

Central Background Registry

414-061-0000

Purpose

- (1) The Office of Child Care (OCC) will conduct criminal records checks and child protective services records checks on subject individuals, as defined in OAR 414-061-0030, for enrollment of subject individuals in the Central Background Registry.
- (2) These rules provide guidelines on how OCC obtains criminal records and child protective services records on subject individuals, applies such information to its determination about the suitability of the subject individual, and enrolls approved subject individuals in the Central Background Registry.

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0010

Scope of Rules

- (1) Consistent with the purposes of these rules, OCC will issue decisions about persons defined as subject individuals as to their suitability to be enrolled in the Central Background Registry and employed in programs defined as "Requesting Agencies" in OAR 414-061-0020(17).
- (2) These rules (OAR 414-061-0000 through 414-061-0120) shall be construed and implemented consistent with the regulations governing:
 - (a) Child care licensing in OAR 414-205-0000 through 414-205-0170, 414-300-0000 through 414-300-0415, and 414-350-0000 through 414-350-0405;
 - (b) Pre-kindergarten programs in OAR 581-019-0005 through 581-019-0035;
 - (c) Parent-as-teacher programs in OAR 581-019-0050 through 581-019-0080; and
 - (d) Early childhood special education and early intervention programs in OAR 581-015-2700 through 581-015-2910.

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0020

Definitions

- (1) "Agency Agreement" means the written agreement between the Oregon State Police and the Oregon Office of Child Care.
- (2) "Child Protective Services Records" means information on child abuse and neglect cases.
- (3) "Computerized Criminal History (CCH) System" means the on-line computer files of significant criminal offender information maintained by the Oregon State Police (OSP).

- (4) "Conditional Enrollment" means temporary approval to be enrolled in the Central Background Registry following an OSP criminal records check and child protective services records check but prior to receipt by OCC of the results of a required FBI criminal records check.
- (5) "Criminal Records" means information, including fingerprints and photographs, received, compiled, and disseminated by the Oregon State Police for purposes of identifying criminal offenders and alleged offenders and maintained as to such persons' records of arrest, the nature and disposition of criminal charges, sentencing, confinement, and release and includes the OSP Computerized Criminal History System.
- (6) "Early Childhood Care and Education Program" means a regulated child care facility, federally-funded Head Start program, Oregon Department of Education funded pre-kindergarten program, parent-as-teacher program, or early childhood special education/early intervention program.
- (7) "Employee" means any individual caring for, overseeing, or who has or may have access to children, who holds a paid position in a requesting agency.
- (8) "Employee of the Early Learning Division" means any individual employed by the Early Learning Division.
- (9) "Enrollment" means approval for a two-year period to be enrolled in the Central Background Registry following an OSP criminal records check, child protective services records check and, if required, an FBI records check.
- (10) "Fee" means the charges assessed by the subject individual for processing each criminal records check and/or fingerprint-based criminal records check.
- (11) "FBI" means the Federal Bureau of Investigation.
- (12) "Fingerprint-Based Criminal Records" means criminal offender information compiled and maintained by the Federal Bureau of Investigation.
- (13) "Incident" means the commission of a Category I or Category II crime or a child protective services case.
- (14) "OCC" means the Office of Child Care of the Early Learning Division of the Department of Education.
- (15) "OSP" means the Oregon State Police.
- (16) "Reciprocal Agreement Program" includes:
- (a) A metropolitan service district organized under ORS chapter 268; and
 - (b) A private agency or organization facilitating the provision of respite services, as defined in ORS 418.205, for parents pursuant to a properly executed power of attorney under ORS 109.056.
- (17) "Requesting Agency" means a childhood care and education program or individual providing care to children that is:
- (a) Regulated by OCC under ORS 329A.280 or 329A.330; or
 - (b) An early childhood care and education program.
- (18) "Unsupervised Contact with Children" means contact with children that provides the person opportunity for personal communication or touch when not under the direct supervision of a child care provider or staff with supervisory authority.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD

1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0030

Subject Individuals

(1) For purposes of criminal records checks, including fingerprint-based criminal records checks, and child protective services records checks, "Subject Individual" means a person who is or applies to be:

- (a) The owner, operator or an employee or volunteer of a certified, registered or otherwise regulated facility caring for children that is subject to the jurisdiction of OCC;
- (b) The operator or an employee of an Oregon pre-kindergarten program or parent-as-teacher program under ORS 329.170 to 329.200;
- (c) The operator or an employee of a federal Head Start Program regulated by the United States Department of Health and Human Services;
- (d) A designated employee or a contractor with the Early Learning Division;
- (e) A contractor or an employee of the contractor who provides early childhood special education or early intervention services pursuant to ORS 343.455 to 343.534; or
- (f) A child care provider who is required to be enrolled in the Central Background Registry by any state agency.
- (g) A designated contractor, employee or volunteer of a Metro Service District.
- (h) A provider of respite services as defined in ORS 418.205 for parents pursuant to a properly executed power of attorney under ORS 109.056.

(2) An individual in any of the above facilities or programs who may have unsupervised contact with children is also a subject individual. This includes but is not limited to permanent or temporary residents in the home or facility or persons visiting on a regular basis.

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0040

Limitations of Inquiries

(1) Only OCC employees who have been fingerprinted and cleared by the Oregon State Police shall access or have access to criminal records information pursuant to a valid agency agreement, as defined in OAR 414-061-0020(1). All such information shall be handled in compliance with the agency agreement and rules and procedures of the Oregon State Police relating to the criminal records information (OAR 257-015-0000 to 257-015-0100). It is the responsibility of OCC to assure strict compliance with federal and state laws, rules, and procedures regarding, access, dissemination, maintenance, and destruction of criminal records information.

(2) Criminal records information obtained from OSP and/or the FBI will not be used for any purpose other than that for which it was obtained nor given to unauthorized persons or agencies.

(3) Criminal records information, including fingerprint-based criminal records information, and child protective services information shall be obtained by OCC to determine whether a subject

individual has criminal information or has child protective services history which is related to enrollment in the Central Background Registry.

(4) If a subject individual has been convicted of a crime which is related to enrollment in the Central Background Registry, the subject individual will be notified by OCC that he or she:

(a) Has a right to inspect and challenge the accuracy of his/her Oregon criminal records by contacting the Oregon State Police;

(b) May challenge the accuracy or completeness of any entry on the subject individual's criminal records provided by the FBI by filing a challenge with the FBI's CJIS Division; and

(c) May inspect his/her own OSP record, but not his/her FBI record, by requesting the opportunity from OCC in writing.

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0050

History to be Considered

(1) OCC has determined that serious felonies and misdemeanors involving violence or unauthorized sexual conduct, especially with children or otherwise vulnerable persons, is fundamentally inconsistent with any responsibility for care of children. Conviction of crimes listed in Category I of this rule shall disqualify a subject individual from being enrolled in the Central Background Registry, unless the subject individual provides sufficient evidence of suitability as described in section (10) of this rule.

(a) OCC will consider conviction of the following crimes for 15 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 15 years will run from the date of arrest, citation, charge, or conviction whichever is later.

(A) 163.165 Assault in the third degree

(B) 163.515 Bigamy

(C) 164.225 Burglary in the first degree

(D) 163.275 Coercion

(E) 163.200 Criminal mistreatment in the second degree

(F) 163.555 Criminal nonsupport

(G) 163.225 Kidnapping in the second degree

(H) 166.270 Possession of weapons by certain felons

(I) 166.720 Racketeering activity unlawful; penalties

(J) 164.405 Robbery in the second degree

(K) 164.395 Robbery in the third degree

(L) 163.445 Sexual misconduct

(M) 163.732 Stalking

(N) 162.185 Supplying contraband

(O) 166.220 Unlawful use of weapon

(P) 163.257 Custodial interference in the first degree

(b) OCC will consider conviction of the following crimes for 20 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 20 years will run from the date of arrest, citation, charge, or conviction whichever is later.

- (A) 166.087 Abuse of corpse in the first degree
- (B) 166.085 Abuse of corpse in the second degree
- (C) 167.262 Use of minor in controlled substance offense
- (D) 164.325 Arson in the first degree
- (E) 163.185 Assault in the first degree
- (F) 163.175 Assault in the second degree
- (G) 475.908 Causing another person to ingest a controlled substance
- (H) 167.017 Compelling prostitution
- (I) 163.205 Criminal mistreatment in the first degree
- (J) 163.145 Criminally negligent homicide
- (K) 162.165 Escape in the first degree
- (L) 163.693 Failure to report child pornography
- (M) 181.812 Failure to report as sex offender; defense
- (N) 166.429 Firearms used in felony
- (O) 163.525 Incest
- (P) 166.165 Intimidation in the first degree
- (Q) 166.155 Intimidation in the second degree
- (R) 163.235 Kidnapping in the first degree
- (S) 163.118 Manslaughter in the first degree
- (T) 163.125 Manslaughter in the second degree
- (U) 166.382 Possession of destructive device prohibited; exceptions
- (V) 166.275 Possession of weapons by inmates of institutions
- (W) 167.012 Promoting prostitution
- (X) 167.090 Publicly displaying nudity or sex for advertising purposes
- (Y) 163.355 Rape in the third degree
- (Z) 164.415 Robbery in the first degree
- (AA) 167.062 Sadoomasochistic abuse or sexual conduct in live show
- (BB) 167.212 Tampering with drug records
- (CC) 164.075 Theft by extortion
- (DD) 163.479 Unlawful contact with a child
- (EE) 166.384 Unlawful manufacture of destructive device
- (FF) 166.660 Unlawful paramilitary activity
- (GG) 166.272 Unlawful possession of machine guns, certain short-barreled firearms and firearms silencers
- (HH) 163.212 Unlawful use of an electrical stun gun, tear gas or mace in the second degree
- (II) 163.476 Unlawfully being in a location where children regularly congregate

(c) OCC will consider the following crimes regardless of the length of time since the conviction.

- (A) 163.535 Abandonment of a child
- (B) 163.095 "Aggravated murder" defined
- (C) 163.149 Aggravated vehicular homicide
- (D) 163.537 Buying or selling a person under 18 years of age
- (E) 163.547 Child neglect in the first degree
- (F) 163.545 Child neglect in the second degree

- (G) 167.820 Concealing the birth of an infant
 - (H) 163.435 Contributing to the sexual delinquency of a minor
 - (I) 163.005 Criminal homicide
 - (J) 163.452 Custodial sexual misconduct in the first degree
 - (K) 163.454 Custodial sexual misconduct in the second degree
 - (L) 167.080 Displaying obscene materials to minors
 - (M) 163.684 Encouraging child sexual abuse in the first degree
 - (N) 163.686 Encouraging child sexual abuse in the second degree
 - (O) 163.687 Encouraging child sexual abuse in the third degree
 - (P) 163.575 Endangering the welfare of a minor
 - (Q) 167.075 Exhibiting an obscene performance to a minor
 - (R) 163.207 Female genital mutilation
 - (S) 167.057 Luring a minor
 - (T) 163.115 Murder; affirmative defense to certain felony murders; sentence of life imprisonment required; minimum term
 - (U) 163.433 Online sexual corruption of a child in the first degree
 - (V) 163.432 Online sexual corruption of a child in the second degree
 - (W) 166.370 Possession of firearm or dangerous weapon in public building or court facility exception; discharging a firearm in a school
 - (X) 163.688 Possession of materials depicting sexually explicit conduct of a child in the first degree
 - (Y) 163.689 Possession of materials depicting sexually explicit conduct of a child in the second degree
 - (Z) 163.375 Rape in the first degree
 - (AA) 163.365 Rape in the second degree
 - (BB) 163.427 Sexual abuse in the first degree
 - (CC) 163.425 Sexual abuse in the second degree
 - (DD) 163.415 Sexual abuse in the third degree
 - (EE) 167.333 Sexual assault of an animal
 - (FF) 163.405 Sodomy in the first degree
 - (GG) 163.395 Sodomy in the second degree
 - (HH) 163.385 Sodomy in the third degree
 - (II) 433.010 Spreading disease prohibited; health certificates to be issued by physicians; rules
 - (JJ) 163.187 Strangulation
 - (KK) 163.264 Subjecting another person to involuntary servitude in the first degree
 - (LL) 163.263 Subjecting another person to involuntary servitude in the second degree
 - (MM) 163.266 Trafficking in persons
 - (NN) 163.670 Using child in display of sexually explicit conduct
 - (OO) 163.411 Unlawful sexual penetration in the first degree
 - (PP) 163.408 Unlawful sexual penetration in the second degree
 - (QQ) 163.213 Unlawful use of an electrical stun gun, tear gas or mace in the first degree
- (2) OCC has further determined that felonies and misdemeanors involving theft, fraud, or deception, crimes against the state and public justice, and major traffic violations may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual was convicted of a crime listed in Category II of this rule, OCC will seek to obtain and review

information on all intervening circumstances and other background information related to criminal activity, subject to section (10) of this rule. OCC will make a determination whether an individual is suitable for enrollment in the Central Background Registry based on all information available.

(a) OCC will consider conviction of the following crimes for 5 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 5 years will run from the date of arrest, citation, charge, or conviction whichever is later.

(A) 162.015 Bribe giving

(B) 162.025 Bribe receiving

(C) 162.275 Bribe receiving by a witness

(D) 162.265 Bribing a witness

(E) 162.335 Compounding

(F) 811.182 Criminal driving while suspended or revoked; penalties

(G) 164.354 Criminal mischief in the second degree

(H) 192.865 Criminal penalty (192.852 Prohibition on obtaining actual address or telephone number; prohibition on disclosure by employee of public body)

(I) 165.022 Criminal possession of a forged instrument in the first degree

(J) 165.017 Criminal possession of a forged instrument in the second degree

(K) 165.032 Criminal possession of a forgery device

(L) 164.245 Criminal trespass in the second degree

(M) 166.025 Disorderly conduct in the second degree

(N) 830.475 Duties of operators and witnesses at accidents (failure to perform the duties of an operator of a boat)

(O) 162.145 Escape in the third degree

(P) 162.205 Failure to appear in the first degree

(Q) 162.195 Failure to appear in the second degree

(R) 811.705 Failure to perform duties of driver to injured persons; penalty (hit and run, injury)

(S) 811.700 Failure to perform duties of driver when property is damaged; penalty (hit and run, property)

(T) 165.007 Forgery in the second degree

(U) 418.630 Foster home must be certified as approved

(V) 165.570 Improper use of emergency reporting system

(W) 162.375 Initiating a false report

(X) 165.572 Interference with making a report

(Y) 162.257 Interfering with a firefighter or emergency medical services provider

(Z) 162.247 Interfering with a peace officer or parole and probation officer

(AA) 166.116 Interfering with public transportation

(BB) 418.327 Licensing of certain schools and organizations offering residential programs; fees; rules

(CC) 166.095 Misconduct with emergency telephone calls

(DD) 162.425 Misuse of confidential information

(EE) 166.450 Obliteration or change of identification number on firearms

(FF) 162.235 Obstructing governmental or judicial administration

(GG) 162.415 Official misconduct in the first degree

(HH) 162.405 Official misconduct in the second degree

- (II) 830.325 Operating boat while under the influence of intoxicating liquor or controlled substance
- (JJ) 167.431 Participation in cockfighting
- (KK) 167.370 Participation in dogfighting
- (LL) 162.065 Perjury
- (MM) 165.070 Possessing fraudulent communications device
- (NN) 164.235 Possession of a burglary tool or theft device
- (OO) 164.335 Reckless burning
- (PP) 811.140 Reckless driving; penalty
- (QQ) 811.231 Reckless endangerment of highway workers; penalties
- (RR) 830.315 Reckless operation; speed (boat)
- (SS) 162.315 Resisting arrest
- (TT) 165.090 Sports bribe receiving
- (UU) 165.085 Sports bribery
- (VV) 411.675 Submitting wrongful claim for payment of public assistance or medical assistance
- (WW) 162.295 Tampering with physical evidence
- (XX) 162.305 Tampering with public records
- (YY) 164.045 Theft in the second degree
- (ZZ) 166.649 Throwing an object off an overpass in the second degree
- (AAA) 033.045 Types of sanctions (Contempt of Court)
- (BBB) 162.175 Unauthorized departure
- (CCC) 165.074 Unlawful factoring of payment card transaction
- (DDD) 165.810 Unlawful possession of a personal identification device
- (EEE) 165.813 Unlawful possession of fictitious identification
- (FFF) 411.840 Unlawfully obtaining or disposing of supplemental nutrition assistance
- (GGG) 411.630 Unlawfully obtaining public assistance or medical assistance
- (HHH) 811.060 Vehicular assault of bicyclist or pedestrian; penalty
- (III) 163.750 Violating a court's stalking protective order
- (b) OCC will consider conviction of the following crimes for 7 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 7 years will run from the date of arrest, citation, charge, or conviction whichever is later.
- (A) 163.196 Aggravate driving while suspended or revoked
- (B) 167.340 Animal abandonment
- (C) 167.330 Animal neglect in the first degree
- (D) 167.325 Animal neglect in the second degree
- (E) 166.240 Carrying of concealed weapons
- (F) 164.365 Criminal mischief in the first degree
- (G) 166.023 Disorderly conduct in the first degree
- (H) 813.010 Driving under the influence of intoxicants; penalty
- (I) 314.075 Evading requirements of law prohibited (tax evasion)
- (J) 475.918 Falsifying drug test results
- (K) 811.540 Fleeing or attempting to elude police officer; penalty
- (L) 166.065 Harassment
- (M) 609.098 Maintaining dangerous dog
- (N) 830.325 Operating boat while under influence of intoxicating liquor or controlled substance
- (O) 163.195 Recklessly endangering another person

- (P) 162.285 Tampering with a witness
- (Q) 166.090 Telephonic harassment
- (R) 166.651 Throwing an object off an overpass in the first degree
- (S) 164.135 Unauthorized use of a vehicle
- (T) 166.250 Unlawful possession of firearms
- (U) 167.808 Unlawful possession of inhalants
- (V) 133.310 Authority of peace officer to arrest without warrant (Violation of restraining order)
- (c) OCC will consider conviction of the following crimes for 10 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 10 years will run from the date of arrest, citation, charge, or conviction whichever is later.
- (A) 165.803 Aggravated identity theft
- (B) 167.315 Animal abuse in the second degree
- (C) 164.215 Burglary in the second degree
- (D) 165.581 Cellular counterfeiting in the first degree
- (E) 167.428 Cockfighting
- (F) 164.377 Computer crime
- (G) 162.365 Criminal impersonation
- (H) 162.367 Criminal impersonation of peace officer
- (I) 164.138 Criminal possession of a rented or leased motor vehicle
- (J) 164.255 Criminal trespass in the first degree
- (K) 164.265 Criminal trespass while in possession of a firearm
- (L) 163.245 Custodial interference in the second degree
- (M) 167.365 Dogfighting
- (N) 165.013 Forgery in the first degree
- (O) 165.055 Fraudulent use of a credit card
- (P) 165.800 Identity theft
- (Q) 167.355 Involvement in animal fighting
- (R) 166.470 Limitations and conditions for sales of firearms
- (S) 164.162 Mail theft or receipt of stolen mail
- (T) 163.190 Menacing
- (U) 164.098 Organized retail theft
- (V) 166.190 Pointing firearm at another; courts having jurisdiction over offense
- (W) 819.300 Possession of a stolen vehicle; penalty
- (X) 162.369 Possession of false law enforcement identification card
- (Y) 163.467 Private indecency
- (Z) 685.990 Penalties (pertaining to naturopathic medicine)
- (AA) 677.080 Prohibited acts (regarding the practice of medicine)
- (BB) 471.410 Providing liquor to person under 21 or to intoxicated person; allowing consumption by minor on property; mandatory minimum penalties
- (CC) 689.527 Prohibited practices; rules (pertaining to pharmacy technicians and practitioners)
- (DD) 166.480 Sale or gift of explosives to children
- (EE) 164.085 Theft by deception
- (FF) 164.095 Theft by receiving
- (GG) 164.055 Theft in the first degree
- (HH) 164.125 Theft of services
- (II) 164.272 Unlawful entry into a motor vehicle

- (d) OCC will consider conviction of the following crimes for 15 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 15 years will run from the date of arrest, citation, charge, or conviction whichever is later.
- (A) 167.322 Aggravated animal abuse in the first degree
 - (B) 166.070 Aggravated harassment
 - (C) 164.057 Aggravated theft in the first degree
 - (D) 167.320 Animal abuse in the first degree
 - (E) 164.315 Arson in the second degree
 - (F) 163.160 Assault in the fourth degree
 - (G) 163.208 Assaulting a public safety officer
 - (H) 167.339 Assaulting a law enforcement animal
 - (I) 475.900 Crime category classification; proof of commercial drug offense
 - (J) 475.962 Distribution of equipment, solvent, reagent, or precursor substance with intent to facilitate manufacture of controlled substance
 - (K) 164.172 Engaging in a financial transaction in property derived from unlawful activity
 - (L) 162.155 Escape in the second degree
 - (M) 475.955 Failure to report missing precursor substances
 - (N) 475.950 Failure to report precursor substance transaction
 - (O) 167.222 Frequenting a place where controlled substances are used
 - (P) 162.325 Hindering prosecution
 - (Q) 475.960 Illegally selling drug equipment
 - (R) 167.352 Interfering with an assistance, a search and rescue or a therapy animal
 - (S) 167.337 Interfering with law enforcement animal
 - (T) 163.700 Invasion of personal privacy
 - (U) 164.170 Laundering a monetary instrument
 - (V) 165.117 Metal property transaction records; prohibited conduct; commercial sellers; penalties
 - (W) 166.180 Negligently wounding another
 - (X) 475.967 Possession of precursor substance with intent to manufacture controlled substance
 - (Y) 475.977 Possession or disposing of methamphetamine manufacturing waste
 - (Z) 475.914 Prohibited acts for registrants; penalties
 - (AA) 475.752 Prohibited acts generally; penalties; affirmative defense for certain peyote uses; causing death by Schedule IV substance
 - (BB) 475.916 Prohibited acts involving records and fraud; penalties
 - (CC) 167.007 Prostitution
 - (DD) 475.965 Providing false information on precursor substance report or record
 - (EE) 163.465 Public indecency
 - (FF) 166.015 Riot
 - (GG) 475.525 Sale of drug paraphernalia prohibited; definition of drug paraphernalia; exceptions
 - (HH) 166.005 Treason
 - (II) 475.870 Unlawful delivery of 3,4-methylenedioxy- methamphetamine
 - (JJ) 475.880 Unlawful delivery of cocaine
 - (KK) 475.850 Unlawful delivery of heroin
 - (LL) 475.810 Unlawful delivery of hydrocodone
 - (MM) 475.912 Unlawful delivery of imitation controlled substance
 - (NN) 475.860 Unlawful delivery of marijuana

- (OO) 475.820 Unlawful delivery of methadone
- (PP) 475.890 Unlawful delivery of methamphetamine
- (QQ) 475.830 Unlawful delivery of oxycodone
- (RR) 475.866 Unlawful manufacture of 3,4-methylene- dioxymethamphetamine
- (SS) 475.876 Unlawful manufacture of cocaine
- (TT) 475.846 Unlawful manufacture of heroin
- (UU) 475.806 Unlawful manufacture of hydrocodone
- (VV) 475.856 Unlawful manufacture of marijuana
- (WW) 475.816 Unlawful manufacture of methadone
- (XX) 475.886 Unlawful manufacture of methamphetamine
- (YY) 475.826 Unlawful manufacture of oxycodone
- (ZZ) 475.814 Unlawful possession of hydrocodone
- (AAA) 475.824 Unlawful possession of methadone
- (BBB) 475.834 Unlawful possession of oxycodone
- (CCC) 475.874 Unlawful possession of 3,4-methylenedioxy-methamphetamine
- (DDD) 475.971 Unlawful possession of anhydrous ammonia
- (EEE) 475.884 Unlawful possession of cocaine
- (FFF) 475.854 Unlawful possession of heroin
- (GGG) 475.975 Unlawful possession of iodine in its elemental form; recording transfers; unlawful distribution of iodine in its elemental form
- (HHH) 475.976 Unlawful possession of iodine matrix; recording transfers; unlawful distribution of iodine matrix
- (III) 475.979 Unlawful possession of lithium metal or sodium metal
- (JJJ) 475.864 Unlawful possession of marijuana or marijuana product
- (KKK) 475.894 Unlawful possession of methamphetamine
- (LLL) 475.969 Unlawful possession of phosphorus
- (e) OCC will consider conviction of the following crimes for 20 years or less prior to the date the subject individual signed the Application for Enrollment in OCC's Central Background Registry. The 20 years will run from the date of arrest, citation, or conviction whichever is later.
- (A) 475.910 Application of controlled substance to the body of another person; prohibition
- (B) 475.906 Penalties for unlawful delivery to minors
- (C) 475.744 Providing hypodermic device to minor prohibited; exception
- (D) 463.263 Subjecting another person to involuntary servitude in the second degree
- (E) 475.872 Unlawful delivery of 3,4-methylenedioxy- methamphetamine within 1,000 feet of school
- (F) 475.882 Unlawful delivery of cocaine within 1,000 feet of school
- (G) 475.852 Unlawful delivery of heroin within 1,000 feet of school
- (H) 475.812 Unlawful delivery of hydrocodone within 1,000 feet of school
- (I) 475.862 Unlawful delivery of marijuana within 1,000 feet of school
- (J) 475.822 Unlawful delivery of methadone within 1,000 feet of school
- (K) 475.892 Unlawful delivery of methamphetamine within 1,000 feet of school
- (L) 475.832 Unlawful delivery of oxycodone within 1,000 feet of school
- (M) 475.868 Unlawful manufacture of 3,4-methylene- dioxymethamphetamine within 1,000 feet of school
- (N) 475.878 Unlawful manufacture of cocaine within 1,000 feet of school
- (O) 475.848 Unlawful manufacture of heroin within 1,000 feet of school

- (P) 475.808 Unlawful manufacture of hydrocodone within 1,000 feet of school
- (Q) 475.858 Unlawful manufacture of marijuana within 1,000 feet of school
- (R) 475.818 Unlawful manufacture of methadone within 1,000 feet of school
- (S) 475.888 Unlawful manufacture of methamphetamine within 1,000 feet of school
- (T) 475.828 Unlawful manufacture of oxycodone within 1,000 feet of school
- (U) 475.904 Unlawful manufacture or delivery of controlled substance within 1,000 feet of school

(3) These rules also apply to:

- (a) A conviction of a crime in another jurisdiction which is the substantial equivalent of a crime listed in Category I and II;
- (b) An adjudication of guilt by reason of insanity, of an act that is the substantial equivalent of a crime listed in Category I and II;
- (c) An adjudication by a juvenile court that a youth has committed an act that is the substantial equivalent of a crime listed in Category I and II;
- (d) Any attempts, conspiracies or solicitations to commit any Felony or Misdemeanor crime listed in Category I and II;
- (e) A new crime, adopted by the legislature following the most recent amendment of these rules, which is the substantial equivalent of any crimes listed in Category I and II;
- (f) Any crime that is no longer codified in Oregon, but which is the substantial equivalent of any of the crimes listed in Category I and II;
- (g) Any felony in Oregon Revised Statutes not listed in Category I and II that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by OCC;
- (h) Any misdemeanor in Oregon Revised Statutes not listed in Category I and II that is serious and indicates behavior that poses a threat or jeopardizes the safety of vulnerable persons, as determined by OCC; and
- (i) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(4) OCC has determined that a negative history involving a vulnerable population may substantially jeopardize the safety of children and is inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual has a child protective services history or a negative history involving other populations, OCC will seek to obtain and review information related to the history, subject to section (10) of this rule. Based on this information, OCC will make a decision whether or not to enroll, suspend or remove the subject individual in or from the Central Background Registry.

(5) The OCC has determined that firearm prohibition orders or guilt by the exception of insanity, may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual has an active firearm prohibition order or guilty by the exception of insanity, OCC will seek to obtain and review information related to the case, subject to section (10) of this rule. Based on this information, OCC will make a decision whether or not to enroll, suspend, or remove the subject individual in or from the Central Background Registry.

(6) If OCC determines a subject individual who has demonstrated behavior that may have a detrimental effect on a child or indicates behavior that may jeopardize the safety of a child, OCC will make a decision whether or not to enroll, suspend, or remove the subject individual in or from the Central Background Registry.

(7) If OCC determines a subject individual is a registered sex offender in Oregon or any other jurisdiction, OCC will make a decision whether or not to enroll, suspend, or remove the subject individual in or from the Central Background Registry.

(8) If a subject individual is in a diversion program or similar agreement for any Category I or Category II crime, the subject individual must provide written documentation of compliance with the terms of diversion or similar agreement. Based on all information obtained, OCC will make a decision whether or not to enroll, suspend or remove the subject individual in or from the Central Background Registry.

(9) If OCC determines that additional information is needed to assess a person's suitability to be enrolled or remain enrolled in the Central Background Registry, the subject individual shall provide the requested information within the required timeframes. The additional information may include, but is not limited to, an evaluation or assessment by a physician, counselor or other qualified person, documents to determine positive identification of the subject individual, and court documents.

(10) Factors to be considered in determining suitability, based on information available to OCC and information provided by the subject individual, include:

(a) Types and number of incidences;

(b) Passage of time since the incident occurred;

(c) Circumstances surrounding the incident;

(d) Intervening circumstances since the occurrence of the incident; and

(e) Relationship of the facts under subsections (a) through (d) of this section to the individual's suitability to work with children.

(11) OCC will not bar from enrollment in the Central Background Registry any subject individual because of the existence or contents of a juvenile record that has been expunged by the court.

[ED. NOTE: Table referenced are available from the agency.]

Stat. Auth.: ORS 329A.030

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0060

Requirements of Requesting Agencies

Requesting agencies, as defined in OAR 414-061-0020(17), must comply with the following requirements:

(1) A requesting agency's application forms must contain a notice that employees and other persons who are subject individuals must be enrolled in the Central Background Registry and that employment is subject to fingerprinting and criminal records checks.

(2) A requesting agency may hire a subject individual on a probationary basis if the subject individual is conditionally enrolled in the Central Background Registry. A requesting agency may hire a subject individual on a permanent basis if the subject individual is enrolled in the Central Background Registry.

(3) A requesting agency shall not hire or continue to employ on a probationary or permanent basis an individual if the individual is not enrolled in the Central Background Registry or has been removed from the Central Background Registry and has not been re-enrolled.

(4) A requesting agency may allow a subject individual who is not yet enrolled or conditionally enrolled in the Central Background Registry to participate in training, orientation and work activities if the training, orientation and work activities are at a location other than the child care facility or are conducted at the facility when children are not present and the subject individual is not in contact with any children.

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0065

Requirements for Reciprocal Agreement Programs

A reciprocal agreement program must enter into a reciprocal agreement with OCC that provides for sharing information on enrollment status of the individuals described in OAR 414-061-0020(16)(a) and (b) respectively, and for the recovery of administrative, including direct and indirect costs incurred by OCC from the participation in the agreement.

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist. : CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0070

Procedures for Conducting Oregon State Police Criminal Records Checks and Child Protective Services Record Checks

(1) Subject individuals shall consent to a criminal records check of the Oregon State Police Computerized Criminal History (CCH) System and a child protective services check at the time they request enrollment in the Central Background Registry.

(2) Central Background Registry enrollment forms shall contain notice that criminal records checks will be conducted as required by ORS 181.534 and 329A.030. The form shall also contain notice that child protective services checks will be conducted.

(3) Subject individuals shall provide all information required for a criminal records check and a child protective services check; including:

(a) A properly completed and signed Application for Enrollment in OCC's Central Background Registry;

(b) For a subject individual who acknowledges a prior criminal offense, as listed in OAR 414-061-0050, or a child protective services record, an explanation of the relationship of the facts that support the criminal offense or child protective services record and intervening circumstances. Upon request of OCC, the subject individual must authorize OCC to verify information provided by the individual; and

(c) Consent to the use of their social security numbers for criminal and child protective services records checks, for identifying enrollees in the Central Background Registry, for sharing

information with other agencies to verify child care licensing status for child care payments, and for compiling statistical information for program planning and evaluation.

(4) OCC will review the criminal records information, child protective services information, and any additional information and will determine whether or not a subject individual may be enrolled in the Central Background Registry.

(5) Fees for each name checked through OSP CCH and child protective services systems are as follows:

(a) No charge for designated Early Learning Division employees; and

(b) OCC will charge the subject individual up to the amount equal to the cost incurred by OCC for criminal record checks and child protective services checks and enrollment in the Central Background Registry, to be paid at the time of the request.

[ED. NOTE: Forms referenced in this rule are available from the agency.]

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2006(Temp), f. & cert. ef. 3-16-06 thru 9-12-06; CCD 4-2006, f. 7-13-06, cert. ef. 7-14-06; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0080

Procedures for Conducting FBI Criminal History Checks

(1) An FBI criminal records check will be done on a subject individual whose OSP CCH record shows multi-source offender status, who has lived in Oregon less than 18 months or when OCC has information that the individual has committed a crime in another state, or has committed a federal crime, or when OCC has reason to question the identity of the subject individual.

(2) The subject individual shall supply to OCC the following information:

(a) One properly completed FBI fingerprint card, with printing in the "reason fingerprinted" block that reads "License/Certificate/Permit ORS 181.534"; and

(b) A properly completed "Instructions to Authorized Fingerprinter" form; or

(c) Electronically submitted fingerprints through an OCC designated fingerprinter. The "reason fingerprinted" field must read "License/Certificate/Permit ORS 181.534"; and

(d) A properly completed "Verification form for Authorized Fingerprinter" form.

(3) OCC will review the criminal records information and any additional information and will determine whether or not a subject individual may be enrolled, suspended or removed in or from the Central Background Registry.

(4) OCC will charge the subject individual up to the amount equal to the cost incurred by OCC for an FBI records check, to be paid at the time of the request.

[ED. NOTE: Forms referenced are available from the agency.]

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98 ; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 6-2004, f. & cert. ef 12-17-04; CCD 3-2005(Temp), f. & cert. ef. 8-16-05 thru 2-12-06; CCD 5-2005, f. 12-29-05, cert. ef. 1-1-06; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0090

OCC Enrollment Procedures

- (1) A subject individual shall be enrolled in the Central Background Registry if OCC has determined that the individual:
 - (a) Has provided all information and/or documents requested by OCC;
 - (b) Has no history as described in 414-061-0050 or has dealt with the issues and provided adequate evidence of suitability;
 - (c) Has paid the applicable fee; and
 - (d) Has complied with the rules of OCC adopted pursuant to the Central Background Registry (OAR 414-061-0000 through 414-061-0120).
- (2) Enrollment in the Central Background Registry shall expire two years from the date of enrollment, unless suspended or removed sooner, and may be renewed upon application to OCC, payment of the required fee and compliance with the rules adopted by OCC pursuant to the Central Background Registry (OAR 414-061-0000 through 414-061-0120).
- (3) A subject individual who has been enrolled in the Central Background Registry will be notified by OCC of his or her enrollment and the enrollment dates. Such notification will not be sufficient evidence of enrollment for employment by a requesting agency.
- (4) A subject individual may be conditionally enrolled in the Central Background Registry pending the results of an FBI criminal records check if the individual has been determined to be suitable based on criminal records information and child protective services information.
 - (a) A conditionally enrolled subject individual who is subsequently determined to be suitable based on FBI criminal records information shall be enrolled in the Central Background Registry.
 - (b) The two-year enrollment period will include the time the subject individual was conditionally enrolled.
 - (c) A conditionally enrolled subject individual who has subsequently been determined not to be suitable based on FBI criminal records information shall be suspended or removed from the Central Background Registry, according to the provisions of OAR 414-061-0110.
 - (d) A conditional enrollment will expire if the subject individual has not been enrolled in the Registry within one year of the conditional enrollment.
- (5) If an application for renewal and payment of required fee is received by OCC at least 14 days prior to the expiration date of the current enrollment, unless the individual is removed, remains in effect until OCC has acted on the application for renewal and has given notice of the action taken.

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0100

CCD Denial Procedures

- (1) A subject individual shall be denied enrollment in the Central Background Registry if the individual:
 - (a) Has been determined not suitable;

- (b) Has misrepresented information or failed to submit requested information or documentation;
 - (c) Has been charged with, arrested for, or a warrant for a Category I or Category II crime with final disposition not yet reached;
 - (d) Has an open protective services or law enforcement case with final disposition not yet reached; or
 - (e) Is in a diversion program or similar agreement and has failed to provide written documentation of compliance with the terms of diversion or the agreement.
- (2) A subject individual may appeal OCC's determination not to enroll the subject individual in the Central Background Registry, pursuant to OAR 414-061-0120.
- (3) A subject individual who has been denied enrollment in the Central Background Registry due to a determination of unsuitability shall not be eligible for enrollment in the Registry for 3 years from the date of denial.

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 5-2004, f. & cert. ef. 11-16-04; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0110

OCC Removal Procedures

- (1) An individual enrolled in the Central Background Registry shall be removed or suspended from the Registry by OCC if, during the period of enrollment, the individual;
- (a) Has been determined not suitable for enrollment in the Registry;
 - (b) Has misrepresented information or failed to submit requested information or documentation;
 - (c) Has been charged with, arrested for, or a warrant for a Category I or Category II crime with final disposition not yet reached;
 - (d) Has a founded protective services case or an open protective services or law enforcement case with final disposition not yet reached; or
 - (e) Is in a diversion program or similar agreement and has failed to provide written documentation of compliance with the terms of diversion or the agreement.
- (2) OCC may immediately, and without prior hearing, remove or suspend a subject individual from the Central Background Registry when, in the opinion of OCC, such action is necessary to protect children from physical or mental abuse or a substantial threat to health and safety. Such action may be taken before an investigation is completed.
- (3) OCC may reinstate a subject individual in the Central Background Registry if the condition(s) that resulted in the suspension is corrected.
- (4) When a subject individual is removed or suspended from the Central Background Registry, OCC will notify the subject individual and the requesting agencies which have inquired about the subject individual's enrollment of the removal or suspension.
- (5) A subject individual who has been removed from the Central Background Registry and has not subsequently been re-enrolled shall not be eligible for enrollment in the Registry for 3 years from the date of removal.

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 5-2004, f. & cert. ef. 11-16-04; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10

414-061-0120

Rights for Review and Contested Case Hearings

(1) OCC shall afford subject individuals the right to appeal a decision made by OCC that the subject individual is denied, suspended, or removed from enrollment from the Central Background Registry through a contested case hearing pursuant to ORS 183.413 through 183.470. Subject individuals must submit a request for a contested case hearing in writing in a timely manner.

(2) OCC has no jurisdiction in a contested case hearing over allegations that the criminal records information received from OSP or the FBI or child protective services information received from the Department of Human Services is inaccurate, incomplete or maintained in violation of any federal or state law. Therefore, a contested case hearing cannot be held by OCC for that purpose. Challenges to the accuracy or completeness of the information provided by the Department of State Police, the FBI and agencies reporting information to OCC must be made through those departments, bureaus or agencies and not through the contested case process.

(3) OCC is entitled to rely on the criminal records information supplied by OSP or the FBI or child protective services information supplied by the Department of Human Services until OSP, the FBI, or the Department of Human Services notifies OCC that information has been changed or corrected in a manner that would alter the OCC decision. If a subject individual has requested a contested case hearing, OCC will stay the hearing until the subject individual has been afforded a reasonable time to correct or complete the record or has declined to do so.

(4) To preserve the confidentiality of the records and the privacy of the subject individual, any contested case hearing will not be open to the public unless requested by the subject individual.

(5) A subject individual who is also an employee of the licensing unit of OCC and who is determined unsuitable for enrollment in the Central Background Registry may appeal the determination through either the contested case process or applicable personnel rules, policies and collective bargaining provisions. A subject individual's decision to appeal a determination through personnel rules, policies and collective bargaining provisions shall constitute an election of remedies as to the rights of the subject individual with respect to the disqualification determination and shall constitute waiver of the contested case process.

Stat. Auth.: ORS 329A.030(7)

Stats. Implemented: ORS 329A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 1-2009(Temp), f. 12-30-09, cert. ef. 1-1-10 thru 6-30-10; CCD 1-2010, f. 6-29-10, cert. ef. 7-1-10