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NOTICE OF PROPOSED RULEMAKING

INCLUDING STATEMENT OF NEED & FISCAL IMPACT

CHAPTER 407
DEPARTMENT OF HUMAN SERVICES

FILED: 09/28/2026 5:36 PM
ARCHIVES DIVISION SECRETARY OF STATE

FILING CAPTION: Background Check Portability Expansion to 3 years, Record-Keeping and Confidentiality and Substantial Equivalence

LAST DAY AND TIME TO OFFER COMMENT TO AGENCY: 11/20/2026 4:00 PM
The Agency requests public comment on whether other options should be considered for achieving the rule's substantive goals while reducing negative economic impact of the rule on business.

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Filed By:
Kelly Myrick
Rules Coordinator

HEARING(S)
Auxiliary aids for persons with disabilities are available upon advance request. Notify the contact listed above.

DATE: 11/19/2026
TIME: 2:30 PM
OFFICER: Kelly Myrick

REMOTE HEARING DETAILS
MEETING URL: Click here to join the meeting
PHONE NUMBER: 971-277-2343
CONFERENCE ID: 368134452
SPECIAL INSTRUCTIONS:
Please join within the first 15 minutes. The rule hearing will stay open for 30 minutes or until all comments have been received.
A rule hearing is the time for people to share comments about the proposed rule changes. At the rule hearing, the hearing officer will listen and record the comments for the hearing report. Questions about the rule content or other background

check services are not answered during a rule hearing.
If you need help or have questions, please email bcu.policy@odhsoha.oregon.gov or call 503-378-5470 or 888-272-5545. the Background Check Unit accepts
calls through all types of relay services.
Language Access and Support:
https://www.oregon.gov/odhs/Pages/language-assistance.aspx
We provide free help so everyone can use our services.
Some examples:
• Sign language and spoken language interpreters
• Written materials in other languages
• Braille
• Real-time captioning (CART)
• Large print
• Audio and other formats

NEED FOR THE RULE(S):

The 2026 Legislative Session passed HB 4115 (Or Law 2026, CH. 59). This bill amends ORS 443.004 and requires updates to websites regarding background checks. These proposed rule updates are required for compliance with updated statute requirements. Additional amendments improve and clarify information about background check information confidentiality and recordkeeping as well as adding information about how criminal convictions in other jurisdictions are compared to Oregon criminal statutes.

DOCUMENTS RELIED UPON, AND WHERE THEY ARE AVAILABLE:

https://olis.oregonlegislature.gov/liz/2026R1/Downloads/MeasureDocument/HB4115/Enrolled
https://www.oregonlegislature.gov/bills_laws/lawsstatutes/2026orlaw0059.pdf
https://www.oregonlegislature.gov/bills_laws/ors/ors181A.html
https://www.oregonlegislature.gov/bills_laws/ors/ors443.html

STATEMENT IDENTIFYING HOW ADOPTION OF RULE(S) WILL AFFECT RACIAL EQUITY IN THIS STATE:

Background checks, which include review of an applicant's criminal history, may negatively impact populations that are overly represented in the criminal justice system. The rule updates included in this proposal reflect changing statutory requirements that require rechecks every three years instead of every two, which may lessen the repeat background check burden on subject individuals.
The Background Check Unit contacted Tribal Affairs to determine if Tribal Consultation was needed.

FISCAL AND ECONOMIC IMPACT:

These rule changes are anticipated to have minimal fiscal impact on state agencies, community partners, or the general public. The change for background check validity for the specified population of providers from two years to three years may positively impact those providers by reducing the number of fingerprinting fees paid (fees would be paid every three years rather than every two).

COST OF COMPLIANCE:
(1) Identify any state agencies, units of local government, and members of the public likely to be economically affected by the rule(s). (2) Effect on Small Businesses: (a) Estimate the number and type of small businesses subject to the rule(s); (b) Describe the expected reporting, recordkeeping and administrative activities and cost required to comply with the rule(s); (c) Estimate the cost of professional services, equipment supplies, labor and increased administration required to comply with the rule(s).

No state agencies, units of local government, and members of the public likely to be economically affected by the rules. There is minimal impact to small businesses: for continuing employees of small businesses such as adult foster homes, the number of background checks is reduced to every three years (from every two years).
There are no changes to current recordkeeping, reporting, administrative activities, professional services, equipment supplies, labor due to the proposed language.

DESCRIBE HOW SMALL BUSINESSES WERE INVOLVED IN THE DEVELOPMENT OF THESE RULE(S):

The Background Check Unit invited small businesses to review the rule changes before and during the Rules Advisory Committee.

WAS AN ADMINISTRATIVE RULE ADVISORY COMMITTEE CONSULTED? YES

RULES PROPOSED:
407-007-0090, 407-007-0210, 407-007-0220, 407-007-0281, 407-007-0340, 407-007-0460, 407-007-0610, 407-007-0620, 407-007-0640

AMEND: 407-007-0090

RULE SUMMARY: Adds language to clarify what information generated as part of a background check is to be kept confidential and what information may be released publicly or due to a public records request. Adds language to clarify what information may be disseminated to the Subject Individual as part of their own criminal records check and what information may be provided as evidence in a contested case hearing.

CHANGES TO RULE:

407-007-0090
Record Keeping, Confidentiality ¶

(1) All ~~LEDS~~name-based criminal re~~p~~cords check results are confidential and the Department shall maintain the reports in accordance with applicable OSP requirements in ORS chapter 181A and OAR chapter 257, division 010 and 015. ¶
(a) ~~LEDS~~Name-based criminal re~~p~~cords check results may only be shared with approved Department authorized designees if there is a need to know consistent with these rules. ¶
(b) The ~~LEDS~~name-based criminal re~~p~~cor~~t and any photocopie~~ds check results may not be shown or given to the SI. ¶
(2) The results of a ~~national~~fingerprint-based criminal records check provided by the FBI or through OSP are confidential and may not be disseminated by the Department except: ¶
(a) If an SI requests the results of a fingerprint-based criminal records check ~~was conducted on the SI, the SI~~received by BCU, BCU shall ~~be~~ provide~~d~~ a copy of the results ~~upon request~~to the SI. ¶
(b) During ~~the~~a contested case hearing under these rules, the Department shall provide ~~state and national criminal offender information~~the information provided by the QED and the SI in the application, the fingerprint-based state and national criminal offender information, any documents gathered for a weighing test, and notifications to the SI as exhibits. ¶
(3) All ~~comple~~submitted criminal records check requests whether completed with a final fitness determination or closed without a final fitness determination, other criminal history information, and other records collected or developed during the criminal records check process shall be kept confidential~~ and disseminated only on a need-to-know basis.~~. The Department may only release de-identified, anonymized and aggregate data regarding background checks.¶
(4) The Department shall retain and destroy all criminal records check documents pursuant to federal law and records retention schedules published by Oregon State Archives.
Statutory/Other Authority: ORS 181A.195, 181A.200, 409.050
Statutes/Other Implemented: ORS 181A.195, 181A.200, 409.010

AMEND: 407-007-0210

RULE SUMMARY: Update of the name of the Behavioral Health Division of the Oregon Health Authority and addition of an exclusion from the definition of Subject Individual for the purposes of OAR 407-007-0200 through 407-007-0370.

CHANGES TO RULE:

407-007-0210
Definitions ¶

OAR 125-007-0210 and 407-007-0010 include definitions for words and terms used in OAR chapter 407, division 007. The following definitions apply specifically to OAR 407-007-0200 to 407-007-0370: ¶
(1) "Appointing authority" means an individual designated by the qualified entity (QE) who is responsible for appointing QE designees (QEDs). Examples include but are not limited to human resources staff with the authority to offer and terminate employment, a business owner, a member of the board of directors, a director, or a program administrator.¶
(2) "Credible evidence" means available facts, when viewed objectively with the surrounding circumstances, would cause a reasonable person to believe that an event has occurred.¶
(3) "Good Standing" means the SI is in an approved status on the registry (see OAR 407-007-0600 to 407-007-0640) and may continue to work without active supervision (see OAR 407-007-0315(7)) in an approved status in all any current positions listed for the SI.¶
(4) "Ineligible" means BCU has determined that an SI has one or more convictions that prohibit the SI from holding the position listed in the background check request. Ineligibility is due to either the SI being subject to:¶
(a) ORS 443.004 and either OAR 407-007-0275 or 407-007-0277; or ¶
(b) A federal law or regulation that includes mandatory exclusions.¶
(5) "Mandatory exclusion" a conviction or condition from a federal law, regulation or directive that would prohibit the SI from holding the position listed in the background check request.¶
(6) "Portability" means the ability of an SI to use one approved background check for a defined period of time for immediate hirability for a position offered by a QE within a group as determined by the Department. See OAR 407-007-0600 to 407-007-0640.¶
(7) "Potentially disqualifying abuse" means abuse that is considered potentially disqualifying in a background check pursuant to OAR 407-007-0290(11). If formal review or appeal rights are offered to the alleged perpetrator (SI), BCU may consider the abuse as potentially disqualifying after these rights are completed or timed out. ¶
(8) "Proctor foster parent" means an individual who is an applicant for certification or recertification of a proctor foster home by a child-caring agency pursuant to OAR 419-440-0010 to 419-440-0210. ¶
(9) "Qualified entity (QE)" means a community mental health or developmental disability program, local health department, or an individual, business, or organization, whether public, private, for-profit, nonprofit, or voluntary, that provides care, including a business or organization that licenses, certifies, or registers others to provide care (see ORS 181A.200).¶
(10) "QE designee (QED)" means an approved SI appointed by the QE's appointing authority to handle background checks on behalf of the QE.¶
(11) "QE Initiator (QEI)" means an approved SI to whom BCU has granted access to BCU' online background check system for one QE for the purpose of entering background check request data.¶
(12) "Subject individual (SI)" means an individual on whom BCU may conduct a criminal records check or an abuse check or both, and from whom BCU may require fingerprints for the purpose of conducting a national criminal records check.¶
(a) An SI includes any of the following:¶
(A) An individual who is licensed, certified, registered, or otherwise regulated or authorized for payment by the Department or Authority and who provides care.¶
(B) An employee, contractor, temporary worker, or volunteer who provides care or has direct contact with clients, client information, or client funds within or on behalf of any entity or agency licensed, certified, registered, or otherwise regulated by the Department or Authority.¶
(C) Any individual who is paid directly or indirectly with public funds who has or will have direct contact with recipients of:¶
(i) Services within an adult foster home (defined in ORS 443.705); or¶
(ii) Services within a residential facility (defined in ORS 443.400).¶
(D) Any individual secured by any residential care or assisted living facility licensed by the Department in accordance with OAR chapter 411 division 54 through the services of a personnel services or staffing agency who works and provides care or has direct contact with clients, client information, or client funds.¶

(E) Any individual secured by any residential care or assisted living facility licensed by the Department in accordance with OAR chapter 411 division 85 through the services of a personnel services or staffing agency who works and provides care or has direct contact with clients, client information, or client funds.¶
(F) Except as excluded in section (12)(b)(C) and (D) of this rule, an individual who lives in a facility that is licensed, certified, registered, or otherwise regulated by the Department to provide care. The position of this SI includes but is not limited to resident manager, household member, boarder, or tenant.¶
(G) Any referral agent, and any employee of a referral agent of a long term care referral entity pursuant to OAR 411-058-0000 to 411-058-0100 who comes into direct contact with clients.¶
(H) For child foster homes licensed by the Department's Developmental Disabilities (DD) programs, or child foster or adoptive homes governed by OAR chapter 419, division 400:¶
(i) A foster parent or proctor foster parent;¶
(ii) An adoptive parent applicant or an approved adoptive parent;¶
(iii) A household member in an adoptive or foster home 18 years of age and over; ¶
(iv) A household member in an adoptive or foster home under 18 years of age if there is reason to believe that the household member may pose a risk to children placed in the home; and¶
(v) A respite care provider or alternate caregiver.¶
(I) An individual with contact with clients, client information, or client funds, who is an employee, contractor, or volunteer for a child-caring agency governed by OAR chapter 419 division 400; an In-Home Safety and Reunification Services (ISRS) program; a Strengthening, Preserving and Reunifying Families (SPRF) provider; or a system of care contractor providing child welfare services pursuant to ORS chapter 418.¶
(J) A homecare worker as defined in ORS 410.600, a personal support worker as defined in ORS 410.600, a personal care services provider, or an independent provider employed by a Department or Authority client who provides care to the client if the Department or Authority helps pay for the services.¶
(K) An individual subject to ORS 475 and OAR 333-333-4100, including:¶
(i) Any person identified as an applicant on a worker permit or license application under OAR chapter 333, division 333; or ¶
(ii) Any licensee or work permit holder who is applying for a renewal under OAR chapter 333, division 333.¶
(L) An appointing authority, QED, or QEI associated with any entity or agency licensed, certified, registered, otherwise regulated by the Department, or subject to these rules.¶
(M) An individual providing on the job certified nursing assistant classes to staff within a long term care facility.¶
(N) A student enrolled in a Board of Nursing approved nursing assistant training program in which the instruction and training occurs solely in a nursing facility.¶
(O) Except for those excluded under section (12)(b)(B), a student or intern who provides care or has direct contact with clients, client information, or client funds within or on behalf of a QE.¶
(P) Any individual associated with a room and board facility pursuant to OAR chapter 411, division 68, including:¶
(i) Any registered operator or registration applicant; or¶
(ii) All persons intending to work in, or currently working in a room and board facility, including, but not limited to, tenant managers, including trainees, and licensed healthcare workers when employed by or contracted with the registrant or the room and board facility.¶
(Q) An employee providing care to clients of the Department's Aging and People with Disabilities (APD) programs who works for an in-home care agency as defined by ORS 443.305 which has enrolled to deliver Medicaid funded services as described in OAR 411-033-0000 to 411-033 to 0030 for Department clients.¶
(R) Any individual who is required to complete a background check pursuant to Department or Authority program rules, if the requirement is within the Department or Authority's statutory authority. Specific statutory authority or reference to these rules and who is subject to a background check must be specified in the program rules. Whether hiring on a preliminary basis, restricted approval, or how often a recheck is needed may also be specified in the program rules. The exceptions in section (12)(b) do not apply to these SIs.¶
(S) Any individual who is required to complete a background check pursuant to a contract with the Department or Authority to provide care to vulnerable individuals, if the requirement is within the Department or Authority's statutory authority. Specific statutory authority or reference to these rules and the positions under the contract subject to a background check must be specified in the contract. Whether hiring on a preliminary basis, restricted approval, or how often a recheck is needed may also be specified in the contract. The exceptions in section (12)(b) do not apply to these SIs.¶
(b) An SI does not include:¶
(A) Any individual under 16 years of age.¶
(B) A student or intern in a clinical placement at a clinical training setting subject to administrative rules implemented under ORS 413.435 and OAR 409-030-0100 to 409-030-0250.¶
(C) Department, Authority, or QE clients. The only circumstance in which BCU allows a check to be performed on a client pursuant to this paragraph is if the client falls within the definition of "subject individual" as listed in sections

(12)(a)(A)-(E) and (12)(a)(G)-(S) of this rule, or if the facility is dually licensed for different populations of vulnerable individuals.¶
(D) Individuals required to complete a background check through the Central Background Registry under the ~~Office of Child Care of the Oregon Department of Education (known as the Department of Education, Early Learning Division effective 7/1/2023)~~regon Department of Early Learning and Care.¶
(E) Volunteers providing any care or services for a QE's special event lasting no more than 2 weeks whose access to clients is no more than three days within the two-week period. These volunteers must always be actively supervised in accordance with OAR 407-007-0315 and have no unsupervised contact with clients. ¶
(F) Individuals employed by a private business that provides services to clients and the general public and is not regulated by the Department or Authority.¶
(G) Individuals employed by a business that provides appliance or structural repair for clients and the general public and who are temporarily providing these services in a licensed or certified QE. The QE must ensure active supervision of these individuals while on QE property and the QE may not allow unsupervised contact with QE clients or residents. This exclusion does not apply to a business that receives funds from the Department or Authority for care provided by an employee of the business.¶
(H) Individuals employed by a private business in which a client of the Department or Authority is working as part of a Department- or Authority-sponsored employment service program. This exclusion does not apply to an employee of a business that receives funds from the Department or Authority for care provided by the employee.¶
(I) Employees, contractors, students, interns, and volunteers working in hospitals, ambulatory surgical centers, outpatient renal dialysis facilities, extended stay centers, and freestanding birthing centers, as defined in ORS 442.015, and special inpatient care facilities as defined by the Authority in administrative rule.¶
(J) Employees, contractors, students, interns, and volunteers working in home health agencies, in-home care agencies, or hospice programs as defined by the Authority in administrative rule.¶
(K) Volunteers, who are not under the direction and control of a licensed, certified, registered, or otherwise regulated QE.¶
(L) Individuals employed or volunteering in a Medicare-certified health care business which is not subject to licensure or certification by the State of Oregon.¶
(M) Individuals working in restaurants or at public swimming pools.¶
(N) Hemodialysis technicians.¶
(O) Employees, contractors, temporary workers, or volunteers who provide care, or have direct contact with clients, client information, or client funds of an alcohol and drug program that is certified, licensed, or approved by the Authority's ~~Health Systems~~Behavioral Health Division to provide prevention, evaluation, or treatment services. This exclusion does not apply to programs specifically required by other Authority program rules to conduct criminal records checks in accordance with these rules.¶
(P) Individuals working for a transit service provider which conducts background checks pursuant to ORS 267.237.¶
(Q) Emergency medical technicians and first responders certified by the Authority's Emergency Medical Services and Trauma Systems program.¶
(R) Employees, contractors, temporary workers, or volunteers of continuing care retirement communities registered under OAR chapter 411, division 67.¶
(S) Individuals hired by or on behalf of a resident in a QE to provide care privately to the resident.¶
(T) An employee, contractor, temporary worker, or volunteer who provides care or has direct contact with specific clients, client information, or client funds within or on behalf of any entity or agency licensed, certified, registered, or otherwise regulated by the Department or Authority, where the clients served permanently reside in another state.¶
(U) An employee, volunteer or contractor subject to OAR 407-007-0000 to 407-007-0100, including individuals working or placed in a residential facility owned or operated by the Department or the Authority.
Statutory/Other Authority: ORS 181A.200, 409.027, 409.050, ORS 475A.486, Or. Law 2026 ch. 59 (2026 HB 4115)
Statutes/Other Implemented: ORS 181A.200, 409.027, ORS 181A.195, 443.004, ORS 418.248, ORS 475A.486, Or. Law 2026 ch. 59 (2026 HB 4115)

AMEND: 407-007-0220

RULE SUMMARY: Amends rule to allow background checks under this section to be valid for three years, in compliance with OR law 2026 chapter 59.

CHANGES TO RULE:

407-007-0220
Background Check Required ¶

(1) An SI must have a background check in the following circumstances:¶
(a) An individual who becomes an SI on or after the effective date of these rules.¶
(b) The SI changes employers to a different QE.¶
(c) The individual, whether previously considered an SI or not, changes positions under the same QE, and the new position requires a background check.¶
(d) The individual, whether previously considered an SI or not, changes Department or Authority-issued licenses, certifications, or registrations, and the license, certification, or registration requires a background check under these rules.¶
(e) For a student enrolled in a nursing facility nursing assistant training program for employment at the facility, a new background check is required when the student is first enrolled in the training program to be in contact with nursing facility patients, and again if the student becomes an employee at the facility unless the first background check results in good standing in the background check registry and portability pursuant to OAR 407-007-0600 to 407-007-0640.¶
(f) A background check is required by federal or state laws or regulations, other Department or Authority administrative rules, or by contract with the Department or Authority.¶
(g) When BCU or the QE has reason to believe that a background check is justified, if allowed by statute or rule. Examples include but are not limited to:¶
(A) Credible evidence of new potentially disqualifying convictions or conditions. Pursuant to OAR 407-007-0620(6), BCU must either immediately remove an SI's portability, revoke an SI's good standing, or both if BCU receives credible evidence indicating that the SI has new potentially disqualifying convictions or conditions.¶
(B) A lapse in working or volunteering in a position under the direction and control of the QE but the SI is still considered in the position. For example, an extended period of leave by an SI. The QE determines the need for a background check.¶
(C) Quality assurance monitoring by the Department or Authority of a previously conducted criminal records check or abuse check.¶
(2) If the SI is subject to a background check due to involvement with the foster or adoptive placement of a child and:¶
(a) Is subject to the Interstate Compact on Placement of Children (ORS 417.200 and OAR 413-040-0200 to 413-040-0330), the background check must comply with Interstate Compact requirements.¶
(b) Is subject to the Inter-County Adoption Act of 2000 (42 USC 14901 et seq.), the background check must comply with federal requirements and ORS 417.262.¶
(3) If QEs, Department program rules, or Authority program rules require an SI to report any new arrests, charges, or convictions, the QE may determine if personnel action is required if the SI does not report. Personnel action may include a new background check if allowed by statute or rule.¶
(4) A homecare worker or personal support worker, as defined in ORS 410.600, is subject to section (1) of this rules. However, a homecare worker or personal support worker does not need a new background check when adding new client employers by meeting the following requirements: the homecare worker or personal support worker must have: ¶
(a) A Department background check notice of final fitness determination dated within the recheck period according to Department program rules showing that the homecare worker or personal support worker has been:¶
(A) Approved;¶
(B) Approved with restrictions that do not prohibit additional clients; or¶
(C) Approved but not having portability pursuant to OAR 407-007-0600 to 407-007-0640; and ¶
(b) The background check notice of final fitness determination lists a worksite of "various," "various clients," "statewide," or similar wording.¶
(5) A personal care services provider, lifespan respite or other respite care provider, or an independent provider paid with Department or Authority funds is subject to section (1) of this rule. However, an SI in these positions may change or add clients within the same QE, Department, or Authority district without a new background check if the prior, documented criminal records check or abuse check conducted within the previous 24 months through the

Department or Authority has been:¶
(a) Approved;¶
(b) Approved with restrictions that do not prohibit additional clients; or¶
(c) Approved but not having portability pursuant to OAR 407-007-0600 to 407-007-0640.¶
(6) Regardless of section (1) of this rule~~s~~, an individual subject to ORS 475A and OAR 333-333-4100 follows the criminal records check requirements in ORS chapter 475A and OAR 333-333-4100.¶
(7) If an SI remains with a QE in the same position listed in the background check request and the QE merges with another QE, is sold to another QE, or changes names, the SI does not need a new background check. The changes to the QE may be noted in documentation attached to the notice of fitness determination but do not warrant a new background check.¶
(8) For a student enrolled in a nursing facility nursing assistant training program for employment at the facility, a new background check is not required at graduation from the training program or at the granting of certification by the Board of Nursing.¶
(9) The SI on the background check registry in good standing maintained under OAR 407-007-0600 to 407-007-0640 is subject to section (1) of this rule when the SI's new background check being considered is not for a position that would result in placement on the background check registry maintained under OAR 407-007-0600 to 407-007-0640 if approved.¶
(10) The restrictions on criminal records checks in this section may exempt an SI from background checks required under section (1) of this rule as determined by the Department pursuant to ORS 443.004(~~1~~2)(b).¶
(a) This section applies to an SI subject to ORS 443.004 who is:¶
(A) An employee of a residential facility or an adult foster home;¶
(B) Any individual who is paid directly or indirectly with public funds who has or will have contact with a recipient of support services or a resident of an adult foster home or a residential facility; and¶
(C) A home care worker or a personal support worker as defined in ORS 410.600.¶
(b) The ~~Department must complete not more than one criminal records check every 18 months on~~approval of a background check application for an SI subject to this section lasts for three years, effective as of the completion of the SI's first or renewing background check approval after the implementation of ORS 443.004(~~1~~2)(b) (Or Law 202~~1~~6 chapter ~~198~~59), on June ~~8~~5, 202~~1~~6.¶
(c) A criminal records check, as part of a new background check, may be completed more often only if the Department:¶
(A) Receives credible evidence of a new criminal conviction;¶
(B) Receives credible evidence of potentially disqualifying abuse;¶
(C) Is required by federal law to conduct more frequent criminal record checks; ¶
(D) Is notified by a QE and an SI has changed position or duties for which there are different criminal records check requirements; or¶
(E) Determines that it would be burdensome for an SI to wait for a new criminal records check, including but not limited to:¶
(i) The Department receives credible evidence of a change in circumstances that could positively impact a previous fitness determination;¶
(ii) The SI is seeking certification, licensure, or some other qualification associated with ~~his or her job that requires a~~a position that requires a background check;¶
(iii) The SI is getting a recheck for recredentialing which must be submitted and completed before or by the three-year expiration date of the background check~~;~~ approval.¶
(d) If the Department determines that a new fitness determination is necessary and a new criminal records check is not allowed, the Department may complete a new abuse check and use information from the most recent criminal records check completed on the SI in the Department's records. An example of when a new fitness determination is necessary, and a new criminal records check is not allowed, is when BCU learns of a new potentially disqualifying condition.¶
(e) If an SI changes positions while staying with the same QE and the new position is not subject to the registry under OAR 407-007-0600 to 407-007-0640, the QED must document that no new background check may be completed for the new position pursuant to ORS 443.004 and OAR 407-007-0220(10)(b).¶
(f) If the SI is applying for a position that requires a background check under these rules but is not subject to ORS 443.004, the restrictions in this section do not apply and do not count as criminal records checks towards this section.¶
(11) Background checks are completed on SIs who otherwise meet the qualifications of the position listed on the background check request, the position description completed by the QE, and the program rules governing the QE and position. A background check may not be used to screen applicants for a position or who do not meet such qualifications.
Statutory/Other Authority: ORS 181A.200, ORS 409.027, 409.050, Or. Law 2026 ch. 59 (2026 HB 4115)

Statutes/Other Implemented: ORS 181A.200, ORS 409.027, ORS 181A.195, 443.004, Or. Law 2026 ch. 59 (2026 HB 4115)

AMEND: 407-007-0281

RULE SUMMARY: Amends rule to include procedures by which BCU will compare criminal statutes from other jurisdictions to determine substantial equivalence to Oregon criminal statutes.

CHANGES TO RULE:

407-007-0281
Potentially Disqualifying Convictions
A conviction of any of the following crimes is potentially disqualifying. However, offenses or convictions that are classified as less than a misdemeanor, such as violations or infractions, are not potentially disqualifying (see ORS 161.505 to 161.565).¶
(1) Pursuant to OAR 125-007-0270, any conviction of a misdemeanor or felony in any jurisdiction, a U.S. military crime, or an international crime is a permanent review crime for the following:¶
(a) An SI associated with Department Child Welfare adoptive and foster homes subject to criminal records checks under OAR 413-120-0400 to 413-120-0475.¶
(b) An SI who is an employee, contractor or volunteer for a Department Child Welfare licensed child caring agency governed by OAR chapter 419 division 400.¶
(c) An SI, as listed in OAR 407-007-0210(12)(a)(H) associated with a child adoptive or foster home licensed by a child caring agency governed by OAR chapter 419 division 400.¶
(2) Potentially disqualifying convictions for SIs subject to ORS 475A and OAR 333-333-4100 include section (3) of this rule with the following exceptions:¶
(a) BCU may not consider the following for SIs applying for license or renewal of license:¶
(A) The manufacture of psilocybin or the manufacture of a marijuana item, as defined in ORS 475C.009, if:¶
(i) The date of the conviction is two or more years before the submission date of the application; and¶
(ii) The SI has not been convicted more than once for the manufacture of psilocybin or a marijuana item; or¶
(B) The possession of a controlled substance, as defined in ORS 475.005, or a marijuana item, as defined in ORS 475C.009, if:¶
(i) The date of the conviction is two or more years before the date of the application; or¶
(ii) The person has not been convicted more than once for the possession of a controlled substance or a marijuana item.¶
(b) BCU may only consider the following for SIs applying for a permit or renewal of a permit:¶
(A) Any felony conviction; or ¶
(B) Any felony or misdemeanor conviction under OAR ORS 475A.210 to 475A.722 if the date of the conviction is less than two years before the date of the application or renewal.¶
(3) For all other SIs subject to these rules:¶
(a) The crimes listed in this section are permanent review crimes which require that a fitness determination with a weighing test be completed regardless of date of conviction.¶
(A) ORS 163.095, Aggravated murder¶
(B) ORS 163.107, Murder I¶
(C) ORS 163.115, Murder II¶
(D) ORS 163.118, Manslaughter I¶
(E) ORS 163.125, Manslaughter II¶
(F) ORS 163.145, Criminally negligent homicide¶
(G) ORS 163.149, Aggravated vehicular homicide¶
(H) ORS 163.165, Assault III¶
(I) ORS 163.175, Assault II¶
(J) ORS 163.185, Assault I¶
(K) ORS 163.187, Strangulation¶
(L) ORS 163.200, Criminal mistreatment II¶
(M) ORS 163.205, Criminal mistreatment I¶
(N) ORS 163.225, Kidnapping II¶
(O) ORS 163.235, Kidnapping I¶
(P) ORS 163.263, Subjecting another person to involuntary servitude in the second degree¶
(Q) ORS 163.264, Subjecting another person to involuntary servitude in the first degree¶
(R) ORS 163.266, Trafficking in persons¶
(S) ORS 163.275, Coercion¶
(T) ORS 163.355, Rape III¶
(U) ORS 163.365, Rape II¶

(V) ORS 163.375, Rape I¶
(W) ORS 163.385, Sodomy III¶
(X) ORS 163.395, Sodomy II¶
(Y) ORS 163.405, Sodomy I¶
(Z) ORS 163.408, Unlawful sexual penetration II¶
(AA) ORS 163.411, Unlawful sexual penetration I¶
(BB) ORS 163.413, Purchasing sex with a minor, if the courts designate the offense as a sex crime pursuant to ORS 163.413(3)(d), or the offense is the defendant's second or subsequent convictions under ORS 163.413(3)(b)(B)¶
(CC) ORS 163.415, Sexual abuse III¶
(DD) ORS 163.425, Sexual abuse II¶
(EE) ORS 163.427, Sexual abuse I¶
(FF) ORS 163.432, Online sexual corruption of a child in the second degree, if the offender reasonably believed the child to be more than five years younger than the offender¶
(GG) ORS 163.433, Online sexual corruption of a child in the first degree, if the offender reasonably believed the child to be more than five years younger than the offender¶
(HH) ORS 163.435, Contributing to the sexual delinquency of a minor¶
(II) ORS 163.445, Sexual misconduct, if the offender is at least 18 years of age¶
(JJ) ORS 163.465, Public indecency¶
(KK) ORS 163.467, Private indecency¶
(LL) ORS 163.525, Incest, with a child victim¶
(MM) ORS 163.535, Abandonment of a child¶
(NN) ORS 163.537, Buying or selling a person under 18 years of age¶
(OO) ORS 163.547, Child neglect I¶
(PP) ORS 163.670, Using child in display of sexually explicit conduct¶
(QQ) ORS 163.680, Paying for viewing a child's sexually explicit conduct¶
(RR) ORS 163.684, Encouraging child sexual abuse I¶
(SS) ORS 163.686, Encouraging child sexual abuse II¶
(TT) ORS 163.687, Encouraging child sexual abuse III¶
(UU) ORS 163.688, Possession of materials depicting sexually explicit conduct of a child I¶
(VV) ORS 163.689, Possession of materials depicting sexually explicit conduct of a child II¶
(WW) ORS 163.700, Invasion of personal privacy II¶
(XX) ORS 163.701, Invasion of personal privacy I¶
(YY) ORS 163A.005, All crimes listed in definition of "Sex Crime," including Transporting child pornography into the state ¶
(ZZ) ORS 164.055, Theft I¶
(AAA) ORS 164.057, Aggravated theft I¶
(BBB) ORS 164.098, Organized retail theft¶
(CCC) ORS 164.125, Theft of services¶
(DDD) ORS 164.215, Burglary II¶
(EEE) ORS 164.225, Burglary I¶
(FFF) ORS 164.325, Arson I¶
(GGG) ORS 164.377, Computer crime¶
(HHH) ORS 164.405, Robbery II¶
(III) ORS 164.415, Robbery I¶
(JJJ) ORS 165.013, Forgery I¶
(KKK) ORS 165.022, Criminal possession of a forged instrument I¶
(LLL) ORS 165.032, Criminal possession of a forgery device¶
(MMM) ORS 165.800, Identity theft¶
(NNN) ORS 165.803, Aggravated identity theft¶
(OOO) ORS 167.012, Promoting prostitution¶
(PPP) ORS 167.017, Compelling prostitution¶
(QQQ) ORS 167.057, Luring a minor¶
(RRR) ORS 167.320, Animal abuse I¶
(SSS) ORS 167.322, Aggravated animal abuse I¶
(TTT) ORS 167.333, Sexual assault of animal¶
(UUU) ORS 475.752(1), (2) and (6), Prohibited acts generally (regarding delivery and manufacture drug crimes; formerly ORS 475.840, 2005-2011)¶
(VVV) ORS 475.806, Unlawful manufacture of hydrocodone¶
(WWW) ORS 475.808, Unlawful manufacture of hydrocodone within 1,000 feet of school¶

(XXX) ORS 475.810, Unlawful delivery of hydrocodone¶
(YYY) ORS 475.812, Unlawful delivery of hydrocodone within 1,000 feet of school¶
(ZZZ) ORS 475.816, Unlawful manufacture of methadone¶
(AAAA) ORS 475.818, Unlawful manufacture of methadone within 1,000 feet of school¶
(BBBB) ORS 475.820, Unlawful delivery of methadone¶
(CCCC) ORS 475.822, Unlawful delivery of methadone within 1,000 feet of school¶
(DDDD) ORS 475.826, Unlawful manufacture of oxycodone¶
(EEEE) ORS 475.828, Unlawful manufacture of oxycodone within 1,000 feet of school¶
(FFFF) ORS 475.830, Unlawful delivery of oxycodone¶
(GGGG) ORS 475.832, Unlawful delivery of oxycodone within 1,000 feet of school¶
(HHHH) ORS 475.840(1) and (2), Prohibited acts generally (regarding delivery and manufacture drug crimes formerly ORS 475.992; renumbered to ORS 475.752 in 2011)¶
(IIII) ORS 475.846, Unlawful manufacture of heroin¶
(JJJJ) ORS 475.848, Unlawful manufacture of heroin within 1,000 feet of school¶
(KKKK) ORS 475.850, Unlawful delivery of heroin¶
(LLLL) ORS 475.852, Unlawful delivery of heroin within 1,000 feet of school¶
(MMMM) ORS 475.866, Unlawful manufacture of 3,4-methylenedioxymethamphetamine¶
(NNNN) ORS 475.868, Unlawful manufacture of 3,4-methylenedioxymethamphetamine within 1,000 feet of school¶
(OOOO) ORS 475.870, Unlawful delivery of 3,4-methylenedioxymethamphetamine¶
(PPPP) ORS 475.872, Unlawful delivery of 3,4-methylenedioxymethamphetamine within 1,000 feet of school¶
(QQQQ) ORS 475.876, Unlawful manufacture of cocaine¶
(RRRR) ORS 475.878, Unlawful manufacture of cocaine within 1,000 feet of school¶
(SSSS) ORS 475.880, Unlawful delivery of cocaine¶
(TTTT) ORS 475.882, Unlawful delivery of cocaine within 1,000 feet of school¶
(UUUU) ORS 475.886, Unlawful manufacture of methamphetamine¶
(VVVV) ORS 475.888, Unlawful manufacture of methamphetamine within 1,000 feet of school¶
(WWWW) ORS 475.890, Unlawful delivery of methamphetamine¶
(XXXX) ORS 475.892, Unlawful delivery of methamphetamine within 1,000 feet of school¶
(YYYY) ORS 475.904, Unlawful delivery of controlled substance within 1,000 feet of school¶
(ZZZZ) ORS 475.906, Penalties for distribution to minors¶
(AAAAA) ORS 475.908, Causing another person to ingest a controlled substance¶
(BBBBB) ORS 475.910, Application of controlled substance to the body of another person¶
(CCCCC) ORS 475.912, Unlawful delivery of imitation controlled substance¶
(DDDDD) ORS 475.914, Prohibited acts for registrants (with the Oregon State Board of Pharmacy)¶
(EEEEE) ORS 475C.333, Prohibition against giving marijuana item as prize¶
(FFFFF) ORS 475C.345, Unlawful delivery of marijuana item¶
(GGGGG) ORS 475C.349, Unlawful manufacture of marijuana item¶
(HHHHH) 475C.369 Administration to another person under 18 years of age¶
(IIIII) ORS 475C.373, Unlawful sale or delivery of marijuana paraphernalia¶
(JJJJJJ) O~~r Law 2021 Ch. 542 Sec. 41~~RS 475C.379, Unlawful production of marijuana~~ (to be repealed 1/1/2024)~~¶
(KKKKK) Any crime of attempt, solicitation, or conspiracy to commit a crime listed in this section pursuant to ORS 161.405, 161.435, or 161.450¶
(LLLLL) Any crime in any other jurisdiction that is the substantial equivalent of any of the Oregon crimes listed in section (3)(a) of this rule, as determined by BCU. This includes any U.S. military crimes which are the substantial equivalent of crimes listed in section (3)(a) of this rule. ¶
(b) The crimes listed in this section are ten-year review crimes which require that a fitness determination with a weighing test be completed if the date of conviction is within ten years of the background check submission.¶
(A) Any misdemeanor or felony not listed in section (3)(a) or (3)(c) of this rule in Oregon or any other jurisdiction. This includes U.S. military crimes not considered to be the substantial equivalent of crimes listed in section (3)(a) of this rule.¶
(B) Any crime of attempt, solicitation, or conspiracy to commit a crime pursuant to ORS 161.405 or 161.435, or 161.450 included in section (3)(b). ¶
(C) Any crime that is no longer codified in Oregon, but which is the substantial equivalent of any of the crimes listed in this section.¶
(c) Two or more convictions of ORS 813.010 (Driving under the Influence of Intoxicants (DUII)) or 830.325 (Operating Boat while under Influence of Intoxicants) or a misdemeanor conviction under a law in any jurisdiction that imposes criminal penalties for operating a vehicle or boat while under the influences of intoxicants, are potentially disqualifying if they have occurred within five years of the date of the background check submission.¶

(A) A single conviction of a crime in section (3)(c) is not considered potentially disqualifying regardless of the date of conviction.¶
(B) If an SI has two or more convictions of a crime in section (3)(c) and only one, or none, occurred within five years from the date of the background check submission, the convictions are not potentially disqualifying. ¶
(4) Evaluations of crimes may be based on available information in Oregon laws and laws in other jurisdictions regarding the crime.¶
(5) BCU determines if a crime from another jurisdiction is substantially equivalent to an Oregon crime. ¶
(a) For the purposes of this rule, "substantially equivalent" or "substantial equivalence" means an offense under the law of another jurisdiction, at the time of the conviction, contains essential elements that materially correspond to the essential elements of the Oregon offense identified in statute.¶
(A) Differences in offense title, numbering, degree labels, or phrasing do not preclude equivalence if the essential elements materially correspond.¶
(B) Material differences in required mental state, proscribed conduct, protected class (e.g., minor or vulnerable person), or enumerated aggravating features defeat equivalence.¶
(b) BCU shall make an objective, side-by-side comparison of the statutory elements of the crime from another jurisdiction and the elements of similar Oregon offenses.¶
(A) The comparison must be based on Oregon law in effect on the date of the conviction. If the crime from another jurisdiction is still pending, the comparison must be based on Oregon law currently in effect.¶
(B) If the law or statute of the crime in another jurisdiction includes different possible sets of elements, BCU shall determine which specific set of elements apply using information in the official court record, such as the charge, indictment, plea, or verdict.¶
(C) BCU may consider controlling judicial interpretations of the statutes in each jurisdiction for purposes of clarifying the elements. BCU shall not reconsider the facts of the case, except for what is needed to determine which parts of the statute apply.¶
(D) BCU may use police reports or documented summaries only if needed to confirm which part of the statute applies to the conviction or pending charge.¶
(E) If needed for the substantial equivalence determination, BCU shall use the classification, penalty and sentencing range of the crime in the other jurisdiction and determine whether these compare to the corresponding Oregon classification, penalty or sentencing range. Differences in classification, penalty or sentencing range alone do not defeat equivalence when the elements materially correspond.¶
(F) BCU shall document the substantial equivalence review.¶
(c) When the crime being reviewed does not meet the criteria to be substantially equivalent to an Oregon offense, the crime will be considered a ten-year review crime and a weigh test must be completed if the date of conviction is within ten years of the background check submission.¶
(6) Under no circumstances may a crime be considered potentially disqualifying if it is:¶
(a) Related to marijuana if the crime is no longer a criminal offense in the originating jurisdiction.¶
(b) Part of a juvenile record that has been expunged pursuant to ORS 419A.260 to 419A.262.¶
(c) Part of an adult record that has been set aside pursuant to ORS 137.225.
Statutory/Other Authority: ORS 181A.195, ORS 409.050
Statutes/Other Implemented: ORS 181A.195, 475A.250, 475A.483, 443.004

AMEND: 407-007-0340

RULE SUMMARY: Adds language to clarify what information generated as part of a background check is to be kept confidential and what information may be released publicly or due to a public records request. Adds language to clarify what information may be disseminated to the Subject Individual as part of their own criminal records check and what information may be provided as evidence in a contested case hearing.

CHANGES TO RULE:

407-007-0340
Record Keeping, Confidentiality ¶

(1) All ~~LEDS~~name-based criminal re~~p~~c~~o~~r~~t~~ds checks are confidential and the Department and Authority shall maintain the reports in accordance with applicable OSP requirements in ORS chapter 181A and the rules adopted pursuant thereto (see OAR chapter 257, division 010 and 015). ¶
(a) ~~LEDS~~Name-based criminal re~~p~~c~~o~~r~~t~~ds checks are confidential and may only be shared within BCU if there is a need to know consistent with these rules. ¶
(b) ~~The LEDS~~Name-based criminal re~~p~~c~~o~~r~~t and any photocopie~~ds check results may not be shown or given to the SI. ¶
(2) The results of a ~~national~~fingerprint-based criminal records check provided by the FBI or the OSP are confidential and may not be disseminated by BCU ~~unless~~except: ¶
(a) If an SI requests the results of a fingerprint-based criminal records check received by BCU, ~~the SI~~BCU shall ~~be~~ provide~~d~~ a copy of the results~~.¶~~
~~(b) The~~ to the SI. ¶
(b) During the contested case hearing under these rules, the Department shall provide the information provided by the QED and the SI in the application, fingerprint-based state and national criminal offender information~~ shall be provided as exhibits during the contested case hearing~~, any documents gathered for a weighing test, and notifications to the SI as exhibits . ¶
(3) The results of an abuse check are confidential and may not be disseminated by the Department or the Authority except in compliance with confidentiality statutes and guidelines of the Department or the Authority. An SI may not have access to confidential information contained in abuse investigation reports or other records collected or developed during the abuse check process without a~~n order of discov~~ protective orde~~r~~ limiting further disclosure of the information during the contested case hearing process. ¶
(~~4~~a) A~~ll completed background check requests~~ protective order issued pursuant to this section must be issued by an administrative law judge as provided in OAR 137-003-0568(5) or by a court of law.¶
(b) In conjunction with a protective order issued pursuant to this section, individually identifying information relating to clients, witnesses, and other persons identified in abuse investigation reports or other records collected, or developed during the abuse check process shall be redacted prior to disclosure, except for the information identifying the SI.¶
(4) All submitted background check requests whether complete with a final fitness determination or closed without a final fitness determination, other criminal history information, and other records collected or developed during the background check or contested case process shall be kept confidential~~ and disseminated only on a need-to-know basi~~. The Department and the Authority may only release de-identified, anonymized and aggregate data regarding background checks.¶
(5) The Department and Authority shall retain and destroy all criminal records check documents pursuant to federal law and records retention schedules published by Oregon State Archives. ¶
(6) Documents retained by a QE may only be viewed by an approved QED or licensing staff authorized by the Department or Authority as part of monitoring compliance with licensing and program administrative rules. ¶
(7) Documents retained by a QE may be requested and reviewed by the Department and the OSP for the purposes of determining and ensuring compliance with these rules. ¶
(8) If an error is discovered on a notice of fitness determination, BCU may correct it by issuing an amended notice of fitness determination.
Statutory/Other Authority: ORS 181A.170, ORS 181A.200, ORS 409.027, ORS 409.050
Statutes/Other Implemented: ORS 181A.170, ORS 181A.200, ORS 409.027, ORS 181A.195, ORS 409.010, ORS 443.004

AMEND: 407-007-0460

RULE SUMMARY: Adds language to clarify the confidentiality requirements regarding abuse investigation reports and other records collected to develop during the abuse check process. Requires a protective order issued by an administrative law judge or a court of law to limit further disclosure of information during the contested case hearing process.

CHANGES TO RULE:

407-007-0460
Confidentiality ¶

(1) The Department shall maintain abuse investigation reports as confidential pursuant to ORS 409.027, 413.036 and other applicable state and federal laws and rules.¶
(2) All abuse information and other records collected or developed during the abuse check process shall be kept confidential and disseminated only on a need-to-know basis as permitted by applicable Oregon statutes and administrative rules.¶
(3) An SI may not have access to confidential information contained in abuse investigation reports or other records collected or developed during the abuse check process without an order of discovery limiting further disclosure of the information during the contested case hearing process.¶
(a) A protective order issued pursuant to this section must be issued by an administrative law judge as provided in OAR 137-003-0568(5) or by a court of law.¶
(b) In conjunction with a protective order issued pursuant to this section, individually identifying information relating to clients, witnesses, and other persons identified in abuse investigation reports or other records collected, or developed during the abuse check process shall be redacted prior to disclosure, except for the information identifying the SI.¶
(4) Abuse investigation reports may be used among the organizational units of the Department for the purpose of screening SIs necessary to protect the Department's vulnerable clients from abuse.¶
(~~4~~5) The Department may use abuse and neglect reports for decisions directly affecting vulnerable individuals if the vulnerable individual is also an SI.
Statutory/Other Authority: ORS 409.027, 409.050, 413.036
Statutes/Other Implemented: ORS 409.027, 409.050, 413.036

AMEND: 407-007-0610

RULE SUMMARY: Clarification of definition of “residential care facility” for the purposes of OAR 407-007-0600 through 407-007-0640. Adds administrative rule reference to the definition of the Department’s Children’s Intensive In-home Services program. Adds “in-home care agency” under the definition of “Qualified Entity (QE).”

CHANGES TO RULE:

407-007-0610
Definitions ¶

In addition to the definitions in OAR 125-007-0210, 407-007-0010, and 407-007-0210, the following definitions apply to OAR 407-007-0600 to 407-007-0640: ¶
(1) "Background check" means a criminal records check and an abuse check pursuant to OAR 407-007-0210 to 407-007-0370 and any additional checks as required per federal code or Oregon statute. ¶
(2) "Background Check Registry (Registry)" means a comprehensive listing of subject individuals who meet the requirements of these rules. ¶
(3) "Facility" means: ¶
(a) A long term care facility in Oregon as defined in ORS 442.015 including skilled nursing facilities and intermediate care facilities. ¶
(b) A residential ~~care~~ facility as defined in ORS 443.400 including ~~but not limited to assisted living facilities and intermediate care facilities~~assisted living facilities, residential care facilities, residential training facilities, residential treatment facilities, residential training homes, and residential treatment homes. Under these rules, "residential facility" does not include a secure residential treatment facility or residential training facility located on an Oregon State Hospital campus or otherwise operated by the state. ¶
(c) An adult foster home as defined in ORS 443.705. ¶
(d) Any programs licensed, certified, endorsed, or otherwise regulated by the Department of Human Services that deliver services to individuals with intellectual or developmental disabilities. ¶
(4) "Good Standing," defined in OAR 407-007-0210, means the SI is in an approved status on the registry and may continue to work without active supervision (see OAR 407-007-0315(7)) in an approved status in any current position listed for the SI. ¶
(5) "Homecare worker" has the same meaning given in ORS 410.600, including but not limited to personal support workers and personal care attendants. ¶
(6) "Permanent hire date" means: ¶
(a) The date that the background check has been approved or has a restricted approval, for the purposes of tracking the background check and any future required rechecks.¶
(b) For SIs with portability, the permanent hire date also means the date entered into ORCHARDS for starting in a new position.¶
(7) "Portability," defined in OAR 407-007-0210, means the ability of an SI to use one approved background check for a defined period of time for immediate hirability for a position offered by a QE within a group as determined by the Department. ¶
(8) "Position" means the position listed in the background check request which determines whether the individual is an SI under OAR 407-007-0210. ¶
(9) "Qualified entity (QE)" means: ¶
(a) A facility; ¶
(b) An Area Agency on Aging (AAA) office or a Department or Oregon county Aging and People with Disabilities program branch which enrolls homecare workers; ¶
(c) An agency, program or county office in Oregon serving individuals with intellectual or developmental disabilities; ¶
(d) An agency, program or county office in Oregon serving individuals with mental illness which assists an individual to complete personal support worker enrollment; or ¶
(e) The Department's Children's Intensive In-home Services program in accordance with OAR 411-300-0100 to 411-300-0205. ¶
(f) A long term care referral entity pursuant to OAR 411-058-0000 to 411-058-0100. ¶
(g) A staffing agency which provides staffing services to long term care skilled nursing facilities, residential care facilities, or assisted living facilities; and completed background checks through BCU in accordance with OAR 407-007-0200 to 407-007-0370.¶
(h) An in-home care agency as defined by ORS 443.305 which has enrolled to deliver Medicaid funded services as described in OAR 411-033-0000 to 411-033-0030 for Department clients.

Statutory/Other Authority: ORS 181A.195, 181A.200, ~~183.459,~~ 409.025, 409.027, ORS 409.050, 410.020, 411.060, 413.036, 443.006, 443.725, 443.735, Or. Law 2026 ch. 59 (2026 HB 4115)
Statutes/Other Implemented: ORS 181A.195, 181A.200, ~~183.459,~~ 409.025, 409.027, 411.060, 443.006, 409.010, 443.004, Or. Law 2026 ch. 59 (2026 HB 4115)

AMEND: 407-007-0620

RULE SUMMARY: Amends rule to add employees of the Oregon Health Authority as not eligible for the registry. Adds information that must be added to the registry if the background check outcome is denied, ineligible, or there is no fitness determination and the Subject Individual was hired for any length of time on a preliminary basis. Updates the duration of background check approval to three years, per Or law 2026 chapter 59.

CHANGES TO RULE:

407-007-0620
Background Check Registry ¶

(1) The background check registry includes SIs who work or seek to work as: ¶
(a) An employee, contractor, temporary worker, or volunteer in a facility or qualified entity; or ¶
(b) A homecare worker, including the position of personal support worker. ¶
(c) An employee providing care to clients of the Department's Aging and People with Disabilities (APD) programs who works for an in-home care agency as defined by ORS 443.305 and OAR chapter 333, division 536, which has enrolled to deliver Medicaid funded services as described in OAR 411-033-0000 to 411-033 to 0030 for Department clients; ¶
(d) An employee, contractor, temporary worker, or volunteer in an agency certified, licensed, or otherwise regulated by the Department or the Authority where the Department or Authority has indication in the Oregon Administrative Rules that govern the certification, licensure, or regulation of the agency by the Department or the Authority that placement on the registry or portability is allowed for the SIs; or¶
(e) An employee, contractor, temporary worker, or volunteer in an agency certified, licensed, or otherwise regulated by the Department or the Authority where the Department or Authority has a written agreement with BCU to allow portability. The written agreement must include:¶
(A) A citation of the Oregon Administrative Rules that govern the certification, licensure, or regulation of the agency by the Department or the Authority; and¶
(B) The number of years of the SI's background check may be used for portability before a recheck is required.¶
(2) The background check registry does not include SIs who work or seek to work as an employee or volunteer for: ¶
(a) A community developmental disabilities program (OAR 411-320-0010 to 411-320-0200); ¶
(b) A developmental disabilities brokerage (OAR 411-340-0010 to 411-340-0180) ¶
(c) The Department of Human Services or the Oregon Health Authority. ¶
(3) An SI on the registry has a background check completed pursuant to OAR 407-007-0200 to 407-007-0370. If an SI has an approved background check, the Department may also determine that the SI has portability.¶
(4) The registry includes information regarding the SI including but not limited to: ¶
(a) Name and other identifying information. ¶
(b) Date of background check outcome. ¶
(c) The QE submitting the background check. ¶
(d) The position and description of duties being considered for the background check.. ¶
(e) If the background check outcome is approved and BCU determines that SI has portability:¶
(A) The name of any QE that hires the SI¶
(B) The position and descriptions of duties for which a QE has hired the SI. ¶
(C) The permanent hire date for any position into which a QE hires the SI.¶
(D) The last day of work for any position into which a QE has hired the SI once the SI leave the position.¶
(f) If the background check outcome is approved or approved with restrictions and BCU determines that SI does not have portability:¶
(A) The permanent hire date for the position into which the QE has hired the SI.¶
(B) The last day of work for the position into which the QE has hired the SI once the SI leaves the position.. ¶
(g) If the background check outcome is denied, ineligible, or there is no fitness determination for any reason, and the SI was hired on a preliminary basis for any length of time:~~:~~¶
(A) The preliminary hire date for the position into which the QE has hired the SI; and¶
(B) The last day of work for the position into which the QE has hired the SI once the SI leaves the position.¶
(5) The ~~Department must complete not more than one criminal records check every 18 months on an SI subject to ORS 443.004(1)(b)~~approval of a background check application for an SI subject to this section lasts for three years, effective ~~as of the~~for any completion of an SI's first or renewing background check approval after the implementation of ORS 443.004(~~1~~2)(b) (Or Law 202~~1~~,6 ch~~apter 198),~~. 59) on June ~~8~~5, 202~~1~~6. A criminal records

check, as part of a new background check, may be completed more often only if the Department: ¶
(a) Receives credible evidence of a new criminal conviction; ¶
(b) Receives credible evidence potentially disqualifying abuse; ¶
(c) Is required by federal law to conduct more frequent criminal records checks; or ¶
(d) Is notified that a SI has changed positions or duties for which there are different criminal records check requirements. ¶
(e) Determines that it would be burdensome for an SI to wait for a new criminal records check, including but not limited to: ¶
(A) The Department receives credible evidence of a change in circumstances that could positively impact a previous fitness determination; or¶
(B) The SI is seeking certification, licensure, or some other qualification associated with ~~his or her job that requires a~~a position that requires a background check.¶
(C) The SI needs a recheck for recredentialing which must be submitted and completed before or by the three-year expiration date of the background check approval.¶
(6) BCU must either immediately remove an SI's portability, revoke an SI's good standing, or both if: ¶
(a) BCU received credible evidence indicating that SI has any new potentially disqualifying convictions or conditions; or ¶
(b) A subsequent background check results in any outcome other than approved. ¶
(7) To remain in good standing on the registry or to have portability: ¶
(a) The SI must have an approved background check completed pursuant to OAR 407-007-0200 to 407-007-0370 within a defined timeframe, based on federal or state requirements, populations served, types of QEs where the position is held, or types of position; or ¶
(b) If within 120 days of expiration from the registry: ¶
(A) The SI's qualified entity must submit a new background check request pursuant to OAR 407-007-0200 to 407-007-0370 no later than the SI's expiration date or as required by the collective bargaining agreement or program rules; and ¶
(B) In the new background check request, the Department finds no information that would lead to a revocation of the SI working pursuant to OAR 407-007-0315. ¶
(8) If the SI is required to have a Provider Enrollment Agreement filed with the Department, the SI must have a completed background check pursuant to OAR 407-007-0200 to 407-007-0370 with an outcome of approved or approved with restrictions within the expiration requirements of the Provider Enrollment Agreement.
Statutory/Other Authority: ORS 181A.195, 181A.200, ~~183.459,~~ 409.025, 409.027, ORS 409.050, 410.020, 411.060, 413.036, 443.006, 443.725, 443.735, Or. Law 2026 ch. 59 (2026 HB 4115)
Statutes/Other Implemented: ORS 181A.195, 181A.200, ~~183.459,~~ 409.025, 409.027, 411.060, 443.006, 409.010, 443.004, Or. Law 2026 ch. 59 (2026 HB 4115)

AMEND: 407-007-0640

RULE SUMMARY: Updates the name of the platform through which BCU shall maintain the registry. Adds information regarding who may access the registry and what data may be released due to a public records request.

CHANGES TO RULE:

407-007-0640
Access and Release of Information ¶

(1) BCU shall maintain the registry through ~~CRIMS. CRIMS users for facilities and homecare workers may access the registry online through CRIMS~~ORCHARDS. BCU adds, maintains and removes SIs to the registry in accordance with OAR 407-007-0620.¶
(2) Only ORCHARDS users may access the registry online through ORCHARDS, including:¶
(a) ORCHARDS provider users for qualified entities, facilities and homecare workers;¶
(b) ORCHARDS division users monitoring the background checks of qualified entities, facilities and homecare workers; and¶
(c) ORCHARDS state users working in BCU.¶
(~~2~~3) An SI may request in writing that BCU provide documentation of information included in the registry about the SI.¶
(4) The Department may only release de-identified, anonymized and aggregate data regarding background checks..
Statutory/Other Authority: ORS 181A.195, 181A.200, 183.459, 409.025, 409.027, ORS 409.050, 410.020, 411.060, 413.036, 443.006, 443.725, 443.735
Statutes/Other Implemented: ORS 181A.195, 181A.200, 183.459, 409.010, 409.025, 409.027, 411.060, 443.004, 443.006