

**DRAFT**

**September 22, 2014**

**OREGON DEPARTMENT OF EDUCATION  
EARLY LEARNING DIVISION**

**DIVISION 205**

**REGISTERED FAMILY CHILD CARE HOMES**

**414-205-0010**

**Definitions**

(1) "Caregiver" means any person, including the provider, who cares for the children in the registered family child care home and works directly with the children, providing care, supervision and guidance.

(2) "Central Background Registry" means OCC's Registry of individuals who have been approved to work in a child care facility in Oregon pursuant to ORS 657A.030 and OAR 414-061-0000 through 414-061-0120.

(3) "Child Care" means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, during a part of the 24 hours of the day, with or without compensation.

(4) "Child Care Child" means any child under 13 years of age, or a child with special needs under the age of 18 who requires a level of care over and above the norm for his/her age, who does not reside in the home and for whom the provider has supervisory responsibility in the temporary absence of the parent.

(5) "Child with Special Needs" means a child under the age of 18 who requires a level of care over and above the norm for his/her age due to a physical, developmental, behavioral, mental or medical disability.

(6) "OCC" means the Office of Child Care of the Department of Education, or the Administrator or staff of OCC.

(7) "Civil Penalty" means a fine imposed by OCC on a provider for violation on these rules.

(8) "Family" means persons related by blood, marriage, or adoption, or whose functional relationship (e.g., parent(s), custodian(s), guardian(s)) in exercising physical care and custody of the child(ren) is similar to those found in such associations.

(9) "Full-Time Child Care" means care provided to children not yet eligible for the first grade or above. One or more children may fill a full-time space in the home as long as the children are not in care at the same time.

(10) "Infant" means a child who is not yet walking.

(11) "New Application" means a registration application that has been filed by an applicant who has never had an active registration.

(12) "Night Care" means care given to a child who sleeps at the family child care home for all or part of the night.

(13) "Nonserious violation" means OCC has made a valid finding when assessing a complaint alleging a violation not listed in OAR 414-205-0010(25).

(14) "Occasional" means infrequently or intermittently, including but not limited to care that is provided during summer or other holiday breaks when children are not attending school, but not to exceed 70 calendar days in a year.

(15) "Oregon Registry" means the voluntary registry at the Oregon Center for Career Development in Childhood Care and Education at Portland State University that documents the training, education and experience of individuals who work in childhood care and education.

(16) "Part-Time Child Care" means care provided to a child who meets the definition of a school-age child and is in care on days and hours school is not in session.

(17) "Premises" means the structure that is identified on the application, including indoors and outdoors and space not directly used for child care.

(18) "Preschool-Age Child" means a child 24 months of age to eligible to be enrolled in the first grade and, during the months of summer vacation from school, eligible to be enrolled in the first grade in the next school year.

(19) "Provider" means a resident of the registered family child care home who is responsible for the children in care; is the children's primary caregiver; and the person whose name is on the certificate of registration.

(20) "Registered Family Child Care Home" means the residence of the provider, who has a current Family Child Care Registration at that address and who provides care in the family living quarters.

(21) "Registration" means the document a family child care provider is issued by the Office of Child Care to operate a family child care home where care is provided in the family living quarters of the provider's home pursuant to ORS 657A.330 and OAR 414-205-0000 through 414-205-0170. Registration is limited to one provider at one address.

(22) "Renewal Application" means a registration application that has been filed by a currently registered family child care provider who wishes to continue registration.

(23) "Reopen Application" means a registration application that has been filed by an applicant whose registration is expired or closed, including those closures resulting from an address change.

(24) "School-Age Child" means a child eligible to be enrolled in the first grade or above and, during the months of summer vacation from school, a child eligible to be enrolled in the first grade or above in the next school year, up to age 13.

(25) "Serious Complaint" means a complaint filed against:

(a) A registered family child care provider by a person who has alleged that:

(A) Children are in imminent danger;

(B) There are more children in care than allowed by law;

(C) Corporal punishment is being used;

(D) Children are not being supervised;

(E) Multiple or serious fire, health or safety hazards are present in the home;

(F) Extreme unsanitary conditions are present in the home; or

(G) Adults are in the home who are not enrolled in the Office of Child Care's Central Background Registry;  
or

(b) An individual providing child care, as defined by ORS 657A.250(4), who is not a registered family child care provider by a person who has alleged that there are more children in care than allowed by law.

(26) "Serious Violation" means OCC has made a valid finding when assessing a serious complaint that alleges:

(a) Children are in imminent danger;

(b) There are more children in care than allowed by law;

(c) Corporal punishment is being used;

(d) Children are not being supervised;

(e) Multiple or serious fire, health or safety hazards are present in the home;

(f) Extreme unsanitary conditions are present in the home; or

(g) Adults are in the home who are not enrolled in the Office of Child Care's Central Background Registry; or

(h) An individual is providing child care as defined by ORS 657A.250(4) without registering with the Office of Child Care of the Department of Education.

(27) "Substitute Caregiver" means a person who acts as the children's primary caregiver in the registered family child care home in the temporary absence of the provider.

(28) "Usable Exit" means an unobstructed door or window through which the provider and the children can evacuate the home in case of a fire or emergency. Doors must be able to be opened from the inside without a key, and window openings must be at least 20 inches wide and 22 inches in height, with a net clear opening of 5 square feet and a sill no more than 48 inches above the floor.

**414-205-0035**

## **General Requirements**

(1) The home in which child care is provided must be the residence of the provider.

**(2) The provider may not hold a medical marijuana card, grow or use medical marijuana, or be a distributor of medical marijuana.**

- (3) Registration is limited to one provider per household.
- (4) A registration applies to only the person and address on the certificate of registration and is not transferable to another location or individual.
- (5) The registration is valid for a maximum of two years. The registration period begins with the effective date shown on the certificate of registration. A provider may not care for more than three (3) children, other than the provider's own children, at any one time prior to receiving a certificate of registration from OCC.
- (6) OCC registration records are open to the public on request. However, information protected by state or federal law will not be disclosed.
- (7) The name, address, telephone number, and registration status of providers is public information. However, OCC may withhold from the public a provider's address and telephone number if the provider makes a written request documenting that disclosure of the address and/or telephone number would endanger him/her or a family member living in the home (OAR 137-004-0800). The request must be on a form supplied by OCC.
- (8) The Certificate of Registration must be posted in the family child care home in an area where it can be viewed by parents.
- (9) The provider shall have no other employment, either in or out of the home, during the hours children are in care.
- (10) **The provider shall allow an inspection of all areas of the facility that are accessible to child care children, and a health and safety review of other areas of the facility to ensure sanitation and the health and safety of child care children.**
- (11) The provider must allow custodial parents or legal guardians of child care children access to the home during the hours their child(ren) are in care.
- (12) The provider must comply with state and federal laws related to immunizations, child care restrictable diseases, child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans with Disabilities Act.
- (13) Any caregiver who has reason to believe that any child has suffered abuse (physical injury, mental injury, neglect that leads to physical harm, sexual abuse and/or exploitation, or threat of harm) must report the information to the Department of Human Services Child Welfare (DHS) or to a law enforcement agency. By statute, this requirement applies 24 hours per day.

(14) The provider must notify parents if there will be a substitute caregiver and the caregiver's name or if the children will be away from the home for any part of the day for visits, field trips, or any other activity off the premises. In the event of an emergency, a good faith effort will be made to notify parents that a substitute will be caring for the children.

(15) If an applicant or a provider provides or wishes to provide adult or child foster care, the foster care licensing agency must grant approval for the applicant to provide both child care and foster care services.

#### **414-205-0040**

#### **The Provider and Other Persons in the Home**

**(1) The registered provider and any substitute caregiver shall: ~~be at least 18 years old and in such physical and mental health as will not adversely affect a child in care.~~**

**(a) Be at least 18 years old,**

**(b) Have competence, sound judgment and self-control when working with children, and**

**(c) Be mentally, physically and emotionally capable of performing duties related to child care.**

(2) No one shall have access to child care children who has demonstrated behavior that may have a detrimental effect on a child. Residents of the home are considered to have access to the child care children even if they are not generally at home during child care hours.

(a) The applicant and other residents of the home 18 years of age or older must be enrolled in OCC Central Background Registry prior to the issuance of a registration. Residents of the home who are under 18 years of age must be enrolled in the Registry by their 18th birthday.

(b) Prior to another adult moving into the home, residing on a temporary basis in the home, visiting the home on a regular basis, or substituting for or assisting the provider, the provider must receive documentation from OCC that the individual is enrolled in the Central Background Registry. This does not apply to parents of children in care unless they are residing in the home or substituting for or assisting the provider.

(c) If additional information is needed to assess a person's ability to care for children or to have access to children, **OCC may require** references, an evaluation by a physician, counselor, or other qualified person, or other information ~~may be required by OCC~~.

(d) Any visitor to the home or other adult who is not enrolled in the Central Background Registry may not have unsupervised access to children.

(3) A caregiver substituting for the provider must:

(a) Be familiar with the requirements for registration and agree to comply with them;

(b) Be enrolled in the Central Background Registry prior to substituting for the provider; and

(c) Comply with all the requirements, except those in OAR 414-205-0055, placed on the provider in these rules.

## **414-205-0100**

### **Health**

(1) The home must be a healthy environment for children.

~~(a) No person shall smoke or use smokeless tobacco in the family child care home during the hours the child care business is conducted. No person shall smoke or use smokeless tobacco in motor vehicles while child care children are passengers.~~

**(a) No person shall smoke or carry any lighted smoking instrument, including an e-cigarette and vaporizer in the family child care home or within ten feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area, during child care hours or when child care children are present. No person shall use smokeless tobacco in the family child care home during child care hours or when child care children are present. No person shall smoke, carry any lighted smoking instrument, including an e-cigarette and vaporizer or use smokeless tobacco in motor vehicles while child care children are passengers.**

~~(b) No one shall consume alcohol or use non-prescription controlled substances in the presence of children. No one under the influence of~~

~~alcohol or non-prescription controlled substances shall be in the home when child care are present.~~

(b) No one shall consume alcohol on the family child care home premises during child care hours or when child care children are present. No one shall be under the influence of alcohol on the family child care home premises during child care hours or when child care children are present.

(c) Notwithstanding OAR 414-205-0000(5), no one shall possess, use or store illegal controlled substances on the family child care home premises. No one shall be under the influence of illegal controlled substances on the family child care home premises.

(d) Notwithstanding OAR 414-205-0000(5), no one shall grow medical marijuana on the premises of the registered family child care home. No adults shall use medical marijuana on the registered family child care home premises during child care hours or when child care children are present.

(e) No adult under the influence of medical marijuana shall have contact with child care children.

(f) Notwithstanding OAR 414-205-0000(5), marijuana plants shall not be grown or kept on the registered family child care home premises.

(g) All medical marijuana must be kept in its original container and stored under child safety lock. All medical marijuana derivatives and associated paraphernalia must be stored under child safety lock.

(f h) There must be at least one flush toilet and one hand-washing sink available to children. Steps or blocks must be available to ensure children can use the toilet and sink without assistance.

(g i) The room temperature must be at least 68°F during the hours the child care business is conducted.

(h j) Rooms occupied by children must have a combination of natural and artificial lighting.

(i k) Floors must be free of splinters, large unsealed cracks, sliding rugs and other hazards.

(2) The provider must have a basic first aid kit available for use. The kit must be kept out of the reach of children.

(3) Infants must be put to sleep on their backs.

(4) Except for mild cold symptoms that do not impair a child's function, children who are ill shall not be in care.

(5) If a child becomes ill in child care, the provider must separate the child from other children, to the extent possible, and contact the child's parent(s) to remove the child from care as soon as possible.

(6) Parents must be notified if their child is exposed to a communicable disease.

(7) Prescription and non-prescription medication may be given to a child only if the provider has written authorization from the parent, as required in OAR 414-205-0130(3).

(8) Prescription and non-prescription medications must be properly labeled and stored.

(a) Non-prescription medications or topical substances must be labeled with the child's name.

(b) Prescription medications must be in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, and the physician's name.

(c) Medication requiring refrigeration must be kept in a separate, covered container, marked "medication," in the refrigerator.

(9) Sunscreen is considered a non-prescription medication and may be used for child care children under the following conditions:

(a) Providers must obtain written parental authorization prior to using sunscreen.

(b) One container of sunscreen may be used for child care children unless a parent supplies an individual container for their child. The sunscreen shall be applied in a manner that prevents contaminating the container.

(A) Parents must be informed of the type of product and the sun protective factor (SPF).

(B) Parents must be given the opportunity to inspect the product and active ingredients.

(c) If sunscreen is supplied for an individual child care child, the sunscreen must be labeled with the child's first and last name and must be used for only that child.

- (d) Providers must reapply sunscreen every two hours while the child care children are exposed to the sun.
- (e) Providers shall use a sunscreen with an SPF of 15 or higher and must be labeled as "Broad Spectrum".
- (f) Providers shall not use aerosol sunscreens on child care children.
- (g) Sunscreen shall not be used on child care children younger than six months.
- (h) Child care children over six years of age may apply sunscreen to themselves under the direct supervision of the provider or staff member.
- (10) Parents must be informed daily of any medications given to their child or any injuries their child has had.
- (11) The provider must provide or ensure the availability of meals and snacks appropriate for the ages and needs of the children served.
  - (a) Meals and snacks must be based on the guidelines of the USDA Child Care Food Program.
  - (b) Foods must be stored and maintained at the proper temperature.
  - (c) Foods must be prepared and served according to the minimum standards for food handler certification.
  - (d) Infants must either be held or be fed sitting up for bottle feeding. Propping bottles is prohibited.
- (12) Any animal at the family child care home must be in good health and be a friendly companion for the children in care.
  - (a) Potentially aggressive animals must not be in the same physical space as the children.
  - (b) Dogs and cats must be vaccinated according to a licensed veterinarian's recommendations.
- (13) Animal litter boxes shall not be located in areas accessible to children.
- (14) Caregivers must be physically present when children are interacting with animals.
- (15) Reptiles (e.g. lizards, turtles, snakes, iguanas) frogs, monkeys, hooked beaked birds, baby chicks and ferrets are prohibited unless they are housed in

and remain in a tank or other container which precludes any direct contact by children. Educational programs that include prohibited animals and are run by zoos, museums and other professional animal handlers are permitted.

(16) Parents must be made aware of the presence of any animals in the child care home.