

**Instructions for Home and Community-Based Services (HCBS)
On-Site Compliance Assessment for Residential Service Settings Receiving DD-
Funded Residential/Foster Care Payment to Support Individuals Under Age 18**

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Instructions for Home and Community-Based Services (HCBS) On-Site Compliance Assessment for Residential Service Settings Receiving DD- Funded Residential/Foster Care Payment to Support Individuals Under Age 18

General Instructions for the Reviewer:

- Complete one assessment per residential home site, including foster care homes and 24-hour residential settings. If a provider serves both children and adults in the same home, then an adult and child checklist must be completed.
- An On-Site Compliance Assessment must be conducted for each home receiving DD-funded foster care service payments, regardless of certification type.
- On-site reviews are not required in Child Welfare certified homes where the individual child is supported by an “In-Home service plan” and the provider is not receiving a DD-funded foster care payment.
- Answers in the HCBS On-Site Compliance Assessment may be based upon evaluation of compliance for those individuals who are targeted as a representative sample for the home/site review.
 - As part of a licensing or certification renewal, licensors or certifiers may select 1-2 individuals (or more depending on various factors) to focus their determination of compliance.
 - However, if the reviewer observes the provider/program is out of compliance with the regulation for another individual residing in the home (not targeted in the review), the observation must be recorded and the provider should be found out of compliance with the regulation.
- Reviewer must conduct an on-site visit to the home site as part of completion of the HCBS On-Site Compliance Assessment. Reviews are encouraged to interview individuals as part of the assessment whenever possible.
- The HCBS On-Site Compliance Assessment may require some additional follow up beyond the physical visit to the site.
- The HCBS On-Site Compliance Assessment may only be completed by ODDS, OLRO, Regional, or CDDP staff. Providers may not be given the checklist to complete on behalf of their program or another provider’s program.
- The reviewer should complete all portions of the assessment, except the “Provider Plan for Correction” section, including the “to be completed by” line contained in each question. (This portion is to be completed by the provider)

Review Process:

For Foster Care, the Reviewer will:

- Complete the On-Site review assessment as part of an on-site visit to the home. This may be done as part of a licensing/certification renewal by a licensor or certifier, or a service/site monitoring visit conducted by a services coordinator.
- Submit a copy of the completed assessment (except for the provider plan for correction sections) to ODDS. The document must be sent electronically via secure email to: ODDSHCBS.ResidentialReview@state.or.us
- Retain a copy of the assessment once the review is conducted.
- Provide a copy of the assessment to the provider once the review is conducted.
- Ensure the Services Coordinator or CDDP assigned to provide case management to the individuals in the home and the licensor/certifier are provided a copy of the assessment.

For Foster Care, the Provider will:

- Complete the “Provider plan for correction” sections of the assessment in any area where the review determines the provider is not in compliance with the HCBS requirements.
- Submit the assessment with the completed “Provider plan for correction” and “to be completed by” sections to the licensor or certifier assigned to the home site.
- Obtain approval of the “Provider plan for correction” from the certifier or licensor.
- Follow the proposed actions as part of the “Provider plan for correction” in order to make substantial progress towards compliance with the new Home and Community-Based rules.

For Foster Care, the Licensor or Certifier will:

- Determine if the “Provider plan for correction” actions and timeframes proposed by the provider are sufficient to bring the provider to substantial compliance with the Home and Community-Based Services rules.
- Inform the provider when the plan proposal has been deemed adequate.
- Provide a copy of the completed assessment, with the approved “Provider plan for correction” sections included, to the Services Coordinator or CDDP assigned to the individuals residing in the home.
- Monitor the progress of the provider in taking action to complete the “Provider plan for correction” and communicate with parties (including the CDDPs) as appropriate.
- Provide technical assistance and support to providers requesting or demonstrating the need for assistance to understand non-compliance and strategies to come into compliance with the Home and Community-Based rules.

For 24-Hour Service Settings, the Reviewer will:

- Complete the On-Site Compliance Assessment as part of an on-site visit to the home. This may be done as part of a licensing renewal by a licensor, or a separate visit for a site being assessed outside the renewal timeline.
- Utilizing the ASPEN system, identify for which administrative rules the provider is non-compliant.
- Retain a copy of the assessment once the review is conducted.
- Provide a copy of the ASPEN report specific to the HCBS compliance assessment to the licensee.
- Provide a copy of the ASPEN report to the CDDP designee for the county responsible for monitoring services delivered in the home.

For 24-Hour Service Settings, the Provider will:

- Complete a Plan of Improvement (POI) for each area of non-compliance which details their plan for correction to come into compliance with the new HCBS regulations. Each POI must identify:
 - The corrective action being taken to come into compliance for each individual for whom the provider is non-compliant,
 - System or operational changes that need to occur to maintain compliance and avoid future non-compliance,
 - Identify the parties responsible for the corrective actions, and
 - The timelines for when the actions will be completed.
- Submit the ASPEN report with the proposed POI's to the licensor assigned to the home site and provide a copy to the CDDP that monitors the home.
- Presume the POI is a sufficient plan to achieve compliance with HCBS unless the licensing entity informs the provider that the plan not adequate.
- Follow the proposed actions in the POI in order to make substantial progress towards compliance with the new Home and Community-Based rules.

For 24-Hour Service Settings, the Licensor will:

- Determine if the POI actions and timeframes proposed by the provider are sufficient to bring the provider to substantial compliance with the Home and Community-Based Services rules.
- Inform the provider if the POI proposal is not adequate to achieve compliance with HCBS regulations.
- Monitor the progress of the provider in taking action to complete the POI and communicate with parties (including the CDDPs) as appropriate.
- Provide technical assistance and support to providers requesting or demonstrating the need for assistance to understand non-compliance and strategies to come into compliance with the Home and Community-Based rules.

Answering the Compliance Assessment Questions- Overview Instructions

Throughout the compliance assessment process, the reviewer must:

- Make a determination if the provider is out of compliance with the Home and Community-Based Services regulation based on observation/evidence from the reviewer's actual visit to the home site, supporting review activities, or review of supporting documentation.
- Mark the "Provider has been determined to be out of compliance" box when the weighing of evidence and application of professional judgment lead the reviewer to conclude the provider is out of compliance.
- Whenever the answer to a question in any section is "no", then the provider should be determined to be non-compliant with the regulation addressed in that section.
- If a provider is determined to be out of compliance, this finding must be supported by an identified source of information and explanation.

If the answer is "no" to any part in questions 8 through 13, then the provider should be considered out of compliance. This applies even when the question series indicate that there is documentation for a restriction or limitation that is supported by an assessed need. The non-compliance finding in situations where there is an assessed need that justifies a limitation or restriction indicate to the provider that additional steps will need to be taken as part of the transition to implementation of HCBS requirements. The provider may indicate in their plan for correction that they anticipate the non-compliance will be remediated through applying the individually-based limitations process for individuals. However, since this process is not yet in place, the provider needs to be determined to be non-compliant for any restrictions or limitations so they are informed of additional steps that will need to be taken during the transition period in order to fully comply with the new regulations.

Individually-Based Limitations are required for any restriction or limit on freedoms and protections identified in questions 9 through 13 that are more restrictive than age-appropriate structure. Individually-Based Limitations must be in place for individual ISP's effective March 1, 2017 or later if the individual's health or safety needs warrant a restriction.

Please Note: The examples provided in the instructions are only intended to illustrate possible evidence to support a finding. The examples are not specific requirements and the reviewer may not necessarily observe the items/situations described. The absence of observation of examples should not necessarily result in a non-compliant determination.

**Special consideration for individuals under 18 when making compliance determinations –
“Reasonable, Prudent Parent Standard”**

When the HCBS On-Site Compliance Assessment is applied to homes supporting children (individuals age 17 and under), consideration should be given to the role/responsibility of the provider to ensure the safety and well-being of the minor children in their charge. The “reasonable, prudent parent” standard should apply in considering if the rule is being followed appropriately for the individual child. This means if an individual is limited in some area by the provider, it should be done so in accordance with what would be typical structure for a non-disabled child of the same physical age. When a structure, practice, or policy implemented by the provider results in being more restrictive than what is typical for a child of the same age without a disability, this is considered a limitation.

When a provider is implementing structure consistent with typical parental practices for a non-disabled child of the same age, it considered to be in compliance with the new rules. The presence of structure for individuals under the age of 18 should not result in a non-compliant determination unless the structure is more restrictive than a community standard practice for a child of the same age without a disability.

Demographics:

Identify the license/certificate holder.

Indicate the date of review. This is the date of the actual on-site visit to the home site.

Identify the home/site name.

Provide the physical address of the home.

Collect and enter the provider's e-mail address, if one is available.

Identify all individuals residing in the home. This includes all persons enrolled in and receiving HCBS.

For the purposes of this review, the reference to "individuals" or "all individuals residing in the home" means persons receiving HCBS. Other household members who do not receive either HCBS or other Department-funded services are not to be considered when evaluating compliance with the HCBS requirements.

Identify which individuals were targeted as part of the site review. Typically, a sample of individuals in the home are selected to serve as the representation of provider compliance with the rules. The answers in the review checklist should be based upon the observation of compliance or non-compliance for the individuals identified as targets for the review. However, if the reviewer observes that a provider is out of compliance with the rules for another individual in the home who is not targeted for the review, the observed non-compliance must be reflected in the checklist.

Question 1:

Determine if it appears individuals have access to and are supported to be part of their community. This may be evidenced by individuals being encouraged and supported to access integrated settings, as well as participate in community events, among other items.

Indicators of community integration and compliance include, but are not limited to, looking at if individual children in the home are:

- Receiving services in the community- meaning individual children are supported in accessing services in the community commonly delivered outside the home to people not receiving Medicaid HCBS. For example, haircuts/styling, medical care, pools/gyms, shopping, etc.
- Attending school in the community.
- Participating in extra-curricular activities.
- Being exposed to and participating in community activities and events (beyond those specifically designed or targeted for individuals with disabilities) such as community classes, clubs, gyms, or local events such as artisan fairs, concerts, etc.

Indicate any sources of “Evidence of provider/setting compliance” observed that demonstrate the setting supports individuals in having opportunities to be a part of their greater community. The listed sources are not required to be present as indicators, but do inform how the reviewer may have made a compliance determination. If the reviewer observes another source of information as evidence of compliance, this should be entered in the “Other” section. The reviewer may mark as many sources as apply.

Indicate on the “Evidence of provider/setting non-compliance” section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the “Other” section. The reviewer may mark as many sources that apply. The presence of “Evidence of provider/setting non-compliance” might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant. If there is evidence individuals are not supported by the provider in having opportunities to access their community, the reviewer may make a final determination of non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: a setting is integrated in and supports the same degree of access to the greater community as people not receiving HCBS”.

Examples of indicators of non-compliance include, but are not limited to:

- Individual children rarely leave the home and are discouraged from pursuing interests and activities outside of the home.
- Individuals are discouraged from participating in extra-curricular activities.
- Individuals are encouraged to have services that community members generally receive or engage in outside of the home delivered to the individual in the home setting, such as shopping, hair/nail care, gym activities, food delivery, resulting in minimal community access.

In considering a final determination, it may be necessary to do some probing into the preferences of the individuals in the home. Some individuals prefer to be more reclusive and the intent is not to force people to go out in the community against their will. It is important for the reviewer to evaluate whether the limited access to the community is based on the preference of the individual and should look at how the provider is offering opportunities to encourage individuals to be a part of their local community. Individuals who access their community less often based on individual preference, should not necessarily result in a non-compliant determination on the part of the provider, especially if there is evidence that the provider is offering and encouraging community access.

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to their assigned licensor or certifier.

Question 2:

For section 2, the reviewer will need to evaluate if individuals in the home are free from coercion and restraint, treated with dignity and respect, and are supported in having privacy.

Question 2a

A provider is in compliance with the regulation if it appears that individuals in the home are free from coercion and restraint.

- ✓ Coercion means making an individual do something by means of force or threat.
- ✓ The use of positive behavior supports (in accordance with approved practice guidelines and curriculum) which guide or reinforce the individual to make optimal choices is not considered coercion.
- ✓ Restraint is the use of physical, chemical, or mechanical force to limit an individual’s freedom of movement that is not in accordance with an individual’s approved ISP and is not in alignment with Positive Behavior Theory and Practice.
- ✓ A Safeguarding Intervention (also known as a Protective Physical Intervention (PPI)) or Safeguarding Equipment that meets the threshold of restraint must have an Individually-Based Limitation in place for plans effective 7/1/17 to be considered compliant with HCBS.
- ✓ If the identified Safeguarding Technique is part of an approved behavior plan, applied in accordance with Oregon Administrative Rules (OARs) regarding the use of behavior supports, and has been addressed through an IBL, then the restraint will be considered compliant with HCBS.

“Safeguarding Techniques” mean Safeguarding Interventions, Safeguarding Equipment that meets the threshold of restraint, and the emergency of use of physical interventions. Safeguarding Interventions and Safeguarding Equipment that meets the threshold of restraint require the Individually-Based Limitations process.

“Safeguarding Interventions” mean a set of physical safety techniques that restrict the movement of an individual in which the caregiver comes into physical contact with the individual to assist in keeping an individual from harming themselves or others through supportive measures defined by an ODDS-approved curriculum. *Often, Safeguarding Interventions have been referred to as Protective Physical Interventions, or PPI’s.*

“Safeguarding Equipment” means a device applied or adjacent to the individual’s body used to provide support to an individual for the purpose of achieving and maintaining functional body position, proper balance, or protecting the individual from injury or symptoms of existing medical conditions.

Safeguarding Equipment meets the threshold of restraint when:

- The item or device is applied to the individual’s body; and
- The individual demonstrates resistance following the application of the item or device; and
- The individual cannot easily remove the item or device.

Indicate on the “Evidence of provider/setting non-compliance” section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the “Other” section. The reviewer may mark as many sources that apply. The presence of “Evidence of provider/setting non-compliance” might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

If there is evidence individuals are being forced through threats of punishment or physical harm to make decisions against their will, the reviewer should make a final determination of provider non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: a setting ensures individual freedom from coercion and restraint”.

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

Select “Yes” if there is a medical order (for medically-driven needs warranting a restraint) or a Positive Behavior Support Plan (PBSP) written by a qualified practitioner directing the use of the Safeguarding Intervention or Safeguarding Equipment that meets the threshold of restraint.

Select “No” if there is an indication of the use of restraints, but there is no medical order or PBSP in place directing the use of the restraint.

Select “N/A” if no restraints are used in supporting the individual.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to the reviewing party.

The reviewer must also determine if the severity and nature of the non-compliance warrants a protective services referral. If the reviewer marks, “Yes” a protective services referral is warranted, the reviewer must personally make a referral to the appropriate abuse hotline.

Question 2b

A provider is in compliance with the regulation if it appears the provider and program staff treat individuals with dignity and respect.

Indicators of treating individuals with dignity and respect include, but are not limited to:

- Calling individuals by their preferred names (rather than generic labels like “hon” or “sweetie”)
- Offering age appropriate options when presenting choices to the individual. Such as offering a teenager a variety of options in television shows to watch, rather than only offering preschool programming. The individual may prefer and elect the preschool programming, but the choices presented to an individual should not be limited.
- Individuals selecting their own clothing (as age-appropriate)—both choosing style in what they would like to wear as well as being dressed in their own items.
- Offering cues or support to individuals in a respectful manner, such as instead of saying “You stink. Go take a shower”, saying “We have plenty of time left before we need to be at our appointment for you to shower. Why don’t you shower now and let me know if you need help.”
- Caregivers requesting permission and/or narrating their care activities to the individual so the individual is aware of what may be happening to them when a caregiver is providing physical support to the individual that requires physical contact or support in areas that are sensitive in nature such as incontinence care.

Indicators that individuals are not being treated with dignity and respect may include:

- Individuals not being called by their names, such as being referred to as “Hey, you”

- Limiting an individual's choice such as only offering preschool programming or themes, such as cartoons intended for young children or coloring as activity options, to an adolescent. *(An individual may prefer more childlike options, but it is important it is not presumed and options available are not limited to a narrow scope).*
- Individuals in their bathrobes during daytime hours (unless it is their preference and choice).
- Requiring the use of plastic bibs.
- Giving orders to an individual such as "Pick up your mess" or "Go to your room".
- Talking about individuals as if they are not present or talking about individuals in front of others.

Indicate on the "Evidence of provider/setting non-compliance" section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the "Other" section. The reviewer may mark as many sources that apply. The presence of "Evidence of provider/setting non-compliance" might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

If there is evidence individuals are not being treated with dignity and respect by the provider or staff, the reviewer should make a final determination of provider non-compliance by marking the box indicating "Provider has been determined to be out of compliance with: treating individuals with dignity and respect."

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter "all" if the requirement is not being met for all individuals residing in the home.

The reviewer must also determine if the severity and nature of the non-compliance warrants a protective services referral. If the reviewer marks, "Yes" a protective services referral is warranted, the reviewer must personally make a referral to the appropriate abuse hotline.

The reviewer leaves the "Provider plan for correction" and "To be completed by" sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Question 2c

A provider is in compliance with the regulation if it appears individuals are supported in having reasonable privacy within the home.

Indicators of reasonable privacy may include:

- Observation that individuals are able to have space or activities away from other members of the household.
- Individuals are supported in having private phone calls and communications (as age-appropriate).
- Personal information such as medications, medical or mental health appointments, and other records are maintained in a discrete manner.
- Individuals are able to close the bathroom door and are able to use the facilities without others walking in on them (this does not include staff present to provide needed supports).
- Information about individuals is not discussed or shared in the presence of others.

Indicate on the “Evidence of provider/setting non-compliance” section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the “Other” section. The reviewer may mark as many sources that apply. The presence of “Evidence of provider/setting non-compliance” might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

If there is evidence that individuals are not supported in having reasonable privacy in the home, the reviewer should make a final determination of provider non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: individuals are supported in having reasonable privacy within the setting”.

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

The reviewer must also determine if the severity and nature of the non-compliance warrants a protective services referral. If the reviewer marks, “Yes” a protective

services referral is warranted, the reviewer must personally make a referral to the appropriate abuse hotline.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Question 3:

Evaluate whether it appears individuals are supported by the provider in being autonomous, self-directed, independent and initiative-taking in the individual’s life choices. This can be seen in individuals being supported to exercise choice in daily activities, physical environment, and with whom they interact. Indicators of compliance include, but are not limited to:

- Evidence of individualized schedules and activities- independent or one-on-one activities (depending on the individual’s level of support need) individuals are supported to engage in, as opposed to only having activity options or community outings that include the entire household
- Individuals have extra-curricular activities and supported interests/hobbies that differ (in provider, setting, or activities) from other members of the household
- Individuals are able to opt-out of activities or events

Indicate any sources of “Evidence of provider/setting compliance” observed that demonstrate the setting supports individuals in exercising self-direction, autonomy, initiative and independence. The listed sources are not required to be present as indicators, but do inform how the reviewer may have made a compliance determination. If the reviewer observes another source of information as evidence of compliance, this should be entered in the “Other” section. The reviewer may mark as many sources as apply.

Indicate on the “Evidence of provider/setting non-compliance” section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the “Other” section. The reviewer may mark as many sources that apply. The presence of “Evidence of provider/setting non-compliance” might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

Examples of non-compliance may include:

- Household members are expected to adhere to a household schedule. This schedule is consistent for the home and does not reflect individual preferences or changes in household composition as they occur.
- Individuals are discouraged from taking up hobbies or interests not shared by others in the household.
- Individuals receive less support or experience negative consequences when they choose a different program, provider or work schedule than other members of the household.
- Individuals experience negative consequences delivered by the provider for opting out of group activities.
- Individuals are discouraged or ignored when they make requests for individualized activities.

If there is evidence individuals are not supported or encouraged by the provider/setting in exercising independence, initiative, autonomy, and self-direction, the reviewer should make a final determination of provider non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: a setting optimizes, but does not regiment, individual initiative, autonomy, self-direction, and independence in making life choices”.

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Question 4:

Evaluate if the setting facilitates individual choice regarding services and supports, and who provides the services and supports. Please be sure to focus on the role of the provider in compliance with the regulation.

For example, it is the provider's responsibility to offer the individual choice whenever possible as part of the individual's daily routine. However, choice in regards to living situation and service authorization may be under the scope of facilitation by the services coordinator. The provider compliance determination should not be based on those things that are part of the services coordinator's role such as choice advising, but should be weighed on the role of the provider in ensuring communication is shared with the services coordinator about an individual's choice and preferences related to living situation and service authorization, as well as in providing opportunities for the individual to exercise choice in daily life.

Indicators of compliance on behalf of the provider may include, but are not limited:

- Individuals being supported by their preferred staff
- Individuals are supported in choosing extra-curricular activities based on individual preference
- Individuals are able to self-direct their plan of care and how they are supported with individual tasks, such as an individual having a staff assist in the getting an activity set up if needed and following up or providing standby assistance as opposed to doing a task for the individual for convenience or efficiency

Indicate any sources of "Evidence of provider/setting compliance" observed that demonstrate the setting facilitates individual choice. The listed sources are not required to be present as indicators, but do inform how the reviewer may have made a compliance determination. If the reviewer observes another source of information as evidence of compliance, this should be entered in the "Other" section. The reviewer may mark as many sources as apply.

Indicate on the "Evidence of provider/setting non-compliance" section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the "Other" section. The reviewer may mark as many sources that apply. The presence of "Evidence of provider/setting non-compliance" might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

If there is evidence individual choice is not facilitated by the provider/setting, the reviewer may make a final determination of provider non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: a setting facilitates choice regarding services and supports, and who provides the services and supports”.

Examples of indicators of non-compliance may include, but are not limited to:

- Individuals primarily/routinely supported by a staff they do not like to work with
- Individual schedules being restricted by a caregiver’s agenda (beyond required elements like school attendance, medical appointments, adequate sleep and exercise, etc.)
- Individuals are not supported or are discouraged from participating in extra-curricular activities

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Question 5:

Determine if the residential setting is physical accessible for all individuals who reside in the home. This means there are physical adaptations in place for current individual residents who require them such as ramping for wheelchairs, handrails, grab bars, etc.

“Physically accessible” is focused on ensuring individuals have access to the common areas of the home such as kitchen, dining room, living room, bathrooms, dens, etc. Providers may retain private spaces such as offices or living suites to which individuals do not have access. Individuals may also be restricted from accessing bedrooms of housemates.

Indicate any sources of “Evidence of provider/setting compliance” observed that demonstrate the setting is physical accessible to all individuals who reside in the home. The listed sources are not required to be present as indicators, but do inform how the reviewer may have made a compliance determination. If the reviewer observes another source of information as evidence of compliance, this should be entered in the “Other” section. The reviewer may mark as many sources as apply.

Indicate on the “Evidence of provider/setting non-compliance” section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the “Other” section. The reviewer may mark as many sources that apply. The presence of “Evidence of provider/setting non-compliance” might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

If there is evidence that the setting is not physically accessible to all individuals who reside in the home, the reviewer should make a final determination of provider non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: the setting is physically accessible to each individual”.

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Question 6:

Update: The reviewer will not be asked to determine if there is a Residency Agreement in place for each individual in the home.

The HCBS requirement of a Residency Agreement will be incorporated into the Voluntary Placement Agreement, ODDS Residential Services Child Placement Agreement, and Provider Enrollment Agreements.

Compliance with the Residency Agreement will occur as providers complete an initial or renew a Provider Enrollment Agreement (PEA) in order to serve children in the foster home or 24-hour program setting.

Question 7:

Determine if individuals appear to be supported in having privacy in their own bedrooms. Examples of situations supporting compliance may include, but are not limited to:

- Observation of individuals having time alone in their bedrooms
- Individuals being supported to close bedroom doors if they choose
- Observation of staff knocking before entering bedrooms
- A shared bedroom being arranged in a way that affords optimal privacy, such as having a privacy screen or a dresser/wardrobe between beds

Indicate any sources of “Evidence of provider/setting compliance” observed that demonstrate individuals are supported in having privacy in their bedrooms. The listed sources are not required to be present as indicators, but do inform how the reviewer may have made a compliance determination. If the reviewer observes another source of information as evidence of compliance, this should be entered in the “Other” section. The reviewer may mark as many sources as apply.

Indicate on the “Evidence of provider/setting non-compliance” section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the “Other” section. The reviewer may mark as many sources that apply. The presence of “Evidence of provider/setting non-compliance” might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

If there is evidence that individuals are not supported in having reasonable privacy in their bedrooms, the reviewer may make a final determination of provider non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: each individual has privacy in his or her own unit”. Indicators of a non-compliant determination may include, but are not limited to:

- Observation of staff entering bedrooms without knocking or receiving permission before entering
- Individuals in compromised states, such as undressed, partially undressed, or self-stimulating, and essentially on-display to others in the household due to open doors or lack of visual barriers to support privacy

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of

compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Question 8:

Determine if the appropriateness of a lock on the individual child’s bedroom door was considered. If a lock is appropriate for the child, a lock should be available. The lock is required to be a single-action release lock and access to the keys should be limited to the individual and appropriate staff.

Question 8a

Select “Yes” if there is evidence that consideration was given to whether a locking bedroom door is appropriate for the individual.

Select “No” if there is no evidence that a lock was considered for the individual.

Question 8b

Select “Yes” if there is a lock on the bedroom door, and the lock is a single-action release lock.

Select “No” if there is a lock on the door, but the existing lock is not a single-action release lock.

Select “N/A” if there are no locks on individual child resident bedroom doors.

A “single-action release lock” is a lock that is disengaged or released when pressure is applied to the handle on the interior door knob.

Question 8c

Select “Yes” if there is a lock on individual resident bedroom doors and the access to the keys is limited to the individual and appropriate staff. The individual’s parent/guardian may have access to the key. Appropriate staff would include caregivers who are actively on shift as well as staff who have assigned duties that include caregiving activities for individuals.

Select “No” if there is a lock on individual resident bedroom doors and keys are openly available to other residents, visitors to the home, or staff who do not have a direct caregiving role to the individual. For example, keys should not be stored where anyone can access them and a staff who performs clerical support or grounds keeping as their primary job duty might not be considered appropriate staff for having access to the keys.

Select “N/A” if there are no locks on the bedroom doors.

If there is evidence that bedroom door locks were not at all considered for individual children, those locks that are installed are not single-action release locks, and/or the keys to the locking doors are accessible by people other than the individual and appropriate persons, the reviewer should make a final determination of provider non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: units have entrance doors lockable by the individual, with the individual and only appropriate staff having a key to access the unit”.

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Question 9:

Evaluate if the parent/guardian of individuals are afforded choice in roommate for their child. This applies to shared bedroom situations only. The provider has the right to accept or reject entry to the home of individual applicants, however, individuals who share bedrooms (and their parent/guardian) need to be included in the choice of specific bedroom roommates.

In most situations, individuals in shared rooms are in situations established prior to the new HCBS regulations. In these situations, it is important that the individual’s parent/guardian is made aware they may request a change in roommate for their child at any time. The request to change roommates may result in the individual for whom the change in roommate is being requested being moved from the shared room situation. Additionally, it is important to inquire about provider policies and practices in regards to providing opportunity for individuals (and the parent/guardian) to meet prospective roommates as well as how the provider goes about getting acceptance from the parent/guardian of the individual who may be acquiring a new roommate.

Question 9a

If there are shared bedrooms in the home, determine if it appears the parent/guardian of the individuals sharing bedrooms have consented to sharing a bedroom with the individual's current roommate.

Indicate any sources of "Evidence of provider/setting compliance" observed that demonstrate individuals' parents/guardians appear to consent to their child's current roommate when there is a shared bedroom situation. Evidence may include information from the parent/guardian or individual themselves, feedback from those familiar with the individual, or the individual's ISP, among other sources. The listed sources are not required to be present as indicators, but do inform how the reviewer may have made a compliance determination. If the reviewer observes another source of information as evidence of compliance, this should be entered in the "Other" section. The reviewer may mark as many sources as apply.

Indicate on the "Evidence of provider/setting non-compliance" section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the "Other" section. The reviewer may mark as many sources that apply. The presence of "Evidence of provider/setting non-compliance" might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

Question 9b

Select "Yes" if there is evidence the individual's parent/guardian does not consent to their child's current roommate, but there is documentation of an assessed support need that is appropriately addressed through limiting the individual's opportunity to consent to a roommate. There must be a significant health or safety risk that is addressed by limiting an individual's opportunity to consent to a roommate.

Select "No" if there is evidence the individual's guardian does not consent to their child's current roommate and there is no documentation of an assessed support need that would warrant a limitation to the individual's opportunity to consent to a roommate.

Select "N/A" if there are no individual residents sharing bedrooms in the home or the individuals sharing a room appear to consent (or do not object) to their current roommates.

If there is evidence that individual's parent/guardian does not consent to their child's current roommate, the provider does not have a policy or practice in place which includes the individual and their parent/guardian in choosing and accepting new

roommates, and/or the provider does not have a practice or policy which allows the individual's parent/guardian to request a new roommate, the reviewer may make a final determination of provider non-compliance by marking the box indicating "Provider has been determined to be out of compliance with: individuals sharing bedrooms have consented to sharing a room with their roommate". Indicators of a non-compliant determination may include, but are not limited to:

- Lack of provider policy for individual's parent/guardian to request a new roommate for their child
- Lack of provider policy/practice to include individuals and their parent/guardian in the roommate selection process
- Individuals in current situations where there has been expressed dissatisfaction by the parent/guardian with their child's current roommate to the point of requesting a change in situation and no action has been taken by the provider

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter "all" if the requirement is not being met for all individuals residing in the home.

The reviewer leaves the "Provider plan for correction" and "To be completed by" sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Question 10:

Evaluate if it appears individuals have age-appropriate freedom and support to decorate and furnish their personal space in the home. This concept is focused on the individual's bedroom. A provider may have policies that are consistent with standard landlord/tenant agreements such as restricting painting, putting nails in the wall, or making modifications to structures. A provider may also address health and safety such as limiting an individual from blocking exits or creating fire or sanitation hazards. Providers may also apply reasonable parent standards to the situation. This may result in the provider limiting graphic or violent content being displayed in the individual's bedroom based on the safety and age of the child, or addressing hygiene and safety related to items in the room. Such practices when applied in accordance with the reasonable, prudent parent standard should not be considered as non-compliant with the regulation.

Question 10a

An individual's bedroom space should reflect the preferences and personal taste of the individual. This may be evidenced by:

- Observation of décor or personal items in the bedroom
- Variation in décor and furnishing amongst household members' bedrooms
- The presence of furniture that personally belongs to the individual contained in the individual's personal bedroom space
- The individual or parent/guardian's statements
- Knowledge of the individual and their preferences reflected in the styling and arrangement of the bedroom space

Indicate any sources of "Evidence of provider/setting compliance" observed that demonstrate individuals appear to be permitted and supported to decorate and furnish their bedroom space. The listed sources are not required to be present as indicators, but do inform how the reviewer may have made a compliance determination. If the reviewer observes another source of information as evidence of compliance, this should be entered in the "Other" section. The reviewer may mark as many sources as apply.

Indicate on the "Evidence of provider/setting non-compliance" section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the "Other" section. The reviewer may mark as many sources that apply. The presence of "Evidence of provider/setting non-compliance" might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

Question 10b

Select "Yes" if there is evidence individuals are restricted beyond age-appropriate structure by the provider/program in decorating the individual's bedroom, but there is documentation of an assessed support need where a limitation to decorating is necessary to address a significant health or safety risk.

Select "No" if there is evidence individuals are restricted beyond age-appropriate structure by the provider in decorating the individual's bedroom and this limitation is not supported by an assessed need.

Select "N/A" if there is no evidence of limitations put on the individual by the provider in decorating or furnishing their bedrooms (other than standard policies in a Residency Agreement)

If there is evidence individuals have been restricted by the provider from decorating or furnishing their personal space beyond customary conditions commonly found in landlord/tenant agreements, the reviewer may make a final determination of provider non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: individuals have the freedom and support to furnish and decorate his/her unit”. Indicators of a non-compliant determination may include, but are not limited to:

- Sparse rooms where small objects or furnishing are limited (particularly when the child is beyond the age where choking hazards are considered common)
- Hardened rooms where the furnishings and décor are limited
- Situations where individuals have been restricted from displaying specific images (such as restrictions on pictures or objects depicting children)

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Question 11:

Evaluate if individual child in the home appear to be encourage and supported in having visitors the home. This means that the home/facility cannot restrict parents/guardians from accessing their child and that individual children may have guests visit them in the home. A provider may have check-in policies and request that visitors identify themselves to address the safety of all residents of the home. Individuals should have the freedom to entertain guests in their homes, however, providers are not responsible to provide food/meals, sleeping accommodations, or attendant care support (if needed) to the guests of the individual. Guests are considered visitors to the home when the visit is intermittent and visitors do not occupy the home for extended periods of time.

Question 11a

Parents/guardians should have access to their child residing in a residential setting, unless prohibited by a court order. Providers may have preferred times identified for visits or request that a child's parent/guardian schedule visits, however, the provider may not restrict a parent or guardian's access to the child.

Question 11b

Individual children should be permitted to have guests in their homes. Indicators of compliance with this regulation may include:

- Observation of guests in the home
- Individuals reporting they had guests they invited to the home
- A visitor log which shows the presence of guests, especially when there is a variation in guests and times guests are visiting
- Activity logs or progress notes maintained by the provider/program that note the presence of guests to the home

Indicate any sources of "Evidence of provider/setting compliance" observed that demonstrate individuals appear to be permitted and encouraged to have visitors to the home. The listed sources are not required to be present as indicators, but do inform how the reviewer may have made a compliance determination. If the reviewer observes another source of information as evidence of compliance, this should be entered in the "Other" section. The reviewer may mark as many sources as apply. Indicate on the "Evidence of provider/setting non-compliance" section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the "Other" section. The reviewer may mark as many sources that apply. The presence of "Evidence of provider/setting non-compliance" might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

Question 11c

Select "Yes" if there is evidence individuals in the home are restricted beyond age-appropriate structure by the provider/setting in having visitors to the home, but there is a documented support need of the individual where a limitation on visitors is necessary to address a significant health and safety risk.

Select "No" if there is evidence that individuals in the home are restricted beyond age-appropriate structure by the provider/setting limited in having visitors to the home, and there is no documentation to justify the limitation.

Select “N/A” if there are no limits beyond age-appropriate structure to individuals having visitors to the home.

If there is evidence that the provider/setting is restricting a parent/guardian’s access to their child, or discouraging or limiting (beyond age appropriate structure) an individual child’s ability to receive guests in the home, the reviewer may make a final determination of provider non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: individuals are permitted and supported to have visitors of his or her choosing at any time”. Indicators of a non-compliant determination may include, but are not limited to:

- Reports by a parent/guardian that they were denied access to the child when requested
- Reports by the provider of restrictive practices that extend beyond age-appropriate structure for an individual child

Providers/programs that institute check-in policies to address the safety of the home such as asking the individual to notify them when guests are present or asking for visitors to identify themselves are not considered limitations or barriers to individuals having visitors of their choosing at any time. The presence and application of check-in policies should not be used to support a non-compliant determination.

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Question 12:

Determine if individuals are supported in controlling their personal schedules and activities.

A provider is responsible to ensure that children have their needs met such as compulsory school attendance, homework, medical appointments, treatment, and adequate nutrition, sleep, and exercise. A provider structuring an individual child’s schedule to ensure necessary events occur should not be considered out of compliance with the regulation.

Question 12a

Individuals should have the freedom and support to control their schedules and activities as much as possible and is age-appropriate to the child. Indicators of provider compliance with this freedom may include, but are not limited to:

- Presence of individualized calendars
- Individual schedules or routines that differ from other household members, such as waking times or meals
- Individuals in the home participate in activities that differ from other members of the household
- Individuals are able to opt out of group or household activities
- The overall routine/operations of the home appear to vary depending on who resides in or is present in the home
- Individuals are able to have flexibility in activities of daily living support (such as bathing or laundry) and mealtimes so they may pursue interests or activities outside the home such as employment, volunteering, or social opportunities.

Indicate any sources of “Evidence of provider/setting compliance” observed that demonstrate individuals are permitted and supported to control their personal schedule and activities. The listed sources are not required to be present as indicators, but do inform how the reviewer may have made a compliance determination. If the reviewer observes another source of information as evidence of compliance, this should be entered in the “Other” section. The reviewer may mark as many sources as apply.

Indicate on the “Evidence of provider/setting non-compliance” section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the “Other” section. The reviewer may mark as many sources that apply. The presence of “Evidence of provider/setting non-compliance” might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

Question 12b

Select “Yes” if there is evidence individuals are limited beyond age-appropriate structure by the provider/program in controlling the individual’s own schedule and activities but there is a documentation in place that supports the need for a limitation to address a significant health and safety risk.

Select “No” if there is evidence individuals are limited beyond age-appropriate structure by the provider/program in controlling their own schedule and activities, and there is no documentation to support a limitation.

Select “N/A” if there is no evidence individuals are limited beyond age-appropriate structure by the provider/program in controlling their own schedules and activities.

If there is evidence that the provider/setting is restricting individuals from exercising freedom to control the individual’s daily living activities and routines beyond age-appropriate structure, the reviewer may make a final determination of provider non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: each individual has the freedom and support to control his or her own schedule and activities”.

Evidence to support a non-compliant determination may include, but is not limited to situations where:

- Individuals are expected to follow a rigid routine set only by the provider
- There is little evidence of variation in schedules between individuals in the home, meaning that individuals in the home follow basically the same schedule and all activities offered in the home or supported by the provider/program are group activities
- Individuals preferences or goals are not reflected in their personal or household schedules
- The schedule/routine of the home does not vary even when the household composition changes
- Individuals are not allowed to opt out of group/household activities
- Individuals are required to spend time outside of the home or are required to participate in specific services such as employment or day support activities as a condition of residing in the home

Please note, there may be situations where a household has a very structured schedule or where the only activities that appear to take place are group activities. These situations may not necessarily result in a non-compliant determination. There may be additional probing or investigation warranted to determine if the structure or group activities are reflective of the preferences of the individuals. If the occurrence of a rigid-looking household schedule or group activities as the only or primary option for activities appears to be in accordance with individual preferences, these situations are acceptable and should not result in a non-compliant finding.

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of

compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Question 13:

Determine if individuals are supported to acquire and have access to personal foods. Providers are required by Oregon Administrative Rule (OAR) to provide the individual with three nutrition meals and two snacks per day. The new HCBS regulation is not requiring the provider to purchase or furnish additional food items for the individual. This regulation focuses on ensuring that individuals receive support (if support is needed) to acquire personal foods and to have the freedom to access their personal foods as appropriate for the individual child.

Question 13a

Evaluate if it appears that the preferences and culture of individuals are considered by the provider in food selection, meal planning, and food preparation for the home. Indicators of a provider’s consideration of the individual related to food include, but are not limited to:

- Individuals (or their parent/guardian) reporting they are asked what their preferences are when shopping for food or when the provider is planning a menu
- Providers offering an alternate option when food is served that the individual does not like
- Progress notes/activity logs indicate individuals were included in grocery shopping, menu planning, or meal preparation

Question 13b

Determine if individuals are permitted and supported in acquiring and accessing personal foods in an age-appropriate manner. Indicators of provider/setting compliance with the requirement include, but are not limited to:

- Individuals reporting they are permitted to buy personal foods or bring foods home from visits or events
- Evidence of personal expenditures for food/snack items
- Presence of personal storage space for individuals’ food items, such as a designated shelf, cabinet or labeled bin/tub
- Communication systems that facilitate an individual to request and be supported to access foods

Indicate any sources of “Evidence of provider/setting compliance” observed that demonstrate individuals appear to be permitted and supported to have acquire and access personal foods. The listed sources are not required to be present as indicators, but do inform how the reviewer may have made a compliance determination. If the reviewer observes another source of information as evidence of compliance, this should be entered in the “Other” section. The reviewer may mark as many sources as apply.

Indicate on the “Evidence of provider/setting non-compliance” section any of the listed sources observed that support a non-compliant determination. The listed sources are not required to be present as indicators, but do provide sources of evidence in how it was determined a provider is not in compliance with the rule requirements. If the reviewer observes another source of information as evidence of non-compliance, this should be entered in the “Other” section. The reviewer may mark as many sources that apply. The presence of “Evidence of provider/setting non-compliance” might not automatically result in a non-compliant finding. The reviewer must weigh all of the evidence in determining whether a provider is compliant or non-compliant.

Question 13c

Select “Yes” if there is evidence of the provider/program limiting an individual’s ability to acquire and access personal foods beyond age-appropriate structure but there is documentation to support a limitation to address a significant health or safety risk.

Select “No” if there is evidence of the provider/program limiting an individual’s ability to acquire and access personal foods beyond age-appropriate structure and there is no documentation to support the limitation.

Select “N/A” if there is no evidence of the provider/program limiting an individual’s ability to acquire and access personal foods beyond age-appropriate structure.

If there is evidence that the provider/setting does not consider the culture or preferences of the child in food preparation or planning, or restricts the child’s ability to acquire and access personal foods beyond age-appropriate structure, the reviewer may make a final determination of provider non-compliance by marking the box indicating “Provider has been determined to be out of compliance with: each individual has the freedom and support to have access to food at any time”. Indicators of a non-compliant determination may include, but are not limited to:

- Report by individuals that they are not permitted to have or access personal food items at any time
- Reports by an individual or their guardian that they are not permitted to bring home food items from events or visits
- Lack of designated spaces for individuals to store personal foods

- Presence of “house rules” or provider policies which restrict an individual’s choice or access to foods, such as “No food after 8 pm” or “Junk food is not allowed in the home”
- A locked kitchen where no alternative food storage or food preparation is offered to individual residents of the home

Please note that an individual having the freedom and support to have access to personal foods does not extend to unrestricted access to the foods of others, including the provider. It is permissible for a provider to secure foods that are the property of the provider (items acquired with the provider’s resources as opposed to individual’s personal funds) and restrict access to these items. The securing of the provider’s or other housemates’ foods should not result in a barrier to individual access to the personal foods of the individual. Providers restricting an individual’s access to the food of others should not result in a non-compliance determination, unless the restriction also has the effect of limiting the individual’s access to the individual’s personal foods.

Additionally, situations where an individual is not able to access foods at any time due to choices of the individual (such as the individual electing to spend their money on other things) should not be applied as evidence of non-compliance on behalf of the provider. Situations such as this where the individual is dissatisfied with the extent of access they have as a result of how they have chosen to allocate their personal resources may be appropriately addressed through the individual’s person-centered planning. The team may explore ways to support the individual with decision-making and budgeting which enables the individual to have the resources to have foods available.

Please provide an explanation of the compliance determination. If the provider is determined to be out of compliance, then the reviewer must provide a narrative explanation of why the provider was found to be out of compliance. The narrative should include identifying for which individuals (by initial) the provider is out of compliance. The review may enter “all” if the requirement is not being met for all individuals residing in the home.

The reviewer leaves the “Provider plan for correction” and “To be completed by” sections blank. The provider will complete these sections and return the checklist to the reviewing party.

Additional Notes:

Use the “Additional Notes” section to provide additional information or expand on explanations included in the review checklist.

Signatures and Designation:

Review completed by-- print the name of the person conducting the on-site review and completing the assessment.

Signature of Reviewer—the ODDS, OLRO, CDDP or Regional Program staff completing the review must sign the review form and date the document indicating the date the initial on-site review was completed

Signature of Provider—the Provider (license, certificate, or endorsement holder) must sign the form upon submission of the applicable “Provider plan for correction” sections of the plan

Plan approved by—the licensing or certification staff responsible for determining the adequacy of the provider’s Plan for Correction must sign this section, indicating approval of the provider’s proposal to remediate the identified areas where the provider was found to be non-compliant with the HCBS rules

To be followed up by—indicates the party (must be ODDS, OLRO, CDDP, or Regional Program staff) responsible to conduct a follow-up review to monitor progress or completion of the Provider Plan for Correction, as well as the date this review is due

Plan completed verified by—must be signed by the ODDS, OLRO, CDDP, or Regional Program staff responsible to verify the provider has completed the Provider plan for Correction and indicate the date that the completed plan was verified.