS AND SETTINGS FOR CHILDREN  
WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES**

**411-348-0020 Definitions and Acronyms**

*(Temporary Effective 10/20/2021 - 04/17/2022)*

In addition to the following definitions, OAR 411-317-0000 includes general definitions for words and terms frequently used in OAR chapter 411, division 348. If a word or term is defined differently in OAR 411-317-0000, the definition in this rule applies.

(1) "Alternative Care" means attendant care support for a child delivered in a setting other than the child's family home or Host Home to allow for respite for the in-residence caregiver. Alternative care arrangements are made in accordance with OAR 411-348-0410.

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

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

(4) "Emergency Escape and Rescue Opening" refers to an opening accessible from the interior of a Host Home that allows for egress without the use of tools, keys, or special knowledge.

(5) "Executive Director" means the person designated by a board of directors or corporate owner responsible for the operation of a Host Home Program and the delivery of services in a Host Home.

(56) "Host Home" means a residential training home per ORS 443.400 that is a community-based family home setting licensed by the Department according to these rules to provide home and community-based services to children with intellectual or developmental disabilities. Host Homes are

community homes featuring an in-residence caregiver serving in a parental role with the support of additional staff to deliver intensive care and support to children in a family home environment.

(~~67~~) "Host Home Program" means a Medicaid provider agency certified and endorsed according to OAR chapter 411, division 323 to operate a licensed Host Home according to these rules.

(~~78~~) "IEP" means "Individualized Education Program".

(~~89~~) "In-Residence Caregiver" means the caregiver who utilizes a Host Home as their primary residence and assumes ownership, rental, or lease responsibility for the property of the Host Home. An in-residence caregiver is unrelated to children enrolled to receive services in a Host Home.

(10) "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 age-appropriate time-out if the time-out is in a setting from which the child is not prevented from leaving.

(~~911~~) "ISP" means "Individual Support Plan".

(~~4012~~) "ODDS" means the Oregon Department of Human Services, Office of Developmental Disabilities Services.

(~~4413~~) "Program Provider" means the Host Home Program certified and endorsed according to OAR chapter 411, division 323 to operate a licensed Host Home according to these rules.

(14) "Program Supervisor" is a trained program provider staff person who is designated by the Executive Director to authorize the ongoing application of the restraint of a child according to OAR 411-348-0355.

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

(16) "Reportable Injury" means any type of injury to a child from the use of a restraint, including but not limited to, a rug burn, fracture, sprain, bruising, pain, soft tissue injury, puncture, scratch, concussion, abrasion, dizziness, loss of consciousness, loss of vision, visual disturbance, or death.

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

(18) "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.

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

(~~4220~~) "These Rules" mean the rules in OAR chapter 411, division 348.

(~~4321~~) "Transition Support" means planning and other efforts to support a child entering into or exiting from a placement in a Host Home.

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455, SB 710 (2021 OR Law, Ch. 672)

Stats. Implemented: ORS 409.010, 427.007, 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991, SB 710 (2021 OR Law, Ch. 672)

**411-348-0350 Behavior Supports and Physical Restraints**  
(Temporary Effective 10/20/2021 - 04/17/2022)

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.

(1) BEHAVIOR SUPPORTS. Professional behavior services and behavior supports must be delivered in accordance with OAR 411-323-0060(4).

(2) Behavior supports must not include any of the following characteristics:

(a) Abusive.

(b) Aversive.

(c) Coercive.

(d) For convenience.

(e) Disciplinary.

(f) Demeaning.

(g) Mechanical restraint.

(h) Prone or supine restraint.

(i) Pain compliance.

(j) Punishment.

(k) Retaliatory.

**(23) PROFESSIONAL BEHAVIOR SERVICES.** Professional behavior services may be provided to a child based on the child's specific identified need for services to address challenging behavior in accordance with OAR chapter 411, division 304.

(a) When professional behavior services are provided to a child, a program provider, including the in-residence caregiver and staff, must:

(A) Coordinate with the behavior professional and the child's ISP team to ensure the professional behavior services and behavior supports being provided are sufficient to meet the behavioral support needs of the child; and

(B) Implement the Positive Behavior Support Plan, or appropriate portions therein, as agreed upon by the child's ISP team.

(b) A Host Home Program may deliver professional behavior services to a child under the following conditions:

(A) The Host Home Program must be endorsed to OAR chapter 411, division 304 for professional behavior services in accordance with OAR chapter 411, division 323;



(B) The behavior professional must meet the qualifications described in OAR 411-304-0170;

(C) The behavior professional must be the choice of the child's parent or guardian for professional behavior services;

(D) Professional behavior services are not delivered to children enrolled to receive services in a Host Home for the convenience of the behavior professional or program provider; and

(E) The Host Home Program meets the requirements as an enrolled Medicaid Provider as described in OAR chapter 411, division 370, and has a separate and distinct Medicaid Provider number for the provision of professional behavior services.

(c) A Positive Behavior Support Plan must be developed and implemented when Department funds are used for professional behavior services. The provision of professional behavior services must be authorized by a child's case manager and identified in the child's ISP.

#### (34) SAFEGUARDING INTERVENTIONS AND SAFEGUARDING EQUIPMENT.

(a) A safeguarding intervention is also a restraint and must meet the requirements of OAR 411-348-0355.

(ba) A designated person must only utilize a safeguarding intervention or safeguarding equipment ~~when~~ according to OAR 411-348-0355.

~~(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 licensed health care provider and implemented consistent with the medical order.~~

(bc) The child's parent or guardian must provide consent for the safeguarding intervention or safeguarding equipment through an individually-based limitation in accordance with OAR 411-348-0430.

(ed) Prior to utilizing 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.

(de) A designated person must not utilize any safeguarding intervention or safeguarding equipment not meeting the standards set forth in this rule or OAR 411-348-0355 even when the use is directed by the child or the child's parent or guardian, regardless of the child's age.

(5) RESTRAINT. The use of a restraint must meet the requirements in OAR 411-348-0355.

~~(4) 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, or not consented to by the child's parent or guardian 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 an emergency physical restraint 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.~~

Stat. Auth.: ORS 409.050, 427.104, 441.715, 443.450, 443.455, SB 710 (2021 OR Law, Ch. 672)

Stats. Implemented: ORS 409.010, 427.007, 427.104, 441.705-441.720, 441.740, 441.745, 443.384, 443.392, 443.400-443.445, 443.450, 443.455, 443.880, 443.881, 443.991, SB 710 (2021 OR Law, Ch. 672)

**411-348-0355 Restraint and Involuntary Seclusion**  
(Temporary Effective 10/20/2021 - 04/17/2022)

(1) PROHIBITIONS.

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

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

(c) The use of the following types of restraint of a child are 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 nonincidental 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.

(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 the 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) In addition to the restraints described in subsection (b) of this section, a child may be placed in a restraint if:

(A) The restraint is used only for as long as the child's behavior poses a reasonable risk of imminent serious bodily injury;

(B) The person placing the child in the restraint is trained, as described in section (3) of this rule, in the use of the type of restraint used;

(C) The program provider staff or in-residence caregiver continuously monitors the child for the duration of the restraint; and

(D) The restraint is performed in a manner that is safe, proportionate, and appropriate, taking into consideration the child's:

(i) Chronological and developmental age;

(ii) Size;

(iii) Gender identity;

(iv) Physical, medical, and psychiatric condition; and

(v) Personal history, including any history of physical or sexual abuse.

(d) The following restraints are not subject to the requirements outlined in subsections (b) or (c) 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 acceptable infant safety products.

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

(e) In addition to the requirements described in subsection (c) of this section, if a program provider staff or in-residence caregiver places a child in a restraint for more than 10 minutes, the program provider staff or in-residence caregiver must:

(A) Provide the child with adequate access to the bathroom and water at least every 30 minutes; and

(B) Receive authorization for the continuation of the restraint by a Program Supervisor every five minutes after the first 10 minutes of the restraint.

(i) The Program Supervisor must be trained in the ODDS-approved behavior intervention curriculum, specifically in the type of restraint being used.

(ii) If the Program Supervisor is not on-site at the time the restraint is used, the Program Supervisor may provide the written authorization electronically. The written authorization must document why the restraint continues to be the least restrictive intervention to reduce the risk of imminent serious bodily injury in the given circumstances.

(3) TRAINING REQUIREMENTS. With the exception of restraints described in section (2)(d) 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) POLICY AND PROCEDURE. A program provider must develop and implement written policies and procedures for the in-residence caregiver and program provider staff to follow when a child is placed in a restraint according to this rule.

(5) NOTIFICATION OF RESTRAINT.

(a) If a program provider staff or in-residence caregiver places a child in a restraint, except as provided in section (2)(d) of this rule, the program provider staff or in-residence caregiver must provide the child's case manager, attorney, court appointed special advocate, and parents or guardians with:

(A) Verbal or electronic notice that a restraint was used as soon as practicable following the restraint but not later than the end of the next business day; and

(B) Written notice as described in subsection (b) of this section as soon as practicable following the incident but not later than the end of the next business day.

(b) WRITTEN NOTICE. The written notice must include:

(A) A description of the restraint including all of the following:

(i) The date of the restraint.

(ii) The times when the restraint began and ended.

(iii) The location of the restraint.

(B) A description of the child's activity that necessitated the use of the restraint.

(C) The efforts the program provider staff or in-residence caregiver used to deescalate the situation and the alternatives to restraint attempted before placing the child in the restraint or involuntary seclusion.

(D) The names of each person who placed the child in the



restraint and who monitored or approved the placement of the child in the restraint including all of the following:

(i) Whether the person was trained as required by this rule in the use of the type of restraint used, the date of the person's most recent training, and a description of the types of restraint the person is trained to use, if any.

(ii) If a person was not trained in the type of restraint, or if the person's training was not current, a description of the person's training deficiency and the reason the person without the proper training was involved in the restraint.

(c) DEBRIEFING MEETING.

(A) When notification is required as described in subsection (b) of this section, the program provider must hold a debriefing meeting with each person involved in the restraint and with any other appropriate staff.

(B) The debriefing meeting must be held no later than two business days following the date of the restraint.

(C) Written notes of each debriefing meeting must be taken and provided to the child's case manager, attorney, court appointed special advocate, and parent or guardian.

(d) If serious bodily injury or the death of staff occurs in connection to the use of a restraint, the program provider must provide ODDS with written notification of the incident not later than 24 hours following the incident.

(6) REPORTABLE INJURY.

(a) A program provider must maintain a record for each incident in which a reportable injury arises from the use of a restraint.

(b) If a program provider staff or in-residence caregiver places a child in a restraint and the child suffers a reportable injury arising from the restraint, the program provider must immediately provide ODDS and

the child's attorney, court appointed special advocate, and parent or guardian with written notification of the incident and upon request, access to copies of all records related to the restraint or involuntary seclusion, including any photographs.

(7) INCIDENT REPORTING. In addition to the notice requirements in section (5)(b) of this rule, all incidents involving restraint must be documented in an incident report as required by OAR 411-323-0063.

(8) QUARTERLY REPORTING. Beginning September 1, 2021, a program provider must provide to ODDS data regarding the use of restraints in a quarterly report. The report must be thoroughly and accurately completed using the ODDS approved form and submitted quarterly.

(a) The quarterly report must include the aggregate number of children served by the program across all of its Host Home locations.-

(b) ODDS shall make the quarterly report available on ODDS' website.

(c) Each program that submits a quarterly report under this section shall make its quarterly report available to the public upon request at the program's main office and on the program's website if the program maintains a website.

(d) Each program shall provide notice regarding how to access the quarterly reports to the parents or guardians of children in the program. The program shall provide the notice upon the child's admission and at least two times each year thereafter.

(e) Restraints described in section (2)(d) of this rule are not subject to reporting requirements of this section.

(9) 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, 441.715, 443.450, 443.455, SB 710 (2021 OR Law, Ch. 672)

Stats. Implemented: ORS 409.010, 427.007, 427.104, 441.705-441.720,

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