

- **PERMANENT ADMINISTRATIVE ORDER**

- ELD 11-2018
- CHAPTER 414
- OREGON DEPARTMENT OF EDUCATION
- EARLY LEARNING DIVISION

FILING CAPTION: Rules governing Certified Center child care providers to conform with federal law and HB4065(2018).

EFFECTIVE DATE: 10/16/2018

AGENCY APPROVED DATE: 09/27/2018

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RULES:

414-300-0000, 414-300-0005, 414-300-0010, 414-300-0020, 414-300-0060, 414-300-0070, 414-300-0080, 414-300-0090, 414-300-0100, 414-300-0110, 414-300-0120, 414-300-0130, 414-300-0140, 414-300-0150, 414-300-0180, 414-300-0215, 414-300-0280, 414-300-0300, 414-300-0360, 414-300-0400, 414-300-0410, 414-300-0415

AMEND: 414-300-0000

RULE TITLE: Applicability of Rules

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Editorial corrections to ORS numbers, agency name and rule number references. Revision to rules pertaining to exempt prohibition.

RULE TEXT:

(1) OAR 414-300-0000 through 414-300-0415 set forth the Office of Child Care's (OCC) requirements for inspecting and certifying those child care facilities subject to Oregon laws governing child care

facilities, ORS 329A.030, 329A.250 through 329A.310, 329A.350 through 329A.460 and 329A.990, that:

(a) Serve thirteen or more children; or

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

(2) Individuals who are not enrolled in the Central Background Registry because of removal, denial for cause, or voluntary surrender in lieu of legal action, may only care for their own children or children related within the fourth degree as determined by civil law, pursuant to ORS 329A.252.

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

(a) Provide care for preschool children that is primarily educational for four hours or less per day and where no preschool age child is present at the facility for more than four hours per day except as provided in 414-300-0000(2); or

(b) Provide care for school-age children that is primarily a single enrichment activity, for eight hours or less a week; or

(c) Provide care in which youth development activities are provided to school-age children during hours that school is not in session and which does not take the place of a parent's care; or

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

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

(f) Are operated on an occasional basis by a person, sponsor, or organization not ordinarily engaged in providing child care except as provided in 414-300-0000(2); or

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

(h) Provide care while the child's parent remains on the premises and is engaged in an activity offered by the facility or in other nonwork activity; or

(i) Provide care for three children other than the person's own children except as provided in 414-300-0000(2); or

(j) Provide care for children from only one family other than the person's own family except as provided in 414-300-0000(2).

(4) 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.

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

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

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A

AMEND: 414-300-0005

RULE TITLE: Definitions

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Editorial corrections of ORS numbers. Revision of definitions to "Central Background Registry", "Preschool-Age Child and "School-Age Child" . Addition of definitions for "Serious Injury or Incident" and "Unsupervised Access to Children" .

RULE TEXT:

The following words and terms, when used in OAR 414-300-0000 through 414-300-0415, have the following meanings:

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

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

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

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

(5) "Central Background Registry" means OCC'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 5 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 a Oregon State Police records check and child abuse and neglect records check but prior to receipt by OCC of the results of the required FBI records check.

(6) "Certificate" means the document that is issued by OCC to a child care center pursuant to ORS 329A.280.

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

(a) In the home of the child;

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

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

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

(e) By providers of medical services.

(8) "Child Care Area" means that indoor and outdoor area specifically certified for use by the center and includes all activity areas and other areas of the facility used to provide child care, such as kitchen, toilet rooms, offices, storage areas, and rooms used solely for napping or eating. This may be a

specific portion or portions of the building and grounds of a larger facility or one or more buildings at the same location.

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

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

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

(12) "Child Care Facility" means any facility that provides child care to children, including a child care center, certified family child care home, and registered family child care home. It includes those known under a descriptive name, such as nursery school, preschool, kindergarten, child play school, before or after school care, or child development center, except those excluded under ORS 329A.250. This term applies to the total child care operation and includes the physical setting, administration, staff, equipment, program, and care of children.

(13) "Civil Penalty" means a fine imposed by OCC on a facility for violation of these rules.

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

(a) Staff are supervised by knowledgeable professionals;

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

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

(d) Curriculum is age appropriate; and

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

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

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

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

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

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

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

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

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

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

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

(25) "Nonserious Violation" means OCC has made a valid finding when assessing a complaint alleging a violation not listed in OAR 414-300-0005(42)

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

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

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

(29) "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.

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

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

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

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

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

(b) Membership in the cooperative includes parents;

(c) There are written policies and procedures; and

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

(34) "Premises" means the structure that is identified on the application, including indoors and outdoors and space not directly used for child care under the direct control of the child care facility.

(35) "Preschool-Age Child" means a child who is 36 months of age to eligible to attend kindergarten or above in public school.

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

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

(38) "Qualifying Teaching Experience" means:

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

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

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

(40) "SchoolAge Child" means a child eligible to attend kindergarten or above in public school. This includes the months from the end of the prior school year to the start of the kindergarten school year.

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

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

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

(A) Children are in imminent danger;

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

(C) Corporal punishment is being used;

(D) Children are not being supervised;

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

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

(G) Adults are in the center who are not enrolled in the Central Background Registry; or

(b) A facility providing child care, as defined ORS 329A.250(3), which is not a certified child care center by a person who has alleged that there are more children in care than allowed by law.

(43) "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;
- (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;
- (p) Near-drowning.

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

- (a) Children are in imminent danger;
- (b) There are more children in care than allowed by law;
- (c) Corporal punishment is being used;
- (d) Children are not being supervised;
- (e) Multiple or serious fire, health or safety hazards are present in the home;
- (f) Extreme unsanitary conditions are present in the center;

- (g) Adults are in the center who are not enrolled in the Central Background Registry; or
- (h) A facility is providing child care as defined in ORS 329A.250(4) which is not a certified child care center, by a person who has alleged that there are more children in care than allowed by law.
- (45) "Site Director/Supervisor" means the person in charge of the facility at a site which is part of a larger multi-site program.
- (46) "Site Coordinator" means the person responsible for coordinating over-all management and operation of a number of sites in a multi-site program.
- (47) "Staff" means an individual who is the director, an employee, or a volunteer who is in the center for more than a single activity.
- (48) "Substitute Director" means the person in charge of the center during the hours of operation when the director is not on site.
- (49) "Supervision" means the act of caring for a child or group of children. This includes awareness of and responsibility for the ongoing activity of each child. It requires physical presence, knowledge of program requirements and children's needs, and accountability for their care and well-being. Supervision also requires that staff be near and have ready access to children in order to intervene when needed.
- (50) "Teacher" means a caregiver who plans and implements daily activities for a designated group of children and who meets the qualifications of teacher pursuant to OAR 414-300-0100.
- (51) "Teacher Aide" means a caregiver who works under the direct supervision of a teacher and who meets the qualifications of Aide I or Aide II pursuant to OAR 414-300-0110.
- (52) "Toddler" means a child who is able to walk alone but is under 36 months of age. "Younger toddler" means a child who is able to walk alone but is under 24 months of age; "older toddler" means a child who is 24 months of age but under 36 months of age.
- (53) "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 child care provider or staff with supervisory authority.
- (54) "Usable Exit" means an unobstructed door or window through which caregivers and children can evacuate the center in case of a fire or emergency. Doors must be able to be opened from the inside without a key, and window openings must be at least 20 inches wide and 22 inches in height, with a net clear opening of 5 square feet and a sill no more than 48 inches above the floor.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A

AMEND: 414-300-0010

RULE TITLE: Application for a Child Care Certificate

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: Permanent rule filing. Editorial correction of agency name. Revision to rules pertaining to lead testing.

RULE TEXT:

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

(2) Application for a certificate shall be made on forms provided by OCC.

(3) A completed application is required:

(a) For the initial certificate;

(b) For the annual renewal of the certificate; and

(c) Whenever there is a change of owner, operator or location.

(4) The applicant shall complete and submit an application to OCC at least:

(a) 45 days before the planned opening date of a new center; and

(b) For renewal of certification, 30 days prior to the expiration of the certificate.

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

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

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

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

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

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

(7) All civil penalties must be paid in full.

(8) A floor plan shall be submitted with the initial application and/or when a facility is being constructed or remodeled. The floor plan shall show dimensions of all rooms to be used (length and width), the planned use of each room, the placement and number of toilets, bathroom, diaper changing, and handwashing sinks not used for drinking water, and diaper changing tables, the location of the fixtures and plumbing in the kitchen, and the location of all drinking water faucets and fixtures used to obtain water to prepare food, infant formula, drinking or cooking.

(9) Floor plans shall be submitted to the environmental health specialist, the fire marshal and the buildings department prior to initial construction or remodel.

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

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

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

(a) Financial management;

(b) Maintaining records;

(c) Budgeting;

(d) Policy Development;

(e) Staff management, orientation and training;

(f) Maintenance of building and grounds;

(g) Meal planning and preparation;

(h) Transportation of children, if provided; and

(i) Ensuring the appropriateness of program activities according to age and development of the children.

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

(a) Before the initial certificate is issued; and

(b) Whenever the facility is remodeled.

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

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

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

(15) An application for certificate shall be accompanied by lead testing results for drinking water faucets and fixtures identified in OAR 414-300-0010(8). Results shall be those obtained within the past six years.

(16) An applicant shall have all drinking water faucets and fixtures identified in OAR 414-300-0010(8) tested for lead.

(17) An applicant shall use an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water laboratory and shall test in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006.

(18) An applicant may submit documented lead testing results obtained within six years immediately preceding the effective date of this section to the OCC. This provision applies only to tests conducted in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and the results were below 15 ppb. The OCC shall determine whether the tests submitted conform to the requirements of OAR 414-300-0010(17).

(19) Upon receipt of a completed application, a representative of OCC shall evaluate the center and all aspects of the proposed operation to determine if the center meets certification requirements (OAR 414-300-0000 through 414-300-0415).

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0020

RULE TITLE: Exceptions to Rules

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: Permanent rule filing. Editorial corrections to agency name.

RULE TEXT:

(1) OCC may grant an exception to an individual rule (OAR 414-300-0000 through 414-300-0415) for a specified period of time when:

(a) A requirement does not apply to the facility; or

(b) The intent of the requirement can be met by a method not specified in the applicable rule.

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

(a) A justification for the requested exception; and

(b) An explanation of how the center will meet the intent of the rule.

(3) No exception to a rule shall be granted:

(a) If the requirement is established by statute; or

(b) Unless the health, safety, and well-being of the children are ensured.

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0060

RULE TITLE: Record Keeping

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: Permanent rule filing. Editorial corrections to agency name. Revision to OAR reference in rule pertaining to records retention.

RULE TEXT:

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

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

(b) Records of daily attendance showing:

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

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

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

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

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

(B) Position in center;

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

(D) Verification that the staff is currently enrolled in the Central Background Registry;

(E) Statement of the staff's duties;

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

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

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

(d) A written record of:

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

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

(C) Child abuse reports made to the Department of Human Services Child Welfare (DHS) or a law enforcement agency;

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

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

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

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

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

(e) Lead testing results for drinking water for the past six (6) years.

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

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0070

RULE TITLE: General Requirements

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Revision to rules pertaining to persons whose behavior may have a detrimental effect on a child, OCC confirmation of CBR enrollment of program staff, individuals required to be enrolled in the CBR, visitors to the center, written plan for individuals not enrolled or conditionally enrolled in the CBR, arrival and departure log of individuals not enrolled or conditionally enrolled in the CBR and additional information that may be requested by OCC to establish a person's ability to care for or have access to children.

RULE TEXT:

(1) The operator shall establish a system of job descriptions, staff selection, and staff evaluation. All caregivers shall:

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

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

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

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

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

(4) Any staff with evidence of a child care-restrictable disease, as defined in OAR 333-019-0010, symptom of physical illness, as defined in OAR 414-300-0220(1), or mental incapacity that poses a threat to the health or safety of children shall be relieved of his/her duties.

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

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

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

(b) The facility must receive confirmation from OCC that staff who are 18 years of age or older, are enrolled or conditionally enrolled in the CBR before they may be on-site of the child care premises during child care hours.

(c) When a center is notified by OCC that a staff member or other individual has been removed from the Central Background Registry, the center shall not permit the staff member or other individual to have access to child care children;

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

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

(7) Staff conditionally enrolled in the CBR may function in their staff position but shall not have unsupervised access to children until the center has confirmed with OCC the individual is enrolled.

(8) All caregivers and other individuals that are required to be enrolled in the CBR and are on-site must maintain current enrollment in the CBR at all times while the center license is active.

(9) Individuals whose CBR enrollment has been revoked, denied or suspended, may not be on the premises during child care hours; or have contact with child care children.

(10) Any visitor to the center or other adult who is not enrolled in the CBR shall not have unsupervised access to children.

(11) The center shall have a written plan to ensure that individuals who are not enrolled or conditionally enrolled in the CBR and are on the child care premises shall not have unsupervised access to children.

(12) The center shall maintain a log of arrival and departure times of all individuals 18 and older who are not enrolled or conditionally enrolled in the CBR and enter the center while child care children are present, excluding persons authorized to drop off and pick up a child care child.

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

(14) Alcohol shall not be consumed or stored on the child care center premises during the hours the child care business is conducted or when child care children are present. No one shall be under the influence of alcohol on the child care center premises during the hours the child care business is conducted or when child care children are present.

(15) No one shall possess, use or store illegal controlled substances on the child care center premises. No one shall be under the influence of illegal controlled substances on the child care center premises.

(16) No one shall grow or possess marijuana plants or distribute marijuana on the child care center premises. No one shall possess, use or store marijuana on the premises of the child care center unless medically necessary to treat a child care child. No adult shall use or be under the influence of marijuana on the child care center premises.

(17) Marijuana, derivatives and associated paraphernalia shall not be kept on the child care center premises unless medically necessary to treat a child care child. All associated medical marijuana must be kept in original container if purchased at a dispensary, and together with derivatives and related paraphernalia must be kept under child safety lock.

(18) Volunteers must meet the following requirements:

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

(b) If volunteers may have unsupervised access to children, they must be enrolled in the Central Background Registry;

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

(19) No person shall smoke or carry any lighted smoking instrument, including an e-cigarette or vaporizer in the certified center or within ten feet of any entrance, exit, or window that opens or any ventilation intake that serves an enclosed area, during child care hours or when child care children are present. No person shall use smokeless tobacco in the certified center during child care hours or when

child care children are present. No person shall smoke, carry any lighted smoking instrument, including an e-cigarette or vaporizer or use smokeless tobacco in motor vehicles while child care children are passengers.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A

AMEND: 414-300-0080

RULE TITLE: Director — Qualifications and Duties

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Editorial corrections of agency name. Addition of rules pertaining to required OCC approved health and safety training and OCC approved safe sleep training.

RULE TEXT:

(1) The director shall:

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

(b) Have:

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

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

(C) Documentation of attaining at least step nine in the Oregon Registry, or

(c) Have:

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

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

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

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

(b) Operating the center in compliance with certification requirements (OAR 414-300-0000 through 414-300-0415).

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

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

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

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

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

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

(7) The director must have completed OCC approved health and safety training.

(8) If the center is certified to care for infants, the director must have completed OCC approved safe sleep training.

(9) The substitute director shall:

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

(b) Be familiar with the certification requirements;

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

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

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

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0090

RULE TITLE: Head Teacher — Qualifications and Duties

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Addition of rules pertaining to required OCC approved health and safety training and OCC approved safe sleep training.

RULE TEXT:

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

(2) The head teacher shall be accountable for:

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

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

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

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

(5) Head teachers shall be in the center at least one-fourth of the hours, calculated on a weekly basis, that the center is in operation. Table 1.

(6) Head teachers must have completed OCC approved health and safety training.

(7) If the center is certified to care for infants, the head teacher must have completed OCC approved safe sleep training.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0100

RULE TITLE: Teacher

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Addition of rules pertaining to required OCC approved health and safety training and OCC approved safe sleep training.

RULE TEXT:

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

(a) Be at least 18 years of age;

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

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

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

(3) Teachers must have completed OCC approved health and safety training.

(4) If caring for infants, teachers must have completed OCC approved safe sleep training.

[NOTE: Tables referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0110

RULE TITLE: Teacher Aides

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Addition of required trainings in CPR, 1st Aid, recognizing and reporting child abuse and neglect, OCC approved health and safety training and OCC approved safe sleep training for Aide I's. Addition of required trainings in recognizing and reporting child abuse and neglect and OCC approved health and safety training and OCC approved safe sleep training for Aide II's.

RULE TEXT:

(1) Aide I shall:

(a) Be at least 15 years of age;

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

(c) Have current certification in first aid and pediatric CPR within 90 days of employment.

(A) CPR training must have practical hands-on instruction;

(B) CPR courses that involve an on-line component with hands-on instruction may be accepted; and

(C) Strictly on-line CPR training is not acceptable.

(d) Have completed a minimum of 2 hours of training on recognizing and reporting child abuse and neglect that is specific to Oregon law within 30 days of employment;

(e) Have completed OCC approved health and safety training within 30 days of employment.

(f) If caring for infants, completed OCC approved safe sleep training within 30 days of employment.

(2) An Aide II must:

(a) Have completed a training with a minimum of 2 hours on recognizing and reporting child abuse and neglect that is specific to Oregon law;

(b) Have completed OCC approved health and safety training; and

(c) If caring for infants, completed OCC approved safe sleep training.

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

(a) Be at least 18 years of age;

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

(c) Have current certification in first aid and CPR. Training must have practical hands-on instruction; therefore, online training is not acceptable.

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

(a) Be at least 18 years of age;

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

(c) Have current certification in first aid and CPR. Training must have practical hands-on instruction; therefore, online training is not acceptable. (5) Staff at Aide II level may, with the approval of the director, be out of sight and sound of a teacher for brief, necessary events, such as taking a child to the bathroom or bringing a child in for minor medical attention.

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

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

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0120

RULE TITLE: Staff Training

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Correction of error in language in rules pertaining to staff training. Revision to rules pertaining to required staff training in recognizing and reporting child abuse and neglect, OCC approved health and safety training and OCC approved safe sleep training.

RULE TEXT:

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

(a) Individual responsibilities in the event:

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

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

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

(b) These requirements (OAR 414-300-0000 through 414-300-0415);

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

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

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

(3) Within the first 90 days of employment, all staff, with the exception of Aide I's, shall:

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

(b) Have completed a minimum of two hours of training on child abuse and neglect that is specific to Oregon law before they can have unsupervised access to children.

(4) Key people in food preparation must have food handler certification, pursuant to ORS 624.570, within 30 days of employment or have current certification on file. Food handler's training must be kept current during employment at the center. Key people include cooks, kitchen staff who handle food, and classroom staff who serve meals from a communal source.

(5) The director, head teacher, and all teachers shall participate yearly in at least 15 clock hours of training or education related to child care, of which at least eight clock hours shall be in child development or early childhood education. If an individual has worked in the facility less than a year, the training requirements will be prorated as follows: At least 1.25 clock hours for each month worked in the current license period.

(a) The following core knowledge categories are accepted for the child development and early childhood education requirement: Diversity (D), Family and Community Systems (FCS), Human Growth and Development (HGD), Health Safety and Nutrition (HSN), Learning Environments and Curriculum (LEC), Observation and Assessment (OA), Special Needs (SN), and Understanding and Guiding Behavior (UGB).

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

(c) Training may include correspondence courses, conferences, workshops, or audiovisual programs.

(d) An approved planned reading program of professional materials may count for up to six hours of the 15 clock hours of training and must include a written assessment of reading materials completed by each participating staff person.

(e) OCC will accept duplicate training one additional time if it is a Set 2 (intermediate) or Set 3 (advanced) training or above as described by the Oregon Center for Career Development in Childhood Care and Education; and it is not taken within the same license period.

(f) The center shall record each person's training showing the subject matter, the date completed, and the number of clock hours of training in each certification year.

(6) During the first year of employment, a staff person may count up to two hours of orientation and their most recent training in first aid and CPR, food handler's training, if applicable, and child abuse and neglect training as part of the 15 clock hours of training required in OAR 414-300-0120(5), but may not use these toward the eight hours required in child development or early childhood education.

(7) During subsequent years of employment, a staff person may count 5 hours of first aid and CPR training or food handler's training as part of the 15 clock hours of training. Duplicate training on recognizing and reporting child abuse and neglect can be accepted again after three years, and every three years thereafter towards the 15 clock hours of staff training required for licensing.

(8) Staff meetings shall not count as training.

(9) All staff, with the exception of Aide I's, who count in staff to child ratios must complete OCC approved training on recognizing and reporting child abuse and neglect, and health and safety training, prior to having unsupervised access to children and functioning in their position. Aide I's must complete the training within the first 30 days of employment.

(10) All infant caregivers, with the exception of Aide I's, must complete OCC approved training on safe sleep, prior to having unsupervised access to children and functioning in their position. Aide I's must complete the training within the first 30 days of employment.

(11) If certified to care for infants, current infant caregivers must complete OCC approved safe sleep training by January 1, 2019.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0130

RULE TITLE: Staff/Child Ratios and Group Size

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: Permanent rule filing. Editorial correction of agency name.

RULE TEXT:

(1) The number of caregivers and group size shall be determined by the number and ages of the children in attendance.

(2) The maximum number of children in a group and the ratio of caregivers to children specified in Table 3A of this rule shall apply, except that:

(a) When all toddler, preschool and school-age children are at rest, the situation permits, and the room is arranged so all children are supervised, there may be one teacher or Aide II supervising the resting room. As children awaken and become active, additional staff shall be added to return ratios to those in Table 3A. Sufficient staff to meet the required ratio shall be in the facility and able to be summoned by the caregiver without leaving the resting room; and

(b) Maximum group size shall not apply to field trips, outdoor play, planned large group activities, napping and eating. Staff/child ratios shall apply to these activities.

(c) Centers with certification in effect on July 15, 2001, shall comply with age groupings, staff/child ratios and group size in either Table 3A or Table 3B for as long as the facility is continuously used for child care, under the following conditions:

(A) The center must choose to operate under Table 3A or Table 3B; centers shall not operate under a combination of both;

(B) If centers wish to change from operating under one set of ratios to operating under the other set of ratios, the change shall occur at the time of certification renewal; and

(C) Centers may change options only twice.

(3) Children shall at all times have the full attention of the appropriate number of staff. Children shall be within sight and sound of a caregiver at all times, except as specified below.

(a) School-age children shall be within sight and/or sound of staff at all times, and staff shall be near enough to children to respond when needed. Children out of direct visual contact shall be monitored regularly and frequently and must be in approved activity areas. A written plan regarding the use and monitoring of these activity areas must be approved by OCC.

(b) School age programs with toilet facilities or activities off-site shall have a written plan, approved by OCC, to assure accountability for all children.

(4) At least one caregiver who meets the qualifications of a teacher (OAR 414-300-0100) shall supervise each group of children.

(5) In a mixed group of older toddler, preschool and school-age children, the number of caregivers shall be determined by the age of the youngest child in the group.

(6) If there are four or fewer children of any age in care for 45 minutes or less directly after opening or directly before closing, OAR 414-300-0300(10) does not apply and infants and younger toddlers may be included with older children. The staff shall be teacher-qualified in one of the represented age groups and the staff/child ratio must be 1:4.

(a) Each age group must have age appropriate activities, equipment and toys available for use; and

(b) If infants or toddlers are part of the multiple age group, a diaper changing area must be located in the room being utilized for care.

(7) Any time there are children in care,

(a) There shall be a staff person and one other adult on site. The other adult shall be enrolled in the Central Background Registry and shall be physically available to be called on by staff, if needed; or

(b) There shall be a written plan, approved by OCC, for a second caregiver to be available within 5 minutes for emergencies. The name and telephone number of the emergency back-up shall be known to all staff who work alone.

[NOTE: Tables referenced are available from the agency.]

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0140

RULE TITLE: Indoor Space

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: Permanent rule filing. Editorial correction of agency name.

RULE TEXT:

(1) There shall be a minimum of 35 square feet of indoor activity area per child. Space considered in determining the facility capacity shall be available for use by children at all times, shall be used exclusively for child care during the hours of operation and shall be determined on a room-by-room basis. The following shall not be counted as part of the 35 square feet per child requirement: heating units; storage areas; teachers' desks; large permanent equipment; any space not useable by children. Cribs will be counted as useable space if the space underneath the cribs is accessible to children.

(2) A school-age program shall have a minimum of 50 square feet of indoor activity area per child or may have a minimum of 35 square feet of indoor activity area per child if:

(a) The children in care have access to a larger gross motor area, either indoor or outdoor, on a daily basis; or

(b) The center has a plan, approved by OCC, which addresses how the gross motor needs of children in care will be met.

(3) In a room used by more than one group of children not yet attending kindergarten, the area occupied by each group shall be defined by use of portable or permanent room dividers or program equipment that stand above the eye level of the children who use the area. Rooms used only for large group activities (e.g., eating, napping, large muscle activities) are exempt from this requirement.

(4) Storage space shall be available for each child's clothing and personal possessions.

(5) Storage space shall be available for play equipment, teaching equipment and supplies, records and files, cots, mats, and cleaning equipment and supplies.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0150

RULE TITLE: Outdoor Space

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: Permanent rule filing. Editorial correction of agency name.

RULE TEXT:

(1) There shall be an outdoor activity area which the children can reach safely. If an outdoor activity area is not next to the center, or not under the control of the center during hours of operation, it cannot be used without the specific approval of OCC.

(2) There shall be at least 75 square feet of outdoor space for each child using the area at one time. In centers where groups of children are scheduled at different times for outdoor play, there shall be 75 square feet times one-third of the center's capacity, if permitted by local zoning regulations

(3) The outside activity area shall:

(a) Be suitably surfaced. All pieces of playground equipment shall be surrounded by a resilient surface of an acceptable depth or by rubber mats manufactured for such use, according to standards of the US Consumer Product Safety Commission;

(b) Be well drained;

(c) Be kept free of litter, solid waste and refuse, ditches, or other conditions presenting a potential hazard; and

(d) Be equipped to provide age-appropriate activities for gross motor development.

(4) The outdoor activity area of a center serving children not yet attending kindergarten shall be enclosed by a barrier (fence, wall, or building) at least four feet high. Centers with certification in effect on July 15, 2001, must comply with a barrier at least three feet high until such time as the existing barrier is replaced. Spacing between vertical slats of a fence shall be no greater than 4 inches. Fences must meet applicable local codes.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0180

RULE TITLE: Sanitation

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: Permanent rule filing. Revision to rules pertaining to lead testing.

RULE TEXT:

(1) Water Supply:

(a) The center's water supply shall be continuous in quantity and from a water supply system approved by the Health Division.

(b) There shall be safe drinking water available to children that is supplied in a sanitary manner. Drinking water for preparing food, infant formula, drinking or cooking shall not be obtained from bathroom sinks or diaper changing sinks.

(c) The facility shall identify the location of all drinking water faucets and fixtures identified in OAR 414-300-0010(8) tested for lead. The facility shall sample in accordance with United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and shall use an Oregon Environmental Laboratory Accreditation Program (ORELAP) accredited drinking water laboratory.

(d) Lead testing as required by OAR 414-300-0010(16), 414-300-0010(17) and 414-300-0180(1)(c) shall be conducted within the past six years of the effective date of this section and no later than six months of the effective date of this section and at least once every six (6) years.

(e) The test results shall be kept on the facility premises at all times and a copy provided to the OCC within ten (10) days of receiving the results.

(f) Irrespective of test results, the facility must immediately notify all parents and guardians verbally, in writing, or by email, of the test results and post results in a prominent place in the facility where they will be seen by parents and guardians within one business day. Information provided to parents and guardians shall be in accordance with United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006.

(g) If test results are at or above 15 parts per billion (ppb), the facility shall:

(A) Immediately prevent children from using or consuming water from faucets or fixtures identified in OAR 414-300-0010(8) that have test results at or above 15 ppb by supplying water from drinking water faucets or fixtures that have test results below 15 ppb or bottled or packaged water to meet the requirements of this section;

(B) Within sixty days of receiving the test results, the provider shall submit a corrective action plan for approval by the OCC for any faucet or fixture that has test results at or above 15 ppb, following the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006; and

(C) Implement corrective actions or remedies identified in the approved plan within 30 days of OCC approval.

(h) The facility must conduct follow-up sampling and results must demonstrate lead below 15 ppb before the facility may resume use of faucets or fixtures identified in OAR 414-300-0010(8) that previously tested at or above 15 ppb.

(i) A provider may submit documented lead testing results obtained within six years immediately preceding the effective date of this section to the OCC. This provision applies only to tests conducted in accordance with the United States Environmental Protection Agency 3T's for Reducing Lead in Drinking Water in Schools: Revised guidance dated October 2006 and the results were below 15 ppb. The OCC shall determine whether the tests submitted conform to the requirements of OAR 414-300-0010(17).

(j) Existing programs must submit testing results by September 30, 2018.

(k) Irrespective of results obtained in accordance with 414-300-0010(16), 414-300-0010(17) and 414-300-0180(1)(c), actions to protect children from exposure to lead contamination in drinking water should be taken at all times, including:

(A) Flushing pipes before using to prepare food, infant formula, drinking or cooking by running the tap each time before use until the water is noticeably cooler (approximately 30 seconds to two minutes); and

(B) Using only cold water from drinking water faucets and fixtures identified in OAR 414-300-0180(1)(c) that have lead test results below 15 ppb for preparing food, infant formula, drinking or cooking.

(C) Boiling water does not remove lead from water and is not an acceptable action to protect children from exposure to lead contamination in drinking water.

(I) If a provider replaces any faucets or fixtures identified pursuant to OAR 414-300-0010(8) at any time, the provider must notify OCC and sample the water from these faucets and fixtures pursuant to the requirements of OAR 414-300-0010(16) and 414-300-0010(17) and provide the test results to the OCC within ten (10) days of receiving the results. The provider may not allow access to the replaced faucet or fixture until the OCC approves access.

(2) Heat and Ventilation:

(a) The center shall be ventilated, by natural or mechanical means, and shall be free of excessive heat, condensation, and obnoxious odors.

(b) Room temperature shall be at least 68° F. (20 C.) and not so warm as to be dangerous or unhealthy in the center when children are present.

(c) After painting or laying carpet, the building must be aired out completely for at least 24 hours with good ventilation before children are allowed to return.

(3) Insect and Rodent Control:

(a) The center shall be in such condition as to prevent the infestation of rodents and insects.

(b) Doors and windows used for ventilation shall be equipped with fine-meshed screens.

(c) Automatic insecticide dispensers, vaporizers, or fumigants shall not be used.

(4) Maintenance:

(a) The building, toys, equipment, and furniture shall be maintained in a clean and sanitary condition:

(A) Kitchen and toilet rooms shall be cleaned when soiled and at least daily;

(B) The isolation area shall be thoroughly cleaned after each use and all bedding laundered before it is used again;

(C) Door knobs and cabinet pulls in toilet rooms and diaper changing areas shall be sanitized daily;

(D) All clean linen shall be stored in a sanitary manner;

(E) Soiled bed linen and clothing shall not be stored in food preparation or food storage areas, and shall be inaccessible to children;

(F) Floors, walls, ceilings, and fixtures of all rooms shall be kept clean and in good repair;

(G) All food storage areas shall be kept clean and free of food particles, dust, dirt, and other materials;

(H) Cribs, mats, and cots shall be sanitized with a sanitizing solution at least once a week and upon change of occupant. If visibly soiled, items must be cleaned prior to sanitizing.

(I) Bedding shall be cleaned when soiled, upon change of occupant and at least once a week;

(J) Water tables and toys used in water tables shall be emptied and sanitized daily;

(K) When a chemical, such as chlorine, is used for sanitizing, a test kit that measures the parts per million concentration of the solution shall be used to ensure the proper concentration; and

(L) Cloths, both single use and multiple use, used for wiping food spills on utensils and food-contact surfaces shall be kept clean and used for no other purpose. Cloths that are reused shall be stored in a sanitizing solution between uses.

(b) The center shall be kept hazard-free, in good repair, and free of litter or rubbish and unused or inoperable equipment and utensils.

(5) Infant and Toddler Care:

(a) The following shall be sanitized immediately after each use. If visibly soiled, items must be cleaned prior to sanitizing:

(A) A bathtub or other receptacle used for bathing a child;

(B) A diaper-changing table;

(C) High chairs, tables and chairs;

(D) Toys that infants and toddlers put in the mouth; and

(E) Toilet training seat inserts.

(b) Pacifiers must be labeled, stored individually and sanitized after contamination. The health department must approve methods of sanitation.

(c) A sanitizing solution shall be kept in each diaper changing area ready for immediate use. This solution need not be stored in a locked cabinet but must be out of children's reach.

(6) Hand washing:

(a) Staff and children shall wash their hands with soap and warm running water after using the toilet or wiping the nose, and before and after eating.

(b) Staff shall wash their hands with soap and warm running water before and after changing a diaper, before and after feeding a child or handling food and after assisting a child with toileting or wiping the nose.

(c) Infants' and children's hands shall be washed with soap and warm running water after diaper changing.

(d) Commercial products labeled "hand sanitizers" shall not replace hand washing. If hand sanitizers are present in the center, they shall be kept under child-proof lock and shall not be used by children.

(e) When hand washing is not possible, e.g. on field trips and on the playground, moist towelettes shall be used.

(7) Waste Disposal:

(a) All sewage and liquid wastes shall be collected, treated, and disposed of in compliance with the requirements of the Department of Environmental Quality.

(b) All garbage, solid waste, and refuse shall be disposed of at least once a week.

(c) All garbage shall be kept in watertight, non-absorbent, and easily washable containers with close-fitting lids.

(d) Diaper disposal containers shall be approved by the environmental health specialist.

(e) All garbage storage areas and garbage containers shall be kept clean.

(f) All rubbish and garbage storage shall be inaccessible to children.

(g) Bio-contaminants including but not limited to bodily fluids and blood shall be disposed of in a manner that prevents exposure to children.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0215

RULE TITLE: Infant and Toddler Furniture and Equipment

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: Permanent rule filing. Removal of rule pertaining to car seats.

RULE TEXT:

(1) Each infant shall have a crib, portable crib, or play pen with a clean, non-absorbent mattress that meets the following requirements:

- (a) Each crib shall be of sturdy construction with vertical slats no more than 2 3/8" apart;
- (b) Locks and latches on the dropside of a crib shall be safe and secure from accidental release or release by the infant inside the crib;
- (c) Cribs shall not be used with the dropside down;
- (d) Each mattress shall fit snugly;
- (e) Each mattress shall be covered by a sheet;
- (f) Crib bumpers, if used, shall be easily cleanable, durable, and not dangerous to children;
- (g) There shall be no restraining devices of any type used unless prescribed by a physician; and
- (h) Wall or stacking cribs shall not be used.

(2) Sleeping arrangements other than cribs, portable cribs or playpens must be approved by OCC.

(3) There shall be at least two feet of space between cribs, portable cribs or play pens when in use. They shall be arranged in a manner that allows for a direct, unobstructed passage to each child.

(4) If high chairs are used, they shall have:

- (a) A broad base to prevent tipping;

- (b) A latch to keep a child from raising the tray; and
- (c) Straps to prevent a child from sliding out.
- (5) If clip-on table chairs are used, they shall have straps to prevent a child from sliding out.
- (6) There shall be at least one adult-sized chair for each group of infants and toddlers.
- (7) Cribs, portable cribs, playpens, and high chairs must meet US Consumer Product Safety Commission or equivalent standards.
- (8) The use of infant walkers is prohibited.
- (9) The use of baby equipment shall not substitute for providing a variety of stimulating experiences.
- (10) Car seats are to be used for transportation purposes only. Children who arrive at the center asleep in a car seat may remain in the car seat until they awake.

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

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0280

RULE TITLE: Meals and Snacks

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Editorial correction of agency name. Revision of rules pertaining to feeding of children.

RULE TEXT:

(1) Meals and snacks provided to children shall meet the following requirements:

(a) Food services hours may be flexible but there shall be no more than 3-1/2 hours between meals and snacks in any center providing care for the same children 3-1/2 or more consecutive hours;

(b) In a center open morning through afternoon, lunch and morning and afternoon snacks shall be served to the children in care. If breakfast is served in the center to all children, a midmorning snack is not required, as long as there is no more than 3-1/2 hours between meals;

(c) School age children arriving after school shall be served a snack; and

(d) When the planned attendance is prior to 7 a.m. or after 6:30 p.m., a child shall be offered a complete meal if it is not provided or arranged for by the parent(s).

(2) Meals for children shall be:

(a) Prepared on-site;

(b) Catered; or

(c) Provided by the parent(s).

(3) During the service and eating of meals and snacks, the appropriate number of staff to meet staff/child ratios shall be engaged with the children in food-related activities.

(4) Proper hand washing, as specified in OAR 414-300-0180(6) shall be practiced prior to and after eating meals or snacks.

(5) When parent(s) provide food for the meal:

(a) Food shall be brought on a daily basis and be ready to eat;

(b) All food and beverage containers shall be labeled with the child's name;

(c) The center shall provide at least one serving of milk to each child at meals and shall provide morning and afternoon snacks;

(d) Each child's food shall be monitored daily to ensure that the food meets nutritional requirements as defined in OAR 414-300-0270;

(e) The center shall have sufficient food available to supplement any lunch that does not meet nutrition requirements as defined in OAR 414-300-0270;

(f) If parents bring food for all the children as snacks or for celebrations, the food shall be commercially prepared and served by the center in an approved manner; and

(g) There shall be a refrigerator on site to store foods needing refrigeration.

(6) Catered foods shall be:

(a) Prepared in a kitchen approved by the State Health Division or a county health department; and

(b) Delivered in a safe, sanitary manner with food maintained at the required temperature (OAR 414-300-0250).

(c) If meals are catered, the process of receiving, holding and serving food shall be approved by the environmental health specialist.

(7) To serve family style meals, where food is brought to the table in larger quantities and served to the plates from the table, a center must have a written plan, approved by the environmental health specialist and OCC, which includes at least the following elements:

(a) Provision for handwashing immediately prior to eating;

(b) Separate serving portions for each table;

(c) Serving utensils distinct from eating utensils;

(d) Table accommodations for group sizes no larger than those stated in OAR 414-300-0130, Table 3A or Table 3B, for that age group;

(e) Provision for serving mildly ill children so as to prevent the spread of the illness; and

(f) The discarding of any food brought to the table and not eaten.

(8) If there is no kitchen in the center and if meals or snacks are not catered:

(a) Only single service utensils shall be used;

(b) Either commercially-prepared, individually-packaged, single-serving foods shall be served or the serving of bulk food shall be approved by the environmental health specialist;

(c) Utensils that require washing shall not be used or stored on site;

(d) Food shall be stored in a space used only for food, beverages and single-service utensils; and

(e) If foods needing refrigeration are served, the center shall have a refrigerator.

(9) A center serving children under 12 months of age shall comply with the following requirements for those children:

(a) Each child shall be fed on his/her own feeding schedule;

(b) When formula is provided by the center, it shall be either the commercially prepared, iron-enriched, ready-to-feed type or shall be prepared from powder or concentrate and diluted according to

manufacturers' instructions. When formula is prepared on site, it must be mixed in a kitchen approved by the environmental health specialist, and the program must have a written plan for mixing formula and sanitizing bottles and nipples. The plan must be approved in writing by the environmental health specialist;

(c) Formula, breast milk, and food provided by the parent(s) shall be clearly marked with the child's name and refrigerated if required;

(d) Whole milk, skim milk, 1%, and 2% milk shall not be served unless requested in writing by the child's parent(s) and with a medical provider's written permission.

(e) Any bottles used for feeding liquid must be sterilized at the center by boiling or must come from home labeled by the parent with the child's name. Nipples must be stored in a closed container after sterilizing;

(f) Solid foods fed to infants shall be selected from the food groups specified in OAR 414-300-0270(2):

(A) Solid foods shall not be fed to infants less than four months of age without parental consent;

(B) Solid food shall not be served directly from the container;

(C) Leftovers in the serving container shall be discarded; and

(D) Solid foods, with the exception of finger foods, shall be fed with a spoon.

(g) Honey or foods containing honey shall not be served to children under 12 months of age; and

(h) Children who cannot feed themselves shall be held or, if able to sit alone, fed in an upright position.

(A) Infants up to six months of age shall be held or sitting up in a caregiver's lap for bottle feeding.

(B) Bottles shall never be propped. The child or a staff person shall hold the bottle.

(C) Infants no longer being held for feeding shall be fed in a manner that provides safety and comfort.

(10) Children of any age shall not be laid down with a bottle.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0300

RULE TITLE: Infant and Toddler Program of Activities

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Addition of rules pertaining to safe sleep practices for infants.

RULE TEXT:

(1) Each infant and toddler shall be:

(a) Allowed to form and follow his or her own pattern of sleeping and waking periods; and

(b) Given opportunities during each day to move freely by creeping and crawling in a safe, clean, open, warm, and uncluttered area.

(2) Throughout the day, each child shall receive physical contact and individual attention (e.g., being held, rocked, talked to, sung to, and taken on walks inside and outside the center).

(3) Routines relating to activities such as bedtime, feeding, diapering, and toileting shall be used as opportunities for language development, building the child's self esteem, and other learning experiences.

(4) Children shall be encouraged to play with a variety of safe toys and objects.

(5) Children shall be given appropriate opportunities to use the five senses through sensory play.

(6) The following safe sleep practices must be followed:

(a) Each infant shall sleep in a crib, portable crib, bassinet or playpen with a clean, non-absorbent mattress. All cribs, portable cribs, bassinets and playpens must comply with current Consumer Product Safety Commission (CPSC) standards;

(b) Bassinets may only be used until the infant is able to roll over on their own;

(c) Each mattress shall:

(A) Fit snugly; and

(B) Be covered by a tightly fitting sheet;

(d) A clean sheet shall be provided for each child;

(e) Infants must be placed on their backs on a flat surface for sleeping;

(f) While on the child care premises, if an infant falls asleep in a place other than their crib, portable crib, bassinet or playpen, the caregiver must immediately move the infant to an appropriate sleep surface;

(g) No child shall be routinely left in a crib, portable crib, bassinet or playpen except for sleep or rest;

(h) There shall be no items in the crib with the infant, except a pacifier (e.g. bottles, toys, pillows, stuffed animals, blankets, bumpers);

(i) Swaddling or other clothing or covering that restricts the child's movement is prohibited;

(j) Clothing or items that could pose a strangulation hazard (e.g. teething necklaces, pacifier attachments, clothing drawstrings) are prohibited; and

(k) Car seats are to be used for transportation only. Children who are asleep in a car seat must be removed upon arrival to the center and placed in an appropriate sleep surface.

(7) Immediate attention shall be given to the emotional and physical needs of children.

(8) Staff shall encourage the development of self-help skills (dressing, toileting, washing, eating) as children are ready.

(9) In addition to those activities specified in OAR 414-300-0295(2), toddlers shall be given opportunities to participate in:

(a) A variety of activities encouraging creative expression through the arts; and

(b) Running, climbing, and other vigorous physical activities.

(10) Infants and younger toddlers shall have an activity area not used by older children at the same time.

(11) The center shall provide the following information to each parent of an infant and toddler on a daily basis:

(a) Their child's schedule of feeding;

(b) Their child's toilet and diapering activities; and

(c) Their child's sleep schedule.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0360

RULE TITLE: Night Care

NOTICE FILED DATE: 04/26/2018

RULE SUMMARY: Permanent rule filing. Editorial correction of agency name.

RULE TEXT:

A center providing night care to children shall meet all the requirements for child care centers contained in OAR 414-000-0300 through 414-300-0415, except for 414-300-0150, 414-300-0290 through 414-300-0320, and 414-300-0340(2)(e). In addition, the center shall comply with the following requirements:

(1) Staffing:

(a) During the hours of night care, the required staff/child ratio shall be maintained in the center.

(b) There shall be at least two staff persons present and awake at all times.

(c) All sleeping and awake children shall be within sight and sound of staff at all times. Audio and/or video monitoring devices shall not substitute for sight and sound supervision.

(2) Safety:

(a) No one shall be allowed to enter except authorized persons including, but not limited to, the child's family, persons authorized by the parent(s), staff, OCC certification representatives, fire safety officials, and environmental health specialists.

(b) The center shall provide staff training for evacuating sleeping children in an emergency.

(c) There shall be emergency lighting in each room used by children.

(3) Activities:

(a) The center shall provide a program of activities for children according to their ages, interests, and abilities.

(b) There shall be quiet time activities, such as story-time, games, arts and crafts, and reading, for each child arriving before bedtime.

(c) There shall be toys and equipment available to meet the needs of children in night care.

(d) There shall be an activity area away from sleeping children where the awake children may engage in activities.

(4) Sleeping Arrangements:

(a) Space shall be arranged so that children may go to sleep at various times, based on their age and need for rest.

(b) All sleeping rooms used by children shall have two usable exits. A sliding door or window that can be used to evacuate children may be considered a usable exit.

(c) Each child who spends the majority of his/her sleeping hours per night in night care shall have a bed and mattress, or another sleeping arrangement that provides adequate support to a child's body with a waterproof cover and of a size appropriate to the age of the child.

(A) Cribs shall comply with OAR 414-300-0215(1).

(B) The upper level of bunk beds shall not be used for children under 10 years of age.

(C) The upper level of bunk beds may be used for children 10 years or older if a bed rail and safety ladder are provided.

(d) Each child who does not spend the majority of his/her sleeping hours in night care shall have a crib, cot, or mat with bedding that complies with OAR 414-300-0210 and 414-300-0215.

(e) Children who attend the center for the evening hours, but do not spend the whole night, shall have an opportunity to sleep, if needed.

(f) No children shall share a bed.

(g) Each sleeping arrangement occupied by a child shall have sheets, pillows, pillowcases, and blankets.

(h) Bed linens shall be changed upon change of occupant and at least once a week.

(5) Personal Hygiene:

(a) Each child shall have an individual washcloth, towel, toothbrush, comb or brush, and sleepwear.

(b) Children staying the night shall have the opportunity to bathe and brush their teeth.

(A) There shall be at least one bathtub or shower for each 15 children. Bathtubs and showers shall be equipped to prevent slipping.

(B) When bathing, showering, or brushing teeth, children shall be supervised by staff.

(C) Privacy between the sexes shall be maintained for school age children.

(D) Tubs or showers shall be cleaned after each use. If visibly soiled, tubs and showers must be cleaned prior to sanitizing.

(E) Glass shower doors or glass tub enclosures shall be constructed of safety glass.

(6) Meals and Snacks:

(a) Each child present at the time the evening meal is scheduled shall be served a meal.

(b) A nutritious nighttime snack (OAR 414-300-0270(4)) shall be available to all children in care.

(c) Each child present at the time breakfast is scheduled shall be served breakfast, unless the parent(s) specifies otherwise.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

AMEND: 414-300-0400

RULE TITLE: Suspension, Denial and Revocation

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Editorial correction of agency name. Revision to rules pertaining to suspensions, denials and revocations of program license.

RULE TEXT:

(1) The Office of Child Care may immediately, and without prior notice, suspend the child care certification when, in the opinion of OCC, 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) A center whose certification has been suspended must immediately notify, verbally or in writing, all parents of the suspension.

(3) A center whose certification has been suspended must immediately provide OCC with all names, work and home telephone numbers and addresses of the parent(s) or legal guardian(s) for each child.

(4) A center whose certification has been suspended must post the suspension on the main entry door where it can be viewed by parents and others for the duration of the suspension.

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

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

(7) Certification may be denied or revoked if the center fails to meet requirements, provide OCC with information requested, allow an inspection, correct deficiencies, or is operated or maintained in a manner which is harmful to the health, safety or wellbeing of children in care.

(8) A center whose certification has been denied or revoked 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.

(9) The center has the right to appeal any decision to suspend, deny or revoke the certification, subject to the provisions of chapter 183, Oregon Revised Statutes.

(10) Any action taken by OCC to deny, suspend, or revoke certification may be reported to the Department of Human Services, USDA Child Care Food Programs, child care resource and referral system.

(11) A center whose certification has been denied for cause (e.g. health and safety concerns, criminal activity or child protective services involvement) or revoked shall not be eligible to reapply for five years after the effective date of the closure.

(12) 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 OCC has determined indicate behavior which may have a detrimental effect on a child, with final disposition not yet reached, certification may be denied or suspended or revoked until the charge, arrest, or warrant has been resolved if the person continues to operate, be employed in or reside in the center, or have access to children in the center.

(13) Certification may be denied, suspended or revoked if an individual listed in OAR 414-350-0080(5) has a child protective services history or an open child protective services or law enforcement case that would disqualify the individual from the CBR.

STATUTORY/OTHER AUTHORITY: ORS 329A

STATUTES/OTHER IMPLEMENTED: ORS 329A.260

REPEAL: 414-300-0410

RULE TITLE: Suspension of Certification

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Repeal of rule. Contents have been combined and moved to OAR 414-300-0400.

RULE TEXT:

(1) CCD may immediately, and without prior notice, suspend the child care certification when, in the opinion of CCD, such action is necessary to protect the children from physical or mental abuse or a substantial threat to health, safety or well-being. Such action may be taken before an investigation is completed.

(a) An operator whose certification has been suspended must immediately notify, verbally or in writing, all parents of the suspension.

(b) An operator whose certification has been suspended must post the suspension on the main entry door where it can be viewed by parents and others.

(2) The operator has the right to appeal any decision to suspend the certification, subject to the provisions of chapter 183, Oregon Revised Statutes.

(3) If the operator does not request a hearing and the conditions which resulted in suspension have not been corrected, the certification shall be revoked (OAR 414-300-0400).

(4) If necessary to protect children, CCD may give public notice of suspension action taken. The type of notice will depend on individual circumstances.

STATUTORY/OTHER AUTHORITY: ORS 657A.260

STATUTES/OTHER IMPLEMENTED: ORS 657A.260

AMEND: 414-300-0415

RULE TITLE: Civil Penalty

NOTICE FILED DATE: 06/30/2018

RULE SUMMARY: Permanent rule filing. Revision of rules pertaining to civil penalty process. Revision of civil penalty amounts.

RULE TEXT:

(1) Violations of these rules or terms and conditions of certification under these rules may be subject to a civil penalty up to \$2500 per violation.

(2) Whenever the Office of Child Care (OCC) investigates an alleged complaint at a certified facility, or a facility that may be operating in violation of the requirements of ORS 329A.250 through 329A.450, OCC shall:

(a) Provide technical assistance as appropriate;

(b) Send written notice of the complaint visit to the facility with a finding of valid, unable to substantiate, or invalid; and

(c) OCC shall assess whether additional legal actions are appropriate, including but not limited to civil penalties, denials, revocations or suspensions, depending upon:

(A) Numbers of previous violations of the same rule; or

(B) Circumstances surrounding the rule violation.

(3) For a serious violation, as defined in OAR4143500010 (43), a center may be subject to a civil penalty not to exceed \$2500 for each violation.

(4) For a nonserious violation, a center may be subject to a civil penalty of \$800 for each violation.

(5) Each day that a child care facility is operating in violation of any of the rules and conditions of certification is a separate violation of the rules.

(6) An individual or entity that provides child care subject to licensing in a home or facility that is not certified with the Office of Child Care, may be subject to a civil penalty not to exceed \$1,500 per day of operation of the uncertified facility.

(7) Notwithstanding the Office of Child Care's (OCC) decision to impose a civil penalty for one or more rule violations, OCC may also take action to deny, suspend or revoke a certification for the same rule violation or violations.

(8) The facility has the right to 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 the Office of Child Care has issued a final order by default or a final order after a contested case hearing shall be grounds for denial or revocation of the facility's certification.

STATUTORY/OTHER AUTHORITY: ORS 329A.260

STATUTES/OTHER IMPLEMENTED: ORS 329A.260