



Rules for  
**CERTIFIED FAMILY CHILD CARE**

and

General Rules for  
**ALL CHILD CARE FACILITIES**

Department of Early Learning and Care  
Child Care Licensing Division  
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***Rules for Certified Family Child Care, Division 360***

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and

***General Rules for Child Care Facilities, Division 075***

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DEPARTMENT OF EARLY LEARNING AND CARE  
CHAPTER 414, DIVISION 360

## Rules for Certified Family Child Care

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## 414-360-0100 Definitions

The following words and terms within these rules 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 but is not limited to food preparation areas of the kitchen, bathrooms, heating units, storage areas, furniture and stationary equipment not used by children.
- (2) "**Applicant**" means an individual who submits the child care license application and in whose name the certificate will be issued.
- (3) "**Behavior and Guidance**" means the on-going process of helping children develop self-regulation and assume responsibility for their own behaviors and actions.
- (4) "**Business Day**" means Monday through Friday, but does not include any holiday as defined by ORS 187.010 and ORS 189.020, or any day that the central office of CCLD is closed.
- (5) "**Capacity**" means the total number of children allowed in care at the certified family child care or in care away from the home at any one time.
- (6) "**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.
- (7) "**CBR**" (**Central Background Registry**) means CCLD's Registry of individuals who have been approved to be associated with a child care facility in Oregon pursuant to ORS 329A.030 and OAR 414-061-0000 through 414-061-0120.
  - (a) "**CBR Enrollment**" means approval for a five year period to be enrolled in the CBR following an Oregon State Police criminal records check, child abuse and neglect records check, checks of adult protective services and foster care certification, and an FBI records check.
  - (b) "**CBR Conditional Enrollment**" means temporary approval to be enrolled in the CBR following an Oregon State Police records check and child abuse and neglect records check but prior to receipt by CCLD of the results of the required FBI records check.
- (8) "**CCLD**" means the Child Care Licensing Division in the Department of Early Learning and Care.
- (9) "**Child Care**" means the care, supervision, and guidance on a regular basis of a child, unaccompanied by a parent, guardian, or custodial parent, during a part of the 24 hours of the day, with or without compensation.
- (10) "**Certified Family Child Care**" or "Home" means a child care facility located in a building constructed as a single family dwelling or other dwelling that has a certificate to care for a maximum of 16 children at any one time. References in these rules to "certified family child care home" or "home" refer to the provider or any agent, including a substitute provider, operating under the certificate.

- (11) "**Child Care Child**" means any child six weeks of age or older and under 13 years of age, or a child who is under the age of 18 with special needs or disabilities and who requires a level of care that is above normal for the child's age, for whom the provider has supervisory responsibility in the temporary absence of the parent.
- (12) "**Child with Specific Needs**" means a child who requires specialized supports or other accommodations including some adaptation of the certified family child care's standard program of care, activities or equipment to accommodate a physical, developmental, behavioral, mental or medical condition or disability which is either permanent or temporary.
- (13) "**Civil Penalty**" means a fine imposed by CCLD on a provider for violation of these rules.
- (14) "**DELIC**" means the Department of Early Learning and Care.
- (15) "**Developmentally Appropriate**" means:
- (a) Caregivers interact with each child in a way that respects the child's unique abilities;
  - (b) Caregivers have knowledge about how children grow and learn;
  - (c) Activities, materials, and curriculum reflect the interests and abilities of a specific child or group of children being served; and
  - (d) Equipment is appropriately sized or adapted so that each child can participate fully and safely.
- (16) "**Disinfect**" means to destroy or inactivate all germs from an inanimate surface. Disinfecting involves cleaning and rinsing followed by applying a disinfectant, such as:
- (a) A chlorine and water solution following the manufacturer's instructions; or
  - (b) An EPA-registered disinfectant, used according to the manufacturer's instructions including correct concentrations, contact time, drying or rinsing requirements, and suitability for the surface.
- (17) "**Family**" means a group of individuals related by blood, marriage or adoption, or individuals whose functional relationships are like those found in such associations.
- (18) "**Field Trip**" means an excursion or program activity with a specific destination away from the home that begins when caregivers and children leave the premises, whether by vehicle or by walking. It does not include neighborhood walks, routine school or home pick-up and drop-offs provided by the certified family child care.
- (19) "**Fire Code Official**" means a Fire Inspector II, Fire Marshal, Deputy State Fire Marshal or designated person defined by ORS 476.030, ORS 476.060 and OAR 837-039-0016.
- (20) "**Hazard**" means anything that may inflict injury or cause harm.
- (21) "**Inaccessible to children**" means a method to prevent a child from reaching, entering, using, or getting to items, areas, or materials of a certified family child care by one or more of the following means:
- (a) Secured with a child safety device, such as a child safety cupboard lock or doorknob device:
    - (A) A device specifically manufactured as a child safety product; or

- (B) For a product not manufactured as a child safety product, the device must have a multi-step opening process, or require two hands to open.
- (b) Locked, such as in a locked room, cupboard, or drawer; or locks that do not use a key or combination, such as a deadbolt or hook-and-eye latch, only if they are installed at least 60 inches high;
- (c) Behind a properly secured child safety gate; or
- (d) In a cupboard or on a shelf that is not within reach of any surface from where a child could stand or climb.
- (22) "**Infant**" means a child who is 6 weeks to 12 months of age.
- (23) "**Infestation**" means the invasion of insects and worms that causes a disease to the host. These insects can be mites, ticks, fleas or lice. Worms can be roundworms, pinworms, flatworms or other helminths.
- (24) "**License**" means the document that is issued by CCLD to a certified family child care. A license may also be referred to as a certificate.
- (25) "**Licensing period**" means the 12 months for which a certified family child care license is issued.
- (a) For an initial license, the licensing period begins the day the temporary or regular license is issued and ends the same day the following year. For example, if a certified family child care is issued a license on July 6, 2024, the licensing period is July 6, 2024 through July 6, 2025.
- (b) For a renewal license for which the provider submitted a timely renewal application, the licensing period begins the day the prior licensing period ended and ends the same day the following year, regardless of the date the renewal license is issued, unless the provider and CCLD agree to change the licensing period to begin on a different date.
- (26) "**Lockdown**" means restricted to an interior room with few or no windows while the facility or building is secured from a threat.
- (27) "**Night Care**" means care given between 9:00 p.m. and 5:00 a.m. or when any enrolled child sleeps for more than 3 hours at the certified family child care.
- (28) "**Oregon Registry**" means the voluntary registry at the Oregon Center for Career Development in Childhood Care and Education at Portland State University that documents the training, education and experience of individuals who work in childhood care and education.
- (29) "**Oregon Registry Online**" (**ORO**) means the statewide database that stores all submitted training and education to be verified for use by CCLD.
- (30) "**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.
- (31) "**Parent**" means a child's parent, a guardian, or a person 18 years of age or older with supervisory responsibility of the child in the absence of the child's parent.

- (32) "**Physical Restraint**" means purposely limiting or obstructing the freedom of a person's bodily movement. Physical restraint does not include:
- (a) Holding a child to comfort the child when in distress;
  - (b) Holding a child to move them safely from one area to another without the use of force (e.g. redirecting a toddler to another activity);
  - (c) Assisting a child to complete a task, if the child does not resist the physical contact (helping a child to tie their shoe or hold a pencil or tool, bottle feeding, etc.); or
  - (d) Any prohibited discipline or action listed in OAR 414-360-0710.
- (33) "**Play yard**" means a framed enclosure with mesh or fabric sides. A play yard is intended for sleeping and playing accommodations.
- (34) "**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.
- (35) "**Premises**" means the physical location used by a certified family child care to provide care subject to regulation or investigation by CCLD, including all indoor and outdoor areas not directly used for child care if the provider, child care staff, or child care children have actual or potential access to the areas.
- (36) "**Preschool-Age Child**" means a child who is at least 36 months of age but not yet eligible to be enrolled in kindergarten or above, before the first day of the current school year.
- (37) "**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 certificate is issued. The provider is the person responsible for the overall operation of the home and who has the authority to perform the duties necessary to meet certification requirements.
- (38) "**Restrictable Disease**" means an illness or infection as identified by the Public Health Division in OAR 333-019-0010 that would prohibit the child from attending child care.
- (39) "**Sanitizing**" means using a treatment that provides enough heat or concentration of chemicals for enough time to reduce germs, to a safe level on utensils, equipment, toys, and other non-porous surfaces.
- (a) An appropriate test kit or strips are required to measure the concentration of sanitizing solutions.
  - (b) Any sanitizer used on food contact surfaces or toys must be labeled as "safe for food contact surfaces."
- (40) "**School-Age Child**" means a child eligible to be enrolled in kindergarten or above on or before the first day of the current school year (also see ORS 329A.250(12)). This includes the months from the end of the prior school year to the start of the kindergarten school year.
- (41) "**Serious Injury or Incident**" means any of the following:
- (a) Injury requiring surgery;
  - (b) Injury requiring admission to a hospital;



- (c) Injury requiring emergency medical attention;
- (d) Choking and unexpected breathing problems;
- (e) Unconsciousness;
- (f) Concussion;
- (g) Poisoning;
- (h) Medication overdose;
- (i) Broken bone or joint dislocation;
- (j) Severe head or neck injury;
- (k) Chemical contact in eyes, mouth, skin, inhalation or ingestion;
- (l) All burns;
- (m) Allergic reaction requiring administration of Epi-Pen;
- (n) Severe bleeding or stitches;
- (o) Shock or confused state; or
- (p) Near-drowning.

(42) "**Serious Complaint**" and "**Serious Violation**" means an allegation or finding of noncompliance in which:

- (a) Children are in imminent danger;
- (b) There are more children in care than allowed by licensed capacity;
- (c) Disciplinary methods prohibited under OAR 414-360-0710 are being used;
- (d) Children are not being supervised;
- (e) Multiple or serious fire, health or safety hazards are present in the certified family child care;
- (f) Extreme unsanitary conditions are present in the certified family child care;
- (g) Adults are in the home who are not enrolled in the CBR; or
- (h) A home is providing child care without the appropriate certification.

(43) "**Shelter-in-Place**" means caregivers and children staying at the home due to an external threat such as a storm, chemical or gas leak or explosion, or other event that prohibits the occupants from safely leaving the building.

(44) "**Substitute Provider**" means a person who acts as the children's primary caregiver in the certified family child care in the temporary absence of the provider.

(45) "**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 children's needs, and accountability for their care and well-being. Supervision also requires that caregivers be near and have ready access to children in order to intervene when needed.

- (46) "**Technical Assistance**" means consultation and advice given to providers to assist them in maintaining compliance.
- (47) "**Toddler**" means a child who is 12 months of age to 36 months of age.
- (a) "**Younger Toddler**" means a child who is 12 months of age to 24 months of age.
- (b) "**Older Toddler**" means a child who is 24 months of age to 36 months of age.
- (48) "**Unsupervised Access to Children**" means contact with children that provides the person opportunity for personal communication or touch when not under the direct supervision of a qualified child care provider or caregiver with supervisory authority.
- (49) "**Visitor**" means someone who is at the home for a single event, including but not limited to: a repair person, privately contracted professional working with an individual child, or librarian visiting the program. Visitors are not potential employees and are not counted in ratio.
- (50) "**Volunteer**" includes any person who provides labor or services to a certified family child care but is not compensated with employment pay or benefits.

### **414-360-0110 Purpose**

- (1) A certified family child care home is defined as a child care facility that is certified to provide child care for a number of children up to the maximum capacity in a residential setting.
- (2) The purpose of OAR 414-360-0100 through OAR 414-360-1620 is to protect the health, safety, and wellbeing of children when cared for outside their own homes by providing requirements for inspecting, certifying, monitoring and otherwise regulating care in a certified family child care home.
- (3) An individual may not operate a certified family child care home without a valid certification issued by CCLD, unless providing care not requiring a license as provided in OAR 414-075-0250.

### **414-360-0130 Application Process**

- (1) An applicant must submit an original and complete application for certification on the forms provided by CCLD:
- (a) For the initial certification;
- (b) For the renewal of the certification;
- (c) Whenever there is a change of provider or location; or
- (d) For an increase in capacity.
- (2) An applicant that is not the owner of the certified family child care home must identify the owner on the application.
- (3) An applicant must submit a non-refundable filing fee with the application.

- (a) For a certified family child care the fee is \$25 plus \$2 for each certified space. For example, the fee for a certified family child care to care for 14 children is \$25 + \$28= \$53. This fee is required with:
  - (A) Initial application;
  - (B) Re-opening of a certificate after a lapse in certification;
  - (C) A change of provider; or
  - (D) A change of location.
- (b) For a certified family child care, only the fee of \$2 for each licensed capacity space is required with:
  - (A) Renewal application; or
  - (B) An increase in capacity. The fee only applies to the number of licensed capacity spaces over the existing capacity.
- (4) A certified family child care must complete and submit an application to CCLD at least:
  - (a) 45 days before the planned opening date of a new certified family child care or change of location; and
  - (b) 30 days prior to the expiration of the certification for a renewal.
    - (A) If an application for renewal and payment of the required fee is received at least 30 days prior to the expiration date of the current certificate, the current certificate, unless officially revoked, remains in force until CCLD 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 at least 30 days prior to the expiration date of the current certificate, the certificate will expire and the certified family child care must cease operations unless the renewal is completed prior to the expiration date.
- (5) An applicant must provide the following items with the application for an initial certification, change of address and when the home indoor floor plan changes :
  - (a) Approval by an environmental health specialist registered under ORS chapter 700 or an authorized representative of the Oregon Health Authority;
  - (b) A floor plan, including dimensions (length and width) of all rooms to be used, the planned use of each room, the locations of required exits, and the placement of the kitchen and bathrooms;
  - (c) Initial or current lead testing results for each source of drinking water, as required in OAR 414-360-0820; and
  - (d) Verification that the provider has met the initial training and orientation listed in OAR 414-360-0370(1).
- (6) An application for renewal of a certified family child care may be approved by CCLD upon CCLD's receipt of the following:
  - (a) CCLD's Health and Safety inspection completed successfully with CCLD staff; and

- (b) Written approval by an environmental health specialist registered under ORS chapter 700 or an authorized representative of the Oregon Health Authority;
- (7) An applicant must pay in full all civil penalties established by final order against the applicant or be compliant with an CCLD approved payment plan before CCLD will process an initial or renewal application.
- (8) If CCLD has not approved, issued a notice of intent to deny, or issued a final order by default or after a contested case hearing denying an application within 12 months of the date the application was submitted to CCLD, the application may be closed, subject to the applicant's right to submit a new application at any time. This rule does not apply if:
  - (a) The application is a timely renewal application; or
  - (b) CCLD has issued a notice of intent to deny the application that has not resulted in a final order or withdrawal.

### **414-360-0140 Issuance of Certification**

- (1) Upon receipt of a completed application, a certified family child care will be evaluated by a representative of CCLD to determine if it meets all certification requirements.
- (2) CCLD will issue a regular certified family child care certification when the home is determined to be in compliance with all of these rules. For a certified family child care, a regular certification is valid for no more than 12 months.
- (3) CCLD will issue a temporary certified family child care certificate when the home is determined to be in compliance with most of these rules, CCLD has not identified deficiencies that are hazardous to children, and the provider demonstrates an effort to be in full compliance.
  - (a) CCLD may issue a temporary certified family child care certification when a renewal application is submitted less than 30 days prior to the certification expiration date or in response to an initial application.
  - (b) A certified family child care may not operate under a temporary certification for more than 180 days in any 12-month period.
  - (c) CCLD may deny an initial or renewal application or revoke a temporary certificate if deficiencies continue while the temporary certification is in effect.
- (4) A certified family child care may not operate after expiration or revocation of a temporary certification unless a prior regular certification is active due to a renewal application submitted more than 30 days before the regular license expiration date.
- (5) The license will be issued in the name of the provider. A provider is limited to one certificate at one address.
- (6) For certified family child care, an owner:
  - (a) Who has no regular caregiving duties, may own any number of certified family child care homes.
  - (b) Who is the provider at one home, may be the owner of only one additional home.

- (c) Can be the provider at two certified family child care homes when:
  - (A) Both homes are licensed for 12 or fewer children; and
  - (B) The minimum hours on-site caring for children (see OAR 414-360-0320(2)) are met at each home.
- (7) A certified family child care certificate cannot be transferred to any other location or to another organization or individual.
- (8) Only one certified family child care certificate will be issued at one address.
- (9) A provider must request in writing to CCLD any changes in the conditions of the license such as ages of children served, capacity, changes in room use, or hours of operation. A provider must receive approval and, if applicable, a reissued license from CCLD before operating with the changes.

### **414-360-0150 Certification Process**

- (1) A provider must comply with the conditions of the certification when admitting children, including, but not limited to, capacity, hours of operation, age range, and special conditions.
- (2) If an applicant or a provider is also a certified foster care parent, they must inform CCLD. CCLD may communicate with Oregon Department of Human Services (ODHS) regarding the child care license.
- (3) A provider must allow representatives of all agencies involved in licensing process to have immediate access to all areas of the home and premises when child care children are present, including:
  - (a) Areas deemed inaccessible to children, including rooms not typically used for child care, second floors and other structures on the premises;
  - (b) Records of children enrolled in the certified family child care, and all records and reports related to the child care operation regarding compliance with these rules as required in OAR 414-360-0255; and
  - (c) All caregivers.
- (4) The home may be inspected by the local fire jurisdiction when local ordinances require a fire life safety survey as part of a business license or when CCLD determines there is a need to do so.
- (5) If there is a structural or maintenance problem or remodeling that CCLD determines could present a health or safety hazard to children, CCLD may request that the provider have the home inspected by the appropriate authority and the provider shall comply with the request. The provider must provide CCLD with a copy of the inspection report from such authority immediately upon receipt.
- (6) A certified family child care certification may be denied, suspended or revoked if the provider has been removed, denied or suspended from the CBR.

- (7) If a complaint alleges that a provider is not in compliance with these rules, CCLD will conduct an investigation and assessment as provided in OAR 414-075-0130.
- (8) CCLD may conduct unannounced monitoring visits of a certified family child care at least annually for the purpose of determining compliance with these rules and terms and conditions of certification.
- (9) In connection with a monitoring or investigation visit, CCLD may offer technical assistance when appropriate to assist the provider in complying with these rules and provide technical assistance when requested by the provider.
- (10) Information provided by or on behalf of the provider to CCLD on applications, in records or reports, or any other written or verbal communication must be current, complete, and accurate.
- (11) Parental request or permission to waive any of the rules for the certification of a certified family child care home does not give a provider permission to do so.
- (12) CCLD certification records are open to the public on request, including findings of complaint investigations. However, information protected by state or federal law and the names of children and adults will not be disclosed.
- (13) The name, address, telephone number, and certification status of providers is public information. However, CCLD 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 them or a family member living in the home (OAR 137-004-0800). The request must be on a form supplied by CCLD.

## **414-360-0160 Exceptions to Rules**

- (1) A provider may request an exception to a rule on a form provided by CCLD for a specified period of time when:
  - (a) A requirement does not apply to the certified family child care home; or
  - (b) The intent of the requirement can be met by a method not specified in the applicable rule.
- (2) An exception request must include:
  - (a) A justification for the requested exception; and
  - (b) An explanation of how the provider will meet the intent of the rule.
- (3) An exception request will not be granted:
  - (a) If the requirement is established by state statute or federal law; or
  - (b) If the health, safety, and well-being of the children cannot be ensured.
- (4) A provider must remain in compliance with the rule as written until CCLD approves the exception request.
- (5) In certain circumstances, a provider may be granted an ongoing exception that will be reviewed annually to confirm the provider is in compliance with all exception requirements.

- (6) Each exception request is unique to the applicable certified family child care and is evaluated on its own merits. The granting of an exception to a rule does not set a precedent.
- (7) CCLD may withdraw approval of an exception at any time, to ensure the health, safety and well-being of the children.

## **414-360-0200 Policies**

- (1) A provider must have written information and policies identified in OAR 414-360-0200(2)(a) through (i) and provide them to:
  - (a) Caregivers and volunteers at the time of hire and when policies change; and
  - (b) Parents at the time of a child's enrollment and when policies change.
- (2) A provider must provide the following written information to parents, caregivers, and volunteers:
  - (a) Name, business address, and business telephone number of the person(s) who has immediate responsibility for the daily operation of the home;
  - (b) Arrival and departure procedures, including sign-in and out requirements and individuals authorized for pick-up;
  - (c) Parent responsibilities for providing current required information and what parents are expected to provide;
  - (d) Emergency preparedness and response plan (also see OAR 414-360-0210, Emergency Preparedness and Response);
  - (e) Standard precautions to handle potential exposure to blood and other potentially infectious fluids (see OAR 414-360-0850(7));
  - (f) Information on transportation, when provided by the certified family child care;
  - (g) Behavior and guidance policy;
  - (h) Prevention of and duty to report suspected child abuse and neglect; and
  - (i) Night care, if provided.
- (3) As required by state and federal civil rights laws and the Americans with Disabilities Act (ADA), a provider cannot 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) Suspected violations will be reported to the overseeing agency, with whom CCLD may share any information available to it.
  - (b) CCLD may deny an initial or renewal application or revoke a certification if a provider is determined to have discriminated in violation of this requirement by any authority with jurisdiction to make the determination.

- (4) A provider's decision whether to provide or continue care for a child known to have specific needs must be made after an individualized assessment is completed. The assessment must be based on information from parents, professionals who are knowledgeable about the child's care needs, and certified family child care caregivers. The assessment must be documented for each child and must include:
- (a) Reasonable accommodations the provider made to support the individual child's participation in the program, or an explanation of why the provider could not make reasonable accommodations;
  - (b) Reasonable modifications the provider made to their policies and practices to fully integrate the child into the program or an explanation of why the provider could not make reasonable modifications; and
  - (c) If applicable, any direct threats to the health and safety of others posed by the child's presence at the home.

### **414-360-0210 Emergency Preparedness and Response**

- (1) A provider must have a written plan for emergency preparedness that addresses evacuation, relocation, shelter-in-place and lockdown procedures, and responding to medical emergencies and other incidents. The plan must be followed, unless otherwise instructed by emergency personnel.
- (2) The plan must include the provider's procedures for:
- (a) Responding to a lost or missing child;
  - (b) Ensuring that all children in attendance are supervised and accounted for during and after an emergency;
  - (c) The way that caregivers and children are alerted of the emergency;
  - (d) Notifying emergency authorities, including the poison control center, when necessary;
  - (e) Evacuating children to a designated safe area or relocating children to alternate shelter. Designated safe areas and alternate shelters must be a minimum of 50 feet from the home being evacuated;
  - (f) Moving children to a designated location in the home for sheltering-in-place and lockdown emergencies;
  - (g) Responding to natural and human-made disasters including power outages;
  - (h) Responding to serious illness, serious injury or death of a child or caregiver;
  - (i) Responding to incidents involving a hostile intruder;
  - (j) Addressing the needs of individual children, including children with disabilities or other specific needs, and children with chronic medical conditions;
  - (k) Ensuring children's emergency contact information and medical authorization and caregivers' emergency contact information is accessible during and after an emergency;



- (l) Notifying parents after the emergency ends and how children will be reunited with their families as the evacuation, relocation, or sheltering/lockdown is lifted;
  - (m) Maintaining continuity of care after a natural or human-made disaster, including access to copies of records, documents, and computer files necessary for continued operation stored in either a portable file or at an off-site location;
  - (n) Ensuring pool and swimming safety if applicable (also see OAR 414-360-1300, Swimming); and
  - (o) The plan must identify a licensed physician, hospital, or clinic to be used for emergency medical care.
- (3) A provider must observe weather conditions and other possible hazards to take appropriate action for child health and safety. Conditions that pose a health or safety risk may include, but are not limited to:
- (a) Heat in excess of 100°F, or pursuant to advice of the local authority;
  - (b) Cold less than 20°F, or pursuant to advice of the local authority;
  - (c) Lightning storm, tornado, hurricane, or flooding if there is immediate or likely danger;
  - (d) Earthquake;
  - (e) Air quality emergency ordered by a local, state, or federal authority on air quality or public health;
  - (f) Lockdown notification ordered by a public safety authority; and
  - (g) Other similar incidents.
- (4) A provider must have an emergency light source, such as a flashlight, in working condition, stored in an easily accessible location.
- (5) A provider must review the written plan and all emergency procedures:
- (a) At least once per licensing period and update the procedures as needed.
  - (b) With caregivers at least once per licensing period and whenever the plan is updated.

## **414-360-0220 Children's Records**

- (1) A provider must obtain the following information for each child, in paper or electronic format, prior to the first day of attendance that includes a parent's signature:
- (a) The child's name, date of birth, and home address;
  - (b) Date child entered care;
  - (c) Name(s), home and business address(es) and telephone number(s) of the custodial parent(s) or legal guardian(s);
  - (d) Name and contact information of the person to be called in an emergency if the parent(s) cannot be reached;
  - (e) Name and telephone number of person(s) to whom the child may be released;

- (f) The name and telephone number of the school that the child attends, if applicable;
  - (g) Name and telephone number of child's medical provider(s) or emergency care facility, if known;
  - (h) Immunization record or exemption as required by OAR 414-360-0225 (Immunizations);
  - (i) Authorization to obtain emergency medical care and to transport the child for emergency medical treatment;
  - (j) Developmental and health history of any problems that could affect the child's participation in child care;
  - (k) A written care plan for any child with a specific need as described in OAR 414-360-1050. The written care plan must be readily accessible to caregivers caring for the individual child; and
  - (l) Verification that parents have received a copy of the provider's policies.
- (2) A provider must ensure that all children's records are immediately accessible to caregivers during hours of operation for use in an emergency or for children with chronic health issues or specific care needs.
- (3) A provider must ensure that all children's records are kept current at all times. A provider must have the parent or guardian review, update, and sign or initial the enrollment form at least annually.
- (4) A provider must permit parents, upon request, to review records and reports concerning the parent's own children, with the exception of child abuse and neglect reports.

### **414-360-0225 Immunizations**

- (1) A provider must comply with Oregon Health Authority's administrative rules (see OAR 333-050-0040) relating to the immunization of children. If a child is enrolled in a public or private elementary school, immunizations are not required to be documented by the child care facility.
- (2) A provider may provide care for children who are in foster care or experiencing homelessness while parents/guardians are taking necessary actions to comply with immunization requirements of the certified family child care.

**414-360-0230 Parental Permissions**

- (1) A provider must have the following current permissions from parent(s) when applicable:
- (a) Documentation of permission for a person not listed in the child's records to pick up the child;
  - (b) Signed and dated permission for each medication, prior to administration, that includes:
    - (A) The child's name;
    - (B) The name of and the reason for the medication;
    - (C) The dosage, dates, and times to administer the medication, and how the medication will be given; and
    - (D) Whether the medication needs to be refrigerated.
  - (c) For chronic medical conditions, a provider may obtain permission for 12 months or less with specific instructions including when administration is needed, such as diaper cream and inhalers (also see OAR 414-360-1030, Medications).
  - (d) Prior to transporting a child, a provider must have the following information:
    - (A) The child's name; and
    - (B) A specific pick-up and drop-off plan that addresses the location, times, and transfer of supervision.
  - (e) Prior to a school-age child arriving or leaving the facility on their own.
  - (f) Permission to bathe a child, if necessary.
  - (g) Prior to a field trip or other activity away from the immediate neighborhood.
  - (h) Prior to a child participating in a high-risk activity, such as swimming or mountain biking, and share a safety plan with parents.
  - (i) Prior to using photographs or recordings of the child publicly (e.g. social media, advertisements).
- (2) If a family served by a provider is experiencing homelessness, the provider must make efforts to follow OAR 414-360-0230 (1). If a provider is unable to acquire written parental permissions, permissions may be received verbally, when documented by the provider, or electronically, such as through a text message or e-mail.

**414-360-0235 Arrival and Departure**

- (1) A provider must require that any person bringing a child to the home remain with the child until the child is accepted by a caregiver.
- (2) A provider may only release a child to a parent or another person named and identified by the parent(s). A person picking up the child must show identification if not known to the caregiver.
- (3) Except as excluded by a court order, parents must be permitted access to their child and all child care areas while their child is in care. Advance notice is not required.

## **414-360-0240 Caregiver Records**

A provider must maintain a current personnel record for each caregiver, in paper or electronic format, which includes:

- (1) Evidence of education and qualifying work experience showing that the person meets the qualifications for the position;
- (2) The CBR confirmation letter sent from CCLD to the provider. If the provider does not yet have a CBR confirmation letter for the caregiver, the provider must have written documentation that the provider has verified with CCLD that the caregiver is enrolled in the CBR and linked to the home. Documentation must include the date, time, and name of the CCLD staff member the provider spoke with;
- (3) Current pediatric CPR and first aid training certification;
- (4) Current food handler certification, prior to serving or preparing food;
- (5) Evidence of participation in an orientation; and
- (6) A statement signed and dated by the caregiver showing they have access to the provider's policies and the rules for the Certification of Certified Family Child Care Homes.

## **414-360-0250 Program Records**

A provider must maintain the following program records, either in paper or electronic format:

- (1) The current day's attendance record for each child care child as defined in OAR 414-360-0400(1). All caregivers must have access to the attendance records to determine which children are in care during their work shift, changes in caregivers, and emergency evacuations. The daily attendance record must include:
  - (a) The child's full name; and
  - (b) Times recorded as caregivers of arrive and depart so that the record shows the caregivers in attendance at any given time.
- (2) Daily caregiver attendance records to include:
  - (a) The caregiver's name; and
  - (b) Times of arrival and departure.
- (3) Written reports of injuries as identified in OAR 414-360-1020(1);
- (4) A visitor log to document all adults, excluding persons authorized to drop off and pick up a child, that includes name, relationship to home (e.g., volunteer, vendor, guest, landlord, etc.), and recorded time in and out of the home.
- (5) Documentation of the administration of any medication that includes:
  - (a) The child's name;
  - (b) Medication administered;
  - (c) The date and time when medication was administered;
  - (d) The dosage or amount of medication administered; and

- (e) Any side effects exhibited by the child.
- (6) Written records of suspected child abuse and neglect reports made to the Department of Human Services Child Welfare or law enforcement.
- (7) Written records regarding emergency preparedness and fire protection, such as dates of drills.
- (8) Current week's menu, with substitutions recorded.

## **414-360-0255 Record Retention and Access**

- (1) A provider must retain the following records for two (2) years:
  - (a) After their initial creation for identified Program Records in OAR 414-360-0250;
  - (b) After termination of employment for identified Caregiver Records in OAR 414-360-0240;
  - (c) After termination of care for documentation of parent permissions listed in OAR 414-360-0230;
  - (d) After termination of care for identified Children's Records in OAR 414-360-0220 ;  
and
  - (e) After initial creation, vehicle records identified in OAR 414-360-1230(2).
- (2) A provider must retain menus as described in OAR 414-360-1100(13) for three weeks after creation.
- (3) A provider may store records off site that are older than one (1) year but they must be made available within 48 hours, upon request. A provider must make all other records required by these rules available to CCLD at all times.
- (4) A provider must have at least one caregiver on site who can access any records that are stored in paper or electronic formats.
- (5) Electronic records, including but not limited to Children's Records, Caregiver Records and current day's attendance record, must be portable for use during an emergency evacuation.
- (6) If using electronic records, the provider must have procedures in place to ensure prompt access, including an on- or off-site electronic back-up method to ensure access in the event of data loss.

**414-360-0260 Items Available for Review**

- (1) A provider must display the following near the entrance, or in some other area of the home where they may be clearly viewed by parent(s) and caregivers of children in care:
  - (a) The most current certification issued by CCLD;
  - (b) All serious valid complaints and serious non-compliance letters for 12 calendar months from the date of the letter;
  - (c) A notice of any current or pending legal sanctions posted immediately and while in effect, including throughout any appeal period;
  - (d) The DELC website [[www.oregon.gov/DELC](http://www.oregon.gov/DELC)] and phone number [1-800-556-6616], and a statement advising parents that they can access information about their child care provider on the child care safety portal; and
  - (e) A notice that the items listed in (3) of this rule are available.
- (2) A provider shall display a floor plan identifying the locations of the following near the entrance, or in some other area of the home where they may be clearly viewed by all individuals responsible for evacuation procedures:
  - (a) Exits;
  - (b) Primary evacuation routes;
  - (c) Secondary evacuation routes; and
  - (d) Fire extinguishers.
- (3) A provider must have the following items available in a prominent and frequently visited location for the parents and public to view:
  - (a) The most recent CCLD inspection and rules for certification of child care homes are available upon request;
  - (b) The most recent water test results summary provided by CCLD (also see OAR 414-360-0820, Water Supply and Plumbing);
  - (c) Information on how to report a complaint to CCLD regarding certification requirements;
  - (d) The Oregon Child Abuse and Neglect Hotline number and requirement to report suspected abuse or neglect;
  - (e) A notice that parents must be permitted access to their child and all child care areas while their child is in care. Advance notice is not required.
  - (f) The provider's behavior and guidance policy;
  - (g) Emergency numbers to include 9-1-1, where available, or local law enforcement, local mental health crisis line, fire department, and ambulance service;
  - (h) A daily schedule, as identified in OAR 414-360-0520;
  - (i) The current week's menu with substitutions recorded; and
  - (j) A plan to ensure that any visitor or other adult not enrolled or conditionally enrolled in the CBR does not have unsupervised access to children.

**414-360-0270 Notifications**

- (1) A provider must notify CCLD by 5:00pm the next business day of the following items:
- (a) A change in mailing address, when different from the physical address;
  - (b) A change in phone number;
  - (c) A known legal action or child abuse or neglect investigation, such as an arrest, criminal investigation or charge, or Victim Protection Order, involving any person for which a Certified family child care is required to request a background check;
  - (d) A permanent closure;
  - (e) Any damage to the building that affects the provider's ability to comply with the rules for Certified family Child Care Homes;
  - (f) An incident that exposes children to an imminent risk of harm, such as a child leaving the home without the provider's knowledge or being left alone on or off site or in a vehicle;
  - (g) An animal bite to an adult or child that occurs on the premises or that occurs away from the home when participating in child care activities;
  - (h) An accident involving transportation, unless there were no injuries and only minor damage to the vehicles;
  - (i) Any serious injury or incident involving a child;
  - (j) A child who is given the incorrect dosage of any medication;
  - (k) A child who took or received another person's medication;
  - (l) The death of a child while in care or death of a caregiver;
  - (m) Other dangers or incidents requiring emergency response such as a fire or temporarily relocating children;
  - (n) Any time prohibited discipline or prohibited actions occur (also see OAR 414-360-0710, Prohibited Discipline and Actions); and
  - (o) Any incident where physical restraint is used (also see OAR 414-360-0720, Physical Restraint).
- (2) Any caregiver who has reason to believe a child has been abused or neglected is required to report the matter immediately to the Oregon Child Abuse Hotline (1-855-503-7233), Department of Human Services Child Welfare, or a law enforcement agency. This requirement applies 24 hours a day. This requirement applies to any suspected physical, sexual or emotional abuse; child neglect, child endangerment, or child exploitation; inappropriate sexual contact between two or more children; or attempted suicide or threats of suicide by a child.
- (3) A provider must immediately notify the Oregon Health Authority of a known case, in individuals associated with the certified family child care, of a child care-restrictable disease, as defined in Oregon Administrative Rule, OAR 333-019-0010.
- (4) A provider must immediately notify parents or an emergency contact if the parent cannot be reached and document if their child:

- (a) Does not arrive on their own at the home as scheduled, such as when a school-age child is walking to the home or when a child is transported from another program;
  - (b) Is not present at the pick-up location as scheduled;
  - (c) Is involved in an incident that placed the child at risk such as being lost, missing or left alone on a playground, a field trip, or in a vehicle;
  - (d) Has experienced any suspected allergic reactions, as well as the ingestion of or contact with the allergen even if a reaction did not occur;
  - (e) Was not administered medication in accordance with directions;
  - (f) Received emergency medication for a life-threatening condition such as epinephrine;
  - (g) Sustains an injury that may need evaluation by a medical professional or any impact to a child's head;
  - (h) Has been exposed to poison;
  - (i) Has been fed human milk or formula intended for another child (see OAR 414-360-0610, Feeding Infants);
  - (j) Is bitten by an animal or another child, when the skin is broken or when an evaluation by a physician may be needed;
  - (k) Is separated from the group due to an illness;
  - (l) Dies while in care; or
  - (m) Is involved in any incident where physical restraint is used (also see OAR 414-360-0720, Physical Restraint).
- (5) A provider must immediately notify parents in writing if a condition or restriction is placed on the license.
- (6) A provider must notify parents upon child pick-up of:
- (a) Significant changes in their child's physical or emotional state;
  - (b) Known injuries such as cuts, scratches, and bites from other children requiring first aid treatment;
  - (c) A child care restrictable disease or infestation exposure from a caregiver or another child;
  - (d) Any medication administered to their child;
  - (e) An animal bite to a child, when the skin is not broken; and
  - (f) Implemented emergency plans and procedures, except for drills.
- (7) A provider must notify parents if there will be a substitute provider and the substitute's name. 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.
- (8) Prior to the occurrence, the provider must notify families of any planned field trips including estimated departure and return times and the destination.



- (9) A provider must have a method for notifying families when any child or caregiver has a child care restrictable disease, as defined in Oregon Administrative Rule or food poisoning (also see OAR 414-360-1010, Illness);
- (10) CCLD will notify parent(s) or guardian(s) of children under 12 months of age enrolled in the home of any valid non-compliance with OAR 414-360-0620(1)(a)(A) through (C), OAR 414-360-0620(1)(b) and (c), and OAR 414-360-0630(1)(a) through (l).

## **414-360-0300 General Caregiver Requirements**

- (1) A provider must ensure that all caregivers, volunteers and household members who have supervised or unsupervised access to child care children:
  - (a) Comply with certification rules;
  - (b) Recognize and act to correct hazards to physical safety, both indoors and outdoors;
  - (c) Demonstrate good judgment as evidenced by responsible behavior that reasonably ensures the health and safety of children; and
  - (d) Have not consumed nor are under the influence of any substance that impairs their ability to care for children. "Under the influence" means observed abnormal behavior or impairments in mental or physical performance leading a reasonable person to believe the individual has used alcohol, any controlled substances (including lawfully prescribed and over-the-counter medications), marijuana or inhalants that impairs their performance of essential job function or creates a direct threat to child care children or others.
- (2) All caregivers, including the provider must:
  - (a) Individualize the care and learning opportunities to meet each child's needs based upon the child's age and abilities, including reviewing the information provided by parents while respecting confidentiality;
  - (b) Be physically capable of performing duties related to child care;
  - (c) Relate to children with courtesy, respect, acceptance, and patience;
  - (d) Demonstrate realistic expectations for behavior based on the age, abilities, and needs of children;
  - (e) Recognize and respect the uniqueness and potential of all children, their families, and their cultures;
  - (f) Report suspected abuse, neglect, and exploitation in accordance with Oregon law (also see OAR 414-360-0270, Notifications); and
  - (g) Have the required training and experience for the position they are filling.
- (3) A provider must ensure that any person who has demonstrated behavior that could endanger the health, safety or wellbeing of a child is not on the premises during child care hours nor has access to children in care. 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.

- (4) Any caregiver known or appearing to have a child care restrictable disease, as defined in OAR 333-019-0010, a symptom of physical illness as described in OAR 414-360-1010(1)(b)(A) through (K), or mental incapacity that poses a threat to the health or safety of children shall be relieved of their duties.

### **414-360-0310 Central Background Registry Enrollment**

- (1) The provider must be enrolled in CCLD's CBR prior to the issuance of a certification. All caregivers and other residents of the child care home 18 years of age and older must be enrolled or conditionally enrolled in CCLD's CBR prior to the issuance of an initial or renewal certificate.
- (2) Residents of the child care home who are under 18 years of age must be enrolled or conditionally enrolled in the CBR by their 18th birthday.
- (3) If the owner is not the provider, the owner must be enrolled in the CBR to be on the premises or present with children off-site during child care hours.
- (4) The provider must receive confirmation from CCLD that an individual 18 years of age or over, is enrolled or conditionally enrolled in the CBR before the individual can:
- (a) Reside in the child care home;
  - (b) Stay overnight on the premises for longer than 14 consecutive days, not to exceed a total of 30 days in a calendar year, unless not required to enroll in the CBR as provided in subsection (5) of this rule;
  - (c) Work in the home; or
  - (d) Volunteer in the home, as required in OAR 414-360-0360.
- (5) Individuals 18 years of age and older that reside on the premises in living spaces other than the child care home (including, but not limited to, Accessory Dwelling Units (ADUs) or other Alternative Housing units, tiny homes, recreational vehicles (RVs), trailers, garage apartments, etc.) are not required to enroll in the CBR if all of the following conditions are met:
- (a) Those residing in or visiting the living space are not known by the provider to be suspended or to have been denied or removed for cause from the CBR;
  - (b) The living space can be accessed without entering the child care home;
  - (c) Those residing in or visiting the living space have no opportunity for access to child care children without the permission of the provider and presence of a caregiver employed in the child care home. For the purposes of this rule, an individual has opportunity for access to child care children if they are able to be close enough to touch or have a conversation with a child care child inside or outside the home.
  - (d) Child care is never conducted in the living space and child care children do not have access to the living space; and
  - (e) The living space offers basic necessities such as running water, a bathroom, and cooking appliances, without having to enter the child care home during operating hours or when child care children are present.

- (6) The provider, caregivers, and other individuals that are required to be enrolled in the CBR must maintain current enrollment in the CBR at all times while the certified family child care license is active.
- (7) Individuals with conditional enrollment in the CBR shall not have unsupervised access to children.
- (8) Any visitor to the child care home or other adult who is not enrolled in the CBR shall not have unsupervised access to children.
- (9) A provider must have safeguards in place to prevent a visitor's unsupervised access to children, including a sign-in and sign-out process that captures:
  - (a) The individual's name and relationship to the certified family child care (e.g. volunteer, vendor, guest, etc.); and
  - (b) Arrival and departure times.
- (10) A provider must ensure that individuals whose CBR enrollment has been revoked, denied, or suspended, are not on the premises during operating hours or when child care children are present; have contact with children in care; or live on the premises of the child care home (including, but not limited to ADUs or other Alternative Housing units, tiny homes, RVs, trailers, garage apartments, etc.).
- (11) If additional information is needed to assess a person's ability to care for children or to have access to children, CCLD may require references, an evaluation by a physician, counselor, or other qualified person, or other information.

## **414-360-0320 Duties and Qualifications of the Provider**

- (1) A provider is responsible for:
  - (a) Maintaining compliance with all certified family child care home rules and all conditions placed on the certificate;
  - (b) Managing administrative functions, including, but not limited to: maintaining records; financial management; budgeting; maintenance of buildings and grounds; meal planning and preparation; and transportation, if provided;
  - (c) Supervision of children in care; and
  - (d) Supervision of assistants, volunteers and other caregivers.
- (2) A provider must be on site and actively engaged in the care of the child care children, at least half of the weekly operating hours or 40 hours per week, whichever is less.
- (3) If the facility is certified for more than 12 children, the provider must be on site and actively engaged in the care of the child care children, at least 2/3 of the weekly operating hours or 40 hours per week, whichever is less.
- (4) The provider's on-site hours shall be calculated on a weekly basis, except for planned leave, such as vacations, and emergency absences.
- (5) The provider or a substitute provider must be in the child care home or activity areas during all hours of operation.

(6) A provider must:

- (a) Be at least 18 years of age if the facility is certified for 12 children; or
- (b) Be at least 21 years of age if the facility is certified for more than 12 children;
- (c) Meet the initial (see OAR 414-360-0370(1)) and annual training requirements (see OAR 414-360-0380);

(d) Have attained one of the following:

(A) At least 1,500 hours of experience 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.

(i) Experience must be documented.

(ii) Time spent in a college practicum or practice teaching is considered qualifying teaching experience.

(iii) The following does not constitute qualifying experience: leader of a scout troop; Sunday school teacher; and coaching.

(iv) If the provider's qualifying teaching experience is based on registered family child care, the maximum capacity of the home will be limited to 12. Prior to applying to be certified for up to 16 children, the provider must complete 1,500 hours of operation as a certified family child care facility with a capacity of 12 or fewer children.

(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 step 6 in the Oregon Registry.

(7) Prior to the provider providing care to more than two children under 24 months of age, the provider must have at least 30 clock hours of training specific to infant and toddler care.

(8) Prior to the provider providing care to more than four children under 24 months of age:

(a) The provider must have an additional 20 clock hours of training specific to infant and toddler care. This is in addition to the 30 clock hours specified in OAR 414-360-0320(7); and

(b) At least one caregiver other than the provider must meet the requirements specified in OAR 414-360-0320(7).

(c) If the facility is certified to care for more than 12 children, there must be a caregiver who meets the training requirements of OAR 414-360-0320(7) on site at all times that five or more children under 24 months of age are in care.

(9) A provider must have no other employment, paid or unpaid, either in or out of the home, during the hours the provider is actively engaged in the care of the child care children.

(10) A caregiver substituting for the provider must:

(a) Meet assistant II qualifications (OAR 414-360-0340(3));

- (b) Be familiar with the certification requirements;
  - (c) Have access to all records required for certification;
  - (d) Be familiar with the duties of the provider and any other caregivers or volunteers;
  - (e) Be familiar with and able to be responsive to the needs of children in care including individual children's allergies, plans of care, and any specific needs;
  - (f) Be authorized and able to correct deficiencies; and
  - (g) Have on file documentation of a review of the requirements in this section (OAR 414-360-0320(10)).
- (11) Substitutes available through the Child Care Substitutes of Oregon (CCSO) may substitute as the provider, assistant II or assistant I without prior experience working at the certified family child care. An orientation (see OAR 414-360-0370(3)(a)) must be completed prior to the individual serving as a substitute at the certified family child care.

### **414-360-0340 Duties and Qualifications of Assistants**

- (1) Assistants may be included in the caregiver-to-child ratio calculation.
- (2) An assistant I must:
- (a) Be at least 14 years of age;
  - (b) Meet initial training requirements (see OAR 414-360-0370(3), Orientation and Initial Training);
  - (c) If under the age of 18, be within sight AND sound of a caregiver who meets the qualifications of provider or substitute provider. If under 18 years old, an assistant I may never be left alone with a child or group of children;
  - (d) If 18 years of age or older, be within sight OR sound of caregiver who meets the qualifications of the provider or substitute provider, at all times while with children.
- (3) An assistant II must:
- (a) Be at least 18 years of age and enrolled in the CBR;
  - (b) Have completed all Orientation and Initial Training Requirements (OAR 414-360-0370)(3); and
  - (c) Meet Annual Training requirements (OAR 414-360-0380).
- (4) With the approval of the provider, an assistant II may be out of sight and sound of the provider with a group of children.

### **414-360-0360 Volunteers**

- (1) If a volunteer is counted in determining caregiver-to-child ratios, the volunteer must:
- (a) Meet the qualifications for the position they are filling, including CBR enrollment;
  - (b) Meet the orientation and initial training requirements (see OAR 414-360-0370(3)); and

- (c) Meet the annual training requirements for the position they are filling.
- (2) If volunteers may have unsupervised access to children, they must be enrolled in the CBR.
- (3) If volunteers do not have unsupervised access to children at any time, including during emergencies, a 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 Central Background Registry.

## **414-360-0370 Orientation and Initial Training**

- (1) Prior to being issued an initial certificate, a provider must complete:
  - (a) Introduction to Child Care Health & Safety Training;
  - (b) A minimum of two hours of training on child abuse and neglect that is specific to Oregon law;
  - (c) Safe Sleep for Oregon's Infants;
  - (d) Current certification in pediatric CPR and first aid. CPR training must have practical hands-on instruction. CPR courses that involve an on-line component with hands-on instruction may be accepted. Strictly on-line CPR training is not acceptable;
  - (e) Foundations for Learning child development training; and
  - (f) Oregon food handler's certification.
- (2) The provider's Oregon food handler's certification and pediatric CPR and first aid certification must remain current while the certification is active.
- (3) A provider must ensure that all caregivers, including substitutes:
  - (a) Receive an orientation within the first 10 business days of working in the home and before caregivers have unsupervised access to children. An orientation must include, but is not limited to:
    - (A) A review of the rules for certified family child care homes;
    - (B) The written plan for emergency preparedness that addresses evacuation, relocation, shelter-in-place and lockdown procedures and responding to medical emergencies, illness and injuries, allergic reactions, and other incidents;
    - (C) The prevention and control of infectious diseases;
    - (D) Building and premises safety including identification and protection from hazards such as electrical hazards, bodies of water, and vehicular traffic;
    - (E) The handling and storage of hazardous materials and the appropriate disposal of bodily fluids;
    - (F) Safe sleep practices, prevention of shaken baby syndrome, abusive head trauma, and child maltreatment;
    - (G) The provider's policies, as required under OAR 414-360-0200, Policies; and
    - (H) Procedures for reporting suspected child abuse or neglect.

- (b) Complete the following within 30 days of beginning work in the home and prior to having unsupervised access to children:
- (A) Introduction to Child Care Health and Safety;
  - (B) A minimum of 2 hours of CCLD approved training on recognizing and reporting child abuse and neglect that is specific to Oregon law; and
  - (C) Safe Sleep for Oregon's infants.
- (c) Complete the following within 90 days of beginning work in the home and prior to having unsupervised access to children:
- (A) Current certification in pediatric CPR and first aid. On-line CPR training is only acceptable if it includes hands-on instruction. Pediatric CPR and first aid must be kept current during employment at the certified family child care home; and
  - (B) Foundations for Learning child development training.
- (d) Obtain an Oregon food handler's certification prior to preparing and serving food and/or bottles. Food handler's certification must remain current during employment at the certified family child care home.

### **414-360-0380 Annual Training**

A provider must ensure the following training requirements are met for each caregiver:

- (1) The provider and each assistant II must have at least 15 clock hours of formal training or education annually related to child care, of which at least 8 clock hours is in child development and 1 hour is in health, safety, and nutrition (HSN).
- (2) Substitute providers and substitute assistant IIs who provide care for 240 hours or more per licensing period must meet annual training requirements identified in OAR 414-360-0380(1). Assistant II that substitute for the provider must meet annual training requirements identified in OAR 414-360-0380(1).
- (3) Caregivers employed less than a year must complete training requirements prorated at 1.25 clock hours for each month worked in the current license period. If the 15 hours of training are pro-rated, the requirement to have 8 hours of training in child development or early childhood education does not apply.

### **414-360-0385 Training Criteria**

- (1) The provider and all caregivers employed by a certified family child care home must have an active account with ORO. Caregiver training must meet the following requirements:
  - (a) Be approved by ORO; and
  - (b) Be at least 1 hour in duration.

- (2) The following core knowledge categories (CKCs) are accepted for the child development and early childhood education requirement: Diversity, Family and Community Systems, Human Growth and Development, Health Safety and Nutrition, Learning Environments and Curriculum, Observation and Assessment, Special Needs, and Understanding and Guiding Behavior.
- (3) A certified family child care may count the following initial required caregiver training toward the 15 clock hours of annual training during the first year of employment. These hours, with the exception of (f) cannot be applied toward the requirement of 8 hours in child development or early childhood education:
- (a) Up to 2 hours of orientation at the first renewal period after the caregiver's hire date;
  - (b) Pediatric CPR and first aid training;
  - (c) Food handler's training;
  - (d) CCLD approved training on recognizing and reporting child abuse and neglect that is specific to Oregon law;
  - (e) CCLD Introduction to Child Care Health and Safety training; and
  - (f) Foundations for Learning child development training.
- (4) During subsequent years of employment, caregivers may count the following repeated training as part of the 15 clock hours of training:
- (a) Up to 5 hours of pediatric CPR and first aid training or food handler's training;
  - (b) CCLD approved training on recognizing and reporting child abuse and neglect that is specific to Oregon law, but only every 3 years; and
  - (c) A Set 2 (intermediate) or Set 3 (advanced) training as described by ORO can be repeated once, provided it was not taken within the previous 2 years.

### **414-360-0400 Children in Care & Caregiver to Child Ratios**

- (1) The number of caregivers shall be determined by the number and ages of the children in attendance. The required caregiver-to-child ratios shall be met at all times. This includes:
- (a) All child care children, as defined in OAR 414-360-0100(11);
  - (b) The provider's own child(ren), including foster child(ren), 9 years of age or younger;
  - (c) All other caregivers' own children age 12 years or younger;
  - (d) Any other children age 12 years or younger for whom the provider is responsible; and
  - (e) Any child(ren) age 17 years or younger, including the provider's own children, foster children, child care children, or other children for whom the provider is responsible, with special needs or disabilities who require a level of care that is above normal for the child's age.



- (2) Other children, including but not limited to relatives, neighborhood children or friends of the provider’s children, are included in the maximum number of children allowed in care if present in the child care home during operating hours on a regular basis or if present on an occasional basis without being directly supervised by the child’s parent or other adult who is not also caring for child care children.
- (3) No child younger than 6 weeks of age can be in care in a certified family child care home. This does not include the provider’s child(ren).
- (4) The number of caregivers is determined by the age and number of the youngest child(ren) in the group. The caregiver to child ratio requirements identified in Table A of this rule must be met at all times.

**TABLE A**

		Total Number of Children Present												
		16	15	14	13	12	11	10	9	8	7	6	5	4
Number of Children Present Under the Age of Two	0	2	2	2	2	2	2	1	1	1	1	1	1	1
	1	2	2	2	2	2	2	2	2	1	1	1	1	1
	2	2	2	2	2	2	2	2	2	2	1	1	1	1
	3	2	2	2	2	2	2	2	2	2	2	1	1	1
	4	3	3	2	2	2	2	2	2	2	2	2	2	1
	5	3	3	3	3	2	2	2	2	2	2	2	2	
	6	3	3	3	3	3	2	2	2	2	2	2		
	7	3	3	3	3	3	3	2	2	2	2			
	8	3	3	3	3	3	3	3	3	2				
	9	3	3	3	3	3	3	3	3					
	10	4	3	3	3	3	3	3						
	11	4	4	3	3	3	3							
	12	4	4	4	4	3								
	13	4	4	4	4									
	14	4	4	4										
	15	4	4											
	16	4												

Number of Caregivers Required

- (5) If all children in care are school-age, the caregiver-to-child ratio is 1:15.
- (6) Even though caregiver-to-child ratios are specified in Table A above, a certified family child care may care for 10 children ages 6 weeks to school-age if:
  - (a) No more than 6 children are preschool age or younger, including the provider’s own children and any caregivers’ children;
  - (b) Of the 6, only 2 children are under 24 months of age; and
  - (c) Four of the children are school-age.

- (7) If infants are in care and sharing the same activity area as older children, a provider must have a written plan that addresses how caregivers will ensure safety of infants who are not yet crawling. The plan must be implemented when infants that are not yet crawling share the same activity area as older children.

## **414-360-0500 Supervision**

- (1) A provider must ensure that children have the full attention of the required number of caregivers at all times who must:
  - (a) Be aware of what each child is doing;
  - (b) Be near enough to children to assist and respond when needed; and
  - (c) Be within sight or sound of children at all times, without relying on audio or video device. Children out of direct visual contact shall be monitored regularly and frequently and must be in approved activity areas.
- (2) When more than one caregiver is required to meet caregiver-to-child ratios, one caregiver may undertake other activities that directly support the care and education of the children for a temporary time period. Such activities include, but are not limited to, cleaning up after an activity, preparing items for a new activity, or cooking meals. This caregiver must be within sight or sound of children, be available and able to respond if needed, but does not have to provide their full attention to children.
- (3) When children under 36 months are playing outside, a caregiver must be outside supervising the children.
- (4) A provider must ensure sufficient light in any room where children are napping or resting so that caregivers can clearly see each child's face from any point in the room.
- (5) Background noise (e.g. music, sound machine, white noise machine) must not be so loud as to prevent a caregiver from being able to respond to the needs of the children.
- (6) When caregivers are in a separate room from children, doors shall be kept open wide enough so that caregivers can easily step into the room to do frequent audio and visual checks of the children.
- (7) Children may not be on a floor level of the home unless a caregiver is on the same floor.

## **414-360-0510 Creating a Health Climate for Children**

- (1) When communicating or interacting with children, a provider must ensure caregivers maintain an environment for healthy, culturally responsive child development. Examples of this may include: giving encouragement and positive feedback, modeling active listening and respectful communication, speaking to children at their eye level, giving kind greetings and goodbyes, validating feelings and ideas, using a calm and encouraging tone of voice, and being curious about the individuality of every child and family.

- (2) A provider must ensure that caregivers encourage positive interactions between children. Examples of this may include: modeling social skills and empathy, helping children understand the feelings of others, providing support to children who find it difficult to make friends, and encouraging play between children of all abilities and backgrounds.
- (3) When lifting or moving a child, caregivers must do so in a manner that provides safety and comfort for the child.

### **414-360-0520 Program Schedule & Activities**

- (1) The provider and any caregivers must give the children's needs first priority, ensuring they get adequate care and attention.
- (2) Immediate attention shall be given to the emotional and physical needs of the children.
- (3) A provider must develop and follow a written daily schedule.
- (4) The written schedule must include a consistent routine that allows for flexibility to respond to the needs of the individual children and group of children.
- (5) The schedule must:
  - (a) Cover all hours of operation;
  - (b) Include regular activities such as eating, napping, and toileting;
  - (c) Provide for a balance of active and quiet activities;
  - (d) Provide individual choice time and guided activities; and
  - (e) Include daily indoor and outdoor activities.
- (6) There must be activities available for children according to their ages, interest, abilities and cultures. Children must be provided with opportunities to choose from a variety of developmentally appropriate activities and experiences which include:
  - (a) Literacy and language;
  - (b) Creative expression through the arts;
  - (c) Dramatic play;
  - (d) Gross motor development;
  - (e) Fine motor development;
  - (f) Music and movement;
  - (g) Opportunities to listen and speak;
  - (h) Concept development; and
  - (i) Sensory play.
- (7) A provider must not provide or allow children preschool-age or younger to have more than 5 hours of screen time per week. School-age children may not be provided or allowed more than 10 hours of screen time per week.

- (a) Screen time is defined as time spent using electronic devices, including, but not limited to computers, television, tablets, phones and game consoles but does not include assistive or adaptive technology for children with disabilities.
  - (b) Usage times may be extended for physical activity guidance, special events, projects (i.e., coding lessons), distance/online learning, and homework.
  - (c) All media exposure must be developmentally and age appropriate, non-violent, and culturally sensitive.
- (8) If the provider is certified to care for more than 12 children the provider must have a written program of activities for each age group.
- (9) A provider must ensure daily outdoor play for each child, regardless of age, provided weather and environmental conditions do not pose a health or safety risk.
- (10) In addition to the activities specified in OAR 414-360-0520(6), school-age children must have opportunities to choose from a variety of activities, including:
- (a) Individual or group projects and activities, including homework; and
  - (b) Rest or relaxation.

#### **414-360-0600 General Requirements for the Care of Infants and Toddlers**

- (1) For infants and younger toddlers, a provider must obtain the following information (also see OAR 414-360-0220, Children's Records):
- (a) Schedule of feeding;
  - (b) Types of food introduced and timetable for new foods;
  - (c) Sleep schedule; and
  - (d) Child's way of communicating and being comforted.
- (2) A provider must be responsive to each infant and toddler's individual, physical, and developmental needs.
- (3) A provider must ensure infants and young toddlers are allowed:
- (a) To form and follow their own pattern of sleeping and waking periods;
  - (b) Opportunities throughout the day to move freely in a safe, clean, open, and uncluttered area; and
  - (c) Opportunities to interact and be near one another.
- (4) A provider must ensure that an awake child is not left in a play yard, for the purposes of playing, for more than 30 minutes in any 2 hour period.
- (5) Restrictive infant equipment, including, but not limited to, bouncers, exersaucers, swings, infant seats, high and low chairs or structured infant carriers may be used for no more than 30 minutes in any 2 hour period.
- (a) Children who are actively engaged in eating, outdoor walks, or car rides can exceed the 30-minute limit for restrictive infant equipment used in these activities.

- (b) Car seats may not be used except for transportation purposes.
- (6) Throughout the day, a provider must engage each infant and toddler in frequent, multiple, and social interactions by providing physical contact and individual attention (e.g., being held, rocked, talked to, sung to, and taken on walks inside and outside the home).
- (7) A provider must encourage the development of self-help skills (dressing, toileting, washing, eating) as children show interest.
- (8) All caregivers must take appropriate precautions to prevent shaken baby syndrome and abusive head trauma.

## **414-360-0610 Feeding Infants and Toddlers**

- (1) A provider serving children under 12 months of age shall comply with the following requirements for those children:
  - (a) A provider must have and follow a written feeding plan and schedule that includes the types and amounts of formula, human milk, and food that is obtained from the child's parent(s) and updated regularly.
  - (b) A provider must feed the child on their own feeding schedule and fed when hungry.
  - (c) A provider must clearly mark formula, human milk, bottles, and food provided by the parent(s) with the child's full name and date and refrigerated if required.
  - (d) A provider may not give infant formula to an infant who consumes human milk, without parental consent.
  - (e) A provider must give human milk only to the child specified to receive it by the parent(s).
  - (f) Human milk must:
    - (A) Be labeled with the child's full name and the date expressed;
    - (B) Be stored for no more than:
      - (i) 24 hours in the refrigerator when thawed or defrosting; or
      - (ii) Six months from the expression date in the freezer.
    - (C) Be refrigerated or frozen until immediately before warming; and
    - (D) Not reused after 2 hours from serving.
  - (g) When formula is served, the caregiver must follow the manufacturer's instructions for mixing, storing, and discarding of any formula, unless requested by the child's parent(s) and with a medical practitioner's written permission.
  - (h) Whole milk, skim milk, 1 percent milk, and 2 percent milk must not be served unless requested by the child's parent(s) and with a medical practitioner's written permission.
  - (i) A provider must not serve juice of any kind to infants, unless advised by a medical practitioner.

- (j) When bottle feeding, bottles may only contain formula or human milk, and may not be combined with cereal, fruit juice, or other foods without a medical practitioner's written permission
  - (k) A provider must not give infants, under six months of age, water to drink, without written approval by a medical professional.
  - (l) A provider must warm bottles only in one of the following ways: under running, warm tap water; using a commercial bottle warmer; stove top warming methods, or slow-cooking device; or by placing them in a container of warm water.
    - (A) Bottles must not be warmed in microwave ovens.
    - (B) Once warmed, a bottle must not be returned to the refrigerator or re-warmed.
  - (m) Solid foods fed to infants must be selected from the Child and Adult Care Food Program Meal Pattern (CACFP):
    - (A) Solid foods must not be fed to infants less than four months of age;
    - (B) Commercially packaged baby food must be served from a dish and not directly from the factory-sealed container;
    - (C) Leftovers in the serving container must be discarded; and
    - (D) Solid foods, with the exception of finger foods, must be fed with a spoon.
  - (n) Honey or food containing honey must not be served to infants.
- (2) When bottle feeding, a provider must:
- (a) Hold infants up to 6 months of age and older children who cannot hold their own bottles or sit alone; and
  - (b) Ensure the infant's head is elevated while being fed.
- (3) A provider must not lay a child of any age down with a bottle or training cup.
- (4) A provider must not prop a bottle by any means at any time.
- (5) When feeding solid foods, a provider must ensure that infants are fed in an upright position.

## **414-360-0620 Furniture and Equipment for Infants and Toddlers**

- (1) A provider must provide an individual crib, portable crib, or play yard for each infant.
  - (a) Each crib, portable crib, or play yard must:
    - (A) Comply with Consumer Product Safety Commission(CPSC) standards for use by infants and have documentation from the manufacturer or retailer stating that either the crib was manufactured after June 28, 2011 or the play yard was manufactured after February 28, 2013;
    - (B) Have a firm, flat, non-inclined sleep surface;
    - (C) Have a clean, firm, tight-fitting mattress. The mattress must:
      - (i) Be designed to fit the specific equipment used, with no gap between the mattress and sides of the product;

- (ii) Be covered in a durable, washable, waterproof, form-fitting material;
  - (iii) Be firm enough that it maintains its shape and does not indent or conform to the shape of the infant's head; and
  - (iv) Be covered in a tight-fitting sheet that remains tightly-fitted with normal use and does not have any slack or bunching.
- (b) Bassinets are prohibited.
- (c) Stacking, wall, or modular cribs are prohibited.
- (d) Sheets must be changed when soiled, before use by another child, and at a minimum of once a week.
- (2) Crib bumper pads must not be on the premises of a certified family child care home.
- (3) To support traditional indigenous practices, a provider may allow cradleboards or other traditional indigenous sleep equipment to be used as a sleep surface for infants. Caregivers must be careful to not over-bundle or overheat an infant while using the equipment.
- (4) If a provider uses high chairs, the chairs must comply with current Consumer Product Safety Commission (CPSC) standards and have:
- (a) A broad base to prevent tipping;
  - (b) A latch to keep a child from raising the tray; and
  - (c) T-shaped straps or a guard to prevent a child from becoming entrapped or sliding out.
- (5) If a provider uses clip-on chairs, the chairs must have straps to prevent a child from sliding out.
- (6) A provider must provide a variety and adequate supply of developmentally appropriate materials that are stimulating to a child's senses and that are:
- (a) Clean and washable or disposable;
  - (b) Not a choking hazard including toys and removable parts with a diameter less than 1-¼ inches, plastic bags, Styrofoam, and rubber or latex balloons;
  - (c) Safe and in good working condition; and
  - (d) Removed from the certified family child care as soon as a program becomes aware an item has been recalled by CPSC.
- (7) A provider may not use the following equipment for infants, which have been identified as unsafe for infants by the Consumer Product Safety Commission (CPSC) and the American Academy of Pediatrics:
- (a) Baby walkers, which are devices that allow an infant to sit inside and are equipped with rollers or wheels and move across the floor;
  - (b) Baby doorway jumpers, which are devices that allow an infant to bounce while supported in a seat by an elastic "bungee cord" suspended from a doorway;
  - (c) Accordion safety gates; and
  - (d) Unstructured infant slings or wraps.

**414-360-0630 Safe Sleep**

- (1) In addition to safe equipment (OAR 414-360-0620), a provider must follow safe sleep practices for infants to reduce the risk of sudden unexpected infant death (SUID) as follows:
- (a) While sleeping, infants must be monitored frequently to ensure they are breathing, not overheated, not in distress, and do not need assistance.
  - (b) Infants must be placed on their backs on a flat, firm, non-inclined surface for sleeping.
  - (c) Infants who can roll from back-to-front or back-to-side may remain in the sleep position they assume.
  - (d) Except for a plain pacifier, there must not be any items (e.g., pacifier clips, bottles, toys, pillows, stuffed animals, blankets, bumpers) in or attached to the crib, portable crib or play yard.
  - (e) Infants must not have their heads or faces covered by items such as blankets or linens at any time.
  - (f) There must not be any items (e.g. blankets, tents, sheets) placed over the top or on the sides of a crib, portable crib or play yard.
  - (g) Items that may cause suffocation or strangulation such as headwear (e.g. hoods, hats, headbands), bibs, necklaces, and garments with ties or drawstrings must be removed from the infant and sleep equipment prior to laying an infant down to rest.
  - (h) Swaddling or other clothing or covering that restricts the infant's arm or leg movement is prohibited at all times, even if the child is not sleeping.
  - (i) Weighted blankets, weighted clothing, or other weighted objects must not be placed on or near the sleeping infant.
  - (j) If the caregiver is engaged in an activity with child care children and is carrying a sleeping infant in a structured infant carrier, the caregiver must move the infant to a safe sleep surface as soon as the activity is finished.
  - (k) A caregiver may hold a sleeping infant provided the caregiver can immediately observe, see, or feel any signs of distress. The caregiver must be awake, alert, and focused on the infant; and
  - (l) If an infant arrives asleep in a car seat or falls asleep in a place other than their crib, portable crib or play yard, the caregiver must immediately move the infant to an appropriate sleep surface.
- (2) Alternative sleep positions may only be used with an CCLD approved exception request, which must include a medical reason and instructions from a physician.



**414-360-0650 Diaper Changing and Toileting**

- (1) A provider must change wet or soiled diapers promptly. Unless the child is asleep, a child's diaper must be checked at a minimum of every 2 hours, or more frequently to meet the individual's child's needs. Diapers must be changed when a child exhibits behavior that suggests a wet or soiled diaper.
- (2) If infants and toddlers are in care there must be a diaper-changing area. If the provider is certified to care for more than 12 children and more than 8 infants and toddlers are regularly in care, there must be a second diaper-changing area available.
  - (a) The diaper changing area must be located so that handwashing can occur immediately after diapering without contact with other surfaces or other children.
  - (b) The diaper changing surface must be sturdy, smooth, non-absorbent, easily cleanable and free of tears or repairs.
  - (c) The diaper changing surface must be kept free of all objects except for diapering items and not used for other purposes.
  - (d) Children must never be left unattended on an elevated changing surface.
  - (e) A disinfecting solution must be kept in each diaper-changing area ready for immediate use and stored out of children's reach.
- (3) If a provider uses cloth or reusable diapers, the soiled diapers must:
  - (a) Not be rinsed;
  - (b) Be placed in a securely sealed, moisture-proof bag;
  - (c) Be stored in a separate disposal container; and
  - (d) Be cleaned by a commercial laundry service or given daily to the child's parent or guardian.
- (4) The use of potty chairs must be approved by an environmental health specialist.

**414-360-0660 Cleaning and Sanitizing Infant and Toddler Areas**

- (1) A provider must clean and sanitize infant and toddler toys regularly and when soiled.
- (2) A provider must wash, rinse, and sanitize the following after each use:
  - (a) Bottles and training cups, if used; and
  - (b) High chairs, tables and chairs.
- (3) A provider must wash, rinse, and disinfect the following immediately after use:
  - (a) A diaper-changing surface;
  - (b) Toilet training seat inserts or potty chairs;
  - (c) Bathtub or other receptacle used for bathing a child; and
  - (d) Any surface contaminated with bodily fluids.

## **414-360-0700 Behavior and Guidance**

- (1) A provider must have a written policy on behavior and guidance of children that is simple and understandable to the child, the parent(s), and all caregivers (also see OAR 414-360-0200, Policies).
- (2) A provider's behavior and guidance policy must include the use of positive guidance to help children develop self-regulation, self-direction, and respect for others through these approaches:
  - (a) Setting and teaching simple, consistent, clear and positive rules and limits that children can understand;
  - (b) Setting up the environment for success with engaging activities that encourage positive behavior and self-regulation;
  - (c) Reinforcing positive behaviors with encouragement and descriptive praise;
  - (d) Taking steps to prevent problems before they occur and explaining safe, natural and logical consequences related to a child's behavior;
  - (e) Helping children recognize and appropriately express their feelings and understand the feelings of others;
  - (f) Modeling and teaching social skills such as taking turns, cooperation, waiting, treating others kindly, and problem solving; and
  - (g) Redirecting or helping a child change their focus when necessary.
- (3) A provider must ensure that only caregivers shall provide guidance to a child.
- (4) A provider must provide guidance that is fair, consistently applied, timely, and appropriate to the behavior, age, and development of the child.
- (5) A provider must appropriately intervene to stop the unfair treatment of a child based on the individual child's family, gender, race, ethnicity, economic status, ability, religion, or cultural background. Interventions may include, but are not limited to:
  - (a) Redirecting an inappropriate conversation or behavior;
  - (b) Being aware of situations that may involve unfair treatment of a child, responding appropriately, taking actions to prevent future occurrences; and
  - (c) Refusing to ignore the unfair treatment.

## **414-360-0710 Prohibited Discipline and Actions**

A provider must not use or threaten to use any of the following prohibited actions even if requested by parents:

- (1) Rough or harsh handling of children or use of corporal punishment in any form, including, but not limited to hitting, spanking, slapping, shaking, swatting, throwing, jerking, pinching, biting, or other measures that produce physical pain;
- (2) Bind or restrict a child's movement unless permitted under OAR 414-360-0720, Physical Restraint;

- (3) Using unauthorized prescription or non-prescription drugs or chemicals for discipline or to control behavior;
- (4) Confining or isolating a child in an enclosed or darkened area (e.g., a locked or closed room, bathroom, closet, or box for punishment);
- (5) Withdrawing, denying or forcing food, rest, or toileting;
- (6) Forcing or compelling a child to eat or placing soap, food, spices, or foreign substances in the child's mouth;
- (7) Exposing a child to extremes of temperature;
- (8) Yelling harshly or using profane or abusive language;
- (9) Punishing or demeaning a child for toileting accidents or refusing to eat food;
- (10) Allowing any form of mental or emotional punishment or verbal abuse, including but not limited to public or private humiliation, name calling, teasing, ridicule, intimidation, making derogatory or sarcastic remarks about a child's family, race, gender, religion, or cultural background, rejecting, frightening, neglecting, or corrupting a child;
- (11) Demanding excessive physical exercise, excessive rest, or strenuous postures; or
- (12) Requiring a child to remain silent or inactive or removing a child from all activities or the group for excessive periods of time.

### **414-360-0720 Physical Restraint**

- (1) A provider may only use physical restraint if:
  - (a) A child's safety or the safety of others is threatened; and
  - (b) The provider has complied with all elements of Behavior and Guidance listed in OAR 414-360-0700(2)(a) through (g).
- (2) Physical restraint must be:
  - (a) Limited to holding a child as gently as possible to accomplish restraint;
  - (b) Limited to the minimum amount of time necessary to control the situation; and
  - (c) Developmentally appropriate.
- (3) A provider must not use bonds, ties, blankets, straps, or weights (including an adult sitting on a child) to physically restrain children.
- (4) Caregivers must discontinue the use of physical restraint if they sense a loss of their own self-control or concern for the child when using physical restraint.
- (5) If physical restraint is used, a provider must:
  - (a) Report the use of physical restraint pursuant to OAR 414-360-0270, Notifications;
  - (b) Assess any incident of physical restraint to determine if the decision to use physical restraint and its application were appropriate; and
  - (c) Document the incident in the child's file, including the date, time, duration, caregivers involved, and what happened before, during, and after the child was restrained.

- (6) If physical restraint is used more than once on a specific child, the provider must develop a written plan with input from individuals who have knowledge of the child's behaviors, including, but not limited to: the child's primary care provider, mental health provider, school counselor, and the parents or guardians, to address underlying issues and reduce the need for further physical restraint. The provider must notify CCLD when a written plan has been developed.

### **414-360-0800 Home Capacity**

- (1) A certified family child care's licensed capacity is based on the home's indoor activity area.
- (2) A provider may only care for children in activity areas approved by CCLD.
- (3) A provider must have CCLD approval prior to using a new room, activity area, or outdoor space to care for children.
- (4) A provider must not exceed the licensed capacity at any time, including the total number of children in care both at and away from the child care home.
- (5) If a certified family child care is certified to care for 12 children or fewer, there must be a minimum of 35 square feet of indoor activity area, as defined in OAR 414-360-0100(1), per child. If a certified family child care is certified to care for more than 12 children, there must be a minimum of 35 square feet of indoor activity area per child for 12 or fewer children and 50 square feet of indoor activity area available per child for each of the additional four children.
- (a) The indoor activity area considered in determining capacity must be available for use by children for child care during the hours of operation.
  - (b) Shelves or storage for children's materials that are accessible to children may be counted as part of the activity area.
  - (c) The following areas shall not be counted as activity area when determining capacity: food preparation areas of the kitchen, bathrooms, heating units, storage areas, furniture not used by children and any space not usable by children.

### **414-360-0810 Home Structure and Safety**

- (1) A certified family child care must be:
- (a) A building constructed as a single family dwelling or other dwelling; and
  - (b) In space designed or remodeled for living quarters.
- (2) The exit requirements listed in OAR 414-360-0810(3) apply to:
- (a) Certified family child cares with initial licensure on or after July 1, 2025; or
  - (b) An existing certified family child care that applies for a change of address on or after July 1, 2025.
- (3) All floors of the home used for child care activities must have two exits.

- (a) One exit on each floor must be a door that exits directly outside to ground level and meets the following requirements:
  - (A) The door may not exit through a garage or carport.
  - (B) The door must be able to be opened from the inside without the use of a key, or special knowledge or effort.
  - (C) The interior pathway leading to the door must not:
    - (i) Be within three feet of a permanently installed cooking appliance; nor
    - (ii) Be required to pass through a storage room or through a room that can be locked to prevent access.
- (b) The second exit may either be a door that exits directly outside to ground level or an operable window that meets the following requirements:
  - (A) A minimum net clear opening of 5 square feet;
  - (B) A minimum net clear height of 24 inches;
  - (C) A minimum net clear width of 20 inches;
  - (D) The bottom of the opening located no more than 44 inches from the finished floor; and
  - (E) The bottom of the opening located no more than 48 inches off of the ground outside of the home. If higher than 48 inches, steps or a platform must be placed under the window to reduce the distance to 48 inches.
- (c) All rooms used for child care activities must have two exits. Exits may include:
  - (A) A door leading directly outside to ground level;
  - (B) A door leading to another room or hallway; or
  - (C) A window meeting the requirements identified in OAR 414-360-0810(2)(b).
- (4) The exit requirements listed in OAR 414-360-0810(5) through (7) apply to:
  - (a) Certified family child cares with initial licensure prior to July 1, 2025; or
  - (b) A location previously licensed by CCLD at any time.
- (5) All floor levels used by children for play and napping shall have two usable exits to ground level.
- (6) All rooms used by children for play and napping shall have two usable exits.
- (7) For the purposes of this rule, "usable exit" is defined as 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.
- (8) A provider must ensure that children do not have access to heating equipment such as furnaces, fireplaces, stoves, steam and hot water pipes, and electric space heaters.
- (9) A certified family child care's heating equipment must be safe to operate.

- (a) Flammable materials including papers, curtains, and furniture must be at least 3 feet from furnaces, fireplaces, and other heating devices.
  - (b) Fireplaces, fireplace inserts, and wood/corn pellet stoves, if used, must:
    - (A) Have a secure, stable protective barrier; and
    - (B) Be inspected and cleaned annually.
  - (c) Portable electric space heaters must:
    - (A) Be attended while in use and be off when unattended;
    - (B) Have an automatic shut off feature for tipping over and overheating;
    - (C) Have protective covering to keep hands and objects away from the electric heating element;
    - (D) Bear the safety certification mark of a nationally recognized testing laboratory;
    - (E) Be placed only on the floor;
    - (F) Be properly vented, as required for proper functioning; and
    - (G) Be used according to the manufacturer's instructions.
- (10) Activity areas must be adequately lighted and ventilated.
- (a) Doors and windows which are opened for ventilation must be equipped with fine-meshed screens.
  - (b) After painting or laying carpet, the child care home must be aired out completely for at least 24 hours with good ventilation before children are allowed to return.
- (11) A certified family child care's electrical system must not pose a risk to children.
- (a) Unused electrical outlets accessible to children preschool-age and younger must be tamper-resistant or have outlet covers that are not easily removed by children.
  - (b) Electrical wiring and power strips with surge protectors must be inaccessible to child care children.
  - (c) Electrical cords must be in good working condition, not torn or frayed, and not have any exposed wires.
  - (d) Extension cords may only be used for a brief, temporary purpose and must not replace direct wiring.
- (12) When the indoor temperature is lower than 68°F or higher than 85°F, a provider must utilize strategies to help children stay warm or cool.
- (13) A provider must ensure the following home safety measures:
- (a) Phone service is available in the home during operating hours.
  - (b) Floors must be free of splinters, large unsealed cracks, sliding rugs and other hazards.
  - (c) Windows above the ground floor that are accessible to children preschool-age and younger must be equipped with a lock to prevent opening more than 4 inches.

- (d) Vertical blinds, continuous looped blinds, and drapery cords must either be out of reach of children or have tension or tie-down devices to hold the cords tight.
- (e) Indoor platforms and lofts more than 30 inches in height must have protective barriers.
- (f) A movable barrier, e.g. baby gate, must be placed at the top and/or bottom of all stairways accessible to infants and toddlers.
- (g) Clear glass panels must be clearly marked at children's eye level.

## **414-360-0820 Water Supply and Plumbing**

- (1) A certified family child care's water supply must be from a public water supply or well, and must be tested for lead, unless the certified family child care uses an CCLD approved alternative water source.
- (2) A provider must test each faucet used for drinking or food preparation for lead in the water, unless the home uses an CCLD approved alternative water source.
- (3) If the water supply does not meet applicable levels established in (4), the provider must obtain a sufficient supply of potable water, such as bottled water, to ensure compliance with rules for drinking and cooking until treatment or an alternate source is obtained. The faucet must not be used for consumption or food preparation until the lead levels have been mitigated.
- (4) After initial testing, a provider must test all drinking water faucets or fixtures for lead at least once every 6 years from the date of the last test. There must be no more than 15 parts per billion (ppb) of lead.
- (5) All testing must be performed by a laboratory accredited by the Oregon Laboratory Accreditation Program according to standards set under OAR chapter 333, division 64 in effect as of September 30, 2018. All sample collection and testing must be in accordance with the EPA's 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by reference.
- (6) A provider must submit all test results to CCLD within 10 calendar days of receiving the results from the laboratory. The test results must be accompanied by a floor plan or map of the facility that identifies the location of each drinking water faucet or fixture tested.
- (7) If test results show that water from any drinking water faucet or fixture has unsafe levels of lead the certified family child care:
  - (a) Must prevent access to that drinking water faucet or fixture immediately after receiving the test results and until mitigation is complete;
  - (b) Must use only bottled or packaged water to meet the requirements of this section;
  - (c) Must submit a corrective action plan to CCLD for approval within 60 days of receiving the test results. The corrective action plan must identify an appropriate mitigation strategy in accordance with Module 6 of the EPA's 3Ts for Reducing Lead in Drinking Water in Schools and Child Care Facilities, Revised Manual from October 2018, adopted by reference;

- (d) Must implement the mitigation method within 30 days of approval by CCLD; and
  - (e) May consult with the Oregon Health Authority for technical assistance.
- (8) A provider must keep a copy of the most recent test results on site at all times.
- (9) If a provider does not use any of the on-site plumbing fixtures to obtain water for drinking, cooking, preparing infant formula, or preparing food, the certified family child care must:
- (a) Submit a written statement annually at the time of renewal to CCLD identifying the alternative source of water and confirming that the provider does not use any on-site plumbing fixtures for drinking, cooking, or preparing food; and
  - (b) Notify CCLD in writing if the alternative source of water changes.
- (10) If a faucet has not been tested within 6 years, a provider must discontinue using that faucet until testing is completed and the results are below 15 parts per billion (ppb) of lead.
- (11) If using a private well, additional testing must be completed prior to initial license and, at a minimum, annually after initial testing.
- (a) Well water must be tested for:
    - (A) Coliform and E.coli bacteria;
    - (B) Nitrate; and
    - (C) Arsenic.
  - (b) Testing must be completed by an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited laboratory.
  - (c) Test results must be submitted to the local public health authority for evaluation.
  - (d) If the well water does not meet safety standards, the provider must discontinue use of the water source, as per recommendation of the local public health authority. The provider must establish and implement a mitigation plan under the guidance of the local public health authority, until such time that the well water is deemed safe for use.
  - (e) For certified family child cares initially licensed prior to July 1, 2025, testing identified in (11) of this rule must be completed prior to the next renewal and at a minimum annually after initial testing.

## **414-360-0830 Toilets, Hand washing Sinks, and Bathing**

- (1) A certified family child care home must have at least one flush toilet and one handwashing sink available to children at all times.
- (a) Toilets must be supplied with toilet paper.
  - (b) All handwashing sinks must:
    - (A) Have mixing faucets with both hot and cold running water. Certified family child care homes with certification in effect on September 15, 2002, shall comply with the requirement for mixing faucets when bathroom facilities are remodeled.



(B) Have soap and single use towels available; and

(C) Not be used for preparation of food or drinks or dish washing.

(c) Easily-cleanable steps or a broad-based platform with a non-slip surface so that children can use the toilets and sinks comfortably and without adult assistance must be provided.

(2) If infants and toddlers are in care there must be a bathtub, baby bathtub, plastic basin, or similar size shallow sink available for bathing children.

## **414-360-0840 Prevention and Management of Hazards**

(1) A provider must ensure that the following items are inaccessible to children as defined in OAR 414-360-0100(21):

(a) All toxic or potentially dangerous items;

(b) Cleaning, sanitizing and disinfecting supplies and equipment;

(c) Poisonous plants;

(d) Tobacco products, smokeless or vaping devices;

(e) Alcohol;

(f) Flammable materials, including matches and lighters, and corrosive materials;

(g) Knives and other sharp objects; and

(h) Motorized yard or power tools.

(2) Toxic substances must be stored separately from medication, food service equipment, and food supplies.

(3) Products must be stored in the original labeled containers. Any smaller containers or solutions mixed by caregivers must be labeled with the contents of the container.

(4) A provider must take steps to prevent children's exposure to the following, if they exist on the premises:

(a) Any sources of lead and lead based paint. Painted surfaces must be in good condition, both inside and outside, to avoid exposing children to lead-based paint;

(b) Asbestos;

(c) Toxic mold; and

(d) Other identified toxins and hazards.

(5) A provider must recognize, address or remove potentially dangerous items and situations, using protective barriers to prevent children's access, if needed. Caregivers must:

(a) Regularly inspect the indoor and outdoor play areas and equipment for hazards, such as missing parts or broken equipment, sharp edges, splinters, and trash;

(b) Ensure open containers of water such as bathtubs, buckets, and mop pails are emptied immediately after use;

- (c) Ensure sand boxes are free of animal waste and trash; and
  - (d) Ensure that all plastic bags that are large enough to fit over a child's head are inaccessible to children.
- (6) A provider must not permit the use of any tobacco products such as cigarettes, cigars, and smokeless or vaping devices, drug paraphernalia, hemp, marijuana and marijuana infused products on the premises during operating hours or when child care children are present. This includes:
- (a) In the child care home;
  - (b) In the outdoor play area;
  - (c) Within 10 feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area; or
  - (d) In any vehicles where child care children are present or on any field trip.
- (7) All marijuana, marijuana derivatives and associated paraphernalia must be stored through one of the following methods:
- (a) Under a child safety device or child safety lock; or
  - (b) In a locked room.
- (8) No one shall grow or distribute marijuana on the certified family child care premises.
- (9) No one shall consume alcohol on the certified family child care premises during operating hours or when child care children are present.
- (10) Firearms, BB guns, pellet guns and arrows must be kept under lock and stored in an area not used by child care children.
- (a) Ammunition must be stored and locked separately.
  - (b) Firearms, BB guns, and pellet guns must be kept unloaded.
- (11) Firearms, BB guns, pellet guns and arrows must be kept under lock, such as a key, combination, or biometric lock and stored in an area not used by child care children. A child safety lock or trigger lock does not meet this requirement.
- (a) Pools and hot tubs must be made inaccessible through one of the following methods:
    - (A) A locking, rigid cover;
    - (B) A minimum four-foot-high fence that begins at ground level, and all gates and doors that allow access are locked;
    - (C) Four-foot non-climbable sides with pool ladder removed or inaccessible; or
    - (D) In a locked room or all doors that access the area are locked.
  - (b) For certified family child cares with licensure prior to July 1, 2025, ornamental and natural ponds within the child care outdoor play area must be made inaccessible through one of the following methods:
    - (A) Enclosed by a secure barrier and locked with either a key or a combination lock;

- (B) A grate on top of a small pond of sufficient strength and rigidity to prevent children from falling into the water. The grate must be locked or secured to prevent removal; or
  - (C) A locked door to the outside area where the pond is located as long as the door is always locked during operating hours and children are not using the outside area where the pond is located.
- (c) For certified family child cares with licensure on or after July 1, 2025, ornamental or natural ponds are prohibited in the child care outdoor play area. Certified family child cares licensed prior to July 1, 2025 are prohibited from adding a new ornamental pond or natural pond to the child care outdoor activity area.
- (12) A provider must keep the home free of insects, rodents, and other pests.
- (a) Automatic insecticides dispensers, vaporizers, or fumigants must not be used.
  - (b) Pest control products must not be applied or used when child care children are present. After their application, child care children must not enter the area until indicated by the manufacturer's instructions.
- (13) A provider must take precautions to protect children from vehicular traffic:
- (a) Require drop off and pick up only at the curb or at an off-street location protected from traffic; and
  - (b) Assure that any caregiver who supervises drop-off and loading can see and assure that children are clear of the perimeter of all vehicles before any vehicle moves.

## **414-360-0850 Maintenance and Sanitation**

- (1) The certified family child care home and grounds shall be kept clean and free of litter or rubbish and unused or inoperable equipment, and vehicles.
- (2) Unused appliances, such as old refrigerators or freezers, that present a risk for entrapment, must be secured so as to prevent entry.
- (3) A provider must keep all garbage and bodily fluids waste in non-absorbent, easily washable containers with tight-fitting lids.
- (a) Garbage and waste must be removed from the premises at least once a week.
  - (b) Non-food, non-hazardous items and items that do not cause offensive odors, such as paper towels, may be disposed of separately from garbage and waste inside the home, in an uncovered container.
  - (c) Garbage and waste containers and outdoor storage areas must be kept clean and minimize the presence of rodents, flies, roaches and other vermin.
  - (d) Outdoor garbage storage must be inaccessible to children.
- (4) A provider must maintain the building, equipment, and vehicles in good repair, in a clean and sanitary condition.
- (a) Floors, walls, ceilings and fixtures of all rooms must be kept clean and in good repair.

- (b) Surfaces and objects that are frequently touched must be routinely cleaned, sanitized and disinfected.
  - (c) The kitchen and bathrooms used for child care must be cleaned and sanitized or disinfected as needed and at least daily.
- (5) All toys, equipment and furniture used by children must be cleaned, rinsed and sanitized regularly and whenever soiled.
- (a) Water tables, similar containers, and water toys must be emptied and sanitized daily or more often if necessary.
  - (b) Bedding must be cleaned at least weekly, or more often if soiled and before use by another child
  - (c) Mats and cots must be cleaned and sanitized at least once a week, or more often when soiled and before use by another child.
- (6) A provider must keep cloths, both single use and multiple use, used for wiping food spills on utensils and food-contact surfaces clean and use them for no other purpose. Cloths that are reused must be stored in a sanitizing solution between uses and disposed of or laundered daily.
- (7) A provider must immediately clean up any spills of bodily fluids, such as urine, feces, blood, and vomit as follows:
- (a) Caregivers must use disposable, nonporous gloves when handling bodily fluids;
  - (b) Surfaces must be cleaned and disinfected;
  - (c) Blood-contaminated material must be disposed of in a tied or sealed plastic bag and discarded immediately;
  - (d) Gloves must be removed immediately after use, placed in a tied, sealed, or otherwise closed plastic bag and discarded immediately; and
  - (e) Hands must be washed after using and disposing of the gloves.

## **414-360-0860 Fire Protection**

- (1) Doorways, evacuation routes, and exits must be kept free of materials, furniture, equipment and debris to allow unobstructed access to the outdoors. The provider must complete a daily inspection to ensure that evacuation routes are clear and exits, including doors and escape windows, are operable.
- (2) Flammable and combustible materials:
- (a) Must be stored in the original container or a safety container;
  - (b) Must not be stored within 4 feet of furnaces, other flame or heat-producing equipment, or fuel-fired water heaters; and
  - (c) If over a gallon, kept in an unattached building, such as a shed or garage.
- (3) Heating and air vents, filters and dryer vents must be cleaned regularly to prevent lint build-up.

- (4) Items with open flames must not be used, except for the brief supervised use of candles.
- (5) If fire safety concerns are identified during inspection, CCLD staff may consult with the fire code official and after consultation, may request that the fire code official complete a fire life safety inspection.
- (6) There must be at least one 2-A-10 BC rated fire extinguisher on each floor of the home, unless the floor is not under the direct control of the provider.
  - (a) Fire extinguishers on floors where child care occurs must be designated on the floor plan required in OAR 414-360-0260(2) and either mounted or stored along the primary evacuation route. Fire extinguishers must be easily accessible and visible.
  - (b) If fire extinguishers are stored in a cabinet or closet, they must be mounted and there must be a sign indicating that the fire extinguisher is located inside. Obstructions, including furniture, storage of supplies, or any other items shall not be placed in a manner that blocks access to the cabinet or closet.
  - (c) The provider must inspect the fire extinguishers monthly and the inspection must be documented.
- (7) Smoke alarms and carbon monoxide detectors must be:
  - (a) Installed on each floor level of the home and in any area where children nap. If installed outside of a room used for napping, it must be located within 6 feet of the doorway to the room;
  - (b) Maintained in operating order; and
  - (c) Tested monthly to ensure they are in working order. The test must be documented.
- (8) Fire drills must be practiced monthly at various times during child care operating hours.
  - (a) Fire drills must include a drill using an alternate evacuation route at least once per year.
  - (b) A fire drill must be conducted when required by CCLD during an announced visit.
  - (c) Caregivers must have an alert method (for example, a smoke alarm, strobe light, loud bell or whistle) to warn the occupants of the home of an emergency or drill.
  - (d) A certified family child care must demonstrate efforts to complete full evacuation of caregivers and child care children within three minutes. If unable to evacuate within three minutes, the provider must engage in additional efforts including one or more of the following:
    - (A) Using evacuation cribs, strollers/buggies, or wagons;
    - (B) Providing caregivers with additional training;
    - (C) Giving children specific tasks to complete during the drill, such as holding onto a safety walking rope;
    - (D) Providing children with clear and direct instructions that are age-appropriate about what is happening during the drill;
    - (E) Reviewing and editing emergency plans and evacuation routes;

- (F) Conducting additional evacuation drills;
  - (G) Incorporating fire safety planning into curriculum; and
  - (H) Other strategies identified by CCLD.
- (e) One other aspect of the emergency preparedness and response plan in addition to the monthly fire drills shall be practiced at least every other month and must follow the recording requirements listed in OAR 414-360-0860(9).
- (9) A provider must maintain a written record of each emergency preparedness drill showing:
- (a) The date and time;
  - (b) The exits used;
  - (c) The number and age range of children evacuated;
  - (d) The total number of people in the home at the time of the drill;
  - (e) The amount of time taken to evacuate the home;
  - (f) The name of the person conducting the drill; and
  - (g) The alert method used.

#### **414-360-0900 Furniture, Equipment and Play Materials**

- (1) A provider must ensure that furniture used by child care children is:
- (a) Cleanable;
  - (b) Safely constructed and lead free, with no rough or sharp edges or loose parts; and
  - (c) In good working condition and repair with no holes or tears; and
  - (d) Stable or anchored.
- (2) A provider must ensure that furniture is child-sized or adapted for infants, toddlers, and preschool-age children's use.
- (3) A provider must provide an individual bed, mat, cot, or other sleep equipment for:
- (a) Each toddler and preschool-age child at nap time;
  - (b) Each school-age child who wants to rest; and
  - (c) A child that needs to be isolated due to illness.
- (4) Each cot, mat, and other sleep equipment must:
- (a) Be durable and in good repair; and
  - (b) Be able to be cleaned and sanitized.
- (5) Floor mats must be:
- (a) Designed for sleeping;
  - (b) At least one inch thick; and
  - (c) Covered in a water-resistant material.

- (6) A provider must ensure that each child 12 months or age and older is provided with individual bedding consisting of at least a sheet or blanket.
- (7) Family beds or sofas may be used with individual bedding.
- (8) If a child's parent requests, siblings may share the same bed.
- (9) The upper level of bunk beds may only be used for children 10 years of age and older and must have a bed rail and safety ladder in place.
- (10) A provider must provide play equipment and materials that are:
  - (a) Appropriate to the developmental needs, interests and abilities of the children;
  - (b) Sturdy and free of sharp points or corners, splinters, protruding nails or bolts, loose or rusty parts, or paint that contains lead or other toxic materials;
  - (c) Easy to clean and sanitize, or be disposable;
  - (d) In good condition; and
  - (e) Easily accessible to the children.
- (11) A provider must offer a quantity and variety of play materials (i.e., toys, books, and games) that:
  - (a) Is sufficient to avoid competition for popular items; and
  - (b) Provide for the variety of activities required in OAR 414-360-0520 Program Schedule & Activities;
- (12) Activities that include a tool that could pose a safety risk (e.g., iron, glue gun, woodworking tool) are limited to preschool and school-age children.
  - (a) Caregivers must first instruct children in the tool's proper use and safety measures.
  - (b) Caregivers must be within arm's reach of the children participating in the activity to reduce the risk of injury.
- (13) A provider must provide culturally and racially diverse learning opportunities within activities and materials that represent all children, families and caregivers. Examples of this may include: Diverse dolls, books, games or materials that do not reinforce stereotypes; diverse music from many cultures in children's primary languages; a balance of different ethnic and cultural groups, ages, abilities, family styles, and genders.

## **414-360-0920 Outdoor Play Area**

- (1) A provider must provide an outdoor play area that:
  - (a) Children can reach safely; and
  - (b) Is no less than 75 square feet for each child using the space at one time.
- (2) If an outdoor play area is not connected to or in direct control of the provider, such as a public park or school, the provider must have a written plan, approved by CCLD, that describes how caregivers will maintain the safety of the children in care. The written plan must include the following:

- (a) Distance the alternate outdoor play area is located from the home;
  - (b) Detailed description of how the children, including infants and toddlers, will reach the alternate area;
  - (c) Neighborhood and outdoor play area circumstances, hazards, and risks;
  - (d) Availability of appropriate equipment with fall zones and protective surfacing;
  - (e) Verification that parents have been made aware that their children will be using an alternate outside play area and its location;
  - (f) Safeguards the certified family child care will be taking in order to ensure children are properly supervised while traveling to and from and while using the space;
  - (g) Nature of other activities and persons who may be sharing the space;
  - (h) Availability of restroom facilities; and
  - (i) Ability to obtain assistance if needed when injury or illness occurs.
- (3) A provider must keep outdoor play areas free of litter, animal waste, solid waste and refuse, ditches, or other conditions presenting a potential hazard.
- (4) The outdoor play area must be enclosed by a building, wall or fence that is intended to prevent children from exiting and discourages climbing.
- (a) The wall or fence must begin at ground level, be at least 4 feet high, and maintained in a stable, secure, and upright condition. 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.
  - (b) The openings in the fence and gates must be no larger than 3½ inches. Homes with certification in effect on June 30, 2025, must comply with no more than 4 inches of open spacing in fences until the existing fence is replaced.
  - (c) Barriers such as plastic contractor's fencing may be used on a temporary basis to prevent children from accessing an immediate hazard. If this type of fencing is used, it must be supported with wood or metal fence posts.
  - (d) Fences must meet applicable local codes.
- (5) A provider must ensure that use zones in which a child falling or exiting from play equipment are:
- (a) A minimum of 6 feet of clearance from walkways, buildings and the external perimeter of equipment;
  - (b) Free of obstacles, other than the equipment itself, that a child could run into or fall on;
  - (c) Arranged to prevent hazards from conflicting activities;
  - (d) Extended at least 6 feet in all directions from the equipment perimeter unless the fall potential in that direction is minimal, such as play equipment with guardrails or barriers or the sides of swings;



- (e) Allowing for single-axis swings that move forward and backward, to extend a minimum distance of twice the vertical distance from the pivot point to the protective surface to the front and rear of the swing midpoint;
  - (f) Allowing for bucket swings and swings secured by a bar or strap and used by 2-year olds or younger, with the use zone extending at least 6 feet forward and backward from the swing midpoint; and
  - (g) Allowing for multi-axis swings, such as tire swings that move in a circle, to extend 6 feet plus the distance of the height of the top of the swing set to the bottom on the swing's seat in every direction from the midpoint. At least a 30-inch clearance between a fully extended tire swing seat and the support structure is required.
- (6) For all outdoor equipment 18 inches or higher, a provider must always maintain protective surfacing in use zones under and around the equipment. Acceptable materials include wood mulch, double shredded bark mulch, shredded or recycled rubber, uniform wood chips, sand, pea gravel, rubber mats or poured in place rubber manufactured for such use. Hog fuel is not permitted.
- (a) Rubber mats and poured in place rubber must:
    - (A) Be tested to ASTM F1292;
    - (B) Be installed and maintained according to manufacturer's specifications; and
    - (C) Not have rips, tears, loose seams, or other conditions that may pose a hazard.
  - (b) Loose-fill materials must:
    - (A) For equipment less than 4 feet high, have a minimum depth of 6 inches;
    - (B) For equipment over 4 feet high, have a minimum depth of 9 inches.
    - (C) Remain loose at the required depth by replacing, leveling, or raking the material; and
    - (D) Not be installed over concrete or asphalt.
- (7) A provider must securely anchor any non-portable piece of climbing or swinging equipment according to manufacturer's instructions.
- (8) A provider must provide a shaded area accessible to children in the outdoor play areas. Shade may be provided by trees, buildings, or shade structures.
- (9) Trampolines, other than rebounders, are prohibited.
- (a) Rebounders are permitted only when used according to the manufacturer's instructions.
  - (b) If a trampoline is in the child care activity area, a provider must ensure that child care children cannot access the trampoline.
- (10) Inflatable equipment such as: bounce houses, moon walkers, and giant slides, etc., are permitted when used according to manufacturer's instructions. Caregivers must be present and physically positioned to respond if needed.
- (11) A provider must provide outdoor gross motor equipment that addresses a variety of skills (for example, climbing, balancing, throwing, catching, pedaling, and steering).

- (12) A provider must encourage the use of helmets and have them available for children while using a bicycle, tricycle, balance bike, kick scooter, skateboard, roller or in-line skates.
- (13) A provider must comply with Oregon bicycle laws while child care children are riding on public paths or roadways.

## **414-360-1000 Handwashing**

- (1) Caregivers and children must wash their hands with soap and warm running water:
  - (a) After using the toilet;
  - (b) After diaper changing;
  - (c) After assisting someone with toileting;
  - (d) Before handling food;
  - (e) Before and after eating;
  - (f) Before assisting with feeding; and
  - (g) When switching between working with raw foods and ready-to-eat foods.
- (2) Caregivers and children must either wash their hands with soap and warm running water or use hand sanitizer with alcohol content between 60-95%:
  - (a) After wiping the nose;
  - (b) After coughing or sneezing;
  - (c) After outside activities; and
  - (d) After handling pet toys or touching animals, other than dogs or cats.
- (3) Hand sanitizer must be stored out of reach of children.
- (4) Hand sanitizer must not be used on children under 24 months of age.
- (5) Application of hand sanitizer on older toddlers and preschool-age children must be supervised by an adult.
- (6) When handwashing is not possible, but required by OAR 414-360-1000(1)(a) through (g), e.g. on field trips and on the playground, moist towelettes and hand sanitizer with alcohol content between 60-95% must be used together.
- (7) For children who are not able to wash their own hands, caregivers may wash children's hands with a single-use cloth rather than under running water.

## **414-360-1010 Illness**

- (1) A provider must not accept a child into care who:
  - (a) Is diagnosed as having or being a carrier of a child care restrictable disease, as defined in Oregon Health Authority administrative rules, except with the written approval of the public health administrator or licensed health care provider; or

- (b) Has one or more of the following symptoms of illness, except with the written approval of the public health administrator or licensed health care provider:
- (A) Fever over 100.4°F. A child with a fever over 100.4°F may return if fever free for 24 hours without the aid of medication.
  - (B) "Diarrhea", which means three or more watery, bloody, or loose stools in 24 hours, the sudden onset of loose stools, or a child is unable to control bowel function when previously able. A child with diarrhea may return 48 hours after diarrhea resolves or with written clearance from a licensed healthcare provider.
  - (C) Vomiting at least one time, where there is no explanation for the vomiting. A child who vomits without explanation may return 48 hours after the last episode of vomiting or with written clearance from a licensed healthcare provider.
  - (D) Severe or persistent coughing. A child with severe or persistent coughing may return after symptoms are improving for 24 hours or with written clearance from a licensed healthcare provider.
  - (E) Unusual yellow color to skin or eyes. A child with unusual yellow color to skin or eyes may return to care with written clearance from a licensed healthcare provider.
  - (F) Open sores or wounds discharging bodily fluids. A child with open sores or wounds discharging bodily fluids may return to care after rash is resolved, when sores and wounds are dry or can be completely covered with a bandage, or with written clearance from a licensed health care provider.
  - (G) Stiff neck and headache with one or more of the symptoms listed above
  - (H) Uncharacteristic lethargy, decreased alertness, increased irritability, increased confusion, or a behavior change that prevents active participation in usual school activities. A child with any of the above symptoms may return to care when symptoms resolve, return to normal behavior, or with written clearance from a licensed health care provider.
  - (I) Difficulty breathing or abnormal wheezing. A child with difficulty breathing or abnormal wheezing may return to care after symptoms are improving for 24 hours.
  - (J) Complaints of severe pain. A child with complaints of severe pain may return to care after symptoms are improving.
  - (K) Eye lesions that are severe, weeping, or pus filled. A child with eye lesions that are severe, weeping, or pus filled may return to care after symptoms resolve or with written clearance from a licensed healthcare provider.
- (2) If a child who has been admitted into care shows signs of illness, as described in this rule, a provider must:
- (a) Separate the child from the other children in a location where the child can be supervised by caregivers and carefully observed at all times;
  - (b) Notify the parent to remove the children from care as soon as possible; and

- (c) Until the parent arrives, provide the child with an individual cot, mat, or bed that can be easily cleaned and disinfected after use.
- (3) If any child, caregiver or volunteer has a restrictable disease, as defined in Oregon Health Authority, Public Health Division Chapter 333, Division 19 Investigation and Control of Diseases: General Powers And Responsibilities, a provider must:
- (a) Immediately report the incident or illness to the local health department;
  - (b) Follow the health department's recommendations on exclusion and readmission of children and caregivers; and
  - (c) Post a notice for the parents of all children who attend the home.
- (4) A provider must develop a written care plan at the time of enrollment, or when an allergy is identified, for each enrolled child who has an allergy that poses a threat to the child's health, safety and wellbeing. The plan must include instructions regarding the allergen and steps to be taken to avoid the allergen; signs and symptoms of an allergic reaction; and a detailed treatment plan including the names, doses, and methods of prompt administration of any medication in response to allergic reactions. In addition:
- (a) The parent must be notified immediately of any suspected allergic reactions or if the child consumed or came in contact with the allergen, even if a reaction did not occur;
  - (b) If epinephrine is administered, emergency medical services must be contacted immediately, and, CCLD must be notified by 5:00pm the next business day;
  - (c) All caregivers involved in care of the child must be trained on the written care plan;
  - (d) Specific food allergies must be shared with all caregivers that prepare and serve food; and
  - (e) A list of each child's allergies should be easily accessible for caregivers but not visible to those who are not parents or guardians of the enrolled child.

## **414-360-1020 Injuries**

- (1) A provider must complete a report of any serious injury or incident, and include:
- (a) The child's full name and age;
  - (b) The date of occurrence, time, type, circumstances, witnesses, and location at the home or off-site;
  - (c) Time and date of notification of parents;
  - (d) The signature of the reporting caregiver; and
  - (e) The signature of the parent indicating that they reviewed it or received a copy of the report within 48 hours of when the incident occurred. An email or text with confirmation of receipt will count as a parent signature.
- (2) A provider must maintain, at a minimum, the following first aid supplies at the home, in any vehicle used to transport children in care, and for group activities away from the home:

- (a) Non-medicated adhesive bandages (assorted sizes);
  - (b) Adhesive tape;
  - (c) Sterile gauze pads (various sizes);
  - (d) A sling, or a large triangular bandage;
  - (e) Bottled water (for cleaning wounds or eyes);
  - (f) Liquid handwashing soap or handwashing gel;
  - (g) Sealed antiseptic towelettes or solution to be used as a wound cleaning agent;
  - (h) Scissors;
  - (i) Tweezers;
  - (j) Disposable latex-free, powder-free gloves;
  - (k) Plastic bags (for disposing of blood and other body fluids);
  - (l) Mercury-free and glass-free thermometer;
  - (m) Cold pack;
  - (n) Chlorine or other disinfectant for cleaning of blood and other bodily fluids;
  - (o) Flexible rolled gauze; and
  - (p) A chart or handbook of first aid instructions.
- (3) A provider must ensure that the first aid supplies are readily available to caregivers and kept inaccessible to children.
- (4) A provider must maintain the first aid supplies in a clean and sanitary manner and replace them as needed, including expired items.

## **414-360-1030 Medications**

- (1) Before a provider gives a child any prescription or non-prescription medication, including, but not limited to, pain relievers, cough syrup, and nose drops, the provider must:
- (a) Have a signed, dated, written authorization by the parent(s) on file (also see OAR 414-360-0230, Parental Permissions);
    - (A) For chronic medical conditions, a certified family child care may obtain permission for 12 months or less with specific instructions including when administration is needed, such as inhalers.
    - (B) Parental authorization over the phone is permitted for single dose administration of non-prescription medication. The date and time of the consent must be documented and signed by the parent upon picking up their child.
  - (b) Ensure that the original container is labeled with the name of the medication, dosage, and directions for administration and storage.

- (A) For prescription medication, the label must include the child's name, the date the prescription was filled, the prescribing physician's name, and length of time to give the medication.
  - (B) If parent instructions differ from the container instructions, a certified family child care must have a licensed physician's written instructions for that medication.
  - (C) Medication must not be administered after the expiration date.
  - (D) Any medication provided by the parents must be labeled with the child's name.
- (c) Ensure that cleaned and sanitized medication measuring devices are used when providing medication to a child care child, if applicable.
- (2) A provider must immediately document any medication administered, listing the name of the child, type of medication, date, time, and dosage given, any side effects exhibited by the child, and the signature of the person administering the medication.
  - (3) A provider must inform parent(s) daily of all medications administered to their child.
  - (4) If medication is provided by the parent, a certified family child care must administer medication only to the child for whom it is intended, and follow the directions on the label.
  - (5) A provider must ensure that medication is stored through one of the following methods:
    - (a) Under a child safety device or child safety lock; or
    - (b) In a locked room.
    - (c) Emergency medicine may be placed in an unlocked container that is kept out of reach of children while inside the home.
  - (6) Emergency medication may either be inaccessible to children as defined in OAR 414-360-0100(21) or kept with a caregiver.
  - (7) The application of sunscreen and diaper cream does not need to be documented, but a provider must:
    - (a) Have annual written parental authorization;
    - (b) Use only as needed and according to manufacturer's instructions;
    - (c) Inform parents of the type of sunscreen used if provided by the certified family child care;
    - (d) Label the item with the child's name if provided by the parent, and use only for that child; and
    - (e) Allow children to apply sunscreen to themselves with direct caregiver supervision and written parental approval.

## **414-360-1050 Care of Children with Specific Needs**

When caring for a child who has or is at increased risk for a chronic physical, developmental, behavioral, or emotional condition and who requires health and related services of a type or amount beyond that required by children generally, a provider must have a written care plan. The written care plan must include the following, when applicable:

- (1) A list of the child's diagnosis/diagnoses;
- (2) Contact information for the primary care provider and any relevant sub-specialists (i.e., endocrinologists, oncologists, etc.);
- (3) Medications to be administered on a scheduled basis;
- (4) Medications to be administered on an emergency basis with clearly stated parameters, signs, and symptoms that warrant giving the medication written in language that is easy to understand;
- (5) Procedures to be performed and person responsible for training caregivers;
- (6) Allergies;
- (7) Dietary modifications required for the health of the child;
- (8) Activity modifications;
- (9) Environmental modifications;
- (10) Stimulus that initiates or precipitates a reaction or series of reactions (triggers) to avoid;
- (11) Symptoms for caregivers to observe;
- (12) Behavioral modifications;
- (13) Emergency response plans, both if the child has a medical emergency, and special factors to consider in a programmatic emergency, like a fire;
- (14) Any necessary special skills training and education for caregivers and the person responsible for training caregivers; and
- (15) Any individualized services (e.g. occupational therapy, speech services) that will be provided at the home. If the individualized service required the child be out of direct supervision of caregivers, parental permission is required.

## **414-360-1100 Food and Food Service**

- (1) A provider must ensure that all food and beverages are selected, stored, prepared and served in a sanitary manner.
- (2) Children must not be in the kitchen or food preparation areas when foods are being prepared unless a caregiver is present and children are protected from hazards such as hot foods, sharp utensils, etc.
- (3) A provider must ensure that all equipment and utensils used for food service, such as counters, shelves, tables, refrigerators, sinks, drain boards, cutting boards are:
  - (a) Maintained in a clean and sanitary condition; and
  - (b) Durable and in good repair.
- (4) The cleaning and sanitizing of tableware and kitchenware must be accomplished by:
  - (a) A dishwasher that is operated according to manufacturer's instructions; or
  - (b) A three-step manual process as follows:

- (A) Washing in the first compartment with soap and water;
  - (B) Rinsing in the second compartment with clean water; and
  - (C) Sanitizing in a third compartment large enough to fully immerse the largest equipment and utensils. Submerge all tableware and kitchenware as long as required under the manufacturer's instructions.
- (5) A provider must provide accurate thermometers designed to measure cold storage temperature in refrigerators and freezers. These thermometers must be clearly visible and easy to read. Refrigerators must maintain a temperature of 41°F or below, and freezers must maintain a temperature of 0°F or below.
- (6) Single service items such as paper plates, cups and napkins, and plastic utensils may be used only once and must be discarded after use.
- (7) A provider's food service must include the following:
- (a) Children in care for more than 3 ½ consecutive hours must be served a meal or snack every 3 ½ hours;
  - (b) Children arriving after school are served a snack;
  - (c) Children scheduled to attend prior to 7:00 a.m. or after 6:30 p.m. are offered breakfast or dinner; and
  - (d) If applicable, children in night care are provided meals and snacks in accordance with OAR 414-360-1500, Night Care).
- (8) A provider must provide an eating environment that supports safe and sanitary eating and allows socialization to occur.
- (9) If a provider serves family style meals, where food is brought to the table in larger quantities and served to the plates from the table, the certified family child care must have a written plan, approved by CCLD and available for review by the environmental health specialist, which includes at least the following elements:
- (a) Separate serving portions for each table;
  - (b) Serving utensils distinct from eating utensils;
  - (c) Caregiver oversight to ensure sanitary practices; and
  - (d) Provision for serving mildly ill children to prevent the spread of the illness.
- (10) A provider may serve a child food provided by the parent of the child only when:
- (a) Food is brought on a daily basis and is ready to eat, requiring no preparation;
  - (b) All food and beverage containers are labeled with the child's name;
  - (c) Each child's food is monitored daily by a staff member to ensure that the food meets nutritional requirements as specified in OAR 414-360-1100(12); and
  - (d) There must be sufficient food available to supplement any meal or snack that does not meet nutritional requirements as specified in OAR 414-360-1100(12).
- (11) Meals and snacks for children must be:
- (a) Prepared on site;



- (b) Obtained from an approved source as specified in OAR 333-150-0000; or
  - (c) Provided by parents.
- (12) A provider must ensure that all meals, snacks and beverages follow the current USDA Child and Adult Care Food Program (USDA-CACFP) meal pattern requirements, including portion sizes.
- (13) A provider must develop weekly or monthly written menus that show all foods to be served during that period and make the menus available to parents.
- (a) Substitutions that meet nutritional requirements are permitted but must be recorded and made available to parents.
  - (b) Menus may be rotated if there is a record of which menu was used for each date.
- (14) A provider must select and serve food that is safe and has nutritional value.
- (a) Foods of minimal nutritional value, such as gelatin or desserts, may only be served occasionally and cannot replace nutritious foods.
  - (b) A provider must serve beverages consisting only of water, milk or nutritionally equivalent milk substitute, and fruit or vegetable juice.
    - (A) Fruit and vegetable juice must be pasteurized 100 percent juice.
    - (B) Milk must be Grade A pasteurized and fortified milk.
    - (C) Pasteurized powdered milk and evaporated milk must only be used in cooking.
    - (D) A parent may request that their child not be served milk. A provider must obtain written parental permission to not serve milk to a specific child. This must be at the parent's request, on a case-by-case basis, and not a program-wide policy.
  - (c) A provider must not serve foods that are associated with young children's choking incidents to children under 3 years of age including, but not limited to: hot dog slices, raw carrots, whole grapes, hard candy, gum, nuts, peanuts, popcorn, rice cakes, chips, gel candies, and marshmallows. Children older than 3 years of age may be served these food provided that the foods are cut in such a way as to minimize choking hazards.
  - (d) Nutrient concentrates and supplements (protein powders, liquid proteins, vitamins, minerals, and other nonfood substances) must not be served to a child without a written statement of parental consent and written instructions from a medical practitioner.
  - (e) Special diets, not including vegetarian diets, may only be served to a child with written instructions from a registered dietician or medical practitioner and written parental consent.
- (15) Drinking water must be freely available to child care children.

**414-360-1200 Transportation and Field Trips**

- (1) If a provider transports children, the provider must be in compliance with all applicable state laws, including current vehicle insurance that covers the driver, the vehicle, and all occupants.
- (2) A provider must not transport children in vehicles or parts of vehicles not designed for transporting people, such as truck beds, campers, and trailers.
- (3) When children are taken on field trips, a provider must ensure that:
  - (a) Caregivers check a written list of children on the field trip frequently to account for the presence of all children and:
    - (A) Prior to boarding and exiting the vehicle; and
    - (B) Any time the group changes locations on site (e.g. when moving from one exhibit to the next).
  - (b) When 6 or more children are taken on a field trip:
    - (A) Each child must wear an easily identifiable item, such as a label, shirt or wristband, listing the name and telephone number of the certified family child care; and
    - (B) Caregivers are easily identifiable.
- (4) If firearms and ammunition are stored in the vehicle, they must be stored as specified in OAR 414-360-0840(11).
- (5) If the driver is the only adult in the vehicle, a provider must ensure that the driver:
  - (a) Meets assistant II qualifications and training requirements (also see OAR 414-360-0340(3)); and
  - (b) Meets additional driver and ratio requirements under OAR 414-360-1200(6) and (7).
- (6) A provider must ensure that drivers of a vehicle used to transport children:
  - (a) Are at least 18 years of age;
  - (b) Have a valid driver's license appropriate for the type of vehicle driven;
  - (c) Do not have any medical condition or use alcohol, drugs, tobacco or any medication that could compromise driving, supervision, or evacuation abilities;
  - (d) Operate the vehicle in a legal and safe manner; and
  - (e) Eliminate distractions such as the use of earphones or cell phones.
- (7) A provider must ensure that there are sufficient caregivers to meet the required caregiver-to-child ratios for children being transported.
  - (a) The driver may also count in caregiver-to-child ratios.
  - (b) One caregiver must be at least assistant II qualified (also see OAR 414-360-0340(3)).

- (8) A provider may allow a parent to transport children other than the parent's own children without a qualified caregiver present in the vehicle, only if the parent meets assistant II qualifications and transportation requirements as provided in these rules, and is enrolled in the CBR.
- (9) A provider must never leave children unattended inside or outside of a vehicle.
- (10) A provider must maintain the following items in the vehicle as well as at the home:
  - (a) An operable phone;
  - (b) Proof of vehicle insurance;
  - (c) Emergency medical information on each child including parents' contact information, special medical needs, medications, allergies, the name and phone number of the child's doctor, and emergency medical authorization forms;
  - (d) When transporting children with chronic medical conditions (such as asthma, diabetes, or seizures), their emergency care treatment plans, supplies and medication; and
  - (e) A first aid kit that is easily accessible to staff and not children, and with contents specified in OAR 414-360-1020(2), Injuries).
- (11) A provider must ensure the following safety practices are followed:
  - (a) The vehicle doors are locked when the vehicle is moving and when not in use.
  - (b) The motor is turned off, the brake set, and the keys removed whenever the driver leaves the vehicle.
  - (c) No vehicle window, except that of the driver, must be opened to more than 50 percent of its capacity when children are on board.
  - (d) Children's entire bodies must remain in the vehicle.
  - (e) Safe conduct to and from the vehicles and safe off-street loading spaces must be provided.
    - (A) Children must be loaded and unloaded only at the curb or at an off-street area protected from traffic on the same side of the street as the building they will enter.
    - (B) If children must cross a street, they must be accompanied by an adult.

## **414-360-1230 Passenger Restraints and Vehicles**

- (1) A provider must meet the following passenger restraint and seating rules to ensure children's safety during transportation:
  - (a) The manufacturer's maximum seating capacity for the vehicle is not exceeded;
  - (b) Child passenger restraint systems and seat belts must be used according to law, meet federal motor vehicle standards and installed in accordance with the manufacturer's instructions;

- (c) Restraint systems are properly maintained, such as not expired, recalled, or previously involved in a crash;
  - (d) Child care children are not permitted to ride in the front seat of a vehicle; and
  - (e) All adult passengers in a vehicle transporting children, other than a large school bus, must be properly restrained by safety belts before starting the vehicle and at all times the vehicle is in motion.
- (2) A provider must ensure that all vehicles used for transportation meet the following:
- (a) Vehicles, including school buses, are in compliance with all applicable state and local motor vehicle laws.
  - (b) If a provider uses vans designed for 10 or more passengers and manufactured prior to 2010:
    - (A) Travel speed may not exceed 50 mph; and
    - (B) The vehicle must have an annual safety inspection by a garage, dealership or auto repair shop. Proof of inspection must be on the form provided by CCLD or on a form provided by the inspector which contains the same information.
  - (c) Vehicles have a current license plate and registration as required by Oregon state transportation laws, including vehicles driven by volunteers.
  - (d) Vehicles are maintained in good repair and safe operating condition at all times.

## **414-360-1300 Swimming and Water Activities**

- (1) A provider must have written permission from each child's parent before engaging in any swimming activities.
- (2) A provider must provide constant sight and sound supervision of children around any bodies of water.
- (3) A provider must not use a swimming pool unless it has been licensed by the Oregon Health Authority or delegated agent pursuant to OAR Chapter 333, Division 60. (Also see OAR 414-360-0840, Prevention and Management of Hazards regarding access to pools and other bodies of water.)
- (4) In natural bodies of water, such as shallow surf, lakes, rivers, and streams, a provider must limit activity to wading by children 36 months of age and older and must not allow swimming.
- (5) A provider must not permit children to use or have access to a hot tub, spa, portable wading pool, or other similar equipment.
- (6) If a provider has on-site swimming or is responsible for off-site swimming, the provider's written emergency plan (required by OAR 414-360-0210, Emergency Preparedness and Response) must also include pool and swimming safety.
- (7) At all times when children are engaged in swimming and wading activities on or off the premises, a provider must:
  - (a) Ensure that caregivers are in or at the water and prepared to enter;

- (b) Ensure that caregivers remain in direct physical contact with infants at all times and not more than an arms length from 1-year-olds;
  - (c) Meet the following caregiver-to-child ratios:
    - (A) Six weeks of age to 36 months - 1:1;
    - (B) Preschool-age - 1:6;
    - (C) School-age - 1:10.
    - (D) The age of the youngest child in a mixed-age group determines the caregiver-to-child ratio.
  - (d) Verify that all caregivers counted in the caregiver-to-child ratios are able to swim if the water is more than 48 inches deep;
  - (e) Ensure that a certified lifeguard is present and on duty at all times. The lifeguard may not count in caregiver-to-child ratios; and
  - (f) Review safety rules with children each time they participate.
- (8) Water activities that involve a sprayer or spray feature using potable water that is not re-circulated or collected may be conducted by the provider.

## **414-360-1400 Animals**

- (1) A provider must ensure that any animal accessible to child care children is:
  - (a) In good health and shows no signs of carrying disease;
  - (b) Friendly toward children with no signs or history of aggression;
  - (c) Kept free of fleas, ticks, and worms;
  - (d) Fully immunized according to a licensed veterinarian's recommendations, including rabies vaccinations for dogs. Proof of current compliance with immunizations shall be kept on file in the home; and
  - (e) Kept in a cage or tank with the exception of cats and dogs.
- (2) 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.
- (3) A provider may not allow an animal with any history of biting to be in child care activity areas during operating hours or while child care children are present.
- (4) A provider must take precautions when encountering any animals unfamiliar to the caregivers, such as a stray.
- (5) A provider may allow an animal, other than a cat or dog, such as a poisonous animal, reptile, amphibian, monkey, hook-beaked bird, chicken, duck, hermit crab, rodent or ferret on the premises only if:
  - (a) The animal is housed in and remains in a cage, tank or other measure which precludes any direct contact by children; or

- (b) The animal is present as part of an educational program run by a zoo, museum or another professional animal handler.
- (6) A provider must ensure that all contact between an animal and a child is supervised by caregivers who are close enough to remove the child immediately if the animal shows signs of aggression or distress or the child shows signs of treating the animal inappropriately.
- (7) Parents must be made aware of the presence of any animals on the premises.
- (8) A provider must have and follow written procedures for the care and maintenance of the animals.
- (9) Animal waste items such as litter boxes and pet training pads shall not be located in areas accessible to children or areas used for food storage or preparation.

### **414-360-1500 Night Care**

- (1) A provider is subject to these rules when providing night care as defined in OAR 414-360-0100(27).
- (2) A provider must:
  - (a) Be awake for the arrival and departure of each child in night care; and
  - (b) Be present on the same floor level as the child care children who are sleeping.
- (3) All individuals 18 years of age and older, inclusive of guests sleeping in the home during night care hours, must comply with OAR 414-360-0310, Central Background Registry Enrollment.
- (4) Night care must not be provided on the second floor or above.
- (5) During night care, the provider must have a method for illuminating evacuation routes.
- (6) The following accommodations must be provided to sleeping children:
  - (a) Each child who spends the majority of their sleeping hours per night in night care must have an individual bed and mattress, or another sleeping arrangement that provides adequate support to a child's body and of a size appropriate to the age of the child. The mattress must be fitted with a waterproof cover.
  - (b) Each child who does not spend the majority of their sleeping hours in night care must have an individual crib, portable crib, play yard, cot, mat, or bed with bedding as specified in OAR 414-360-0620, Furniture and Equipment for Infants and Toddlers and OAR 414-360-0900, Furniture, Equipment and Play Materials.
  - (c) The upper level of bunk beds must be used only for children 10 years or older when a bed rail and safety ladder are in place.
  - (d) Other than infants, children must be provided with sheets, pillows, pillowcases, and blankets.
  - (e) Sheets, pillowcases, and blankets must be laundered at least weekly, when soiled, and before use by another child.

(7) When bathing is provided:

- (a) There must be at least one bathtub or shower available to children.
  - (A) The bathtub or shower must have appropriate equipment to prevent slipping.
  - (B) Glass shower doors or glass tub enclosure must be constructed with safety glass.
- (b) There must be individual washcloths and towels for each child.
- (c) Privacy must be maintained for school-age children when bathing and changing clothes.
- (d) Children must not bathe with other children unless a parent(s) has given written permission for siblings to bathe together.

(8) Each child must have the opportunity to brush their teeth with an individual toothbrush and toothpaste labeled with their name.

(9) A provider must meet the nutritional needs of children in evening and night care as specified in OAR 414-360-1100, Food and Food Service.

- (a) Dinner must be provided to children in night care if a child is at the child care home after their dinner time or has not had dinner before entering night care.
- (b) A nutritious snack must be offered to all children after dinner service and before bed.
- (c) Each child present at the time breakfast is scheduled must be served breakfast, unless the parent(s) specifies otherwise.

## **414-360-1610 Sanctions-Suspension, Denial, and Revocation**

(1) CCLD may immediately, and without prior notice, suspend a provider's certification when, in the opinion of CCLD, 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.

(2) If a provider's certification has been suspended, the provider must:

- (a) Immediately notify, verbally or in writing, all parents of the suspension;
- (b) Immediately provide CCLD with all names, work and home telephone numbers and addresses of the parent(s) or legal guardian(s) for each child; and
- (c) Post the suspension on the main entry door where it can be viewed by parents and others for the duration of the suspension.

(3) If necessary to protect children, CCLD may give public notice of denial, suspension or revocation action taken. The type of notice will depend on individual circumstances.

(4) If a provider does not request a hearing and the conditions which resulted in suspension have not been corrected, the provider's certification shall be revoked.

(5) Certification may be denied or revoked if a certified family child care home:

- (a) Fails to meet requirements or correct deficiencies;

- (b) Fails to correct conditions which resulted in suspension;
  - (c) Fails to provide CCLD with information requested;
  - (d) Refuses to allow an inspection or allows an inspection only after CCLD has obtained a warrant;
  - (e) Is operated or maintained in a manner which is harmful to the health, safety or wellbeing of children in care;
  - (f) Employs caregivers or has residents in the home who are not enrolled in the CBR or whose CBR enrollment is suspended;
  - (g) Is operated by a provider who is currently suspended or has been removed from or is otherwise not enrolled in the CBR;
  - (h) Is owned by an individual who has denied or suspended enrollment in the CBR unless the provider establishes that the owner will not be on the premises while children are in care or have access to child care children;
  - (i) Knowingly provides inaccurate information to CCLD or causes staff to do so;
  - (j) Is subject to denial or revocation for cause as provided by OAR 414-075-0010(17)(b)(A)-(F) or 414-075-0130(8)(a) and (c); or
  - (k) Interferes with the good faith disclosure of information by staff or a volunteer concerning the abuse or mistreatment of a child in the certified family child care violations of certification requirements, criminal activity at the home, violations of state or federal law or any practice that threatens the health and safety of child care children, or otherwise engages in conduct prohibited by ORS 329A.348.
- (6) If a provider's certification has been denied or revoked, the provider must immediately notify all parents of the closure and shall post a notice of the closure where it can be viewed by parents and others. The notice shall remain posted for a minimum of 2 weeks.
- (7) A provider may appeal any decision to suspend, deny or revoke the certification, subject to the provisions of chapter 183, Oregon Revised Statutes.
- (8) CCLD may report any action to deny, suspend, or revoke a provider's certification to the Department of Human Services, USDA Child Care Food Programs, or Child Care Resource and Referral System.
- (9) If a provider's certification has been denied or revoked for cause, the provider is not eligible to reapply for a certified family child care certification for 5 years after the date of CCLD's final order denying or revoking the certification for cause.
- (10) If any person, who is enrolled in the CBR, has been charged with, arrested for, or a warrant is out for any of the crimes which CCLD has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, certification of such person to own or operate a certified family child care may be denied or suspended or revoked until the charge, arrest, or warrant has been resolved if the person continues to own, operate, be employed in or reside in the child care home, or have access to children in the home.



- (1) A provider's certification may be denied, suspended or revoked if an individual has child abuse or neglect history or an open child protective services, child abuse or neglect, or law enforcement case that would make the individual ineligible for enrollment in the CBR.

### **414-360-1620 Civil Penalty**

- (1) CCLD may assess a civil penalty of up to \$1200 per violation of these rules or terms and conditions of certification.
- (2) CCLD may assess a civil penalty in addition to any other appropriate legal action, considering:
- (a) Numbers of previous violations of the same rule;
  - (b) Circumstances surrounding the rule violations; and
  - (c) Prior warnings, technical assistance, or legal actions regarding the certified family child care's compliance with the rule.
- (3) For a serious violation, as defined in OAR 414-360-0100(42), a provider may be subject to a civil penalty not to exceed \$1200 for each violation.
- (4) For a non-serious violation, a provider may be subject to a civil penalty of \$400 for each violation.
- (5) CCLD may assess a separate civil penalty for each day for which CCLD has made a valid finding that a certified family child care is in violation of ORS 329A.250 to ORS 329A.450, these rules, or the terms and conditions of certification. CCLD may assess civil penalties for multiple days in a single action.
- (6) An individual or entity that provides child care subject to registration or certification in a home or facility that is not registered or certified with CCLD may be subject to a civil penalty not to exceed \$1,500 per day of operation of the uncertified or unregistered facility.
- (7) Notwithstanding CCLD's decision to impose a civil penalty for one or more rule violations, CCLD may also take action to deny, suspend or revoke a certification for the same rule violation or violations.
- (8) A provider may appeal any decision to impose a civil penalty, subject to the provisions of chapter 183, Oregon Revised Statutes.
- (9) Failure to pay a civil penalty in which CCLD has issued a final order by default or a final order after a contested case hearing shall be grounds for denial or revocation of a provider's certification.

STATUTORY/OTHER AUTHORITY: ORS 329A.260, ORS 329A.992

STATUTES/OTHER IMPLEMENTED: ORS 329A.280, ORS 329A.992, ORS 329A.030





# **General Rules for All Child Care Facilities**

Child Care Licensing Division  
**Oregon Department of Early Learning and Care (DELIC)**  
General Rules for All Child Care Facilities effective December 7, 2023

These rules apply to all child care facilities including certified centers, family child care homes, exempt child care providers, recorded programs, regulated subsidy programs, and those who may be conducting unlawful care. This ruleset covers the processes and policy which governs how CCLD/DELIC proceeds in regulatory matters such as investigations, unlawful care, allowable exempt care, when a provider may be represented by their union in a contested case hearings process, or procedures for when an individual is prohibited from providing care. These rules help to provide transparency and a road map for providers and the public in understanding how the agency proceeds in these important matters. These rules are reflective of the regulatory authority given to DELIC in ORS 329A and ORS 326.430.

## **Oregon Administrative Rules (OAR) Chapter 414, Division 075**

General Rules for Child Care Facilities

December 7, 2023

Edition published 12/11/2023

Department of Early Learning and Care  
Child Care Licensing Division

This copy of the rule book is available on the Department of Early Learning and Care website. Additional copies may be downloaded at any time.

For more information or the latest updates, visit  
[www.oregon.gov/delc](http://www.oregon.gov/delc)

Questions? Email [CCLD.CustomerService@delc.oregon.gov](mailto:CCLD.CustomerService@delc.oregon.gov)  
Call 1-800-556-6616

You are entitled to language assistance services and other accommodation at no cost. If you need help in your language or other accommodations, please contact the Office of Child Care at 503-947-1400.

**DEPARTMENT OF EARLY LEARNING AND CARE**  
**Chapter 414, Division 075**

## **General Rules for All Child Care Facilities**

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### **414-075-0000 Applicability of Rules**

- (1) Except as otherwise specified, these rules apply to all licensed license-exempt, exempt, and unlicensed child care providers and facilities including:
  - (a) All licensed facilities including registered family child care homes, certified family child care homes, certified child care centers, and certified school-aged child care centers;
  - (b) License-exempt child care and exempt care facilities that are required by statute to only employ or contain individuals who are enrolled in the Central Background Registry, including but not limited to, recorded programs and subsidized care facilities;
  - (c) Exempt care facilities providing or claiming to be providing care defined to not be child care in ORS 329A.250(4)(b)(A) through (H); and
  - (d) Facilities, providers, and persons providing or alleged to be providing unlawful care as defined in OAR 414-075-0230.
- (2) These rules supplant and do not supersede the rules contained in Chapter 414, Divisions, 61, 175, 180, 205, 305, 310, 350, 400, 425, and 450 and pertaining to specific child care program types. In the event of a conflict between such rules and these rules, these rules control.
- (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.

## 414-075-0010 Definitions

The following words and terms, when used in OAR 414-075-0000 through 414-075-0300, have the following meanings:

- (1) **"Certified Family Child Care Home"** or "CF" means a child care facility operated in a building designed as a single family home or other dwelling that is certified to care for no more than 16 children at any one time.
- (2) **"CCLD"** means the Child Care Licensing Division in the Department of Early Learning and Care.
- (3) **"Central Background Registry"** or "CBR" means CCLD's registry of individuals who have been approved to be associated with a child care facility in Oregon pursuant to ORS 329A.030 and OAR 414-061-0000 through 414-061-0120.
- (4) **"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 that is greater than that of their same aged peers, for whom a licensed or subsidized child care facility, or a facility for which a license is required, or a license-exempt child care facility as defined in this rule, has supervisory responsibility in the temporary absence of the parent.
- (5) **"Child Care Facility"** means any facility that provides child care to children, including a certified child care center, certified school-aged child care center, certified family child care home, and registered family child care home. It may include those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before and after school care, or child development center, and does not include license-exempt child care or exempt care, as defined in this rule. This term applies to the total child care operation. It includes the physical setting, equipment, staff, provider, program, and care of children. It does not include a license-exempt child care facility as defined in this rule.
- (6) **"Child Abuse or Neglect"** means as defined as "abuse" in ORS 419B.005 including but not limited to physical abuse, emotional abuse, sexual abuse, negligent treatment or maltreatment, and threat of subjecting a child to a substantial risk of harm to the child's health or welfare.
- (7) **"Child Protective Services"** or "CPS" means the program as defined in OAR 413-015-0115.
- (8) **"Civil Penalty"** means a fine imposed by CCLD for violation of one or more applicable rules or statutes.
- (9) **"Complaint"** means written or verbal information received from any source that a facility is providing or has provided care in a manner potentially in violation of a state law or administrative rule within the authority of CCLD.
- (10) **"Employee"** means an individual engaged to work full or part time in a facility. This includes all caregivers and any individual who functions other than as a caregiver for children.

- (11) **"Exempt Care"** is care provided by a caregiver that is within an exception to the definition of "child care" in ORS 329A.250(b)(A) through (H) or as otherwise provided by rule (see OAR 414-075-0250(3) and is not described in ORS 329A.250(4)(a)(A) or (B).
- (12) **"Exempt Care Facility"** means a facility that provides only exempt care as defined in this rule.
- (13) **"Exempt Prohibited Individual"** means an individual who is by law prohibited to provide child care or exempt care, except to children related to the individual by blood or marriage within the fourth degree of sanguinity as determined by civil law, as defined in ORS 329A.252(1)(a) through (e) and described in OAR 414-075-230. An exempt prohibited individual is ineligible for enrollment in the Central Background Registry except for limited enrollment as described in 414-061-0020(27)(b).
- (14) **"Facility"** means an individual, group of individuals, or entity that is caring for or is alleged to be providing care for any child younger than 13 years or younger than 18 years with special needs who requires a level of care that is greater than that of their same-aged peers for whom the individual, group of individuals, or entity has responsibility in the temporary absence of the parent, legal guardian or custodian .
- (15) **"Family"** for purposes of determining if children are from the same family or if a child is in care by a member of the child's extended family as referred to in OAR 414-075-0250 means a group of individuals related by blood, marriage or adoption, or individuals whose functional relationships, such as residing together, are similar to those found in such associations.
- (16) **"Finding"** means a written determination by CCLD staff with respect to information received, a complaint, or an observed noncompliance with a requirement in ORS 329A.030 or ORS 329A.250 through 329A.500 or rules adopted by the Early Learning Council pursuant to ORS 329A.030 or ORS 329A.250 through 329A.500.
- (17) **"For Cause"** means that the reason for a denial or nonrenewal of a license or enrollment in the CBR or the revocation of a license or removal from the CBR was based on a determination that:
- (a) With respect to a CBR application or enrollment, an individual was found not suitable after a review of history, including but not limited to criminal, child abuse and neglect, negative foster care certification, or negative adult protective services history, and of information related to the history; or
  - (b) With respect to a license, the licensee failed or fails to meet licensing requirements and is or has operated in a manner which is harmful to the health and safety or wellbeing to children. For purposes of this rule, "harmful" means posing a risk of or actually causing physical, emotional, or mental damage to child care children, and includes but is not limited to any violation of:
    - (A) A requirement designed to protect children from physical hazards;
    - (B) Applicable guidance and discipline rules involving inappropriate punishment;

- (C) A requirement to exclude from the facility a person who has demonstrated behavior that may have a detrimental effect on children;
  - (D) A requirement to report suspected child abuse or neglect;
  - (E) A requirement involving safe sleep for infants; or
  - (F) Applicable supervision rules resulting in:
    - (i) A child escaping the facility;
    - (ii) A child being left behind from or on a field trip without supervision; or
    - (iii) A child being injured when the injury could have been prevented with proper supervision.
- (18) **"Investigation"** means the collection and review of information received by CCLD of prompted by an allegation of a rule or statute violation including but not limited to a cross-report of a child abuse and neglect received by law enforcement or the ODHS, or other information received by CCLD. An investigation includes but is not limited to a tandem investigation as defined in this rule and includes any activities as listed in ORS 329A.390(7) or OAR 414-075-0130.
- (19) **"Licensed"** means the state of having an active registration or certification issued by CCLD.
- (20) **"License"** means an authorization from CCLD to operate a registered family child care home, a certified family child care home, a certified child care center, or certified school-age child care center.
- (21) **"Licensee"** means an individual to whom a registration or certification has been issued by CCLD.
- (22) **"License-Exempt Child Care"** means child care that is not required to be licensed because it is provided as described in ORS 329A.250(5)(a) through (i).
- (23) **"License-Exempt Child Care Facility"** means a facility that provides only license-exempt child care as defined in this rule.
- (24) **"Noncompliance"** means being in violation of a requirement contained in statute or rule for the applicable type of facility.
- (25) **"Observed Noncompliance"** means a noncompliance observed by CCLD staff including information observed in a facility's records.
- (26) **"Occasional care"** means care that is provided for no more than 70 days in any calendar year for the purpose of the supervision and guidance by a person, sponsor, or organization not ordinarily engaged in providing child care for children, as defined in this rule, for not more than 70 days, or for enrichment activities that coincide with the non-school days in the Oregon public school system.
- (27) **"ODHS"** means the Oregon Department of Human Services.
- (28) **"Ordinarily engaged in providing care"** means that the facility has been issued a current child care certification or registration, is a license-exempt child care facility as



defined in this rule or represents or advertises to the public as available to provide care for children on an ongoing basis.

- (29) **"OTIS"** means the Office of Training, Investigations and Safety in ODHS.
- (30) **"Parent"** means a parent, custodian, or guardian exercising physical care and having legal custody of the child.
- (31) **"Person"** means an individual human being, an entity to whom CCLD has issued a record or a license to operate a certified child care center or certified school-aged child care center, or an individual or entity operating a license exempt child care facility.
- (32) **"Premises"** means the physical location used or alleged to be used by a facility to provide care subject to regulation or investigation by CCLD, including all indoor and outdoor areas not directly used for child care.
- (33) **"Provider"** means an individual in whose name a license or approval to receive payment for subsidized care is issued.
- (34) **"Recorded Program"** means a facility to whom CCLD has issued a record to operate a preschool or school-aged recorded program.
- (35) **"Registered Family Child Care Home"** or **"RF"** or **"Registered Facility"** means in a the residence of a provider to whom CCLD has issued a license to operate a facility in the family living quarters pursuant to these rules and OAR 414-205-0000 to 414-205-0170.
- (36) **"Regular operating hours"** means the days and hours of operation as requested by a child care facility and approved by CCLD, except:
- (a) A registered family child care facility that has not requested and obtained approval by CCLD of regular operating hours:
    - (A) Providing night care is considered to have operating hours of 24 hours per day, seven days a week, if providing night care.
    - (B) Not providing night care is considered to have operating hours of 5:00 am to 9:00pm, Monday through Friday.
  - (b) Regular operating hours also include any time that a child enrolled in or regularly attending a certified or registered facility is present at the facility including before or after the approved operating hours, unless:
    - (A) The child resides in the facility; or
    - (B) The child is present at a registered or certified family child care home for a social event as described in OAR 414-075-0250(2)(b).
- (37) **"Sensitive Allegations"** means allegations that in the judgment of CCLD staff should not be discussed in the hearing of child care children who are present and old enough to understand a conversation that would necessarily include discussion of sexual activity or sex abuse or any individual's personal medical information or medical or disability diagnoses.

- (38) **"Staff"** means, as applicable:
- (a) For a facility, the provider and any other individuals employed in the facility regardless of compensation, including a volunteer who is in the facility for more than a single activity; or
  - (b) For CCLD, any individual employed by the agency or authorized to act on behalf of the agency, including but not limited to investigators, licensing specialists, managers, or other employees.
- (39) **"Subsidized Care"** means the care, supervision and guidance on a regular basis of a child, unaccompanied by a parent, guardian or custodian, provided to during a part of the 24 hours of a day, paid for in whole or in part by public funds administered by the Department of Early Learning and Care.
- (40) **"Subsidized Care Facility"** means any facility that provides subsidized care to children, including a day nursery, nursery school, child care center, certified, registered or exempt family child care home or similar unit operating under any name, for which payment for child care is made by the Department of Early Learning and Care.
- (41) **"Superseding Finding"** means a finding in a findings letter that replaces a finding included in a previously issued letter.
- (42) **"Tandem Investigation"** means an investigation conducted by CCLD jointly with representatives from partner agencies, including but not limited to ODHS and its divisions or units.
- (43) **"Unlawful Care"** means care provided by a person or entity who is not licensed or recorded when a license or record is required pursuant to ORS 329A.255, ORS 329A.280 or ORS 329A.330, and as described in OAR 414-075-0230.
- (44) **"Unlicensed"** means the status of providing care without an active license issued by CCLD including while providing license-exempt child care or exempt care.

## **414-075-0130 Complaints and Investigations**

- (1) Unless already open regarding the same allegations, a complaint will be opened based on CCLD's receipt of any of the following concerning licensed facilities, recorded programs, or unlicensed facilities alleged to be providing care for which a license or record is required:
- (a) A cross-report of child abuse or neglect from law enforcement agencies, ODHS, or OTIS, including a report that was closed at screening;
  - (b) A report or information from or forwarded by another state or local agency or governmental unit;
  - (c) A report or information from facility staff; or
  - (d) Information received from the general public.

- (2) CCLD will encourage an individual or entity making a complaint to provide CCLD with their identity and contact information, subject to ORS 329A.390(4) prohibiting CCLD from disclosing the name, address, or other identifying information about the individual or entity that made the complaint, except as follows:
- (a) CCLD may share contact information for the individual or entity that made a complaint within the CCLD or with any agency or individual performing a tandem investigation with CCLD related to the complaint for purposes of confirming factual information or obtaining additional information; and
  - (b) CCLD may disclose to an individual that it received a cross-report from law enforcement agencies, ODHS, or OTIS when such cross report is the child abuse or neglect history that has triggered a review of the individual's suitability for enrollment in the Central Background Registry, but may not disclose the name, address or other identifying information about the individual or entity that made the report to law enforcement, ODHS, or OTIS.
- (3) CCLD may investigate any complaint that alleges a violation of a health and safety requirement received regarding any facility, including licensed facilities, recorded programs, and subsidized care facilities, as provided by these rules when the allegations indicate noncompliance with a provision in ORS 329A.250 to 329A.500 or a provision in Oregon Administrative Rules Chapter 414, Divisions, 175, 180, 205, 305, 310, 350, 400, 425 or 450.
- (4) CCLD may investigate any complaint that a facility as defined by these rules and including but not limited to individuals providing or claiming to be providing exempt care, is providing unlawful care as described in OAR 414-075-0230.
- (5) CCLD may investigate any facility for which CCLD has reason to believe or has received information that child care is being provided without a required certification, registration, or record.
- (a) For purposes of determining if the child care requires a certification, registration, or record, CCLD may request the facility to provide information concerning the identities of the children in care and how they are related to the caregiver and to each other.
  - (b) If the facility does not provide CCLD with the information concerning the identities and relationships of the children in care as requested, CCLD may assume that care for a group of more than three children requires a certification, registration, or record from CCLD.
- (6) CCLD may conduct an in-person visit at any reasonable time of any facility to investigate a complaint.
- (a) An in-person visit is at a reasonable time at any time at least one child care child is in care at a licensed facility or is alleged to be in care at the facility.
  - (b) An in-person visit is at a reasonable time at any time CCLD reasonably believes a child may be in care at an unlicensed facility.

- (7) CCLD staff may, but is not required to, use any method of investigation authorized by ORS 329A.390(7). In conducting an investigation CCLD staff may:
- (a) Make one or more visits to the facility under investigation to inspect the premises.
  - (b) Receive, take, record, document, and review evidence.
  - (c) Interview staff, volunteers, parents of child care children, or other individuals who have relevant information.
  - (d) Request documents related to the matter under investigation.
  - (e) Inspect and observe the operations of the facility.
  - (f) Investigate collaboratively with partners.
  - (g) Take the depositions of witnesses, including the person under investigation, in the manner prescribed by law for depositions in civil actions;
  - (h) Compel the appearance of witnesses, including the person under investigation, in the manner prescribed by law for appearances in civil actions;
  - (i) Require answers to interrogatories;
  - (j) Compel the production of books, papers, accounts, documents or testimony that pertains to the matter under investigation; and
  - (k) Issue subpoenas.
- (8) A registered, certified, recorded, or subsidized care facility must provide records or other documentation, and allow CCLD access to the facility for the purpose of conducting an investigation as required or permitted by ORS 329A.390 or these rules. CCLD or the Department as applicable:
- (a) May revoke for cause or deny for cause renewal of a registration, certification, record, or approval of subsidized care facility if access to the facility or its records has not been permitted.
  - (b) May obtain a search warrant to obtain access to a facility as provided by ORS 329A.410 when access has not been permitted.
  - (c) May revoke for cause or deny for cause renewal of a registration, certification, record, or approval of subsidized care facility when access was denied and later permitted only pursuant to a search warrant.
- (9) If the provider denies CCLD access to the premises or to facility staff for purposes of conducting an investigation of a complaint, CCLD may reach a valid finding based solely on other evidence independently obtained and that reasonably could have been corroborated or contradicted by information from the visit or interviews that the provider did not allow.
- (10) A provider or licensee must provide truthful, complete, and accurate information to CCLD staff in connection with any application, records or reports including

attendance records, written or verbal communication, inspection, visit, or investigation.

- (a) When an applicable rule requires information to be provided immediately, it must be provided during the visit or if not in connection with a visit within 24 hours of CCLD's request.
  - (b) Information not required by rule to be provided immediately must be provided within 48 hours of CCLD's request for it to be considered in the investigation. CCLD may issue a finding without reviewing information provided more than 48 hours after CCLD's request.
- (11) An individual who is questioned by CCLD in connection with an investigation of a complaint may refuse to answer specific questions or provide documents by stating that the refusal is based on the privilege against self-incrimination, including when the answer to the question or the documents, if produced by the individual, would furnish a link in the chain of evidence needed for a criminal prosecution. CCLD is not required to inform an individual of this rule prior to questioning the individual.
- (12) CCLD may conduct compliance verification visits to a facility for the purposes of confirming compliance or continued compliance.
- (13) CCLD may conduct an unannounced complaint or compliance verification visit at any reasonable time. When deemed appropriate in the judgment of CCLD staff, including when the complaint contains sensitive allegations as defined in these rules, CCLD may choose to conduct interviews or portions of interviews during the complaint or compliance verification process by telephone, video-conference, or email in addition to an in-person visit.
- (14) The facility must prioritize children's needs during any in-person visit and may not rely on the presence of CCLD staff at the facility to justify noncompliance with any requirement.
- (15) CCLD staff are not required to assist the facility in achieving compliance in response to an observed noncompliance and CCLD staff:
- (a) May not be counted by the facility for purposes of meeting ratio requirements.
  - (b) May not contact parents to pick up children for purposes of achieving compliance with capacity, ratio, or group size or composition requirements.
  - (c) May suggest to the facility specific actions to achieve compliance, including sending children home to achieve compliance with capacity, ratio, or group size or composition requirements.
  - (d) May document whether a facility took immediate steps to achieve compliance or refused to do so.
- (16) The CCLD staff assigned to investigate a complaint must review and consider all evidence and documentation timely submitted by the facility as required by 414-075-0130(10) prior to issuing findings.

- (17) When the requirements for issuance of an emergency order of suspension or conditions are met, CCLD may take action prior to completion of an investigation based on facts confirmed in the pending investigation.
- (18) A CCLD investigation of a complaint is ongoing until CCLD staff has issued findings with respect to all potential noncompliances alleged in the complaint or identified in the investigation.
- (19) Unless the facility has closed before CCLD issues a finding on a complaint, CCLD staff may issue one of the following findings with respect to each complaint investigated by CCLD, and may issue separate findings with respect to each potential regulatory or statutory violation based on the fact(s) confirmed in the investigation:
- (a) Valid, when a reasonable person could conclude the noncompliance occurred based on the evidence; or
  - (b) Invalid, when a reasonable person could not conclude that the noncompliance occurred based on the evidence; or
  - (c) Unable to Substantiate, when a reasonable person could not decide whether the noncompliance occurred because of conflicting evidence or because information is not available.
- (20) An individual may become an exempt prohibited individual if they surrender their registration, certification or CBR enrollment during a CCLD investigation. See OAR 414-075-0230.
- (21) If a facility has closed before CCLD has issued a finding on a complaint because of a voluntary surrender or lapse of the license including because a timely renewal application was withdrawn, CCLD may complete the investigation and issue findings or may close the investigation as incomplete. If CCLD has closed an investigation as incomplete, CCLD may resume the investigation at any time including if the licensee applies to reopen the license or for another license.
- (22) A CCLD investigation for which findings on all allegations have been issued to the facility will be reopened only as follows:
- (a) CCLD will reopen an investigation if it has information that was not considered in the initial investigation that if confirmed could change the outcome, and CCLD has determined that reopening the investigation is necessary.
  - (b) CCLD must notify the facility when it has reopened an investigation.
  - (c) CCLD staff conducting the reopened investigation must issue superseding findings following the investigation that is reopened whether or not the outcome of the original finding is changed.
- (23) A child care facility may not interfere, discourage, or attempt to prevent a parent, legal guardian, current or former employee or volunteer from disclosing information to CCLD, law enforcement, any other entity with legal or regulatory authority over the facility, or to a child's parent concerning allegations of any of the following as provided by ORS 329A.348:

- (a) Abuse or mistreatment of a child in the child care facility;
  - (b) Violations of licensing requirements;
  - (c) Criminal activity at the facility;
  - (d) Violations of state or federal laws, or
  - (e) Any practice that threatens the health and safety of a child in the child care facility.
- (24) Interference with good faith disclosures as described in section (23) of this rule includes:
- (a) Terminating or threatening to terminate care of a child if the parent or legal guardian of child discloses the information; or
  - (b) Asking a parent or legal guardian of a child or, employee or volunteer to sign a nondisclosure or similar agreement prohibiting the disclosure of the information; or
  - (c) Communicating to or training a current or former staff, volunteer, parent, or legal guardian that they may not or should not disclose information.

### **414-075-0230 Exempt Prohibition, Unlawful Care, Civil Penalties**

- (1) An individual is an exempt prohibited individual as a result of any of the following circumstances as provided by ORS 329A.252:
  - (a) The individual has had their registration, certification, or record denied for cause or revoked for cause.
  - (b) The individual is not enrolled in the Central Background Registry because of removal for cause or denial for cause.
  - (c) The individual voluntarily surrendered their child care license or enrollment in the Central Background Registry during a CCLD investigation or after CCLD has given the individual notice of an administrative action against the individual or the individual's facility.
  - (d) The individual is suspended from the Central Background Registry.
  - (e) The individual is licensee of a license that is suspended.
  - (f) The individual has been issued a final order to cease and desist by CCLD after a contested proceeding or that has become effective because the individual did not request a hearing.
- (2) An exempt prohibited individual may not provide child care or exempt care as defined in these rules except for their own children or children related to them within the fourth degree of sanguinity as determined by civil law.
- (3) An exempt prohibited individual:

- (a) Remains an exempt prohibited individual for five years after the most recent dates of a circumstance resulting in the status as described in section (1) (a) through (c) and (f) of this rule and continues to be an exempt prohibited individual unless and until re-enrolled in the Central Background Registry.
  - (b) Is no longer an exempt prohibited individual if the sole basis for the status is a suspension as described in section (1) (d) or (e) of this rule and CCLD has withdrawn the suspension by final order.
  - (c) May be enrolled in the Central Background Registry with a limited enrollment as defined by OAR 414-061-0020(27)(b) if meeting all requirements for a limited enrollment.
- (4) "Unlawful Care" means care provided by the following to a child not related to the person within the fourth degree of sanguinity as determined by civil law:
- (a) By a person who is not licensed or recorded when a license or record is required pursuant to ORS 320A.255, ORS 329A.280 or ORS 329A.330.
  - (b) By an exempt prohibited individual as provided by ORS 329A.252(2)(b).
  - (c) By a person who is not licensed or recorded when a license or record is required pursuant to ORS 320A.255, ORS 329A.280 or ORS 329A.330.
  - (d) By a person enrolled in the CBR under a limited enrollment:
    - (A) As defined in OAR 414-061-0020(25)(a) when the care violates a restriction or condition agreed to by the person; or
    - (B) As defined in OAR 414-061-0020(25)(b) when providing care while having unsupervised access to a child care child who is not the child of the person.
  - (e) In the home of a child, to children all from only one family in addition to children who reside with the person, or to no more than three children in addition to children who reside with the person, by an individual who is not enrolled in the CBR and was issued a founded or substantiated disposition for child abuse:
    - (A) On or after January 1, 2017 involving a child who died or suffered serious injury as defined in ORS 161.015.
    - (B) On or after September 1, 2019 and in the last seven years, when the founded or substantiated disposition of a child abuse or neglect report involved any child for whom the individual was providing care in the following settings:
      - (i) In a licensed or license-exempt child care facility as defined in these rules;
      - (ii) By a babysitter or other person in the home of the child;
      - (iii) By a person related to the child within the fourth degree of sanguinity as determined by civil law;
      - (iv) By a person who cares for children from only one family in addition to children who reside with the person;



- (v) By a person who cares for no more than three children in addition to any children who reside with the person; or
  - (vi) By a person who is a member of the child's extended family, as determined by CCLD on a case-by-case basis.
- (5) A person who has provided unlawful care as defined in these rules, including but not limited to unlawful care by an exempt prohibited individual, may be subject to a civil penalty of not more than \$1,500 per violation.
- (a) CCLD may provide a warning rather than assess a civil penalty for a person's first instance of providing unlawful care if CCLD determines the person was not aware that the care was unlawful care as described in section (4) of this rule or that a license was required.
  - (b) The civil penalty assessed against a person determined by final order to have provided unlawful care on a single day will be \$750 for the first instance of unlawful care for which a penalty is assessed.
  - (c) Each additional day that person provides unlawful care is a separate violation for which CCLD may assess a civil penalty of not more than \$1,500 for each day the person is determined by final order on default or after a contested case hearing to have provided unlawful care.

### **414-075-0250 Operating Hours and Care Not Requiring a License**

- (1) A facility may provide care without a license if the facility:
- (a) Provides care in the home of the child by a babysitter or other person;
  - (b) Is the child's parent, legal guardian or custodian;
  - (c) Is related to the child by blood or marriage within the fourth degree;
  - (d) Is a member of the child's extended family unit, as determined by CCLD on a case-by case basis;
  - (e) Provides only occasional care as defined in these rules;
  - (f) Is a provider of medical services;
  - (g) Provides care for children from only one family, in addition to any children who reside with the person;
  - (h) Provides care for three or fewer children, in addition to any children who reside with the person;
  - (i) Provides care for preschool-age children that is primarily educational for 4 hours or less per day and where no preschool-age child is present at the center for more than 4 hours per day;
  - (j) Provides care for school-age children that is not intended for child care purposes and is primarily a single enrichment activity, such as swimming lessons, dance

- lessons, tutoring, music lessons, sports practice, or any single class in any subject, where no child attends for more than 8 hours per week;
- (k) Provides 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;
  - (l) Is operated by a school district, charter school, political subdivision of this state, or a government agency;
  - (m) Operates as a parent cooperative for no more than 4 hours a day and:
    - (A) Care is provided on a rotating basis by parents that are members of the cooperative; and
    - (B) Are overseen by a board of directors responsible for developing written program policies and procedures that are shared with all members.
  - (n) Provides care while the child's parent for the child remains on the premises and is engaged in an activity on-site, and:
    - (A) The facility informs the parent that the facility's program is not licensed by the state;
    - (B) Activities in which the parent is engaged do not include work; and
    - (C) Caregivers are always able to contact the parent.
  - (o) Provide youth development activities, as defined in ORS 329A.250(14), to school-age children during hours that school is not in session and which does not take the place of a parent's care.
- (2) Care provided to children who do not reside in a licensed facility requires a license if provided by a licensed facility during the licensed facility's regular operating hours, as defined in these rules.
- (a) Care provided to a child who is enrolled in a licensed facility who arrives before or remains after the facility's regular operating hours and is in care for any part of the facility's regular operating hours requires and is subject to all requirements of the facility's license.
  - (b) A child who ordinarily receives care at a registered or certified child care home facility and is present at the facility outside of the facility's regular operative hours for a social event is not subject to the requirements of the facility's license only if the facility has informed the parent that that the facility is not providing child care and that the care is not subject to license requirements.
    - (A) Care described in paragraph (2)(b) of this rule is not eligible for payment from the Employment Related Day Care program.
    - (B) Care for a child who is enrolled in a licensed child care is subject to all requirements of the facility's license if any of following exist regardless of whether the facility has informed the parent that the care is not subject to license requirements:

- (i) The parent pays the facility for the care;
  - (ii) The child is in care for the purpose of providing care, supervision and guidance while the child's parent is unavailable due to work, school, or another activity; or
  - (iii) The child is in care outside the facility's regular operating hours on a regular basis. A facility regularly providing care outside its regular operating hours must notify CCLD and request approval to change the operating hours to include the days and hours that care is regularly provided.
- (3) Care may be provided without a license:
- (a) At the location of a license-exempt child care facility, as defined in these rules, by a caregiver operating or employed by a license-exempt child care facility, for their own child or any child who resides with the caregiver before, during, or after their hours of employment at the license-exempt child care facility, as allowed by the license-exempt child care facility.
  - (b) By a person, including a person who operates an exempt care or license-exempt child care facility, providing occasional care as defined in these rules during summer, winter and spring school breaks if the facility is ordinarily closed during such breaks. A licensed facility may not provide occasional care during periods that the facility is closed unless the license has been surrendered or has expired.
  - (c) In the following combinations of exempt care:
    - (A) Care by a babysitter or other person in the home of the child, in addition to one or more children who reside with the babysitter or other person.
    - (B) Care by a child's parent, legal guardian, or custodian, in addition to children who are related to the child's parent, legal guardian, or custodian by blood or marriage within the fourth degree as determined by civil law.

### **414-075-0300 Union Representation in Contested Case Hearings**

- (1) A labor union representative who is not an attorney holding an active license issued by the Oregon State Bar may represent the following providers in a contested case hearing conducted by the CCLD or the Department:
  - (a) The licensee under a registered or certified family child care home license; or
  - (b) An individual who provides subsidized care in the home of the individual or the home of the child that is not required to be licensed.
- (2) When representing a provider, a labor union representative may present evidence, examine and cross-examine witnesses and make arguments relating to the:
  - (a) Application of statutes and rules to the facts in the contested case;
  - (b) Actions taken by CCLD in the past in similar situations;
  - (c) Literal meaning of the statutes or rules at issue in the contested case;

- (d) Admissibility of evidence; and
  - (e) Proper procedures to be used in the contested case hearing.
- (3) A labor union representative may not make legal argument on behalf of the provider.
- (a) "Legal argument" does not include arguments listed in section (2)(a) through (e) of this rule.
  - (b) "Legal argument" includes arguments on:
    - (A) The jurisdiction of CCLD to hear the contested case;
    - (B) The constitutionality of a statute or rule or the application of a constitutional requirement to the CCLD; and
    - (C) The application of court precedent to the facts of the particular contested case proceeding.
- (4) Union representatives must read and be familiar with the Code of Conduct for Non-Attorney Representatives at Administrative Hearings, which is maintained by the Oregon Department of Justice and available on its website at: [https://www.doj.state.or.us/wp-content/uploads/2017/06/code\\_of\\_conduct\\_oah\\_contested.pdf](https://www.doj.state.or.us/wp-content/uploads/2017/06/code_of_conduct_oah_contested.pdf) (Amended October 1, 2011).
- (5) If the administrative law judge determines that statements or objections made by the labor union representative appearing under section (1) of this rule involve legal argument as defined in this rule, the administrative law judge shall provide a reasonable opportunity for counsel for the provider to appear and present argument at the hearing or to file written legal argument within a reasonable time after conclusion of the hearing.
- (6) A labor union representative must obtain and provide to CCLD and to the Office of Administrative Hearings (OAH) the written authorization of the provider to being represented by the labor union representative prior to beginning representation or communicating with CCLD or the OAH on behalf of the provider regarding the contested case.
- (7) An authorized labor union's representation of a provider in a hearing may include the activities described in section (3) of this rule and:
- (a) Communicating with CCLD without the presence of the provider regarding procedural matters including but not limited to scheduling;
  - (b) Assisting the provider in preparing and filing proposed exhibits and witness list;
  - (c) Making stipulations of fact;
  - (d) Agreeing or objecting to the admissibility of evidence based on relevance; or
  - (e) Being with the provider during any settlement negotiations including by telephone or video-conference.
- (8) An authorized labor union's representation of a provider in a hearing may not include:

- (a) Entering into binding settlement agreements on behalf of the provider;
- (b) Issuing subpoenas for witness attendance at the hearing.
  - (A) If a provider determines that a necessary witness is unwilling to testify, the provider or an authorized labor union representative may request that CCLD subpoena the witness by submitting a written request including the name, phone number, physical address, and description of anticipated testimony to CCLD no less than 30 calendar days before the date scheduled for hearing.
  - (B) CCLD is not required to subpoena witnesses on behalf of the provider unless CCLD agrees that the testimony of the witness is necessary for a full and fair hearing.
  - (C) CCLD is not required to subpoena witnesses on behalf of the provider for a hearing on an emergency order suspending a license or Central Background Registry enrollment or imposing a condition on a license.
  - (D) CCLD will notify the provider or authorized labor union representative of whether it will issue a subpoena pursuant to the request within 10 business days of receipt of the request.
  - (E) If CCLD does not agree to subpoena the witness as requested pursuant to this subparagraph, the provider may retain counsel to represent them in the hearing and issue the subpoena.
- (9) A provider who is or becomes represented by an attorney in a contested case hearing may not be simultaneously represented by an authorized labor union representative, and the notification of representation by an attorney shall operate to rescind any prior authorization for a labor union representative to represent the provider.
- (10) Sections (3) through (8) of this rule do not apply to an attorney who appears as counsel for the provider in a contested case before CCLD or the Department.

