

## Chapter 414 Employment Department, Child Care Division

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<b>DIVISION 1</b>	
<b>COMMISSION FOR CHILD CARE</b>	
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The Commission for Child Care hereby adopts the Attorney General's Model Rules of Procedure under the Administrative Procedure Act, effective March 27, 2000.	
Stat. Auth.: ORS 657A	
Stats. Implemented: ORS 657A.600	
Hist.: CFCC 1-1989, f. & cert. ef. 12-1-89; CCD 4-1996, f. 10-29-96, cert. ef. 11-1-96; CCD 1-1999, f. & cert. ef. 5-26-99; CCB 3-2001, f. 5-17-01, cert. ef. 5-20-01	

**414-001-0010****Expenses**

As used in ORS 657A.620, “actual and necessary travel expenses” includes, but is not limited to, payment of expenses for child care.

Stat. Auth.: ORS 657.610

Stats. Implemented: ORS 657A.620

Hist.: CCD 4-2004, f. 8-20-04 cert. ef. 8-22-04

**DIVISION 50****GENERAL AND INTERNAL RULES****414-050-0000****Hearings and Rulemaking Procedures**

The Attorney General’s Model Rules of Procedure effective December 9, 2003 shall be applicable to rulemaking functions and to all contested case hearings of the Child Care Division of the Employment Department.

Stat. Auth.: ORS 657.610; 657A.260

Stats. Implemented: ORS 657A.180, 657A.260, 657A.360, 657A.601 & 657A.360

Hist.: CSD 17-1993, f. & cert. ef. 12-17-93; CCD 1-1994, f. & cert. ef. 1-12-94;

Renumbered from 412-10-601; CCD 1-1996, f. & cert. ef. 3-19-96; CCD 1-1999,

f. & cert. ef. 5-26-99; CCD 1-1999, f. & cert. ef. 5-26-99; CCD 2-2001, f. 5-17-01,

cert. ef. 5-20-01; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

**414-050-0005****Rules Procedure**

Prior to the adoption, amendment, or repeal of any permanent rule, the Child Care Division shall give notice of the proposed adoption, amendment, or repeal:

(1) In the Secretary of State’s Bulletin referred to in ORS 183.360 at least twenty-one (21) days prior to the effective date.

(2) By mailing, e-mailing or faxing a copy of the notice to persons on the applicable Child Care Division mailing list established pursuant to ORS 183.335(7) at least twenty-eight (28) days prior to the effective date.

(3) By mailing, e-mailing or faxing a copy of the notice to the legislators specified in ORS 183.335(15) of this section at least 49 days before the effective date.

(4) By mailing a copy of the notice to the:

(a) Associated Press;

(b) United Press International;

(c) The Capitol Press Room; and

(d) A newspaper of statewide circulation.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 183.355(1)(b) & ORS 183.355(1)(c)

Hist.: CCD 3-1994, f. & cert. ef. 8-2-94; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

**414-050-0010****Social Security Numbers**

(1) The Child Care Division (CCD) will not issue or renew a registration, certification or enrollment unless an applicant provides his or her social security number on the application or renewal form. The applicant need not provide the social security number on the application for renewal, if the applicant’s social security number has previously been provided to agency and is in the record.

(2) If an applicant has not been issued a social security number by the United States Social Security Administration, the CCD will accept a written statement from the applicant to fulfill the requirements of section (1). The applicant may submit the written statement on the “CCD Statement of No Social Security Number” form. Any written statement submitted must:

(a) Be signed by the applicant;

(b) Attest to the fact that no social security number has been issued to the applicant by the United States Social Security Administration; and

(c) Acknowledge that knowingly supplying false information under this section is a Class A misdemeanor, punishable by imprisonment of up to one year and a fine of up to \$6250.

(3) Any written statement submitted to the CCD under section (2) of this rule or the identity of any person making such a statement will not be released by the CCD to any person or entity.

Stat. Auth.: ORS 657.610 & Social Security Act, sec. 466(a)(13)

Stats. Implemented: ORS 25.785

Hist. CCD 5-2003(Temp), f. 12-23-03, cert. ef. 12-28-03 thru 6-25-04; CCD 2-2004,

f. 3-26-04, cert. ef. 3-28-04

**DIVISION 61****CHILD CARE DIVISION****Criminal History Registry****414-061-0000****Purpose**

(1) The Child Care Division will conduct criminal records checks and child protective services records checks on subject individuals, as defined in OAR 414-061-0030, for enrollment of subject individuals in the Criminal History Registry.

(2) These rules provide guidelines on how CCD obtains criminal records and child protective services records on subject individuals, applies such information to its determination about the suitability of the subject individual, and enrolls approved subject individuals in the Criminal History Registry.

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

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

12-7-03

**414-061-0010****Scope of Rules**

(1) Consistent with the purposes of these rules, CCD will issue decisions about persons defined as subject individuals as to their suitability to be enrolled in the Criminal History Registry and employed in programs defined as “Requesting Agencies” in OAR 414-061-0020(16).

(2) These rules (OAR 414-061-0000 through 414-061-0120) shall be construed and implemented consistent with the regulations governing:

(a) Child care licensing in OAR 414-205-0000 through 414-205-0170, 414-300-0000 through 414-300-0410, and 414-350-0000 through 414-350-0400;

(b) Pre-kindergarten programs in OAR 581-019-0005 through 581-019-0035;

(c) Parent-as-teacher programs in OAR 581-019-0050 through 581-019-0080; and

(d) Early childhood special education and early intervention programs in OAR 581-015-0900 through 581-015-1060.

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

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

12-7-03

**414-061-0020****Definitions**

(1) “Agreement” means the written agreement between the Oregon State Police and the Oregon Child Care Division.

(2) “CCD” means the Child Care Division of the Employment Department.

(3) “Child Protective Services Records” means information on child abuse and neglect cases from the Department of Human Services.

(4) “Computerized Criminal History (CCH) System” means the on-line computer files of significant criminal offender information maintained by the Oregon State Police (OSP).

(5) “Conditional Enrollment” means temporary approval to be enrolled in the Criminal History Registry following an OSP criminal records check and child protective services records check but prior to receipt by the Division of the results of a required FBI criminal records check.

(6) “Criminal Records” means information, including fingerprints and photographs, received, compiled, and disseminated by the Oregon State Police for purposes of identifying criminal offenders and alleged offenders and maintained as to such persons’ records of arrest, the nature and disposition of criminal charges, sentencing, confinement, and release and includes the OSP Computerized Criminal History System.

(7) “Early Childhood Care and Education Program” means a regulated child care facility, federally-funded Head Start program, Oregon Department of Education funded pre-kindergarten program, parent-as-teacher program, or early childhood special education/early intervention program.

(8) “Employee” means any individual caring for, overseeing, or who has or may have access to children, who holds a paid position in a requesting agency.

(9) "Employee of the Child Care Division" means any individual employed by the Child Care Division who works in the child care licensing unit.

(10) "Enrollment" means approval for a two-year period to be enrolled in the Criminal History Registry following an OSP criminal records check, child protective services records check and, if required, an FBI records check.

(11) "Fee" means the charges assessed the subject individual for processing each criminal records check and/or fingerprint-based criminal records check.

(12) "FBI" means the Federal Bureau of Investigation.

(13) "Fingerprint-Based Criminal Records" means criminal offender information compiled and maintained by the Federal Bureau of Investigation.

(14) "Incident" means the commission of a Category I or Category II crime or a founded child protective services case.

(15) "OSP" means the Oregon State Police.

(16) "Requesting Agency" means a childhood care and education program or individual providing care to children which is:

(a) Regulated by CCD under ORS 657A.280 or 657A.330; or

(b) An early childhood care and education program.

(17) "Unsupervised Contact with Children" means contact with children that provides the person opportunity for personal communication or touch when not under the direct supervision of a child care provider or employee.

[Publications referenced are available from the agency.]

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

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

**414-061-0030**

**Subject Individuals**

(1) For purposes of criminal records checks, including fingerprint-based criminal records checks, and child protective services records checks, "Subject Individual" means a person who wishes to seek employment as:

(a) The owner, operator or an employee or volunteer of a certified, registered or otherwise regulated facility caring for children that is subject to the jurisdiction of the Child Care Division of the Employment Department;

(b) The operator or an employee of an Oregon pre-kindergarten program or parent-as-teacher program under ORS 329.170 to 329.200;

(c) The operator or an employee of a federal Head Start Program regulated by the United States Department of Health and Human Services;

(d) An employee of the Child Care Division of the Employment Department;

(e) A contractor or an employee of the contractor who provides early childhood special education or early intervention services pursuant to ORS 343.455 to 343.534; or

(f) A child care provider who is required to be enrolled in the Criminal History Registry by any state agency.

(2) An individual in any of the above facilities or programs who may have unsupervised contact with children is also a subject individual.

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

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

**414-061-0040**

**Limitations of Inquiries**

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

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

(3) Criminal records information, including fingerprint-based criminal records information, and child protective services information shall be obtained by CCD to determine whether a subject individual has been convicted of a crime or has a founded child protective services record which is related to enrollment in the Criminal History Registry.

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

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

(b) May challenge the accuracy or completeness of any entry on the subject individual's criminal records provided by the FBI by filing a challenge with the Assistant Director of the FBI Identification Division, Washington, D.C. 20537-9700; and

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

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

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

**414-061-0050**

**History to be Considered**

(1) CCD has determined that serious felonies and misdemeanors involving violence or unauthorized sexual conduct, especially with children or otherwise vulnerable persons, is fundamentally inconsistent with any responsibility for care of children. Conviction of crimes listed in Category I of this rule shall disqualify a subject individual from being enrolled in the Criminal History Registry, unless the subject individual provides sufficient evidence of suitability as described in section (6) of this rule.

(a) The crimes in Category I include:

(A) 162.165 Escape I;

(B) 162.185 Supplying Contraband;

(C) 163.095 Aggravated Murder;

(D) 163.115 Murder;

(E) 163.118 Manslaughter I;

(F) 163.125 Manslaughter II;

(G) 163.145 Criminally Negligent Homicide;

(H) 163.165 Assault III;

(I) 163.175 Assault II;

(J) 163.185 Assault I;

(K) 163.200 Criminal Mistreatment II;

(L) 163.205 Criminal Mistreatment I;

(M) 163.225 Kidnapping II;

(N) 163.235 Kidnapping I;

(P) 163.275 Coercion;

(Q) 163.355 Rape III;

(R) 163.365 Rape II;

(S) 163.375 Rape I;

(T) 163.385 Sodomy III;

(U) 163.395 Sodomy II;

(V) 163.405 Sodomy I;

(W) 163.408 Unlawful Sexual Penetration II;

(X) 163.411 Unlawful Sexual Penetration I;

(Y) 163.415 Sexual Abuse III;

(Z) 163.425 Sexual Abuse II;

(AA) 163.427 Sexual Abuse I;

(BB) 163.435 Contributing to Sexual Delinquency of Minor;

(CC) 163.445 Sexual Misconduct;

(DD) 163.515 Bigamy;

(EE) 163.525 Incest;

(FF) 163.535 Abandonment of a Child;

(GG) 163.545 Child Neglect II;

(HH) 163.547 Child Neglect I;

(II) 163.555 Criminal Nonsupport;

(JJ) 163.575 Endangering the Welfare of a Minor;

(KK) 163.670 Using Child in Display of Sexually Explicit Conduct;

(LL) 163.684 Encouraging Child Sexual Abuse I;

(MM) 163.685 Encouraging Child Sexual Abuse II;

(NN) 163.686 Encouraging Child Sexual Abuse III;

(OO) 163.688 Possession of Materials Depicting Sexually Explicit Conduct of a Child I;

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(PP) 163.689 Possession of Materials Depicting Sexually Explicit Conduct of a Child II;  
(QQ) 163.693 Failure to Report Child Pornography;  
(RR) 163.732 Stalking;  
(SS) 164.075 Theft by Extortion;  
(TT) 164.225 Burglary I;  
(UU) 164.325 Arson I;  
(VV) 164.395 Robbery III;  
(WW) 164.405 Robbery II;  
(XX) 164.415 Robbery I;  
(YY) 166.085 Abuse of Corpse II;  
(ZZ) 166.087 Abuse of Corpse I;  
(AAA) 166.155 Intimidation I;  
(BBB) 166.165 Intimidation II;  
(CCC) 166.220 Unlawful Use of a Weapon;  
(DDD) 166.270 Possession of Weapons by Certain Felons;  
(EEE) 166.272 Unlawful Possession of Machine Guns, Certain Short Barreled Firearms and Firearms Silencers;  
(FFF) 166.275 Possession of Weapons by Inmates of institutions;  
(GGG) 166.382 Possession of Destructive Device;  
(HHH) 166.384 Unlawful Manufacture of Destructive Device;  
(III) 166.429 Firearms Used in Felony;  
(JJJ) 166.660 Unlawful Paramilitary Activity;  
(KKK) 166.720 Racketeering Activity;  
(LLL) 167.012 Promoting Prostitution;  
(MMM) 167.017 Compelling Prostitution;  
(NNN) 167.062 Sadomasochistic Abuse or Sexual Conduct in Live Show;  
(OOO) 167.065 Furnishing Obscene Materials to Minors;  
(PPP) 167.070 Sending Obscene Materials to Minors;  
(QQQ) 167.075 Exhibiting an Obscene Performance to a Minor;  
(RRR) 167.080 Displaying Obscene Materials to Minors;  
(SSS) 167.087 Disseminating Obscene Material;  
(TTT) 167.090 Publicly Displaying Nudity or Sex for Advertising Purposes;  
(UUU) 167.212 Tampering with Drug Records;  
(VVV) 167.262 Adult Using Minor in Commission of Controlled Substance Offense; or  
(WWW) 181.599 Failure to Report as Sex Offender.  
(b) CCD will consider the following crimes if they were committed 15 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Assault III; Bigamy; Burglary I; Coercion; Contributing to Sexual Delinquency of Minor; Criminal Mistreatment II; Criminal Nonsupport; Kidnapping II; Possession of Weapons by Certain Felons; Racketeering Activity; Rape III; Robbery II; Robbery III; Sexual Misconduct; Stalking; Supplying Contraband; and Unlawful Use of a Weapon.  
(c) CCD will consider the following crimes if they were committed 20 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Abuse of a Corpse I; Abuse of a Corpse II; Adult Using Minor in Commission of Controlled Substance Offense; Arson I; Assault I; Assault II; Compelling Prostitution; Criminal Mistreatment I; Criminally Negligent Homicide; Disseminating Obscene Material; Escape I; Failure to Report Child Pornography; Failure to Report as Sex Offender; Firearms Used in Felony; Incest; Intimidation I; Intimidation II; Kidnapping I; Manslaughter I; Manslaughter II; Possession of Destructive Device; Possession of Weapons by Inmates of Institutions; Promoting Prostitution; Publicly Displaying Nudity or Sex for Advertising Purposes; Robbery I; Sadomasochistic Abuse or Sexual Conduct in Live Show; Tampering with Drug Records; Theft by Extortion; Unlawful Manufacture of Destructive Device; Unlawful Paramilitary Activity; and Unlawful Possession of Machine Guns, Certain Short Barreled Firearms and Firearms Silencers.  
(d) CCD will consider the following crimes regardless of the length of time since they were committed: Abandonment of a Child; Aggravated Murder; Child Neglect I; Child Neglect II; Displaying Obscene Materials to Minors; Encouraging Child Sexual Abuse I; Encouraging Child Sexual Abuse II; Encouraging Child Sexual Abuse III; Endangering the Welfare of a Minor; Exhibiting an Obscene Performance to a Minor; Furnishing Obscene Materials to Minors; Murder; Possession of Materials Depicting Sexually Explicit Conduct of a Child I; Possession of Materials Depicting Sexually Explicit Conduct of a Child II; Rape I; Rape II; Sending Obscene Materials to

Minors; Sexual Abuse I; Sexual Abuse II; Sexual Abuse III; Unlawful Sexual Penetration I; Unlawful Sexual Penetration II; Sodomy I; Sodomy II; Sodomy III; and Using Child in Display of Sexually Explicit Conduct.

(e) These rules also apply to:

(A) A conviction of a crime in another jurisdiction which is the substantial equivalent of a crime listed in Category I;

(B) An adjudication by a juvenile court that a youth has committed an act that is the substantial equivalent of a crime listed in Category I; and

(C) Any attempts or solicitations to commit any Felony or Misdemeanor crime listed in Category I.

(f) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(2) CCD has further determined that felonies and misdemeanors involving theft, fraud, or deception, crimes against the state and public justice, and major traffic violations may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual was convicted of a crime listed in Category II of this rule, CCD will seek to obtain and review information on all intervening circumstances and other background information related to criminal activity, subject to section (6) of this rule. Based on this information, the Division will make a decision whether or not to enroll the subject individual in the Criminal History Registry.

(a) The crimes in Category II include:

(A) 162.025 Bribe Receiving;

(B) 162.065 Perjury;

(C) 162.155 Escape II;

(D) 162.205 Failure to Appear I;

(E) 162.235 Obstructing Governmental or Judicial Administration;

(F) 162.265 Bribing a Witness;

(G) 162.275 Bribe Receiving by a Witness;

(H) 162.285 Tampering with a Witness;

(I) 162.305 Tampering with Public Records;

(J) 162.325 Hindering Prosecution;

(K) 162.405 Official Misconduct II;

(L) 162.415 Official Misconduct I;

(M) 163.160 Assault IV;

(N) 163.190 Menacing;

(O) 163.195 Recklessly Endangering Another Person;

(P) 163.208 Assault on a Public Safety Officer;

(Q) 163.465 Public Indecency;

(R) 163.700 Invasion of Personal Privacy;

(S) 164.055 Theft I;

(T) 164.057 Aggravated Theft I;

(U) 164.215 Burglary II;

(V) 164.315 Arson II;

(W) 164.365 Criminal Mischief I;

(X) 165.013 Forgery I;

(Y) 165.022 Criminal Possession of a Forged Instrument I;

(Z) 165.032 Criminal Possession of a Forgery Device;

(AA) 165.055 Fraudulent Use of a Credit Card (over \$750);

(BB) 165.070 Possessing Fraudulent Communications Device;

(CC) 165.074 Unlawful Factoring of Credit Card Transaction;

(DD) 165.085 Sports Bribery;

(EE) 165.090 Sports Bribe Receiving;

(FF) 166.015 Riot;

(GG) 166.065 Harassment;

(HH) 166.090 Telephone Harassment;

(II) 166.190 Pointing Firearm at Another;

(JJ) 166.240 Carrying of Concealed Weapons;

(KK) 166.250 Unlawful Possession of Firearms;

(LL) 167.007 Prostitution;

(MM) 167.222 Frequenting a Place Where Controlled Substances are Used;

(NN) 167.320 Animal Abuse I;

(OO) 167.322 Aggravated Animal Abuse I;

(PP) 167.330 Animal Neglect I;

(QQ) 411.630 Unlawfully Obtaining Public Assistance;

(RR) 411.675 Submitting Wrongful Claim or Payment Prohibited;

(SS) 411.840 Unlawfully Obtaining or Disposing of Food Stamp Benefits;

(TT) 471.410 Providing Liquor to Person under 21 or to Intoxicated Person;

(UU) 475.992 Prohibited Acts Generally; Penalties; Affirmative Defense for Certain Peyote Uses (controlled substance offenses);

(VV) 475.993 Prohibited Acts for Registrants; Penalties;

(WW) 475.994 Prohibited Acts Involving Records and Fraud; Penalties;

(XX) 475.995 Penalties for Distribution to Minors;

(YY) 475.996 Crime Category Classification for Violation of ORS 475.992; Proof of Commercial Drug Offense;

(ZZ) 475.999 Penalty for Manufacture or Delivery of Controlled Substance within 1,000 feet of School;

(AAA) 811.140 Reckless Driving;

(BBB) 811.182 Criminal Driving while Suspended or Revoked;

(CCC) 811.540 Fleeing or Attempting to Elude Police Officer;

(DDD) 811.700 Failure to Perform Duties of Driver When Property Damaged (hit and run, property);

(EEE) 811.705 Failure to Perform Duties of Driver to Injured Persons (hit and run, injury); or

(FFF) 813.010 Driving Under the Influence of Intoxicants.

(b) CCD will consider the following crimes if they were committed 5 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Bribe Receiving; Bribe Receiving by a Witness; Bribing a Witness; Criminal Driving while Suspended or Revoked; Criminal Possession of a Forged Instrument I; Criminal Possession of Forgery Device; Failure to Appear I; Forgery I; Fraudulent use of a Credit Card (over \$750); Hindering Prosecution; Failure to Perform Duties of Driver to Injured Persons (hit and run, injury); Failure to Perform Duties of Driver When Property Damaged (hit and run, property); Obstructing Governmental or Judicial Administration; Criminal Driving while Suspended or Revoked; Official Misconduct I; Official Misconduct II; Perjury; Possessing Fraudulent Communications Device; Reckless Driving; Sports Bribe Receiving; Sports Bribery; Submitting Wrongful Claim or Payment Prohibited; Tampering with a Witness; Tampering with Public Records; Unlawful Factoring of Credit Card Transaction; Unlawfully Obtaining or Disposing of Food Stamp Benefits; Unlawfully Obtaining Public Assistance.

(c) CCD will consider the following crimes if they were committed 7 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Aggravated Animal Abuse I; Animal Abuse I; Animal Neglect I; Assault IV; Carrying of Concealed Weapons; Criminal Mischief I; Driving under the Influence of Intoxicants; Fleeing or Attempting to Elude Police Officer; Harassment; Menacing; Recklessly Endangering Another Person; Telephone Harassment; Theft I; and Unlawful Possession of Firearms.

(d) CCD will consider the following crimes if they were committed 10 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Aggravated Theft I; Arson II; Assault on a Public Safety Officer; Burglary II; Escape II; Invasion of Personal Privacy; Pointing Firearm at Another; Providing Liquor to Person Under 21 or to Intoxicated Person; Public Indecency; and Riot.

(e) CCD will consider the following crimes if they were committed 15 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Crime Category Classification for Violation of ORS 475.992/Proof of Commercial Drug Offense; Frequenting a Place Where Controlled Substances are Used; Prohibited Acts for Registrants; penalties; (C) Prohibited Acts Generally; Penalties; Affirmative Defense for Certain Peyote Uses (controlled substance offenses); (D) Prohibited Acts involving Records and Frauds; Penalties; and (E) Prostitution.

(f) CCD will consider the following crimes if they were committed 20 years or less prior to the date the subject individual signed the Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry: Penalties for Distribution to Minors; and Penalty for Manufacture or Delivery of Controlled Substance within 1,000 feet of School.

(g) These rules also apply to:

(A) A conviction of a crime in another jurisdiction which is the substantial equivalent of a crime listed in Category II;

(B) An adjudication by a juvenile court that a youth has committed an act that is the substantial equivalent of a crime listed in Category II; and

(C) Any attempts or solicitations to commit any Felony or Misdemeanor crime listed in Category II.

(h) Evaluations of crimes shall be based on Oregon laws in effect at the time of conviction, regardless of the jurisdiction in which the conviction occurred.

(3) CCD has determined that founded child protective services cases and firearm prohibition orders may substantially jeopardize the safety of children and are inconsistent with any position of unsupervised contact with children or otherwise vulnerable persons. If any subject individual has a founded child protective services case or active firearm prohibition order, CCD will seek to obtain and review information related to the case, subject to section (6) of this rule. Based on this information, the Division will make a decision whether or not to enroll the subject individual in the Criminal History Registry.

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

(5) If a subject individual is in a diversion program or similar agreement for any Category I or Category II crime, the subject individual must provide written documentation of compliance with the terms of diversion or similar agreement. Based on this information, the Division will make a decision whether or not to enroll the subject individual in the Criminal History Registry.

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

(a) Types and number of incidences;

(b) Passage of time since the incident occurred;

(c) Circumstances surrounding the incident;

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

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

(7) CCD will not bar from enrollment in the Criminal History Registry any subject individual because of the existence or contents of a juvenile record that has been expunged by the court.

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

Stat. Auth.: ORS 657A.030

Stats. Implemented: ORS 657A.030

Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

#### 414-061-0060

##### Requirements of Requesting Agencies

Requesting agencies, as defined in OAR 414-061-0020(16), must comply with the following requirements:

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

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

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

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

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

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

#### 414-061-0070

##### Procedures for Conducting Oregon State Police Criminal Records Checks and Department of Human Services Child Protective Services Record Checks

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

(2) Criminal History Registry enrollment forms shall contain notice that criminal records checks will be conducted as required by ORS 181.537 and 657A.030. The form shall also contain notice that child protective services checks will be conducted.

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

(a) A properly completed and signed form CCD 199, Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry;

(b) For a subject individual who acknowledges a prior conviction of a criminal offense, as listed in OAR 414-061-0050, an explanation of the relationship of the facts which support the conviction and all intervening circumstances. On request of CCD, the subject individual must authorize CCD to verify information provided by the individual; and

(c) On the application for enrollment in the Criminal History Registry, CCD may request subject individuals to consent to the use of their social security numbers for criminal and child protective services records checks, for identifying enrollees in the Criminal History Registry, for sharing information with other agencies to verify child care licensing status for child care payments, and for compiling statistical information for program planning and evaluation.

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

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

(a) For registered family child care applicants and other adults in the household, the fee is included in the application fee for family child care registration;

(b) No charge for CCD employees; and

(c) All other requests for criminal record checks and child protective services checks and enrollment in the Criminal History Registry will cost \$3 per person.

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

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

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

#### 414-061-0080

##### Procedures for Conducting FBI Criminal History Checks

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

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

(a) Two properly completed FBI fingerprint cards, with printing in the "reason fingerprinted" block which reads "ORS 181.537/NCPA/VCA — Child Care";

(b) Properly completed form CCD 199, Consent for Criminal Records Check and Request for Enrollment in the Criminal History Registry; and

(c) For a subject individual who acknowledges a prior conviction, as listed in OAR 414-061-0050, an explanation of the relationship of the facts which support the conviction and all intervening circumstances. On request of CCD, the subject individual must authorize CCD to verify information provided under this rule.

(3) As part of the consent to a criminal records check, CCD may request the subject individual to consent to the use of his/her social security number in conducting the check.

(4) CCD will review the criminal records information and any additional information and will determine whether or not a subject individual may be enrolled in the Criminal History Registry.

(5) CCD will charge the subject individual \$46 for an FBI records check, to be paid at the time of the request.

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

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

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

#### 414-061-0090

##### CCD Enrollment Procedures

(1) A subject individual shall be enrolled in the Criminal History Registry if CCD has determined that the individual:

(a) Has provided all information and/or documents requested by CCD;

(b) Has no criminal or child protective services history or has dealt with the issues and provided adequate evidence of suitability;

(c) Has paid the applicable fee; and

(d) Has complied with the rules of CCD adopted pursuant to the Criminal History Registry (OAR 414-061-0000 through 414-061-0120).

(2) Enrollment in the Criminal History Registry shall expire two years from the date of enrollment, unless rescinded sooner, and may be renewed upon application to CCD, payment of the required fee and compliance with the rules adopted by CCD pursuant to the Criminal History Registry (OAR 414-061-0000 through 414-061-0120).

(3) A subject individual who has been enrolled in the Criminal History Registry will be notified by CCD of his or her enrollment and the enrollment dates. Such notification will not be sufficient evidence of enrollment for employment by a requesting agency.

(4) A subject individual may be conditionally enrolled in the Criminal History Registry pending the results of an FBI criminal records check if the individual has been determined to be suitable based on OSP criminal records information and child protective services information.

(a) A conditionally enrolled subject individual who has been determined to be suitable based on FBI criminal records information shall be enrolled in the Criminal History Registry.

(b) The two-year enrollment period will include the time the subject individual was conditionally enrolled.

(c) A conditionally enrolled subject individual who has been determined not to be suitable based on FBI criminal records information shall be removed from the Criminal History Registry, according to the provisions of OAR 414-061-0110.

(d) A conditional enrollment will expire if the subject individual has not been enrolled in the Registry within one year of the conditional enrollment.

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

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

#### 414-061-0100

##### CCD Denial Procedures

(1) A subject individual shall be denied enrollment in the Criminal History Registry if the individual:

(a) Has been determined not suitable;

(b) Has failed to submit requested information or documentation;

(c) Has been charged with, arrested for, or a warrant is out for a Category I or Category II crime with final disposition not yet reached;

(d) Has an open child protective services case with final disposition not yet reached; or

(e) Is in a diversion program or similar agreement and has failed to provide written documentation of compliance with the terms of diversion or the agreement.

(2) A subject individual may appeal CCD's determination not to enroll the subject individual in the Criminal History Registry, pursuant to OAR 414-061-0120.

(3) A subject individual who has been denied enrollment in the Criminal History Registry due to a determination of unsuitability shall not be eligible for enrollment in the Registry for 3 years from the date of denial.

Stat. Auth.: ORS 657A.030(7)

Stats. Implemented: ORS 657A.030

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

#### 414-061-0110

##### Removal Procedures

(1) An individual enrolled in the Criminal History Registry shall be removed from the Registry by CCD if, during the period of enrollment, the individual :

(a) Has been determined not suitable for enrollment in the Registry;

- (b) Has failed to submit requested information or documentation;
- (c) Has been charged with, arrested for, or a warrant is out for a Category I or Category II crime with final disposition not yet reached;
- (d) Has an open child protective services case with final disposition not yet reached; or
- (e) Is in a diversion program or similar agreement and has failed to provide written documentation of compliance with the terms of diversion or the agreement.

(2) CCD may immediately, and without prior hearing, remove a subject individual from the Criminal History Registry when, in the opinion of CCD, such action is necessary to protect children from physical or mental abuse or a substantial threat to health and safety. Such action may be taken before an investigation is completed.

(3) CCD may reinstate a subject individual in the Criminal History Registry if the condition(s) that resulted in the removal is corrected.

(4) When a subject individual is removed from the Criminal History Registry, CCD will notify the subject individual and the requesting agencies which have inquired about the subject individual's enrollment of the removal.

(5) A subject individual who has been removed from the Criminal History Registry and has not subsequently been re-enrolled shall not be eligible for enrollment in the Registry for 3 years from the date of removal.

Stat. Auth.: ORS 657A.030(7)  
 Stats. Implemented: ORS 657A.030  
 Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03

**414-061-0120**

**Rights for Review and Contested Case Hearings**

(1) CCD shall conduct contested case hearings per ORS 183.413 to 183.470 and afford subject individuals the right to appeal a decision made by CCD that the subject individual may not be enrolled in or has been removed from the Criminal History Registry. Subject individuals must notify CCD of their request for a contested case hearing not later than 14 calendar days from the date of service of the denial or removal notice.

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

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

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

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

Stat. Auth.: ORS 657A.030(7)  
 Stats. Implemented: ORS 657A.030  
 Hist.: CCD 1-1998, f. 9-30-98, cert. ef. 10-1-98; CCD 2-2003, f. 12-5-03 cert. ef. 12-7-03

**DIVISION 100**

**DEPENDENT CARE PLANNING AND DEVELOPMENT PROGRAM**

[ED. NOTE: OAR 410-100-0000 through 410-100-0020 were transferred to the Employment Department by HR 33-1993, f. 12-1-93, cert. ef. 10-1-93, SB 181.]

**414-100-0000**

**Definitions**

(1) "Community Center" mean facilities operated by non-profit community-based organizations for the provision of recreational, social or educational service to the general public.

(2) "Department" means the Employment Department.

(3) "Dependent" means:

(a) An individual who has not attained the age of 17 years;

(b) An individual who has attained the age of 55 years; or

(c) A person with a developmental disability.

(4) "Developmental Disability" means a severe chronic disability which:

(a) Is attributable to a mental or physical impairment or combination of physical and mental impairments;

(b) Is manifested before the person attains age 22;

(c) Is likely to continue indefinitely;

(d) Results in substantial functional limitations in three or more of the following areas of major life activity:

(A) Self-care;

(B) Receptive and expressive language;

(C) Learning;

(D) Mobility;

(E) Self-direction;

(F) Capacity for independent living; and

(G) Economic self-sufficiency.

(e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are individually planned and coordinated.

(5) "Eligible Activities" mean the planning and development activities allowed under these rules.

(6) "Local Education Agency" means a public board of education or other public authority legally constituted within the State for either administrative control or direction of; or to perform a service function for, public elementary or secondary schools as established in the State of Oregon.

(7) "Administrator" means the Administrator of the Child Care Division of the Employment Department.

(8) "School-Age Children" means children aged five through thirteen.

(9) "School Facilities" means classroom and related facilities used for the provision of education.

(10) "Subcontractor" means local public or private, non-profit entities with which Child Care Division subcontracts for operation of the Dependent Care Planning and Development Program.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: HR 2-1986, f. & ef. 11-5-86; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0000

**414-100-0005**

**Administration**

(1) The Child Care Division, Employment Department, has been designated by the Governor as the agency responsible for administering the Dependent Care Program.

(2) The Child Care Division shall select subcontractors to administer this program on the basis of proposals received in response to requests for proposals issued by the Child Care Division.

(3) The Administrator shall be responsible for development of request for proposals, the process for disseminating such requests and timeframes for submissions of proposals.

(4) The Administrator shall be responsible for selecting any subcontractors to administer this program and for determining the level of funding available to any such subcontractor.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: HR 2-1986, f. & ef. 11-5-86; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0005

**414-100-0010**

**Eligible Activities**

(1) Dependent Care Grant funds shall be used for the planning, development, establishment, expansion, or improvement of resources and referral systems to provide information concerning the availability, types, costs and locations of dependent care services and for the planning, development, establishment, expansion or improvement of programs to furnish school-age children services before and after school in public or private school facilities or in community centers in communities where school facilities are not available.

(2) Forty percent of the Dependent Care Grant funds available to the State will be used to fund eligible activities in relation to dependent care resource and referral systems.

(3) Sixty percent of the Dependent Care Grant funds available to the State will be used to fund eligible activities in relation to before and after school care programs for school-age children.

(4) Such activities as:

- (a) Program Operations;
- (b) Private Client Subsidies;
- (c) Subsidizing direct provision of dependent care services; and
- (d) Construction or renovation are not eligible under the Dependent Care Program.

Dependent Care Program.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 657A.010

Hist.: HR 2-1986, f. & ef. 11-5-86; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0010

**414-100-0015**

**Requirements**

(1) Prior to undertaking any eligible activity, any subcontractor(s) shall sign a contract with the Child Care Division. That contract shall include, but not be limited to the projected level of funds available for program operations; the activities to be undertaken; the time period during which the contract is in effect; and fiscal, program and audit reporting requirements.

(2) Any subcontractor(s) will provide quarterly reports and one final report to the Child Care Division in a format provided by the Child Care Division. Such reports will include information on the types of activities undertaken in the reporting period, the outcome of those activities and expenditures associated with those activities.

(3) The Child Care Division will require any subcontractor(s) to utilize funds available through this program to supplement, not replace or duplicate any existing efforts in the area of eligible activities for dependent populations.

(4) The Child Care Division will require its information and referral system subcontractors to assist in developing dependent care information and referral systems with an information base which includes:

- (a) The types of dependent care services provided by individual home, religious organizations, community organizations, employers, private industry, and public and private institutions;
- (b) The costs of available dependent care services;
- (c) The locations in which dependent care services are provided;
- (d) The forms of transportation available to such locations;
- (e) The hours during which such dependent care services are available;
- (f) The dependents eligible to enroll for such dependent care services; and

(g) Any resource and referral system planned, developed, established, expanded, or improved with amounts paid to a state under the Dependent Care Planning and Development Grant.

(5) The Child Care Division will require school age child day care subcontractor(s) to assist in developing before and after school programs for school-age children which include:

- (a) Agreements with local education agencies or community centers for use of facilities, restrictions on such use and schedules for such use;
- (b) Involvement of parents in program development and implementation;
- (c) Efforts to enroll of racially, ethnically and economically diverse as well as handicapped school-age children in the program;
- (d) Compliance with applicable state and local licensing laws and regulations governing child care services for school-age children.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 657A.010

Hist.: HR 2-1986, f. & ef. 11-5-86; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0015

**414-100-0020**

**Fiscal Control/Reporting Requirements/Documentation**

(1) Any Child Care Division subcontractor(s) shall prepare and submit a quarterly and an annual report on its activities under this program. Such reports shall be submitted in a format prescribed and shall include both program and fiscal information.

(2) Program reports shall provide a description of the projects, programs and services assisted through Dependent Care Grant funding and shall include a summary of the services which were provided, the providers of the services, the individuals who receive such services and the progress made toward program goals.

(3) Fiscal reports shall be used to determine whether funds were spent in accordance with State and Federal rules and regulations and shall document the purposes for which funds were spent and the recipients of such funds.

(4) Any Child Care Division subcontractor(s) shall provide the Child Care Division an annual audit of program and fiscal transactions carried out under this program within 180 days after the close of the agency fiscal year.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 657A.010

Hist.: HR 2-1986, f. & cert. ef. 11-5-86; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0020

**DIVISION 150**

**CHILD CARE PROGRAM FOR TARGETED POPULATIONS UNDER THE CHILD CARE DEVELOPMENT BLOCK GRANT**

[ED. NOTE: OAR 410-100-0050 through 410-100-0130 were transferred to the Employment Department by HR 23-1993, f. 9-3-93, cert. ef. 10-1-93, SB 181.]

**414-150-0050**

**Purpose**

(1) The purpose of these rules is to set forth standards to be followed when entering into contracts with programs to provide child care services to targeted population clients.

(2) These rules implement elements of Oregon's Block Grant Plan for funds received under the federal Child Care and **Development Block Grant Act of 1990**, and **Chapter 45, Code of Federal Regulations, Parts 98 and 99**

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

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 657A.010

Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0050

**414-150-0055**

**Definitions**

(1) "Block Grant" means federal Child Care and Development Block Grant.

(2) "Block Grant Plan" means the Oregon Plan approved by the Department of Health and Human Services for child care and related programs funded by the Block Grant.

(3) "CCR&R" means Child Care Resource and Referral Agency.

(4) "Administrator" means the Administrator of the Child Care Division of the Employment Department.

(5) "CCCCF" means the County Commission for Children and Families.

(6) "Department" means the Employment Department of the State of Oregon.

(7) "Parent" means parent, custodian or guardian who exercises care and custody of a child.

(8) "Program" means community or school-based teen parent education program, or licensed women-specific alcohol and drug treatment program.

(9) "Provider" means a person who is responsible for direct child care, supervision of children, and guidance of children in an approved child care setting.

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

(11) "Teen Parent" means a parenting or pregnant adolescent who is attending high school or participating in an approved high school completion program.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0055; CCD 6-2003, f. 12-23-03, cert. ef. 12-28-03

**414-150-0060  
 Administration**

(1) The Child Care Division, of the Employment Department, is the designated state agency responsible for administration of the Block Grant.

(2) The Child Care Division Administrator is responsible for coordination of Block Grant programs in Oregon and for the administration of child care services for targeted populations described by these rules.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0060

**414-150-0070  
 Targeted Populations**

(1) The Contracted Child Care Program is established for specific low income populations having demonstrable need for child care services.

(2) Targeted populations eligible for assistance under the Contracted Child Care Program include the following groups:

(a) Teen Parent. To be eligible for services the teen parent must be attending high school or participating in an approved high school completion program sponsored by a local school district, community college, or certified private school, and the parent requires child care in order to attend and complete a program leading to GED or high school diploma;

(b) Parent(s) Receiving Treatment for Substance Abuse. The parent has custody of a child considered by the State to be at-risk of neglect or abuse resulting from parental misuse and/or abuse of drugs or alcohol. The parent must be participating in a state licensed and/or approved treatment program in order to receive contracted child care. Child care services shall be provided at the facility site where the parent is undergoing supervised treatment and counseling for substance abuse, or at a nearby facility under supervision of a State licensed and/or approved treatment program;

(c) Parent(s) with Children Enrolled in School-based Child Development Programs. Child care services under this category will be limited to child development centers that have been approved by the Department of Education in accordance with provisions of ORS Chapter 871.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0070

**414-150-0080  
 Eligibility for Contracted Services**

(1) To be eligible for Contracted Child Care Services the following standards shall apply:

(a) The child receiving services must be under 13 years of age, or a child with special needs under the age of 18 who requires a level of care over and above the norm for his/her age;

(b) Parental income must be below 75 percent of the state median income. Under the Block Grant, median income will be based on information reported in the Federal Register, Department of Health and Human Services;

(c) The child being placed for services is residing with a parent or parents who are either employed, attending job training, or participating in an approved educational program; or participating in an alcohol/drug treatment program;

(d) A parent making application for assistance must be a current resident of Oregon.

(2) The determination of income shall be based on a review of all parental income for the preceding 12 months prior to application for child care service.

(3) Review and calculation of income for teen parent(s) shall be limited to the teen parent(s) income only and not include income received by other members of the same household.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 657A.010  
 Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0080; CCD 6-2003, f. 12-23-03, cert. ef. 12-28-03

**414-150-0090  
 Funding Allocations**

(1) Federal funds for the Block Grant program will be awarded by the Administrator to approved A&D programs, to school districts for school-based programs and to counties for community-based programs. County allocations will be based on targeted population need and availability of funds.

(2) After annual appropriations for the Block Grant are awarded to the state, the Administrator will allocate funds as provided in section (1) of this rule and forward this information to the local CCCF where funds are assigned.

(3) The CCCF shall have 60 days from receipt of the allocation to advise the Administrator of its intent to participate in the planning and the process for selecting programs to contract for available child care funds within the county.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0090

**414-150-0100  
 Area Planning and Provider Selection Procedure**

(1) It is the intent of the Department that comprehensive child care planning for targeted populations be conducted through existing local planning processes. The Department encourages county CCCFs to coordinate and facilitate plan development for the Contracted Child Care Program.

(2) In planning for child care services for targeted populations the following guidelines are established by the Department to assist local CCCFs in formulating strategies that address child care needs in the area:

(a) A work group shall be convened by CCCF to achieve the widest possible coordination with ongoing child care activities in the county. The work group should be selected from the following interests with effort made to insure that a member represents only one area:

- (A) Adult and Family Services Division;
- (B) Local Schools (staff or school board);
- (C) JOBS Program Contractor;
- (D) Child Care Provider;
- (E) A&D Provider;
- (F) Mental Health;
- (G) Child Care Resource and Referral;
- (H) Teen Parent Service Providers (school-based and community-based programs);
- (I) Health Division;
- (J) Local A&D Advisory Committee;
- (K) Consumer.

(b) In areas where comparable work groups or planning committees on child care already exist, CCCFs are encouraged to use locally established processes to meet standards of this guideline;

(c) The CCCF will be expected to evaluate the status of child care in the area and recommend goals for service improvements. Planning statements should be developed that address the following elements:

- (A) Description of the present condition of services within the county for the targeted populations;
- (B) Identification of the optimal availability and condition of child care for the targeted populations in future years;
- (C) A two-year Action Plan setting forth the direction the community wishes to take in achieving the goals listed in the optimum statement; more specifically:
  - (i) A method for using available contracted child care slots including program identification;
  - (ii) Recommended options and steps for plan implementation; and
  - (iii) Delineation of responsibilities for carrying out the planning goals.

(d) The CCCF must review all recommendations received from the work group and submit to the Department's Child Care Division the approved planning statements and recommendations for community-based teen parent and A&D treatment programs. CCCFs are encouraged to integrate the adopted planning statements into local Comprehensive Plans.

(3) In the process of selecting programs or contracted services, CCCF and Department shall follow acceptable procurement practices and comply with state and federal contracting requirements. The principal processes to be followed for equal treatment and full and open competition requirements are described in **45 CFR Part 74, the Federal Acquisition Regulations (FAR), Part 6**, and ORS Chapter 279. All documentation concerning the program selection process shall be maintained by the CCCF for a period of at least three years or until 90 days after all pending matters are closed, whichever is later, and made available to the Department's Child Care Division upon request.

(4) The Department Child Care Division shall have final responsibility for developing a contract with recommended programs as outlined in OAR 414-150-0120.

[Publications: Publications referenced are available from the agency.]  
 Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0100

**414-150-0110**

**Application for Services**

(1) Families that qualify under targeted population criteria and eligibility standards of this rule shall make application for child care services directly through a contracting program. Application must be made on a Child Care Division approved form and signed by both parent and program. In completing the application, the parent shall be required to declare information on:

- (a) Parents and dependent members of the household;
- (b) Place of residence;
- (c) Employment status of parents;
- (d) Participation in job training, substance abuse treatment, or enrollment in school programs; and
- (e) Parent income.

(2) The Administrator shall send notification regarding contracted programs to CCR&R agencies located throughout the state. Parents seeking assistance may contact local resource and referral agencies for information on programs having a service contract for child care.

(3) Child care slots for targeted populations are limited in all regions of the state, and shall, therefore, be assigned to parents on a first-come, first-served basis. The parent signature date on the application form will be used as the basis for determining priority of access to service.

(4) Eligibility for continuing child care services shall be subject to redetermination by the program at the end of every six-month service period. Parents are responsible for notifying the program whenever a change of circumstance occurs that may affect their eligibility status.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0110

**414-150-0120**

**Service Standards**

(1) Prior to accepting a child for care under these rules, the program shall sign a contract with the Department's Child Care Division. The contract shall include, but is not limited to, the following provisions:

- (a) Term of the contract;
- (b) Description of services;
- (c) Facility and service standards;
- (d) Program responsibilities;
- (e) Payment for services; and
- (f) Compliance with appropriate state and federal regulations.

(2) A program or a provider certified by Child Care Division (CCD) for operation of a child care center shall be in compliance with the standards defined in OAR 414-300-0000 through 414-300-0410.

(3) A program or a provider certified by CCD for operation of a certified family child care home shall be in compliance with the standards defined in OAR 414-350-0000 through 414-350-0400.

(4) A registered family child care provider shall be registered with CCD and meet requirements of OAR 414-205-0000 through 414-205-0170.

(5) If a program or a provider is operating a child care facility that is specifically excluded by Oregon law from state certification requirements under ORS 657A.250-657A.290, the standards for service shall be defined by the Department's Child Care Division in the agreement.

The CCD may require information regarding the status of certification. The Department will require a criminal record check of all providers and caregivers through the Oregon State Police Law Enforcement Data System per ORS 181.537.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0120; CCD 6-2003, f. 12-23-03, cert. ef. 12-28-03

**414-150-0130**

**Payment for Services**

(1) The CCD shall establish payment rates allowable for the Contracted Child Care Program, and make this information available to the public on request.

(2) Payment for contracted child care shall be made directly to the program by the Department after services for the month have been rendered. Forward funding, not to exceed ten percent of the total contract amount, may be allowed at the discretion of the CCD.

(3) To receive payment, the program shall submit an invoice to the Department on a CCD approved form.

(4) The rate of payment to the program shall be stated in the agreement.

(5) The program shall be responsible for collection of any copayments from the parent. Copayment will be determined from the AFS Employment Related Day Care Copayment Standard established in OAR 461-155-0150. Families having income below Oregon's poverty level, based on published U.S. Department of Health and Human Services (HHS) information, shall be exempt from the copayment standard.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: HR 7-1992(Temp), f. 2-27-92, cert. ef. 3-1-92; HR 26-1992, f. & cert. ef. 8-27-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 410-100-0130

**DIVISION 205**

**REGISTERED FAMILY CHILD CARE HOMES**

**414-205-0000**

**Purpose**

(1) Oregon Administrative Rules (OAR) 414-205-0000 through 414-205-0170 are the Child Care Division's minimum requirements for registering family child care providers. The purpose of these rules is to protect the health, safety, and well-being of children when cared for outside their own homes.

(2) Registration is required for persons who provide child care:

- (a) On other than an occasional basis; and
- (b) To more than three children from more than one family at any one time, other than the person's own children.

(3) These rules do not apply to care provided:

- (a) In the home of the child;
- (b) To three or fewer children, not including the provider's own children;
- (c) To children from one family, not including the provider's own children;
- (d) On an occasional basis by a person not ordinarily engaged in providing child care;
- (e) By the child's parent, guardian, or person acting in place of a parent;
- (f) By a person related to the child care children by blood, marriage, or adoption; or
- (g) By a person who is a member of the child's extended family, as determined by the division on a case-by-case basis.

(4) Any family child care provider exempt from registration may apply for registration.

(5) These rules apply only during the hours the provider is conducting the child care business.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.260 & 657A.330  
 Hist.: CCD 2-1994, f. 7-15-94, cert. ef. 8-15-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 2-1995(Temp), f. 12-28-95, cert. ef. 1-1-96; CCD 2-1996, f. 3-19-96, cert. ef. 4-1-96; CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 7-2003, f. 12-23-03, cert. ef. 12-28-03

**414-205-0010**

**Definitions**

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

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

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

(4) "CCD" means the Child Care Division of the Employment Department, or the Administrator or staff of the Division.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (A) Children are in imminent danger;
- (B) There are more children in care than allowed by law;
- (C) Corporal punishment is being used;
- (D) Children are not being supervised;
- (E) Multiple or serious fire, health or safety hazards are present in the home;

(F) Extreme unsanitary conditions are present in the home; or  
 (G) Adults are in the home who are not enrolled in the Child Care Division's Criminal History Registry; or

(b) An individual providing child care, as defined by ORS 657A.250(3), who is not a registered family child care provider by a person who has alleged that there are more children in care than allowed by law.

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

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

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

Stat. Auth.: Ch. 858, OL 1999 (SB 2240)  
 Stats. Implemented: Ch. 858, OL 1999 (SB 2240)  
 Hist.: CCD 2-1994, f. 7-15-94, cert. ef. 8-15-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-1999(Temp), f. 10-21-99, cert. ef. 10-23-99 thru 1-1-00; CCD 7-1999, f. 12-29-99, cert. ef. 1-1-00; CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01

**414-205-0020**

**Application for Registration**

(1) The applicant must apply for registration on the form(s) supplied by CCD. The original form(s) must be submitted to CCD for processing.

(2) Persons wishing to apply for registration for the first time or whose prior registration has been expired for six (6) months or more must attend a family child care overview session prior to submitting their application to CCD.

(3) Persons wishing to apply for registration must meet the training requirements outlined in 414-205-0055.

(4) An application for registration is required:

- (a) For an initial registration;
- (b) For renewal of a registration; and
- (c) For a change of address or change of name.

(5) The provider must complete and submit a new application to CCD:

- (a) For renewals, at least 30 days before the expiration of the registration;
- (b) For a change of address, at least 30 days prior to the move; and
- (c) For a change of name, no more than 15 days after the change.

(6) There is a non-refundable filing fee of \$30 for each initial and renewal application and for each application to re-open a previous registration. If the provider submits documentation that the provider's family income is below 100% of the Federal Poverty Level, the fee may be reduced.

(7) To determine if requirements are met, the applicant/provider may be required to supply additional information or permit CCD, a fire marshal, or a public health official to assess the home and/or review child care records.

(8) Prior to being registered, changing registration to a new address, re-opening their family child care business after a lapse in registration, or renewing their registration, providers must satisfactorily complete an on-site health and safety review conducted by CCD. The review will ensure that the provider is in compliance with the rules related to health, safety and sanitation.

(9) If an application for renewal and payment of the required fee is received by CCD at least 30 days prior to the expiration date of the current registration, the current registration, unless officially revoked, remains in effect until CCD has acted on the application for renewal and has given notice of the action taken.

Stat. Auth. ORS 657A  
 Stats. Implemented: ORS 657A.260, ORS 657A.330 & ORS 657A.440  
 Hist.: CCD 2-1994, f. 7-15-94, cert. ef. 8-15-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 2-1995(Temp), f. 12-28-95, cert. ef. 1-1-96; CCD 2-1996, f. 3-19-96, cert. ef. 4-1-96; CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01

**414-205-0035**

**General Requirements**

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

(2) Registration is limited to one provider per household.

(3) A registration applies to only the person and address on the certificate of registration and is not transferable to another location or individual.

(4) The registration is valid for a maximum of two years. The registration period begins with the effective date shown on the certificate of registration. A provider may not care for more than three (3) children, other than the provider's own children, at any one time prior to receiving a certificate of registration from CCD.

(5) CCD registration records are open to the public on request. However, information protected by state or federal law will not be disclosed. Names of complainants and identifying information will not be disclosed.

(6) The name, address, telephone number, and registration status of providers is public information. However, CCD may withhold from the public a provider's address and telephone number if the provider makes a written request documenting that disclosure of the address and/or telephone number would endanger him/her or a family member living in the home (OAR 137-004-0800). The request must be on a form supplied by CCD.

(7) The Certificate of Registration must be posted in the family child care home in an area where it can be viewed by parents.

(8) The provider shall have no other employment, either in or out of the home, during the hours children are in care.

(9) The provider must allow custodial parents or legal guardians of child care children access to the home during the hours their child(ren) are in care.

(10) The provider must comply with state and federal laws related to immunizations, child care restrictable diseases, child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans With Disabilities Act.

(11) Any caregiver who has reason to believe that any child has suffered abuse (physical injury, mental injury, neglect that leads to physical harm, sexual abuse and/or exploitation, or threat of harm) must report the information to the State Office of Services to Children and Families or to a law enforcement agency. By statute, this requirement applies 24 hours per day.

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

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

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00

**414-205-0040  
 The Provider and Other Persons in the Home**

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

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

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

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

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

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

(3) A caregiver substituting for the provider must:

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

(b) Be enrolled in the Criminal History Registry prior to substituting for the provider; and

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

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.050, 657A.060, 657A.260 & 657A.330  
 Hist.: CCD 2-1994, f. 7-15-94, cert. ef. 8-15-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00

**414-205-0055  
 Training Requirements**

(1) When a person first applies for registration as a family child care provider, the Child Care Division shall, prior to approving the registration, receive evidence from the person that the person has:

(a) Completed the Family Child Care Overview session;

(b) A current certification in infant and child first aid and cardiopulmonary resuscitation;

(c) A current food handler certification pursuant to ORS 624.570; and

(d) Completed two hours of training on child abuse and neglect issues.

(2) When a registered family child care provider submits a renewal application, the Child Care Division shall, prior to approving it, receive evidence from the provider that the provider has:

(a) A current certification in first aid and infant and child cardiopulmonary resuscitation;

(b) A current food handler certification pursuant to ORS 624.570; and

(c) Completed a minimum of eight hours of training related to child care during the two years preceding the renewal date.

(3) In lieu of the training requirements in subsection (1) of this rule, except for the requirement to attend a Family Child Care Overview session, a person applying for registration may provide documentation that the person is enrolled in the Professional Development Registry at an Entry Level.

(4) In lieu of the training requirements in subsection (2) of this rule, a provider submitting a renewal application may provide documentation that the provider is enrolled in the Professional Development Registry at an Entry Renewal Level.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

**414-205-0065  
 Children in Care**

(1) A family child care provider may care for a maximum of 10 children under 13 years of age, or under age 18 if a special needs child, at any one time. This includes the provider's own children, the child care children, foster children, and any other children for whom the provider is responsible.

(2) Of the 10 children under 13 years of age or under age 18 if a special needs child, the provider may care for:

(a) A maximum of 6 children preschool age or younger, including the provider's own children, of which only 2 children may be under 24 months of age.

(b) In addition, there may be 4 school-age children.

(c) If there are fewer than 6 children preschool age or younger, there may be more school-age children, as long as there are no more than 10 children in the home at any one time.

(3) Other children, including but not limited to neighborhood children or friends of the provider's children, are included in the maximum number of 10 children allowed in care if their parents or other adults responsible for supervising them are not present in the home or are not directly supervising their own child(ren).

(4) Visiting children and their parents or others directly supervising them can be in the family child care home only on an occasional basis.

(5) No child younger than 6 weeks of age can be in care in a family child care home. This does not include the provider's child(ren).

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01

**414-205-0075**

**Supervision of Children**

(1) The provider or a substitute caregiver is responsible for the children in care. The provider or substitute caregiver must:

- (a) Be within sight and/or sound of all children at all times;
- (b) Be aware of what each child is doing at all times; and
- (c) Be physically present when preschool age or younger children are playing outside unless the outside play area is fully fenced and hazard free. If the outside play area is fully fenced and hazard free, the provider must be within sight and/or sound of the children.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00; CCD 5-2001, f. 11-2-01, cert. ef. 11-4-01

**414-205-0085**

**Discipline**

(1) The provider must have a written discipline policy. The policy must be simple and understandable to the child, the parent(s) and to substitute caregivers. The written discipline policy must be given to all parents.

(2) The following behavior by caregivers is prohibited:

- (a) Corporal punishment, including hitting, spanking, slapping, beating, shaking, pinching, and other measures that produce physical pain;
- (b) Withdrawal or the threat of withdrawal of food, rest, or bathroom opportunities;
- (c) Punishing a child for toileting accidents or for refusing food;
- (d) Abusive or profane language;
- (e) Any form of public or private humiliation, including threats of physical punishment; and
- (f) Any form of emotional abuse, including, but not limited to, rejecting, terrorizing, neglecting, or corrupting a child.

(3) Parental request or permission to use any form of punishment listed in subsection (2) of this rule does not give the provider permission to use such punishment.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00

**414-205-0090**

**Program of Activities**

(1) The provider must give the children's needs first priority, assuring that they get adequate care and attention.

(2) Providers must make available activities, materials, and equipment for both indoor and outdoor play that provide a variety of experiences geared to the ages and abilities of the child(ren).

(3) The children's activities must allow choice and develop skills based on each child's age and abilities.

(4) A balance of active and quiet play must be provided, both indoors and outdoors.

(5) The provider must have routines for eating, napping, and toileting, with flexibility to respond to the needs of each child.

(6) No child may view television or videos or play computer or electronic games for more than two (2) hours per day.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00

**414-205-0100**

**Health**

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

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

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

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

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

(d) The room temperature must be at least 68 degrees Fahrenheit during the hours the child care business is conducted.

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

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

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

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

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

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

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

(7) Prescription and non-prescription medication may be given to a child only if the provider has written authorization from the parent, as required in OAR 414-205-0130(2).

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

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

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

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

(9) Parents must be informed daily of any medications given to their child or any injuries their child has had.

(10) The provider must provide or ensure the availability of meals and snacks appropriate for the ages and needs of the children served.

(a) Meals and snacks must be based on the guidelines of the USDA Child Care Food Program.

(b) Foods must be stored and maintained at the proper temperature.

(c) Foods must be prepared and served according to the minimum standards for food handler certification.

(d) Infants must either be held or be fed sitting up for bottle feeding. Propping bottles is prohibited.

(11) Any animal at the family child care home must be in good health and be a friendly companion for the children in care.

(a) Potentially aggressive animals must not be in the same physical space as the children.

(b) Dogs and cats must be vaccinated according to a licensed veterinarian's recommendations.

(12) Animal litter boxes shall not be located in areas accessible to children.

(13) Caregivers must be physically present when children are interacting with animals.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00

**414-205-0110**

**Safety**

(1) Children shall be protected from fire and safety hazards. Providers must have the following protections in place:

(a) If any preschool age or younger children are in care, hard-to-remove protective caps on all exposed electrical outlets in rooms used by children.

(b) If any preschool age or younger children are in care, barriers to protect children from fireplaces, space heaters, wood stoves, stairways and other hazards. Gates and enclosures should have the Juvenile Products Manufacturers Assn. (JPMA) certification seal to ensure safety.

(c) A working smoke detector on each floor and in any area where children nap;

(d) A working fire extinguisher with a rating of at least 2-A:10-BC;

(e) Firearms and ammunition kept under lock. Ammunition stored separately from firearms. Firearms must remain unloaded;

(f) Cleaning supplies, paints, matches, cigarette lighters, and plastic bags kept under child-proof lock;

(g) Other potentially dangerous items, such as medicine, drugs, and poisonous and toxic materials kept under child-proof lock;

(h) If any preschool age or younger children are in care, poisonous plants must be kept out of the reach of children; and

(i) All clear glass panels in doors clearly marked at child level.

(2) All floor levels used by children must have access to two usable exits, as defined in OAR 414-205-0010(22), to the outdoors.

(a) If a basement is used for child care purposes, the requirement for two usable exits may be met by one of the following:

(A) A sliding glass door to the outdoors and a window which meets the definition of a usable exit;

(B) A swinging door to the outdoors and a window which meets the definition of a usable exit; or

(C) A window which meets the definition of a usable exit and an internal stairway to ground level which has unobstructed and direct access to the outdoors.

(b) If a window, which meets the definition of a usable exit, is used:

(A) Steps must be placed under the window to allow children to exit without assistance; and

(B) The window must be kept in good working condition.

(c) If a window used as an exit has a window well, a mechanism must be in place to allow children to exit the window well.

(3) The provider must have a written plan for evacuating children in an emergency. The plan must be posted in the home, familiar to the children and the caregivers, and practiced at least every other month.

(4) A telephone in working condition must be in the family child care home.

(a) Parents must be given the telephone number so they can contact the provider if needed.

(b) Emergency telephone numbers for fire, ambulance, police and poison control must be posted near the telephone.

(5) The building, grounds, water supply, and toys, equipment and furniture used by children must be maintained in a hazard-free condition.

(a) Broken toys, furniture and equipment must be removed from areas accessible to children.

(b) Both the exterior and interior of the home must be maintained in good repair.

(c) Painted surfaces must be in good condition, both inside and outside, to avoid exposing children to lead paint chips.

(6) If a caregiver is transporting children, the caregiver must have a valid driver's license and proof of appropriate insurance.

(7) The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00

#### 414-205-0120

##### Sanitation

(1) All caregivers must wash their hands with soap and warm, running water:

(a) After changing a diaper;

(b) Before feeding a child or handling food; and

(c) After assisting a child with toileting or nose wiping.

(2) All caregivers and children must wash their hands with soap and warm, running water:

(a) After using the toilet;

(b) Before and after eating;

(c) After nose wiping;

(d) After playing outside; and

(e) After playing with animals or handling pet toys.

(3) All toys, equipment and furniture used by children must be cleaned and sanitized regularly and whenever soiled.

(4) The building and grounds must be maintained in a clean and sanitary manner.

(5) All garbage, solid waste, and refuse must be disposed of regularly, in a safe and sanitary manner.

(6) The home's water supply must be safe to drink.

(7) Wading pools are prohibited.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

#### 414-205-0130

##### Record Keeping

(1) The following records must be kept by the provider for at least one year and must be available at all times to CCD:

(a) Information from the parent(s) for each child at the time of admission:

(A) Name and birth date of the child;

(B) Any chronic health problem(s), including allergies, the child has;

(C) Names, work and home telephone numbers and addresses, and the work hours of the custodial parent(s) or guardian(s);

(D) Name and telephone number of person(s) to contact in an emergency;

(E) Name and telephone number of person(s) to whom the child may be released;

(F) The school attended by a school-age child; and

(G) Name, address and telephone number of the child's doctor and dentist.

(b) Daily attendance records, including dates each child attended and arrival and departure times each day;

(c) Medications administered, including the child's name, and the date and time of dosage; and

(d) Injuries to a child.

(2) Injuries to a child which require attention from a licensed health care professional, such as a physician, EMT or nurse, must be reported to CCD within 7 days.

(3) The provider must have a written statement from the parent(s) regarding whether or not the provider is authorized to:

(a) Obtain emergency medical treatment for a child;

(b) Administer medications to a child;

(c) Take a child on a field trip or other activity outside the home or participate in any water activity; and

(d) Transport a child to and/or from school or allow a child to bus or walk to and/or from school or home.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00

#### 414-205-0140

##### Night Care

(1) A provider providing night care must:

(a) Have a written plan for the care, jointly agreed to by the parent(s) and the provider;

(b) Have a written plan for emergency situations occurring during the night;

(c) Be awake for the arrival and departure of each child in night care; and

(d) Follow all other applicable Registration rules.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00

#### 414-205-0150

##### Exceptions to Rules

(1) A provider may request an exception to a rule.

(a) An exception must be requested on a form provided by CCD;

(b) The provider must provide a justification for the requested exception and an explanation of how the provider will ensure, through safeguards or other conditions, the health, safety and well-being of the children.

(2) The provider must be in compliance with the rule as written until the provider has received approval for the exception from CCD.

(3) In instances where care that is subject to registration, as defined in subsection (2) of rule 414-205-0000, will not be provided in the provider's own residence, the applicant/provider must request and receive approval for an exception prior to providing care at that location. In all respects, the location must appear and be arranged as a residence.

(4) No exception to a rule shall be granted unless the health, safety, and well-being of the children are ensured.

(5) An exception is valid only for the registration period for which it is issued. A new exception must be requested with each renewal application.

(6) The granting of an exception to a rule shall not set a precedent, and each request shall be evaluated on its own merits.

(7) Waivers in effect on April 1, 2000, will remain in effect until the expiration of the current registration.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00

**414-205-0160  
 Complaints**

(1) The Child Care Division (CCD) will respond to complaints made on registered and illegal providers, and may cooperate with law enforcement or other agencies in response to allegations of child abuse or noncompliance.

(a) Any and all complaints may result in an on-site investigation at the family child care home.

(b) All serious complaints will result in an on-site investigation at the family child care home.

(c) Complaints alleging child abuse or neglect will be reported to the State Office of Services to Children and Families or local law enforcement agencies.

(2) Applicants for registration will be given a copy of CCD's complaint procedures at the time of the on-site health and safety review. The complaint procedures are also available upon request to all applicants/providers for family child care registration.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00

**414-205-0170  
 Grievance Review and Sanctions**

(1) Providers have a right to review any action or decision affecting them. The CCD grievance procedures are available upon request to all applicants/providers for family child care registration.

(2) Registration may be denied, suspended, or revoked if a provider fails to meet requirements, provide CCD with information requested, allow an inspection, or correct deficiencies.

(3) Any action taken by CCD to deny, suspend, or revoke registration may be reported to USDA Child Care Food Programs, child care resource and referral agencies, Adult and Family Services Division, and the State Office of Services to Children and Families.

(4) A registration may be suspended immediately when CCD believes children may be at risk of harm in the family child care home. Such action may be taken before an investigation is completed.

(a) A provider whose registration has been suspended must immediately notify, verbally or in writing, all parents of the suspension.

(b) A provider whose registration has been suspended must post the suspension in the home where it can be viewed by parents.

(5) Registration will be denied, suspended or revoked if the provider or other resident of the home has been removed from the Criminal History Registry.

(6) If an individual listed in 414-205-0040(2)(a) or (b) has been charged with, arrested for, or a warrant is out for any crime which CCD has determined indicates behavior that would have a detrimental effect on a child, the provider's application will be denied or registration will be suspended or revoked until the charge, arrest, or warrant has been resolved.

(7) Registration will be denied, suspended or revoked if an individual listed in OAR 414-205-0040(2)(a) or (b) has been convicted of or sentenced for offenses that would disqualify the individual from the Criminal History Registry.

(8) Registration will be denied, suspended or revoked if an individual listed in OAR 414-205-0040(2)(a) or (b) has an open or founded case of child abuse or neglect that would disqualify the individual from the Criminal History Registry.

(9) Persons may be subject to a fine of up to \$100 per occurrence if:

(a) They provide child care without a registration when required by law to be registered; or

(b) They violate any of the terms or conditions of registration or these rules.

(10) The provider has the right to appeal any decision to deny, suspend, or revoke registration or to impose a fine, subject to the provisions of Chapter 183, Oregon Revised Statutes.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CCD 1-2000, f. 3-31-00, cert. ef. 4-2-00

**DIVISION 300**

**CERTIFIED CHILD CARE CENTERS**

**General Provisions**

[ED. NOTE: OAR 412-010-0600 through 412-010-0696, except OAR 412-010-0601 and 412-010-0602, were transferred to the Employment Department by CSD 15-1993, f. 11-29-93, cert. ef. 12-1-93, SB 181.]

**414-300-0000  
 Applicability of Rules**

(1) OAR 414-300-0000 through 414-300-0410 set forth the Child Care Division's requirements for inspecting and certifying those child care facilities subject to Oregon laws governing child care facilities, ORS 657A.030, 657A.250 through 657A.310, 657A.350 through 657A.460 and 657A.990, that:

(a) Serve thirteen or more children; or

(b) Serve twelve or fewer children and are located in a building constructed as other than a single-family dwelling.

(2) These rules do not apply to child care facilities specifically excluded by law. Excluded facilities are those which:

(a) Are primarily educational and provide care to children 36 months old or older but not yet attending kindergarten for less than four hours a day;

(b) Are primarily supervised, child-focused training in a specific subject, including, but not limited to, dancing, drama, music, or religion. This exclusion applies only to the time children are involved in training;

(c) Are primarily an incident of group athletic or social activities sponsored by or under the supervision of an organized club or hobby group. This exclusion applies only to the time engaged in the group athletic or social activities and if the children can come and go as they please.

(d) Are operated by a school district, political subdivision of this state, or a government agency;

(e) Are operated on an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care;

(f) Operate as a parent cooperative for no more than four hours a day; or

(g) Provide care while the child's parent remains on the premises and is engaged in an activity offered by the facility or in other non-work activity.

(3) If any court of law finds that any clause, phrase, or provision of these rules is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portion of these rules.

(4) For purposes of these rules, the determination of compliance or noncompliance shall be made by CCD.

(5) Providers have a right to review any action or decision affecting them. The CCD grievance procedures are available upon request to all applicants for child care certification or operators of centers.

Stat. Authority: ORS 657A  
 Stats. Implemented: ORS 657A.  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0600; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01; CCD 6-2003, f. 12-23-03, cert. ef. 12-28-03

**414-300-0005  
 Definitions**

The following words and terms, when used in OAR 414-300-0000 through 414-300-0410, have the following meanings:

(1) "Activity Area" means the area of the center that is available, during all the hours of operation, for the children's activities. This area excludes kitchens, hallways, toilet rooms, multi-purpose areas used by all children, lockers, office, storage areas, isolation quarters, staff room, furnace room, and that part of rooms occupied by heating stoves, or stationary equipment not used by children. Additional exclusions may apply for specific age groups.

(2) "Attendance" means children actually present in the center at any given time.

(3) "Capacity" means the total number of children allowed in the center at any one time, based on the available indoor and outdoor square footage, the number of toilets in the center and the number of qualified staff.

## Chapter 414 Employment Department, Child Care Division

(4) "Caregiver" means any person in the child care center who works directly with the children, providing care, supervision, and guidance.

(5) "Certification" means the certification that is issued by CCD to a child care center pursuant to ORS 657A.280.

(6) "Child Care" means the care, supervision, and guidance on a regular basis of a child, unaccompanied by a parent, guardian, or custodian, during a part of the 24 hours of the day, with or without compensation. Child care does not include the care provided:

(a) In the home of the child;

(b) By the child's parent or guardian, or person acting in loco parentis;

(c) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;

(d) On an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care; or

(e) By providers of medical services.

(7) "Child Care Area" means that indoor and outdoor area specifically certified for use by the center and includes all activity areas and other areas of the facility used to provide child care, such as kitchen, toilet rooms, offices, storage areas, and rooms used solely for napping or eating. This may be a specific portion or portions of the building and grounds of a larger facility or one or more buildings at the same location.

(8) "Child Care Child" means any child six weeks of age or older and under 13 years of age, or a child with special needs under the age of 18 who requires a level of care over and above the norm for his/her age, for whom the child care center has supervisory responsibility in the temporary absence of the parent.

(9) "Child Care Center" or "Center" means a child care facility that is certified to care for thirteen or more children, or a facility that is certified to care for twelve or fewer children and located in a building constructed as other than a single family dwelling.

(10) "CCD" means the Child Care Division of the Employment Department or the Administrator or staff of the Division.

(11) "Child Care Facility" means any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before or after school care, or child development center, except those excluded under ORS 657A.250. This term applies to the total child care operation and includes the physical setting, administration, staff, equipment, program, and care of children.

(12) "Comparable group care program" means a program which has the following elements:

(a) Staff are supervised by knowledgeable professionals;

(b) Training of staff is provided or required annually;

(c) Group size is similar to a certified child care facility;

(d) Curriculum is age appropriate; and

(e) The program is not providing uncertified drop-in care.

(13) "Contracted services" means activities (e.g., tumbling, music) provided by an organization or program other than the center, where non-center staff come into the center or the children are transported to another location.

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

(15) "Director" means a person who is designated by the operator as director or administrator of the center and who meets the qualifications of director pursuant to OAR 414-300-0080.

(16) "Drop-in Care" means care provided on an unscheduled, irregular basis, any time of the day or night, exclusively for drop-in children in a child care center.

(17) "Enrollment" means all children registered to attend the center.

(18) "Group" means a specific number of children assigned to specific staff.

(19) "Guidance and discipline" means the on-going process of helping children develop self control and assume responsibility for their own acts.

(20) "Head Teacher" means the person, or persons, who is responsible for the development and implementation of the program of activities for each infant and toddler, preschool age, and school-age program in the center.

(21) "Infant" means a child who is at least six weeks of age but is not yet walking alone.

(22) "Infant and Toddler Age Program" means care and education provided in a center, or part of a center, to children between the ages of six weeks and thirty-six months.

(23) "Night Care" means care given to children who sleep at the child care center for all or part of the night.

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

(25) "Operator" means the person, group, corporation, partnership, governing body, association, or other public or private organization legally responsible for the overall operation of the center and who has the authority to perform the duties necessary to meet certification requirements. If the operator is other than the owner, an individual must be appointed as the operator by the owner.

(26) "Outbreak of a communicable disease" means two cases from separate households associated with a suspected common source.

(27) "Owner" means the person, group, corporation, partnership, governing body, association, or other public or private organization which holds the child care center as property and has a major financial stake in the operation of the center. The owner may or may not be active in the operation of the center; the owner may also be the operator.

(28) "Parent" means parent(s), custodian(s), or guardian(s), exercising physical care and legal custody of the child.

(29) "Parent cooperative" means a child care program in which:

(a) Care is provided by parents on a rotating basis;

(b) Membership in the cooperative includes parents;

(c) There are written policies and procedures; and

(d) A board of directors that includes parents of the children cared for by the cooperative controls the policies and procedures of the program.

(30) "Preschool-Age Child" means a child who is 36 months of age to eligible to be enrolled in the first grade and, during the months of summer vacation from school, eligible to be enrolled in the first grade in the next school year. For purposes of these rules, children attending kindergarten may be considered school-age children.

(31) "Preschool-Age Program" means care and education provided in a center, or part of a center, to children 36 months of age to attending kindergarten.

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

(33) "Program" means all activities and care provided for the children during their hours of attendance at the center.

(34) "Qualifying Teaching Experience" means:

(a) For infant/toddler and preschool age groups, 1,500 hours, gained with a group of the same age children in at least three-hour blocks, within a 36-month period;

(b) For school-age groups, 600 hours, gained with a group of the same age children in at least three-hour blocks, within a 36-month period. Qualifying teaching experience must be documented. Time spent in a college practicum or practice teaching is considered qualifying teaching experience. The following does not constitute qualifying teaching experience: leader of a scout troop; Sunday school teacher; and coaching.

(35) "Sanitizing" means using a bactericidal treatment that provides enough heat or concentration of chemicals for enough time to reduce the bacterial count, including disease-producing organisms, to a safe level on utensils, equipment, and toys.

(36) "School-Age Child" means a child eligible to be enrolled in the first grade or above and, during the months of summer vacation from school, a child eligible to be enrolled in the first grade or above in the next school year. For purposes of these rules, children attending kindergarten may be considered school-age children.

(37) "School-Age Program" means care and education provided in a center, part of a center, school or other facility to children attending kindergarten or eligible to be enrolled in the first grade or above and, during the months of summer vacation from school, eligible to be enrolled in the first grade or above in the next school year.

(38) "Serious complaint" means a complaint filed against:

(a) A certified child care center by a person who has alleged that:

- (A) Children are in imminent danger;
  - (B) There are more children in care than allowed by certified capacity;
  - (C) Corporal punishment is being used;
  - (D) Children are not being supervised;
  - (E) Multiple or serious fire, health or safety hazards are present in the center;
  - (F) Extreme unsanitary conditions are present in the center; or
  - (G) Adults are in the center who are not enrolled in the Criminal History Registry; or
- (b) A facility providing child care, as defined ORS 657A.250(3), which is not a certified child care center by a person who has alleged that there are more children in care than allowed by law.

(39) "Site Director/Supervisor" means the person in charge of the facility at a site which is part of a larger multi-site program.

(40) "Site Coordinator" means the person responsible for coordinating over-all management and operation of a number of sites in a multi-site program.

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

(42) "Staff" means an individual who is the director, an employee, or a volunteer who is in the center for more than a single activity.

(43) "Substitute Director" means the person in charge of the center during the hours of operation when the director is not on site.

(44) "Supervision" means the act of caring for a child or group of children. This includes awareness of and responsibility for the ongoing activity of each child. It requires physical presence, knowledge of program requirements and children's needs, and accountability for their care and well-being. Supervision also requires that staff be near and have ready access to children in order to intervene when needed.

(45) "Teacher" means a caregiver who plans and implements daily activities for a designated group of children and who meets the qualifications of teacher pursuant to OAR 414-300-0100.

(46) "Teacher Aide" means a caregiver who works under the direct supervision of a teacher and who meets the qualifications of Aide I or Aide II pursuant to OAR 414-300-0110.

(47) "Toddler" means a child who is able to walk alone but is under 36 months of age. "Younger toddler" means a child who is able to walk alone but is under 24 months of age; "older toddler" means a child who is 24 months of age but under 36 months of age.

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

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0605; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-1999(Temp), f. 10-21-99, cert. ef. 10-23-99 thru 1-1-00; CCD 9-1999, f. 12-29-99, cert. ef. 1-1-00; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01; CCD 6-2003, f. 12-23-03, cert. ef. 12-28-03

**Certificate**

**414-300-0010**

**Application for a Child Care Certificate**

(1) Unless exempted by Oregon laws governing child care facilities, no person or organization shall operate a child care center without a valid certification issued by the Child Care Division (CCD).

(2) Application for certification shall be made on forms provided by CCD.

(3) A completed application is required:

- (a) For the initial certification;
  - (b) For the annual renewal of certification; and
  - (c) Whenever there is a change of owner, operator or location.
- (4) The applicant shall complete and submit an application to CCD at least:

- (a) 45 days before the planned opening date of a new center; and
- (b) For renewal of certification, 30 days prior to the expiration of the certificate.

(A) If an application for renewal and payment of the required fee is received by CCD at least 30 days prior to the expiration date of the current certification, the current certification, unless officially

revoked, remains in force until CCD has acted on the application for renewal and has given notice of the action taken.

(B) If an application for renewal and payment of the required fee is not received by CCD at least 30 days prior to the expiration date of the current certification, the certification will expire as of the date stated on the certificate and child care must cease at the facility, unless the renewal is completed before the expiration date.

(5) An application for certification shall be accompanied by a non-refundable filing fee.

(a) For the initial application, a change of owner/operator, the reopening of a center after a lapse in certification, or a change of location (except when a facility is forced to move due to circumstances beyond the control of the operator), the fee is \$100 plus \$2 for each certified space (e.g., the fee for a child care center certified to care for 30 children is \$60 + \$100 = \$160).

(b) For a renewal application, the fee is \$2 for each certified space.

(6) An application for certification must be completed by the applicant and approved by CCD within 12 months of submission or the application will be denied. If an application is denied, an applicant must submit a new application for certification.

(7) A floor plan shall be submitted with the initial application and/or when a facility is being constructed or remodeled. The floor plan shall show dimensions of all rooms to be used (length and width), the planned use of each room, the placement and number of toilets, handwashing sinks, and diaper changing tables, and the location of the fixtures and plumbing in the kitchen. Similar plans shall be submitted to the environmental health specialist, the fire marshal and the buildings department prior to initial construction or remodel.

(8) If the facility is located within or attached to a building used for purposes other than child care, the floor plan shall describe the other activities which are carried out in adjoining rooms or buildings.

(9) If the applicant is a firm, association, corporation, public agency, or governmental entity, the application shall be signed by the chief executive officer or a person designated in writing to have the authority to sign for the applicant. If the applicant is a partnership, the application shall be signed by each partner.

(10) A management list shall be submitted with the application and updated annually. The list must specify who is responsible for each of the following:

- (a) Financial management;
- (b) Maintaining records;
- (c) Budgeting;
- (d) Policy Development;
- (e) Staff management, orientation and training;
- (f) Maintenance of building and grounds;
- (g) Meal planning and preparation;
- (h) Transportation of children, if provided; and
- (i) Ensuring the appropriateness of program activities according to age and development of the children.

(11) An operator shall provide verification to CCD that the center meets all applicable building codes and zoning requirements that apply to child care facilities:

- (a) Before the initial certification is issued; and
- (b) Whenever the facility is remodeled.

(12) The center shall be approved by an environmental health specialist registered under ORS Chapter 700, or an authorized representative of the Health Division, and by a state or local fire marshal, before a certificate is issued by CCD.

(a) If structural, emergency or permit problems occur, CCD may request that the operator have the center inspected by the appropriate authority; and

(b) The operator is responsible for payment of any applicable fees for fire safety and sanitation inspections.

(13) Upon receipt of a completed application, a representative of CCD shall evaluate the center and all aspects of the proposed operation to determine if the center meets certification requirements (OAR 414-300-0000 through 414-300-0410).

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0610; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 2-1995(Temp), f. 12-28-95, cert. ef. 1-1-96; CCD 2-1996, f. 3-19-96, cert. ef. 4-1-96; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01; CCD 8-2003, f. 12-23-03, cert. ef. 12-28-03

**414-300-0015**

**Issuance of a Child Care Certificate**

(1) A certification shall be issued by CCD when it has been determined the center is in compliance with OAR 414-300-0000 through 414-300-0410. There are two types of certifications. These are:

(a) A regular certification, which, except as provided in OAR 414-300-0010(4)(b)(A), is valid for no more than one year; and

(b) A temporary certification. A child care center may not operate under a temporary certification for more than 180 days in any 12-month period. A temporary certification is issued when:

- (A) The center is in compliance with most requirements;
- (B) There are no deficiencies identified by CCD that are hazardous to children; and
- (C) The operator demonstrates an effort to be in full compliance.

(2) Certification is not transferable to any other location or to another organization or individual.

(3) Any changes in the conditions of certification shall be requested in writing to CCD and approved by CCD before the condition(s) of the current certification may be changed. Changes include, but are not limited to, facility capacity, age range of children, or hours of operation.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0615; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0020**

**Exceptions to Rules**

(1) CCD may grant an exception to an individual rule (OAR 414-300-0000 through 414-300-0410) for a specified period of time when:

- (a) A requirement does not apply to the facility; or
- (b) The intent of the requirement can be met by a method not specified in the applicable rule.

(2) The operator shall request an exception to a rule on a form provided by CCD. The request shall include:

- (a) A justification for the requested exception; and
- (b) An explanation of how the center will meet the intent of the rule.

- (3) No exception to a rule shall be granted:
  - (a) If the requirement is established by statute; or
  - (b) Unless the health, safety, and well-being of the children are ensured.

(4) Exceptions may not be implemented until approval is received from CCD.

(5) The granting of an exception to a rule shall not set a precedent, and each request shall be evaluated on its own merits.

(6) CCD may withdraw approval of an exception at any time, if deemed necessary to ensure the health, safety and well-being of the children.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0618; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**Center Management**

**414-300-0030**

**General Requirements**

(1) The operator shall display the following near the entrance, or in some other area of the center, where they may be viewed by parent(s) of children in care:

- (a) The most current certification issued by CCD;
- (b) Name of the director and/or the substitute director;
- (c) Notice of planned field trips away from the immediate neighborhood, showing the date and place of each excursion;
- (d) The current week's menu for all meals and snacks, if meals are provided by the center. Any substitution shall be recorded on the menu;
- (e) A notice that the items identified in section (2) of this rule are available for review on request;
- (f) Information on how to report a complaint to CCD regarding certification requirements;
- (g) Notice that custodial parents have access to the center during the hours of operation and without advance notice; and
- (h) Notice of center closures (vacation days, holidays, etc.).

(2) The operator shall have available for review on request:

(a) A copy of OAR 414-300-0000 through 414-300-0410, Rules for the Certification of Child Care Centers; and

(b) The most recent CCD, sanitation, and fire safety inspection reports.

(3) The operator shall report to CCD:

(a) An accident at the center resulting in the death of a child, within 48 hours after the occurrence;

(b) Injuries to a child at the center which require attention from a licensed health care professional, such as a physician, EMT or nurse, within 7 days after the occurrence;

(c) Damage to the building which affects the operator's ability to comply with these requirements, within 48 hours after the occurrence; and

(d) Any change in director prior to the director being on site. Such prior notification must include the replacement person's qualifications for the position and documentation that the person is enrolled in the Criminal History Registry. An e-mail or a phone call, followed by written documentation, or a FAX will serve as notification.

(4) Information provided to CCD on applications, in records or reports, or any other written or verbal communication, shall be current, complete, and accurate.

(5) Staff shall report suspected child abuse or neglect immediately, as required by the Child Abuse Reporting Law (ORS 419B.005 through 419B.050), to the State Office of Services to Children and Families or to a law enforcement agency. By statute, this requirement applies 24 hours per day.

(6) The child care center shall comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans With Disabilities Act (ADA).

(7) The following information shall be in writing and made available to staff, CCD, and to parent(s) at the time of enrollment:

- (a) Name, business address, and business telephone number of the person(s) who have immediate responsibility for the daily operation of the center;
- (b) Guidance and discipline policy;
- (c) Arrival and departure procedures;
- (d) Emergency plan, as specified in OAR 414-300-0170(3);
- (e) Procedures for field trips; and
- (f) Information on transportation, when provided by the center;
- (8) Representatives of all agencies involved in certification and custodial parents shall have immediate access to all parts of the center during hours of operation. CCD staff shall have the right to enter and inspect the center, including access to all staff, records of children enrolled in the center, and all records and reports related to the center operation regarding compliance with these rules.

(9) The center shall comply with the Health Division's administrative rules relating to:

- (a) Immunization of children (OAR 333-019-0021 through 333-019-0090);
- (b) Reporting communicable diseases (OAR 333-019-0215 through 333-019-0415);
- (c) Child care restrictable diseases (OAR 333-019-0200); and
- (d) Dishwashing (OAR 333-154-0020; 333-154-0030; and 333-154-0040).

(10) A center shall have written health policies and procedures approved by the Health Division or the county health department which cover, but are not limited to, the following:

- (a) Storage and handling of food;
- (b) Diaper changing and disposal, if applicable. The diaper changing procedure must be posted in the diaper changing area;
- (c) Bathing infants, if the center cares for infants;
- (d) Care of bed linen;
- (e) Hand washing procedures. The hand washing procedures must be posted at hand washing sinks; and
- (f) Serving formula, storage and handling of bottles, and feeding infants, if the center cares for infants.

(11) Parental request or permission to waive any of the rules for the certification of child care centers does not give the center permission to do so.

[Publications: Publications referenced are available from the agency.]  
 Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 5-1989, f. & cert. ef. 3-15-89; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0620; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0040**

**Enrollment**

(1) Children shall be admitted only in accordance with the conditions of the certification, including, but not limited to, capacity, hours of operation, age range, and special conditions.

(2) All children visiting the center on a regular basis will count in capacity. Children attending with a non-staff parent do not count as enrolled as long as the parent remains with and is responsible for non-enrolled children.

(3) As required by state and federal civil rights laws and the Americans with Disabilities Act (ADA), the center shall not discriminate against any child on the basis of race, religion, color, national origin, gender, marital status of parent, or because of a need for special care.

(a) Refusal by the operator to care for a child with a need for special care because of lack of related skills and degree of competence, or because of structural barriers in the center, shall not in itself establish a prima facie case of discrimination. The decision to enroll/not enroll a child shall be made on an individual basis after the child's child care needs have been assessed using information from parents and professionals who are knowledgeable about the specific disability. The operator shall record the assessment that was made for each special needs child.

(b) If a child with special needs is enrolled who needs a specific plan for caring for that child, such a plan shall be developed in writing between center staff, parent(s), and if necessary, outside specialists. All staff who come in contact with that child shall be fully aware of the plan.

(4) The operator shall obtain the following information in writing from parent(s) of each child before admission. The information shall be kept current at all times.

- (a) Name and birth date of child;
- (b) Date child entered care;
- (c) Name(s), home and business address(es) and telephone number(s) of the custodial parent(s);
- (d) The school attended by a school-age child;
- (e) Name and telephone number of child's medical provider(s) and dentist, if applicable;
- (f) Name and telephone number of person to be called in an emergency if the parent cannot be located; and
- (g) Name and telephone number of person(s) to whom the child may be released.

(5) The operator shall obtain the following information in writing from parent(s) of each infant and toddler before admission:

- (a) Schedule of feeding;
- (b) Types of food introduced and timetable for new foods;
- (c) Toilet and diapering schedule;
- (d) Sleep schedule;
- (e) Child's way of communicating and being comforted; and
- (f) Developmental and health history of any problems that could affect the child's participation in child care.

(6) The operator shall obtain the following written authorizations from parent(s) of each child before admission:

- (a) Permission for the center to obtain emergency medical treatment for the child. The emergency medical release shall be:
  - (A) On a form accepted by the medical treatment facility used by the operator for emergency medical services; and
  - (B) Immediately accessible to all staff.
- (b) Permission for the center to call an ambulance or take a child to an available physician or medical treatment facility; and
- (c) Approval when applicable for:
  - (A) Participation in field trips; and
  - (B) Participation in swimming or wading activities, both on and off the premises of the center.

(7) A center shall maintain separate information and authorization forms on each child in care.

(8) An opportunity shall be given for each child, with his/her parent(s), to have a pre-placement visit to the center and for the center staff to exchange information with the parent(s).

(9) No child under six weeks of age shall be enrolled in a center.

[Publications: Publications referenced are available from the agency.]  
 Stat. Auth. ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0622; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0050**

**Arrival and Departure**

(1) A center shall require that the person bringing a child to the center remain with the child until the child is accepted by staff.

(2) A center shall release a child only to a parent or another person named and identified by the parent(s). The operator shall verify the identification of any person, other than the parent, who picks up a child.

(3) If a school-age child arrives at or leaves the center without a parent, there shall be arrangements in advance, in writing, from the parent(s) for the arrival and departure times and what to do if a child has not arrived at the center by the expected time.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0624; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0060**

**Record Keeping**

(1) The operator shall keep all records, except those specified in OAR 414-300-0060(1)(d)(F), for at least two years, and staff and children's records for two years after termination of employment or care. These records shall be available at all times to CCD:

(a) Complete and current information on each child as required in OAR 414-300-0040(4) and (6).

(b) Records of daily attendance showing:

(A) The date of employment, time of arrival and departure, and room assignment for each staff; and

(B) The date, name of each child in attendance, and time of arrival and departure. The record must show the children in attendance at any given time.

(C) The current day's attendance record shall be maintained in the child's classroom in paper format;

(c) Personnel record for each staff, which shall include:

(A) Name, address and telephone number of staff;

(B) Position in center;

(C) Written verification (such as transcripts, payroll records, time sheets, documented resumes, notes regarding telephone conversations, etc.) that the person possesses the qualifications for the position;

(D) Verification that the staff is currently enrolled in the Criminal History Registry;

(E) Statement of the staff's duties;

(F) Record of current health-related training, such as CPR, Life Support, Life Saving, and First Aid, and current food handler certifications, as appropriate;

(G) Driving record, driver's license number and expiration date if the person is to transport children; and

(H) Documentation of dates and participation in orientation, training, and staff development activities, as required in OAR 414-300-0120.

(d) A written record of:

(A) A death of or injury to a child, as specified in OAR 414-300-0030(3).

(B) Dates and times of the practices of emergency procedures;

(C) Child abuse reports made to the State Office of Services to Children and Families (SOSCF) or a law enforcement agency;

(D) Authorizations to administer medication to a child, as specified in OAR 414-300-0230(1)(a);

(E) Medications dispensed, as specified in OAR 414-300-0230(1)(d);

(F) Meals and snacks provided by the center for the previous three weeks;

(G) The program of activities for each group of children, as specified in OAR 414-300-0300; and

(H) The daily schedule for each group of children, as specified in OAR 414-300-0290.

(2) The operator shall allow custodial parent(s), upon request, to review records and reports, except for child abuse reports, maintained on their own children.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0626; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**Personnel**

**414-300-0070**

**General Requirements**

(1) The operator shall establish a system of job descriptions, staff selection, and staff evaluation that ensures that staff:

(a) Have competence, sound judgment, and self-control in working with children;

(b) Are mentally, physically, and emotionally capable of performing assigned duties related to child care; and

(c) Have the required training and/or experience for the position for which they are hired.

(2) There shall be a person or persons on the staff who meet(s) the qualifications of director (OAR 414-300-0080) and head teacher (OAR 414-300-0090). A person assigned the duties of the position must meet the qualifications of the position.

(3) Notwithstanding OAR 414-300-0120(3), there shall be at least one person in the center at all times who has current certification in first aid and CPR.

(4) Any staff with evidence of a child care-restrictable disease, as defined in OAR 333-019-0200, symptom of physical illness, as defined in OAR 414-300-0220(1), or mental incapacity that poses a threat to the health or safety of children shall be relieved of his/her duties.

(5) If there is evidence which casts doubt on the physical or mental competence of a person to care for children or have access to children, CCD may require that the operator provide CCD with an evaluation, or other information, as specified by CCD.

(6) No one shall have access to child care children or be in the center during child care hours who has demonstrated behavior that may have a detrimental effect on a child. This includes any individual in the center who has or may have unsupervised access, however brief, to child care children (i.e., the owner, the operator, all child care staff, maintenance staff who work on-site during hours of operation, volunteers who may be left alone with children, etc.). This does not apply to parents of children in care when they drop off and pick up their children.

(a) The operator, all child care staff and others as described in section (6) above 18 years of age or older shall be enrolled in CCD's Criminal History Registry prior to the issuance of an initial or renewal certification.

(b) Prior to any new staff, including a director, or individual being on-site at the center during child care hours, the staff/individual shall be enrolled in the Criminal History Registry and the center shall receive verification from CCD of the enrollment. This does not apply to parents of children in care unless they are assisting in the provision of child care. Volunteers may be exempt from this rule, as specified in OAR 414-300-0070(7).

(c) When a center is notified by CCD that a staff member or other individual has been removed from the Criminal History Registry, the center shall not permit the staff member or other individual to have access to child care children.

(d) If any person listed in section (6) and section (6)(a) of this rule has been charged with, arrested for, or a warrant is out for any of the crimes which CCD has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, certification will be denied or suspended until the charge, arrest, or warrant has been resolved if the person continues to operate, be employed in, or have access to children in the center.

(e) If a criminal record check shows that a warrant has been issued for any person checked, CCD will inform the originating law enforcement agency of the person's name, address, and telephone number.

(7) Volunteers must meet the following requirements:

(a) If volunteers are counted in determining the staff/child ratios, they must meet the qualifications of the position they are filling and be enrolled in the Criminal History Registry.

(b) If volunteers may have unsupervised access to children, they must be enrolled in the Criminal History Registry.

(c) If volunteers do not have unsupervised access to children at any time, including during emergencies, the center must have a written policy to this effect, the policy must be known to all center staff and volunteers, and the volunteers do not have to be enrolled in the Criminal History Registry.

(8) No person shall smoke or use smokeless tobacco in the child care area during child care hours. No person shall smoke or use smokeless tobacco in motor vehicles while child care children are passengers.

(9) Alcohol and non-prescribed controlled substances shall not be consumed or stored in the child care area during child care hours. Staff or volunteers who appear to be under the influence of alcohol or non-prescribed controlled substances shall not be in the center during child care hours.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.060

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CSD 4-1991, f. & cert. ef. 3-7-91; CSD 8-1991, f. & cert. ef. 7-1-91; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0630; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0080**

**Director — Qualifications and Duties**

(1) The director shall:

(a) Be at least 21 years of age; and

(b) Have:

(A) At least one year of training and/or experience in management and supervision of adults; and

(B) Have knowledge of child development for the primary ages served in the center, as evidenced by a combination of professional references, education, experience or training; or

(C) Documentation of attaining at least level four in the Professional Development Registry; or

(c) Have:

(A) One year of training and/or experience in management and supervision of adults OR have knowledge of child development for the primary ages served by the center as evidenced by a combination of professional references, education, experience or training; and

(B) A plan, approved by CCD, that shows how the missing component in (A) above will be addressed and how the program will be operated until the director has obtained the training, experience or knowledge.

(2) The director of the center shall be accountable for:

(a) Administrative functions, including, but not limited to: financial management; maintaining records; budgeting; policy development; ensuring the appropriateness of program activities according to age and developmental levels of children; staff orientation; management and training; maintenance of buildings and grounds; meal planning and preparation; and transportation, if provided; and

(b) Operating the center in compliance with certification requirements (OAR 414-300-0000 through 414-300-0410).

(3) If head teacher qualifications (OAR 414-300-0090) are met by the director, that person may serve as head teacher for the age range of children for which she/he is qualified if she/he works full-time in the center:

(a) If the center is certified for less than 40 children, the director may serve as head teacher and have regular teaching duties, if qualified;

(b) If the center is certified for 40 or more children, the director may serve as head teacher, but shall have no regular teaching duties.

(4) A director responsible for a center certified for fewer than 100 children shall be in the center at least one-third of the hours that the center is in operation. The hours shall be calculated on a weekly basis, except for planned vacations and emergency absences. The time on-site must include time spent directly observing staff and children.

(5) A director responsible for a center certified for more than 100 children can be responsible for only one site. The director shall be in the center at least half of the hours that the center is in operation. The hours shall be calculated on a weekly basis, except for planned vacations and emergency absences. The time on-site must include time spent directly observing staff and children.

(6) The director, or a substitute director, shall be on the premises during all hours of operation.

(7) The substitute director shall:

(a) Meet at least the qualifications of a teacher;

(b) Be familiar with the certification requirements;

(c) Be authorized, able, and available to correct a deficiency that might be an immediate threat to children's health or safety; and

(d) Have on file documentation of an orientation and training in these administrative rules and the functions and duties of a director.

(8) Whenever a director is absent from the center, the name of the substitute director shall be posted in the center, as required in OAR 414-300-0030(1).

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0632; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-1995; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0090**

**Head Teacher — Qualifications and Duties**

(1) For each infant and toddler, preschool age, and school age program in the center, there shall be a qualified person designated as head teacher who is at least 18 years of age.

(2) The head teacher shall be accountable for:

(a) The development and implementation of the center’s program of activities for that age group or groups; and

(b) Ensuring the appropriateness of program activities according to the age, interests, and developmental level of the children.

(3) A head teacher shall meet the qualification requirements of one of the options listed in Table 1 of this rule.

(4) A person may serve as head teacher for more than one age group as long as the qualifications for head teacher for each age group are met.

(5) Head teachers shall be in the center at least one-fourth of the hours, calculated on a weekly basis, that the center is in operation.

**Table 1**

[ED NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 657A.260  
Stats. Implemented: ORS 657A.260  
Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0633; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-1995; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0100**

**Teacher**

(1) For each group of children, a person shall be designated as the teacher. This person shall:

(a) Be at least 18 years of age;

(b) Be responsible for and supervise a designated group of children; and

(c) Supervise the activities of an aide assigned to his/her group.

(2) A teacher shall meet the qualification requirements of one of the options listed in Table 2 of this section. **Table 2**

[ED NOTE: Tables referenced are available from the agency.]  
Stat. Auth.: ORS 657A.260  
Stats. Implemented: ORS 657A.260  
Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0634; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-1995; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0110**

**Teacher Aides**

(1) Aide I shall be:

(a) At least 15 years of age; and

(b) Directly supervised, i.e., within sight and sound of, a staff person who meets at least the qualifications of a teacher.

(2) Aide II in infant/toddler/preschool-age programs shall:

(a) Be at least 18 years of age;

(b) Have worked at least six months at the center where they are now employed; and

(c) Have current certification in first aid and CPR.

(3) Aide II in school-age programs shall:

(a) Be at least 18 years of age;

(b) Have worked at least four months in the school-age program where they are now employed; and

(c) Have current certification in first aid and CPR.

(4) Staff at Aide II level may, with the approval of the director, be out of sight and sound of a teacher for brief, necessary events, such as taking a child to the bathroom or bringing a child in for minor medical attention.

(5) An Aide II may not be left alone with a group of children, except as described in OAR 414-300-0130(2)(a) and OAR 414-300-0350(5)(b).

(6) Staff at Aide II level shall be trained in the policies and procedures appropriate to tasks assigned prior to even brief periods of unsupervised access to children.

Stat. Auth.: ORS 657A.260  
Stats. Implemented: ORS 657A.260  
Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0635; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0115**

**School-Age Multi-Site Programs — Additional Staff**

(1) In a multi-site program, the operator shall develop a written plan which shows:

(a) How the administrative functions in section OAR 414-300-0080(2)(a) will be met; and

(b) How Head Teacher functions in OAR 414-300-0090(2)(a) and (b) will be met.

(2) All staff of school-age multi-site programs shall meet qualifications for the position they hold, as specified in OAR 414-300-0080, -0090, -0100 and -0110, unless otherwise specified in this section.

(3) If the multi-site program does not have a director, the site coordinator and the site director/supervisor shall jointly perform the functions of director.

(4) A site coordinator shall:

(a) Be at least 21 years of age;

(b) Have at least one year of training and/or experience in management and supervision of adults;

(c) Be authorized, able and available to correct deficiencies; and

(d) If acting as a substitute teacher, be teacher qualified.

(5) A site coordinator shall be at each site on a monthly basis during the hours of operation. The time at each site must include time spent directly observing staff and children.

(6) A site director/supervisor shall:

(a) Be at least 18 years of age;

(b) Be at least teacher-qualified;

(c) Be authorized, able and available to correct deficiencies; and

(d) If the facility is certified for 40 or more children, not have teaching duties unless the number of children on site is less than 40.

(7) A site director/supervisor shall be on site at least one-half of the hours, calculated on a weekly basis, that the school-age program is in operation.

(8) If a school-age multi-site program does not have a head teacher at each site, a designated head teacher for the multi-site program shall observe at each site on a monthly basis during the hours of operation.

Stat. Auth.: ORS 657A.260  
Stats. Implemented: ORS 657A.260  
Hist.: CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0120**

**Staff Training**

(1) All new staff shall receive an orientation within the first two weeks of employment. Orientation shall ensure that staff are familiar with the contents of the orientation, as described below, and shall include, but is not limited to:

(a) Individual responsibilities in the event:

(A) The building must be evacuated (e.g., fire);

(B) An emergency requires staff and children to remain inside under unusual circumstances (e.g., power outage, environmental hazard); or

(C) A child or staff is injured or becomes ill;

(b) These requirements (OAR 414-300-0000 through 414-300-0410);

(c) The center policies, as required in OAR 414-300-0030; and

(d) Procedures for reporting suspected child abuse or neglect.

(2) The operator shall have documentation for each staff person of the date and type of orientation received and the person providing the orientation.

(3) Within the first 90 days of employment, all staff who function as teachers and count in staff/child ratios, with the exception of substitute teachers, shall:

(a) Complete training on recognizing and reporting child abuse and neglect or have documentation of having completed such training; and

(b) Complete first aid and CPR training or have current certification in first aid and CPR on file. First aid and CPR training must be kept current during employment at the center. First aid training shall include the following components: bleeding; burns; poisoning; choking; injuries; shock; seizures; sprains and breaks; dental emergencies; and head injuries.

(4) Key people in food preparation must have food handler certification, pursuant to ORS 624.570, within 30 days of employment or have current certification on file. Food handler’s training must be kept current during employment at the center. Key people include

cooks, kitchen staff who handle food, and classroom staff who serve meals from a communal source.

(5) The director, head teacher, and all teachers shall participate yearly in at least 15 clock hours of training or education related to child care, of which at least eight clock hours shall be in child development or early childhood education:

(a) A head teacher whose qualifications for the position are based solely on work experience shall emphasize training in child development and early childhood education for the first two years of employment;

(b) Training may include correspondence courses, conferences, workshops, or audiovisual programs.

(c) A planned reading program of professional materials may count for up to 6 hours of the fifteen clock hours of training and must include a written assessment of reading materials completed by each participating staff person.

(d) The center shall record each person's training showing the subject matter, the date completed, and the number of clock hours of training in each certification year.

(6) During the first year of employment, a staff person may count orientation, first aid and CPR, food handler's training, if applicable, and child abuse and neglect training as part of the 15 clock hours of training.

(7) During subsequent years of employment, a staff person may count 5 hours of first aid and CPR training or food handler's training as part of the 15 clock hours of training.

(8) Staff meetings shall not count as training.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94;  
 Renumbered from 412-010-0637; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0130**

**Staff/Child Ratios and Group Size**

(1) The number of caregivers and group size shall be determined by the number and ages of the children in attendance.

(2) The maximum number of children in a group and the ratio of caregivers to children specified in Table 3A of this rule shall apply, except that:

(a) When all toddler, preschool and school-age children are at rest, the situation permits, and the room is arranged so all children are supervised, there may be one teacher or Aide II supervising the resting room. As children awaken and become active, additional staff shall be added to return ratios to those in Table 3A. Sufficient staff to meet the required ratio shall be in the facility and able to be summoned by the caregiver without leaving the resting room; and

(b) Maximum group size shall not apply to field trips, outdoor play, planned large group activities, napping and eating. Staff/child ratios shall apply to these activities.

(c) Centers with certification in effect on July 15, 2001, shall comply with age groupings, staff/child ratios and group size in either Table 3A or Table 3B for as long as the facility is continuously used for child care, under the following conditions:

(A) The center must choose to operate under Table 3A or Table 3B; centers shall not operate under a combination of both;

(B) If centers wish to change from operating under one set of ratios to operating under the other set of ratios, the change shall occur at the time of certification renewal; and

(C) Centers may change options only twice.

**TABLE 3A**

Age of Children	Minimum No. of Caregivers to Children	Maximum No. of Children in a Group
6 weeks of age through 23 months	1:4	8
24 months of age through 35 months	1:5	10
36 months of age to attending kindergarten	1:10	20
attending kindergarten and older	1:15	30

**TABLE 3A**

Age	Minimum No.	Maximum No.
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of Children	of Caregivers to Children	of Children in a Group
6 weeks of age and under 30 months	1:4	8
30 months old to attending kindergarten	1:10	20
attending kindergarten and older	1:15	30

(3) Children shall at all times have the full attention of the appropriate number of staff. Children shall be within sight and sound of a caregiver at all times, except as specified below.

(a) School-age children shall be within sight and/or sound of staff at all times, and staff shall be near enough to children to respond when needed. Children out of direct visual contact shall be monitored regularly and frequently and must be in approved activity areas. A written plan regarding the use and monitoring of these activity areas must be approved by CCD.

(b) School age programs with toilet facilities or activities off-site shall have a written plan, approved by CCD, to assure accountability for all children.

(4) At least one caregiver who meets the qualifications of a teacher (OAR 414-300-0100) shall supervise each group of children.

(5) In a mixed group of older toddler, preschool and school-age children, the number of caregivers shall be determined by the age of the youngest child in the group.

(6) If there are four or fewer children of any age in care for 45 minutes or less directly after opening or directly before closing, OAR 414-300-0300(10) does not apply and infants and younger toddlers may be included with older children. The staff shall be teacher-qualified in one of the represented age groups and the staff/child ratio must be 1:4.

(a) Each age group must have age appropriate activities, equipment and toys available for use; and

(b) If infants or toddlers are part of the multiple age group, a diaper changing area must be located in the room being utilized for care.

(7) Any time there are children in care,

(a) There shall be a staff person and one other adult on site. The other adult shall be enrolled in the Criminal History Registry and shall be physically available to be called on by staff, if needed; or

(b) There shall be a written plan, approved by CCD, for a second caregiver to be available within 5 minutes for emergencies. The name and telephone number of the emergency back-up shall be known to all staff who work alone.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260,  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0639; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**Physical Setting**

**414-300-0140**

**Indoor Space**

(1) There shall be a minimum of 35 square feet of indoor activity area per child. Space considered in determining the facility capacity shall be available for use by children at all times, shall be used exclusively for child care during the hours of operation and shall be determined on a room-by-room basis. The following shall not be counted as part of the 35 square feet per child requirement: heating units; storage areas; teachers' desks; large permanent equipment; any space not useable by children. Cribs will be counted as useable space if the space underneath the cribs is accessible to children.

(2) A school-age program shall have a minimum of 50 square feet of indoor activity area per child or may have a minimum of 35 square feet of indoor activity area per child if:

(a) The children in care have access to a larger gross motor area, either indoor or outdoor, on a daily basis; or

(b) The center has a plan, approved by CCD, which addresses how the gross motor needs of children in care will be met.

(3) In a room used by more than one group of children not yet attending kindergarten, the area occupied by each group shall be defined by use of portable or permanent room dividers or program equipment that stand above the eye level of the children who use the area. Rooms used only for large group activities (e.g., eating, napping, large muscle activities) are exempt from this requirement.

(4) Storage space shall be available for each child's clothing and personal possessions.

(5) Storage space shall be available for play equipment, teaching equipment and supplies, records and files, cots, mats, and cleaning equipment and supplies.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0640; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

#### 414-300-0150

##### Outdoor Space

(1) There shall be an outdoor activity area which the children can reach safely. If an outdoor activity area is not next to the center, or not under the control of the center during hours of operation, it cannot be used without the specific approval of CCD.

(2) There shall be at least 75 square feet of outdoor space for each child using the area at one time. In centers where groups of children are scheduled at different times for outdoor play, there shall be 75 square feet times one-third of the center's capacity, if permitted by local zoning regulations

(3) The outside activity area shall:

(a) Be suitably surfaced. All pieces of playground equipment shall be surrounded by a resilient surface of an acceptable depth or by rubber mats manufactured for such use, according to standards of the US Consumer Product Safety Commission;

(b) Be well drained;

(c) Be kept free of litter, solid waste and refuse, ditches, or other conditions presenting a potential hazard; and

(d) Be equipped to provide age-appropriate activities for gross motor development.

(4) The outdoor activity area of a center serving children not yet attending kindergarten shall be enclosed by a barrier (fence, wall, or building) at least four feet high. Centers with certification in effect on July 15, 2001, must comply with a barrier at least three feet high until such time as the existing barrier is replaced. Spacing between vertical slats of a fence shall be no greater than 4 inches. Fences must meet applicable local codes.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0641; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

#### 414-300-0160

##### Fire Protection

(1) The building, occupant load and means of egress, including the number of exits, exiting distances, doors and exit illumination and signs, shall meet the requirements of the Oregon Structural Specialty Code.

(2) Rooms used for child care shall not be located above or below the ground floor, except as allowed by the Oregon Structural Specialty Code.

(3) Fire Extinguishers

(a) There shall be at least one 2A-10BC-rated fire extinguisher in the center;

(b) Fire extinguisher(s) shall be placed as recommended by the fire marshal.

(4) Smoke Detectors:

(a) Smoke detectors shall be installed in all areas where children nap;

(b) When the center's capacity is 50 or more, an approved manual fire alarm system shall be provided, as required by the Oregon Structural Specialty Code;

(c) Smoke detectors shall be tested each month.

(5) Obstructions, including furniture, storage of supplies, or any other items shall not be placed in corridors, stairwells or exit ways.

(6) Candles or other open flame decorative devices are prohibited, except for the brief use of celebratory candles.

(7) There shall be written evidence that any wood stove in the building has been inspected and approved for use by the local building official.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0642; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

#### 414-300-0170

##### Hazards and Emergencies

(1) Protection from Hazards:

(a) Glass surfaces subject to impact by children shall be of safety glass and marked at a child's eye level or have a protective barrier in place.

(b) Electrical outlets accessible to children not yet attending kindergarten shall have protective caps or safety devices when not in use.

(c) All stairways with three steps or more used by children shall have handrails installed a minimum of thirty inches to a maximum of thirty-four inches above the stair tread.

(d) Protective barriers shall be used in any hazardous location accessible to a child.

(e) A movable barrier, such as a mesh-type gate, shall be placed at the top and/or bottom of all stairways accessible to infants and toddlers. Gates and enclosures should have the Juvenile Products Manufacturers Assn. (JPMA) certification seal to ensure safety.

(f) Lights shall be protected from hazards or breakage by installation of covers or shields.

(g) All rooms used by staff and children shall have adequate lighting.

(h) Floors shall be free of splinters, large or unsealed cracks, sliding rugs, and other hazards.

(i) Items of potential danger to children (e.g., cleaning supplies and equipment, poisonous and toxic materials, paints, plastic bags, aerosols, detergents) shall be:

(A) Kept in the original container or labeled;

(B) Secured by a child-proof lock or latch;

(C) Stored in an area not used by children; and

(D) Stored separately from food service equipment and supplies.

(j) Lead-based paint or other toxic finishing materials shall not be used on walls, furnishings, toys, or any other equipment, materials or surface which may be used by children or are within their reach.

(k) The possession and/or storage of firearms and ammunition are prohibited in the center.

(l) Other hazards observed in the certification process must be corrected.

(2) Preparation for Emergencies

(a) A portable emergency light source, in working condition, shall be available with each group of children.

(b) Telephone service shall be accessible and available in the center at all times when children are in care.

(c) The center must have a system in place to ensure that parents can have contact with facility staff at all times when children are in care.

(d) Telephone numbers for fire, emergency medical care, and poison control shall be posted on or near all telephones. Portable telephones must have emergency numbers on the phone.

(e) Written instructions for evacuating the building, including a map illustrating exiting, shall be posted in each room children use.

(3) Emergency Plan

(a) The center shall have a written plan for handling emergencies, including, but not limited to, fire, acute illness of a child or staff, floods, earthquakes, and evacuation of the facility. The plan must include:

(A) How the center will ensure that parents or the parents' emergency contacts can be reached in person;

(B) Designation of an alternate site in the event of evacuation;

(C) How the center will inform parents where children will be located in the event of evacuation;

(D) An accessible file of emergency contact numbers for children and staff; and

(E) Designation of a staff member(s) to take the emergency contact numbers file to the evacuation site in the event of an evacuation.

(b) All staff shall be familiar with the emergency telephone numbers and emergency procedures.

(c) Fire drills shall be practiced monthly. In addition, one other aspect of the emergency plan shall be practiced every other month.

(A) The director shall keep a written record of the type, date, time, and duration of the practices.

(B) If a center has on-site swimming or is responsible for off-site swimming, the practices must include pool and swimming safety.

(d) Fire and other emergency exiting shall not be through a swimming pool area.

Stat. Auth.: ORS 657A.260

## Chapter 414 Employment Department, Child Care Division

Stats. Implemented: ORS 657A.260  
Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0643; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

### 414-300-0180

#### Sanitation

##### (1) Water Supply:

(a) The center's water supply shall be continuous in quantity and from a water supply system approved by the Health Division.

(b) There shall be safe drinking water available to children that is supplied in a sanitary manner. Drinking water shall not be obtained from bathroom sinks or diaper changing sinks.

##### (2) Heat and Ventilation:

(a) The center shall be ventilated, by natural or mechanical means, and shall be free of excessive heat, condensation, and obnoxious odors.

(b) Room temperature shall be at least 68° F. (20 C.) and not so warm as to be dangerous or unhealthy in the center when children are present.

(c) After painting or laying carpet, the building must be aired out completely for at least 24 hours with good ventilation before children are allowed to return.

##### (3) Insect and Rodent Control:

(a) The center shall be in such condition as to prevent the infestation of rodents and insects.

(b) Doors and windows used for ventilation shall be equipped with fine-meshed screens.

(c) Automatic insecticide dispensers, vaporizers, or fumigants shall not be used.

##### (4) Maintenance:

(a) The building, toys, equipment, and furniture shall be maintained in a clean and sanitary condition:

(A) Kitchen and toilet rooms shall be cleaned when soiled and at least daily;

(B) The isolation area shall be thoroughly cleaned after each use and all bedding laundered before it is used again;

(C) Door knobs and cabinet pulls in toilet rooms and diaper changing areas shall be sanitized daily;

(D) All clean linen shall be stored in a sanitary manner;

(E) Soiled bed linen and clothing shall not be stored in food preparation or food storage areas, and shall be inaccessible to children;

(F) Floors, walls, ceilings, and fixtures of all rooms shall be kept clean and in good repair;

(G) All food storage areas shall be kept clean and free of food particles, dust, dirt, and other materials;

(H) Cribs, mats, and cots shall be sanitized with a sanitizing solution at least once a week and upon change of occupant. If visibly soiled, items must be cleaned prior to sanitizing.

(I) Bedding shall be cleaned when soiled, upon change of occupant and at least once a week;

(J) Water tables and toys used in water tables shall be emptied and sanitized daily;

(K) When a chemical, such as chlorine, is used for sanitizing, a test kit that measures the parts per million concentration of the solution shall be used to ensure the proper concentration; and

(L) Cloths, both single use and multiple use, used for wiping food spills on utensils and food-contact surfaces shall be kept clean and used for no other purpose. Cloths that are reused shall be stored in a sanitizing solution between uses.

(b) The center shall be kept hazard-free, in good repair, and free of litter or rubbish and unused or inoperable equipment and utensils.

##### (5) Infant and Toddler Care:

(a) The following shall be sanitized immediately after each use.

If visibly soiled, items must be cleaned prior to sanitizing:

(A) A bathtub or other receptacle used for bathing a child;

(B) A diaper-changing table;

(C) High chairs, tables and chairs;

(D) Toys that infants and toddlers put in the mouth; and

(E) Toilet training seat inserts.

(b) Pacifiers must be labeled, stored individually and sanitized after contamination. The health department must approve methods of sanitation.

(c) A sanitizing solution shall be kept in each diaper changing area ready for immediate use. This solution need not be stored in a locked cabinet but must be out of children's reach.

##### (6) Hand washing:

(a) Staff and children shall wash their hands with soap and warm running water after using the toilet or wiping the nose, and before and after eating.

(b) Staff shall wash their hands with soap and warm running water before and after changing a diaper, before and after feeding a child or handling food and after assisting a child with toileting or wiping the nose.

(c) Infants' and children's hands shall be washed with soap and warm running water after diaper changing.

(d) Commercial products labeled "hand sanitizers" shall not replace hand washing. If hand sanitizers are present in the center, they shall be kept under child-proof lock and shall not be used by children.

(e) When hand washing is not possible, e.g. on field trips and on the playground, moist towelettes shall be used.

##### (7) Waste Disposal:

(a) All sewage and liquid wastes shall be collected, treated, and disposed of in compliance with the requirements of the Department of Environmental Quality.

(b) All garbage, solid waste, and refuse shall be disposed of at least once a week.

(c) All garbage shall be kept in watertight, non-absorbent, and easily washable containers with close-fitting lids.

(d) Diaper disposal containers shall be approved by the environmental health specialist.

(e) All garbage storage areas and garbage containers shall be kept clean.

(f) All rubbish and garbage storage shall be inaccessible to children.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0644; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01; CCD 8-2003, f. 12-23-03, cert. ef. 12-28-03

### 414-300-0190

#### Toilet Facilities

##### (1) Toilets:

(a) Toilet rooms shall have at least one flush toilet for each 15 children in the center 36 months old or older.

(b) Urinals may be substituted for not more than one-half the required number of toilets, as long as there is at least one toilet in each toilet room and at least two toilets in the center. Facilities built after July 15, 2001, specifically as child care centers shall not substitute urinals for the required number of toilets.

(c) Toilet facilities shall provide privacy for school age children.

##### (2) Hand washing Sinks:

(a) There shall be at least one hand washing sink with mixing faucets for every two toilets. Centers with certification in effect on July 15, 2001, shall comply with the requirement for mixing faucets when toilet facilities are remodeled.

(b) A sink used for hand washing, bathing, or diaper-changing shall not be used in any way for preparation of food or drinks, or for dish washing.

(c) Hot and cold running water, as well as soap and paper towels dispensed in a sanitary manner, shall be provided at each hand washing sink. Other hand drying options must be approved by the environmental health specialist.

(d) Self-closing metered faucets shall be designed to provide water flow for at least 15 seconds without the need to reactivate the faucet. Centers with certification in effect on July 15, 2001, shall comply with the water flow requirement for self-closing metered faucets when toilet facilities are remodeled.

(e) Drinking fountains shall not be installed at sinks. If installed at sinks, the fountains shall not be used as a source of drinking water.

(3) If toilets or hand washing sinks are adult size, easily-cleanable steps or blocks shall be provided so that preschool age children can use the toilets and sinks without adult assistance.

(4) Bathrooms shall have smooth, washable, easily-cleanable walls and floors.

(5) Infants and Toddlers — In a center serving children under 36 months old, there shall be:

(a) At least one flush toilet in or adjacent to each older toddler area;

(b) One toilet with training seat, or child-size toilet, for every ten older toddlers. Potty chairs are prohibited;

(c) At least one diaper-changing table in or adjacent to each activity and sleeping room. Each table shall have a surface that is non-absorbent and easily cleaned. The diaper-changing policy shall be posted above each table;

(d) A hand-washing sink in each diaper changing area, except that centers with certification in effect on July 15, 2001, shall comply with this requirement when the diaper changing area is remodeled; and

(e) A bathtub, bathinette, plastic basin, or similar size shallow sink available for bathing children.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0645; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01; CCD 8-2003, f. 12-23-03, cert. ef. 12-28-03

#### 414-300-0200

##### Kitchens

(1) Kitchens shall have facilities for dish washing, storage, and preparation of food. The kitchen shall be separate from any child caring areas.

(2) If there is no kitchen in the center and if meals or snacks are not catered, the center shall observe the requirements in OAR 414-300-0280(8).

(3) The walls, floors, and floor coverings of all rooms in which food or drink is prepared or stored, or utensils are washed or stored, shall be smooth, washable, and easily cleanable.

(4) All equipment and utensils used for food service, including plastic ware and food-contact surfaces, shall be:

- (a) Easily cleanable;
- (b) Durable;
- (c) Nontoxic;
- (d) Nonabsorbent; and
- (e) Maintained in a clean and sanitary condition.

(5) All equipment used for food preparation shall be installed and maintained in a manner providing ease of cleaning beneath, between, and behind each unit.

(6) A center shall have a:

(a) Mechanical dishwasher that meets the requirements in the Health Division's administrative rules, OAR 333-154-0030; or

(b) Compartmentalized sink that meets the requirements in the Health Division's administrative rules, OAR 333-154-0020.

(c) Centers with a maximum capacity of 19 children may use a light commercial dishwasher approved by the National Sanitation Foundation.

(7) There shall be separate sinks in the kitchen designated by the environmental health specialist for hand washing, for food preparation activities, and for dishwashing activities.

(a) The sink designated for hand washing shall be equipped with soap and paper towels dispensed in a sanitary manner and posted with a hand washing sign.

(b) In centers in which there is not a sink provided for food preparation, a sink used for dishwashing may be used as long as dishwashing activities do not interfere with sanitary food preparation, and the sink is sanitized before being used for food preparation.

(c) Sinks in the kitchen shall be used exclusively for food service activities.

(d) Centers newly constructed or remodeled after July 15, 2001, shall meet the requirements for hand washing sinks established by State Building Code, as defined in ORS Chapter 455.

(8) Children shall not be allowed in the kitchen except for a supervised learning activity.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0646; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01; CCD 8-2003, f. 12-23-03, cert. ef. 12-28-03

#### 414-300-0210

##### Furniture

(1) Furniture shall:

- (a) Be durable;
- (b) Have cleanable or non-absorbent surfaces;
- (c) Be safely constructed, with no sharp, rough, loose, or pointed edges; and
- (d) Be in good repair.

(2) Tables and seating shall be scaled to the height and size of a child.

(3) There shall be a safe, washable cot or rest mat for each toddler and preschool age child in the center at nap time and for each school-age child who wants to rest.

(4) Each mat used for napping shall be:

- (a) Covered with a waterproof cover; and
- (b) At least one inch thick.

(5) Mats or cots shall be placed at least two feet apart if children are placed head to toe; or three feet apart otherwise. They shall be arranged in a manner that allows for a direct, unobstructed passage to each child.

(6) Each child who is resting shall have individual bedding consisting of at least a sheet or blanket.

(7) Mats, cots and bed linen shall be properly stored, as recommended by the environmental health specialist.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0648; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01; CCD 8-2003, f. 12-23-03, cert. ef. 12-28-03

#### 414-300-0215

##### Infant and Toddler Furniture and Equipment

(1) Each infant shall have a crib, portable crib, or play pen with a clean, non-absorbent mattress that meets the following requirements:

(a) Each crib shall be of sturdy construction with vertical slats no more than 2 3/8" apart;

(b) Locks and latches on the dropside of a crib shall be safe and secure from accidental release or release by the infant inside the crib;

(c) Cribs shall not be used with the dropside down;

(d) Each mattress shall fit snugly;

(e) Each mattress shall be covered by a sheet;

(f) Crib bumpers, if used, shall be easily cleanable, durable, and not dangerous to children;

(g) There shall be no restraining devices of any type used unless prescribed by a physician; and

(h) Wall or stacking cribs shall not be used.

(2) Sleeping arrangements other than cribs, portable cribs or playpens must be approved by CCD.

(3) There shall be at least two feet of space between cribs, portable cribs or play pens when in use. They shall be arranged in a manner that allows for a direct, unobstructed passage to each child.

(4) If high chairs are used, they shall have:

(a) A broad base to prevent tipping;

(b) A latch to keep a child from raising the tray; and

(c) Straps to prevent a child from sliding out.

(5) If clip-on table chairs are used, they shall have straps to prevent a child from sliding out.

(6) There shall be at least one adult-sized chair for each group of infants and toddlers.

(7) Cribs, portable cribs, playpens, and high chairs must meet US Consumer Product Safety Commission or equivalent standards.

(8) The use of infant walkers is prohibited.

(9) Car seats are to be used for transportation purposes only. Children who arrive at the center asleep in a car seat may remain in the car seat until they awake.

(10) The use of baby equipment shall not substitute for providing a variety of stimulating experiences.

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

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

#### Health

#### 414-300-0220

##### Illness or Injury

(1) Illness:

(a) A center shall not admit or retain in care, except with the written approval of the local health officer, a child who:

(A) Is diagnosed as having or being a carrier of a child care-restrictable disease, as defined in Health Division administrative rules, OAR 333-019-0200; or

(B) Has one of the following symptoms, or combination of symptoms, of illness:

(i) Fever over 100 degrees F taken under the arm.

(ii) Diarrhea (more than one abnormally loose, runny, watery or bloody stool);

(iii) Vomiting;

(iv) Nausea;

- (v) Severe cough;
- (vi) Unusual yellow color to skin or eyes;
- (vii) Skin or eye lesions or rashes that are severe, weeping, or pus-filled;
- (viii) Stiff neck and headache with one or more of the symptoms listed above;

- (ix) Difficult breathing or abnormal wheezing; or
- (x) Complaints of severe pain.

(b) A child who shows signs of illness, as defined in this rule, shall be isolated and the parent(s) notified and asked to remove the child from the center as soon as possible.

(c) If a child has mild cold symptoms that do not impair his/her functioning, the child may remain in the center and the parent(s) notified when they pick up their child.

(d) A specific place for isolating a child who becomes ill shall be provided. The isolation area:

(A) Shall be located where the child can be seen and heard by staff; and

(B) Shall be equipped with a cot, mat, or bed for each sick child.

(e) An outbreak of a child care restrictable disease, as defined in OAR 333-019-0200, or food poisoning shall be reported immediately to the local health department and posted for the parents of all children who attend the facility.

(2) Injuries:

(a) The operator shall have written procedures for handling injuries that shall be made known to all staff, including:

(A) Procedure for taking a child to emergency medical care;

(B) Routine for treatment of minor injuries; and

(C) First aid measures for serious accidents.

(b) First aid supplies and a chart or handbook of first aid instructions shall be maintained in one identified place away from food and food-contact surfaces and be available for staff use but kept out of reach of children.

(A) The first aid supplies shall include Band-Aids, adhesive tape, sterile gauze pads, soap or sealed antiseptic towelettes or solution to be used as a wound cleaning agent, scissors, disposable plastic gloves for handling blood spills, chlorine bleach for sanitizing after a blood spill, and a sanitary temperature-taking device.

(B) Separate first aid supplies and a copy of each child's medical release form shall be taken on all field trips away from the immediate neighborhood.

(c) Injuries or accidents shall be reported to the child's parent(s) on the day of occurrence.

(A) A written report of the injury or accident shall be maintained on file.

(B) The report shall include the date, child's full name, nature of the injury, witnesses, action taken, and the signatures of reporting staff and parent(s).

(d) The injury to or death of a child shall be reported to CCD in accordance with OAR 414-300-0030(3)(a) and (b).

(3) Emergency Medical Care:

(a) The operator shall identify a licensed physician, hospital, or clinic to be used for emergency medical care.

(b) In the event of an illness or injury which requires immediate medical care, the director or the substitute director is responsible for securing such care and notifying the parent(s).

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0650; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

#### 414-300-0230

##### Medications

(1) No prescription medication or non-prescription medication, including, but not limited to, pain relievers, sunscreen, cough syrup, diapering and first aid ointments or nose drops, may be given to a child except under the following conditions:

(a) A signed, dated, written authorization by the parent(s) is on file;

(b) Prescription medication is in the original container and labeled with the child's name, name of the drug, dosage, directions for administering, date, and physician's name;

(c) Non-prescription medication is in the original container, labeled with the child's name, dosage, and directions for administering; and

(d) A written record of all medications administered listing, as a minimum, the name of the child, type of medication, the signature of the person administering the medication, date, time, and dosage given, shall be kept.

(2) All medications shall be:

(a) Secured in a tightly-covered container with a child-proof lock or latch; and

(b) Stored in an area not used by children.

(3) Medications requiring refrigeration shall be kept in the refrigerator in a separate tightly-covered container, with a child-proof lock or latch, clearly marked "medication".

(4) Parent(s) shall be informed daily of medication administered to their child.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0652; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

#### 414-300-0240

##### Animals in the Center

(1) Animals shall be in good health, show no evidence of carrying any disease, and be a friendly companion for the children.

(a) When immunizations are required, proof of current compliance signed by a veterinarian shall be on file at the center.

(b) Dogs and cats shall be maintained on a flea, tick and worm control program. Products toxic to humans are prohibited.

(c) Animals shall be cared for as recommended by a veterinarian.

(2) Reptiles (e.g., lizards, turtles, snakes, iguanas), frogs, monkeys, hook-beaked birds, baby chicks, ferrets, and potentially aggressive animals are prohibited. Educational programs which include prohibited animals and are run by zoos, museums and other professional animal handlers are permitted.

(3) Parent(s) shall be informed in writing of any animal in the center.

(4) Animals, except fish, shall not be in classrooms for infants or toddlers.

(5) The center shall have and follow written procedures for the care and maintenance of the animals in the center.

(6) Animals shall be kept in an approved cage for the type of animal. Cages shall have removable bottoms and shall be kept clean and sanitary.

(7) Animal litter boxes shall not be located in areas accessible to children.

(8) There shall be assigned staff who are responsible for the handling, care and feeding of the animal(s).

(a) The cleaning of cages shall not be done in areas used for food preparation, storage or serving.

(b) Staff must immediately and thoroughly wash their hands after handling animals or cleaning cages.

(c) The cleaning of cages shall be scheduled when children are not present.

(d) Animal food supplies shall be kept out of the reach of children and stored separately from food supplies and equipment. Animal food shall be stored in a manner that does not attract rodents or insects.

(e) Chemicals related to the care of animals shall be kept under lock.

(9) Caregivers shall always be present when children are exposed to animals.

(10) If children are allowed to handle animals, they shall immediately and thoroughly wash their hands after handling.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0654; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

##### Food Service

#### 414-300-0250

##### Food Selection, Storage, and Preparation

(1) All food and drink provided by the center shall be selected, stored, prepared, and served in a sanitary manner.

(2) Selection:

(a) All food products served by the center shall be obtained from commercial suppliers, except that:

(A) Fresh fruits and vegetables and center-frozen fruits or vegetables may be served;

(B) Home-canned or processed food may be served to a child only when supplied by the child's parent(s); and

(C) The serving of unpasteurized juice is prohibited.

(b) Only Grade A pasteurized and fortified milk shall be served to children.

(A) Powdered milk shall be used only in cooking.

(B) The serving of unpasteurized milk is prohibited.

(3) Storage:

(a) A center shall have at least one refrigerator, in good operating condition, that is adequate to store all potentially hazardous foods. "Potentially hazardous food" means any food or beverage that contains milk or milk products, eggs, meat, fish, shellfish, poultry, cooked rice or beans, and all other previously cooked foods.

(A) A spirit stem (alcohol filled - usually red) thermometer in working condition shall be affixed to the door, or the front edge of the top shelf, of each refrigerator.

(B) Refrigerators equipped with a temperature gauge visible from the exterior are acceptable.

(b) All potentially hazardous food shall, except when being prepared, be kept at 45 degrees Fahrenheit (F) or below, or 140 degrees F or above.

(A) Foods requiring refrigeration after preparation shall be rapidly cooled to a temperature of 45 degrees F or below.

(B) Refrigerated storage space at 45 degrees F or less shall be used to store lunches which contain potentially hazardous food that children bring from home.

(C) A metal stem-type probe thermometer shall be used to ensure food requiring hot storage is maintained at 140 degrees F or above.

(D) Foods that have been cooked, and then refrigerated, shall be reheated rapidly to at least 165 degrees F before being served or placed in a hot food storage unit.

(4) Preparation:

(a) Food shall be prepared with a minimum of manual contact.

(b) Raw fruits and vegetables shall be washed in a clean, sanitized sink before being cooked or served.

(c) Food shall be prepared on food-contact surfaces and with utensils that are clean and have been sanitized.

(d) Food-contact surfaces and utensils shall be cleaned and sanitized after each use and/or whenever there is a change in processing from raw to ready-to-eat foods.

(e) Only approved food additives and preservatives shall be used by the center.

(5) Service:

(a) Each child shall be provided with his/her own individual use utensils for eating and drinking. These may be:

(A) Single service paper and plastic which shall be used once only; or

(B) Multiple use utensils which shall be washed in the prescribed manner between each use (OAR 414-300-0260).

(b) To protect food from contamination:

(A) A suitable dispensing utensil, that is not used for any other purpose, shall be used to transfer a food item to each child's plate or bowl; and

(B) A bowl, platter, pitcher, or dispensing utensil used for serving food or drink shall not be refilled or reused without first being washed and sanitized.

(c) Milk and fluid milk products shall be dispensed from a commercially filled plastic container of not more than one-gallon capacity, individual half-pint containers, or from a refrigerated bulk container equipped with an approved dispensing device.

(A) Milk containers shall be opened immediately before pouring.

(B) Any unused portions left in the original container shall be returned immediately to refrigeration.

(C) Unused portions of milk left in a pitcher shall be discarded.

(d) All food, once removed from the kitchen for service, shall be discarded.

(e) Leftover prepared food which has not been served shall be labeled and dated, rapidly cooled, and used within 36 hours, or frozen immediately for later use.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94;

Renumbered from 412-010-0660; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

#### 414-300-0260

##### Cleaning, Sanitizing, and Storage of Food Service Equipment and Utensils

(1) Tableware and kitchenware (e.g., pots, pans and equipment) shall be washed, rinsed, and sanitized after each use.

(a) When mechanical cleaning and sanitizing methods are used, the requirements in the Health Division's administrative rules, OAR 333-154-0030, Food Sanitation Rules, shall be met.

(b) When manual washing, rinsing, and sanitizing of dishes and equipment is used, the requirements in the Health Division's administrative rules, OAR 333-154-0020, Food Sanitation Rules, shall be met.

(2) Food-contact surfaces of equipment shall be washed, rinsed, and sanitized after each use.

(3) All multi-use utensils and counters, shelves, tables, refrigeration equipment, sinks, drain boards, dish tables, cutting boards, appliances, and other equipment or utensils used for food preparation shall be kept clean and in good repair.

(4) After being sanitized, all tableware, equipment, and utensils shall be air dried.

(5) After being cleaned and sanitized, tableware and utensils shall be:

(a) Stored in a clean, dry place protected from insects, dust, and other contamination; and

(b) Handled in a way that protects them from contamination.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94;

Renumbered from 412-010-0662; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

#### 414-300-0270

##### Nutrition

(1) An operator shall provide or ensure the availability of adequate and nutritious meals and snacks appropriate for the ages and needs of the children served. USDA guidelines will be used to determine if meals and snacks are adequate and nutritious. Foods of minimal nutritional value (e.g., Jell-O, popcorn, desserts, potato chips) shall only be served occasionally and not replace nutritious foods.

(2) Each lunch and dinner served shall equal at least 1/3 of a child's daily nutritional needs. Every meal shall meet USDA guidelines and shall include at least one serving from each of the following groups: fluid milk; breads and grains; meat, fish, poultry or meat alternatives (e.g., dried beans, peanut butter, yogurt or cheese). Each meal shall include two servings of fruits and vegetables. No liquids other than milk and 100% fruit juice shall be counted as part of the daily nutrition.

(3) Each breakfast served shall meet USDA guidelines and shall include at least one serving each of milk, fruit or vegetable, and bread or grain.

(4) Snacks (mid-morning or mid-afternoon) shall meet USDA guidelines and shall consist of food or beverage from at least two of the following food groups: fluid milk; breads and grains; meat, fish, poultry or meat alternatives (e.g., dried beans, peanut butter, yogurt or cheese); fruits and vegetables. No liquids other than milk and 100% fruit juice shall be counted as part of the daily nutrition. A snack shall not consist of only two beverages.

(5) No liquids other than milk, formula, water, and 100 percent fruit juices shall be served to the children in care.

(6) Water shall be freely available to children.

(7) Nutrient concentrates and supplements (protein powders, liquid proteins, vitamins, minerals, and other nonfood substances) shall not be served to a child without a written statement of parental consent and written instructions from a medical practitioner. Special diets, not including vegetarian diets, shall not be served to a child without written instructions from a registered dietician or medical practitioner and written parental consent.

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

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94;

Renumbered from 412-010-0664; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

#### 414-300-0280

##### Meals and Snacks

(1) Meals and snacks provided to children shall meet the following requirements:

(a) Food services hours may be flexible but there shall be no more than 3-1/2 hours between meals and snacks in any center providing care for the same children 3 1/2 or more consecutive hours;

(b) In a center open morning through afternoon, lunch and morning and afternoon snacks shall be served to the children in care. If breakfast is served in the center to all children, a midmorning snack is not required, as long as there is no more than 3 1/2 hours between meals;

(c) School age children arriving after school shall be served a snack; and

(d) When the planned attendance is prior to 7 a.m. or after 6:30 p.m., a child shall be offered a complete meal if it is not provided or arranged for by the parent(s).

(2) Meals for children shall be:

(a) Prepared on-site;

(b) Catered; or

(c) Provided by the parent(s).

(3) During the service and eating of meals and snacks, the appropriate number of staff to meet staff/child ratios shall be engaged with the children in food-related activities.

(4) Proper hand washing, as specified in OAR 414-300-0180(6) shall be practiced prior to and after eating meals or snacks.

(5) When parent(s) provide food for the meal:

(a) Food shall be brought on a daily basis and be ready to eat;

(b) All food and beverage containers shall be labeled with the child's name;

(c) The center shall provide at least one serving of milk to each child at meals and shall provide morning and afternoon snacks;

(d) Each child's food shall be monitored daily to ensure that the food meets nutritional requirements as defined in OAR 414-300-0270;

(e) The center shall have sufficient food available to supplement any lunch that does not meet nutrition requirements as defined in OAR 414-300-0270;

(f) If parents bring food for all the children as snacks or for celebrations, the food shall be commercially prepared and served by the center in an approved manner; and

(g) There shall be a refrigerator on site to store foods needing refrigeration.

(6) Catered foods shall be:

(a) Prepared in a kitchen approved by the State Health Division or a county health department; and

(b) Delivered in a safe, sanitary manner with food maintained at the required temperature (OAR 414-300-0250).

(c) If meals are catered, the process of receiving, holding and serving food shall be approved by the environmental health specialist.

(7) To serve family style meals, where food is brought to the table in larger quantities and served to the plates from the table, a center must have a written plan, approved by the environmental health specialist and CCD, which includes at least the following elements:

(a) Provision for handwashing immediately prior to eating;

(b) Separate serving portions for each table;

(c) Serving utensils distinct from eating utensils;

(d) Table accommodations for group sizes no larger than those stated in OAR 414-300-0130, Table 3A or Table 3B, for that age group;

(e) Provision for serving mildly ill children so as to prevent the spread of the illness; and

(f) The discarding of any food brought to the table and not eaten.

(8) If there is no kitchen in the center and if meals or snacks are not catered:

(a) Only single service utensils shall be used;

(b) Either commercially-prepared, individually-packaged, single-serving foods shall be served or the serving of bulk food shall be approved by the environmental health specialist;

(c) Utensils that require washing shall not be used or stored on site;

(d) Food shall be stored in a space used only for food, beverages and single-service utensils; and

(e) If foods needing refrigeration are served, the center shall have a refrigerator.

(9) A center serving children under 12 months of age shall comply with the following requirements for those children:

(a) Each child shall be fed on his/her own feeding schedule;

(b) When formula is provided by the center, it shall be either the commercially prepared, iron-enriched, ready-to-feed type or shall be

prepared from powder or concentrate and diluted according to manufacturers' instructions. When formula is prepared on site, it must be mixed in a kitchen approved by the environmental health specialist, and the program must have a written plan for mixing formula and sanitizing bottles and nipples. The plan must be approved in writing by the environmental health specialist;

(c) Formula, breast milk, and food provided by the parent(s) shall be clearly marked with the child's name and refrigerated if required;

(d) Whole milk, skim milk, 1%, and 2% milk shall not be served unless requested in writing by the child's parent(s) and with a medical provider's written permission.

(e) Any bottles used for feeding liquid must be sterilized at the center by boiling or must come from home labeled by the parent with the child's name. Nipples must be stored in a closed container after sterilizing;

(f) Solid foods fed to infants shall be selected from the food groups specified in OAR 414-300-0270(2):

(A) Solid foods shall not be fed to infants less than four months of age without parental consent;

(B) Solid food shall not be served directly from the container;

(C) Leftovers in the serving container shall be discarded; and

(D) Solid foods, with the exception of finger foods, shall be fed with a spoon.

(g) Honey or foods containing honey shall not be served to children under 12 months of age; and

(h) Children who cannot feed themselves shall be held or, if able to sit alone, fed in an upright position.

(A) Infants up to six months of age shall be held while bottle fed.

(B) Bottles shall never be propped. The child or a staff person shall hold the bottle.

(C) Infants no longer being held for feeding shall be fed in a manner that provides safety and comfort.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0666; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01; CCD 8-2003, f. 12-23-03, cert. ef. 12-28-03

## Program and Care of Children

### 414-300-0290

#### Program Plan

(1) The center shall develop and post a written daily schedule for each group of children, according to their ages, interests and abilities. The schedule shall:

(a) Cover all hours of operation;

(b) Include regularity of routine activities such as eating, napping and toileting;

(c) Include periods of outdoor play each day when weather permits; and

(d) Include one or more regularly scheduled rest periods. Children who do not sleep after 20-45 minutes of quiet time must be provided with an alternative quiet activity. The activity may be in the same room where children are sleeping if it is not distracting to sleeping children.

(2) The center shall follow the written daily schedule, allowing flexibility to respond to the needs of individual children and/or groups of children.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0670; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

### 414-300-0295

#### Program of Activities for All Children

(1) The center shall provide a written program of activities for each group of children according to their developmental ages, interests, and abilities. The program of activities must allow for change and flexibility and show evidence of the preplanning.

(2) The program of activities shall be planned to provide:

(a) Positive learning experiences appropriate to the individual developmental needs of children in care;

(b) Individual and group activities;

(c) A balance of active and quiet activities;

(d) Opportunities for free choice by children; and

(e) Daily indoor and outdoor activities in which children use both large and small muscles.

- (3) The center shall follow the written program of activities.
- (4) The center shall inform parents when children are participating in contracted services (e.g., tumbling, music) that the contracted services have not been certified by CCD.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0300**

**Infant and Toddler Program of Activities**

- (1) Each infant and toddler shall be:
  - (a) Allowed to form and follow his or her own pattern of sleeping and waking periods; and
  - (b) Given opportunities during each day to move freely by creeping and crawling in a safe, clean, open, warm, and uncluttered area.
- (2) Throughout the day, each child shall receive physical contact and individual attention (e.g., being held, rocked, talked to, sung to, and taken on walks inside and outside the center).
- (3) Routines relating to activities such as bedtime, feeding, diapering, and toileting shall be used as opportunities for language development, building the child's self esteem, and other learning experiences.
- (4) Children shall be encouraged to play with a variety of safe toys and objects.
- (5) Children shall be given appropriate opportunities to use the five senses through sensory play.
- (6) Infants must be put to sleep on their backs.
- (7) Immediate attention shall be given to the emotional and physical needs of children.
- (8) Staff shall encourage the development of self-help skills (dressing, toileting, washing, eating) as children are ready.
- (9) In addition to those activities specified in OAR 414-300-0295(2), toddlers shall be given opportunities to participate in:
  - (a) A variety of activities encouraging creative expression through the arts; and
  - (b) Running, climbing, and other vigorous physical activities.
- (10) Infants and younger toddlers shall have an activity area not used by older children at the same time.
- (11) The center shall provide the following information to each parent of an infant and toddler on a daily basis:
  - (a) Their child's schedule of feeding;
  - (b) Their child's toilet and diapering activities; and
  - (c) Their child's sleep schedule.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94;  
 Renumbered from 412-010-0671; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0310**

**Preschool-Age Program of Activities**

In addition to those activities specified in OAR 414-300-0295(2), preschool age children shall have opportunities, on a daily basis, to choose from a variety of activities and experiences, which shall include:

- (1) Creative expression through the arts;
- (2) Dramatic play;
- (3) Gross motor development;
- (4) Fine motor development;
- (5) Music and movement;
- (6) Opportunities to listen and speak;
- (7) Concept development;
- (8) Appropriate sensory play; and
- (9) A supervised nap or rest period.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94;  
 Renumbered from 412-010-0672; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0320**

**School-Age Program of Activities**

- (1) School age programs shall provide an environment where adults' actions demonstrate respect for school age children's changing physical, emotional and intellectual needs.
- (2) School age children shall have the opportunity to take part, on a daily basis, in activities which support their need to practice and build skills in problem-solving, making responsible choices, cooperation, creativity, and appropriate social interactions.

(3) In addition to those activities specified in OAR 414-300-0295(2), school age children shall have opportunities to choose from a variety of activities, including:

- (a) Creative expression through the arts;
  - (b) Individual projects, which may include homework;
  - (c) Exposure to individual and team physical activities;
  - (d) Opportunities to experience or learn about the tasks of adulthood (e.g., the world of work, taking responsibility, budgeting); and
  - (e) Opportunities to rest if tired. The center shall provide a space that encourages rest for those children who wish to rest.
- (4) The center shall have age-appropriate activities and equipment for school age children.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94;  
 Renumbered from 412-010-0673; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0330**

**Guidance and Discipline**

- (1) A center shall have a written policy on guidance and discipline of children. The policy shall be posted in the center.
- (2) All staff, volunteers and parents shall be familiar with the guidance and discipline policy.
- (3) The guidance and discipline policy shall:
  - (a) Provide for positive guidance, redirection, and the setting of clear-cut limits; and
  - (b) Be designed to help the child develop self-control, self-esteem, and respect for others.
- (4) Only staff, excluding volunteers, shall provide guidance or discipline to a child.
- (5) Guidance and discipline shall be fair, consistently applied, timely, and appropriate to the infraction and the age of the child. Positive statements or redirection of behaviors shall be used.
- (6) Prohibited punishment includes, but is not limited to:
  - (a) Hitting, slapping, shaking, striking with hand or instrument, pinching, tying or binding or inflicting any other form of corporal punishment;
  - (b) Mental or emotional punishment including, but not limited to, name calling, ridicule, yelling, or threats;
  - (c) Non-prescription chemical restraints used for discipline or to control behavior;
  - (d) Confining a child in an enclosed area (e.g., a locked or closed room, closet, box);
  - (e) Forcing or withholding meals, snacks, rest, or necessary toilet use; or
  - (f) Belittling a child for or forcing a child to clean up after toileting accidents.
- (7) The center shall not accept parental permission to use any form of punishment listed in subsection (6) of this rule.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94;  
 Renumbered from 412-010-0674; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0340**

**Equipment and Materials**

- (1) The center shall have play equipment and materials that are:
  - (a) Appropriate to the developmental needs and interests of the children;
  - (b) Sturdy and free of sharp points or corners, splinters, protruding nails or bolts, loose rusty parts, hazardous small parts, or paint that contains lead or other toxic materials;
  - (c) In good condition; and
  - (d) Easily accessible to the children.
- (2) The quantity and variety of play materials (i.e., toys, books and games) shall be sufficient to:
  - (a) Avoid excessive competition;
  - (b) Provide a variety of choices to each child;
  - (c) Provide a balance of:
    - (A) Active/quiet activities; and
    - (B) Individual/group activities;
  - (d) Meet the developmental needs of each group of children; and
  - (e) Provide the variety of activities required in OAR 414-300-0295, 414-300-0300, 414-300-0310, and 414-300-0320, as appropriate.

(3) The center shall have a variety of age-appropriate toddler, preschool and school age toys, materials and equipment which give children choices from the following:

- (a) Blocks;
- (b) Manipulatives;
- (c) Books;
- (d) Sensory experiences;
- (e) Gross motor activities;
- (f) Music;
- (g) Art;
- (h) Dramatic play;
- (i) Science and/or exploration; and
- (j) Discovery of nature.

(4) Infants shall have a variety of appropriate infant toys stimulating to the senses.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260 0  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94;  
 Renumbered from 412-010-0676; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0350**

**Transportation**

When transportation is provided by or arranged for by the center, the following requirements shall be met:

- (1) Drivers shall:
  - (a) Be at least 18 years of age;
  - (b) Hold a current driver's license. If required by the Motor Vehicles Division (DMV), a commercial driver's license shall be obtained; and
  - (c) Maintain a safe driving record.
- (2) The operator shall obtain a copy of the driving record from DMV for each staff whose job description includes driving duties. The DMV check shall be updated annually.
- (3) The vehicle shall be:
  - (a) In compliance with all applicable state and local motor vehicle laws; and
  - (b) Maintained in a safe operating condition.
- (4) If transportation is provided between the center and the child's school or other destination, the center shall have in writing an acknowledgment from the parent(s) that they are aware of the time of day their child is to be picked up and/or delivered by the center. If the pick-up schedule results in children being unsupervised at school or other location, the center shall notify parents of this fact.
- (5) When transporting children on a regular basis, there shall be sufficient staff to meet the required staff/child ratios (OAR 414-300-0130) for each age group of children being transported.
  - (a) The driver may count in the staff/child ratios.
  - (b) Staff shall be teacher-qualified or Aide II qualified. Aide I qualified staff may count in the staff/child ratios if one other staff is teacher-qualified.
  - (c) If none of the staff is teacher-qualified, an adult in the vehicle shall be trained in first aid and the vehicle shall be equipped with a cell phone or other communication device.
- (6) When transporting children on field trips, the center shall follow its procedures for field trips (OAR 414-300-0030(7)(e)). The procedures shall include, but not be limited to, requirements regarding drivers and adult supervision.
- (7) When transporting children for any and all purposes:
  - (a) Children shall be transported only in sections of vehicles designed for and equipped to carry passengers;
  - (b) A seat that fully supports the passenger shall be provided for each child;
  - (c) All children, shall be transported in accordance with ORS 811.210. The child safety system and safety belts shall comply with ORS 815.055 and the standards adopted by the Oregon Department of Transportation;
  - (d) Infants, toddlers, and preschool age children shall leave the vehicle on the same side of the street as the building they will enter;
  - (e) Drivers delivering children to their homes shall not depart until the child has been received by an authorized person; and
  - (f) No child shall be left unattended inside or outside a vehicle.
- (8) The center shall maintain a written plan for transportation.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260  
 Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0678; CSD 11-1994, f. & cert. ef. 5-23-94; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**Special Programs**

**414-300-0360**

**Night Care**

(1) A center providing night care to children shall meet all the requirements for child care centers contained in OAR 414-000-0300 through 414-300-0410, except for 414-300-0150, 414-300-0290 through 414-300-0320, and 414-300-0340(2)(e). In addition, the center shall comply with the following requirements:

(a) Staffing:  
 (A) During the hours of night care, the required staff/child ratio shall be maintained in the center.

(B) There shall be at least two staff persons present and awake at all times.

(C) All sleeping and awake children shall be within sight and sound of staff at all times. Audio and/or video monitoring devices shall not substitute for sight and sound supervision.

(b) Safety:  
 (A) No one shall be allowed to enter except authorized persons including, but not limited to, the child's family, persons authorized by the parent(s), staff, CCD certification representatives, fire safety officials, and environmental health specialists.

(B) The center shall provide staff training for evacuating sleeping children in an emergency.

(C) There shall be emergency lighting in each room used by children.

(c) Activities:  
 (A) The center shall provide a program of activities for children according to their ages, interests, and abilities.

(B) There shall be quiet time activities, such as story-time, games, arts and crafts, and reading, for each child arriving before bedtime.

(C) There shall be toys and equipment available to meet the needs of children in night care.

(D) There shall be an activity area away from sleeping children where the awake children may engage in activities.

(d) Sleeping Arrangements:  
 (A) Space shall be arranged so that children may go to sleep at various times, based on their age and need for rest.

(B) All sleeping rooms used by children shall have two usable exits. A sliding door or window that can be used to evacuate children may be considered a usable exit.

(C) Each child who spends the majority of his/her sleeping hours per night in night care shall have a bed and mattress, or another sleeping arrangement that provides adequate support to a child's body with a waterproof cover and of a size appropriate to the age of the child.

(i) Cribs shall comply with OAR 414-300-0215(1).

(ii) The upper level of bunk beds shall not be used for children under 10 years of age.

(iii) The upper level of bunk beds may be used for children 10 years or older if a bed rail and safety ladder are provided.

(D) Each child who does not spend the majority of his/her sleeping hours in night care shall have a crib, cot, or mat with bedding that complies with OAR 414-300-0210 and 414-300-0215.

(E) Children who attend the center for the evening hours, but do not spend the whole night, shall have an opportunity to sleep, if needed.

(F) No children shall share a bed.

(G) Each sleeping arrangement occupied by a child shall have sheets, pillows, pillowcases, and blankets.

(H) Bed linens shall be changed upon change of occupant and at least once a week.

(e) Personal Hygiene:

(A) Each child shall have an individual washcloth, towel, toothbrush, comb or brush, and sleepwear.

(B) Children staying the night shall have the opportunity to bathe and brush their teeth.

(i) There shall be at least one bathtub or shower for each 15 children. Bathtubs and showers shall be equipped to prevent slipping.

(ii) When bathing, showering, or brushing teeth, children shall be supervised by staff.

(iii) Privacy between the sexes shall be maintained for school age children.

(iv) Tubs or showers shall be cleaned after each use. If visibly soiled, tubs and showers must be cleaned prior to sanitizing.

(v) Glass shower doors or glass tub enclosures shall be constructed of safety glass.

(f) Meals and Snacks:

(A) Each child present at the time the evening meal is scheduled shall be served a meal.

(B) A nutritious nighttime snack (OAR 414-300-0270(4)) shall be available to all children in care.

(C) Each child present at the time breakfast is scheduled shall be served breakfast, unless the parent(s) specifies otherwise.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0680; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01; CCD 8-2003, f. 12-23-03, cert. ef. 12-28-03

**414-300-0380**

**Swimming Activities**

The following requirements apply to swimming/water activities provided on the premises of a child care center, or off premises by another organization, public or private, when part of the center's program.

(1) Definitions:

(a) "Beginning swimmer" means a child who has mastered the skills required to:

- (A) Hold his breath with his head submerged;
- (B) Perform a front and back float;
- (C) Perform the flutter kick on his front and back;
- (D) Be able to level off from a vertical entry into a float position;

and

(E) Do a combined stroke (front or back) for at least 20 feet without stopping.

(b) "Non-swimmer" means a child who does not meet the definition of beginning swimmer.

(c) "Lifeguard" means a person holding current certification and meeting the requirements of OAR 333-060-0015(13).

(d) "Swimming pool" means a swimming or wading pool licensed by the Oregon Health Division or one of its delegated agents under the requirements of OAR 333-060-0005 through 333-060-0225.

(e) "Wading" means water activities in which the water's depth is no higher than the child's knee.

(2) General Health and Safety:

(a) Children with diarrhea or who have had diarrhea within the last two weeks shall not use the pool.

(b) Children who are not toilet trained shall wear swim diapers.

(c) Children shall use the toilet and shower before entering the pool.

(d) Proper supervision shall be maintained, as specified in OAR 414-300-0380(3)(e), (f) and (g) and 414-300-0380(4)(d).

(e) The pool operator shall maintain water quality as required in OAR 333-060-0200 or pool use shall cease until the water quality is restored.

(f) Children using the pool shall participate in basic water safety instruction based on their ages and developmental levels.

(A) All adults counted in the staff/child ratios in Table 4 shall be able to swim if the water is more than 48 inches deep and, regardless of the water depth, shall be dressed for swimming.

(B) For children 6 weeks to 36 months, one of the required staff must be in the water. Other staff may be on deck.

(g) Recreational swimming is not allowed for non-swimmers ages 6 weeks to 36 months in swimming pools with water depth 24 inches and over.

(h) Portable-style wading pools are not permitted.

(3) On-Premises Pool Facilities:

(a) On-premises pool facilities shall be licensed by the Oregon Health Division or its delegated agent and shall comply with the requirements in OAR 333-060-0005 through 333-060-0225.

(b) On-premises pool facilities shall have toilets and showers for use by the swimmers.

(c) All new pools or pools at centers certified after July 15, 2001, shall have dressing areas for each sex, with storage for the childrens' clothes.

(d) All activities occurring in a pool shall be under the direction and direct supervision of lifeguards.

(e) Center staff/child ratios shall be maintained at all times children are in the pool area, as specified in Table 4 of this rule.

(f) Lifeguard/child ratios shall be maintained at all times children are in the pool area:

(A) For children not yet attending kindergarten, there shall be one lifeguard for every 20 children;

(B) For children attending kindergarten and older, there shall be one lifeguard for every 40 children; and

(C) For mixed age groups of children, the age of the youngest child shall determine the lifeguard/child ratio.

(g) During all periods of pool operation, the appropriate number of life guards shall be on duty in the pool area. During periods of recreational swimming, at least one of the required number of life guards shall be stationed on the pool deck.

(h) Water activities that involve a sprayer or spray feature using potable water that is not re-circulated or collected may be conducted by the center.

**Table 4  
Staffing Requirements for Swimming**

**Wading pools — Water Depth under 24 inches**

Age of Child	Non-Swimmer Staff/Child Ratio		Beginner Staff/Child Ratio	
	Lessons	Recreation	Lessons	Recreation
6 wks – 36 mos	1:1	1:1	1:4	1:1
36 Mos — Not yet attending kindergarten	1:6	1:6	1:8	1:8
Attending Kindergarten+	1:10	1:10	1:10	1:15

**Swimming Water Depth — 24 to 48 inches**

Age of Child	Non-Swimmer Staff/Child Ratio		Beginner Staff/Child Ratio	
	Lessons	Recreation	Lessons	Recreation
6 wks – 36 mos	1:1	Not allowed	1:4	1:1
36 Mos — Not yet attending kindergarten	1:5	1:2	1:7	1:7
Attending Kindergarten+	1:10	1:10	1:10	1:15

**Swimming Water Depth — over 48 inches**

Age of Child	Non-Swimmer Staff/Child Ratio		Beginner Staff/Child Ratio	
	Lessons	Recreation	Lessons	Recreation
6 wks – 36 mos	1:1	Not allowed	1:4	1:1
36 Mos — Not yet attending kindergarten	1:4	Not allowed	1:6	1:
Attending Kindergarten+	1:5	1:5	1:10	1:15

(i) A written plan for pool emergencies shall be available to all staff. The plan shall cover procedures for medical emergencies, chemical emergencies and severe weather.

(A) Staff shall be familiar with emergency procedures, the use of safety equipment and emergency contacts.

(B) The center shall provide in-service training and/or drills of the emergency procedures for the pool at least every six months. The director shall keep a written record of the type, date, time and duration of the training/drills.

(C) Emergency telephone numbers shall be posted near the telephone in the pool area and near a centrally-located and accessible telephone in the center.

(j) Safety equipment shall be provided and comply with OAR 333-060-0005 through 333-060-0225. In addition:

(A) All pools shall have an emergency telephone located in the pool area. The telephone shall be able to dial directly for emergency assistance, unless otherwise approved by the Oregon Health Division.

(B) A bodily-fluid spill clean-up kit shall be provided in the pool area. The kit shall consist, at a minimum, of protective gloves, disinfectant, clean-up materials (e.g., bucket, sponge, paper towels), and a biohazard waste bag, be stored in a complete condition, and be replaced or restocked immediately after use.

(C) A rescue tube, of the type required by the lifeguard certifying agency, shall be provided for each lifeguard on duty.

(4) Off-Premises Pool Facilities:

(a) Off-premises pool facilities used by the center shall be licensed by the Oregon Health Division as public swimming pools.

(b) The off-premises pool management shall be made aware of the child care center rules regarding swimming activities.

(c) Center staff and children shall comply with the rules and regulations of the public swimming pool.

(d) Center staff shall comply with the staff/child ratios in Table 4 of this rule. Lifeguard/child ratios shall be determined by the public swimming pool.

(e) Children shall be within sight and sound of center staff at all times.

(f) First aid supplies and a copy of each child's medical release form shall be taken to off-premises pool facilities.

(5) Natural Bathing Areas:

(a) The center shall not conduct swimming activities in areas with flowing water.

(b) Wading is the only water activity permitted in shallow surf, lakes, rivers and streams.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 16-1990, f. & cert. ef. 6-12-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0682; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0390**

**Drop-in Care**

(1) A Drop-In Center shall meet all the requirements for child care centers contained in OAR 414-300-0000 through 414-300-0420, except for 414-300-0150.

(2) The center shall comply with the following requirements which apply to Drop-In Care provided exclusively for drop-in children as a single primary service or as a separate component of a child care center.

(a) The child care area used for Drop-In Care shall not be used by the children from any other component of the center.

(b) Staff assigned to provide Drop-In Care shall not be responsible for children from any other component of the center at the same time.

(c) The planned attendance for a child in Drop-In Care shall not exceed two and one half full days per week, or twenty-five hours per week.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260 0

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0686; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**Sanctions**

**414-300-0400**

**Denial and Revocation of Certification**

(1) Certification may be denied or revoked if a center fails to meet requirements, provide CCD with information requested, allow an inspection, correct deficiencies, or is operated or maintained in a manner which is harmful to the health, safety or wellbeing of children in care.

(2) Revocation of a certification shall occur only after the director receives notification of deficiencies, has adequate time to make corrections, and fails to do so.

(3) The operator has the right to appeal any decision to deny or revoke the certification, subject to the provisions of Chapter 183, Oregon Revised Statutes.

(4) An operator whose certification has been revoked shall not be eligible to reapply for three years after the revocation is effective.

(5) If necessary to protect children, CCD may give public notice of denial or revocation action taken. The type of notice will depend on individual circumstances.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0688; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**414-300-0410**

**Suspension of Certification**

(1) The Child Care Division (CCD) may immediately, and without prior notice, suspend the child care certification when, in the opinion of CCD, such action is necessary to protect the children from physical or mental abuse or a substantial threat to health, safety or well-being. Such action may be taken before an investigation is completed.

(a) An operator whose certification has been suspended must immediately notify, verbally or in writing, all parents of the suspension.

(b) An operator whose certification has been suspended must post the suspension on the main entry door where it can be viewed by parents and others.

(2) The operator has the right to appeal any decision to suspend the certification, subject to the provisions of chapter 183, Oregon Revised Statutes.

(3) If the operator does not request a hearing and the conditions which resulted in suspension have not been corrected, the certification shall be revoked (OAR 414-300-0400).

(4) If necessary to protect children, CCD may give public notice of suspension action taken. The type of notice will depend on individual circumstances.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0690; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 4-2001, f. 7-13-01, cert. ef. 7-15-01

**DIVISION 350**

**CERTIFIED FAMILY CHILD CARE HOMES**

**General Provisions**

[ED. NOTE: OAR 412-010-0700 through 412-010-0776 were transferred to the Employment Department by CSD 15-1993, f. 11-29-93, cert. ef. 12-1-93, SB 181.]

**414-350-0000**

**Applicability of Rules**

(1) OAR 414-350-0000 through 414-350-0400 set forth the Child Care Division's requirements for the inspection and certification of certified family child care homes subject to Oregon laws governing child care facilities (ORS 657A.030, 657A.250 through 657A.310, 657A.350 through 657A.460, and 657A.990) that:

(a) Care for no more than 12 children; and

(b) Are located in a building constructed as a single-family dwelling.

(2) The following child care facilities are specifically excluded by law and are not required to comply with these rules:

(a) A registered family child care home;

(b) A facility that is primarily educational and provides care for less than four hours per day to children 36 months old or older but not yet attending kindergarten;

(c) Care provided in the home of the child; or

(d) Care provided on an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care.

(3) If any court of law finds that any clause, phrase, or provision of these rules is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portion of these rules.

(4) For purposes of these rules, the determination of compliance or noncompliance shall be made by CCD.

(5) Providers have a right to review any action or decision affecting them. The CCD grievance procedures are available upon request to all applicants for child care certification or operators of certified family child care homes.

(6) These rules apply only during the hours the provider is conducting the certified family child care business.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 657A.260 & 657A.280

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0700; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**414-350-0010**

**Definitions**

The following words and terms, when used in OAR 414-350-0000 through 414-350-0400, have the following meanings:

(1) "Activity Area" means the area of the home that is available, during all the hours of operation, for the children's activities. This area excludes the food preparation area of the kitchen, bathrooms, storage areas, and those parts of rooms occupied by heating stoves, furniture and stationary equipment not used by children.

(2) "Attendance" means children actually present in the home at any given time.

(3) "Capacity" means the total number of children allowed in the certified family child care home at any one time, based on the available square footage, the ages of the children to be served and the total number of staff.

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

(5) "Certification" means the certification that is issued by CCD to a certified family child care home pursuant to ORS 657A.280.

(6) "Certified Family Child Care Home" or "Home" means: a child care facility located in a building constructed as a single family dwelling that has certification to care for a maximum of 12 children at any one time.

(7) "Child Care" means the care, supervision, and guidance on a regular basis of a child, unaccompanied by a parent, guardian, or custodian, during a part of the 24 hours of the day, with or without compensation. Child care does not include the care provided:

- (a) In the home of the child;
- (b) By the child's parent or guardian, or person acting in loco parentis;

(c) By a person related to the child by blood or marriage within the fourth degree as determined by civil law;

(d) On an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care;

(e) By providers of medical services; or

(f) By a person who is a member of the child's extended family, as determined by the division on a case-by-case basis.

(8) "Child Care Child" means any child six weeks of age or older and under 13 years of age, or a child with special needs under the age of 18 who requires a level of care over and above the norm for his/her age, and for whom the provider has supervisory responsibility in the temporary absence of the parent.

(9) "CCD" means the Child Care Division of the Employment Department or the Administrator or staff of the Division.

(10) "Child Care Facility" means any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before and after school care, or child development center, except those excluded under ORS 657A.250. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children.

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

(12) "Enrollment" means all children registered to attend the certified family child care home.

(13) "Guidance and Discipline" means the on-going process of helping children develop self control and assume responsibility for their own acts.

(14) "Infant" means a child who is at least 6 weeks of age but is not yet walking alone.

(15) "Night Care" means care given to children who sleep at the home for all or part of the night.

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

(17) "Operator" means the person responsible for the overall operation of the home and who has the authority to perform the duties necessary to meet certification requirements. In a certified family child care home, the operator is the provider.

(18) "Owner" means the person who holds the certified family child care business as property and has a major financial stake in the operation of the home.

(19) "Parent" means parent(s), custodian(s), or guardian(s) exercising physical care and legal custody of the child.

(20) "Potentially hazardous food" means any food or beverage containing milk or milk products, eggs, meat, fish, shellfish, poultry, cooked rice, beans or pasta, and all other previously cooked foods, including leftovers.

(21) "Pre-school Age Child" means a child 36 months of age to eligible to be enrolled in the first grade and, during the months of sum-

mer vacation from school, eligible to be enrolled in the first grade in the next school year.

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

(23) "Program" means all activities and care provided for the children during their hours of attendance at the certified family child care home.

(24) "Provider" means the person in the certified family child care home who is responsible for the children in care, is the children's primary caregiver, and in whose name the certification is issued. In a certified family child care home, the provider is the operator.

(25) "Qualifying Teaching Experience" means 1,500 hours, gained in at least three-hour blocks, within a 36-month period, with a group of children in an on-going group setting. Such a setting includes a kindergarten, preschool, child care center, certified or registered family child care home, Head Start program, or equivalent. Qualifying teaching experience must be documented. Time spent in a college practicum or practice teaching is considered qualifying teaching experience. The following does not constitute qualifying teaching experience: leader of a scout troop; Sunday school teacher; and coaching.

(26) "Sanitizing" means using a bactericidal treatment that provides enough heat or concentration of chemicals for enough time to reduce the bacterial count, including disease-producing organisms, to a safe level on utensils, equipment, and toys.

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

(28) "Serious complaint" means a complaint filed against a certified child care home by a person who has alleged that:

- (a) Children are in imminent danger;
- (b) There are more children in care than allowed by certified capacity;
- (c) Corporal punishment is being used;
- (d) Children are not being supervised;
- (e) Multiple or serious fire, health or safety hazards are present in the home;
- (f) Extreme unsanitary conditions are present in the home; or
- (g) Adults are in the home who are not enrolled in the Criminal History Registry.

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

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

(31) "Supervision" means the act of caring for a child or group of children. This includes awareness of and responsibility for the ongoing activity of each child. It requires a caregiver to be within sight and/or sound of the children, knowledge of children's needs, and accountability for children's care and well-being. Supervision also requires that staff be near and have ready access to children in order to intervene when needed.

(32) "Toddler" means a child who is able to walk alone but is under 36 months of age. "Younger toddler" means a child who is able to walk alone but is under 24 months of age; "older toddler" means a child who is at least 24 months of age but under 36 months of age.

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

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 2-1989, f. & cert. ef. 1-25-89; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0705; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 5-1999(Temp), f. 10-21-99, cert. ef. 10-23-99 thru 1-1-00; CCD 10-1999, f. 12-29-99, cert. ef. 1-1-00; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 6-2003, f. 12-23-03, cert. ef. 12-28-03; CCD 7-2003, f. 12-23-03, cert. ef. 12-28-03; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

**Certification**

**414-350-0020**

**Application for a Child Care Certificate**

(1) No person, unless exempted by Oregon laws governing child care facilities, shall operate a certified family child care home without a valid certification issued by the Child Care Division (CCD).

(2) Application for certification shall be made on forms provided by CCD.

(3) A completed application is required:

- (a) For the initial certification;
- (b) For the annual renewal of certification; and
- (c) Whenever there is a change of provider or location.

(4) The applicant shall complete and submit an application to CCD at least:

(a) 45 days before the planned opening date of the certified family child care home; and

(b) For renewal of certification, 30 days prior to the expiration of the certificate.

(A) The expiration date of the current certification, the current certification, unless officially revoked, remains in force until CCD has acted on the application for renewal and has given notice of the action taken.

(B) If an application for renewal and payment of the required fee is not received by CCD at least 30 days prior to the expiration date of the current certification, the certification will expire as of the date stated on the certificate and child care must cease at the facility, unless the renewal is completed before the expiration date.

(5) An application for certification shall be accompanied by a non-refundable filing fee.

(a) For the initial application, a change of provider, the reopening of a facility after a lapse in certification, or a change of location, the fee is \$25 plus \$2 for each certified space (e.g., the fee for a certified family child care home certified to care for 12 children is \$24 + \$25 = \$49).

(b) For a renewal application, the fee is \$2 for each certified space.

(6) An application for certification must be completed by the applicant and approved by CCD within 12 months of submission or the application will be denied. If an application is denied, an applicant will be required to submit a new application for certification.

(7) The applicant shall submit with the initial application or when the home is being remodeled a drawing showing the dimensions of all rooms to be used (length and width), the planned use of each room, the location of required exits, the placement of the kitchen and bathrooms, and the location of plumbing fixtures.

(8) The applicant shall provide verification to CCD that the home meets all applicable building codes and zoning requirements that apply to certified family child care homes:

- (a) Before the initial certification is issued; and
- (b) Whenever the home is remodeled.

(9) The home shall be approved by an environmental health specialist registered under ORS Chapter 700 or an authorized representative of the Department of Human Services before a certification is issued by CCD.

(10) The home may be inspected by the local fire jurisdiction when local ordinances require a life safety survey as part of a business license or when CCD determines there is a need to do so.

(11) Upon receipt of a completed application, a representative of CCD shall evaluate the home and all aspects of the proposed operation to determine if certification requirements (OAR 414-350-0000 through 414-350-0400) are met.

Stat. Auth.: ORS 657A.260  
Stats. Implemented: ORS 657A.260, 657A.270, 657A.280 & 657A.310  
Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 2-1989, f. & cert. ef. 1-25-89; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0710; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 2-1995(Temp), f. 12-28-95, cert. ef. 1-1-96; CCD 2-1996, f. 3-19-96, cert. ef. 4-1-96; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 8-2003, f. 12-23-03, cert. ef. 12-28-03

**414-350-0030**

**Issuance of a Child Care Certificate**

(1) A certification shall be issued by CCD when it has been determined the home is in compliance with OAR 414-350-0000 through 414-350-0400. There are two types of certification. These are:

(a) A regular certification which, except as provided in OAR 414-350-0020(4)(b)(A), is valid for no more than one year; and

(b) A temporary certification. A certified family child care home may not operate under a temporary certification for more than 180 days in any 12-month period. A temporary certification is issued when:

- (A) The home is in compliance with most requirements;
- (B) There are no deficiencies identified by CCD that are hazardous to children; and

(C) The provider demonstrates an effort to be in full compliance.

(2) Certification is not transferable to any other location or to another organization or individual.

(3) A certification is granted in the name of the operator/provider. An operator/provider is limited to one certification at one address.

(4) An owner can have multiple sites under the following conditions:

(a) If the owner is the provider/operator in one of the homes, the owner can have two certified family child care homes; or

(b) If the owner does not directly care for any children, the owner can have more than two certified family child care homes.

(5) Any changes in the conditions of certification shall be requested in writing to CCD and approved by CCD before the condition(s) of the current certification may be changed. Changes include, but are not limited to, facility capacity, age range of children, or hours of operation.

Stat. Auth.: ORS 657A.260  
Stats. Implemented: ORS 657A.260, 657A.280, 657A.300 & 657A.310  
Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0715; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**414-350-0040**

**Exceptions to Rules**

(1) CCD may grant an exception to an individual rule (OAR 414-350-0000 through 414-350-0400) for a specified period of time when:

- (a) A requirement does not apply to the home; or
- (b) The intent of the requirement can be met by a method not specified in the applicable rule.

(2) The provider shall request an exception to a rule on a form provided by CCD. The request shall include:

- (a) A justification for the requested exception; and
- (b) An explanation of how the provider plans to meet the intent of the rule.

(3) No exception to a rule shall be granted:

- (a) If the requirement is established by statute;
- (b) To any home safety requirement (OAR 414-350-0170);
- (c) Unless the health, safety, and well-being of the children are ensured; or

(d) That would place the facility in violation of local zoning or state building codes.

(4) Exceptions may not be implemented until approval is received from CCD.

(5) The granting of an exception to a rule shall not set a precedent, and each request shall be considered on its own merits.

(6) CCD may withdraw approval of an exception at any time, if deemed necessary to ensure the health, safety and well-being of the children.

Stat.: ORS 657A.260  
Stats. Implemented: ORS 657A.260 & 657A.280  
Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0718; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**Home Management**

**414-350-0050**

**General Requirements**

(1) The following items shall be posted in the certified family child care home where they may be viewed by parents:

- (a) The child care certification document;
- (b) Notification of a communicable disease outbreak at the home;
- (c) The evacuation plan; and
- (d) A notice that the following items are available for parents to review:

- (A) The guidance/discipline policy;
- (B) The current week's menus, with substitutions recorded;
- (C) The description of the general routine;
- (D) Information on how to report a complaint to CCD regarding certification requirements; and
- (E) The most recent CCD and sanitation inspection reports.

(2) The provider shall ensure that a copy of these administrative rules is available in the certified family child care home to all parents and staff.

(3) Caregivers shall report suspected child abuse or neglect immediately, as required by the Child Abuse Reporting Law (ORS 419B.005 through 419B.050) to the Department of Human Services or to a law enforcement agency. By statute, this requirement applies 24 hours per day.

(4) The certified family child care home shall comply with state and federal laws related to child safety systems and seat belts in vehicles, bicycle safety, civil rights laws, and the Americans With Disabilities Act (ADA).

(5) Representatives of all agencies involved in certification shall have immediate access to all parts of the home whenever the provider is conducting the child care business:

(a) CCD staff shall have the right to enter and inspect the home, including access to all caregivers, records of children enrolled in the home, and all records and reports related to the child care operation regarding compliance with these rules; and

(b) Representatives of the Department of Human Services and the State Fire Marshal have the right to enter and inspect the home when an inspection has been requested by CCD.

(6) Custodial parents of all children enrolled shall have access to the home during the hours their child(ren) are in care.

(7) The provider shall develop the following information in writing and shall make it available to CCD, to staff, and to parent(s) at the time of enrollment:

(a) Guidance and discipline policy;

(b) Information on transportation, when provided by the provider or other caregiver; and

(c) The plan for handling emergencies and/or evacuations, including, but not limited to, fire, acute illness of a child or staff, natural disasters, power outages, and situations which do not allow reentry to the home after evacuation.

(8) The provider shall comply with the Department of Human Services' administrative rules relating to:

(a) Immunization of children (OAR 333-019-0021 through 333-019-0090);

(b) Reporting communicable diseases (OAR 333-019-0215 through 333-019-0415); and

(c) Child care restrictable diseases (OAR 333-019-0010).

(9) The provider shall report to CCD:

(a) An accident at the home resulting in the death of a child, within 48 hours after the occurrence; and

(b) Injuries to a child at the certified family child care home which require attention from a licensed health care professional, such as a physician, EMT or nurse, within 7 days after the occurrence.

(10) Documentation of meals and snacks provided by the certified family child care home shall be made available to CCD upon request, if the home does not participate in the USDA Child and Adult Care Food Program. Documentation is limited to the three weeks prior to the request.

(11) The provider is responsible for compliance with these requirements (OAR 414-350-0000 through 414-350-0400).

(12) Parental request or permission to waive any of the rules for certified family child care homes does not give the provider permission to do so.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260, 657A.280, 657A.290, 657A.300, 657A.390 & 657A.400

Hist.: CSD 21-1988, f. & cert. ef. 9-29-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0720; CSD 9-1994, f. & cert. ef. 5-23-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### 414-350-0060

##### Enrollment

(1) Children shall be admitted only in accordance with the conditions of the certification, including, but not limited to, capacity, hours of operation, age range, and special conditions.

(2) As required by state and federal civil rights laws and the Americans with Disabilities Act (ADA), the certified family child care home shall not discriminate against any child on the basis of race, religion, color, national origin, gender, marital status of parent, or because of a need for special care.

(a) Refusal by the provider to care for a child with a need for special care because of lack of related skills and degree of competence or because of structural barriers in the certified family child care home, shall not in itself establish a prima facie case of discrimination. The decision to enroll/not enroll a child shall be made on an individual basis after the child's child care needs have been assessed using information from parents and professionals who are knowledgeable about the specific disability. The provider shall record the assessment that was made for each child with special needs.

(b) If a child with special needs is enrolled who needs a specific plan for caring for that child, such a plan shall be developed in writing between the provider, parent(s) and, if necessary, outside specialists. The provider shall be responsible for ensuring that all caregivers have knowledge of the plan and act in compliance with the plan.

(3) The provider shall obtain the following information in writing from parent(s) of each child before admission. The information shall be kept current at all times.

(a) Name and birth date of child;

(b) Name(s), home and business addresses and telephone numbers, and the working hours of custodial parent(s) or guardian(s);

(c) The school attended by a school-age child;

(d) Name and telephone number of child's medical provider(s) and dentist, if applicable.

(e) Name and telephone number of person to be called in an emergency if the parent cannot be located; and

(f) Name and telephone number of person(s) to whom the child may be released.

(4) The provider shall obtain the following written authorizations from parent(s) of each child before admission. The authorizations shall be kept current at all times.

(a) Permission for the provider to obtain emergency medical treatment for the child. The emergency medical release shall be on a form accepted by the medical treatment facility used by the provider for emergency medical services;

(b) Permission for the provider to call an ambulance or take a child to an available physician or medical treatment facility;

(c) If applicable, permission for the child to participate in field trips; and

(d) If applicable, permission for the child to participate in swimming or wading activities, both on and off the premises of the home.

(5) No child under six weeks of age shall be enrolled in the certified family child care home.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260 & ORS 657A.280

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 2-1989, f. & cert. ef. 1-25-89; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0722; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### 414-350-0070

##### Arrival and Departure

(1) The provider shall require that the person bringing the child to the certified family child care home remain with the child until the child is accepted by a caregiver.

(2) The provider shall release a child only to a parent or another person named and identified by the parent. The provider shall verify the identification of any person who picks up a child.

(3) If a school-age child arrives at or leaves the home without a parent, there shall be arrangements in advance, in writing, from the parent for the arrival and departure times and what the provider will do if the child has not arrived by the expected time.

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

Stat. Auth.: 657A.260

Stats. Implemented: ORS 657A.260 & 657A.280

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 2-1989, f. & cert. ef. 1-25-89; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0724; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### 414-350-0080

##### Records

(1) The provider shall keep the following records:

(a) Complete and current information on each child, as required in OAR 414-350-0060(3) and (4);

- (b) Daily attendance record for each child, including dates each child attended and arrival and departure times each day;
- (c) Daily attendance record for the provider and each caregiver, including dates worked and arrival and departure times each day.
- (d) Medication administered, as specified in OAR 414-350-0180(8)(d);
- (e) Emergency plan practice sessions and evacuations, as specified in OAR 414-350-0170(15);
- (f) An injury to or death of a child, as specified in OAR 414-350-0180(7);
- (g) Child abuse reports made to the Department of Human Services or a law enforcement agency;
- (h) The general routine, as specified in OAR 414-350-0220(2);
- (i) Verification of the provider's and each caregiver's:
  - (A) Qualifications for the position, as specified in OAR 414-350-0100 and 414-350-0110;
  - (B) Current health-related training, such as CPR and First Aid, as specified in OAR 414-350-0100(3) and -0100(6);
  - (C) Training as required in OAR 414-350-0115;
  - (D) Current enrollment in the Criminal History Registry;
  - (E) Current food handler's certification pursuant to ORS 624.570, when required; and
  - (F) Caregiver participation in an orientation to the provider's policies and practices and these administrative rules.
- (2) A provider shall allow custodial parent(s), upon request, to review all records and reports, except for child abuse reports, maintained on their own children.
- (3) Records shall be kept for at least two years, and caregivers' and children's records for two years after termination of employment or care. These records shall be available at all times to CCD.

Stat. Auth.: 657A.260  
 Stats. Implemented: ORS 657A.260 & 657A.290  
 Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 2-1989, f. & cert. ef. 1-25-89; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0726; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**Staff**

**414-350-0090  
 General Requirements**

- (1) As required by Oregon civil rights law, ORS Chapter 659, the provider shall not discriminate in employment on the basis of race, color, gender, marital status, religion, national origin, age, or because of a mental or physical handicap unrelated to specific job performance.
- (2) All caregivers, including the provider, shall:
  - (a) Have competence, sound judgment, and self-control in working with children;
  - (b) Be mentally, physically, and emotionally capable of performing assigned duties related to child care; and
  - (c) Have the required training and/or experience for the positions they hold, as specified in OAR 414-350-0100 and -0110.
- (3) If there is evidence that casts doubt on the physical or mental competence of a person to care for children or have access to children, CCD may require that the provider provide CCD with an evaluation or other information, as specified by CCD.
- (4) No one shall have access to child care children who has demonstrated behavior that may have a detrimental effect on a child. Residents of the home are considered to have access to the child care children even if they are not generally at home during hours of operation. This does not apply to parents of children in care when they drop off and pick up their children.
  - (a) The owner, the provider, all caregivers and other residents of the home 18 years of age or older must be enrolled in CCD's Criminal History Registry prior to the issuance of an initial or renewal certification. Residents of the home who are under 18 years of age must be enrolled in the Registry by their 18th birthday.
  - (b) Prior to any new caregiver caring for children or prior to an individual residing in the home, visiting the home on a regular basis, or substituting for or assisting the provider, the caregiver/individual shall be enrolled in the Criminal History Registry and the provider shall receive verification from CCD of the enrollment. This does not apply to parents of children in care unless they are residing in the home or assisting in the provision of child care.
  - (c) When a provider is notified by CCD that a caregiver or other individual has been removed from the Criminal History Registry, the provider shall not permit the caregiver or other individual to be in the

home during hours the child care business is conducted or to have access to child care children.

- (d) If any person listed in section (3) and (3)(a) of this rule has been charged with, arrested for, or a warrant is out for any of the crimes which CCD has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, certification will be denied or suspended until the charge, arrest, or warrant has been resolved if the person continues to operate, be employed in or reside in the home, or have access to children in the home.
- (e) If a criminal record check shows that a warrant has been issued for any person checked, CCD will inform the originating law enforcement agency of the person's name, employment address and telephone number.
- (f) Any visitor to the home or other adult who is not enrolled in the Criminal History Registry shall not have unsupervised access to children.
- (5) Volunteers must meet the following requirements:
  - (a) If volunteers are counted in determining the staff/child ratios, they must meet the qualifications of the position they are filling and be enrolled in the Criminal History Registry.
  - (b) If volunteers may have unsupervised access to children, they must be enrolled in the Criminal History Registry.
  - (c) If volunteers do not have unsupervised access to children at any time, including during emergencies, the provider must have a written policy to this effect, the policy must be known to all caregivers and volunteers, and the volunteers do not have to be enrolled in the Criminal History Registry.
  - (6) No person shall smoke or use smokeless tobacco in the certified family child care home during the hours the child care business is conducted. No person shall smoke or use smokeless tobacco in motor vehicles while child care children are passengers.
  - (7) No one shall consume alcohol or use non-prescription controlled substances in the certified family child care home during the hours the child care business is conducted.

Stat. Auth.: 657A.260  
 Stats. Implemented: ORS 657A.050, 657A.060 & 657A.290  
 Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 10-1990, f. & cert. ef. 4-23-90; CSD 4-1991, f. & cert. ef. 3-7-91; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0730; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**414-350-0100  
 The Provider**

- (1) The provider shall be:
  - (a) At least 18 years of age; and
  - (b) Responsible for the operation of the certified family child care home, including those duties ordinarily considered to be administrative. These include, but are not limited to, financial management, maintaining records, maintenance of the building and grounds, meal planning and preparation, compliance with certification requirements, communication with CCD, and correcting deficiencies.
- (2) The provider shall have:
  - (a) At least one year of qualifying teaching experience, as specified in OAR 414-350-0010(25), in the care of a group of children in an ongoing group setting such as a kindergarten, preschool, child care center, certified family child care home, registered family child care home, or Head Start program; or
  - (b) Completion of 20 credits (semester system) or 30 credits (quarter system) of training in a college or university in early childhood education or child development; or
  - (c) Documentation of attaining at least level two in the Professional Development Registry.
- (3) The provider shall provide evidence of the following training prior to being certified:
  - (a) A current certification in infant and child first aid and cardiopulmonary resuscitation;
  - (b) A current food handler certification pursuant to ORS 624.570; and
  - (c) Completion of two hours of training on child abuse and neglect issues.
  - (4) Prior to a facility providing care to more than two children under 24 months of age, the provider shall have at least 30 clock hours of training specific to infant and toddler care. The provider of facilities certified on October 15, 2002, who are providing care for more

than two children under 24 months of age must have documentation of 30 hours of prior training in infant and toddler care or a plan, approved by CCD, that shows how the training will be attained.

(5) The provider/operator shall be on-site at least half of the hours of operation that are reflected on the certification. The hours shall be calculated on a weekly basis, except for planned vacations and emergency absences.

(6) The provider shall have no other employment, either in or out of the home, during the hours the provider is directly caring for children.

(7) The provider, or a substitute caregiver, shall be present during all the hours the certified family child care business is conducted.

(8) A caregiver substituting for the provider shall:

(a) Be at least 18 years old;

(b) Have current certification in infant and child first aid and cardiopulmonary resuscitation (CPR);

(c) Have current food handler certification pursuant to ORS 624.570, if the substitute will be preparing or serving food;

(d) Be familiar with the provider's policies and procedures and with these requirements (OAR 414-350-0000 through 414-350-0400);

(e) Be authorized and able to correct a deficiency that might be an immediate threat to children; and

(f) Have on file documentation of an orientation and training in these administrative rules and the functions and duties of a provider.

Stat. Auth.: 657A.260

Stats. Implemented: ORS 657A.260, 657A.280 & 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0732; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### 414-350-0110

##### Assistants

(1) Assistants may be included in the caregiver/child ratio calculation.

(2) An Assistant I shall:

(a) Be at least 15 years of age;

(b) Work under the direct supervision, i.e., within sight and sound of the provider or substitute provider; and

(c) Have on file documentation of an orientation and be familiar with the provider's policies and procedures and these requirements (OAR 414-350-0000 through 414-350-0400).

Stat. Auth.: 657A.260

Stats. Implemented: ORS 657A.260 & 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0734; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### 414-350-0115

##### Training Requirements

(1) All staff shall receive an orientation within the first two weeks of employment.

(2) The provider and all caregivers who function as substitute providers and Assistant II staff, including volunteers, shall participate yearly in at least 15 clock hours of training related to child care, of which at least eight clock hours shall be in child development or early childhood education. Substitute providers and volunteers who provide care in the home for less than 20 hours in a calendar year are not required to participate in the 15 clock hours of training.

(a) Training may include correspondence courses, conferences, workshops and audio-visual programs.

(b) If community resources are not available, training may include a planned reading program of professional materials.

(3) During the first year of certification (for provider) and the first year of employment (for other caregivers), staff may count orientation and the most recent training in first aid and CPR, food handler's and child abuse and neglect, as applicable, as part of the 15 clock hours of training.

(4) During subsequent years of certification (for providers) and subsequent years of employment (for other caregivers), staff may count 5 hours of first aid and CPR training or food handler's training as part of the 15 clock hours of training.

(5) The provider shall document each caregiver's training, showing the subject matter, the date completed, and the number of clock hours of training in each certification year.

Stat. Auth.: 657A.260

Stats. Implemented: ORS 657A.260 & 657A.280

Hist.: CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### 414-350-0120

##### Caregiver/Child Ratios and Supervision

(1) The number of caregivers and group size shall be determined by the number and ages of the children in attendance.

(a) All children in the home, including the provider's or other caregivers' own children, shall be counted in determining the caregiver/child ratio and group size.

(b) All children visiting the home on a regular basis will count in capacity. Children attending with a parent do not count as enrolled as long as the parent remains with and is responsible for non-enrolled children.

(c) The required caregiver/child ratios shall be met at all times.

(2) Children shall at all times have the full attention of and be supervised by the required number of caregivers.

(a) Children shall be within sight and/or sound of a caregiver at all times.

(b) A caregiver shall be near enough to children to respond when needed. Children out of direct visual contact shall be monitored regularly and frequently and must be in approved activity areas.

(c) Children may not be on a floor level of the home unless a caregiver is on the same floor level, except as specified in OAR 414-305-0120(2)(d).

(d) When bathroom facilities are not on the same floor level, a written plan for adequate supervision of both bathroom and child care areas shall be developed and implemented.

(3) The number of caregivers is determined by the age and number of the youngest child(ren) in the group.

(a) If all children are in the same age group, the following chart determines the staff/child ratio. [Table not included. See ED. NOTE.]

(b) If the group includes children under 24 months of age, the following chart determines the staff/child ratio. [Table not included. See ED. NOTE.]

(c) If the group does not include any children under 24 months of age, the following chart determines the staff/child ratio. [Table not included. See ED. NOTE.]

(d) Even though staff/child ratios are specified in (a) and (b) above, a certified family child care provider may care for 10 children ages 6 weeks to school-age if:

(A) No more than 6 children are pre-school age or younger, including the provider's own children and any staff children;

(B) Of the 6, only 2 children are under 24 months of age; and

(C) Four of the children are school-age.

(4) The maximum number of children allowed in a certified family child care home at any one time is 12.

(5) If the facility provides care to more than two children under 24 months of age, the provider shall meet the requirements specified in OAR 414-350-0100(4).

(6) Prior to a facility providing care to more than four children under 24 months of age, at least one caregiver other than the provider shall meet the requirements specified in OAR 414-350-0100(4). In addition, the provider shall have an extra 20 clock hours of training specific to infant and toddler care above and beyond the original requirements. Providers and caregivers with facilities certified on October 15, 2002, who are providing care for more than four children under 24 months of age must have documentation of the required hours of prior training in infant and toddler care or a plan, approved by CCD, that shows how the training will be attained.

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

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260 & ORS 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 7-1989, f. & cert. ef. 3-17-89; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0736; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### Home And Yard

#### 414-350-0130

##### General Requirements

(1) The certified family child care home shall be:

(a) Located in an area zoned residential or commercial:

(A) "Residential zone" means any zone within an acknowledged urban growth boundary or an acknowledged residential exception area that allows a dwelling unit as a use permitted outright.

(B) "Commercial Zone" means any zone within an acknowledged urban growth boundary or an acknowledged commercial excep-

tion area that allows sales or service or commercial and professional offices as uses permitted outright.

- (b) A building constructed as a single family dwelling; and
- (c) In space designed or remodeled for living quarters.

(2) A home that is not the residence of the provider or a home located in a zone other than residential or commercial shall meet all state and local planning and zoning, occupancy, and building code requirements for a child care facility.

(3) If there is a structural or maintenance problem that could present a health or safety hazard to children, CCD may request that the provider have the home inspected by the appropriate authority and the provider shall comply with the request.

(4) The provider is responsible for payment of any applicable fees for inspections.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260, 657A.280, 657A.290 & 657A.390  
 Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 2-1989, f. & cert. ef. 1-25-89; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0740; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**414-350-0140**

**Indoor Area**

The indoor area used for child care shall meet the following requirements:

(1) There shall be a minimum of 35 square feet of indoor activity area, as defined by OAR 414-350-0010(1), per child. This space, considered in determining capacity of the home, shall be available for use by children at all times. The following shall not be counted as part of the 35 square feet per child requirement: heating units, storage areas; large permanent equipment; any space not useable by children.

(2) There shall be a designated area for children under 24 months of age that is developmentally appropriate and safe.

(3) Activity areas shall be adequately lighted and ventilated. Room temperature shall be at least 68 degrees F. (20 degrees C.) and not so warm as to be dangerous or unhealthy to children in care.

(4) Indoor fixtures and equipment shall meet the following requirements:

(a) There shall be at least one flush toilet and one hand washing sink with mixing faucets available to the children at all times. Homes with certification in effect on September 15, 2002, shall comply with the requirement for mixing faucets when bathroom facilities are remodeled.

(b) Easily cleanable steps or blocks shall be provided so that children can use the toilets and sinks without adult assistance.

(c) If bathroom facilities are not on the same floor level as the activity areas, the provider must comply with OAR 414-350-0120(2)(d).

(d) Telephone service shall be available in the home at all times when children are in care.

(e) Telephone numbers for fire, emergency medical care, and poison control, as well as the facility address, shall be posted on or near the telephone. Portable telephones must have emergency numbers and the facility address on the phone.

(f) There must be a system in place to ensure that parents can have contact with the provider and staff when children are in care.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260, 657A.280 & 657A.290  
 Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0742; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**414-350-0150**

**Outdoor Area**

(1) There shall be an outdoor activity area that children can reach safely. If the outdoor activity area is not under the control of the provider during the hours of operation of the home, written approval to use the area by CCD is required.

(2) A home shall have an outdoor play area of no less than 75 square feet for each child using the area at one time.

(3) The outside activity area shall be:

(a) Suitably surfaced and well drained. Playground equipment, such as slides, swings, climbing structures and other elevated equipment, shall be surrounded by a resilient surface of an acceptable depth or by rubber mats manufactured for such use, according to standards of the US Consumer Product Safety Commission;

(b) Kept free of litter, solid waste and refuse, ditches, or other conditions presenting a potential hazard; and

(c) Equipped to provide age-appropriate activities for gross motor development.

(4) The outdoor activity area of the home designated for use by child care children shall be enclosed by a barrier (fence, wall, or building) at least four feet high. Certified family child care homes with certification in effect on September 15, 2002, must comply with a barrier at least three feet high until such time as the existing barrier is replaced. Spacing between vertical slats of a fence shall be no greater than 4 inches. Fences must meet applicable local codes.

(5) The provider shall be aware of and protect children from any toxic or other harmful plants, shrubs, or trees.

(6) The use of swimming pools shall comply with OAR 414-350-0380. As specified in 414-350-0380(2)(h), portable-style wading pools are not permitted.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260, 657A.280 & 657A.290  
 Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0744; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**414-350-0160**

**Sanitation**

(1) Water Supply:

(a) The home's water supply shall be continuous in quantity and from a water supply system approved by the Department of Human Services.

(b) If drinking water is from a private source, the provider shall provide evidence of bacterial and chemical analysis which establish safety of the water;

(c) The tests shall be conducted by the local health department, the Department of Human Services, or an approved commercial laboratory;

(d) The bacterial analysis shall be done quarterly;

(e) The chemical analysis shall be done only once for a well and yearly for other water sources;

(f) The provider shall have drinking water available to children that is supplied in a safe and sanitary manner. If drinking water is obtained from bathroom sinks or sinks used for handwashing after changing a diaper, the sink must be sanitized after each handwashing.

(2) Hand Washing:

(a) Caregivers and children shall wash their hands with soap and warm running water after nose wiping, after using the toilet, and before and after eating;

(b) Caregivers shall wash their hands with soap and warm running water before and after changing a diaper, before and after feeding a child or handling food, and after assisting a child with toileting and nose wiping;

(c) Infants' and children's hands shall be washed with soap and warm running water after diaper changing;

(d) Staff shall immediately and thoroughly wash their hands after handling animals or cleaning cages;

(e) Commercial products labeled "hand sanitizers" shall not replace hand washing. If hand sanitizers are present in the home, they shall be kept under child-proof lock and shall not be used by children;

(f) When hand washing is not possible, e.g., on field trips or the neighborhood park, moist towelettes shall be used.

(3) Maintenance:

(a) The building, toys, equipment, and furniture shall be maintained in a clean, sanitary, and hazard-free condition:

(A) Kitchen and bathrooms shall be cleaned when soiled and at least daily;

(B) Floors, walls, ceilings, and fixtures of all rooms shall be kept clean and in good repair;

(C) All kitchen counters, shelves, tables, refrigeration equipment, sinks, drain boards, cutting boards, and other equipment or utensils used for food preparation shall be kept clean and in good repair;

(D) All food storage areas shall be kept clean and free of food particles, dust, dirt and other materials;

(E) Cloths, both single use and multiple use, used for wiping food spills on utensils and food-contact surfaces shall be kept clean and used for no other purpose. Cloths that are reused shall be stored in a sanitizing solution between uses.

(F) The isolation area shall be thoroughly cleaned after use and all bedding laundered after each use;

(G) A diaper-changing table shall:

(i) Have a surface that is non-absorbent and easily cleaned;

- (ii) Be cleaned and sanitized after each use;
- (iii) Not be used for any purposes other than diapering, including food or drink preparation or storage, dish washing, storage of food service utensils, arts and crafts supplies or products, etc.; and
- (iv) Comply with the requirements for diaper changing as specified in OAR 414-350-0235(2)(b).

(H) Bathtubs, showers, sinks, bathinettes, or other receptacles used for bathing children shall be cleaned and sanitized after each use.

(I) Bedding shall be cleaned when soiled, with change of occupant, or at least once a week.

(b) Tableware, kitchenware (pots, pans and equipment), and food-contact surfaces of equipment shall be washed, rinsed, sanitized, and air-dried after each use. The cleaning and sanitizing of tableware and kitchenware shall be accomplished by using:

(A) A dishwasher that is operated according to the manufacturer's instructions; or

(B) A three-step manual process as follows:

(i) Washing in the first compartment;

(ii) Rinsing in a second compartment; and

(iii) Immersion in a third compartment or large dishpan or tub for at least two minutes in a sanitizing solution containing at least 2 teaspoons of household chlorine bleach in each gallon of warm water.

(c) A sink used for diapering or bathing activities shall not be used for any part of food or drink preparation or dish washing.

(d) Soap, paper towels dispensed in a sanitary manner, and mixing faucets with hot and cold running water shall be provided at each hand washing sink.

(e) The home and grounds shall be kept clean and free of litter or rubbish and unused or inoperable equipment, utensils, and vehicles.

(f) All garbage, solid waste, and refuse shall be disposed of at least once a week.

(A) All garbage shall be kept in watertight, non-absorbent, and easily washable containers with close-fitting lids;

(B) All garbage storage areas and garbage containers shall be kept clean; and

(C) All garbage storage shall be inaccessible to children.

(4) Insect and Rodent Control:

(a) The home shall be in such condition as to prevent the infestation of rodents and insects.

(b) Doors and windows which are opened for ventilation shall be equipped with fine-meshed screens.

(c) Automatic insecticide dispensers, vaporizers, or fumigants shall not be used.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260, 657A.280, 657A.290, 657A.400 & 657A.420  
 Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 10-1990, f. & cert. ef. 4-23-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0746; CSD 10-1994, f. & cert. ef. 5-23-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**414-350-0170**

**Home Safety**

(1) All floor levels used by children for play and napping shall have two usable exits to ground level.

(2) All rooms used by children for play and napping shall have two usable exits.

(3) Obstructions, including furniture, storage of supplies, or any other items shall not be placed in a manner that blocks usable exits.

(4) There shall be at least one 2-A-10 BC-rated fire extinguisher on each floor of the home. Fire extinguishers shall be easily accessible, kept out of the reach of children, and located along the path of emergency exiting.

(5) Smoke alarms shall be:

(a) Installed on each floor level of the home and in any area where children nap; and

(b) Maintained in operating order.

(6) Candles or other open flame decorative devices are prohibited, except for the brief use of celebratory candles.

(7) Matches and lighters shall be kept in locked storage when not in use.

(8) A portable light source, to be used in emergencies, shall be:

(a) Available in all activity areas used by children;

(b) In working condition; and

(c) Stored in an easily accessible place.

(9) Items of potential danger (e.g., cleaning supplies and equipment, paints, poisonous and toxic materials, plastic bags, aerosols, detergents) shall be:

(a) Kept in the original container or labeled;

(b) Stored under child-proof lock; and

(c) Kept away from food service supplies.

(10) The provider shall protect children from safety hazards, including but not limited to:

(a) A rigid screen or guard shall be installed to prevent children from falling into a fireplace or against a heater or wood stove;

(b) A movable barrier, such as mesh-type gate, shall be placed at the top and/or bottom of all stairways accessible to infants and toddlers. Gates and enclosures should have the Juvenile Products Manufacturers Assn. (JPMA) certification seal to ensure safety;

(c) Child-proof latches shall be installed on all cupboards, closets, and drawers that contain hazardous objects and may be accessible to preschool-age and younger children;

(d) Firearms, ammunition, and other potentially hazardous equipment, such as darts, other projectiles, power tools, and knives shall be kept under lock:

(A) Firearms, pellet or BB guns must be unloaded and kept in areas not used by child care children; and

(B) Ammunition shall be stored separately from firearms;

(e) Hot water heaters shall be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location;

(f) Unused appliances, such as old refrigerators or freezers, that present a risk for entrapment, shall be secured so as to prevent entry by children;

(g) Clear glass panels in doors shall be clearly marked at child level;

(h) All exposed electrical outlets in rooms used by preschool or younger children shall have hard-to-remove protective caps or safety devices when not in use;

(i) Extension cords shall not be used as permanent wiring. All appliance cords will be in good condition and multiple connectors for cords will not be used. A grounded power strip outlet with built-in over-current protection may be used;

(j) Floors shall be free of splinters, large unsealed cracks, sliding rugs, and other hazards;

(k) Devices which generate heat and are hot from recent use shall be inaccessible to children; and

(l) After painting or laying carpet, the certified home must be aired out completely for at least 24 hours with good ventilation before children are allowed to return.

(11) The provider shall have written evidence that any wood stove in the home has been inspected and approved for use by the local building official.

(12) All wood stove and fireplace flues shall be cleaned as needed or, at a minimum, once a year. A written record of cleaning shall be maintained on site.

(13) The use of unvented, fuel-fired space heaters is prohibited. (14) Flammable and combustible liquids, such as paint thinner and gasoline, shall be stored in the original container or a safety container and, if over one gallon, kept in an unattached storage building.

(15) All caregivers and children shall practice at least one aspect of the emergency plan, as described in OAR 414-350-0050(7)(c), once per month.

(a) Evacuating the home shall be practiced at least eight times per year.

(b) The provider shall maintain a written record showing the date, time of day, participants, and type of emergency of each emergency plan practice session.

(16) Other hazards observed in the certification process must be corrected.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260, 657A.280, 657A.290 & 657A.420  
 Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 2-1989, f. & cert. ef. 1-25-89; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0748; CSD 10-1994, f. & cert. ef. 5-23-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**Health**

**414-350-0180**

**Illness or Injury**

(1) A provider shall not admit, or retain in care, a child who:

(a) Is diagnosed as having or being a carrier of a child care-restrictable disease, as defined in Department of Human Services administrative rules, OAR 333-019-0010; or

(b) Has one of the following symptoms, or combination of symptoms, of illness:

- (A) Diarrhea (more than one abnormally loose, runny, watery or bloody stool);
  - (B) Vomiting;
  - (C) Fever over 100 degrees F taken under the arm;
  - (D) Severe cough;
  - (E) Unusual yellow color to skin or eyes;
  - (F) Skin or eye lesions or rashes that are severe, weeping, or pus-filled;
  - (G) Stiff neck and headache with one or more of the symptoms listed above;
  - (H) Difficult breathing or abnormal wheezing; or
  - (I) Complaints of severe pain.
- (2) A child who, after being admitted, shows signs of illness, as defined in subsection (1) of this rule, shall be isolated and the parent(s) notified and asked to remove the child from the home as soon as possible.

(3) If a child has mild cold symptoms that do not impair his/her functioning, the child may remain in the home and the parent(s) notified when they pick up the child.

(4) A specific place for isolating a child who becomes ill shall be provided. The isolation area shall be:

- (a) Located where the child can be seen and heard by a caregiver; and
  - (b) Equipped with a cot, mat, or bed for each sick child.
- (5) The provider shall identify a licensed physician, hospital, or clinic to be used for emergency medical care.

(a) The provider shall have written procedures for taking a child to emergency medical care.

(b) In the event of an illness or injury which requires immediate medical care, the provider is responsible for securing such care and notifying the parent(s).

(6) First aid supplies and a chart or handbook of first aid instructions shall be maintained in one identified place but kept out of reach of children:

- (a) The first aid supplies shall include bandaids, adhesive tape, sterile gauze pads, soap or sealed antiseptic towelettes or solution to be used as a wound cleaning agent, scissors, disposable plastic gloves for handling blood spills, chlorine bleach for sanitizing after a blood spill, a sanitary temperature taking device, and CPR mouthguards; and
- (b) First aid supplies shall be taken on all field trips.

(7) Injuries or accidents shall be reported to the child's parent(s) on the day of occurrence:

- (a) A written report of the injury or accident shall be maintained on file;
- (b) The report shall include the date, child's full name, nature of the injury, witnesses, action taken, and the signatures of the provider and parent(s); and

(c) The injury to or death of a child shall be reported to CCD in accordance with OAR 414-350-0050(9).

(8) No prescription or non-prescription medication, including, but not limited to, pain relievers, sunscreen, cough syrup, diapering and first aid ointments or nose drops, shall be given to a child except under the following conditions:

(a) A signed, dated, written authorization from the parent(s) is on file;

(b) Prescription medication is in the original container and labeled with the child's name, the name of the drug, dosage, directions for administering, date and physician's name;

(c) Non-prescription medication is in the original container, labeled with the child's name, the dosage, and directions for administering;

(d) A written record of all medications administered, listing, as a minimum, the name of the child, type of medication, the signature of the caregiver administering the medication, date, time, and dosage given, shall be kept.

(e) All medications shall be secured in a tightly-covered container with a child-proof lock or latch and stored so that they are not accessible to children;

(f) Medications requiring refrigeration shall be kept in the refrigerator in a separate, tightly-covered container, with a child-proof lock or latch, clearly marked "medication"; and

(g) Parent(s) shall be informed daily of medication administered to their child.

(9) Parents of all children enrolled in the certified family child care home shall be informed of any outbreak of communicable disease within the facility.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260, 657A.280 & 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 2-1989, f. & cert. ef. 1-25-89; CSD 10-1990, f. & cert. ef. 4-34-90; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0750; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### 414-350-0190

##### Animals in the Certified Family Child Care Home

(1) Any animal at the certified family child care home must be in good health and show no evidence of carrying a disease.

(a) Dogs and cats must be vaccinated according to a licensed veterinarian's recommendations. Proof of current compliance with immunizations shall be kept on file in the home.

(b) Animals shall be cared for as recommended by a veterinarian. The provider shall have and follow written procedures for the care and maintenance of the animals.

(2) Potentially aggressive animals must not be in the same physical space as the children.

(3) Reptiles (e.g., lizards, turtles, snakes, iguanas), frogs, monkeys, hook-beaked birds, baby chicks, and ferrets are prohibited, unless they are housed in and remain in a tank or other container which precludes any direct contact by children. Educational programs that include prohibited animals and are run by zoos, museums and other professional animal handlers are permitted.

(4) Any animals other than cats and dogs shall be kept in an approved cage for the type of animal. Cages shall have removable bottoms and shall be kept clean and sanitary.

(5) All animals shall be kept away from food preparation surfaces. If animals have access to food preparation surfaces, the surfaces shall be cleaned and sanitized prior to meal preparation.

(6) Litter boxes shall not be located in any part of the home used by children or for food storage, preparation, or eating.

(7) Caregivers must be physically present when children are interacting with animals.

(8) Handwashing, as specified in OAR 414-350-0160(2)(d) and (e), shall be practiced.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260 & 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0752; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### Food Service

#### 414-350-0200

##### Food Selection, Storage, and Preparation

(1) All food and drink served by the provider shall be selected, stored, prepared, and served in a sanitary manner.

(2) All staff who prepare or serve food must have and maintain a current food handler certification pursuant to ORS 624.570.

(3) All food products served by the provider shall be obtained from commercial food suppliers, except that:

- (a) Fresh fruits and vegetables may be served;
- (b) Frozen fruits, frozen vegetables, and canned and frozen jams and jellies processed in the certified family child care home may be served; and

(c) Home-canned or home-processed food, other than those described in OAR 414-350-0200(3)(b), may be served to an individual child only when supplied by that child's parent(s).

(4) Only pasteurized and fortified milk shall be served to children.

- (a) Powdered milk may be used only in cooking; and
  - (b) The serving of unpasteurized milk is prohibited.
- (5) Only pasteurized 100% fruit or vegetable juice shall be served.

(6) A certified family child care home shall have at least one refrigerator, in good operating condition, that is adequate to store all potentially hazardous foods.

(7) All potentially hazardous food shall, except when being prepared, be kept at 45° Fahrenheit or below, or 140° F or above.

(a) A temperature-measuring device (TMD) in working condition shall be affixed to the door or the front edge of the top shelf of all refrigerators.

(b) Foods requiring refrigeration after preparation shall be covered and rapidly cooled to a temperature of 45° F or below.

(c) Extra care shall be taken to ensure that, after pouring milk, any unused portion left in the container is returned to the refrigerator immediately.

(d) Refrigerated storage space at 45° F or less shall be used to store lunches that contain potentially hazardous food that children bring from home.

(e) Leftover food prepared but not served by the provider shall be covered, dated, labeled, and either refrigerated promptly and used within 36 hours or frozen immediately for later use.

(f) Foods that have been cooked and then refrigerated shall be reheated rapidly according to food handler certification standards.

(8) Children shall not be in the kitchen or food preparation areas when foods are being prepared unless they are protected from such hazards as hot foods, sharp utensils, etc.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260, 657A.280 & 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CSD 2-1989, f. & cert. ef. 1-25-89; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0760; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### 414-350-0210

##### Meals and Snacks

(1) The provider shall provide or ensure the availability of adequate and nutritious meals and snacks appropriate for the ages and needs of the children served. USDA guidelines will be used to determine if meals and snacks are adequate and nutritious. Foods of minimal nutritional value (e.g., Jell-O, popcorn, desserts, potato chips) shall only be served occasionally and not replace nutritious foods.

(a) Every meal shall meet USDA guidelines and shall include at least one serving from each of the following food groups: fluid milk; breads and grains; meat, fish, poultry or meat alternatives (e.g., dried beans, peanut butter, yogurt or cheese). Each meal shall include two servings of fruits or vegetables. No liquids other than milk and 100% fruit juice shall be counted as part of the daily nutrition.

(b) Snacks shall meet USDA guidelines and shall consist of food or beverage from at least two of the following food groups: fluid milk, breads and grains; meat, fish, poultry or meat alternatives (e.g., dried beans, peanut butter, yogurt or cheese); vegetables and fruits. No liquids other than milk and 100% fruit juice shall be counted as part of the daily nutrition. A snack shall not consist of only two beverages.

(c) Nutrient concentrates and supplements (protein powders, liquid proteins, vitamins, minerals, and other nonfood substances) shall not be served to a child without a written statement of parental consent and written instructions from a medical practitioner. Special diets, not including vegetarian diets, shall not be served to a child without written instructions from a registered dietician or medical practitioner and written parental consent.

(2) Meals and snacks provided to children shall meet the following requirements:

(a) In certified family child care homes open morning through afternoon, lunch and morning and afternoon snacks shall be served to the children in care. If breakfast is served to all children, a mid-morning snack is not required;

(b) School-age children arriving after school shall be served a snack;

(c) When the planned attendance is prior to 7 a.m. or after 6:30 p.m., a child shall be offered a complete meal if it is not provided by the parent(s); and

(d) There shall be no more than 3-1/2 hours between meals and snacks.

(3) Meals and snacks for children shall be:

(a) Prepared by the provider;

(b) Prepared by the parent of the child; or

(c) Prepared from a source approved by the Department of Human Services.

(4) When the parent of a child provides food for the child's meal:

(a) The provider shall be responsible for at least one serving of milk or a milk product to each child at meals;

(b) Each child's food shall be monitored daily by a caregiver to ensure that the food meets nutritional requirements as defined in section (1) of this rule; and

(c) The provider shall have sufficient food available to supplement any meal that does not meet nutritional requirements as defined in section (1) of this rule.

(5) Meals shall be served in a manner that supports safe and sanitary eating and allows socialization to occur.

(6) Nutrient concentrates and supplements shall not be served to a child without a written statement of consent from the parent and a medical practitioner. Special diets, not including vegetarian diets, shall not be served to a child without a written statement of consent from the parent and a registered dietician or medical practitioner.

(7) To serve family style meals, where food is brought to the table in larger quantities and served to the plates from the table, a certified home must have a written plan, approved by the environmental health specialist and CCD, which includes at least the following elements:

(a) Provision for handwashing immediately prior to eating;

(b) Separate serving portions for each table, if more than one table is used;

(c) Serving utensils distinct from eating utensils;

(d) Provision for serving mildly ill children so as to prevent the spread of the illness;

(e) The discarding of any food brought to the table and not eaten; and

(f) Food brought to the table must be covered until a caregiver is seated with the children.

(8) A certified family child care home serving children under 12 months of age shall comply with the following requirements for those children:

(a) Each child shall be fed on his/her own feeding schedule.

(b) When formula is furnished by the provider, it shall be either the commercially prepared, iron-enriched, ready-to-feed type or shall be prepared from powder or concentrate and diluted according to manufacturers' instructions. When formula is prepared on site, the provider must have a written plan for mixing formula and sanitizing bottles and nipples. The plan must be approved in writing by the environmental health specialist.

(c) Formula, breast milk, and food provided by the parent shall be clearly marked with the child's name and refrigerated if required.

(d) No liquids, other than milk, formula, water, and 100 percent fruit juice, shall be served.

(e) Whole milk, skim milk, 1%, and 2% milk shall not be served unless requested in writing by the child's parent(s) and with a medical provider's written permission.

(f) Solid foods fed to infants shall be selected from the USDA Infant Food Chart.

(A) Solid foods shall not be fed to infants less than four months of age without parental consent.

(B) Solid food shall not be served directly from the container unless the child consumes the entire contents of the container or any remaining food in the container is discarded.

(C) If a portion of solid food from a container is placed in a clean, sanitized dish and served from the dish, any food remaining in the dish shall be discarded.

(D) Open containers of food, from which a portion has been removed, must immediately be refrigerated at 45 degrees F or less.

(E) Solid foods, with the exception of finger foods, shall be fed with a spoon.

(g) Honey or foods containing honey shall not be served; and

(h) Children who cannot feed themselves shall be held or, if able to sit alone, fed in an upright position.

(A) Infants up to six months of age shall be held while bottle fed.

(B) Bottles shall never be propped. The child or a caregiver shall hold the bottle.

(C) Infants no longer being held for feeding shall be fed in a manner that provides safety and comfort.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260, 657A.280 & 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0762; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 8-2003, f. 12-23-03, cert. ef. 12-28-03

#### Program and Care of Children

##### 414-350-0220

##### General Requirements

(1) There shall be activities for children according to their ages, interests, and abilities.

(2) A description of the general routine, covering all hours of operation, shall be in writing and shall provide:

(a) Regularity of such activities as eating, napping, and toileting with flexibility to respond to the needs of individual children;

- (b) A balance of active and quiet activities;
  - (c) Individual and group activities;
  - (d) Daily indoor and outdoor activities in which children use both large and small muscles;
  - (e) Periods of outdoor play each day when weather permits; and
  - (f) Opportunities for a free choice of activities by children.
- (3) The provider and other caregivers shall use the written description of the general routine as a guide, allowing flexibility to respond to the needs of individual children and/or groups of children and to appropriate variations in daily activities.
- (4) No child may view television or videos or play computer or electronic games for more than two hours per day.
- (5) Infant and toddler program of activities. The following apply to infant and toddlers in care at the certified home.
- (a) Infants shall be allowed to form and follow their own patterns of sleeping and waking periods.
  - (b) Children shall be given opportunities during each day to move freely by creeping and crawling in a safe, clean, warm, and uncluttered area.
  - (c) Throughout the day, each child shall receive physical contact and individual attention (e.g., being held, rocked, talked to, sung to, and taken on walks inside and outside the home).
  - (d) Routines relating to activities such as bedtime, feeding, diapering, and toileting shall be used as opportunities for language development, building the child's self-esteem, and other learning experiences.
  - (e) Children shall be encouraged to play with a variety of safe toys and objects.
  - (f) Children shall be given appropriate opportunities to use the five senses through sensory play.
  - (g) Infants shall be put to sleep on their backs.
  - (h) Immediate attention shall be given to the emotional and physical needs of the children. No child shall be routinely left in a crib except for sleep or rest.
  - (i) Caregivers shall encourage the development of self-help skills (dressing, toileting, washing, eating) as children are ready.
  - (j) In addition, toddlers shall be given opportunities to participate in:
    - (A) A variety of activities encouraging creative expression through the arts; and
    - (B) Running, climbing, and other vigorous physical activities.
- (6) Preschool-age program of activities. In addition to the daily routine specified in OAR 414-350-0220(2), preschool-age children shall have opportunities, on a daily basis, to choose from a variety of activities and experiences, which shall include:
- (a) Creative expression through the arts;
  - (b) Dramatic play;
  - (c) Gross (large) motor development;
  - (d) Fine (small) motor development;
  - (e) Music and movement;
  - (f) Opportunities to listen and speak;
  - (g) Concept development;
  - (h) Appropriate sensory play; and
  - (i) A supervised nap or rest period. Children who do not sleep after 20–45 minutes of quiet time must be provided with an alternative quiet activity. The activity may be in the same room where children are sleeping if it is not distracting to sleeping children.
- (7) School-age program of activities. In addition to the daily routine specified in OAR 414-350-0220(2), school age children shall have opportunities to choose from a variety of activities, including:
- (a) Individual or group projects and activities, including homework; and
  - (b) Rest or relaxation.
- (8) A home providing swimming or other water activities to children shall meet all of the requirements set forth in OAR 414-350-0380.
- (9) Spa pools on the grounds of the certified family child care home shall be enclosed by a barrier at least 48 inches high, with a lockable gate or door, and have a lockable pool cover. The enclosure and cover shall be locked whenever the child care business is being conducted.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260, 657A.280 & 657A.290  
 Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0770; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**414-350-0230  
 Equipment, Furniture, and Supplies**

- (1) The certified family child care home shall have indoor and outdoor play equipment, materials, and furniture that are:
- (a) Appropriate to the developmental needs and interests of children;
  - (b) Safe, clean, durable, well constructed, in good repair, and made from lead-free, non-toxic materials;
  - (c) Child-sized or appropriately adapted for infants, toddlers, and preschool age children's use; and
  - (d) Easily accessible to the children.
- (2) The quantity of play materials (i.e., toys, books and games) shall be sufficient to:
- (a) Avoid excessive competition;
  - (b) Provide a variety of choices to each child;
  - (c) Provide a balance of active/quiet and individual/group activities; and
  - (d) Provide the variety of activities required in OAR 414-350-0220(2), (3), and (4).
- (3) An individual bed, mat or cot, appropriate to the cultural background of the child, with individual bedding appropriate to the season shall be provided for each toddler and preschool age child in the home at nap time and for each school-age child who wants to rest.
- (a) Family beds may be used.
  - (b) If the parent(s) so request, siblings may share the same bed.
  - (c) The upper level of bunk beds shall not be used for children under 10 years of age.
  - (d) The upper level of bunk beds may be used for children 10 years or older if a bed rail and safety ladder are provided.

Stat. Auth.: ORS 657A.260  
 Stats. Implemented: ORS 657A.260, 657A.280 & 657A.290  
 Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0772; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

**414-350-0235  
 Infant and Toddler Furniture and Equipment**

- (1) Each infant shall have a crib, portable crib, or playpen with a clean, non-absorbent mattress that meets the following requirements:
- (a) Each crib shall be of sturdy construction with vertical slats no more than 2 3/8" apart;
  - (b) Locks and latches on the dropside of the crib shall be safe and secure from accidental release or release by the infant inside the crib;
  - (c) Each mattress shall fit snugly; and
  - (d) Sleeping arrangements shall be appropriate to the cultural background of the infant, with individual bedding appropriate to the season.
- (2) If infants and toddlers are in care there shall be:
- (a) A bathtub, bathinette, plastic basin, or similar size shallow sink available for bathing children; and
  - (b) A diaper-changing area. The area shall be located so that handwashing can occur immediately after diapering without contact with other surfaces or other children.
- (3) The diaper-changing table or area shall comply with the requirements specified in OAR 414-350-0160(3)(a)(G).
- (4) If high chairs are used, they shall have:
- (a) A broad base to prevent tipping;
  - (b) A latch to keep a child from raising the tray; and
  - (c) Straps to prevent a child from sliding out.
- (5) Cribs, portable cribs, playpens, and high chairs must meet US Consumer Product Safety Commission or equivalent standards.
- (6) Car seats are to be used for transportation purposes only. Children who arrive at the home asleep in a car seat may remain in the car seat until they awake.
- (7) The use of baby equipment shall not substitute for providing a variety of stimulating experiences.
- (8) The use of infant walkers is prohibited.
- (9) The use of potty chairs must be approved by the environmental health specialist and/or by CCD.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.260 & 657A.280  
 Hist.: CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02; CCD 8-2003, f. 12-23-03, cert. ef. 12-28-03

**414-350-0240  
 Guidance and Discipline**

- (1) A provider shall have a written policy on guidance and discipline of children.

(2) The provider shall make these policies known to all caregivers and parents.

(3) The guidance and discipline policy shall:

(a) Provide for positive guidance, redirection, and the setting of clear boundaries; and

(b) Be designed to help the child develop self-control, self-esteem, and respect for others.

(4) Only a caregiver shall provide guidance or discipline to a child.

(5) Guidance and discipline shall be fair, consistently applied, timely, and appropriate to the behavior and age of the child. Positive statements or redirection of behaviors shall be used.

(6) Prohibited punishment includes, but is not limited to:

(a) Hitting, slapping, shaking, striking with hand or instrument, pinching, tying or binding, or inflicting any other form of corporal punishment;

(b) Mental or emotional punishment including, but not limited to, name calling, ridicule, yelling, or threats;

(c) Non-prescription chemical restraints used for discipline or to control behavior;

(d) Confining a child in an enclosed area, (e.g., a locked or closed room, closet, box);

(e) Forcing or withholding meals, snacks, rest, or necessary toilet use; or

(f) Belittling a child for or forcing a child to clean up after toileting accidents.

(7) The provider shall not accept parental permission to use any form of punishment listed in subsection (6) of this rule.

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0774; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### 414-350-0250

##### Transportation

When transportation is provided by or arranged for by the certified family child care home, the following requirements must be met.

(1) Drivers shall be at least 18 years of age and hold a current driver's license.

(2) The vehicle shall be:

(a) In compliance with all applicable state and local motor vehicle laws, and

(b) Maintained in a safe operating condition.

(3) If transportation is provided between the certified family child care home and the child's school or other destination, the provider shall have in writing an acknowledgment from the parent(s) that they are aware of the time of day their child is to be picked up and/or delivered by the provider. If the pick-up schedule results in children being unsupervised at school or other location, the provider shall notify parents of this fact.

(4) When transporting children:

(a) Children shall be transported only in sections of vehicles designed for and equipped to carry passengers.

(b) A seat that fully supports the passenger shall be provided for each child.

(c) The number of children transported shall not exceed the number of seat belts or child safety systems available in the vehicle.

(d) All children shall be transported in accordance with ORS 811.210. The child safety system and safety belts shall comply with ORS 815.055 and the standards adopted by the Oregon Department of Transportation. A child under four years of age and weighing 40 pounds or less shall be in an approved child safety system. A child between the ages of 4 and 6 years AND children who weigh between 40 and 60 pounds, regardless of age, must use a booster seat.

(e) Staff/child ratios, as specified in OAR 414-350-0120, shall be maintained in vehicles, as well as in the certified family child care home, when one caregiver is transporting children.

(f) Infants, toddlers, and preschool age children shall leave the vehicle on the same side of the street as the building they will enter.

(g) Drivers delivering children to their homes shall not depart until the child has been received by an authorized person.

(h) No child shall be left unattended inside or outside a vehicle.

(i) If firearms and ammunition are stored in a vehicle, they must be stored as specified in OAR 414-350-0170(10)(d).

Stat. Auth.: ORS 657A.260

Stats. Implemented: ORS 657A.260, 657A.280 & 657A.290

Hist.: CSD 12-1988, f. 6-29-88, cert. ef. 7-1-88; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-010-0776; CSD 11-1994, f. & cert. ef. 5-23-94; CCD 1-1995, f. 10-30-95, cert. ef. 11-1-95; CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

### Special Programs

#### 414-350-0375

##### Night Care

(1) When a certified family home provides night care to child care children, the provider shall meet all of the requirements for certified family child care homes contained in OAR 414-350-0000 through 414-350-0400, except for OAR 414-350-0150 and 414-350-0220. In addition, the home shall comply with the following requirements, and the certification shall reflect that regulated night care is offered.

(a) Staffing:

(A) During the hours of night care, the required staff/child ratios, as specified in OAR 414-350-0120 shall be maintained.

(B) A caregiver must be present on the same floor level as the child care children who are sleeping.

(C) A caregiver must be awake for the arrival and departure of each child in night care. A caregiver must be awake during night care hours if more than six(6) children are in care.

(D) All persons 18 years of age and older, inclusive of guests sleeping in the home during night care hours, shall comply with OAR 414-350-0090(4)(a)-(f).

(b) Activities:

(A) There shall be quiet activities, such as story-time, games, arts and crafts, and reading, for each child arriving before bedtime. These activities shall be appropriate to the child's age, interests and abilities.

(B) The use of television, videos, and computer or electronic games shall comply with OAR 414-305-0220(4).

(C) The provider shall have a written plan for night care which includes:

(i) Regular routines;

(ii) Supervision of children;

(iii) Evacuation procedures for awake and sleeping children;

(iv) Sleeping arrangements; and

(v) Arrival and departure procedures.

(D) If 24-hour care is provided, the provider shall have a written plan for self care, i.e., how her/his own needs will be met.

(c) Sleeping Arrangements:

(A) Space shall be available so that children may go to sleep at various times, based on their age and need for rest.

(B) All sleeping rooms used by children shall have two useable exits. A sliding door or window can be considered a useable exit if it meets the definition, as specified in OAR 414-350-0010(32).

(C) Beds and bedding shall comply with OAR 414-350-0230(3) and 414-350-0235(1).

(d) Personal Hygiene:

(A) When bathing is provided, there shall be:

(i) Individual washcloths and towels for each child;

(ii) Individual bathing opportunities for each child, unless a parent(s) has given permission for siblings to bath together;

(iii) Safety glass in glass shower doors or glass tub enclosures;

(iv) Appropriate cleaning and sanitizing procedures implemented after each child has used the shower or tub; and

(v) Appropriate equipment in bathtubs and showers to prevent slipping.

(B) Children spending the night shall have the opportunity to brush their teeth with an individual toothbrush and toothpaste labeled with his/her name.

(C) When bathing, showering or brushing teeth, children shall be supervised by a caregiver. For school-age children, privacy shall be maintained.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 657A.260 & 657A.280

Hist.: CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### 414-350-0380

##### Swimming Activities

The following requirements apply to swimming/water activities provided on the premises of a certified family child care home, or off premises by another organization, public or private, when part of the facility's program.

(1) Definitions:

(a) "Beginning swimmer" means a child who has mastered the skills required to:

- (A) Hold his breath with his head submerged;
- (B) Perform a front and back float;
- (C) Perform the flutter kick on his front and back;
- (D) Be able to level off from a vertical entry into a float position;

and

(E) Do a combined stroke (front or back) for at least 20 feet without stopping.

(b) "Non-swimmer" means a child who does not meet the definition of beginning swimmer.

(c) "Lifeguard" means a person holding current certification and meeting the requirements of OAR 333-060-0015(13).

(d) "Swimming pool" means a swimming or wading pool licensed by the Oregon Department of Human Services or one of its delegated agents under the requirements of OAR 333-060-0005 through 333-060-0225.

(e) "Wading" means water activities in which the water's depth is no higher than the child's knee.

(2) General Health and Safety:

(a) Children with diarrhea or who have had diarrhea within the last two weeks shall not use the pool.

(b) Children who are not toilet trained shall wear swim diapers.

(c) Children shall use the toilet and shower before entering the pool.

(d) Proper supervision shall be maintained, as specified in OAR 414-350-0380(3)(e), (f) and (g) and 414-350-0380(d) and (e).

(e) The pool operator shall maintain water quality as required in OAR 333-060-0200 or pool use shall cease until the water quality is restored.

(f) Children using the pool shall participate in basic water safety instruction based on their ages and developmental levels.

(A) All adults counted in the staff/child ratios in **Table 4** shall be able to swim if the water is more than 48 inches deep and, regardless of the water depth, shall be dressed for swimming.

(B) For children 6 weeks to 36 months, one of the required staff must be in the water. Other staff may be on deck.

(g) Recreational swimming is not allowed for non-swimmers ages 6 weeks to 36 months in swimming pools with water depth 24 inches and over.

(h) Portable-style wading pools are not permitted.

(3) On-Premises Pool Facilities:

(a) On-premises pool facilities shall be licensed by the Oregon Department of Human Services or its delegated agent and shall comply with the requirements in OAR 333-060-0005 through 333-060-0225.

(b) On-premises pool facilities shall have toilets and showers for use by the swimmers.

(c) All new pools or pools at certified family child care homes certified after September 15, 2002, shall have dressing areas for each sex, with storage for the children's clothes.

(d) All activities occurring in a pool shall be under the direction and direct supervision of lifeguards.

(e) Center staff/child ratios shall be maintained at all times children are in the pool area, as specified in **Table 4** of this rule.

(f) Lifeguard/child ratios shall be maintained at all times children are in the pool area:

(A) For children not yet attending kindergarten, there shall be one lifeguard for every 20 children;

(B) For children attending kindergarten and older, there shall be one lifeguard for every 40 children; and

(C) For mixed age groups of children, the age of the youngest child shall determine the lifeguard/child ratio.

(g) During all periods of pool operation, the appropriate number of lifeguards shall be on duty in the pool area. During periods of recreational swimming, at least one of the required number of lifeguards shall be stationed on the pool deck.

(h) Water activities that involve a sprayer or spray feature using potable water that is not re-circulated or collected may be conducted by the center. [Table not included. See ED. NOTE.]

(i) A written plan for pool emergencies shall be available to all staff. The plan shall cover procedures for medical emergencies, chemical emergencies and severe weather.

(A) Staff shall be familiar with emergency procedures, the use of safety equipment and emergency contacts.

(B) The certified home shall provide in-service training and/or drills of the emergency procedures for the pool at least every six months. The provider shall keep a written record of the type, date, time and duration of the training/drills.

(C) Emergency telephone numbers shall be posted near the telephone in the pool area and near a centrally-located and accessible telephone in the certified home.

(j) Safety equipment shall be provided and comply with OAR 333-060-0005 through 333-060-0225. In addition:

(A) All pools shall have an emergency telephone located in the pool area. The telephone shall be able to dial directly for emergency assistance, unless otherwise approved by the Oregon Department of Human Services.

(B) A bodily-fluid spill clean-up kit shall be provided in the pool area. The kit shall consist, at a minimum, of protective gloves, disinfectant, clean-up materials (e.g., bucket, sponge, paper towels), and a biohazard waste bag, be stored in a complete condition, and be replaced or restocked immediately after use.

(C) A rescue tube, of the type required by the lifeguard certifying agency, shall be provided for each lifeguard on duty.

(4) Off-Premises Pool Facilities:

(a) Off-premises pool facilities used by the center shall be licensed by the Oregon Department of Human Services as public swimming pools.

(b) The off-premises pool management shall be made aware of the certified family child care home rules regarding swimming activities.

(c) Certified family child care home staff and children shall comply with the rules and regulations of the public swimming pool.

(d) Certified family child care home staff shall comply with the staff/child ratios in **Table 4** of this rule. Lifeguard/child ratios shall be determined by the public swimming pool.

(e) Children shall be within sight and sound of certified family child care home staff at all times.

(f) First aid supplies and a copy of each child's medical release form shall be taken to off-premises pool facilities.

(5) Natural Bathing Areas:

(a) The certified family child care home shall not conduct swimming activities in areas with flowing water.

(b) Wading is the only water activity permitted in shallow surf, lakes, rivers and streams.

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

Stat. Auth.: ORS 657A.260

Stats. Implemented:

Hist.: CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

### Sanctions

#### 414-350-0390

##### Denial and Revocation of Certification

(1) Certification may be denied or revoked if a certified family child care home fails to meet requirements, provide CCD with information requested, allow an inspection, correct deficiencies, or is operated or maintained in a manner which is harmful to the health, safety or well-being of children in care.

(2) Revocation of a certification shall occur only after the provider receives notification of deficiencies, has adequate time to make corrections, and fails to do so.

(3) The provider has the right to appeal any decision to deny or revoke the certification, subject to the provisions of Chapter 183, Oregon Revised Statutes.

(4) A provider whose certification has been revoked shall not be eligible to reapply for three years after the closure of the certified family child care home.

(5) If necessary to protect children, CCD may give public notice of denial or revocation action taken. The type of notice will depend on individual circumstances.

Stat. Auth.: ORS 657A.260

Stats. Implemented:

Hist.: CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

#### 414-350-0400

##### Suspension of Certification

(1) The Child Care Division (CCD) may immediately, and without prior notice, suspend the child care certification when, in the opinion of CCD, such action is necessary to protect the children from physical or mental abuse or a substantial threat to health, safety or

well-being. Such action may be taken before an investigation is completed.

(a) A provider whose certification has been suspended must immediately notify, verbally or in writing, all parents of the suspension.

(b) A provider whose certification has been suspended must post the suspension in the home where it can be viewed by parents and others.

(2) The provider has the right to appeal any decision to suspend the certification, subject to the provisions of Chapter 183, Oregon Revised Statutes.

(3) If the provider does not request a hearing and the conditions which resulted in suspension have not been corrected, the certification shall be revoked.

Stat. Auth.: ORS 657A.260

Stats. Implemented:

Hist.: CCD 3-2002, f. 10-14-02, cert. ef. 10-15-02

## DIVISION 400

### MIGRANT AND SEASONAL CHILD CARE

[ED. NOTE: OAR 412-011-0300 through 412-011-0380 were transferred to the Employment Department by CSD 15-1993, f. 11-29-93, cert. ef. 12-1-93, SB 181.]

#### 414-400-0000

##### Purpose

The purpose of these rules is to define key terms, describe eligibility criteria, and rate payment policies related to Child Care Division Migrant and Seasonal Child Care Program. Expenditures by CCD under these rules are subject to the availability of state or federal funds, as applicable, and are subject to immediate curtailment by CCD if the necessary state or federal authorizations or funding are curtailed.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 657A.010

Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0300

#### 414-400-0010

##### Definitions

(1) "Authorized Absence" means the temporary absence from the facility by a child who is expected to return to care.

(2) "Agricultural Labor" means:

(a) Any activity related to crop production, including soil preparation, planting, cultivating, crop protection or harvesting, preparing crops for market, irrigation work, operating farm machinery, or general farm work; or

(b) Any activity directly related to the processing of crops, including freezing, canning and drying; or

(c) Any activity directly related to the cultivation of trees and shrubs, or tree farming.

(3) "Migrant Family" means a family that moves its residence for the purpose of employment in agricultural labor. A migrant family makes a series of moves or an annual move which results in either an absence of at least two months from the area, or a cumulative total of 150 miles, each component being a minimum distance of 50 miles, traveled for the period of a particular crop's seasonal work

(4) "Seasonal Family" is a family:

(a) Whose wage earners make their living from agricultural labor on a seasonal basis in the same area as their residence; and

(b) That has fit the definition of a "migrant family" within the last 36 months; and

(c) That has settled, or is in the process of settling, from migrant status.

(5) "Available to care for children" means not working, attending or enrolled in school, and being physically and emotionally capable of caring for children.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 657A.010

Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0310; CSD 3-1994, f. & cert. ef. 3-1-94

#### 414-400-0020

##### Eligibility Criteria

(1) Migrant family eligibility criteria includes:

(a) The migrant family wage earners make their living doing farm labor as defined in "agricultural labor"; and

(b) The parents are working in, or reporting for, farm work in Oregon which they expect to be available at the time of reporting; and

(c) At least 50 percent of the family income for the preceding 12 months was earned from agricultural labor; and

(d) The family earns less than 75 percent of State Median income; and

(e) The entire family moves their residence at least once in twelve months for the purpose of employment in agricultural labor; and

(f) There is no family member in the household who is 16 years of age or older available to care for the children needing child care.

(2) Seasonal family eligibility criteria includes:

(a) The seasonal wage earners make their living doing agricultural labor; and

(b) The parents are currently working in agricultural labor; and

(c) At least 50 percent of the family income for the preceding 12 months was earned from such work; and

(d) The family earns less than 75 percent of State Median Income; and

(e) The entire family has moved their residence at least once in the last 36 months for the purpose of employment in agricultural labor; and

(f) There is no family member in the household who is 16 years of age or older available to care for the children needing care.

Stat. Auth.: ORS 657A

Stats. Implemented: ORS 657A.010

Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0320

#### 414-400-0031

##### Eligibility Verification

(1) To be eligible for subsidized child care benefits, clients must do all of the following:

(a) Provide true, complete and accurate information required to determine eligibility and verify that information, to the extent permitted by their physical and mental condition, or authorize the office providing intake to obtain verification;

(b) Comply with the eligibility requirements of the program for which they are requesting or receiving benefits;

(c) Report within 15 calendar days any changes that could affect their eligibility for benefits including, but not limited to, the following:

(A) Change in job status;

(B) People moving in and out of household;

(C) Any other changes that may affect eligibility.

(2) Eligibility shall be documented on forms supplied by the division. The applicant shall declare their family size and membership, current and previous places of residence, employment history and family income for the past 12 months if applying as a migrant, or for the past 36 months, if applying as a seasonal. The income that determines family co-pay shall be for the 12 full months just prior to application, or for the most recent tax year, and shall be for all wage earners who function as parents to children in child care.

(3) An application shall be completed or updated, and eligibility factors must be verified in all of the following situations:

(a) When a child initially enters care;

(b) When the child re-enters care after the family returns from working in agriculture in another area;

(c) When the Child Care Division questions eligibility.

(4) Intake staff must ask for and review documents that verify income, employment, movement and residence. Files must contain copies of documents or a record verifying documents were viewed:

(a) Proof of Income, Employment and Movement. The following documents may be used for verification: 1040 tax returns verify total annual income; W-2s from all employers verify income and residence, and may indicate movement; pay stubs or vouchers verify employer, residence and that portion of income documented; pay envelopes or bin tickets may be used to estimate part of family income; and Employment Department reports or employer verification may also be used to verify income;

(b) Proof of Residency and Movement. The following documents are acceptable: Rent receipts, utility bills, letters received at the residence, verification letter from the previous employer, bus or plane tickets, or immunization records;

(c) Report from the Intake Interview. A signed report may be used one time only for new migrants who have no other verification.

Intake staff must describe in writing the indicators that led them to accept the family's statement and lack of documentation.

(5) The division may verify any factors affecting eligibility or benefit when they are considered questionable by the Child Care Division. Reported information or information on the application is questionable if it is inconsistent with any of the following:

- (a) Other reported information;
  - (b) Other information provided on the application;
  - (c) Other information received by the division;
  - (d) Information reported on previous applications.
- (6) Verification provided for one program may be used as verification for all Child Care Division programs in which the client participates.

(7) The division may deny an application, or end ongoing benefits, when acceptable verification is not provided, or if inconsistencies cannot be resolved.

(8) A family will be notified by the provider in writing at least ten days prior to the end of 12 months' eligibility, or if funds are no longer available.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: CCD 1-1994, f. & cert. ef. 1-14-94

**414-400-0033**

**Limits on Disclosure**

(1) No employee or volunteer of the division, or other agency, may disclose information about clients except as stated in OAR 412-001-0100 through 412-001-0170, or at the direction of a court of competent jurisdiction, or upon the advice of the Attorney General.

(2) The division may disclose information in order to administer its programs and provide services when it is in the best interest of the applicant's family, unless specifically forbidden by statutes, these rules or by court order. Reasons for disclosure include, but are not limited to, providing information to: A social service agency, service provider or agency of State Office for Children & Families for the purpose of arranging appropriate child care services for the applicant's family.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: CCD 1-1994, f. & cert. ef. 1-14-94

**414-400-0040**

**Payment Process**

CCD payment is subject to CCD established eligibility conditions described in these rules.

(1) CCD will pay only for child care authorized by the CCD. Payment is made to providers who are registered or certified and hold a valid Child Care Contract, with CCD.

(2) If a child is in child care when the service plan is made, payment shall be made only from the date the service is authorized.

(3) CCD will make payments for temporary absences if requested by the provider, subject to the following requirements and limits:

- (a) The provider must use the same policy for both CCD and non-CCD families;
- (b) The child must be expected to continue in child care with the same provider after the absence;
- (c) CCD will make payment for actual absence(s) not to exceed a total of five days in any calendar month; and
- (d) Absence days, or portions thereof, will include only the time(s) for which care has been authorized by CCD.

(4) CCD payment will only be made to a child care facility which is certified or registered by CCD and which has a valid contract with CCD.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0340

**414-400-0050**

**Billing Method**

(1) CCD payments for child care are made by check to the provider on behalf of the client after all care for the month has been given. The invoice is to be submitted by the provider on forms approved by the Child Care Division.

(2) Registered family child care providers must bill at an hourly rate (with the exception that they may bill at a daily rate for before and/or after school care) not to exceed the total authorized.

(3) Child care center and certified family child care providers may bill at an hourly, daily, weekly, or monthly rate not to exceed the total authorized.

Stat. Auth.: ORS 657.610  
 Stats. Implemented: ORS 657A.010  
 Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0350; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

**414-400-0060**

**Determining Child Care Rates for Payment**

(1) The maximum rates Child Care Division pays for Migrant and Seasonal Child Care are determined by the most recent Adult and Family Services market rate survey and will be furnished upon request. CCD will pay the provider's rates within the AFS maximums as specified in the provider contract with CCD. The provider shall not ask the family for, or accept directly or indirectly, any additional payment for care provided to a CCD eligible family other than those in section (2) of this rule.

(2) Families are subject to copayments according to Adult and Family Services Copayment Standard except during the first month, or part thereof, of child care when all families will be charged the minimum copayment. The family shall be informed of their fee when they apply. The provider is responsible to collect the fee. The fee shall be deducted from the amount charged CCD before CCD is billed:

(a) A reduction of 20 percent will be applied to the gross income of migrant and seasonal families. The copayment will be determined based on 80 percent of the family's gross income and family size including all members dependent on that income; except that

(b) When all children in a family receive three or fewer hours a day of child care, the minimum copayment will apply.

(3) When a child reaches 30 months of age, the provider shall bill at the preschool rate the first month after the child reaches 30 months.

(4) When a child 30 months or over is physically, developmentally, and/or emotionally handicapped, and functions below chronological age, CCD may authorize a special rate for the care of the identified child:

(a) Approval for the higher rate must be requested in writing from the Child Care Division;

(b) Documentation must describe the specific problem which requires services above the market rate.

(5) Rates charged to CCD for child care services may not exceed rates charged for comparable services to non-CCD children:

(a) Donations and subsidies of cash or in-kind services may be used to reduce charges which would otherwise be made for child care services;

(b) Such donations and subsidies must be used to reduce charges for all children in care unless the donor specifies in writing that the donation is to be used for either a specific family or category of families;

(c) Separate records shall be kept by the provider for all donations and subsidies received and disbursed.

(6) In-home Care. Minimum wage for care in a child's own home is governed by the state minimum wage law. It may not be negotiated to a lower rate. Overtime at one-and-one-half times the regular rate must be paid for all hours worked in excess of 40 hours in a work week (seven sequential days). Overtime shall not be paid to a provider who lives in the child's home.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CSD 12-1992(Temp), f. & cert. ef. 5-19-92; CSD 17-1992, f. & cert. ef. 7-6-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0360

**414-400-0080**

**Exception**

(1) Specific exception to any section of these rules may be granted for good and just cause by the Child Care Division. The exception must be requested in writing, and show how the intent of the rule will be met to the Child Care Division.

(2) No exception will be granted which may jeopardize the health, safety, and well-being of any child in care.

(3) All exceptions must be submitted in writing to the Child Care Division, and remain there on file. The granting of an exception shall not constitute a precedent for any other provider or client.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.010  
 Hist.: CSD 11-1990, f. & cert. ef. 4-23-90; CSD 10-1992, f. & cert. ef. 3-17-92; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 412-011-0380

DIVISION 500

FUNDING CHILD CARE RESOURCE AND REFERRAL AGENCIES

414-500-0010

Applicability of Rules

(1) OAR 414-500 sets forth the Child Care Division's requirements for contracts concerning child care resource and referral funding and activities that are subject to Oregon laws governing child care resource and referral agencies, ORS 657A.100 through 657A.190.

(2) If any court of law finds that any clause, phrase, or provision of these rules is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portion of these rules.

Stat. Auth.: ORS 657.610  
 Stats. Implemented: ORS 657A.010-657A.190  
 Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CC 1-1993(Temp), f. & cert. ef. 7-14-93; CC 2-1993, f. & cert. ef. 12-22-93; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 414-010-0010; CCD 7-2001(Temp), f. 12-19-01, cert. ef. 12-23-01 thru 6-21-02; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-500-0020

Definitions

These words and terms used in chapter 414, division 500 have the following meanings:

(1) "Child Care" means the care and supervision of a child who is unaccompanied by a parent, guardian, or custodian and which is provided during a part of the 24 hours of a day, with or without compensation.

(2) "Division" means the Child Care Division of the Employment Department.

(3) "Core Services" means the following basic services provided by an R & R:

- (a) Create and maintain a database on provider supply;
- (b) Provide consumer education, consultation, and referrals for parents;
- (c) Encourage the development of [new] child care resources and provide ongoing technical assistance to providers;
- (d) Provide technical assistance to employers; and
- (e) Record, analyze, and report data on requests for services.

(4) "Nontraditional hours" means hours before 8:00 AM, between 12:00 and 1:00 PM, after 5:00 PM, weekends, and holidays.

(5) "Parent" means the person(s) exercising physical care and custody of a child.

(6) "Provider" means any person or facility that provides child care including a child care center, group child care home, family child care home, recreation program, or any other person or facility providing child care.

(7) "Resource & Referral Agency" or "R & R" means a community-based public or private nonprofit agency with a program that provides, as a minimum, the core services as defined in OAR 414-500-0020.

(8) "Resource & Referral Network" means a non-profit organization whose purpose is to coordinate and support local Resource and Referral agencies and services statewide.

(9) "Service Delivery Area" or "SDA" means a geographic area designated by the Child Care Division, or its agent or designee, for the delivery of resource and referral services.

Stat. Auth.: ORS 657.610  
 Stats. Implemented: ORS 657A.100-657A.190  
 Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CC 1-1993(Temp), f. & cert. ef. 7-14-93; CC 2-1993, f. & cert. ef. 12-22-93; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 414-010-0020; CCD 7-2001(Temp), f. 12-19-01, cert. ef. 12-23-01 thru 6-21-02; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-500-0030

Administrative Requirements for Resource and Referral Agencies

(1) Any R & R or Resource & Referral Network contracting -to provide child care resource and referral services under ORS 657A.010 for the administration of ORS 657A.030 and 657A.250 through 657A.530 shall:

- (a) Be a "Resource & Referral Agency" or "Resource & Referral Network" as defined in OAR 414-500-0020.
- (2) Each R & R shall:
  - (a) Demonstrate community support and endorsement;

(b) Demonstrate a commitment to provide, strengthen, and promote the financial support of R & R core services and the long-term financial stability of R & R programs;

(c) Demonstrate collaboration with local child care providers, provider groups, parents, social service and government agencies, employers, and institutions of public education in the development and operation of the R & R;

(d) Have an advisory group that represents diverse segments of the child care community. The R & R shall ensure input into R & R operations from parents, providers, employers, and community representatives;

(e) Have staff with at least two years of post-secondary education, experience, and/or training, commensurate with job responsibilities, in the following:

- (A) Early childhood education, human services, counseling, or a related field of study;
- (B) Child care or child development;
- (C) Parent education;
- (D) Provider support; or
- (E) Program management.

(f) Directly provide the core services;

(g) Not discriminate against any family on the basis of race, color, or ethnicity; religion; national origin; citizenship; sex; age; physical or mental disability; marital status, or because of a child's need for special care;

(h) Make services accessible to families, with particular sensitivity to ethnic and cultural minorities, languages spoken, families with special needs, and the economically disadvantaged;

(i) Provide services to all types of child care providers, except those under Child Care Division disciplinary action;

(j) Match funds awarded by the Child Care Division, or its agent or designee, with an equal amount of other financial support, including in-kind contributions. Matching funds may be used to directly provide R & R services, or enhance R & R services;

(k) Publicize its services;

(l) Maintain fiscal records consistent with accepted accounting practices;

(m) Collect financial statistics on a regular basis and make financial reports at times and in the form prescribed by the Child Care Division, or its agent or designee;

(n) Maintain program records, including statistical records, and provide program records to the Child Care Division, or its agent or designee, at times and in the form prescribed by the Child Care Division, or its agent or designee;

(o) Cooperate in a program and facility review (including meetings with consumers, review of records, review of policy and procedures, review of staffing and staff qualifications, and meetings with any staff directly or indirectly involved in the provision of services) at any reasonable time by the Child Care Division, or its agent or designee;

(p) Retain all records and other documents related to the provision of resource and referral services for at least three years, unless otherwise specified in a contractual agreement with the Child Care Division, or its agent or designee; and

(q) Have a complaint policy, regarding instances in which the health and/or safety of a child is at risk, that is approved by the Child Care Division, or its agent or designee.

(3) Satisfactory performance by an R & R and/or the Resource & Network shall be a condition for the renewal of a contract.

Stat. Auth.: ORS 657.610  
 Stats. Implemented: ORS 657A.100-657A.190  
 Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CC 1-1993(Temp), f. & cert. ef. 7-14-93; CC 2-1993, f. & cert. ef. 12-22-93; CCD 1-1994, f. & cert. ef. 1-12-94; Renumbered from 414-010-0030; CCD 7-2001(Temp), f. 12-19-01, cert. ef. 12-23-01 thru 6-21-02; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 6-2003, f. 12-23-03, cert. ef. 12-28-03; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

414-500-0040

Resource File

(1) The R & R shall establish, maintain, and update on an ongoing basis a resource file of existing child care providers and child care services in the service delivery area (SDA). The R & R shall contact each provider at least annually to verify the information in the resource file.

(2) The R & R shall consult with relevant public and private agencies in developing a comprehensive resource file of child care services.

- (3) The resource file shall include the following information:
- Type of program;
  - Hours of service;
  - Ages of children served;
  - Fees;
  - Eligibility requirements as set by the provider; and
  - Sufficient program information to meet the requirements in

OAR 414-500-0050(2)(a).

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.150  
 Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CCD 1-1994, f. & cert. ef. 1-12-94;  
 Renumbered from 414-010-0040

**414-500-0050**

**Services to Parents**

- (1) The R & R shall provide consultation and/or assistance to parents on:
- Finding, selecting, and maintaining a quality child care arrangement;
  - Sources for child care subsidies for low income families;
  - Available and appropriate child care;
  - Child care during nontraditional hours;
  - Available and appropriate child care and respite care services for children with special needs; and
  - Child care for sick children.
- (2) Access to referral information shall include telephone referrals to be made available for at least 20 hours per week of operation, including nontraditional hours.
- (3) The R & R shall make referrals to:
- Certified or registered child care providers; and
  - Providers who are legally exempt from certification or registration.

- (4) The R & R shall make every effort to be accessible to parents in the service delivery area (SDA).

Stat. Auth.: ORS 657.610  
 Stats. Implemented: ORS 657A.100-657A.190  
 Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CCD 1-1994, f. & cert. ef. 1-12-94;  
 Renumbered from 414-010-0050; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

**414-500-0060**

**Services to Providers**

The R & R shall provide information, technical assistance, and support to existing and potential child care providers.

- (1) The R & R shall provide information and technical assistance on:
- Establishing new child care resources including registration or certification, city zoning or licensing requirements, program and business development, and assistance in finding information from other sources;
  - Improving the quality of services offered;
  - Improving business skills;
  - Helping existing child care providers to maximize their ability to serve the children and parents of the community; and
  - Facilitating communication between existing child care providers.

- (2) The R & R shall consult with the local Child Care Division licensing representative, provider organizations, the local planning department, the community college, small business assistance programs, and any other person, agency, or service that has skills and knowledge that could assist in developing services to providers.

Stat. Auth.: ORS 657.610  
 Stats. Implemented: ORS 657A.100-657A.190  
 Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CC 1-1993(Temp), f. & cert. ef. 7-14-93; CC 2-1993, f. & cert. ef. 12-22-93; CCD 1-1994, f. & cert. ef. 1-12-94;  
 Renumbered from 414-010-0060; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

**414-500-0070**

**Services to Communities and Employers**

The R & R shall:

- Assess and recruit child care resources for underserved needs.
- Provide public access to data on the child care delivery system.
- Provide information and technical assistance to employers on identifying child care options to meet the needs of their employees.

Stat. Auth.: ORS 657A  
 Stats. Implemented: ORS 657A.110 & 657A.120  
 Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CCD 1-1994, f. & cert. ef. 1-12-94;  
 Renumbered from 414-010-0070

**414-500-0080**

**Records of Requests for Services**

- The R & R shall maintain records of requests for services.
- Documentation of requests for services shall consist of:
  - Number and time of day and date of calls and contacts to the R & R;
  - Ages of children for whom care is requested; and
  - Time of day or night for which child care is requested, identifying special times including before and after school, nights, weekends, and swing shift.

- (3) Information on services requested shall be maintained in such a manner that it is easily accessible for dissemination and evaluation purposes.

Stat. Auth.: ORS 657.610  
 Stats. Implemented: ORS 657A.100-657A.190  
 Hist.: CC 1-1990, f. 3-12-90, cert. ef. 3-15-90; CCD 1-1994, f. & cert. ef. 1-12-94;  
 Renumbered from 414-010-0080; CCD 1-2002, f. 6-20-02, cert. ef. 6-21-02; CCD 3-2004, f. 7-30-04 cert. ef. 8-1-04

**DIVISION 700**

**CHILD CARE CONTRIBUTION TAX CREDIT**

**414-700-0000**

**Purpose**

The purpose of these rules is provide guidance for administration of the child care contribution tax credit program as authorized in ORS 314.752, 315.202 and 318.031 and Section 10, chapter 682, Oregon Laws 1987, Section 87, chapter 625, Oregon Laws 1989 and ORS Chapter 657A.700 to 657A.718. The child care contribution tax credit was enacted by the 2003 legislature to:

- Encourage taxpayers to make contributions to the Child Care Division by providing a financial return on qualified contributions and by soliciting other contributions.
- Achieve specific and measurable goals for targeted communities and populations.
- Set standards for the child care industry concerning the cost of providing quality, affordable child care.
- Strengthen the viability and continuity of child care providers while making child care more affordable for low and moderate income families.

Statutory Authority: ORS 657A.706  
 Statutes Implemented: ORS 657A.700 - 657A.718  
 Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

**414-700-0010**

**Definitions**

(1) "Child care provider" means a provider, for compensation, of care, supervision or guidance to a child on a regular basis in a center or in a home other than the child's home. Child care provider does not include a person who is the child's parent, guardian or custodian.

(2) "Community" means a recognized unit of government, service delivery area other commonly recognized area or region within the state of Oregon.

(3) "Community agency" means a nonprofit agency that:

- Provides services related to child care, children and families, community development or similar services; and
- Is eligible to receive contributions that qualify as deductions under section 170 of the Internal Revenue Code.

(4) "High quality child care" means child care that meets standards for high quality child care established or approved by the Commission for Child Care.

(5) "Qualified contribution" means a contribution made by a taxpayer to the Child Care Division of the Employment Department or a selected community agency for the purpose of promoting child care, and for which an application is submitted for a tax credit certificate.

(6) "Tax credit certificate" means a certificate issued by the Child Care Division to a taxpayer to qualify the taxpayer for a tax credit.

(7) "Tax credit marketer" means an individual or entity selected by the Child Care Division to market tax credits to taxpayers.

Statutory Authority: ORS 657A.706  
 Statutes Implemented: ORS 657A.700 - 657A.718  
 Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

**414-700-0020**

**Advisory Committee**

(1) The Child Care Division shall guide and direct the implementation of this program in collaboration with an Advisory Committee appointed by the Division.

(2) The Advisory Committee shall be comprised of representatives of state agencies, local organizations, advocates, and consumers with experience or interest in tax credit programs, high quality child care, or community development. Members shall serve staggered terms of either one or two years. A member may be re-appointed upon completion of their term.

Statutory Authority: ORS 657A.706  
 Statutes Implemented: ORS 657A.700 - 657A.718  
 Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

**414-700-0030**

**Community Agencies**

(1) The Child Care Division shall select one or more community agencies that, in the judgment of the Child Care Division and based on the criteria set forth in OAR 414-700-0050(a) through (d), will best serve the interests of their community.

(2) Community agencies shall:

(a) Disburse moneys to child care providers in their community;

(b) Coordinate an application process by which persons may apply to be participating providers as described in 414-700-0060;

(c) Enter into agreements with participating providers under which the duties and responsibilities of providers and the community agency are stated;

(d) Provide or coordinate required training for participating providers;

(e) Monitor providers through on-site visits and other appropriate means;

(f) Oversee the process by which a provider verifies the income of a family and establishes the total child care fee charged to a family;

(g) Report on provider compliance with OAR 414-700-0080 and other applicable requirements to contributors and the Child Care Division; and,

(h) Establish a maximum family income level for the region for purposes of the child care fee limitation to which providers are subject under OAR 414-700-0080.

Statutory Authority: ORS 657A.706  
 Statutes Implemented: ORS 657A.700 - 657A.718  
 Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

**414-700-0040**

**Application and Renewal Process for Community Agencies**

(1) A community agency desiring to represent a community described in OAR 414-700-0030 shall submit an application to the Child Care Division, in a form prescribed and provided by the Child Care Division. The application will demonstrate and describe the agency's experience and abilities in the following areas:

(a) Financial soundness, net worth, cash flow, and accounting capacity to manage a tax credit program.

(b) Demonstrated ability to serve low- and moderate- income families.

(c) A governing board that is stable, has experience with financial matters, is representative of the community, and has a history of collaboration with other agencies in the community.

(d) An executive officer and staff with skill and experience in child care business management and small business development.

(2) The Child Care Division, in collaboration with the Advisory Committee established in OAR 414-700-0020, shall select a community agency to represent a community.

(3) A selected community agency shall enter into a written agreement with the Child Care Division that specifies the duties and performance expectations required of the agency.

(4) A selected community agency shall represent a community for a period of two years, unless earlier terminated by the Child Care Division for cause or by mutual consent of the parties as specified in the written agreement.

(5) A community agency may apply to continue as a selected community agency for subsequent two-year periods by submitting a renewal application to the Child Care Division.

(6) In deciding whether to renew an application, the Child Care Division and the Advisory Committee shall consider community sat-

isfaction with services delivered and the agency's performance of responsibilities under the written agreement.

Statutory Authority: ORS 657A.706  
 Statutes Implemented: ORS 657A.700 - 657A.718  
 Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

**414-700-0050**

**Distribution of Funds to Community Agencies**

(1) The Child Care Division shall determine the total value of moneys to be available to each selected community agency to distribute to providers based on goals established for the program by the Child Care Division, in collaboration with the Advisory Committee appointed in OAR 414-700-0020 and transmit those determinations to the selected community agencies of each year.

(2) The Child Care Division shall distribute moneys to the community agencies in a manner that will facilitate timely implementation of the program in that community.

(3) The total value of moneys available to all selected community agencies may not exceed the amount of contributions received from taxpayers during the tax year, minus any reasonable administrative costs incurred by the Child Care Division and the selected community agencies.

(4) Distributions shall be made to selected community agencies in the proportion that the Child Care Division determines best promotes the provision of child care in the state.

Statutory Authority: ORS 657A.706  
 Statutes Implemented: ORS 657A.700 - 657A.718  
 Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

**414-700-0060**

**Participating Provider Eligibility Requirements**

(1) To be eligible for disbursements under this program, child care providers shall:

(a) Be regulated by the Child Care Division;

(b) Accept children for whom child care is paid for through Department of Human Services subsidy;

(c) Provide high quality child care as defined by the Child Care Division in collaboration with the Advisory Council;

(d) Maintain adequate liability insurance, financial records and parent policies and contracts; and

(e) Permit the community agency to conduct visits for monitoring purposes.

(2) If the provider is a home-based business, the provider shall meet the following requirements in addition to those in subsection (1) of this section:

(a) Enter into an agreement with the community agency to continue to provide child care services for at least two additional years; and

(b) Provide care to children from at least two families that have incomes of 85 percent or less of the median income for the region.

(3) If the provider is a child care center, at least 25 percent of the families served by the center must have incomes that are 85 percent or less of the median income for the region.

(4) In selecting participating child care providers, selected community agencies must give preference to providers that provide child care to low and moderate income families.

(5) For care provided to children of families whose income does not exceed the level established in subsections (2) and (3) of this section, the fee charged to the family by an eligible provider shall not exceed the percentage of the family's gross monthly income established by the Child Care Division in collaboration with the Advisory Committee appointed in OAR 414-700-0020.

Statutory Authority: ORS 657A.706  
 Statutes Implemented: ORS 657A.700 - 657A.718  
 Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

**414-700-0070**

**Distribution of Funds to Participating Providers**

(1) The selected community agency shall identify providers in the community that meet the requirements of OAR 414-700-0060 for the purpose of distribution of moneys. The selected community agency shall develop a process by which child care providers apply to receive distributions of moneys from contributions made by taxpayers.

(2) By the end of each calendar year, the selected community agency must distribute to participating child care providers all moneys available to the community as a result of this program. Distributions shall be based on:

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(a) The actual costs of providing quality, affordable child care in the community for which distributions are being made, including training costs, operating expenses and wages.

(b) The incomes of the families the provider serves and the child care fees the provider charges.

(3) The selected community agency shall, through a process approved by the Child Care Division, determine the amount of moneys each eligible provider receives.

(4) A substantial portion of the moneys shall be distributed to providers who operate home-based child care businesses.

Statutory Authority: ORS 657A.706

Statutes Implemented: ORS 657A.700 - 657A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

### 414-700-0080

#### Allocation of Certificates

(1) Tax credit certificates shall be available to taxpayers on a statewide basis. The Child Care Division shall allocate tax credit certificates to taxpayers that make qualified contributions Child Care Fund.

(2) If a taxpayer makes a contribution to the Child Care Division for the purpose of receiving a tax credit under this program, the taxpayer shall submit an application for a tax credit certificate with the contribution. The applications shall:

(a) Be available to taxpayers from the Child Care Division; and,  
(b) Be submitted by December 31 of each year.

(3) Contributions made under this subsection shall be deposited in the Child Care Fund.

(4) The Child Care Division shall consider applications for tax credit certificates in the chronological order in which the applications are received by the Child Care Division. The division shall issue tax credit certificates to applicants until the total credit value of all certificates issued by the division for the calendar year equals \$500,000. Each issued certificate shall state the value of the contribution being certified as eligible for the tax credit allowed under ORS 315.213.

(5) The Child Care Division may not issue a tax credit certificate to a taxpayer to the extent the claim for credit in the application, when added to the total credit value previously certified by the Child Care Division exceeds the \$500,000 tax credit value available for the calendar year requested.

(6) A taxpayer who receives a notice of denial of a tax credit certificate or that receives a tax credit certificate issued for an amount that is less than the amount contributed may request a refund for the amount contributed within 90 days of the Child Care Division's denial or issuance of the certificate.

(a) The Child Care Division shall send notice of a denial or changed amount and refund the amount for which a tax credit will not be granted within 30 days after receiving the request.

(b) The refund shall be made from the Child Care Fund.

(7) The Child Care Division shall send a copy of all tax credit certificates issued to the Department of Revenue.

Statutory Authority: ORS 657A.706

Statutes Implemented: ORS 657A.700 - 657A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

### 414-700-0090

#### Taxpayer Requirements

(1) A credit against the taxes otherwise due under ORS Chapter 316 or, if the taxpayer is a corporation, under ORS Chapter 317 or 318, is allowed to a taxpayer for certified contributions made to the Child Care Division under OAR 414-700-0080.

(a) The amount of a tax credit available to a taxpayer for a tax year shall equal the amount stated in the tax credit certificate.

(b) The tax credit may not exceed the tax liability of the taxpayer for the tax year in which the credit is claimed.

(2) Any tax credit not used by the taxpayer in a particular tax year may be carried forward and offset the taxpayer's tax liability in any of the four succeeding tax years. The credit cannot be carried forward for any tax year thereafter.

(a) A taxpayer shall retain the tax credit certificate received under OAR 414-700-0080 with their copy of their tax return filed with the state Department of Revenue for the tax year in which the tax credit certificate applies.

(b) A credit under this section may be claimed by a non-resident or part-year resident without proration.

(3) The credit allowed under this section is in addition to, and not in lieu of, any credit or deduction allowable under ORS Chapters 316, 317, or 318 for charitable contributions and contributions made in relation to child care.

(4) If a taxpayer makes a contribution to the Child Care Division but does not want to receive a tax credit, the taxpayer may receive only deductions and credits otherwise allowed for a charitable contribution.

(5) Contributions made under this program shall be deposited in the Child Care Fund established under ORS 657A.010.

Statutory Authority: ORS 657A.706

Statutes Implemented: ORS 657A.700 - 657A.718

Hist.: CCD 4-2003, f. 12-5-03 cert. ef. 12-7-03

