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Brad Henry, Governor
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Notices of Rulemaking Intent

Prior to adoption and gubernatorial/legislative review of a proposed PERMANENT rulemaking action, an agency must publish a Notice of Rulemaking Intent in the *Register*. In addition, an agency may publish a Notice of Rulemaking Intent in the *Register* prior to adoption of a proposed EMERGENCY or PREEMPTIVE rulemaking action.

A Notice of Rulemaking Intent announces a comment period, or a comment period and public hearing, and provides other information about the intended rulemaking action as required by law, including where copies of proposed rules may be obtained.

For additional information on Notices of Rulemaking Intent, see 75 O.S., Section 303.

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 3. FINE MATRICES

[OAR Docket #09-1263]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 1. Fine Schedules

Part 7. Forestry and Timber Violations [NEW]

SUMMARY:

The purpose of the proposed rule is to add a fine matrix for violations of the Forestry Code and other forestry or timber related violations. The rules will provide guidance to those regulated by the Department as to the potential fines and amounts if they violate the rules or statutes.

AUTHORITY:

State Board of Agriculture; 2 O.S. §§ 2-4 and 2-18; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written to Teena Gunter at teena.gunter@oda.state.ok.us, or 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from October 1, 2009 through November 2, 2009.

PUBLIC HEARING:

A public hearing will be held at 3:00 p.m., November 2, 2009, in the Animal Industry conference room on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from October 1, 2009 through November 2, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #09-1263; filed 9-9-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 10. AGRICULTURAL PRODUCTS

[OAR Docket #09-1261]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]

Subchapter 9. Packaging and Labeling of Products [AMENDED]

Subchapter 11. Checking the Net Contents of Packaged Goods [AMENDED]

Subchapter 19. Examination Procedures for Price Verification [AMENDED]

SUMMARY:

The proposed rules update the dates of NIST Handbook incorporations by reference and establish additional procedures for checking prices, net contents of goods, and packaging and labeling of products.

AUTHORITY:

Oklahoma State Board of Agriculture; 2 O.S. §§ 2-4, 14-31 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written to Teena Gunter at teena.gunter@oda.state.ok.us, or 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from October 1, 2009 through November 2, 2009.

PUBLIC HEARING:

A public hearing will be held at 2:00 p.m., November 2, 2009, in the Animal Industry conference room on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

Notices of Rulemaking Intent

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from October 1, 2009 through November 2, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #09-1261; filed 9-9-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 20. FORESTRY

[OAR Docket #09-1262]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions [AMENDED]

Subchapter 3. Rural Fire Protection Program Fund Act [AMENDED]

Subchapter 17. Forest Resources Development Program [AMENDED]

Subchapter 19. Prescribed Burns [NEW]

SUMMARY:

The purpose of the proposed rules is to revise the procedures for application and approval of 80/20 rural fire grants, as well as other grant programs. The rules will also clean up obsolete language. Finally, the rules will allow for a fee to be charged for Department assistance on a prescribed burn.

AUTHORITY:

State Board of Agriculture; 2 O.S. §§ 2-4 and 16-1 et seq.; Article 6, Section 31, Constitution of the State of Oklahoma

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard, P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from October 1, 2009 through November 2, 2009.

PUBLIC HEARING:

A public hearing will be held at 2:30 p.m., November 2, 2009, in the Animal Industry conference room on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from October 1, 2009 through November 2, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above address.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #09-1262; filed 9-9-09]

TITLE 35. OKLAHOMA DEPARTMENT OF AGRICULTURE, FOOD, AND FORESTRY CHAPTER 30. CONSUMER PROTECTION

[OAR Docket #09-1260]

RULEMAKING ACTION:

Notice of proposed **PERMANENT** rulemaking

PROPOSED RULES:

Subchapter 17. Combined Pesticide

Part 11. Standards for Application of Pesticide 35:30-17-27 [REVOKED]

SUMMARY:

The proposed rule revokes the provisions in the combined pesticide rules related to fluoroacetate compounds. Pursuant to a federal court, fluoroacetate compounds are no longer available for rodent control, therefore the rule unnecessary. US EPA requested the Department to revoke the rule to ensure the pesticide program continues to follow federal law.

AUTHORITY:

State Board of Agriculture; 2 O.S. §§ 2-4(2) and (29) and 3-84(b); Article 6, Section 31, Constitution of the State of Oklahoma.

COMMENT PERIOD:

Persons may submit written comments to Teena Gunter at teena.gunter@oda.state.ok.us, 2800 North Lincoln Boulevard,

P.O. Box 528804, Oklahoma City, Oklahoma 73152-8804 during the period from October 1, 2009 through November 2, 2009.

PUBLIC HEARING:

A public hearing will be held at 1:30 p.m., November 2, 2009, in the Animal Industry conference room on the second floor of the Oklahoma Department of Agriculture, Food, and Forestry, 2800 North Lincoln Boulevard, Oklahoma City, Oklahoma.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Teena Gunter at the above address during the period from October 1, 2009 through November 2, 2009.

COPIES OF PROPOSED RULES:

Copies of proposed rules may be obtained by visiting www.ag.ok.gov/proposedrules or by contacting Teena Gunter at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D), a rule impact statement is available at the above addresses.

CONTACT PERSON:

Teena Gunter, (405) 522-4576, e-mail address: teena.gunter@oda.state.ok.us

[OAR Docket #09-1260; filed 9-9-09]

**TITLE 450. DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
CHAPTER 15. CONSUMER RIGHTS**

[OAR Docket #09-1255]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

- Subchapter 1. General Provisions
 - 450:15-1-1. Purpose [AMENDED]
 - 450:15-1-2. Definitions [AMENDED]
- Subchapter 3. Consumer Rights
 - Part 1. Mental Health and Drug or Alcohol Abuse Services
 - Consumer Bill of Rights
 - 450:15-3-8. Right to freedom from mistreatment, abuse and neglect [AMENDED]
 - Part 3. Consumer Grievance Procedure
 - 450:15-3-45. Consumer grievance policy and procedures [AMENDED]
 - Part 11. Resident Rights, Mental Health Residential Care Facilities

- 450:15-3-81. Resident rights [AMENDED]
- Subchapter 7. Office of Consumer Advocacy
 - Part 1. Duties
 - 450:15-7-2. Office of Consumer Advocacy purpose and authority [AMENDED]
 - 450:15-7-3. Advocate General [AMENDED]
 - 450:15-7-4. ODMHSAS facility advocacy [AMENDED]
 - Part 2. Investigations
 - 450:15-7-6. Reporting suspected maltreatment [AMENDED]
 - 450:15-7-7. Administrator's responsibilities regarding allegations reportable to the Office of Consumer Advocacy [AMENDED]
 - 450:15-7-8. Processing reports of maltreatment received by the Office of Consumer Advocacy [AMENDED]
 - 450:15-7-9. Investigation procedures [AMENDED]
 - 450:15-7-10. Rights and responsibilities of accused individuals [AMENDED]
 - 450:15-7-11. Responsibilities [AMENDED]
 - 450:15-7-12. Educational employees [AMENDED]
 - 450:15-7-14. Investigative interviews [AMENDED]
 - 450:15-7-15. Investigative report and findings [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 15 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 2-108 and 2-109.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., November 2, 2009, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on November 3, 2009 at 10:00 a.m. in Conference Room A of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on November 2, 2009.

Notices of Rulemaking Intent

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning October 16, 2009. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871.

[OAR Docket #09-1255; filed 9-3-09]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 30. STANDARDS AND CRITERIA
FOR STATE-OPERATED INPATIENT
SERVICES**

[OAR Docket #09-1256]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 9. Role of State-operated Inpatient Psychiatric Units
450:30-9-3.1. Voluntary formal and informal admissions to a state-operated inpatient psychiatric unit [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 30 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306, 3-317, 3-403(1), 3-404, 3-406, 3-415 and 3-416.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., November 2, 2009, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on November 3, 2009 at 11:00 a.m. in Conference Room A of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on November 2, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning October 16, 2009. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871.

[OAR Docket #09-1256; filed 9-3-09]

**TITLE 450. DEPARTMENT OF MENTAL
HEALTH AND SUBSTANCE ABUSE
SERVICES
CHAPTER 55. STANDARDS AND CRITERIA
FOR PROGRAMS OF ASSERTIVE
COMMUNITY TREATMENT**

[OAR Docket #09-1257]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 1. General Provisions
450:55-1-2. Definitions [AMENDED]
Subchapter 3. Program Description and Pact Services
450:55-3-2. Admission criteria [AMENDED]
450:55-3-5. Hours of operation and staff coverage [AMENDED]
450:55-3-6. Service intensity [AMENDED]
450:55-3-7. Staffing requirements [AMENDED]
Subchapter 5. Pact Clinical Documentation
450:55-5-3. Documentation of individual treatment team members [AMENDED]
450:55-5-5. Comprehensive assessment [AMENDED]
450:55-5-6. Treatment team meeting [AMENDED]
450:55-5-7. Treatment planning [AMENDED]
450:55-5-9. PACT progress note [AMENDED]
Subchapter 11. Organizational Management
450:55-11-2. Program organization [AMENDED]

SUMMARY:

In accordance with the Administrative Procedures Act the proposed rule revisions to Chapter 55 are part of the Department's review of Title 450. The proposed rules clarify existing rules and are intended to comply with statutory changes.

AUTHORITY:

Oklahoma Department of Mental Health and Substance Abuse Services Board; 43A O.S. §§ 2-101, 3-306 and 3-319.

COMMENT PERIOD:

Persons wishing to submit written comments may do so until 5:00 p.m., November 3, 2009, to the attention of Stephanie Kennedy, Administrative Rules Liaison. Written comments may be mailed to the Department of Mental Health and Substance Abuse Services, P.O. Box 53277, Oklahoma City, OK 73152-3277, hand-delivered to the Department at 1200 N.E. 13th Street, Oklahoma City, OK or by facsimile, at (405) 522-0401.

PUBLIC HEARING:

The Department will conduct a public hearing on November 3, 2009, 2:00 p.m. in Conference Room A of the Department at the address given above.

REQUESTS FOR COMMENTS FROM BUSINESS ENTITIES:

ODMHSAS asks business entities affected by the proposed rules to provide written information to the Department, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing to Stephanie Kennedy, at the above address, before the close of the comment period on November 2, 2009.

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained from Stephanie Kennedy, Administrative Rule Liaison, at the above address.

RULE IMPACT STATEMENT:

Pursuant to 75 O.S. § 303(D) ODMHSAS will prepare a rule impact statement which will be available beginning October 16, 2009. Copies may be obtained from Stephanie Kennedy, Administrative Rules Liaison, at the above address.

CONTACT PERSON:

Stephanie Kennedy, Administrative Rules Liaison, (405) 522-3871.

[OAR Docket #09-1257; filed 9-3-09]

**TITLE 690. OKLAHOMA BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 10. LICENSURE AND FEES**

[OAR Docket #09-1258]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

Subchapter 3. ~~Licensure of Speech-Language Pathologist and Audiologist-Independent Practitioners~~

690:10-3-1. Application for licensure as a speech-language pathologist and/or audiologist [AMENDED]

690:10-3-3. Criteria considered for licensure [AMENDED]

690:10-3-4. Academic requirement [AMENDED]

690:10-3-5. Supervised clinical practicum requirement [AMENDED]

690:10-3-6. Clinical experience requirement [AMENDED]

690:10-3-8. Continuing education for speech-language pathologists and audiologists [AMENDED]

Subchapter 5. ~~Licensure of Speech-Language Pathology Clinical Experience Interns~~

690:10-5-1. License to practice as a speech-language pathology clinical experience intern [AMENDED]

690:10-5-6. Requirements for supervision of clinical experience interns [AMENDED]

Subchapter 7. ~~Authorization of Assistants-Licensure of Speech-Language Pathology Assistants and Audiology assistants~~

690:10-7-1. ~~Authorization to practice as an assistant~~
Application for License to practice as a Speech-Language Pathology Assistant or Audiology Assistant [AMENDED]

690:10-7-3. ~~Direct on site supervision required~~
Supervision Required [AMENDED]

690:10-7-4. Violation of ~~authorization to assist~~ Licensure [AMENDED]

690:10-7-5. Application for License ~~authorization to assist~~ [AMENDED]

690:10-7-6. Period of ~~authorization to assist~~ Licensure and extension [AMENDED]

690:10-7-7. Requirements for supervision of assistants [AMENDED]

690:10-7-9. Academic Requirements [NEW]

690:10-7-10. Roles and responsibilities of Speech-Language Pathology Assistants. [NEW]

Subchapter 9. Fees

690:10-9-1. License application fee [AMENDED]

690:10-9-2. License renewal fee [AMENDED]

690:10-9-5. Lost or damaged certificate fee [AMENDED]

SUMMARY:

Chapter 10. Licensure and Fees

690:10-3-1. This rule change increases cost of application for licensure from \$75.00 to \$85.00. Our agency is currently taking in less revenue than we are spending. The agency has been required to pay for our A.A.G. services, payroll services and the cost of our annual audits. These costs were once free to our agency. The rule change will allow us to meet our agencies budget needs. This rule change allows for our agency to accept electronic payments along with the other payment types. This rule change will require criminal background checks on all new applicants. [AMENDED]

690:10-3-3. This rule change will clean up a typographical error. [AMENDED]

Notices of Rulemaking Intent

690:10-3-4. 690:10-3-4. (a)(2) This rule change will remove old outdated information. [AMENDED]

690:10-3-4. (b) (4). This rule change will remove the out dated text and will clarify information needed from those individuals applying for licensure from a non-accredited university. [AMENDED]

690:10-3-4. (b) (4) (E). This rule change will clarify the academic areas that a license must be knowledgeable. [AMENDED]

690:10-3-5. 690:10-3-5 (A) (B). This rule change removes outdated information and will show current information on supervised clinical practicum requirements. [AMENDED]

690:10-3-5 (A) (B) (d). This rule change will remove out dated text and update the terminology. [AMENDED]

690:10-3-6. This rule change updates this rule by removing all out dated text. The remaining text will be the current information for clinical experience for audiology. [AMENDED]

690:10-3-8. (j). This rule change will change continuing education audits from being held bi-annual to every two years. 690:10-3-8. (j) (2), (4) This rule change corrects double numbering. [AMENDED]

690:10-3-8. (j) (4) (A) This rule changes the date for a licensee to provide evidence of additional continuing education activities sufficient to meet the requirements from February 1st to the 27th. [AMENDED]

690:10-3-8. (j) (4) (B) This rule change will change the requirement from completing to providing documentation for the required number of continuing education activities by April 15th, the Board will submit the name of the licensee to the Attorney General's office and pursue action to suspend or revoke the license. [AMENDED]

690:10-5-1. This rule change removes old language and removes audiologist interns. [AMENDED]

690:10-5-6(a) This rule change removes old language to remove audiology clinical interns. [AMENDED]

(b) This rule introduces a minimum number of years a licensee must practice before they can supervise another licensee. [NEW]

Subchapter 7. ~~Authorization of Assistants Licensure of~~ Speech Language Pathology Assistants

690:10-7-1. This rule change removes the authorization of assistants for speech-language pathologists and audiologists to licensure of the assistants. [AMENDED]

690:10-7-3. This rule change removes the requirement for 100% full time on-site observation of assistants to specific amounts of time. [AMENDED]

690:10-7-4. This rule change removes old language referring to violations of assistants that were authorized to practice as assistants to violations of licensed assistants. [AMENDED]

690:10-7-5. This rule change removes the application for authorization to assistant to the application for licensure of assistants. [AMENDED]

690:10-7-6. This rule defines the length of time that a speech pathology assistant can practice and removes old language from the rule. [AMENDED]

690:10-7-7(a). This rule change removes old language. [AMENDED]

(b) This rule change redefines the amount of time for direct supervision, indirect supervision and other supervision of assistants. [AMENDED]

690:10-7-9. This rule changes the Academic requirements for Speech-Language Pathology Assistants. [NEW]

690:10-7-10. This rule change list the roles and responsibilities of the Speech-Language Pathology Assistants. [NEW]

Subchapter 9 Fees

690:10-9-2. This rule increases the amount for licensure fees from \$75.00 a year to \$85.00. [AMENDED]

690:10-9-5. This rule change increase the amount for the renewal of each license each year from \$75.00 to \$85.00 and increased cost of maximum late fee charge. [AMENDED]

AUTHORITY:

59 O.S., §§ 1610, 1613, 1615, and 1616; Board of Examiners for Speech-Language Pathology and Audiology.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 5:00 p.m. on November 3, 2009 at the following address: Jeanie Wall, OBESPA, P.O. Box 53592, Oklahoma City, OK 73152. When mailing an item overnight please use this alternate address: OBESPA, 3700 N. Classen, Ste. 248, Oklahoma city, Oklahoma 73118. The proposed rules will be available on-line at www.ok.gov/obespa under Proposed Rules and by requesting a copy from the office at 405-524-4955.

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m., December 04, 2009 at 3700 N. Classen Blvd, Building Conference Room 265, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 12:30 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period and public hearing on November 3, 2009 at the following address: Board of Examiners for Speech-Language Pathology and Audiology, P.O. Box 53592, Oklahoma City, OK 73152

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by written request from the Oklahoma Board of Examiners for Speech-Language Pathology and Audiology, 3700 N. Classen Blvd, Ste. 248, Oklahoma City, Oklahoma 73118 and on the Board website: www.ok.gov/obespa

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available on and after October 15, 2009.

CONTACT PERSON:

Stephen Painton, Ph.D., Board Chair of the Oklahoma Board of Examiners for Speech-Language Pathology and Audiology, 405-271-4214.

[OAR Docket #09-1258; filed 9-8-09]

**TITLE 690. OKLAHOMA BOARD OF EXAMINERS FOR SPEECH-LANGUAGE PATHOLOGY AND AUDIOLOGY
CHAPTER 15. PROFESSIONAL CODE OF ETHICS**

[OAR Docket #09-1259]

RULEMAKING ACTION:

Notice of proposed PERMANENT rulemaking

PROPOSED RULES:

690:15-1-3. Principles of ethics [AMENDED]

SUMMARY:

690:15-1-3. This rule change changes the program classification from habilitative to rehabilitation. [AMENDED]

AUTHORITY:

59 O.S., 2001 § 1613; Board of Examiners for Speech-Language Pathology and Audiology.

COMMENT PERIOD:

Persons wishing to present their views in writing may do so before 5:00 p.m. on November 3, 2009 at the following address: Jeanie Wall, OBESPA, P.O. Box 53592, Oklahoma City, OK 73152. When mailing an item overnight please use this alternate address: OBESPA, 3700 N. Classen, Ste. 248, Oklahoma city, Oklahoma 73118. The proposed rules will be

available on-line at www.ok.gov/obespa under Proposed Rules and by requesting a copy from the office at 405-524-4955.

PUBLIC HEARING:

A public hearing will be held at 1:00 p.m., December 04, 2009 at 3700 N. Classen Blvd, Building Conference Room 265, Oklahoma City, Oklahoma. Anyone who wishes to speak must sign in at the door by 12:30 p.m.

REQUEST FOR COMMENTS FROM BUSINESS ENTITIES:

Business entities affected by these proposed rules are requested to provide the agency with information, in dollar amounts if possible, about the increase in the level of direct costs, indirect costs, or other costs expected to be incurred by the business entity due to compliance with the proposed rules. Business entities may submit this information in writing by the conclusion of the comment period and public hearing on November 3, 2009 at the following address: Board of Examiners for Speech-Language Pathology and Audiology, P.O. Box 53592, Oklahoma City, OK 73152

COPIES OF PROPOSED RULES:

Copies of the proposed rules may be obtained by written request from the Oklahoma Board of Examiners for Speech-Language Pathology and Audiology, 3700 N. Classen Blvd, Ste. 248, Oklahoma City, Oklahoma 73118 and on the Board website: www.ok.gov/obespa

RULE IMPACT STATEMENT:

Pursuant to 75 O.S., § 303 (D), a rule impact statement will be issued and made available on and after October 15, 2009.

CONTACT PERSON:

Stephen Painton, Ph.D., Board Chair of the Oklahoma Board of Examiners for Speech-Language Pathology and Audiology, 405-271-4214.

[OAR Docket #09-1259; filed 9-8-09]

Submissions for Review

Within 10 calendar days after adoption by an agency of a proposed PERMANENT rulemaking action, the agency must submit the proposed rules to the Governor and the Legislature for review. In addition, the agency must publish in the *Register* a "statement" that the rules have been submitted for gubernatorial/legislative review.

For additional information on submissions for gubernatorial/legislative review, see 75 O.S., Section 303.1, 303.2, and 308.

TITLE 252. DEPARTMENT OF ENVIRONMENTAL QUALITY CHAPTER 100. AIR POLLUTION CONTROL

[OAR Docket #09-1248]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review.

RULES:

- Subchapter 15. Motor Vehicle Pollution Control Devices [REVOKED]
- 252:100-15.1. Purpose [REVOKED]
- 252:100-15.2. Definitions [REVOKED]
- 252:100-15.3. Scope [REVOKED]
- 252:100-15.4. Prohibitions [REVOKED]
- 252:100-15.5. Maintenance, repair or testing [REVOKED]
- 252:100-15.6. Liquefied petroleum gas [REVOKED]
- Appendix E. Primary Ambient Air Quality Standards [REVOKED]
- Appendix E. Primary Ambient Air Quality Standards [NEW]
- Appendix F. Secondary Ambient Air Quality Standards [REVOKED]
- Appendix F. Secondary Ambient Air Quality Standards [NEW]

SUBMITTED TO GOVERNOR:

August 31, 2009

SUBMITTED TO HOUSE:

August 31, 2009

SUBMITTED TO SENATE:

August 31, 2009

[OAR Docket #09-1248; filed 9-2-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 110. LICENSING SERVICES

[OAR Docket #09-1251]

RULEMAKING ACTION:

Submission for gubernatorial and legislative review

RULES:

- Subchapter 1. General Provisions
- Part 1. Licensing Services - Child Care
- 340:110-1-4.1. [AMENDED]
- 340:110-1-5. through 340:110-1-6. [AMENDED]
- 340:110-1-8. [AMENDED]
- 340:110-1-8.1. [AMENDED]

- 340:110-1-8.3. through 340:110-1-9. [AMENDED]
- 340:110-1-9.2. through 340:110-1-9.4. [AMENDED]
- 340:110-1-10. through 340:110-1-11. [AMENDED]
- 340:110-1-13. [AMENDED]
- 340:110-1-17. [AMENDED]
- Part 3. Licensing Services - Residential Care and Agencies
- 340:110-1-43.1. [AMENDED]
- 340:110-1-44. through 340:110-1-47.2. [AMENDED]
- 340:110-1-51. through 340:110-1-52. [AMENDED]
- 340:110-1-54.1. [NEW]
- Subchapter 3. Licensing Standards for Childcare Facilities
- Part 1. Requirements for Child Care Centers
- 340:110-3-3. [AMENDED]
- 340:110-3-5. through 340:110-3-6. [AMENDED]
- 340:110-3-7.1. [AMENDED]
- Part 2. Requirement for Part-Day Children's Programs
- 340:110-3-37. [AMENDED]
- 340:110-3-39. through 340:110-3-42. [AMENDED]
- Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
- 340:110-3-82. [AMENDED]
- 340:110-3-85. [AMENDED]
- 340:110-3-88. [AMENDED]
- 340:110-3-89.1. [AMENDED]
- Part 9. Requirements for Residential Childcare Facilities
- 340:110-3-146. through 340:110-3-147. [AMENDED]
- 340:110-3-150. through 340:110-3-154.3. [AMENDED]
- 340:110-3-154.5. [AMENDED]
- 340:110-3-157. [AMENDED]
- 340:110-3-163. through 340:110-3-165. [AMENDED]
- 340:110-3-165.1. [NEW]
- 340:110-3-166. through 340:110-3-169. [AMENDED]
- Part 14. Requirements For School-Age Programs
- 340:110-3-222. through 340:110-3-226. [AMENDED]
- Subchapter 5. Requirements for Child-Placing Agencies
- Part 1. Requirements for Child-Placing Agencies
- 340:110-5-4. [AMENDED]
- 340:110-5-6. through 340:110-5-8. [AMENDED]
- 340:110-5-12. [AMENDED]
- Part 3. Requirements for Adoption Agencies
- 340:110-5-30. [AMENDED]
- Part 5. Requirements for Foster Home Agencies
- 340:110-5-57. [AMENDED]
- 340:110-5-61.1. [AMENDED]
- (Reference APA WF 08-12 and 09-04)**
- SUBMITTED TO GOVERNOR:**
- March 24, 2009
- SUBMITTED TO HOUSE:**
- March 24, 2009

Submissions for Review

SUBMITTED TO SENATE:

March 24, 2009

[OAR Docket #09-1251; filed 9-3-09]

Gubernatorial Approvals

Upon notification of approval by the Governor of an agency's proposed PERMANENT rulemaking action, the agency must submit a notice of such gubernatorial approval for publication in the *Register*.

For additional information on gubernatorial approvals, see 75 O.S., Section 303.2.

TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 100. DEVELOPMENTAL DISABILITIES SERVICES DIVISION

[OAR Docket #09-1250]

RULEMAKING ACTION:

Gubernatorial approval

RULES:

Subchapter 3. Administration

Part 1. General Administration

340:100-3-4 [AMENDED]

340:100-3-5 [AMENDED]

340:100-3-5.1 through 340:100-3-5.2 [AMENDED]

Part 3. Administration

340:100-3-33 [AMENDED]

340:100-3-35 [AMENDED]

340:100-3-38.5 [AMENDED]

340:100-3-38.12 [AMENDED]

340:100-3-39 [AMENDED]

Subchapter 5. Client Services

Part 3. Service Provisions

340:100-5-17 [REVOKED]

340:100-5-21 [REVOKED]

340:100-5-22.1 [AMENDED]

340:100-5-26 [AMENDED]

Part 5. Individual Planning

340:100-5-53 [AMENDED]

Subchapter 6. Group Home Regulations

Part 7. Environmental Health, Safety, and Sanitation Requirements

340:100-6-45 [AMENDED]

Part 11. Program Standards

340:100-6-55 [AMENDED]

Subchapter 17. Employment Services

Part 5. Other State Funded Employment Services

340:100-17-30 [AMENDED]

(Reference APA WF 08-13)

GUBERNATORIAL APPROVAL:

March 2, 2009

[OAR Docket #09-1250; filed 9-3-09]

Emergency Adoptions

An agency may adopt new rules, or amendments to or revocations of existing rules, on an emergency basis if the agency determines that "an imminent peril exists to the preservation of the public health, safety, or welfare, or that a compelling public interest requires an emergency rule[s] [A]n agency may promulgate, at any time, any such [emergency] rule[s], provided the Governor first approves such rule[s]" [75 O.S., Section 253(A)].

An emergency action is effective immediately upon approval by the Governor or on a later date specified by the agency in the preamble of the emergency rule document. An emergency rule expires on July 15 after the next regular legislative session following promulgation, or on an earlier date specified by the agency, if not already superseded by a permanent rule or terminated through legislative action as described in 75 O.S., Section 253(H)(2).

Emergency rules are not published in the *Oklahoma Administrative Code*; however, a source note entry, which references the *Register* publication of the emergency action, is added to the *Code* upon promulgation of a superseding permanent rule or expiration/termination of the emergency action.

For additional information on the emergency rulemaking process, see 75 O.S., Section 253.

TITLE 87. OKLAHOMA STATE EMPLOYEES BENEFITS COUNCIL CHAPTER 10. FLEXIBLE BENEFITS PLAN

[OAR Docket #09-1249]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 28. Early Medical Alert Optional Benefit [NEW]

87:10-28-1. Early medical alert optional benefit [NEW]

87:10-28-2. Definitions [NEW]

87:10-28-3. Requirements for participation [NEW]

87:10-28-4. Internal Revenue Code and regulations [NEW]

87:10-28-5. Period of coverage - enrollment [NEW]

87:10-28-6. Enrollment [NEW]

87:10-28-7. Early medical alert account option [NEW]

AUTHORITY:

Oklahoma State Employees Benefits Council; 74 O.S. § 1361 et seq.

DATES:

Adoption:

July 28, 2009

Approved by Governor:

August 18, 2009

Effective:

Immediately upon Governor's approval

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

A compelling public interest exists for these emergency administrative rules as they will enable the Oklahoma State Employees Benefits Council to fulfill its statutory mandate of providing competitive benefits to active state employees (74 O.S.2001, §1362(2), (4) and (10)) and its mandate to promote the health and wellness of state employees (74 O.S.2001, §1362(12)) by offering a new, optional benefit known as Early Medical Alert. As outlined in the following analysis, this new benefit is designed to provide early medical alert to first responders and designated family members in the event of an accident or medical emergency.

ANALYSIS:

These emergency administrative rules add a new Subchapter, twenty-eight (28), to Chapter 10 of Title 87 of the Oklahoma Administrative Code. Chapter 10 serves as the "Plan Document" for the administration of the flexible benefits plan for active Oklahoma state employees. This new Subchapter defines important terms, rules, guidelines, and procedures necessary for the Oklahoma State Employees Benefits Council to effectively administer a new, optional benefit known as Early Medical Alert, which will be offered to active state employees beginning in Plan Year 2010 (January 1, 2010, through December 31, 2010). This program will provide state employees, and their families, who enroll in this benefit and receive emergency medical care with a safe, simple, and inexpensive way to ensure emergency health care providers correctly identify the patient, have vital information about the patient's health

history, known allergies, current health status and medications being taken, and the ability to instantly notify emergency contacts pre-designated by the patient. The key that unlocks this vital, online information for emergency health care providers is located on a sticker affixed to the back of a driver's license or a key fob that can be attached to keys, backpacks, diaper bags, etc. This will be invaluable when a patient is unconscious or otherwise unable to effectively communicate with emergency health care providers as they will be able to more quickly and accurately diagnose the problem at hand, apply the most appropriate treatment, and avoid the unintended misapplication of inappropriate medications/treatment options that could cause harm or even death.

CONTACT PERSON:

Craig A. Cates, Executive Manager, Agency and Regulatory Affairs, (405) 609-3440

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D):

SUBCHAPTER 28. EARLY MEDICAL ALERT OPTIONAL BENEFIT

87:10-28-1. Early medical alert optional benefit

(a) This option is a qualified benefit under Section 125 of the Internal Revenue Code. This benefit is an optional benefit within the State Employees Flexible Benefits Plan and is included as part of the cafeteria plan described in Subchapter 1 of this Chapter.

(b) The Plan Administrator shall at all times administer this option in a manner consistent with the terms and provisions hereof, in a uniform and nondiscriminatory manner, and in accordance with the Internal Revenue Code and applicable regulations promulgated thereunder.

87:10-28-2. Definitions

The following words and terms, when used in this subchapter, shall have the following meaning, unless the context clearly indicates otherwise:

"Period of Coverage" The period of coverage for this benefit runs from January 1 through December 31 of a given Plan Year. For new hires electing this benefit, the period of coverage begins on the first day of the month following date of hire through December 31.

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87:10-28-3. Requirements for participation

Upon submission of the election through an authorized procedure prescribed by the Plan Administrator, any employee eligible to participate under the State Employees Flexible Benefits Plan shall be eligible to participate in the early medical alert optional benefit.

87:10-28-4. Internal Revenue Code and regulations

The early medical alert optional benefit, the benefits provided pursuant to it, and contributions made pursuant to it shall be in compliance with all applicable Internal Revenue Code provisions and regulations promulgated thereunder.

87:10-28-5. Period of coverage - enrollment

The period of coverage will be on a calendar year basis beginning January 1 and ending December 31 of a given Plan Year. For new hires electing this benefit, the period of coverage begins on the first day of the month following date of hire through December 31. Midyear enrollees must pay the annual cost regardless of entry date. Pro-rated premiums are not available. Participation requires re-enrollment on an annual basis. Members wishing to participate for successive Plan Years must make a positive enrollment election during Option Period for every Plan Year.

87:10-28-6. Enrollment

- (a) Employees may elect to enroll in this benefit during the Option Period prior to each Plan Year.
- (b) New Hires may elect to participate in this optional benefit when completing the new hire benefits election form within thirty (30) days following date of hire.
- (c) Requests for enrollment must be made in a manner and on forms prescribed by the Plan Administrator.

87:10-28-7. Early medical alert account option

The Plan Administrator shall establish for each employee an early medical alert account for each Plan Year. An employee's early medical alert account for a period of coverage shall be credited with the portion of the employee's early medical alert account dollars that may be deducted from payroll through a single payroll deduction. An employee's early medical alert account for a Plan Year shall be reduced by the amount of any early medical alert dollars paid on behalf of the employee.

[OAR Docket #09-1249; filed 9-3-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 75. CHILD WELFARE

[OAR Docket #09-1252]

RULEMAKING ACTION:
EMERGENCY adoption

RULES:

Subchapter 6. Permanency Planning
Part 5. Permanency Planning Services
340:75-6-31.4 [AMENDED]
(Reference APA WF 09-08)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Section 7003-5.6b of Title 10 of the Oklahoma Statutes; and the Deficit Reduction Act of 2005; Parts 261.2, 261.60, 261.61 and 262.2 of Title 45 of the Code of Federal Regulations (CFR).

DATES:

Adoption:

May 21, 2009

Approved by Governor:

June 23, 2009

Effective:

Immediately upon Governor's approval or July 1, 2009, whichever is later.

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as Oklahoma Department of Human Services finds compelling public interest to broaden eligibility for the Supported Permanency Program to reduce delay in achieving permanency goals for children.

ANALYSIS:

The proposed revisions to Subchapter 6 of Chapter 75 amend the rules to broaden eligibility for the Supported Permanency Program.

CONTACT PERSON:

Dena Thayer at (405)521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D) AND EFFECTIVE UPON APPROVAL BY THE GOVERNOR OR JULY 1, 2009, WHICHEVER IS LATER:

SUBCHAPTER 6. PERMANENCY PLANNING

PART 5. PERMANENCY PLANNING SERVICES

340:75-6-31.4. Supported Permanency

When a child in the custody of Oklahoma Department of Human Services (OKDHS) is placed in a paid kinship foster home with a relative who resides in Oklahoma and meets the specified degree of relationship as defined by the Temporary Assistance for Needy Families (TANF) program, per OAC 340:10-9-1(a), Supported Permanency may be explored, subject to the availability of funds. If a child is not eligible for the TANF Supported Permanency Program, the director of the Children and Family Services Division (CFSD), for good cause, may waive an eligibility requirement of the TANF Supported Permanency Program and approve a supported guardianship payment for the child, provided that the payments to the guardian are authorized and funded by CFSD.

- (1) Supported Permanency is appropriate when the:

(A) child is age 12 or older or has a sibling age 12 or older who resides in the same relative foster home; provided, however, the director of CFSD may, for good cause, approve a younger child or a sibling of an eligible child.

(B) court makes a finding that reasonable efforts to reunite are not required or have been made and failed, and the permanency plans of reunification and adoption have been ruled out;

(C) relative has completed all requirements to be an approved OKDHS foster home;

(D) child is currently residing with the relative in Oklahoma and has been for four of the previous six months;

(E) relative is willing to assume legal responsibility; and

(F) court and, if appropriate, the child are in agreement with the plan for the relative to obtain legal responsibility.

(2) Supported Permanency provides the relative with:

(A) monetary reimbursement to an attorney for the legal costs incurred in the transfer of legal responsibility of the child;

(B) a monthly ~~cash~~ benefit payment standard for the child, per OKDHS Appendix C-1, Maximum Income, Resource, and Payment Standards, Schedule XVII;

(C) a medical card for the child; and

(D) an assigned Family Support Services worker to provide referrals for services, if needed.

[OAR Docket #09-1252; filed 9-3-09]

**TITLE 340. DEPARTMENT OF HUMAN SERVICES
CHAPTER 75. CHILD WELFARE**

[OAR Docket #09-1254]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 15. Adoptions

Part 14. Post-Adoption Services

340:75-15-128.1 [AMENDED]

(Reference APA WF 09-10)

AUTHORITY:

Commission for Human Services, Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Title 10 of the Oklahoma Statutes; Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law (P.L.) 104-193; the Balanced Budget Act of 1997, P.L. 105-33; and Parts 98 and 99 of Title 45 of the Code of Federal Regulations (CFR), and Section 230.65 of Title 56 of the Oklahoma Statutes.

DATES:

Adoption:

July 28, 2009

Approved by Governor:

August 18, 2009

Effective:

October 1, 2009

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as OKDHS finds compelling public interest to allow child care services to be paid by OKDHS under certain circumstances as a part of adoption assistance to allow families requiring this service to proceed with adoption and permanency for children.

ANALYSIS:

The proposed revisions to Subchapter 15 of Chapter 75 amend the rules to allow Oklahoma Department of Human Services (OKDHS) to pay child care services under certain circumstances as a part of adoption assistance. This will allow families who require child care services to proceed with adoption and will expedite permanency for children.

CONTACT PERSON:

Dena Thayer at (405)521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D) WITH A LATER EFFECTIVE DATE OF OCTOBER 1, 2009:

SUBCHAPTER 15. ADOPTIONS

PART 14. POST-ADOPTION SERVICES

340:75-15-128.1. Adoption assistance benefits

(a) Adoption assistance benefits may include Medicaid coverage, a monthly assistance payment, special services, reimbursement of non-recurring adoption expenses, or any combination of these. Children eligible for Title IV-E (IV-E) assistance are also eligible for available Title XX services.

(1) **Medicaid.** The child is eligible for the Oklahoma Medicaid program or the Medicaid program in the state of residence, if IV-E eligible. All necessary medical and dental care under the scope of that program is compensable at usual and customary charges, per OAC 340:75-15-129.

(2) **Monthly assistance payments.** A child may be eligible for a monthly assistance payment to provide financial support to families who adopt children considered difficult to place. Payments are made to eligible families as long as Oklahoma Department of Human Services (OKDHS) has sufficient funds available and is authorized to make payments under Form 04AN002E, Adoption Assistance Agreement, as allowable within the OKDHS budget.

(A) **Payments.** The standard monthly adoption assistance payments correspond to the child's age set out in OKDHS Appendix C-20, Children and Family Services Division Rates Schedule.

(B) **DOC Difficulty of care (DOC) rate descriptions.** The ~~difficulty of care (DOC)~~ descriptions are guidelines from which the most appropriate DOC rate is determined for the eligible child. Not every situation will clearly fit into one DOC rate category. DOC descriptions are set out in OKDHS Appendix C-20.

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- (i) Consideration of the child's age is part of determining the appropriate rate category.
 - (ii) Documentation that the child's needs, conditions, or behaviors fit the rate category is required from the adoptive family and professional sources outside the adoptive family.
 - (iii) ~~Updated OKDHS may require updated documentation may be required by OKDHS~~ from time to time to establish a child's ongoing eligibility for a particular DOC rate.
- (3) **Special services.** Special services are used to meet the child's needs that cannot be met by the adoptive parent(s) and that are not covered under any other program for which the child would qualify.
- (A) These services include corrective appliances, such as leg braces, prostheses, and walkers.
 - (B) Tutoring and private school tuition are not covered as special services, as the public school systems are mandated to provide all children with special needs with an appropriate public education.
 - (C) The child's needs are reviewed at least annually and special services may be approved for a limited time.
 - (D) The amount paid does not exceed the reasonable fee for the service rendered.
 - (E) The special service is negotiated with the adoptive parent(s), approved by Children and Family ~~Service Services~~ Division (CFSD) ~~Post-Adoption Assistance Services Section~~, and included in Form 04AN002E, Adoption Assistance Agreement.
 - (F) Child care services may be paid by OKDHS as a part of adoption assistance for children who are in foster care, as defined in Section 1355.20 of Title 45 Chapter XIII of The Code of Federal Regulations, at the time of approval for adoption assistance; provided, a child determined eligible, will retain eligibility in any subsequent adoption. The child is eligible when:
 - (i) the child is five years of age or younger;
 - (ii) the child is adopted through OKDHS or a federally recognized Indian tribe as defined by the Federal and Oklahoma Indian Child Welfare Acts;
 - (iii) the child has been adopted by the parent who is applying for benefits;
 - (iv) the adoptive parent applying for benefits has fully executed Form 04AN002E, Adoption Assistance Agreement, that lists child care as an adoption assistance benefit for the child and includes Form 04AN033E, Post-Adoption Child Care Referral, when the child resides in Oklahoma; and
 - (v) employment has been verified and child care has been approved for only the days and hours the parent works; however, in a two-parent family, care may be approved for sleep time when one parent works days and the other parent works during normal night time sleep hours.
 - (G) The special service for child care is:

- (i) negotiated with the adoptive parent(s), but cannot exceed the one star child care center rate as listed on OKDHS Appendix C-4-B, Child Care Provider Rate Schedule, for a child residing outside Oklahoma;
 - (ii) approved by CFSD Post-Adoption Services Section;
 - (iii) included in Form 04AN002E, Adoption Assistance Agreement; and
 - (iv) paid from CFSD funds when the child resides outside Oklahoma.
- (4) **Reimbursement of non-recurring adoption expenses.** Certain non-recurring expenses incurred by or on behalf of the adoptive parent(s) in connection with the adoption of a child with special needs may be reimbursed.
- (A) **Reimbursable expenses.** Non-recurring adoption expenses:
- (i) are the reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption of a child with special needs;
 - (ii) are not incurred in violation of state or federal law; and
 - (iii) have not been reimbursed from other sources or funds. Financial reimbursement is available to the adoptive parent(s) of an eligible child for:
 - (~~i~~) adoption fees;
 - (~~ii~~) court costs;
 - (~~iii~~) attorney fees;
 - (~~iv~~) adoptive home study fee;
 - (~~v~~) costs incurred to obtain health and psychological reports on family members;
 - (~~vi~~) supervision of the adoptive placement by another agency;
 - (~~vii~~) transportation, food, and lodging for the adoptive parent(s) and child during the placement process; and
 - (~~viii~~) cost of fingerprinting paid by the adoptive parent(s).
- (B) **Eligibility.** The child must meet all eligibility criteria for a child with special needs, per OAC 340:75-15-128.4, and have been placed for adoption in accordance with applicable state and local laws. It is not required that the child:
- (i) be in the custody of OKDHS or a federally recognized tribe at the time of finalization of the adoption; or
 - (ii) meet the IV-E categorical eligibility requirements for adoption assistance, per OAC 340:75-15-128.2.
- (C) **Amount of reimbursement.** Reimbursement of non-recurring adoption expenses, as defined in OAC 340:75-15-128.1(a)(4)(A), may be approved on behalf of the eligible child as described in (i) and (ii).
- (i) **Finalized adoption.** Assistance is limited to documented actual expenses incurred up to a maximum of \$1,200 per child if the adoption is

finalized. If an Order Terminating Parental Rights or Order Determining the Child Eligible for Adoption Without the Consent of a Biological Parent had to be obtained in the adoption case, a request for reimbursement up to a maximum of \$2,000 per child is considered by OKDHS on a case-by-case basis. In cases where siblings are placed together with the same adoptive family, each child is treated as an individual with separate reimbursement for non-recurring expenses.

(ii) **Non-finalized adoption.** A potential adoptive parent(s) whose trial adoption disrupts prior to finalization may be eligible for up to a maximum reimbursement of \$500 per child.

(D) **Approval and payment.** The request for reimbursement of non-recurring adoption expenses must be approved and Form 04AN002E signed by the adoptive parent(s) and OKDHS designee prior to finalization of the adoption. Payment is made directly to the adoptive parent(s) for approved amounts shown on the itemized statement as paid in full. Payment is made directly to a vendor, such as an attorney and private adoption agency, for the fee that the itemized statement indicates has not been paid in full by the adoptive parent(s).

(E) **Interstate placement.** The provisions of OAC 340:75-15-128.5(b) apply to reimbursement of non-recurring adoption expenses in interstate adoptions.

(b) **Overpayments.** CFSD Post-Adoption Assistance Services Section staff immediately verbally notifies the adoptive parent(s) when it is discovered that an overpayment has occurred. OKDHS researches, analyzes, and verifies the overpayment amount within 60 days of the verbal notification to the adoptive parent(s). The adoptive parent(s) is responsible for repayment, even if he or she is not responsible for causing the overpayment.

(1) Post-Adoption Assistance Services Section staff contacts the adoptive parent(s) regarding an adoption assistance overpayment and discusses the amount to be automatically deducted, when possible, from the monthly adoption assistance payment.

(A) The adoptive parent(s) is notified in writing by certified mail of the overpayment agreement plan. Upon receipt of the overpayment agreement plan, the adoptive parent(s) signs and returns the plan with original signatures to OKDHS ~~with original signatures~~.

(B) The overpayment agreement plan must not exceed 36 months from the date of receipt of written notification of the plan.

(C) The minimum monthly payment toward the overpayment must not be less than \$150, with the exception of the final payment.

(2) Post-Adoption Assistance Services Section staff notifies OKDHS Legal Division when the adoptive parent(s) does not respond to the written notification of or fails to comply with the overpayment agreement plan.

(3) A referral is made to Office of Inspector General ~~(OIG)~~ if fraud is suspected.

(c) **Modification.** Form 04AN002E may be modified and the adoption assistance payment amount may be readjusted periodically when warranted by a change in circumstances and with the concurrence of the adoptive parent(s). A change in the child's eligibility for the DOC rate paid constitutes a change in circumstance.

(1) The adoption assistance payment amount may not be automatically adjusted without agreement of the adoptive parent(s) except for an across-the-board reduction or increase in OKDHS foster care reimbursement rates or DOC rates.

(2) Modification of Form 04AN002E is prospective only and ~~may is not be~~ retroactive.

(3) If the parties cannot come to an agreement, OKDHS establishes the payment amount.

(4) The adoptive parent(s) must inform OKDHS of circumstances that would make the child ineligible for adoption assistance payments or eligible for payments of a different amount. OKDHS may require:

(A) the adoptive parent(s) to provide updated documentation of a child's ongoing eligibility for the payment amount received; and

(B) evaluation of a child by a suitably licensed or certified examiner selected by OKDHS if the child's eligibility is in question.

(d) **Termination.** When Form 04AN002E is signed and in effect, it is only terminated if one of the conditions described in (1) through (5) is met.

(1) The child has attained the age of 18 years, except the child may continue to receive assistance until the day of the child's ~~49th~~ 19th birthday if the child:

(A) continues to attend high school or pursues General Educational Development (GED); or

(B) meets the criteria for an adoption assistance DOC rate, as determined by OKDHS.

(2) The adoptive parent(s) fails to submit, no later than 60 days prior to the child reaching age 18, a request for adoption assistance to continue beyond age 18.

(A) The request for adoption assistance to continue beyond age 18 includes:

(i) a statement from school personnel providing documentation of the child's high school attendance and anticipated date of graduation;

(ii) a statement from school personnel providing documentation that the child is pursuing General Educational Development GED; or

(iii) medical or psychological assessments conducted and dated within six months preceding the child's ~~48th~~ 18th birthday, signed by a licensed physician, psychiatrist, or clinician, describing the child's conditions, including diagnosis, treatment, and prognosis.

(B) If the adoptive parent(s) does not timely submit the required documentation, or if OKDHS determines the child does not meet the criteria that warrant continuation of assistance beyond age 18, adoption

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assistance for the child turning 18 terminates effective the day of the child's ~~18th~~ 18th birthday.

- (3) OKDHS determines that the adoptive parent(s) is no longer legally responsible for support of the child.
- (4) OKDHS determines that the adoptive parent(s) is no longer providing financial support to the child. If a child is placed in out-of-home care, including psychiatric, residential, therapeutic, or foster family care, and the adoptive parent(s) continues to provide financial support to the child, adoption assistance may continue. The rate of payment may be renegotiated, as appropriate.
- (5) All of the child's adoptive parents are deceased.
- (e) **Death of adoptive parents or dissolution of the adoption.** A child who was receiving IV-E adoption assistance at the time of the death of all of the child's adoptive parents or at the time the adoption dissolves may be eligible for adoption assistance if the child is adopted again after October 1, 1997. A child receiving state funded adoption assistance is eligible if adopted after May 29, 1998. To be eligible, the child must continue to meet the special needs criteria and all of the requirements in (1) through (4).
- (1) The prospective adoptive parent(s) must make application on Form 04AN001E, Adoption Assistance Application.
- (2) The prospective adoptive parent(s) must provide from a district or tribal court a copy of a file-stamped Petition for Adoption if requesting prefinalization adoption assistance or a Final Decree of Adoption if requesting adoption assistance to begin after adoption.
- (3) OKDHS must be able to document the child was receiving IV-E or state funded assistance at the time of the death of the adoptive parent(s) or at the time the adoption dissolved.
- (4) OKDHS must be provided documentation that the new adoptive parent(s) is not the biological parent(s).
- (f) **Relocation by adoptive family to another state.** An Adoption Assistance Agreement with OKDHS signed on or after October 1, 1983 remains in effect regardless of the state in which the adoptive parent(s) is a resident at any given time.

[OAR Docket #09-1254; filed 9-3-09]

TITLE 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 110. LICENSING SERVICES

[OAR Docket #09-1253]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 1. General Provisions
Part 1. Licensing Services - Child Care
340:110-1-4.1 [AMENDED]
340:110-1-6 [AMENDED]
340:110-1-8 through 340:110-1-8.1 [AMENDED]
340:110-1-9 [AMENDED]
Part 3. Licensing Services - Residential Care and Agencies
340:110-1-43.1 [AMENDED]

340:110-1-45 through 340:110-1-47 [AMENDED]
340:110-1-51 [AMENDED]
Subchapter 3. Licensing Standards for Childcare Facilities
Part 1. Requirements for Child Care Centers
340:110-3-5 through 340:110-3-6 [AMENDED]
340:110-3-7.1 [AMENDED]
Part 2. Requirement for Part-day Children's Programs
340:110-3-39 through 340:110-3-42 [AMENDED]
Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
340:110-3-85 [AMENDED]
340:110-3-88 [AMENDED]
340:110-3-89.1 [AMENDED]
Part 9. Requirements for Residential Child Care Facilities
340:110-3-153 [AMENDED]
340:110-3-153.1 [AMENDED]
340:110-3-168 [AMENDED]
Part 14. Requirements for School-Age Programs
340:110-3-223 through 340:110-3-226 [AMENDED]
Subchapter 5. Requirements for Child-Placing Agencies
Part 1. Requirements for Child-Placing Agencies
340:110-5-7 through 340:110-5-8 [AMENDED]
340:110-5-12 [AMENDED]
(Reference APA WF 09-14)

AUTHORITY:

Commission for Human Services; Article XXV, Sections 2, 3, and 4 of the Oklahoma Constitution; Child Care Facility Licensing Act, Section 401 et seq. of Title 10 of the Oklahoma Statutes; Senate Bill 478; and House Bill 1742.

DATES:

Adoption:

July 28, 2009

Approved by Governor:

August 18, 2009

Effective:

October 1, 2009

Expiration:

Effective through July 14, 2010, unless superseded by another rule or disapproved by the Legislature.

SUPERSEDED EMERGENCY ACTIONS:

n/a

INCORPORATIONS BY REFERENCE:

n/a

FINDING OF EMERGENCY:

Emergency rulemaking approval is requested as OKDHS finds an imminent peril to the preservation of the public health, safety, or welfare of children in child care facilities. Licensed facilities are required to meet new legislative mandates. Health and safety of children could be jeopardized if revisions were not implemented.

ANALYSIS:

The proposed revisions to Subchapters 1, 3, and 5 of Chapter 110 amend the licensing requirements rules for child care centers, part-day programs, family child care homes and large family child care homes, school-age programs, residential facilities, and child placing agencies relating to: (1) criminal history investigations; and (2) parent notification regarding liability insurance. Revisions reflect changes in state statute during the 2009 legislative session.

CONTACT PERSON:

Dena Thayer at (405)521-4326

PURSUANT TO THE ACTIONS DESCRIBED HEREIN, THE FOLLOWING EMERGENCY RULES ARE CONSIDERED PROMULGATED UPON APPROVAL BY THE GOVERNOR AS SET FORTH IN 75 O.S., SECTION 253(D) AND EFFECTIVE OCTOBER 1, 2009:

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. LICENSING SERVICES - CHILD CARE

340:110-1-4.1. Forms

Forms that apply to this Part are described in this Section.

(1) **07LC002T, Staff Summary.** Form 07LC002T is used to document compliance with licensing requirements for all staff currently employed by the child care facility.

(2) **07LC003E, Monitoring Report - Child Care Center.** Form 07LC003E is used by the licensing staff to document compliance with requirements during a monitoring visit at a child care center and record any other information obtained.

(3) **07LC004E, Request for License - Child Care Facility.** Form 07LC004E is used to request a license to operate a child care facility, including a child care center, school-age program, and part-day children's program.

(4) **07LC005E, Transportation Information.** Form 07LC005E is used by a child care facility director to document compliance with licensing requirements on transportation.

(5) **07LC006E, Equipment Inventory - Child Care Center.** Form 07LC006E is used to document the equipment available and items needed to comply with Licensing Requirements for Child Care Centers, OKDHS Publication no. 84-08.

(6) **07LC007E, Training Documentation.** Form 07LC007E is used by child care facilities to document annual training of staff.

(7) **07LC008E, Periodic Monitoring Report - Certification for Care of Children with Disabilities.** Form 07LC008E is used by the licensing staff to document ongoing compliance with certification requirements during monitoring visits.

(8) **07LC010E, Monitoring Report - Part-Day Children's Program.** Form 07LC010E is used by the licensing staff to document compliance with licensing requirements during a monitoring visit at a part-day children's program and to record any other information obtained.

(9) **07LC012E, Licensing Complaint.** Form 07LC012E is used to record a complaint against a child care facility.

(10) **07LC014E, Monitoring Report - Family Child Care Home.** Form 07LC014E is used to document compliance with requirements during a monitoring visit to a family child care home and record other information obtained.

(11) **07LC020E, Equipment Inventory - Part-day Children's Program.** Form 07LC020E is used to document the equipment available or needed to comply with Licensing Requirements for Part-day Children's Programs, OKDHS Publication no. 95-12.

(12) **07LC021E, Comments and Recommendations Regarding Licensing Requirements.** Form 07LC021E is used to make comments and recommendations pertaining to licensing requirements and policy.

(13) **07LC023E, Monitoring Report - School - Age Program.** Form 07LC023E is used to document compliance with licensing requirements for school-age programs

during a monitoring visit and record any other information obtained.

(14) **07LC024E, Equipment Inventory - School-Age Program.** Form 07LC024E is used to document the equipment available or needed to comply with Licensing Requirements for School-Age Programs, OKDHS Publication no. 97-10.

(15) **07LC025E, Request for Child Care Center Star Certification.** Form 07LC025E is used by a child care center owner or director to request star certification.

(16) **07LC026E, Child Care Center Star Certification Review.** Form 07LC026E is used to document compliance with criteria for star certification and to establish a plan to correct violations in a child care center.

(17) **07LC027E, Request for Family Child Care Home Star Certification.** Form 07LC027E is used by a family child care home provider to request star certification.

(18) **07LC028E, Family Child Care Home Star Certification Review.** Form 07LC028E is used to document ongoing compliance with criteria for star certification and to establish a plan to correct violations in a family child care home.

(19) **07LC037E, Notice to Comply.** Form 07LC037E is used by a child care facility to document a plan of correction when there is serious or repeated non-compliance with licensing requirements.

(20) **07LC038E, Child Information.** Form 07LC038E is used by the child care facility to record enrollment information for a child.

(21) **07LC041E, Staff Information - Child Care Facilities Facility.** Form 07LC041E is used to record information regarding child care facility staff persons as required by licensing requirements.

(22) **07LC042E, Request for License - Family Child Care Home and Large Child Care Home.** Form 07LC042E is used to make application for license to operate a family child care home or large child care home.

(23) **07LC057E, Physical Plant.** Form 07LC057E is used by licensing staff to document the floor plan, including indoor and outdoor square footage and numbers of toilets and sinks.

(24) **07LC061E, Alternative Compliance Request.** Form 07LC061E is used by a child care facility to request an alternative method of complying with licensing requirements.

(25) **07LC068E, Licensing Specialist Training Checklist.** Form 07LC068E is used by licensing staff to ensure completion of all training requirements, per policy, for new licensing specialists.

(26) **07LC069E, Compliance Review for Child Care Centers.** Form 07LC069E is used by child care center directors to verify their knowledge of the licensing requirements.

(27) **07LC071E, Licensing Services Waiver Referral.** Form 07LC071E is used by licensing staff when submitting a waiver request to State Office.

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(28) **07LC072E, Compliance Review for School-Age Programs and Summer Day Camps.** Form 07LC072E is used by school-age and summer day camp directors to verify their knowledge of the licensing requirements.

(29) **07LC073E, Compliance Review for Part-Day Children's Programs.** Form 07LC073E is used by part-day children's program directors to verify their knowledge of the licensing requirements.

(30) **07LC074E, Request for Extension of Time to Comply.** Form 07LC074E is used by child care providers to request an extension of time to comply with Stars criteria.

(31) **07LC075E, Notice of Alternative Compliance.** Form 07LC075E is used by licensing staff to notify a facility of an approved request for alternative method of compliance.

(32) **07LC079E, Child Death Report.** Form 07LC079E is used by licensing staff in the event of a child death in a child care facility.

(33) **07LC080E, Licensing Services Supplemental Information.** Form 07LC080E is used to provide supplemental facility information.

(34) **07LC081E, Licensing Complaint Report Summary.** Form 07LC081E is placed in the case record and includes the findings of an investigation in compliance with Section 406 of Title 10 of the Oklahoma Statutes.

(35) **07LC084E, Notice to Parents.** Form 07LC084E is posted in child care facilities to inform parents of the requirements for licensing compliance posting and the licensing compliance file.

(36) **07LC085E, Notice of Voluntary Cease Care.** Form 07LC085E is used to verify with facilities their agreement to voluntary cease care.

(37) **07LC086E, Staff Information - Family Child Care Home.** Form 07LC086E is used to record information regarding family child care home staff persons as required by licensing requirements.

(38) **07LC087E, Waiver Notification.** Form 07LC087E is used to inform facilities of a decision regarding a waiver request.

(39) **07LC088E, Notice of Emergency Order.** Form 07LC088E is used to notify parents of an immediate closure of their child care facility.

(40) **07LC089E, Child Care Waiver Request.** Form 07LC089E is used by a child care facility owner or director to request a waiver for persons with a restricted criminal history.

(41) **07LC090E, Waiver Reference.** Form 07LC090E is used to obtain references for persons with a restricted criminal history.

(42) **07LC092E, Insurance Verification.** Form 07LC092E is completed annually to verify liability insurance coverage.

(43) **07LC093E, Insurance Exception Parent Notification.** Form 07LC093E is completed annually and posted at the facility to notify parents that liability insurance coverage is not provided or facility reports they are self-insured.

~~(44) **07LC094E, Insurance Exception Licensing Notification.** Form 07LC094E is completed to notify licensing that liability insurance coverage is not provided.~~

~~(45) **07LC095E, Notice Regarding Unlicensed Care.** Form 07LC095E is provided to facilities during the investigation of unlicensed care.~~

~~(46) **07LC096E, Criminal Background History Review Request.** Form 07LC096E is completed by OCCS staff to provide facilities verification of to request a criminal history records searches review by licensing records office.~~

~~(47) **07LC097E, Citation Request.** Form 07LC097E is used when requesting assistance of CLEET-certified officers.~~

~~(48) **07LC098E, District Attorney Referral.** Form 07LC098E is used when requesting a District Attorney district attorney file criminal charges and/or issue an injunction.~~

(48) **07LC106E, Criminal History Review Results.** Form 07LC106E is used to notify facilities of the results of the criminal history review.

340:110-1-6. Application process

- (a) **Application.** The licensing staff provides the appropriate application to persons interested in licensure.
- (1) If requested, a family child care home application is filed and a license issued to a caregiver and spouse. References are obtained for both persons, and both must demonstrate compliance with requirements. A primary caregiver must be identified.
 - (2) Proof of ownership must be provided according to Oklahoma Department of Human Services (OKDHS) Appendix L-7, Ownership Proof Chart, for a:
 - (A) child care center; or
 - (B) family child care home.
 - (3) Care may be provided in a location other than the caregiver's primary residence.
 - (4) Contact is made by phone every two months and documented on Form 07LC080E, Licensing Services Supplemental Information, when no permission to operate has been granted.
- (b) **Permission to Operate.** The facility may be granted permission to operate on application status. If the licensing staff determines that an applicant is temporarily unable to comply with all licensing requirements, but the services are needed and the non-compliance does not place children at risk of imminent harm. These situations are staffed with the regional program manager for permission to operate. Permission to operate ~~can not~~ cannot exceed 30 days.
- (c) **Child care provider contract.** The licensing staff advises the child care facility of the opportunity to contract with OKDHS for the care of children whose families receive child care assistance, per OAC 340:40-13-5. The licensing staff documents that a child care contract promotional flyer is provided to the facility with contact information for the county child care liaison.

- (1) ~~OKDHS may contract with a child care facility in another state when a client residing near the Oklahoma border elects to use an out of state facility.~~
- (2) ~~The licensing staff responsible for the county in which the client resides verifies the facility is licensed or registered and in compliance with the Civil Rights Act by contacting the state agency responsible for licensing.~~
- (d) **Reopening a family child care home case.** If a family child care home has been closed for less than one year and had a record of compliance prior to closure, the licensing staff may recommend license issuance after one compliant monitoring visit, utilizing previous references. Prior to issuance of the license, background investigations must have been obtained within the last year be conducted per OAC 340:110-8.1.
- (e) **Reopening a child care center, part-day children's program, or school-age program.** If a child care center has been closed and the same owner wishes to reopen, a new application must be completed.
- (1) Fire and health inspections completed within the last 12 months may be used, unless concerns exist.
 - (2) If the facility has been closed less than one year:
 - (A) previously obtained director references may be used; ~~and~~
 - (B) background investigations must be conducted per OAC 340:110-1-8.1; and
 - ~~(C)~~ with a record of compliance prior to closure, the licensing staff may recommend license issuance after one compliant monitoring visit.
- (f) **Computer checks on license applicants.** Computer checks to identify prior involvement with OKDHS are completed on required persons ~~described in per~~ OAC 340:110-1-8.1(e).
- (g) **Family child care homes approved to provide foster care.** A caregiver approved to provide kinship foster care may be licensed as a family child care home. No other foster care placement will be approved. The caregiver cannot be licensed if approved for therapeutic foster care ~~in accordance with per~~ OAC 340:75-7-19. The approval for dual service is made by the licensing supervisor in writing prior to each child placement, based upon the recommendation of the licensing staff and foster care staff of the child-placing agency. When a joint consensus is not achieved, either division may request a review by the dual approval committee for a final decision. The decision for approval is:
- (1) based upon the number, ages, and specific needs of children potentially eligible for child care and foster care and receipt of a written agreement from the caregiver stating the individual(s) from whom the child was removed will not be present during the hours of child care;
 - (2) documented in the case record; and
 - (3) reviewed with the provider and foster care worker at least once per year or more often if concerns exist.
- (h) **Withdrawal of application.** If a child care facility applicant wishes to withdraw the application prior to issuance of a license and the licensing staff confirms that no children are in care, the licensing staff may close the case unless negative action is warranted.

340:110-1-8. Types of issuance

- (a) **Six-month permit.** New child care centers, part-day children's programs, school-age programs, and family child care homes may be issued a six-month permit. The primary purpose of a permit is to provide an opportunity for the Oklahoma Department of Human Services (OKDHS) Oklahoma Child Care Services (OCCS) licensing staff to evaluate the facility's ability to comply with minimum licensing requirements on an ongoing basis, and to provide a legal basis to contract with OKDHS and receive Child Care Food Program funding.
- (1) The licensing staff may recommend a permit when the facility is in compliance with critical requirements regarding background investigations, required number of qualified staff, required training, hazards indoors or outdoors, liability insurance coverage, adequate equipment, fencing, playground safety, fire safety, or other areas affecting children's safety. The owner's previous history of licensing compliance is considered.
 - (2) The licensing staff makes a complete monitoring visit documenting compliance with critical requirements no more than 60 days prior to issuance of the six-month permit.
- (b) **Documentation for six-month permit.**
- (1) **Child care centers, part-day children's programs, and school-age programs.** Items required to be on file for issuance of a six-month permit are:
 - (A) Form 07LC004E, Request for License - Child Care Facility;
 - (B) verification of approved director credential and required master teachers;
 - (C) Form 07LC002T, Staff Summary;
 - (D) Form 07LC041E, Staff Information - Child Care Facility, for each staff person;
 - (E) Form 07LC057E, Physical Plant, including drawing and calculation;
 - (F) verification of adequate equipment for the recommended capacity;
 - (G) documentation of fire department approval within the previous 12 months;
 - (H) documentation of health approval within the previous 12 months if meals are prepared and served;
 - (I) Form 07LC003E, Monitoring Report - Child Care Center, Form 07LC010E, Monitoring Report - Part-Day Children's Program, or Form 07LC023E, Monitoring Report - School-Age Program; and
 - (J) documentation of all required background investigations in accordance with per OAC 340:110-1-8.1; and,
 - ~~(K) Form 07LC092E, Insurance Verification, or Form 07LC094E, Insurance Exception Licensing Notification.~~
 - (2) **Family child care homes.** The items required to be on file for issuance of a six-month permit for a family child care home are:
 - (A) Form 07LC042E, Request for License - Family Child Care Home and Large Child Care Home;
 - (B) Form 07LC086E, Staff Information - Family Child Care Home, for primary caregiver;

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- (C) Form 07LC086E, Staff Information - Family Child Care Home, for assistants and substitutes, prior to their employment;
- (D) Form 07LC014E, Monitoring Report - Family Child Care Home;
- (E) documentation of fire department approval within the previous 12 months for a large family child care home operating in a mobile home; and
- (F) documentation of all required background investigations ~~in accordance with~~ per OAC 340:110-1-8.1; ~~and~~
- ~~(G) Form 07LC092E, Insurance Verification of Form 07LC094E, Insurance Exception Licensing Notification.~~
- (c) **Second and subsequent six-month permits.** If additional six-month permits are recommended, the procedures in this subsection are followed.
- (1) The licensing staff consults with the licensing supervisor prior to recommending a second permit.
 - (2) The licensing supervisor consults with the licensing regional programs manager (RPM) before recommending the issuance of a third permit.
 - (3) The licensing RPM consults with the statewide licensing coordinator or designee before recommending the issuance of a fourth or subsequent permit.
 - (4) The licensing staff sends a letter to the applicant notifying him or her of the recommendation each time a second or subsequent permit is recommended. The reason for the recommendation is clearly stated in the letter, with each area of non-compliance listed separately.
 - (5) If the permit is due to numerous, repeated, or serious non-compliance with requirements, the licensing staff visits the facility at least monthly and is accompanied, when possible, by a witness. If at any point the non-compliance indicates the facility is unable or unwilling to meet licensing requirements, the statewide licensing coordinator or designee is consulted to discuss negative sanctions.
 - (6) If requirements are met before the expiration of the six-month permit, the issuance of a license may be recommended.
 - (7) If children have not been in care on a regular basis during the previous year, the applicant is asked to withdraw his or her application.
- (d) **Issuance of license.** A license is issued after OKDHS has investigated the activities and standards of care of the applicant and has determined that the applicant meets all critical requirements identified in (a) and (b) of this Section and has demonstrated substantial compliance with all other requirements, including entry level training requirements for child care center employees.
- (1) Prior to recommending issuance of a license, the licensing staff completes a minimum of three monitoring visits, and in child care centers, part-day children's programs, and school-age programs, an equipment inventory.
 - (2) Children in care must be observed by licensing staff during at least one monitoring visit.
 - (3) A monitoring visit must be made within 60 days of the issuance date.
 - (4) A license is in effect unless it is revoked or the facility voluntarily closes.
- (e) **Documentation for license.**
- (1) **Child care centers.** In addition to the items listed in (a) through (b)(1) of this Section for issuance of a six-month permit, items required to be on file before a license is issued to a child care center are:
 - (A) daily program schedule;
 - (B) updated Form 07LC002T, Staff Summary;
 - (C) outdoor play schedule, if applicable;
 - (D) Form 07LC006E, Equipment Inventory - Child Care Center;
 - (E) statement of completed compliance review, if applicable;
 - (F) director's references;
 - (G) one-week sample menu;
 - (H) documentation of fire department approval within the previous 24 months;
 - (I) documentation of health approval within the previous 24 months if meals are prepared and served; and statement of water test results if not on public water supply.
 - (i) If the test indicates the level of bacteria, nitrates, or lead is too high for safe use, the caregiver may sign a statement agreeing to use bottled water for drinking, cooking, and, if applicable, bathing of children.
 - (ii) If there is a high level of bacteria or a high level of lead, boiled or bottled water must be used for hand washing and dish washing.
 - (iii) If programs are licensed for 25 or more, approval from Department of Environmental Quality (DEQ) is required when not on a public water supply system; and
 - (J) Form 07LC003E, Monitoring Report - Child Care Center.
 - (2) **Part-day children's programs and school-age programs.** In addition to the items listed in (a) through (b)(1) of this Section for issuance of a six-month permit, the items required to be on file before a license is issued to a part-day children's program or school-age program are:
 - (A) outdoor play schedule, if applicable;
 - (B) daily program schedule for school-age programs;
 - (C) updated Form 07LC002T, Staff Summary;
 - (D) Form 07LC020E, Equipment Inventory - Part-Day Children's Program, or 07LC024E, Equipment Inventory - School-Age Program, as applicable;
 - (E) statement of completed compliance review, if applicable;
 - (F) director's references for school-age programs;
 - (G) one-week sample menu of foods provided by the program;
 - (H) documentation of fire department approval within the previous 24 months;
 - (I) documentation of health department approval within the previous 24 months if meals are prepared and served; and

(J) statement of water test results if not on public water supply.

(i) If the test indicates the level of bacteria, nitrates, or lead is too high for safe use, the caregiver may sign a statement agreeing to use bottled water for drinking, cooking, and, if applicable, bathing of children.

(ii) If there is a high level of bacteria or a high level of lead, boiled or bottled water must be used for hand washing and dish washing.

(iii) If programs are licensed for 25 or more, approval of DEQ is required when not on a public water supply system; and

(K) Form 07LC010E, ~~Part Day Children's Program~~ Monitoring Report Part-Day Children's Program, or Form 07LC023E, Monitoring Report - School-Age Program.

(3) **Family child care homes.** In addition to the items listed in (a) through (b)(2) of this Section for issuance of a six-month permit, the items required to be on file before a license is issued to a family child care home are:

(A) one-week sample menu;

(B) references;

(C) Form 07LC014E, Monitoring Report - Family Child Care Home; and

(D) statement of water test results if not on public water supply.

(i) If the test indicates the level of bacteria, nitrates, or lead is too high for safe use, the caregiver may sign a statement agreeing to use bottled water for drinking, cooking, and, if applicable, bathing of children.

(ii) If there is a high level of bacteria or a high level of lead, boiled or bottled water must be used for hand washing and dish washing.

~~(f) **One-year provisional license.** A provisional license may be issued for a period of one year. A subsequent provisional license may be issued at the discretion of OKDHS if an emergency exists. If the facility complies with all requirements prior to expiration of the provisional license, the licensing staff documents compliance with all requirements and submits a recommendation for issuance of a full license. A provisional license is recommended when:~~

~~(1) an applicant is temporarily unable to comply with all licensing requirements but the services are needed;~~

~~(A) the facility operator submits a written request for a provisional license, which contains the reason for the request and a time frame for compliance;~~

~~(B) the statewide licensing coordinator or designee sends a letter to the operator approving or denying the request; and~~

~~(C) a minimum of three monitoring visits are made during the provisional license period; or~~

~~(2) the level of non-compliance does not support license issuance or a denial of the license;~~

~~(A) the licensing staff submits a recommendation for a provisional license, including the documentation to support the recommendation;~~

~~(B) the statewide licensing coordinator or designee sends a letter to the operator stating the reason for the provisional license; and~~

~~(C) monitoring visits are conducted at least monthly and, when possible, with a witness.~~

~~(g) **Evaluation and disposition.**~~

~~(1) The licensing supervisor reviews the licensing staff's recommendation for case action before forwarding it to the statewide licensing coordinator or designee.~~

~~(2) The statewide licensing coordinator or designee approves all recommendations for case actions. If a license or permit is approved, notification is made to the operator.~~

340:110-1-8.1. Background investigations

(a) **Oklahoma State Bureau of Investigation (OSBI) criminal history investigation.** Section 404.1 et seq. of Title 10 of the Oklahoma Statutes requires that every child care facility provides to Oklahoma Child Care Services (OCCS), prior to employment, a completed OSBI background investigation conducted within the last 12 months for:

(1) any person making application to establish or operate a child care facility;

(2) any persons to be employed by a child care facility, including all caregivers, auxiliary staff, and substitute or assistant caregivers;

(3) others who have unsupervised access to children, such as lab students, Work Experience Program (WEP) workers, contracted staff, volunteers, or custodians;

(4) adults, including providers' spouse or adult children, who live in the child care facility; and

(5) persons age 18 years or older prior to their residence in the facility.

~~(b) **Out-of-state Out-of-state criminal history investigations.** A criminal history investigation conducted within the last 12 months by the authorized agency in the previous states of residence is also required for persons in ~~(a)(1)-(5)~~ (a)(1) - (5) when they have resided in Oklahoma less than three years.~~

~~(c) **Oklahoma State Courts Network (OSCN) search for new facilities.** Prior to the issuance of an initial permit, The facility's the facility owner, director, or primary caregiver submits a completed Form 07LC096E, Criminal ~~Background History Review Request~~, to OCCS licensing records office for completion of an OSCN criminal history investigation. Upon completion, receives Form 07LC106E, Criminal History Review Results, prior to employment for:~~

~~(1) any person making application to establish or operate a facility;~~

~~(2) any persons to be employed by a child care facility, including all caregivers, auxiliary staff, and substitute or assistant caregivers; and~~

~~(3) adults, including providers' spouse or adult children, who live in the child care facility; and~~

~~(4) persons age 18 years or older prior to their residence in the facility.~~

~~(d) **Oklahoma State Courts Network (OSCN) for existing facilities.** Facilities permitted or licensed after May 21, 2009 submit a completed Form 07LC096E, Criminal History~~

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Review Request, to OCCS licensing records office requesting completion of OSCN criminal history investigation for:

- (1) any persons prior to employment at a child care facility, including all caregivers, auxiliary staff, substitute or assistant caregivers; and
- (2) persons age 18 years or older prior to their residence in the facility.

(de) **Exceptions.** OSBI, ~~out-of-state~~ out-of-state criminal history, and OSCN investigations are not required for:

- (1) staff who move to a center or program operated by the same organization;
- (2) contracted staff who provide transportation, lessons, or other services, provided facility staff are present with children at all times;
- (3) parent volunteers who transport children on an irregular basis; and
- (4) provider's children who become adults, age 18, during continuous residence at the licensed facility.

(ef) **Oklahoma Department of Human Services (OKDHS) background checks.** Prior to permission to operate, computer checks to identify prior involvement with OKDHS are completed on all adults who are required to sign the application for a family child care home license and on the owner of a child care center, part-day children's program, or school-age program.

- (1) When there has been prior involvement with Child Welfare, the licensing staff reviews the case for information regarding the person's ability to meet licensing requirements. Other cases are reviewed only if concerns exist.
- (2) When the provider's medical information is confidential or concerns exist, the licensing staff may request information from the provider by requiring the provider to sign Form 08HI003E, Authorization to Disclose Medical Records.

(fg) **Children residing in a child care facility.** A criminal history investigation may be requested on a child older than 13 years of age residing in a child care facility if criminal activity is reported to Licensing.

(gh) **Authorized agencies.** Criminal history investigations are acceptable only when conducted by the:

- (1) OSBI; and
- (2) authorized agency in the previous states of residence if the person has resided in Oklahoma for less than three years;

(hi) **Sex Offender and Mary Rippy Violent Crime Offenders Registries.** According to Section 404.1 of Title 10 and Section 589 of Title 57 of the Oklahoma Statutes, it is unlawful for any person who is required to register pursuant to the Sex Offender Registration Act or the Mary Rippy Violent Crime Offenders Registration Act to work with or provide services to children, to live in a child care facility, or to be employed or contracted by the facility to care for children. If it is determined that a facility has violated this Statute, OKDHS may pursue:

- (1) an Emergency Order;
- (2) revocation of the license or denial of the application for license;

- (3) an injunction;
- (4) an administrative penalty not to exceed \$10,000; and
- (5) referral for criminal proceedings.

(ij) **Documentation and procedure.** The licensing staff provides information and the criminal history investigation request forms to licensees and persons interested in becoming licensed.

- (1) Facility provides completed OSBI and out-of-state criminal background investigations and Form 07LC096E, Criminal ~~Background History Review Request~~, to OCCS licensing records office.
- (2) Review of submitted information and OSCN search is conducted by OCCS licensing records office and results will be returned to the facility on Form 07LC106E, Criminal History Review Results, to the facility by the close of the next OKDHS business day for new facilities and by the close of the fifth OKDHS business day for existing facilities.

(jk) **Waiver.**

(1) The prohibition for a person with specified criminal history, as referenced in (a), (b), and (c) of this Section, to be employed or reside in a licensed facility may be waived if requested on Form 07LC089E, Child Care Waiver Request, and signed by the facility's owner or director. When submitting a waiver request, licensing staff completes Form 07LC071E, Licensing Services Waiver Referral, and submits it to ~~Oklahoma Child Care Services (OCCS)~~ State Office. A waiver is not requested or granted to any person who:

- (A) has been convicted of a sex offense pursuant to the Sex Offender Registration Act or Mary Rippy Violent Crime Offenders Registration Act; or
- (B) whose sentence has not expired for any of the specified crimes.

(2) The decision to grant a waiver is made by the waiver review committee consisting of three OCCS staff. The decision is based on documentation indicating that the health, safety, and well-being of children will not be endangered and must be approved unanimously by the committee. OCCS State Office notifies the provider of the decision in writing. Licensing staff monitors any additional instructions made to the provider and verifies that the waiver notice is posted in the facility. Criteria considered include the:

- (A) type of crime or offense for which the person was convicted or disposition that includes a plea of guilty or nolo contendere or a finding made;
- (B) nature of the offense(s);
- (C) age of the person at the time of the offense(s);
- (D) circumstances surrounding commission of the offense(s) that demonstrate whether it is likely the person will re-offend;
- (E) number of offenses for which the person was convicted or findings made;
- (F) length of time elapsed since the last conviction or disposition that includes a plea of guilty or nolo contendere or a finding made;

- (G) relationship of the offense(s) to the ability to care for children;
- (H) evidence of rehabilitation or education activities, such as counseling, since the offense was committed;
- (I) statement from the person with the criminal history; and
- (J) opinions of community members concerning the person in question documented on Form 07LC090E, Waiver Reference, that includes name, address, and phone number of the individual providing the opinion.

(3) A waiver may be rescinded at the discretion of the committee.

340:110-1-9. Case management

(a) **Periodic monitoring visits.** The Oklahoma Child Care Services (OCCS) licensing staff makes a minimum of three unannounced monitoring visits to facilities that operate a full-year program and two unannounced monitoring visits annually to facilities that operate less than a full year. Licensing staff varies the time of monitoring visits to include lunch observation and an evening visit to child care centers with extended hours. Weekend monitoring visits are required only when there has been a complaint specific to weekend care.

(b) **Ongoing monitoring.** During each monitoring visit, the licensing staff observes the entire facility, including outdoor play space and vehicles used for transportation, if available. At or subsequent to each visit, licensing staff checks:

- (1) compliance with licensing regulations;
- (2) records for new staff including compliance with background investigations ~~in accordance with~~ per OAC 340:110-1-8.1;
- (3) staff training records;
- (4) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons ~~in accordance with~~ per OAC 340:110-1-8.1;
- (5) fire and health inspections within the last 24 months, if applicable; and
- (6) Form 07LC092E, Insurance Verification, ~~or within the last 12 months, or posting of~~ Form 07LC093E, Insurance Exception Parent Notification, ~~within the last 12 months and if applicable, Form 07LC094E, Insurance Exception Licensing Notification.~~

(c) **Technical assistance and consultation.** Licensing staff provides:

- (1) technical assistance to licensees to assist them in meeting minimum requirements; and
- (2) consultation on various aspects of quality child care.

(d) **Agreements with tribal licensing programs and other monitoring agencies.** OKDHS may enter into a cooperative licensing agreement with a tribal licensing program or other monitoring agency.

(e) **Equipment inventory.** Licensing staff completes the appropriate Equipment Inventory, Form 07LC006E, 07LC020E, or 07LC024E, prior to a license being issued. The licensing staff or the facility may complete the appropriate

Equipment Inventory prior to a change in facility class and prior to an increase in licensed capacity in a child care center, part-day children's program, and school-age program. The purpose of the inventory is to document the equipment available and items needed to comply with the equipment requirements. The licensing staff may conduct a complete inventory any time concern exists about the availability of required equipment.

(f) **Change of address.** When a facility moves to a new address, the licensing staff conducts a monitoring visit and completes a monitoring report to verify the new location meets licensing requirements, and obtains an updated application. For child care centers, part-day children's programs, and school-age programs, new fire and health inspections, if applicable, are required. When a change of address involves care provided in a location other than the caregiver's primary residence refer to OAC 340:110-1-6(a)(3).

(g) **Change in name.** When there is a change in name, licensing staff verifies there is no change in ownership, and documents the change in the case record and database.

(h) **Change in director.** When there is a change in director, licensing staff:

- (1) verifies the new director meets qualifications;
- (2) obtains the applicable page of Form 07LC004E, Request for License - Child Care Facility, completed by the new director;
- (3) obtains references;
- (4) obtains from the director an appropriate, complete compliance review, Form 07LC069E, 07LC072E, or 07LC073E, if the director has no previous director experience;
- (5) notifies the new director of current employees that have been granted a waiver; and
- (6) documents the information on Form 07LC080E, Licensing Services Supplemental Information.

(i) **Change in primary caregiver.** When there is a change in primary caregiver, licensing staff:

- (1) verifies primary caregiver meets qualifications;
- (2) obtains the applicable page of Form 07LC042E, Request for License - Family Child Care Home and Large Child Care Home, completed by the new primary caregiver;
- (3) obtains references;
- (4) notifies the new primary caregiver of current employees who have been granted a waiver; and
- (5) documents the information on Form 07LC080E.

(j) **Change in household.** All changes in household members are documented on the monitoring report. Form 07LC096E, Criminal ~~Background~~ History Review Request, must be ~~received~~ submitted prior to a new adult household member residing in the home. When there is a new adult household member in a family child care home or large child care home, the required documentation ~~is~~ includes:

- (1) the applicable page of Form 07LC042E; ~~Request for License - Family Child Care Home and Large Child Care Home~~, completed by the new adult household member(s);

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- (2) background investigations ~~in accordance with~~ per OAC 340:110-1-8.1; and
- (3) ~~an~~ OKDHS computer check.
- (k) **Change in ownership.** When there is a change in ownership or change in form of business organization of a family child care home, child care center, part-day program, or school-age program, the case is closed and a new application is obtained. Prior to the issuance of a permit or license, the facility must be in compliance with background investigations per OAC 340:110-1-8.1. A permit may be issued if a monitoring visit without numerous, repeated or serious non-compliances was conducted at the facility within the past 60 days. A full monitoring visit is conducted within two weeks of change of ownership to verify the new owner is able to meet minimum licensing requirements.
- (l) **Change in facility class.** When a facility requests a change in facility class, the procedures contained in this subsection are followed.
- (1) The case is closed and a new application is required when a family child care home converts to a child care center, part-day program, or school-age program, or when a child care center, part-day program, or school-age program converts to a family child care home.
- (2) Any other request for change in class does not require case closure and documentation includes:
- (A) a request in writing from the provider;
 - (B) a new application with updated information;
 - (C) documentation that the facility meets the requirements for the requested class type;
 - (D) an Equipment Inventory, if applicable;
 - (E) a current approved fire inspection, if applicable;
 - (F) a current approved health inspection, if applicable; and
 - (G) database updates to the appropriate class and monitoring frequency plan.
- (m) **Procedure for increasing or decreasing capacity.** When a facility requests an increase or decrease in licensed capacity, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the licensing supervisor. If the request to increase capacity is due to additional physical space, the facility must not have a history of numerous, repeated, or serious non-compliance, and must provide:
- (1) the reason for the increase;
 - (2) an updated floor plan on Form 07LC057E, Physical Plant, that reflects adequate indoor and outdoor space, toilets, and sinks for the increase and any changes;
 - (3) fire department approval of any space not previously inspected;
 - (4) health approval of any space not previously inspected;
 - (5) an updated Equipment Inventory that reflects adequate equipment for the increase; and
 - (6) verification of the number of required master teachers.
- (n) **Inactive cases.** A facility is determined to be in inactive status when care has not been provided for more than 90 days.
- (1) A facility wanting to remain open after 90 days submits a request in writing including a statement that the owner will notify licensing when care is resumed. Licensing staff verify compliance with requirements prior to resuming care.
- (2) The facility is contacted by licensing staff every four months by telephone or letter to update the facility status.
- (3) If the facility is a child care center, part-day, or school-age program voluntary closure is discussed with the operator and an agreement to close is reached if possible.
- (4) If care has not been provided for more than 12 consecutive months, licensing staff sends a letter to notify the owner of case closure unless OCCS is notified within 10 days of receipt of letter.
- (5) Licensing staff visits the inactive facility at least once a year to verify compliance with licensing requirements until closure is final.
- (o) **Closure of an inactive family child care home.** Procedures (1) - (4) are followed when closing an inactive family child care home.
- (1) Licensing staff contacts the owner of a family child care home during the twelfth month of inactive status to verify case status.
- (2) Licensing documents the case status on Form 07LC080E, Licensing Services Supplemental Information, and notifies the owner the case will be closed should care not resume.
- (3) If care has not been provided for more than 12 consecutive months, licensing staff sends a letter to notify the owner of case closure unless OCCS is notified within 10 days of receipt of letter.
- (4) The family child care home is closed and must reapply and be approved for a license prior to resuming care, ~~as in accordance with~~ per OAC 340:110-1-6.
- (p) **Response to a child death.** When notified of death of a child while in child care, licensing staff completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee. When notified of a death, the licensing staff visits the facility as soon as possible, unless advised otherwise by law enforcement.
- (q) **Serious incident reports.** The licensing supervisor submits to the licensing regional programs manager, county director, and statewide licensing coordinator a report of any serious incident.
- (r) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form 07LC080E, Licensing Services Supplemental Information, is completed, a copy is sent to the provider, and the data system is updated.

PART 3. LICENSING SERVICES - RESIDENTIAL CARE AND AGENCIES

340:110-1-43.1. Forms

Forms that apply to this Part are listed in this Subsection.

- (1) **07LC012E, Licensing Complaint.** Form 07LC012E is used by licensing staff to record a complaint against a child care facility.
- (2) **07LC016E, Recommendation for Licensing or Certification of a Child Care Center.** Form 07LC016E is used by licensing staff and supervisors to make recommendations on the licensing or certification of child care facilities.
- (3) **07LC022E, Child-Placing Agency - Foster Care File Review.** Form 07LC022E is used by licensing staff to record the agency's compliance or non-compliance with licensing requirements for foster home care.
- (4) **07LC037E, Notice to Comply.** Form 07LC037E is used by a facility to document a plan of correction when there is serious or repeated non-compliance with licensing requirements.
- (5) **07LC040E, Request for License - Child-Placing Agency, Residential, Child Care, and Children's Shelter.** Form 07LC040E is used by an agency or residential facility to request application for a child care facility license.
- (6) **07LC041E, Staff Information - Child Care Facilities Facility.** Form 07LC041E is used to record required information regarding child care facility staff.
- (7) **07LC043E, Child Placing Agency Compliance Review.** Form 07LC043E is used by licensing staff to assess compliance with child-placing agency requirements.
- (8) **07LC044E, Adoption Services File Review.** Form 07LC044E is used by licensing staff to record the agency's compliance or non-compliance with licensing requirements for placement of children for adoption.
- (9) **07LC047E, Agency Certification Report.** Form 07LC047E is completed by the child-placing agency staff to certify to the Oklahoma Department of Human Services that each foster home or Independent Living arrangement complies with the Licensing Requirements for Child-Placing Agencies.
- (10) **07LC050E, Personnel File Review - Agency and Residential Programs.** Form 07LC050E is used by licensing staff to document compliance with personnel record requirements in residential and child-placing agency requirements.
- (11) **07LC052E, Declaration of Intent to Operate a Child Care Facility.**
- (12) **07LC056E, Residential Child Care Facility Compliance Review.** Form 07LC056E is used by licensing staff to assess compliance with residential requirements.
- (13) **07LC058E, Residential Child Care Facility Visit Sheet.** Form 07LC058E is used by licensing staff to document compliance with requirements during a visit to a residential facility and record any other information obtained.
- (14) **07LC059E, Residential Child Care Facility - Resident File Review.** Form 07LC059E is used by licensing staff as part of the licensing process to document compliance with residential facility requirements.
- (15) **07LC060E, Residential Child Care Policy and Records Check.** Form 07LC060E is used by licensing

staff to document compliance with residential policy and procedure requirements.

- (16) **07LC065E, Resident Monitoring Report.** Form 07LC065E is used by licensing staff to record the agency's compliance with licensing requirements for independent living programs.
- (17) **07LC071E, Licensing Services Waiver Referral.** Form 07LC071E is used by licensing staff when submitting a waiver request to State Office.
- (18) **07LC078E, Child-Placing Agency - Record of Foster Home Closure.** Form 07LC078E is used by a child-placing agency to report closure of a foster home.
- (19) **07LC079E, Child Death Report.** Form 07LC079E is completed by licensing staff to record the death of a child while in child care.
- (20) **07LC080E, Licensing Services Supplemental Information.** Form 07LC080E is used when additional space for documentation is needed, when a complete monitoring report is not required, to document office and telephone contacts, and to record other information for the licensing record.
- (21) **07LC081E, Licensing Complaint Report Summary.** Form 07LC081E is placed in the case record and includes the findings of the investigation in compliance with Section 406 of Title 10 of the Oklahoma Statutes.
- (22) **07LC089E, Child Care Waiver Request.** Form 07LC89E is used by a program director to request a waiver for persons with a restricted criminal history.
- (23) **07LC090E, Waiver Reference.** Form 07LC090E is used to obtain references for persons with a restricted criminal history.
- (24) **07LC092E, Insurance Verification.** Form 07LC092E is completed annually to verify liability insurance coverage.
- (25) **07LC095E, Notice Regarding Unlicensed Care.** Form 07LC095E is provided to facilities during the investigation of unlicensed care.
- (26) **07LC096E, Criminal Background History Review Request.** Form 07LC096E is completed by ~~OCCS staff to provide facilities verification of~~ to request a criminal history records search review by licensing records office.
- (27) **07LC097E, Citation Request.** Form 07LC097E is used when requesting assistance of CLEET-certified officers.
- (28) **07LC098E, District Attorney (DA) Referral.** Form 07LC098E is used when requesting a DA file criminal charges and/or issue an injunction.
- (29) **07LC106E, Criminal History Review Results.** Form 07LC106E is used to notify facilities of the results of the criminal history review.

340:110-1-45. Application process

- (a) **Application packets.** Application packets, which include the appropriate licensing requirements and application forms, are provided to potential licensees upon request. This packet includes:

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- (1) Form 07C040E, Request for License - Child Placing Agency, Residential Child Care, and Children's Shelter;
 - (2) Form 07LC041E, Staff Information - Child Care Facility; and
 - (3) Form 07LC043, Child Placing Agency Compliance Review, or Form 07LC056E, Residential Child Care Facility Compliance Review, as applicable.
- (b) **Receipt of application.** Upon receipt of the application packet to Oklahoma Child Care Services, the case is assigned a license number and a file is created. Contact is made by phone every two months and documented on Form 07LC080E, Licensing Services Supplemental Information, when children have not been accepted into care.
- (c) **Permission to operate.** The facility may be granted permission to operate on application status. If the licensing staff determines that an applicant is temporarily unable to comply with all licensing requirements, but the services are needed and the non-compliance does not place children at risk of imminent harm, these situations are staffed with programs manager for permission to operate. Permission to operate can not exceed 30 days.
- (d) **Reopening a residential child care facility or child-placing agency.** A new application must be completed when a residential facility or child-placing agency that has been closed is reopened. Prior to the issuance of the license, background investigations must be conducted per OAC 340:110-1-51.
- (e) **Computer checks.** Computer checks to identify prior involvement with the Oklahoma Department of Human Services (OKDHS) are completed on required persons as ~~in~~ per OAC 340:110-1-51.
- (f) **Withdrawal of application.** If a residential child care facility or child-placing agency applicant wishes to withdraw the application prior to issuance of a license and the licensing staff confirms that no children are in care, the licensing staff closes the case.

340:110-1-46. Types of issuances

(a) **Six-month permit.** New residential child care facilities or child-placing agencies may be granted a six-month permit. If the facility was previously licensed at another location and had a pattern of compliance, the six-month permit may be waived.

(1) A complete monitoring visit documenting compliance with critical licensing requirements must be made not longer than 60 days prior to issuance of the six-month permit. The recommendation to issue a permit is made after all forms and inspections have been completed and the facility is in compliance with all requirements, including:

- (A) criminal history investigations;
- (B) tuberculosis (TB) tests;
- (C) required number of qualified staff;
- (D) required training;
- (E) hazards indoors and outdoors;
- (F) liability insurance coverage;
- (G) fire safety; and
- (H) other areas affecting children's safety.

(2) The items required to be on file for issuance of a six-month permit include:

- (A) Form 07LC040E, Request for License - Child Placing Agency, Residential Child Care, and Children's Shelter;
- (B) proof of ownership;
- (C) list of current staff;
- (D) Form 07LC041E, Staff Information - Child Care Facility;
- (E) documentation of all required background investigations in accordance with per OAC 340:110-1-51;
- ~~(F) Form 07LC092E, Insurance Verification;~~
- ~~(G)~~ TB test or chest x-ray results for direct care staff;
- ~~(H)~~ State Fire Marshal's approval for residential facilities;
- ~~(I)~~ health department approval for residential facilities;
- ~~(J)~~ physical plant drawing for residential facilities;
- ~~(K)~~ compliance review questionnaire with supporting documentation;
- ~~(L)~~ monitoring reports;
- ~~(M)~~ Form 07LC060E, Residential Child Care Policy and Records Check; and
- ~~(N)~~ Form 07LC016E, Recommendation for Licensing or Certification of a Child Care Center.

(3) During the six-month permit period, a minimum of three monitoring visits are completed to document that all requirements are met and to observe child care, where applicable.

(b) **Second and subsequent six-month permits.** If additional six-month permits are recommended, the procedures in (1) through (5) of this paragraph are followed.

(1) The licensing staff consults with the programs manager prior to recommending a second or subsequent permit.

(2) The licensing staff sends a letter to the applicant notifying the applicant of the recommendation each time a second or subsequent permit is recommended. The reason for the recommendation is clearly stated in the letter, with each area of non-compliance listed separately.

(3) If the additional six-month permit is due to repeated, numerous, or serious non-compliance with requirements, the licensing staff visits the facility at least monthly and is accompanied, when possible, by a witness. If at any point the non-compliance indicates the facility is unable or unwilling to meet licensing requirements, the programs manager is consulted to discuss negative sanctions.

(4) If requirements are met before the expiration of the six-month permit, the issuance of a license may be recommended.

(5) If children have not been in care on a regular basis during the previous year, the applicant is asked to withdraw the application for license.

(c) **License issuance.** When the licensing staff determines that the facility or agency is operating in compliance with the

facility's or agency's own policy and procedures and in compliance with the licensing requirements, a recommendation is made to issue a license. Prior to recommending issuance of a license, the licensing staff completes a minimum of three monitoring visits. A monitoring visit must be made within 30 days of the issuance date. A license is in effect unless it is revoked or the facility voluntarily closes.

~~(d) **Provisional license.** A provisional license may be issued for a period of one year to any facility or agency whose services are needed but who is temporarily unable to meet all requirements. A subsequent provisional license may be issued at the discretion of the Oklahoma Department of Human Services if an emergency exists.~~

- ~~(1) A written statement from the operator requesting a provisional license and stating the reason for the request is submitted to Oklahoma Child Care Services (OCCS).~~
- ~~(2) The licensing staff submits Form 07LC016E, Recommendation for Licensing or Certification of a Child Care Center, to OCCS.~~
- ~~(3) If at any time during the year the operator complies with the requirements, the licensing staff may recommend the issuance of a license.~~

340:110-1-47. Case management

(a) Periodic visits.

- (1) Licensing staff annually conducts monitoring visits to document compliance with the requirements:
 - (A) two unannounced and one announced, to residential facilities; and
 - (B) two announced, to child-placing agencies.
- (2) If caseloads prevent licensing staff from conducting all visits, the programs manager consults with licensing staff on case management, and the number of required visits may be reduced. This adjustment is approved and documented in the case record by the programs manager.
- (3) During each monitoring visit, licensing staff:
 - (A) observes the entire facility, including outdoor play space and vehicles used for transportation, if available; and
 - (B) checks:
 - (i) resident files, if applicable;
 - (ii) records for new staff including compliance with background investigations ~~in accordance with~~ per OAC 340:110-1-51 and copies of Form 07LC041E, Staff Information - Child Care Facility, obtained for the case record;
 - (iii) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons ~~in accordance with~~ per OAC 340:110-1-51;
 - (iv) Form 07LC092E, Insurance Verification, within the last 12 months; and
 - (iv) fire and health inspections within the last 12 months, if applicable.

(b) **Consultation and technical assistance.** The licensing staff provides technical assistance to operators to meet and maintain minimum requirements. Consultation is provided to parties interested in licensure and to licensed facilities, and

includes suggestions for improving the quality of care and for exceeding the minimum requirements.

(c) **Change of address.** When a facility moves to a new location, licensing staff follows specific procedures to document the move.

(1) **Child-placing agency.** When a child-placing agency moves its office, licensing staff:

- (A) obtains an updated application; and
- (B) files a narrative in the case file stating the new address and finding directions.

(2) **Residential facility.** When a residential program moves, licensing staff:

- (A) obtains an updated application;
- (B) conducts a monitoring visit and completes a monitoring report to verify the new location meets licensing requirements;
- (C) obtains new fire and health approvals;
- (D) obtains Department of Environmental Quality approval, if applicable; and
- (E) files a narrative in the case file stating the new address and finding directions.

(d) **Satellite office.** When a child-placing program adds a satellite office, licensing staff:

- (1) documents the location of each office; and
- (2) requests files as needed from satellite locations.

(e) **Change in name.** If the licensing staff verifies there is a change in name but no change in ownership, the change is documented in the case record and the database is updated.

(f) **Increase or decrease in licensed capacity.** When a facility requests an increase or decrease in licensed capacity, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the programs manager. If the request to increase capacity is due to additional physical space, the required documentation includes:

- (1) reason for the increase;
- (2) fire department approval;
- (3) health department approval;
- (4) physical plant drawing indicating the measurements, total square footage, and number of additional children that can be accommodated; and
- (5) additional staff, if applicable.

(g) **Inactive cases.** If children have not been in care or services have not been provided on a regular basis within a 12-month period, the option of voluntary closure is discussed with the provider.

- (1) A provider who wants his or her case to remain open must submit a request in writing, including a statement that the provider will notify licensing staff when care or services are resumed.
- (2) Licensing staff contacts the provider by telephone or letter periodically to update the provider's status.
- (3) Licensing staff visits the inactive facility at least once a year to verify and document compliance with licensing requirements.

(h) **Change in ownership.** If a residential program or child-placing agency assumes new ownership, the case file is closed, and the program must apply for new license under the new owner. Prior to the issuance of a permit or license,

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the facility must be in compliance with background investigations per OAC 340:110-1-51. A permit may be issued if a monitoring visit without numerous, repeated, or serious non-compliances was conducted at the facility within the past 60 days. A full monitoring visit is conducted within two weeks of change of ownership to verify the new owner is able to meet minimum licensing requirements.

(i) **Response to a child death.** When notified of the death of a child while in child care, licensing staff:

- (1) completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee; and
- (2) visits the facility as soon as possible, unless advised otherwise by law enforcement.

(j) **Serious incident reports.** The licensing staff submits to the programs manager a report of any serious incident. A serious incident includes, but is not limited to, an incident:

- (1) that results in the serious injury or death of a child, such as:
 - (A) shaken baby;
 - (B) drowning or near drowning; or
 - (C) traffic accident resulting in serious injury;
- (2) that places a child at a high risk for death or injury, such as a child:
 - (A) leaves a facility without the staff's knowledge;
 - (B) is left at a location away from the facility;
 - (C) is left unattended in a vehicle; or
 - (D) is left alone in a facility;
- (3) that causes significant damage to a facility, such as:
 - (A) fire;
 - (B) flood; or
 - (C) tornado; and
- (4) where media involvement is anticipated.

(k) **Coordination with state agencies.** Residential licensing staff works cooperatively with the OKDHS Office of Client Advocacy (OCA), the Oklahoma Commission on Children and Youth (OCCY), Oklahoma Health Care Authority (OHCA), law enforcement, and OKDHS Children and Family Services Division (CFSD).

340:110-1-51. Background investigations

(a) **Oklahoma State Bureau of Investigation (OSBI) criminal history investigation.** Section 404.1 et seq. of Title 10 of the Oklahoma Statutes requires that every child care facility provides to Oklahoma Child Care Services (OCCS) prior to employment, a completed OSBI criminal history investigation conducted within the last 12 months for:

- (1) any person making application to establish or operate a residential child care facility and child-placing agency;
- (2) any person to be employed by a child care facility or child-placing agency, including all caregivers, auxiliary staff, and substitute or assistant caregivers; and
- (3) others who have unsupervised access to children, such as students, workers, contracted staff, volunteers, or custodians; and
- (4) adults, including the provider's spouse or adult children, who live in the child care facility.

(b) ~~Out of state~~ **Out-of-state criminal history investigations.** A criminal history investigation conducted within the last 12 months by the authorized agency in the previous states of residence is also required for persons in (a)(1) - (4) when they have resided in Oklahoma less than three years.

(c) **Oklahoma State Courts Network (OSCN) for new facilities.** ~~The~~ Prior to the issuance of an initial permit, the facility's owner or director submits a completed Form 07LC096E, Criminal Background History Review Request, to OCCS licensing records office for completion of OSCN criminal history investigation prior to employment and receives Form 07LC106E, Criminal History Review Results for:

- (1) any person making application to establish or operate a facility;
- (2) any person to be employed by a child care facility, including all caregivers, auxiliary staff, and substitute or assistant caregivers; and
- (3) adults, including providers' spouses or adult children, who live in the child care facility.

(d) **Oklahoma State Courts Network (OSCN) for existing facilities.** Facilities permitted or licensed after May 21, 2009, submit a completed Form 07LC096E, Criminal History Review Request, to OCCS licensing records office requesting completion of OSCN criminal history investigation for:

- (1) any persons prior to employment at a child care facility, including all caregivers, auxiliary staff, substitute or assistant caregivers; and
- (2) persons age 18 years or older prior to their residence in the facility.

(~~e~~) **Exceptions.** OSBI, ~~out of state~~ out-of-state criminal history, and OSCN investigations are not required for:

- (1) staff persons who move to a facility or agency operated by the same organization;
- (2) contracted staff persons who provide transportation, lessons, or other services, provided facility staff are present with children at all times;
- (3) parent volunteers who transport children on an irregular basis; and
- (4) provider's children who become adults, age 18, during continuous residence at the licensed facility.

(~~f~~) **OKDHS background checks.** Prior to permission to operate, computer checks to identify prior involvement with OKDHS are completed by licensing staff on owners and program directors who sign the application.

- (1) When there has been prior involvement with Child Welfare, the licensing staff reviews the case for information regarding the person's ability to meet licensing requirements. Other cases are reviewed only if concerns exist.
- (2) When the provider's medical information is confidential or concerns exist, the licensing staff may request information from the provider by requiring the provider to sign OKDHS Form 08HI003E, Authorization to Disclose Medical Records.

(~~g~~) **Authorized agencies.** Criminal history investigations are acceptable only when conducted by:

- (1) the Oklahoma State Bureau of Investigation (OSBI); and

(2) the authorized agency in the previous states of residence if the person has resided in Oklahoma for less than three years.

(gh) **Sex Offender and Mary Rippy Violent Crime Offenders Registries.** According to Section 404.1 of Title 10 and Section 589 of Title 57 of the Oklahoma Statutes, it is unlawful for any person who is required to register pursuant to the Sex Offender Registration Act or the Mary Rippy Violent Crime Offenders Registration Act to work with or provide services to children, to live in a child care facility, or to be employed or contracted by the facility to care for children. If it is determined that a facility has violated this Statute, the Oklahoma Department of Human Services (OKDHS) may pursue:

- (1) an Emergency Order;
- (2) revocation of the license or denial of the application for license;
- (3) an injunction; and
- (4) referral for criminal proceedings.

(hi) **Documentation and procedure.** The licensing staff provides information and the criminal history investigation request forms to licensees and persons interested in becoming licensed.

(1) Facility provides completed OSBI and out-of-state criminal background investigations and Form 07LC096E, Criminal Background History Review Request, to OCCS licensing records office.

(2) Review of submitted information and OSCN criminal history search is conducted by OCCS licensing records office and ~~will be results~~ returned to the facility on Form 07LC106E, Criminal History Review Results, by the close of the next OKDHS business day for new facilities and by the close of the fifth OKDHS business day for existing facilities.

(3) Hospitals contracting with the Oklahoma Health Care Authority are exempt from submitting a criminal history review request to OCCS licensing records office. Documentation of all criminal history records searches is maintained at the hospital and is available for review by OCCS.

(ij) **Waiver.** The prohibition for a person with specified criminal history as referenced in (a), (b), and (c) of this Section to be employed or reside in a licensed facility may be waived if requested on Form 07LC089E, Child Care Waiver Request, and signed by the facility's owner or director.

(1) Licensing staff ~~submits completed complete and submits~~ Form 07LC071E, Licensing Services Waiver Referral, ~~and submits it~~ to OCCS. A waiver is not requested or granted to any person who:

- (A) has been convicted of a sex offense pursuant to the Sex Offender Registration Act or the Mary Rippy Violent Offenders Registration Act; or
- (B) whose sentence has not been completed for any of the specified crimes.

(2) The decision to grant a waiver is made by the waiver review committee consisting of three OCCS staff. The decision is based on documentation indicating the health, safety, and well-being of children is not endangered and

must be approved unanimously by the committee. Criteria considered by the committee include the:

- (A) type of crime or offense for which the person was convicted or disposition that includes a plea of guilty or nolo contendere or a finding made;
- (B) nature of the offense(s);
- (C) age of the person at the time of the offense(s);
- (D) circumstances surrounding commission of the offense(s) that demonstrate whether it is likely that the person will re-offend;
- (E) number of offenses for which the person was convicted or findings of guilt made;
- (F) length of time that has elapsed since the last conviction or disposition that includes a plea of guilty or nolo contendere or a finding made;
- (G) relationship of the offense(s) and the person's ability to care for children;
- (H) evidence of rehabilitation or education activities such as counseling since the offense was committed;
- (I) statement from the person who has the criminal history; and
- (J) opinions of community members concerning the person in question documented on Form 07LC090E, Waiver Reference, which includes name, address, and phone number of the individual providing the opinion.

(3) A waiver may be rescinded at the discretion of the committee.

(4) The programs manager notifies the facility of the decision in writing.

(5) Licensing staff monitors any additional instructions made to the program and verifies the waiver notice is posted in the facility.

SUBCHAPTER 3. LICENSING STANDARDS FOR CHILD CARE FACILITIES

PART 1. REQUIREMENTS FOR CHILD CARE CENTERS

340:110-3-5. Organization

(a) **Responsible agent.** A child care center is operated by a public or private organization or an individual.

(1) A public child care center is created and exists by an act of the state, county, city, or other political subdivision and operated under the control of a governmental agency.

(2) A not-for-profit center operates under a governing board responsible for developing policies and establishing and maintaining a sound financial structure.

(3) A proprietary child care center's owner is responsible for the policy and financial structure of the child care center.

(b) **Purpose.** A statement defining the purpose or function of the child care center is filed with the Oklahoma Department of Human Services (OKDHS) and includes:

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- (1) ages of children accepted;
 - (2) hours of operation; and
 - (3) type of care and services offered.
- (c) **Notifications.** Requirements pertaining to notifications are contained in this subsection.
- (1) The items posted in a prominent place where staff, parents, and others may view them are the:
 - (A) center's license, permit, or notice of denial or revocation of license;
 - (B) name of the person responsible for the center during the director's absence;
 - (C) notice of the requirement to report suspected child abuse and neglect;
 - (D) notice prohibiting smoking anywhere in the facility while children are in care;
 - (E) emergency procedures;
 - (F) weekly menu of all food provided by the center; and
 - (G) evacuation plan.
 - (2) The items accessible in a place where staff, parents, and others may easily view them are:
 - (A) the daily program schedule;
 - (B) record of dates when fire and tornado drills were conducted, ~~in accordance with~~ per OAC 340:110-3-11(c)(2);
 - (C) a time schedule for use of outdoor play space if the center is licensed for 24 or more children and has outdoor play space of less than 75 square feet per child, ~~in accordance with~~ per OAC 340:110-3-11(d)(2); and
 - (D) a certificate of One Star Plus, Two Star, or Three Star status, if applicable.
 - (3) Form 07LC093E, Insurance Exception Notification, if applicable per OAC 340:110-3-5.1(c), is posted in clear view of the main entrance to the facility.
 - (~~34~~) A notice of staff-child ratios and group size is posted in every room where children are in care.
 - (45) In accordance with Section 7103 of Title 10 of the Oklahoma Statutes, any person who has reason to believe a child has been abused or neglected is required to report the matter promptly to OKDHS. It is a misdemeanor for any person to fail to report.
 - (~~56~~) The center is required to notify the OKDHS ~~Division of Child Care~~ Oklahoma Child Care Services Licensing Services (Licensing) on the next working day of:
 - (A) a temporary, unscheduled, or permanent closing of the center;
 - (B) a change in the director;
 - (C) changes in liability insurance coverage;
 - (D) any damage to the facility that affects the amount of usable square footage or compliance with any requirement;
 - (E) any legal action against a center or staff person ~~which that~~ involves or affects a child in care or the operation of the center;
 - (F) any known criminal charges or child abuse investigations involving staff ~~which that~~ are pending or have had a disposition;
 - (G) an accident involving transportation unless there were no injuries and only minor damage to the vehicles;
 - (H) any injury to a child requiring emergency medical attention; and
 - (I) the death of a child that occurred while the child was in care.
- (~~67~~) The center is required to notify Licensing at least 30 days prior to:
- (A) a change in ownership or sponsorship;
 - (B) a change in name of the center;
 - (C) any change or alteration to the physical facility that affects the amount of usable square footage or compliance with any requirements;
 - (D) the anticipated closing or relocation of the child care center; and
 - (E) a proposed change in the licensed capacity.
- (d) **Public access to records-Compliance Posting.**
- (1) ~~The items (A) — (B) are~~ Items posted within clear view of the main entrance are:
 - (A) OKDHS provided "Notice to Parents"; and
 - (B) Form 04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Licensing Services, with confirmed findings for 120 days from the completion of the investigation.
 - (2) The granted waiver notification for individuals who have criminal histories as defined in Section OAC 340:110-3-7.1(c) are posted in a prominent place for as long as they are employed or living in the facility.
- (e) **Compliance file.** A compliance file that is accessible to staff, parents, and others contains:
- (1) the most recent child care licensing monitoring report provided by the licensing specialist;
 - (2) the following documents issued by Child Care Licensing within the last 120 days:
 - (A) child care licensing monitoring reports and licensing correspondence;
 - (B) Form 07LC037E, Notice to Comply;
 - (C) licensing complaints; and
 - (D) Form 04CP004E, Child Welfare Investigative Summary Notification to Child Care Licensing Services, with findings of unconfirmed to include findings of services not needed or services recommended; and
 - (3) ~~Form 04CP004E, Child Welfare Investigative Summary Notification to Child Care Licensing Services,~~ with findings of confirmed, for one year from the completion of the investigation.
- (f) **Effect of change in ownership or location on license.** When a center changes ownership or location:
- (1) the license is not transferable and is returned to OKDHS; and
 - (2) the center is required to meet current licensing requirements.

340:110-3-5.1. Policy and procedure

(a) **Content.** A written statement of the child care center's policy and procedure is available to staff and parents and includes, but is not limited to the:

- (1) ages of children accepted;
- (2) days and hours of operation including the holidays the program is closed;
- (3) location and accessibility of the licensing compliance file;
- (4) procedure for:
 - (A) receiving and releasing a child from the center, including a method of verifying the identity of a caller or person who picks up a child and prompt notification of parents when a child does not arrive as scheduled;
 - (B) handling illnesses and injuries, including procedures when away from the child care center;
 - (C) storing and administering children's medicines;
 - (D) notifying parents of field trips; and
 - (E) transportation of children;
- (5) mandatory reporting of child abuse; and
- (6) discipline policy.

(b) **Personnel policy.** When there are more than four staff persons, the child care center is required to provide written personnel policy to staff that includes:

- (1) essential job functions, qualifications, and lines of authority; and
- (2) staff performance evaluation and termination procedure.

(c) **Insurance.** A child care facility shall maintain liability insurance in accordance with Section 404.3 of Title 10 of the Oklahoma Statutes.

(1) When liability insurance is maintained, Form 07LC092E, Insurance Verification, that includes a certificate of insurance obtained from the insurance agent is completed and submitted annually, maintained at the facility, and made available to licensing which includes a certificate of liability insurance obtained from the insurance agent.

(2) When liability insurance is not maintained, or the facility reports they are self-insured,

- ~~(A) Form 07LC094E, Insurance Exception Licensing Notification, is submitted to licensing; and~~
- ~~(B) Form 07LC093E, Insurance Exception Parent Notification, is updated annually and maintained at the facility in the child's records posted at the facility.~~

340:110-3-6. Records

(a) **Center records.** Oklahoma Department of Human Services (OKDHS) staff have access to all records and reports addressed in this Section.

(b) **Children's records.** Records are obtained at the time of admission for each child in care, including teen aides, regardless of the length of time the child is in care.

- (1) Children's records are kept at the center, are available to staff during all hours of child care, and are kept current.

(2) Identification and health records are collected and maintained on file at the child care center via forms provided by OKDHS or on other forms that contain:

- (A) the child's name, date of birth, name of parent(s), home address, parent(s)' places of employment, and telephone numbers;
- (B) the name and telephone number of a responsible person to contact in an emergency if the parent(s) cannot be located promptly;
- (C) permission of the parent authorizing the center to transport the child for emergency medical care;
- (D) name of the person(s) permitted to pick up the child;
- (E) health information. The center is prohibited from obtaining information or health records from the parent solely for the purpose of screening out or denying care to a child with particular types of disabilities;
- (F) routine care, including instructions for eating, sleeping, toileting, or diapering;
- (G) individual special needs to the extent voluntarily disclosed by the parent, including:
 - (i) behavior and guidance;
 - (ii) communication; and
 - (iii) positioning;
- (H) parental permission, if given, to consult with appropriate health and child development professionals;
- (I) individual medical emergency plan;
- (J) current immunization record;
- (K) name, address, and telephone number of a physician to call in an emergency;
- (L) date of acceptance and withdrawal from the child care center; and
- (M) medication and transportation permission, if applicable.

(3) The center is required to maintain readily available attendance records including child's arrival time and departure time for a minimum of 120 days.

~~(4) If applicable, Form 07LC093E, Insurance Exception Parent Notification, is maintained in the child's record.~~

(c) **Teen aide records.** In addition to the required records for teen aides listed in OAC 340:110-3-6(b), a written agreement signed by the parent or guardian of the teen aide must be maintained on file at the facility. The agreement includes:

- (1) the duties and responsibilities of the teen aide;
- (2) the name of the master teacher responsible for supervising the teen aide; and
- (3) the written consent of the parent or guardian for the child to work as a teen aide.

(d) **Staff records.** Records on all employees including substitutes are completed and maintained at the facility or made available to Licensing. Staff records include:

- (1) staff information forms provided by OKDHS which are submitted to Licensing within two weeks of employment and include:
 - (A) name, birth date, address, telephone number, and Social Security number;

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- (B) education;
 - (C) references, including previous employers if any, and the name, address, telephone number, and dates of employment; and
 - (D) a statement regarding criminal history;
- (2) criminal history investigations with records maintained in a confidential manner and not made a part of the individual's personnel records pursuant to Section 404.1 of Title 10 of the Oklahoma Statutes;
- (3) a report of an examination by a licensed physician or mental health professional when there is concern about an employee's ability to perform normal duties because of a possible physical, mental, or emotional problem;
- (4) documentation of orientation and training;
- (5) attendance records for each staff person and substitute staff that reflect days and hours worked and that are maintained for 120 days;
- (6) ~~documentation from OKDHS on Form 07LC096E, Criminal Background Review, of Oklahoma State Courts Network records search; of request and/or results of a criminal history review; and~~
- (7) ~~documentation from OKDHS on Form 07LC096E of receipt of Oklahoma State Bureau of Investigation criminal history investigations and when applicable, a criminal history investigation from the previous state(s) of residence if the individual has resided in Oklahoma less than three years.~~

340:110-3-7.1. Requirements for child care center employees

(a) **General.** All employees are required to be of good character and possess adequate education, training, and experience to provide them with the skills to perform the essential functions of the job with or without reasonable accommodation. Each employee:

- (1) provides annual documentation that he or she meets the health and training requirements contained in Licensing Requirements for Child Care Centers, OKDHS Publication no. 84-408;
- (2) demonstrates the ability to perform essential job functions;
- (3) recognizes and acts to correct hazards to physical safety, both indoors and outdoors;
- (4) works with children without recourse to physical punishment, mistreatment, or child abuse; and
- (5) demonstrates good judgment as evidenced by prudent and responsible behavior that reasonably ensures the health and safety of children in care.

(b) **Criminal history investigations.** Requirements for centers pertaining to criminal history investigations are contained in this subsection.

- (1) **Owner or director responsibility.** The center's owner or director submits:
 - (A) submits a completed criminal history investigation conducted within the last 12 months including dispositions on all charges; and
 - (B) Form 07LC096E, Criminal Background Review, a criminal history review request on a form

provided by OKDHS to Oklahoma Child Care Services (OCCS) licensing records office requesting an Oklahoma State ~~Court~~ Courts Network (OSCN) search for:

- (i) any person making application to establish or operate a child care center;
 - (ii) each applicant prior to employment, including all caregivers, substitutes, auxiliary staff, and any other person employed by the child care facility or program;
 - (iii) adults, including providers' spouses or adult children, who live in the child care facility; and
 - (iv) persons age 18 years or older prior to their residence in the facility; and
- (~~BC~~) obtains a completed criminal history investigation for persons who have unsupervised access to children, such as lab students, Work Experience Program (WEP) workers, volunteers, contracted staff, or custodians.
- (2) **Exceptions.** Criminal history investigations are not required for:
- (A) staff who move to a new center operated by the same organization;
 - (B) contracted staff who provide transportation, lessons, or other services if facility staff are present with children at all times;
 - (C) parent volunteers who transport children on an irregular basis; and
 - (D) providers' children who become adults, age 18, during continuous residence at the licensed facility.
- (3) **Authorized agencies.** Criminal history investigations are acceptable only when:
- (A) conducted by the Oklahoma State Bureau of Investigation (OSBI); and
 - (B) conducted by the authorized agency in the previous state(s) of residence if the individual has resided in Oklahoma less than three years.
- (4) **Sex Offenders Offender Registry.** The OSBI report must include a search of Oklahoma Department of Corrections files maintained by the OSBI pursuant to the Sex Offenders Offender Registration Act.
- (5) **Verification of records search.** ~~Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office must be on file at the facility prior to any persons being employed or allowed to live in the facility.~~
- (A) **Prior to issuance of initial permit or change of ownership.** The facility must receive criminal history review results from the OCCS licensing records office for all employees and/or any persons age 18 years or older who live in the facility.
 - (B) **Existing facilities.** The facility must submit a criminal history review request on a form provided by OKDHS to the OCCS licensing records office for all employees prior to employment and prior to any persons age 18 years or older being allowed to live in the

- facility. This request for review must be maintained on file at the facility while awaiting the results.
- (c) **Restrictions.** Center requirements contained in this subsection restrict certain individuals from employment.
- (1) The child care center is restricted from knowingly employing a person who:
- (A) has pending charges, ~~(unless waived by OCCS)~~, has entered a plea of guilty or nolo contendere, no contest, or been convicted of:
- (i) any criminal activity involving violence against a person;
 - (ii) child abuse or neglect;
 - (iii) possession, sale, or distribution of illegal drugs;
 - (iv) sexual misconduct; or
 - (v) an act of gross irresponsibility or disregard for the safety of others or a pattern of criminal activity; or
- (B) is required to register pursuant to the ~~Sex Offenders~~ Offender Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.
- (2) The center director may request a waiver from the requirements in OAC 340:110-3-7.1(c)(1). A waiver may not be requested or granted to any person who has been convicted of a sex offense pursuant to the ~~Sex Offenders~~ Offender Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.
- (A) The waiver request is made in writing to OKDHS and considered by the waiver review committee.
- (B) The person for whom the waiver is requested cannot be employed until a decision has been made.
- (3) Any person whose health or behavior could endanger the health, safety, or well-being of children is prohibited from the child care center premises and contact with children in care.
- (4) An employee under the effects of alcohol, illegal drugs, or medication that impairs functioning is prohibited from providing child care services.
- (d) **Child abuse.** The requirements pertaining to child abuse are contained in this subsection.
- (1) Any caregiver who has reason to believe that a child has been abused is required to promptly contact the ~~county office of OKDHS~~ local OKDHS human services center or the statewide toll-free Child Abuse Hot Line, 1-800-522-3511.
- (2) Staff are required to cooperate fully in the investigation of any allegation.
- (e) **Health.** Requirements pertaining to employees' health are contained in this subsection.
- (1) **Tuberculosis testing.** The need for tuberculin skin testing of employees is based upon a local identified tuberculosis exposure, the degree of risk of transmission of latent tuberculosis infection, the impact to public health and safety, and the specific recommendations of the Oklahoma State Department of Health.
- (2) **Impairment of job performance.** ~~OKDHS Division of Child Care OCCS~~, Licensing Services (Licensing) may require a report of a physical or psychological examination by a licensed physician or mental health professional if it is reported or observed that an employee has a physical, mental, or emotional condition that impairs the employee's ability to perform assigned job responsibilities.
- (f) **Employee qualifications.** Requirements applicable to employee positions are contained in this subsection.
- (1) **Director qualifications.** Effective January 1, 2005, all directors of child care centers are required to be at least 21 years of age and have obtained and maintain the Bronze level, in accordance with OKDHS Appendix L-2, Oklahoma Director's Credential.
- (2) **Master teacher qualifications.** Effective January 1, 2005, all master teachers are required to:
- (A) be at least 18 years of age and have obtained the qualifications at Level III or higher of OKDHS Appendix L-3, Professional Development Ladder; or
 - (B) in a program where the majority of children are school-age, the master teacher may have 120 clock hours of Tier II or higher school-age training within the last five years, in accordance with OKDHS Appendix L-1, 480 hours of experience in a program where the majority of children are school-age, and every two years a minimum score of 5.0 on the School-Age Environment Rating Scale in a classroom where the master teacher is the lead teacher.
- (3) **Teachers.** Teachers hired after July 1, 1995 are required to:
- (A) be at least 18 years of age; and
 - (B) have a high school diploma or General Educational Development (GED); or
 - (C) have completed the tenth grade and be in the process of obtaining a GED for a period not to exceed 12 months.
- (4) **Assistant teachers.** Assistant teachers are at least 16 years of age and required to:
- (A) have a high school diploma or GED;
 - (B) have completed the tenth grade and be in the process of obtaining a GED; or
 - (C) be currently enrolled in secondary education or the equivalent.
- (5) **Permanent substitutes.** Permanent substitutes are required to meet minimum requirements for the position they are filling.
- (6) **Temporary substitutes.** Temporary substitutes must be at least 18 years of age.
- (7) **Teen aides.** Teen aides must be 13 through 15 years of age.
- (g) **Responsibilities.** Responsibilities of employees and volunteers are described in this subsection.
- (1) **Director.** The director, or teacher who meets director's qualifications, is present in the center at least 50 percent of operating hours or a minimum of 30 hours a week and is responsible for the day-to-day operation of the center.

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- (A) When four or more teachers are needed to meet minimum staff-child ratios, the director is free from direct care responsibilities at least three hours per day during operating hours to provide program oversight and staff supervision.
- (B) The director, or teacher who meets director's qualifications, is responsible for:
- (i) upon employment, providing three references to Licensing, including at least two from the director's most recent employers when applicable. The other reference(s) may be personal, excluding relatives;
 - (ii) appointing a staff member to take responsibility for the operation of the child care center in his or her absence and posting that person's name in a conspicuous place;
 - (iii) maintaining a child care center that meets the minimum requirements;
 - (iv) ensuring that a staff member trained to administer first aid including rescue-breathing and choke-saving measures is present at all times;
 - (v) submitting to OCCS licensing records office criminal history investigations and obtaining dispositions on any charges shown on the report that lack dispositions;
 - ~~(vi) ensuring Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office is on file at the facility prior to any person being employed or allowed to live in the facility;~~
 - ~~(vii)~~ prior to employing staff, obtaining and documenting three references including at least two from the applicant's most recent employers, when applicable. The other reference(s) may be personal, excluding relatives;
 - ~~(viii)~~ supervising the conduct of staff, volunteers, substitutes, and others who provide services in the facility; and
 - ~~(ix)~~ cooperating with licensing staff and other appropriate agencies in maintaining compliance with requirements and in improving the quality of care.
- (2) **Master teachers.** At least one full-time master teacher is required for every 60 children for which the center is licensed. The director may be counted as a master teacher if the licensed capacity is 30 or less.
- (3) **Teachers.** Teachers have primary responsibility for the direct care of children.
- (4) **Assistant teachers.** Assistant teachers work under the on-site supervision of a qualified director or teacher who is readily available at all times.
- (A) A director, master teacher, or teacher does not directly supervise more than two assistant teachers.
 - (B) Assistant teachers are not permitted to have sole responsibility for a group of children for more than three hours per day.
- (5) **Auxiliary personnel.** Auxiliary personnel, for example, cooks, building custodians, or other personnel who provide indirect services to children:
- (A) demonstrate knowledge and skills necessary to perform their job responsibilities;
 - (B) meet applicable requirements for staff caring for children as set forth in this Section if they are responsible for children for any part of the day;
 - (C) are not included in the staff-child ratio while performing auxiliary functions. Minimal cleaning and food service, for example, light cleaning, picking up toys, sweeping the classroom, and reheating and serving food, are not considered auxiliary functions as long as supervision and program are not adversely affected.
- (6) **Volunteers.** Volunteers are required to meet all requirements in this paragraph.
- (A) Volunteers and student interns are not included in the staff-child ratio unless they are assigned to the center for at least three consecutive months. Volunteers are permitted to serve as temporary or permanent substitutes.
 - (B) Volunteers counted in the staff-child ratio meet all requirements in this Part.
 - (C) Volunteers are under the direct supervision of the director or a designated staff member.
 - (D) Volunteers who have not met all requirements for teachers are not left in charge of children.
- (7) **Substitutes.** Substitutes carry out the assigned responsibilities of the position they are filling.
- (8) **Teen aides.** Teen aides:
- (A) are not counted toward meeting the staff-child ratio and are not included in the licensed capacity;
 - (B) must be under the on-site supervision of a master teacher who is at least 18 years of age. One master teacher may supervise no more than two teen aides;
 - (C) are placed only in groups where at least one staff member is 18 years of age. No more than two teen aides may be assigned to a group of children;
 - (D) must be at least two years older than the children in the group to which they are assigned;
 - (E) must be visibly identifiable through means such as name tags or T-shirts; and
 - (F) are never left alone with children.
- (h) **Professional development.** Requirements pertaining to professional development are contained in this subsection.
- (1) **Orientation.** Within one week of employment and prior to having sole responsibility for a group of children, each staff member, including auxiliary staff and permanent substitutes who have been employed 40 hours, receives orientation.
 - (A) Orientation includes a review of:
 - (i) infection control;
 - (ii) injury prevention;
 - (iii) handling common childhood emergencies, including choking;
 - (iv) sudden infant death syndrome (SIDS);
 - (v) shaken baby syndrome;

- (vi) the center's policy and procedure and staff responsibility for implementation;
 - (vii) licensing requirements;
 - (viii) employees' assigned duties and responsibilities;
 - (ix) emergency procedures in the event of injury, severe weather, or fire, including evacuation procedures and routes and location and use of fire extinguishers;
 - (x) the definition, identification, and mandatory reporting of child abuse and neglect;
 - (xi) the daily schedule;
 - (xii) the methods used to inform staff of any special health, nutritional, or developmental needs of children assigned to the caregiver;
 - (xiii) confidentiality of information regarding children and their families;
 - (xiv) appropriate use of discipline; and
 - (xv) transportation and car seat safety.
- (B) Documentation includes a statement, signed by the employee and director, in each employee's personnel file attesting to the orientation and review.
- (C) New staff have a probationary period of at least 30 days during which they are closely supervised.
- (2) **Entry-level training.** Prior to or within three months of employment, staff counted to meet staff-child ratios participate in a Tier II entry-level training course that provides at least 20 hours of training, in accordance with OKDHS Appendix L-1. Directors are not required to have this training. Staff who have previously received this training are not required to repeat it unless there is a two year break in service.
- (3) **Health and safety training.** Staff are required to comply with the health and safety training requirements contained in this paragraph.
- (A) When children are in care on or off the program premises, including during transportation, staff are present who have current documentation of certification in age-appropriate first aid and cardio-pulmonary resuscitation (CPR) as approved by OCCS licensing.
- (B) The first aid certification includes the emergency management of:
- (i) bleeding;
 - (ii) burns;
 - (iii) poisoning;
 - (iv) choking;
 - (v) injuries, including insect, animal, and human bites;
 - (vi) shock;
 - (vii) convulsions or nonconvulsive seizures;
 - (viii) musculoskeletal injury, such as sprains and fractures;
 - (ix) dental emergencies;
 - (x) head injuries;
 - (xi) allergic reactions;
 - (xii) eye injuries;
 - (xiii) loss of consciousness;
 - (xiv) electric shock; and
 - (xv) drowning.
- (4) **Ongoing training.** Requirements of staff for ongoing training are contained in this paragraph.
- (A) **Director.** The director is required to obtain 20 clock hours per employment year of Tier I or higher training, such as professional conferences or from an accredited college, university, or vocational program, in accordance with OKDHS Appendix L-1.
- (i) OKDHS approves training upon request.
 - (ii) Training is relevant to job responsibilities and includes center administration or management, age-appropriate childhood education, and infection control.
- (B) **Staff with children.** Each person who is counted toward meeting the staff-child ratio is required to obtain 12 clock hours per employment year of Tier I training, in accordance with OKDHS Appendix L-1, that is relevant to job responsibilities and includes infection control. Formal training is from a source such as professional conferences or from an accredited college, university, or technical school.
- (i) The director assists staff in identifying and selecting training that is varied, appropriate, and builds upon previous training.
 - (ii) No more than six hours of self-directed readings, use of videos, or informal on-site training is counted toward the required annual training hours.
 - (iii) Reports of self-directed reading are documented and submitted to the director.
 - (iv) Training repeated during the employment year is only counted once to meet the training requirement.
- (5) **Food service training.** Prior to or within three months of employment, the person primarily responsible for food preparation is required to receive training in:
- (A) nutrition planning;
 - (B) age-appropriate food selection;
 - (C) food preparation, service, and storage; and
 - (D) cleaning and sanitizing equipment and utensils.
- (6) **Substitute and volunteer staff training.** Requirements for substitute and volunteer staff are listed in (A) through (C) of this paragraph.
- (A) Temporary substitutes are required to be familiar with center policy and procedure before they are left in charge of a group of children.
 - (B) Permanent substitutes are required to meet the requirements for orientation and ongoing training in OAC 340:110-3-7.1(h)(1) and (4).
 - (C) Volunteers counted toward meeting the staff-child ratio are required to meet the requirements for orientation and ongoing training in OAC 340:110-3-7.1(h)(1) and (4).
- (7) **Documentation of training.** Documentation of training for each staff member is required and includes the topic, source of training, date, and hours.

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PART 2. REQUIREMENTS FOR PART-DAY CHILDREN'S PROGRAMS

340:110-3-39. Organization

(a) **Sponsor.** A part-day children's program may be sponsored by a public or private group or by an individual. It may be operated by public or private community organizations or by private ownership.

(b) **Purpose.** A statement defining the purpose or function of the part-day child care program is filed with the Oklahoma Department of Human Services (OKDHS). The statement includes:

- (1) the licensed capacity;
- (2) ages of children accepted;
- (3) hours of operation;
- (4) type of care; and
- (5) services offered.

(c) **Responsible agent.** The responsible agent for the different types of child care facilities is given in (1) - (3) of this subsection.

(1) A not-for-profit children's program operates under a governing board responsible for developing policies and establishing and maintaining a sound financial structure.

(2) A proprietary program's owner is responsible for the policy and financial structure of the program.

(3) A public program is created and exists by act of the state, county, city, or other political subdivision. The operation remains under the control of a governmental agency.

(d) **Notifications.** Requirements pertaining to notifications are contained in this subsection.

(1) The items posted in a prominent place where staff, parents, and others may view them are:

- (A) the program's license, permit or notice of denial or revocation of license;
- (B) name of the person responsible for the program during the director's absence;
- (C) notice of the requirement to report suspected child abuse and neglect;
- (D) notice prohibiting smoking anywhere in the facility while children are in care;
- (E) the daily program schedule;
- (F) emergency procedures;
- (G) weekly menu of all food provided by the program;
- (H) evacuation plan; and
- (I) a record of monthly fire drills.

(2) Form 07LC093E, Insurance Exception Notification, if applicable per OAC 340:110-3-40(c), is posted in clear view of the main entrance to the facility.

(23) In accordance with Section 7103 of Title 10 of the Oklahoma Statutes, any person who has reason to believe a child has been abused or neglected is required to report the matter promptly to OKDHS. It is a misdemeanor for any person to fail to report.

(34) The program is required to notify Licensing Services on the next working day of:

- (A) unscheduled or permanent closing of the program;

(B) a change in the director;

(C) changes in liability insurance coverage;

(D) any damage to the facility that affects the amount of useable square footage or compliance with any requirements;

(E) legal action against a program or staff person which pertains to licensing requirements;

(F) any known criminal charges or child abuse investigations involving staff which are pending or have had a disposition;

(G) an accident involving transportation unless there were no injuries and only minor damage to the vehicles;

(H) any injury to a child requiring emergency medical attention; and

(I) the death of a child which occurred while the child was in the program.

(45) The program is required to notify Licensing Services at least 30 days prior to any of the proposed changes listed in paragraphs (A) - (E) of this subsection:

(A) a change in owner(s) or sponsorship;

(B) change in name of the program;

(C) any change or alteration to the physical facility that affects the amount of usable square footage or compliance with any requirements;

(D) anticipated closing or relocation of the program; and

(E) proposed change in the licensed capacity of the program.

(e) **Public access to records - Compliance Posting.**

(1) ~~The items (A) — (B) are~~ Items posted within clear view of the main entrance are:

(A) OKDHS provided "Notice to Parents"; and

(B) Form 04CP004E, Child Welfare Investigative Summary Notification to Child Care Licensing Services, with confirmed findings for 120 days from the completion of the investigation.

(2) The granted waiver notification for individuals who have criminal histories as defined in section OAC 340:110-3-42(c) are posted in a prominent place for as long as they are employed or living in the facility.

(f) **Compliance file.** A compliance file accessible to staff, parents, and others contains:

(1) the most recent child care licensing monitoring report provided by the licensing specialist;

(2) the following documents issued by Oklahoma Child Care Licensing Services (OCCS) within the last 120 days:

(A) child care licensing monitoring reports and licensing correspondence;

(B) Form 07LC037E, Notice to Comply;

(C) licensing complaints; and

(D) Form 04CP004E, Child Welfare Investigative Summary Notification to Child Care Licensing Services, with findings of unconfirmed to include findings of services not needed or services recommended; and

(3) Form 04CP004E, Child Welfare Investigative Summary Notification to Child Care Licensing Services, with

findings of confirmed, for one year from the completion of the investigation.

(g) **Effect of change in ownership or location on license.**

When changing ownership or location:

- (1) the license is not transferable and is returned to OKDHS; and
- (2) the program is required to meet current licensing requirements.

340:110-3-40. Policy and procedure

(a) **Content.** A written statement of the program's policy and procedure is available to staff and parents and includes, but is not limited to:

- (1) a brief program description;
- (2) ages of children accepted;
- (3) days and hours of operation, including the holidays the program is closed;
- (4) fees;
- (5) the location and accessibility of the licensing compliance file;
- (6) procedure for receiving and releasing children from the program, including a method of verifying the identity of a caller or person picking up a child;
- (7) procedure concerning children's personal belongings and money;
- (8) procedure for the handling of illnesses and injuries, including procedures when away from the program;
- (9) procedure for storing and administering children's medicines;
- (10) mandatory reporting of child abuse;
- (11) procedure for notifying parents of field trips;
- (12) procedure for transportation of children;
- (13) procedure for caring for children who arrive late for field trips when that child's group has already left the programs;
- (14) meals and snacks, including days when children are on field trips; and
- (15) discipline policy.

(b) **Personnel policy.** When there are more than 10 staff persons, the program is required to provide written personnel policy to staff that includes:

- (1) job responsibilities, qualifications, and lines of authority; and
- (2) staff performance evaluation and termination procedure.

(c) **Insurance.** A child care facility maintains liability insurance in accordance with Section 404.3 of Title 10 of the Oklahoma Statutes.

- (1) When liability insurance is maintained, Form 07LC092E, Insurance Verification, that includes a certificate of insurance obtained from the insurance agent is completed and submitted annually, maintained at the facility, and made available to licensing which includes a certificate of liability insurance obtained from the insurance agent.
- (2) When liability insurance is not maintained or the facility reports they are self-insured;

~~(A) Form 07LC094E, Insurance Exception Licensing Notification, is submitted to licensing; and~~

~~(B) Form 07LC093E, Insurance Exception Parent Notification, is updated annually and maintained at the facility in the child's records posted at the facility.~~

(d) **Access to the program.** Parents of enrolled children are permitted reasonable access to all parts of the program's physical facility during hours of operation.

340:110-3-41. Records

(a) **Program records.** Licensing staff have access to records and reports in accordance with the requirements contained in this Section.

(b) **Children's records.** Records are obtained for each child in the program at the time of admission and regardless of the length of time in the program.

- (1) All records are kept current.
- (2) Identification and health records are kept on forms provided by Oklahoma Department of Human Services (OKDHS) or on other forms that contain:
 - (A) the child's name, date of birth, name of parent(s), home address, parents' place of employment, and telephone numbers;
 - (B) the name and telephone number of a responsible person to contact in an emergency if the parent(s) cannot be located promptly;
 - (C) permission of the parent authorizing the center to transport the child for emergency medical care;
 - (D) name of person(s) permitted to pick up the child;
 - (E) health information;
 - (F) current immunization record;
 - (G) name, address, and telephone number of a physician to call in an emergency;
 - (H) date of acceptance and withdrawal from the program; and
 - (I) medication and transportation permission if applicable.

(3) Children's records are kept at the facility and available to staff during all hours of program operation.

(4) Daily attendance records for each child are maintained and kept readily available for a minimum of 120 days.

~~(5) If applicable, Form 07LC093E, Insurance Exception Parent Notification, is maintained in the child's record.~~

(c) **Staff records.** Staff records that are required to be completed and maintained at the facility or made available to licensing are:

- (1) staff information sheets provided by OKDHS that include:
 - (A) name, date of birth, address, telephone number, and Social Security number;
 - (B) education;
 - (C) references including previous employers if any and the name, address, telephone number, and dates of employment; and

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- (D) a statement regarding criminal history and child abuse investigations.
- (2) criminal history investigations with records maintained in a confidential manner and not made a part of the individual's personnel records pursuant to Section 404.1 of Title 10 of the Oklahoma Statutes;
- (3) staff health records which include at a minimum a report of an examination by a licensed physician or mental health professional when there is concern about an employee's ability to perform normal duties because of a possible physical, mental, or emotional problem. See OAC 340:110-3-42(b)(3) and (4) and (c) regarding requirements for employees;
- (4) attendance records for each staff;
- (5) ~~documentation of request and/or results of a criminal history review from OKDHS on Form 07LC096E, Criminal Background Review, of Oklahoma State Courts Network records search; and~~
- (6) ~~documentation from OKDHS on Form 07LC096E of receipt of Oklahoma State Bureau of Investigation criminal history investigations and when applicable, a criminal history investigation from the previous state(s) of residence if the individual has resided in Oklahoma less than three years.~~

340:110-3-42. Requirements for part-day program employees

(a) **General.** All employees are required to be of good character and possess adequate education, training, and experience for the work they perform to provide them with the skills to perform the essential functions of the job with or without reasonable accommodation. Each employee is required to:

- (1) provide documentation annually that he or she meets the health and training requirements contained in this Part;
- (2) recognize and act to correct hazards to physical safety, both indoors and outdoors;
- (3) be able to work with children without recourse to physical punishment, mistreatment, or child abuse; and
- (4) demonstrate good judgment as evidenced by prudent and responsible behavior that reasonably ensures the health and safety of children in the program.

(b) **Criminal history investigations.** Requirements for programs pertaining to criminal history investigations are contained in this subsection.

- (1) **Owner or director responsibility.** The program's owner or director submits:
 - (A) a completed criminal history investigation conducted within the last 12 months including dispositions on all charges; and
 - (B) ~~Form 07LC096E, Criminal Background Review~~ a criminal history review request on a form provided by OKDHS, to Oklahoma Child Care Services (OCCS) licensing records office requesting an Oklahoma State ~~Court~~ Courts Network search for:
 - (A~~i~~) any person making application to establish or operate a part-day children's program;

- (B~~ii~~) each applicant prior to employment, including all caregivers, substitutes, auxiliary staff and any other person employed by the program;
- (C~~iii~~) adults, including providers' spouses or adult children, who live in the facility; and
- (D~~iv~~) persons age 18 years or older prior to their residence in the facility.

(2) **Owner or director responsibility.** Program's owner or director obtains a completed criminal history investigation for persons who have unsupervised access to children, such as lab students, Work Experience Program (WEP) workers, volunteers, contracted staff, or custodians.

(3) **Exceptions.** Criminal history investigations are not required for:

- (A) staff who move to a new program operated by the same organization;
- (B) contracted staff who provide transportation, lessons or other services if facility staff are present with children at all times;
- (C) parent volunteers who transport children on an irregular basis; and
- (D) providers' children who become adults, age 18, during continuous residence at the licensed facility.

(4) **Authorized agencies.** Criminal history investigations are acceptable only when:

- (A) conducted by the Oklahoma State Bureau of Investigation (OSBI); or
- (B) conducted by the authorized agency in the previous state(s) of residence if the individual has resided in Oklahoma less than three years.

(5) **Sex Offenders Offender Registry.** The OSBI report must include a search of the Oklahoma Department of Corrections' files maintained by the OSBI pursuant to the Sex Offenders Offender Registration Act.

(6) **Verification of records search.** ~~Form 07LC096E, Criminal Background Review, completed by Oklahoma Child Care Services licensing records office must be on file at the facility prior to any persons being employed or allowed to live in the facility.~~

(A) Prior to issuance of initial permit or change of ownership. The facility must receive criminal history review results from the OCCS licensing records office for all employees and/or any persons age 18 years or older who live in the facility.

(B) Existing facilities. The facility must submit a criminal history review request on a form provided by OKDHS to the OCCS licensing records office for all employees prior to employment and prior to any persons age 18 years or older being allowed to live in the facility. This request for review must be maintained on file at the facility while awaiting the results.

(c) **Restrictions.** Program requirements contained in this subsection restrict certain individuals from employment.

- (1) The program is restricted from knowingly employing a person who:
 - (A) has entered a plea of guilty or nolo contendere, no contest, or been convicted of:

- (i) any criminal activity involving violence against a person;
 - (ii) child abuse or neglect;
 - (iii) possession, sale or distribution of illegal drugs;
 - (iv) sexual misconduct; or
 - (v) gross irresponsibility or disregard for the safety of others; or
- (B) is required to register pursuant to the ~~Sex Offenders~~ Offender Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.
- (2) The program director may request a waiver from the requirements in (1) of this subsection. However, a waiver may not be requested or granted to any person who has been convicted of a sex offense pursuant to the ~~Sex Offenders~~ Offender Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.
- (A) The waiver request is made in writing to Oklahoma Department of Human Services (OKDHS) and considered by the waiver review committee.
- (B) The person for whom the waiver is requested cannot be employed until a decision has been made.
- (3) Any person whose health or behavior would endanger the health, safety or well-being of children is prohibited from being on the premises or having contact with children in care.
- (4) An employee under the effects of alcohol, illegal drugs, or medication which impairs functioning is prohibited from providing child care services.
- (d) **Child abuse.** The program complies with the requirements pertaining to child abuse contained in this subsection.
- (1) Any staff who has reason to believe that a child has been abused is required to promptly contact the ~~county office of local~~ OKDHS human services center or the statewide toll-free Child Abuse Hot Line, 1-800-522-3511.
- (2) Staff are required to cooperate fully in the investigation of any allegation.
- (e) **Health.** Requirements pertaining to employees' health contained in this subsection are met.
- (1) **Tuberculosis testing.** The need for tuberculin skin testing of employees is based upon a local identified tuberculosis exposure, the degree of risk of transmission of latent tuberculosis infection, the impact to public health and safety, and the specific recommendations of the Oklahoma State Department of Health.
- (2) **Other health problems.** If it is reported or observed that an employee has a physical, mental, or emotional condition that impairs his or her ability to perform assigned job responsibilities, a report of a physical or psychological examination by a licensed physician or mental health professional may be required by Licensing.
- (f) **Employee qualifications.** Program employees are required to comply with the requirements contained in this subsection which are applicable to their positions.
- (1) **Director.** A director hired after the effective date of these requirements is required to be at least 21 years of age, have a high school diploma, or ~~GED~~ General Educational Development and one year of satisfactory experience in a child care or part-day children's program.
- (2) **Teachers.** Teachers hired after the effective date of these requirements are required to be at least 18 years of age.
- (3) **Assistant teachers.** Assistant teachers are at least 16 years of age.
- (g) **Responsibilities.** Program employees are required to comply with applicable requirements contained in this subsection.
- (1) **Director.** The director is the person responsible for the day-to-day operation of the program and is responsible for:
- (A) appointing a staff member to take responsibility for the operation of the program in the director's absence;
 - (B) maintaining a facility which meets the minimum requirements;
 - (C) submitting to ~~Oklahoma Child Care Services~~ OCCS licensing records office criminal history investigations and obtaining dispositions on any charges shown on the report that lack dispositions;
 - ~~(D) ensuring Form 07LC096E, Criminal Background Review, completed by Oklahoma Child Care Services licensing records office is on file at the facility prior to any person being employed or allowed to live in the facility;~~
 - ~~(E)~~ obtaining and documenting three references, excluding relatives, for new staff;
 - ~~(F)~~ supervising the conduct of staff, volunteers, or others who provide services in the facility; and
 - ~~(G)~~ cooperating with licensing representatives and other appropriate agencies in maintaining compliance with requirements or improving the quality of care.
- (2) **Teachers.** Teachers have primary responsibility for the direct care of children.
- (3) **Assistant teachers.** Assistant teachers work under the on-site supervision of a qualified director or teacher who is readily available at all times.
- (A) A director or teacher does not directly supervise more than two assistant teachers.
 - (B) Assistant teachers do not have sole responsibility for a group of children for more than three hours a day.
- (4) **Volunteers.** Volunteers counted in the staff-child ratio are required to meet all requirements set forth in this Part; and are under the direct supervision of the director or a designated staff member.
- (5) **Substitutes.** Substitutes are required to carry out the assigned responsibilities of the position they are filling.
- (h) **Professional development.** Requirements pertaining to professional development contained in this subsection are met.
- (1) **Orientation.** Each director and staff member is required to receive orientation to include:
- (A) infection control;

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- (B) injury prevention;
 - (C) handling common childhood emergencies, including choking;
 - (D) the program's policy and procedure and staff responsibility for implementing them;
 - (E) requirements for Part-day Child Care Programs;
 - (F) staff's assigned duties and responsibilities;
 - (G) emergency procedures in the event of injury, severe weather, fire, including use of fire extinguishers, and similar emergency equipment;
 - (H) the definition, identification, and mandatory reporting of child abuse and neglect;
 - (I) the daily schedule;
 - (J) the method used to inform staff of any special health, nutritional, or developmental needs of children in the program; and
 - (K) confidentiality of information regarding children and their families.
- (2) **Health and safety training.** All staff are required to comply with the health and safety training requirements contained in this paragraph.
- (A) There is staff on or off the program premises whenever children are in care including during transportation, who have current documentation of certification in age-appropriate first aid and cardio-pulmonary resuscitation (CPR) as approved by ~~Oklahoma Child Care Services~~ OCCS licensing.
 - (B) The first aid certification includes the emergency management of:
 - (i) bleeding;
 - (ii) burns;
 - (iii) poisoning;
 - (iv) choking;
 - (v) injuries, including insect, animal and human bites;
 - (vi) shock;
 - (vii) convulsions or nonconvulsive seizures;
 - (viii) musculoskeletal injury, for example, sprains, fractures;
 - (ix) dental emergencies;
 - (x) head injuries;
 - (xi) allergic reactions;
 - (xii) eye injuries;
 - (xiii) loss of consciousness;
 - (xiv) electric shock; and
 - (xv) drowning.
- (3) **Ongoing training.** The director and staff are required to obtain training that is relevant to job responsibilities including age-appropriate childhood education. Training may include workshops, conferences, use of videos, and other such training.
- (4) **Food service training.** Within one year of employment, the person primarily responsible for food service is required to receive training in:
- (A) nutrition planning;
 - (B) age-appropriate food selection;
 - (C) food preparation, service and storage; and

- (D) cleaning and sanitizing equipment and utensils.
- (5) **Documentation of training.** Training is documented for each staff member and include the topic, training provided, and date.

PART 5. REQUIREMENTS FOR FAMILY CHILD CARE HOMES AND LARGE FAMILY CHILD CARE HOMES

340:110-3-85. Requirements for caregivers

- (a) **Responsibilities of caregivers.** Responsibilities of caregivers are outlined in this subsection.
- (1) **Primary caregiver.** The primary caregiver is present in the home at least 80 percent of weekly operating hours and is responsible for the day-to-day operation of the program. The sole proprietor must be the primary caregiver.
 - (2) **Care and supervision.** The caregiver provides care and supervision of children at all times, both indoors and outdoors. Supervision of children means observing, overseeing, and guiding a child or group of children including:
 - (A) awareness of and responsibility for the ongoing activity of each child and being near enough to intervene if needed; and
 - (B) frequent observation of children in cribs and playpens.
 - (3) **Supervision of outdoor play.** In addition to the requirements in (2) of this subsection, the caregiver remains outdoors with children at all times to ensure their safety when:
 - (A) there is a potentially hazardous situation, such as a pool on the premises or a trampoline in the outdoor play area;
 - (B) there is access to a dog(s) outdoors;
 - (C) there are children three years of age or younger present; or
 - (D) the outdoor area is not completely fenced.
 - (4) **Supervision of overnight care.** If children are in care overnight and more than one caregiver is required due to the ages and number of children present, at least one caregiver must be awake at all times.
 - (5) **Assistant and substitute caregivers.** If the primary caregiver employs a person to assist with the care of children or to provide care and supervision in the primary caregiver's absence, the primary caregiver ensures that the assistant or substitute caregiver is qualified and understands and complies with requirements.
 - (A) **Required records.** Prior to employment, a staff information form provided by Oklahoma Department of Human Services (OKDHS) is completed and three references are verified. References from relatives are not accepted. Personnel records on all assistant and substitute caregivers are maintained at the home and made available to licensing staff upon request.

(B) **Assistant caregiver.** If an assistant caregiver is employed to meet the required staff to child ratio, the assistant caregiver must be a responsible, mature, healthy person at least 16 years of age. The caregiver is prohibited from leaving children alone in the care of any person younger than 18 years of age.

(C) **Substitute caregiver.** A substitute caregiver, at least 18 years of age, is available to provide care for short periods of time in the absence of the caregiver.

(i) The substitute caregiver may be used in emergency situations and occasionally in non-emergency situations. In non-emergency situations, the caregiver must notify parents in advance that the substitute will be caring for their child at these times.

(ii) The name, address, and telephone number of the substitute is provided to OKDHS and is posted with the other required emergency numbers in the family child care home.

(6) **Verification of criminal history investigations.**

The family child care owner or primary caregiver is responsible for:

~~(A) submitting to Oklahoma Child Care Services (OCCS) licensing records office criminal history investigations and obtaining dispositions on any charges shown on the report that lack dispositions; and~~

~~(B) ensuring Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office is on file at the facility prior to any person being employed or allowed to live in the facility.~~

(7) **Realistic expectations.** The caregiver demonstrates a capacity for setting realistic expectations for behavior and performance based on the age, abilities, and special needs of the children.

(8) **Constructive influence.** The caregiver's family members and others living in the home accept the children in care and provide constructive influence. There must be indication of a stable and harmonious home life.

(9) **Hazards.** The caregiver recognizes and acts to correct hazards to children's safety, both indoors and outdoors.

(10) **Child abuse reporting.** The primary caregiver, assistant caregiver, and substitute caregiver immediately report any suspicion of child abuse or neglect to the local OKDHS office human services center or the Statewide Child Abuse Hotline, 1-800-522-3511. Failure to report is a misdemeanor offense and upon conviction is punishable by law.

(11) **Notification of Licensing Services.** The primary caregiver notifies Licensing Services:

(A) within 24-hours of the death of a child in care;

(B) within 24-hours of any accident involving transportation unless there were no injuries and only minor damage to the vehicles;

(C) within 24-hours of any changes in liability insurance coverage;

(D) within 24-hours of any injury to a child requiring emergency medical attention;

(E) within 24-hours of any remodeling, changes, or damage to the physical facility that affect compliance with any requirement;

(F) within 24-hours of any known arrest, criminal investigation, criminal charges, or child abuse investigations involving persons who live in the home, provide care, or assist with the care of children;

(G) within 24-hours of any legal action against a caregiver that involves or affects a child in care or the operation of the family child care home;

(H) within 24-hours when an animal bites a child and the skin is broken;

(I) within five days when a person moves into the home; and

(J) at least 30 days in advance of a move from one residence to another unless an emergency exists. The new home must comply with minimum licensing requirements.

(12) **Posting of license.** The permit or license is displayed in the home.

(13) **Other employment.** The caregiver is prohibited from conducting business in the home during the hours children are in care. The primary caregiver is not employed outside the home during the hours of child care.

(14) **Foster care.** The caregiver may not provide therapeutic foster care. The caregiver may provide foster care only with prior written approval from OKDHS Licensing Services for each child placement.

(A) The written approval includes the number and ages of foster children.

(B) Foster children 12 years of age and younger are counted in the capacity of the family child care home.

(15) **Inactive care.** A primary caregiver is determined to be in inactive status when care has not been provided for more than 90 consecutive days.

(A) Prior to resuming care, the caregiver must notify OKDHS OCCS Licensing Services to verify compliance with family child care home requirements.

(B) If care has not been provided for more than 12 consecutive months, the family child care home is closed and must reapply and be approved for a license prior to resuming care.

(b) **Qualifications of caregivers.** Qualifications of caregivers are described in this subsection.

(1) **General.** The caregiver is a responsible, mature, healthy adult who is capable of understanding and complying with minimum licensing requirements and meeting the needs of the children in care. The caregiver demonstrates good judgment, as evidenced by prudent and responsible behavior that reasonably ensures the health, safety, and well-being of children in care.

(A) Primary caregivers applying for a license after October 1, 2007 are at least 21 years of age.

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- (B) Primary caregivers applying for a license after October 1, 2007 have obtained a high school diploma or General Educational Development (GED).
- (C) All caregivers left alone with children have the ability to read and write for keeping required records, reading the licensing requirements, and administering medication.
- (D) All caregivers cooperate with licensing staff during monitoring visits and OKDHS investigations.
- (2) **Health.** The requirements relating to the health of the caregiver, assistant caregiver and members of the household are contained in (A) - (C) of this paragraph.
- (A) **General health.** All caregivers and all members of the household where licensed care is provided must be in good physical, mental, and emotional health. If it is reported or observed that a caregiver or household member has a physical, mental, or emotional condition that could negatively impact the care of children, a physician's statement is requested.
- (B) **Tuberculosis testing.** The need for tuberculin skin testing of employees is based upon a local identified tuberculosis exposure, the degree of risk of transmission of latent tuberculosis infection, the impact to public health and safety, and the specific recommendations of the Oklahoma State Department of Health.
- (C) **Immunizations.** There is documentation verifying that all children living in the home have or are in the process of obtaining the required immunizations at the medically appropriate time. The schedule for required immunizations is found in Supplement IX of OKDHS Publication No. 86-104, Licensing Requirements for Family Child Care Homes and Large Family Child Care Homes.
- (3) **References.** The primary caregiver submits to child care licensing the names of three references other than relatives, which may include a personal or family physician.
- (c) **Background investigations and restrictions for caregivers.** The requirements for background investigations and restrictions for caregivers are contained in paragraphs (1) - (6).
- (1) **Criminal history investigations.**
- (A) The family child care home owner or the primary caregiver submits;
- (i) a completed criminal history investigation conducted within the last 12 months including dispositions on all charges; and
- (ii) ~~Form 07LC096E, Criminal Background Review~~ a criminal history review request on a form provided by OKDHS, to OCCS licensing records office requesting an Oklahoma State ~~Court~~ Courts Network search for:
- (i) any person making application to operate a family child care home;
- (ii) all caregivers, including primary, substitute, and assistant caregiver, prior to employment and being left alone with children;
- (iii) all adults living in the facility; and
- (~~iv~~IV) persons age 18 years or older prior to their residence in the facility.
- (B) Criminal history investigations are not required for:
- (i) provider's children who become 18 years of age during continuous residence in the home; and
- (ii) a parent volunteer who transports children on an irregular basis.
- (C) Criminal history investigations must be obtained from:
- (i) the Oklahoma State Bureau of Investigation (OSBI); and
- (ii) the appropriate agency in the previous state(s) of residence if the person has resided in Oklahoma less than three years.
- (D) The OSBI report must include a search of the Oklahoma Department of Corrections files maintained by the OSBI pursuant to the Sex Offenders Offender Registration Act.
- ~~(E) Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office must be on file at the facility prior to any persons being employed or allowed to live in the facility.~~
- (2) **Child abuse registry check.** A child abuse registry check is conducted on all persons who sign the license application. A confirmed allegation of child abuse or neglect is considered when evaluating the qualifications of the applicant and the safety and well-being of the children in care.
- (3) **Verification of records search.**
- (A) **Prior to issuance of initial permit or change of ownership.** The facility must receive criminal history review results from the OCCS licensing records office for all employees and/or any persons age 18 years or older who live in the facility.
- (B) **Existing facilities.** The facility must submit a criminal history review request on a form provided by OKDHS to the OCCS licensing records office for all employees prior to employment and prior to any persons age 18 years or older being allowed to live in the facility. This request for review must be maintained on file at the facility while awaiting the results.
- (34) **Restrictions.** Persons who have pending charges, (unless waived by OCCS), or are convicted of or enter a plea of guilty or nolo contendere, no contest, to certain crimes cannot be licensed to care for children, live in a family child care home, provide care for children, or be a substitute or assistant caregiver, or be on the premises when children are in care. Those crimes include:
- (A) violence against a person;
- (B) child abuse or neglect;
- (C) possession, sale, or distribution of illegal drugs;
- (D) sexual misconduct;
- (E) gross irresponsibility or disregard for the safety of others;
- (F) animal cruelty; or
- (G) a pattern of criminal activity.

(45) **Request for waiver.** A primary caregiver may request a waiver from the requirement described in paragraph (3). A waiver may not be requested or granted to any person who has been convicted of a sex offense pursuant to the Sex Offenders Offender Registration Act or any person required to register under the Mary Rippey Violent Crime Offenders Registration Act.

(A) The waiver request is made in writing to OKDHS and considered by the waiver review committee.

(B) The person for whom the waiver is requested cannot be on the premises when children are in care while a decision is pending.

(C) The person for whom the waiver has been denied cannot be on the premises when children are in care.

(56) **Endangerment of children.** A person whose health or behavior would endanger the health, safety, or well-being of children is not permitted to live in the home or be on the premises when children are in care.

(67) **Alcohol, drugs, medication.** When children are in care, no caregiver is under the influence of:

(A) alcohol or illegal drugs; or

(B) medication that impairs functioning.

(d) **Training requirements.** Training requirements for caregivers are contained in (1) - (3) of this subsection. The training listed in paragraphs (2) through (3) is required prior to issuance of the initial permit.

(1) **General.** The primary caregiver is required to complete 12 clock hours of training annually through workshops, formal training, videos, or individual job-related readings. Annually, no more than six hours of videos or individual job-related readings is counted toward the required 12 hours.

(2) **CPR and first aid certification.** Prior to permission to operate or issuance of the initial permit, the primary caregiver and any person who cares for children alone, on or off the premises, including during transportation, must have documentation, which is maintained by the caregiver at the facility, of current completed certification in age-appropriate first aid and cardio-pulmonary resuscitation (CPR), as approved by OCCS licensing. CPR and first aid certification must be kept current with documentation maintained by the facility.

(3) **Health and safety training.** Prior to issuance of the initial permit the primary caregiver obtains training in:

(A) disease and injury prevention measures;

(B) use of a fire extinguisher; and

(C) health and safety issues, including:

(i) shaken baby syndrome;

(ii) ~~Sudden Infant Death Syndrome~~ sudden infant death syndrome (SIDS);

(iii) car seat safety;

(iv) safeguarding the home;

(v) immunizations;

(vi) the definition, identification, and mandatory reporting of child abuse and neglect; and

(vii) behavior and guidance methods.

340:110-3-88. Records

(a) **General requirements.** Children's records are kept on forms provided by the Oklahoma Department of Human Services (OKDHS) or on forms containing the same information. Records are kept current and easily accessible. OKDHS staff is allowed access to all records.

(b) **Caregiver records.** Records on all caregivers, including the primary caregiver, assistant caregivers, and substitute caregivers, are completed and maintained in the home. Records include:

(1) staff information forms provided by OKDHS;

(2) criminal history investigations with records maintained in a confidential manner;

(3) documentation of training;

(4) attendance records for each caregiver that reflect days and hours worked and are maintained on file for 120 days;

(5) ~~documentation from OKDHS on Form 07LC096E, Criminal Background Review, of Oklahoma State Courts Network records search of request and/or results of a criminal history review;~~ and

(6) ~~documentation from OKDHS on Form 07LC096E of receipt of Oklahoma State Bureau of Investigation eriminal history investigations~~ and when applicable, a criminal history investigation from the previous state(s) of residence if the individual has resided in Oklahoma less than the last three years.

(c) **Children's identification and health records.** Identification and health records include:

(1) the child's name, date of birth, name of parent(s), home address, parents' place of employment, and telephone numbers;

(2) the names and telephone numbers of responsible persons to contact in an emergency if a parent cannot be located promptly;

(3) permission of a parent authorizing the caregiver to transport the child to emergency medical care;

(4) names and relationships of persons authorized to pick up the child;

(5) health information, including record of immunizations;

(6) name, address, and telephone number of the child's physician;

(7) if applicable, medication and transportation permission; and

(8) the date child began care.

(d) **Attendance records.** Daily attendance records, including arrival and departure times, are maintained for each child and maintained on file a minimum of 120 days.

(e) ~~Insurance Notification.~~ If applicable, ~~Form 07LC093E, Insurance Exception Parent Notification, is maintained in the child's record.~~

(f) **Public access to records - Compliance Posting.**

(1) ~~The items listed in (A) - (B) are~~ Items posted within clear view of the main entrance are:

(A) OKDHS provided Form 07CL084E, "Notice to Parents"; and

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- (B) Form 04CP004E, Oklahoma Child Welfare Investigative Summary Notification to Child Care Licensing Services, with confirmed findings for 120 days from the completion of the investigation.
- (2) The granted waiver notification for individuals who have criminal histories as defined in OAC 340:110-3-85(c) are posted in a prominent place for as long as they are employed or living in the facility.
- (gf) **Compliance file.** A compliance file accessible to staff, parents, and others contains:
- (1) the most recent child care licensing monitoring report provided by the licensing specialist;
 - (2) the following documents issued by Child Care Licensing within the last 120 days:
 - (A) child care licensing monitoring reports and licensing correspondence;
 - (B) Form 07LC037E, Notice to Comply;
 - (C) licensing complaints; and
 - (D) Form 04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Licensing Services, with findings of unconfirmed to include findings of services not needed or services recommended; and
 - (3) Form 04CP004E, Child Welfare Investigative Summary Notification to Oklahoma Child Care Licensing Services, with findings of confirmed, for one year from the completion of the investigation.

340:110-3-89.1. Parent communication

- (a) **Policy.** A written statement of the caregiver's business policy is provided to parents, including:
- (1) the location and accessibility of the licensing compliance file;
 - (2) days and hours of operation, including ~~the~~ holidays the program is closed;
 - (3) procedure for:
 - (A) receiving and releasing a child from care, including a method of verifying the identity of a caller or person who picks up a child;
 - (B) notifying parents if a concern exists when a child does not arrive as scheduled;
 - (C) handling illness and injuries;
 - (D) storing and administering children's medication;
 - (E) notifying parents of field trips; and
 - (F) transporting children;
 - (4) care of ill children;
 - (5) mandatory reporting of child abuse or neglect; and
 - (6) behavior and guidance policy.
- (b) **Well-being of the child.** The caregiver informs parents of the child's physical and emotional well-being.
- (c) **OKDHS child care information.** Oklahoma Department of Human Services (OKDHS) Publication No. 87-91, The Parent's Parents' Guide to Selecting Quality Child Care, is made available to parents upon their child's enrollment.
- (d) **Access to the home.** Parents are provided access to all areas of the home used for child care during the hours that children are in care.

- (e) **Insurance.** A child care facility shall maintain liability insurance in accordance with Section 404.3 of Title 10 of the Oklahoma Statutes.

(1) When liability insurance is maintained, Form 07LC092E, Insurance Verification, that includes a certificate of insurance obtained from the insurance agent is completed and submitted annually, maintained at the facility, and made available to licensing which includes a certificate of liability insurance obtained from the insurance agent.

(2) When liability insurance is not maintained or the facility reports they are self-insured,

~~(A) Form 07LC094E, Insurance Exception Licensing Notification, is submitted to licensing; and~~

~~(B) Form 07LC093E, Insurance Exception Parent Notification, is updated annually and maintained at the facility in the child's records posted in clear view of the main entrance to the facility.~~

PART 9. REQUIREMENTS FOR RESIDENTIAL CHILD CARE FACILITIES

340:110-3-153. Finances

- (a) **Evidence of sufficient funds.** The facility demonstrates evidence of sufficient funds.

(1) A new facility submits a letter to the Oklahoma Department of Human Services (OKDHS) from a certified public accountant that documents the procedures in place for operating the fiscal management system so that the facility's financial statements can be audited at the end of the first fiscal year of operation.

(2) A new facility submits a budget for the first year of operation to OKDHS. The facility has predictable funds for the first year of operation, as well as reserve funds or documentation of reserve funds.

(3) The facility maintains a written plan of financing that projects sufficient funds to carry out their defined purposes and provide proper care for children.

- (b) **Fiscal responsibility.** The facility demonstrates fiscal responsibility.

(1) The executive director maintains complete financial records of all income and disbursements.

(2) If cash funds are received, the executive director requires all persons responsible for handling cash funds to be bonded.

- (c) **Accountability.** The facility demonstrates financial accountability.

(1) All financial records pertaining to the facility are audited annually by a certified public accountant, who is not a staff or board member of the facility, or audited in accordance with the governmental funding source.

(2) A copy of the auditor's letter, including a statement verifying that the facility's financial records accurately reflect its financial operations according to generally accepted accounting principles, is submitted to licensing.

- (d) **Insurance.** The facility maintains insurance. Insurance policies are available for licensing staff to review.

- (1) The facility is covered by property casualty insurance, unless operated by a government entity that is self-insured in accordance with state law.
- (2) The facility is covered by general liability insurance, unless the facility is exempt by state law. Coverage is at least \$200,000 for each occurrence of negligence. Form 07LC092E, Insurance Verification, that includes a certificate of insurance obtained from the insurance agent is completed annually, maintained at the facility, and made available to licensing.
- (3) Any vehicle used to transport children is covered by liability and medical insurance.

340:110-3-153.1. Personnel

- (a) **Personnel policy.** Personnel policy includes, but is not limited to, defining staff, essential job functions, qualifications, and lines of authority.
- (b) **Staff and responsibilities.** The facility recruits staff that have specialized skills, knowledge, and the cultural understanding and competencies necessary for quality residential care services.
 - (1) **Executive director.** The facility employs an executive director, superintendent, or administrator. In the absence of the executive director, a person is designated as in charge.
 - (A) The executive director, superintendent, or administrator is responsible for employing persons possessing adequate education, training, and experience to perform the essential functions of the job assigned. ~~The executive director ensures no persons are employed without receipt of Form 07LC096E, Criminal Background Review, completed by Oklahoma Child Care Services (OCCS) licensing records office.~~
 - (B) The executive director is responsible for implementing the policies adopted by the governing board.
 - (C) The executive director is responsible for the ongoing operation of the facility.
 - (2) **Program director.** The program director is responsible for implementing and supervising the facility's programs and services. The executive director may also serve as the program director, if the director meets the qualifications ~~in OAC 340:110-3-153.1 listed in subsection (d)(2) of this Section.~~
 - (3) **Social services staff.** The social services staff is responsible for admission assessments, placement services, counseling, casework services to residents and their families, service plans, service plan reviews, and discharge plans.
 - (4) **Child care staff.** The child care staff is responsible for meeting the needs of residents, taking into account their age, physical and mental condition, and other factors that affect the amount of attention indicated.
 - (5) **Support staff.** The support staff is responsible for providing support duties.
 - (6) **On-call and part-time staff.** On-call and part-time staff is responsible for the duties of the position to which they are assigned.

- (c) **Volunteers.** If a facility uses volunteers, the facility has current, written volunteer policy.
 - (1) Volunteers counted in the staff to child ratio meet all requirements for child care staff.
 - (2) Volunteers receive orientation before having contact with residents.
 - (3) Volunteers work under the direct supervision of the executive director or a designated staff member.
- (d) **Executive director and program director qualifications.** The executive director, superintendent, or administrator, and program director possess adequate education, training, and experience to perform the essential functions of the position.
 - (1) In a facility where the executive director operates primarily as an administrator and employs a program director, an executive director hired after June 15, 1990 has a minimum of a bachelor's degree from an accredited college or university.
 - (2) A person hired after June 15, 1990, who is solely responsible for direct program supervision, whether the executive director or the program director, meets one of the qualifications in (A) - (D) of this paragraph:
 - (A) a bachelor's degree in a behavioral science or other related area of study from an accredited college or university and three years of experience in children's services;
 - (B) a master's degree in social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university and two years of experience in children's services;
 - (C) a doctorate in medicine, social work, psychology, guidance and counseling, sociology, child development, human relations, or other related area of study from an accredited college or university and one year of experience in children's services; or
 - (D) for programs specializing in substance abuse treatment, the program director is a Qualified Substance Abuse Professional (QSAP).
- (e) **Child care and supervisory staff qualifications.** Child care and supervisory staff possess adequate education, training, and experience to perform the essential functions of the position.
 - (1) All child care workers are 21 years of age or older.
 - (2) Staff hired after June 15, 1990, have a high school diploma or its equivalent within one year of employment.
- (f) **Social services staff qualifications.** Social services staff whether employees or contractors possess adequate education, training, and experience to perform the essential functions of the position.
 - (1) Social services supervisory staff, hired after June 15, 1990, who are responsible for developing and implementing the facility's social services program, meet one of the qualifications in (A) - (C) of this paragraph:
 - (A) a bachelor's degree in social work from an accredited college or university;
 - (B) a bachelor's degree in behavioral science, social science, or other related area of study from an

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- accredited college or university and one year of experience in children's services; or
- (C) for programs specializing in substance abuse treatment, the social services supervisory staff is supervised by a ~~Qualified Substance Abuse Professional (QSAP)~~.
- (2) Social services staff hired after June 15, 1990, who provide only casework services have a bachelor's degree in a related area of study from an accredited college or university.
- (g) **Employment requirements.** Staff meet the requirements outlined in this subsection.
- (1) **References.** The facility obtains a minimum of three references for all staff prior to employment.
- (A) References include the date, interview questions, responses, and the interviewer's signature.
- (B) Copies of references are maintained in the employee's personnel record.
- (2) **Tuberculin test.** Upon employment, each employee has a documented mantoux (PPD) tuberculin skin test with a booster, if needed, within the previous 12 months, unless the employee shows medical verification of a previous positive skin test.
- (A) Only tests read by a physician or nurse are accepted.
- (B) Employees with a new positive tuberculin skin test reaction have a chest x-ray. Employees with a previous history of a positive skin test present documentation of a chest x-ray. Further x-rays are not required unless signs or symptoms suggestive of tuberculosis develop.
- (C) Employees with a positive skin test reaction submit annual documentation by medical personnel that signs or symptoms of tuberculosis are not present.
- (3) **Performance evaluation.** Each employee has a written job performance evaluation at least annually, which is maintained in the employee's personnel record.
- (h) **Criminal history investigations.** Staff criminal history investigations are maintained in a confidential manner, separate from the individual's personnel record. [10 O.S. § 404.1]
- (1) **Owner or executive director responsibility.** Section 404.1 et seq. of Title 10 of the Oklahoma Statutes requires that every child care facility submits, prior to employment;
- (A) a completed criminal history investigation conducted within the last 12 months including dispositions on all charges; and ~~Form 07LC096E, Criminal Background Review;~~
- (B) a criminal history review request on a form provided by Oklahoma Department of Human Services OKDHS to Oklahoma Child Care Services (OCCS) licensing records office requesting an Oklahoma State Courts Network search for:
- (A_i) any person making application to establish or operate a child care facility;
- (B_{ii}) each applicant prior to employment, including all caregivers, substitutes, support staff,
- and any other person employed by the facility or program; or
- (C_{iii}) adults, including providers' spouses or adult children, who live in the child care facility.
- (2) **Unsupervised access to children.** ~~Obtain The facility obtains~~ a completed criminal history investigation for persons who have unsupervised access to children, such as lab students, Temporary Assistance ~~to for~~ Families (TANF) Work Experience Program (WEP) workers, volunteers, contracted staff, or janitors.
- (3) **Exceptions.** Criminal history investigations are not required for:
- (A) staff who move to a new facility operated by the same organization;
- (B) volunteers who have access to children when facility staff are present with children at all times;
- (C) contracted staff that provide transportation, lessons, or other services if facility staff are present with children at all times;
- (D) providers' children who become adults, age 18, during continuous residence at the licensed facility.
- (4) **Authorized agencies.** Criminal history investigations are acceptable only when:
- (A) conducted by the Oklahoma State Bureau of Investigation (OSBI); and
- (B) conducted by the appropriate agency in the previous state(s) of residence if the individual has resided in Oklahoma less than three years.
- (5) **Sex Offender Registry.** The OSBI report includes a search of the ~~Oklahoma~~ Department of Corrections' files maintained by the OSBI pursuant to the Sex Offender Registration Act.
- (6) **Verification of records search.** ~~Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office must be on file at the facility prior to any persons being employed.~~
- (A) **Prior to issuance of initial permit or change of ownership.** The facility must receive criminal history review results from the OCCS licensing records office for all employees.
- (B) **Existing facilities.** The facility must submit a criminal history review request on a form provided by OKDHS to the OCCS licensing records office for all employees, prior to employment. This request for review must be maintained on file at the facility while awaiting the results.
- (i) **Prohibitions.** The facility is restricted from knowingly hiring a person who:
- (1) has pending charges, ~~(unless waived by OCCS),~~ entered a plea of guilty or nolo contendere, no contest, or been convicted of:
- (A) any criminal activity involving violence against a person;
- (B) child abuse or neglect;
- (C) possession, sale, or distribution of illegal drugs;
- (D) sexual misconduct;
- (E) gross irresponsibility or disregard for the safety of others;

- (F) animal cruelty; or
- (G) pattern of criminal activity.
- (2) is required to register pursuant to the Sex Offender Registration Act or Mary Rippy Violent Crime Offenders Registration Act. [57 O.S. § 581 et seq.]
- (j) **Request for waiver.** The facility director may request a waiver from the requirements listed in subsection (i) of this Section. However, a waiver may not be requested or granted to any person who has been convicted of a sex offense pursuant to the Sex Offender Registration Act or any person required to register the Mary Rippy Violent Crime Offenders Registration Act.
 - (1) The waiver request is made in writing to ~~the Oklahoma Department of Human Services (OKDHS)~~ and considered by the waiver review committee.
 - (2) The person for whom the waiver is requested cannot be employed until a decision is made.
- (k) **Restrictions.** The restrictions contained in this subsection apply to employees and persons who provide services to the facility.
 - (1) Persons who are employed by the facility or who provide services to the facility may not use or be under the influence of, alcohol or illegal drugs during hours of work.
 - (2) If a staff member is alleged to have committed an act described in subsection (i) of this Section, the facility's executive director determines and documents whether the staff member is removed from contact with children until the allegation is resolved. However, if criminal charges are filed, the accused is removed from contact with children until the charges are resolved.
 - (3) A person who has received a deferred sentence for any charge in paragraph (1) of subsection (i) of this Section is removed from contact with children for the duration of the deferment.
- (l) **Orientation.** Staff receive orientation within 30 days of employment.
 - (1) Staff who will work with residents receive orientation before being assigned as the primary staff responsible for residents.
 - (2) Orientation includes, but is not limited to:
 - (A) confidentiality;
 - (B) resident grievance process;
 - (C) fire and disaster plans;
 - (D) suicide awareness and protocol;
 - (E) emergency medical procedures;
 - (F) organizational structure;
 - (G) program philosophy;
 - (H) personnel policy and procedure;
 - (I) the mandatory reporting of child abuse; and
 - (J) administrative policy and procedure regarding behavior management.
 - (3) The publication no. 86-78, Licensing Requirements for Residential Child Care Facilities, OKDHS publication number 86-78 is part of the orientation process and is available to staff at all times.
 - (4) Orientation may be counted toward the total training hours for the first year.

(m) **Staff training.** Staff meet the requirements for training contained in (1) - (6) of this subsection.

(1) **Training for the administrator and program director.** The administrator and program director obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who have not been employed for a full year. The content pertains to the roles and responsibilities of the position.

(2) **Training for social services staff.** Social services staff, including licensed mental health professionals and those providing casework services, obtain a minimum of 12 clock hours of continuing education per calendar year. Hours are prorated at one hour per month for staff who have not been employed for a full year. The content pertains to the roles and responsibilities of the position.

(3) **Training for child care staff.** Child care staff receive training.

(A) Full-time child care staff obtain a minimum of 24 clock hours per calendar year of staff development courses. Hours are prorated at two hours per month for staff who have not been employed for a full year.

(B) Part-time child care staff obtain a minimum of 12 clock hours per calendar year of staff development courses.

(C) On-call or substitute child care staff obtain a minimum of six clock hours per calendar year of staff development courses.

(D) The content for staff development courses for child care staff pertains to the roles and responsibilities of the position assigned.

(E) When residents are in care on the program premises or on any program sponsored field trip, at least one staff is present who has current documentation of certification in age-appropriate first aid and cardio-pulmonary resuscitation (CPR). All other child care staff complete training in first aid and CPR, including infant and child if appropriate, within 90 days of employment. Child care staff maintain current training in CPR and first aid thereafter.

(i) CPR training is conducted by an individual certified as an instructor through the:

(I) American Red Cross;

(II) Emergency Medical Services (EMS) Safety Services;

(III) Emergency Care and Safety Institute;

(IV) American Heart Association or American Heart sponsored CPR for Family and Friends; or

(V) American Safety and Health Institute.

(ii) First aid training is conducted by a person certified as a first aid instructor, or a health professional using a curriculum from an OKDHS approved source through:

(I) Emergency Medical Services for Children (EMSC) First Care;

(II) American Red Cross;

(III) EMS Safety Services;

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- (IV) Emergency Care and Safety Institute;
 - (V) American Heart Association;
 - (VI) American Safety and Health Institute;
 - (VII) American Academy of Pediatrics First Aid for Caregivers and Teachers (PedFACTs); or
 - (VIII) another OKDHS approved source.
- (4) **Training for support staff.** Support staff who occasionally provide instruction or training to residents obtain a minimum of six clock hours of staff development courses per calendar year. The content is relative to the role and responsibility of the position or relative to interacting with residents.
- (5) **Behavioral intervention techniques.** Within 30 days of employment, and prior to being solely responsible for residents, child care staff and those support staff that occasionally provide instruction or training to residents complete training or provide proof of current certification in behavioral intervention techniques that includes:
- (A) rules and appropriate consequences of various interventions;
 - (B) techniques for early de-escalation and preventive intervention;
 - (C) team approaches to behavior management;
 - (D) verbal crisis intervention; and
 - (E) safe and appropriate physical restraint.
- (6) **Training for contracted personnel.** Contracted personnel not providing direct care or counted in the supervision ratio are exempt from meeting staff training requirements as listed in ~~OAC 340:110-3-153.1 subsection (m)(1) - (5) of this Section.~~
- (n) **Documentation.** All orientation and training hours are documented and available for licensing staff to review. Documentation includes the names of staff members who attended, course title, course description, date, hours attended, and the trainer or facilitator.
- (o) **Personnel records.** Facilities maintain personnel records for each employee.
- (1) The facility submits to ~~the~~ OKDHS at the time of application:
 - (A) a current list of employees; and
 - (B) a staff information sheet, provided by ~~the~~ OKDHS, for each employee.
 - (2) The facility maintains on file a written personnel record for each employee working at the facility, which is kept for at least one year following an employee's separation from employment. The personnel record includes:
 - (A) an application, resume, or staff information sheet that documents qualifications for the position;
 - (B) any health records required by the facility;
 - (C) documentation of the mantoux (PPD) tuberculin skin test and annual documentation by a health professional for child care staff who have had a positive tuberculin skin test reaction that signs or symptoms of tuberculosis are not present;
 - (D) ~~documentation from OKDHS on Form 07LC096E, Criminal Background Review, of~~

- ~~Oklahoma State Courts Network records search of request and/or results of a criminal history review;~~
- (E) ~~documentation from OKDHS on Form 07LC096E, Criminal Background Review, of receipt of Oklahoma State Bureau of Investigation criminal history investigations and when other applicable, a criminal history investigation from the previous state(s) of residence if the individual has resided in Oklahoma less than three years records;~~
- (F) three references;
- (G) annual performance evaluations and any reports and notes relating to the individual's employment with the facility;
- (H) date of employment; and
- (I) date and reason for leaving employment.

340:110-3-168. Requirements for residential treatment facilities

- (a) **Residential treatment facilities.** A residential treatment facility cares for children under 24-hour medical care who have emotional, psychological, or mental disorders.
- (b) **Requirements.** The facility complies with the rules contained in OAC 340:110-3-145 through 340:110-3-165.1, except as otherwise provided in this Section.
- (c) **Criminal background investigations.** Hospitals contracting with the Oklahoma Health Care Authority (OHCA) are exempt from submitting a criminal history review request to Oklahoma Child Care Services (OCCS) licensing records office. Documentation of all criminal history records searches are maintained at the hospital and are available for review by OCCS.
- (ed) **Personnel.** The facility:
 - (1) complies with the rules regarding personnel contained in OAC 340:110-3-153.1; and
 - (2) employs a psychiatrist and adequate medical staff to meet the medical needs of the residents.
- (de) **Supervision of residents.** The facility is exempt from the rules contained in OAC 340:110-3-153.2 regarding supervision of residents.
 - (1) The facility employs a sufficient number of staff as child care workers to adequately supervise and meet the needs of residents. Staff members are awake and accessible at all times.
 - (2) The facility maintains a ratio of one staff person for:
 - (A) six residents (1:6) during awake hours; and
 - (B) eight residents (1:8) during sleeping hours.
 - (3) When the admission to a psychiatric residential treatment facility is ordered by a medical doctor, the doors may be locked.
- (ef) **Admission.** A health professional reviews and approves the admission assessment within 24 hours of admission.
- (fg) **Service planning.** The facility is exempt from the rules contained in OAC 340:110-3-154(b)(1) and (2) regarding service plans.
 - (1) The facility meets the requirements contained in:
 - (A) 1) and (2) of this subsection; and
 - (B) OAC 340:110-3-154(b)(1)(A) and (B) and (b)(2)(B) and (C).

- (2) A written service plan for each resident is:
 - (A) developed and documented within four working days after admission; and
 - (B) reviewed at least every five to nine calendar days thereafter unless approved by ~~the Oklahoma Health Care Authority~~ **OHCA**.
- (gh) **Portable pools.** The facility is exempt from the rules contained in OAC ~~340:110-3-63~~ **340:110-3-163**(14)(B). Therapeutic water activities are permitted when prescribed by attending physicians, included in a treatment plan and provisions are made to insure hygienic practices. When portable pools are used as part of a therapeutic activity children are directly supervised at all times. Portable pools are:
 - (1) no larger than six feet in diameter; and
 - (2) contain water no more than six inches in depth.
- (hi) **Discharge procedures.** The facility meets the rules contained in OAC 340:110-3-154(d) regarding discharge procedures. The facility:
 - (1) supplies residents with a prescription for two weeks' worth of medication, if appropriate, upon discharge; and
 - (2) documents in the resident's record at least one scheduled outpatient follow-up contact within two weeks of discharge.
- (ij) **Visitation.** The facility is exempt from the rules contained in OAC 340:110-3-154.1(b)(2) regarding visitation restriction reviews. Reasons for visitation restrictions are:
 - (1) explained to the resident and parents or custodian;
 - (2) documented in the resident's records; and
 - (3) reviewed every seven days.
- (jk) **Behavior management.** The facility is exempt from the rules contained in OAC 340:110-3-154.2(b)(7), (10), and (11) regarding seclusion and restraint. If the facility uses seclusion and restraint, it must meet the requirements contained in (1) through (5) of this subsection.
 - (1) **Seclusion.** Seclusion may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others. Resident is released from seclusion when resident is no longer deemed a risk to self or others. A written incident report is completed within 24-hours following each use of seclusion.
 - (A) Seclusion is used only with specific verbal authorization of a health professional. The authorization must be written and signed by a health professional within 24-hours.
 - (B) While in seclusion, a staff member continuously monitors the resident, either in person or with audiovisual equipment, and personally checks the resident's well-being every 15 minutes. The resident receives appropriate medical and psychological services.
 - (C) The resident has reasonable access to toilet facilities and to all scheduled meals while in seclusion.
 - (D) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from seclusion.
 - (i) Residents age ten years and older do not remain in seclusion longer than two hours or a total of six non-consecutive hours within any 24-hour period.
 - (ii) Residents age nine years and younger do not remain in seclusion longer than one hour within any 24-hour period.
 - (2) **Seclusion room.** A room used for seclusion includes:
 - (A) at least 60 square feet and a ceiling height of seven feet, six inches;
 - (B) a safety glass window, mirror, or camera that allows for full observation of the seclusion room;
 - (C) no hardware or furnishings that obstruct observing the child at all times;
 - (D) no hardware, equipment, or furnishings that present a physical hazard or suicide risk;
 - (E) means for natural or mechanical ventilation;
 - (F) means for maintaining a temperature between 65 and 85 degrees Fahrenheit;
 - (G) lighting for all areas of the room; and
 - (H) an automatic fire suppression system.
 - (3) **Mechanical restraint.** Mechanical restraint may only be used when less restrictive interventions, according to facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others. Resident is released from mechanical restraint when resident is no longer deemed a risk to self or others. A written incident report is completed within 24-hours following each use of mechanical restraint.
 - (A) Mechanical restraint is used only with specific verbal authorization of a health professional. The authorization must be written and signed by the health professional within 24-hours.
 - (B) As soon as the resident sufficiently gains control and is no longer a serious and immediate danger, the resident is released from mechanical restraint.
 - (i) Residents age ten years and older do not remain in mechanical restraint longer than two hours.
 - (ii) Residents age nine years and younger do not remain in mechanical restraint longer than one hour.
 - (C) Mechanical restraint is used on the resident in a comfortable and humane manner.
 - (i) Resident's hands are not restrained to his or her feet.
 - (ii) Mechanical restraints are padded or cushioned.
 - (D) A staff member continuously monitors, either in person or with audiovisual equipment, the resident and personally checks the resident's well-being every 15 minutes.
 - (E) The resident receives appropriate medical and psychological services.
 - (4) **Chemical restraint.** Chemical restraint may only be used when less restrictive interventions, according to

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facility policy, have been attempted or when an immediate intervention is required to protect the resident, staff member, or others. A written incident report is completed within 24-hours following each use of chemical restraint.

- (A) Chemical restraint is used only with specific verbal authorization of a health professional. The authorization must be written and signed by the health professional within 24-hours.
 - (B) Chemical restraint is administered to the resident in a humane manner.
 - (C) A staff member continuously monitors, either in person or with audiovisual equipment, the resident and personally checks the resident's well-being every 15 minutes.
 - (D) The resident receives appropriate medical and psychological services.
- (5) **Seclusion and restraint log.** A seclusion and restraint log is kept, and a report containing all information in the log is part of the resident's record. The log includes:
- (A) date and time of placement in seclusion or in restraint;
 - (B) name of the health professional authorizing the use of restraint or seclusion;
 - (C) reason for the use of restraint or seclusion and other behavior management techniques attempted;
 - (D) observation times, including a description of the resident's activity at each observation, and the signature of the person observing the resident; and
 - (E) time the resident is released from seclusion or restraint.

PART 14. REQUIREMENTS FOR SCHOOL-AGE PROGRAMS

340:110-3-223. Organization

- (a) **Responsible agent.** A school-age program is operated by a public or private organization or an individual.
- (1) A public school-age program is created and exists by an act of the state, county, city, or other political subdivision and operated under the control of a governmental agency.
 - (2) A not-for-profit school-age program operates under a governing board responsible for developing policies and establishing and maintaining a sound financial structure.
 - (3) A proprietary school-age program's owner is responsible for the policy and financial structure of the program.
- (b) **Purpose.** A statement defining the purpose or function of the program is filed with Oklahoma Department of Human Services (OKDHS) and includes:
- (1) licensed capacity;
 - (2) ages of children accepted;
 - (3) hours of operation; and
 - (4) type of care and services offered.
- (c) **Notifications.** Requirements pertaining to notifications are contained in this subsection.

(1) The items displayed in a prominent place where staff, parents, and others may view them are:

- (A) the program's license, permit, or notice of denial, or revocation of license;
- (B) name of the person responsible for the program during the director's absence;
- (C) notice of the requirement to report suspected child abuse and neglect;
- (D) notice prohibiting smoking anywhere in the facility while children are in care;
- (E) the daily program schedule;
- (F) emergency procedures;
- (G) weekly menu of all food provided by the program;
- (H) evacuation plan;
- (I) dates fire and tornado drills were conducted; and
- (J) a time schedule for use of outdoor play space if the program is licensed for 24 or more children and has outdoor play space of less than 75 square feet per child.

(2) Form 07LC093E, Insurance Exception Notification, if applicable per OAC 340:110-3-224(c), is posted in clear view of the main entrance to the facility.

(23) In accordance with Section 7103 of Title 10 of the Oklahoma Statutes, any person who has reason to believe a child has been abused or neglected is required to report the matter promptly to OKDHS. It is a misdemeanor for any person to fail to report.

(34) The program is required to notify Licensing Services by the next working day of:

- (A) a temporary, unscheduled, or permanent closing of the program;
- (B) a change in the director;
- (C) changes in liability insurance coverage;
- (D) any damage to the facility that affects the amount of usable square footage or compliance with any requirement;
- (E) legal action against a program or staff person that involves or affects a child in care or the operation of the program;
- (F) any known criminal charges or child abuse investigations involving staff that are pending or have had a disposition;
- (G) an accident involving transportation unless there were no injuries and only minor damage to the vehicles;
- (H) any injury to a child requiring emergency medical attention; and
- (I) the death of a child that occurred while the child was in care.

(45) The program is required to notify Licensing at least 30 days prior to:

- (A) a change in ownership or sponsorship;
- (B) a change in the name of the program;
- (C) any change or alteration to the physical facility that affects the amount of usable square footage or compliance with any requirements;

- (D) the anticipated closing or relocation of the program; and
 - (E) a proposed change in the licensed capacity.
- (d) **Public access to records - Compliance Posting.**
- (1) ~~The items (A) — (B) are~~ Items posted within clear view of the main entrance are:
 - (A) OKDHS provided "Notice to Parents"; and
 - (B) Form 04CP004E, Child Welfare Investigative Summary Notification to Child Care Licensing Services, with confirmed findings, for 120 days from the completion of the investigation.
 - (2) The granted waiver notification for individuals who have criminal histories as defined in OAC 340:110-3-226(c) are posted in a prominent place, for as long as they are employed or living in the facility.
- (e) **Compliance file.** A compliance file is accessible to staff, parents, and others contains:
- (1) the most recent child care licensing monitoring report provided by the licensing specialist;
 - (2) the following documents issued by Child Care Licensing within the last 120 days:
 - (A) child care licensing monitoring reports and licensing correspondence;
 - (B) Form 07LC037E, Notice to Comply;
 - (C) licensing complaints; and
 - (D) Form 04CP004E, Child Welfare Investigative Summary Notification to Child Care Licensing Services, with findings of unconfirmed to include findings of services not needed or services recommended; and
 - (3) Form 04CP004E, Child Welfare Investigative Summary Notification to Child Care Licensing Services, with findings of confirmed, for one year from the completion of the investigation.
- (f) **Effect of change in ownership or location on license.** When a program changes ownership or location:
- (1) the license is not transferable and is returned to OKDHS; and
 - (2) the program is required to meet current licensing requirements.

340:110-3-224. Policy and procedure

- (a) **Content.** A written statement of the program's policy and procedure is available to staff and parents and includes, but is not limited to:
- (1) a brief program description;
 - (2) ages of children accepted;
 - (3) days and hours of operation including the holidays the program is closed;
 - (4) fees;
 - (5) the location and accessibility of the licensing compliance file;
 - (6) procedure for:
 - (A) receiving and releasing children from the program including a method of verifying the identity of a caller or person who picks up a child;
 - (B) prompt notification of parents when a child does not arrive as scheduled;

- (C) storing children's personal belongings and money;
 - (D) the handling of illnesses and injuries, including procedures when children are away from the program;
 - (E) storing and administering children's medicines;
 - (F) notifying parents of field trips;
 - (G) transportation of children;
 - (H) caring for school-age children who arrive late for field trips when that child's group has already left the program;
 - (I) mandatory reporting of child abuse;
 - (J) meals and snacks including days when children are on field trips; and
 - (K) discipline policy.
- (b) **Personnel policy.** When there are more than four staff persons, the program is required to provide written personnel policy to staff that includes:
- (1) job responsibilities, qualifications, and lines of authority; and
 - (2) staff performance evaluation and termination procedure.
- (c) **Insurance.** A child care facility shall maintain liability insurance in accordance with Section 404.3 of Title 10 of the Oklahoma Statutes.
- (1) When liability insurance is maintained, Form 07LC092E, Insurance Verification, that includes a certificate of insurance obtained from the insurance agent is completed and submitted annually, maintained at the facility, and made available to licensing which includes a certificate of liability insurance obtained from the insurance agent.
 - (2) When liability insurance is not maintained or the facility reports they are self-insured:
 - (A) ~~Form 07LC094E, Insurance Exception Licensing Notification, is submitted to licensing; and~~
 - (B) ~~Form 07LC093E, Insurance Exception Parent Notification, is updated annually and maintained at the facility in the child's records posted at the facility.~~

340:110-3-225. Records

- (a) **Program records.** Licensing staff have access to all records and reports addressed in this Section.
- (b) **Children's records.** Records are obtained at the time of admission for each child in care, including teen aides, regardless of the length of time the child is in care.
- (1) Children's records are kept at the program, are available to staff during all hours of child care, and are kept current.
 - (2) Identification and health records are kept on forms provided by Oklahoma Department of Human Services (OKDHS) or on other forms that contain:
 - (A) the child's name, date of birth, name of parent(s), home address, parent(s)' places of employment, and telephone numbers;
 - (B) the name and telephone number of a responsible person to contact in an emergency if the parent(s) cannot be located promptly;

Emergency Adoptions

- (C) permission of the parent authorizing the program to transport the child for emergency medical care;
 - (D) name of person(s) permitted to pick up the child;
 - (E) health information;
 - (F) current immunization record. If a school-age program is located in a school that maintains current immunization records, duplicate records are not required;
 - (G) name, address, and telephone number of a physician to call in an emergency;
 - (H) date of acceptance and withdrawal from the program; and
 - (I) medication and transportation permission if applicable.
- (3) The program is required to maintain readily available attendance records for each child for a minimum of 120 days.
- ~~(4) If applicable, Form 07LC093E, Insurance Exception Parent Notification, is maintained in the child's records.~~
- (c) **Teen aide records.** In addition to the required records for teen aides listed in OAC 340:110-3-6(b), a written agreement signed by the parent or guardian of the teen aide must be maintained on file at the facility. The agreement includes:
- (1) the duties and responsibilities of the teen aide;
 - (2) the name of the lead teacher responsible for supervising the teen aide; and
 - (3) the written consent of the parent or guardian for the child to work as a teen aide.
- (d) **Staff records.** Staff records are completed on forms provided OKDHS and maintained at the facility or made available to Licensing. Staff records include:
- (1) name, birth date, address, telephone number, and Social Security number;
 - (2) references, including previous employers if any, and the name, address, telephone number, and dates of employment;
 - (3) a statement regarding criminal history and child abuse investigations;
 - (4) criminal history investigations maintained in a confidential manner and not part of the individual's personnel records, pursuant to Section 404.1 of Title 10 of the Oklahoma Statutes;
 - (5) a report of an examination by a licensed physician or mental health professional when there is concern about an employee's ability to perform normal duties because of a possible physical, mental, or emotional problem;
 - (6) documentation of orientation and training;
 - (7) attendance records for each staff person;
 - (8) ~~documentation from OKDHS on Form 07LC096E, Criminal Background Review, of Oklahoma State Courts Network records search of request and/or results of a criminal history review; and~~
 - (9) ~~documentation from OKDHS on Form 07LC096E of receipt of Oklahoma State Bureau of Investigation criminal history investigations and when applicable, a~~

criminal history investigation from the previous state(s) of residence if the individual has resided in Oklahoma less than three years.

340:110-3-226. Requirements for school-age program employees

- (a) **General.** All employees are required to be of good character and possess adequate education, training, or experience to provide them with the skills to perform the essential functions of the job with or without reasonable accommodation. Each employee is required to:
- (1) provide annual documentation that he or she meets the health and training requirements contained in OKDHS Publication no. 97-10 Licensing "Requirements for School-Age Programs and Summer Day Camps" ~~OKDHS Publication no. 97-10;~~
 - (2) demonstrate the ability to perform assigned job responsibilities;
 - (3) recognize and act to correct hazards to physical safety, both indoors and outdoors;
 - (4) be able to work with children without recourse to physical punishment, mistreatment, or child abuse; and
 - (5) demonstrate good judgment as evidenced by prudent and responsible behavior that reasonably ensures the health and safety of children in care.
- (b) **Criminal history investigations.** Requirements for programs pertaining to criminal history investigations are contained in this subsection.
- (1) **Responsibility of owner or director.** The program's owner or director submits;
 - (A) a completed criminal history investigation conducted within the last 12 months including dispositions on all charges; and
 - (B) ~~Form 07LC096E, Criminal Background Review~~ a criminal history review request on a form provided by OKDHS, to Oklahoma Child Care Services (OCCS) licensing records office requesting an Oklahoma State ~~Court~~ Courts Network search for:
 - (A*i*) any person making application to establish or operate a school-age program;
 - (B*ii*) each applicant prior to employment, including all caregivers, substitutes, auxiliary staff, and any other person employed by the program;
 - (C*iii*) adults, including providers' spouses or adult children, who live in the facility; and
 - (D*iv*) persons age 18 years or older prior to their residence in the facility.
 - (2) **Responsibility of owner or director.** Program's owner or director obtains a completed criminal history investigation for persons who have unsupervised access to children, such as lab students, Work Experience Program (WEP) workers, volunteers, contracted staff, or custodians.
 - (3) **Exceptions.** Criminal history investigations are not required for:
 - (A) staff who move to a new program operated by the same organization;

- (B) contracted staff who provide transportation, lessons, or other services if facility staff are present with children at all times;
- (C) parent volunteers who transport children on an irregular basis; and
- (D) providers' children who become adults, age 18, during continuous residence at the licensed facility.
- (4) **Authorized agencies.** Criminal history investigations are accepted only when conducted by:
 - (A) the Oklahoma State Bureau of Investigation (OSBI); and
 - (B) the authorized agency in the previous state(s) of residence if the individual has resided in Oklahoma less than three years.
- (5) **Sex Offenders Offender Registry.** The OSBI report must include a search of Oklahoma Department of Corrections' files maintained by OSBI pursuant to the Sex Offenders Offender Registration Act.
- (6) **Verification of records search.** ~~Form 07LC096E, Criminal Background Review, completed by Oklahoma Child Care Services licensing records must be on file at the facility prior to any persons being employed or allowed to live in the facility.~~
 - (A) **Prior to issuance of initial permit or change of ownership.** The facility must receive criminal history review results from the OCCS licensing records office for all employees and/or any persons age 18 years or older who live in the facility.
 - (B) **Existing facilities.** The facility must submit a criminal history review request on a form provided by OKDHS to the OCCS licensing records office for all employees prior to employment and prior to any persons age 18 years or older being allowed to live in the facility. This request for review must be maintained on file at the facility while awaiting the results.
- (c) **Prohibitions to employment.** The program is prohibited from knowingly employing a person who:
 - (1) has entered a plea of guilty or nolo contendere, no contest, or has been convicted of:
 - (A) any criminal activity involving violence against a person;
 - (B) child abuse or neglect;
 - (C) possession, sale, or distribution of illegal drugs;
 - (D) sexual misconduct; or
 - (E) gross irresponsibility or disregard for the safety of others;
 - (2) is required to register pursuant to the Sex Offenders Offender Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.
- (d) **Request for a waiver.** The program director may request a waiver from the requirements. A waiver may not be requested or granted to any person who has been convicted of a sex offense pursuant to the Sex Offenders Offender Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.
- (1) The waiver request is made in writing to the ~~Oklahoma Department of Human Services (OKDHS)~~ and considered by the waiver review committee.
- (2) The person for whom the waiver is requested is not employed until a decision has been made.
- (e) **Restrictions.**
 - (1) Any person whose health or behavior would endanger the health, safety, or well-being of children is prohibited from being on the premises or having contact with children in care.
 - (2) An employee who is under the effects of alcohol, illegal drugs, or medication that impairs functioning is prohibited from providing child care services.
- (f) **Child abuse.** The requirements pertaining to child abuse are contained in this subsection.
 - (1) Any caregiver who has reason to believe that a child has been abused is required to promptly contact the ~~county office of local~~ OKDHS human services center or the statewide toll-free Child Abuse Hot Line, 1-800-522-3511.
 - (2) Staff are required to cooperate fully in the investigation of any allegation.
- (g) **Health.** Requirements pertaining to employees' health are contained in this subsection.
 - (1) **Tuberculosis testing.** The need for tuberculin skin testing of employees is based upon a local identified tuberculosis exposure, the degree of risk of transmission of latent tuberculosis infection, the impact to public health and safety and the specific recommendations of the Oklahoma State Department of Health.
 - (2) **Impairment of job performance.** OKDHS ~~Oklahoma Child Care Services (OCCS)~~ Licensing Services (Licensing) may require a report of a physical or psychological examination by a licensed physician or mental health professional if it is reported or observed that an employee has a physical, mental, or emotional condition that impairs the employee's ability to perform assigned job responsibilities.
- (h) **Employee qualifications.** Requirements applicable to employee qualifications are contained in this subsection.
 - (1) **Director.** The director of a school-age program is required to be at least 21 years of age and have:
 - (A) a high school diploma or General Educational Development (GED) and two years of satisfactory full-time experience in a related school-age, educational, or child care setting;
 - (B) a high school diploma or GED and 12 college credit hours in child development, elementary, or secondary education, or a closely related subject and one year of satisfactory experience in a related school-age, educational, or child care setting;
 - (C) an associate or bachelor degree with at least 12 college credit hours in child development, elementary or secondary education or a closely related subject; or
 - (D) a high school diploma or GED and successful completion of a school-age child care training program that meets the criteria approved by the Child Care Advisory Committee.

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- (2) **Lead teacher.** Lead teachers are required to be at least 19 years of age and have:
- (A) a high school diploma or GED and one year of satisfactory full-time experience in a related school-age, educational, or child care setting;
 - (B) a high school diploma or GED and 12 college credit hours in child development, elementary, or secondary education or a closely related subject;
 - (C) an associate degree with at least six college credit hours in child development, early childhood, elementary, or secondary education or a closely related subject; or
 - (D) a high school diploma or GED and successful completion of a school-age training program that meets the criteria approved by the Child Care Advisory Committee.
- (3) **Teachers.** Teachers hired after September 1, 1997 are required to:
- (A) be at least 18 years of age;
 - (B) have a high school diploma or GED; or
 - (C) have completed the tenth grade and be in the process of obtaining a GED for a period not to exceed 12 months.
- (4) **Assistant teachers.** Assistant teachers are at least 16 years of age and:
- (A) have a high school diploma or GED; or
 - (B) are currently enrolled in school.
- (5) **Substitutes.** Substitutes must be at least 18 years of age. Substitutes who have worked more than 40 hours in the program are required to comply with the minimum requirements for the position they are filling.
- (6) **Teen aides.** Teen aides are at least 13 years of age.
- (i) **Responsibilities of employees and volunteers.** Responsibilities of employees and volunteers are described in this subsection.
- (1) **Director.** The director, or on-site staff person who meets director's qualifications, is present at the program at least 50 percent of operating hours or a minimum of 30 hours per week and is responsible for the day-to-day operation of the program.
- (A) When four or more teachers are needed to meet minimum staff-child ratios, the director is free from direct care responsibilities at least one hour per day during operating hours to provide program oversight and staff supervision.
 - (B) The director, or on-site staff person who meets director's qualifications, is responsible for:
 - (i) upon employment, providing three references to Licensing, including at least two from the director's most recent employers when applicable. The other reference(s) may be personal, excluding relatives;
 - (ii) appointing a staff member to take responsibility for the operation of the program in his or her absence and posting that person's name in a conspicuous place;
 - (iii) maintaining a facility that meets the minimum requirements;
 - (iv) ensuring that a staff member trained to administer first aid, including rescue-breathing and choke-saving measures, is present at all times;
 - (v) submitting to OCCS Licensing records office criminal history investigations and obtaining dispositions on any charges shown on the report that lack dispositions;
 - (vi) ~~ensuring Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office is on file at the facility prior to any person being employed or allowed to live in the facility;~~
 - (vii) prior to employing staff, obtaining and documenting three references, including at least two from the applicant's most recent employers when applicable. The other reference(s) may be personal, excluding relatives;
 - (viii) supervising the conduct of staff, volunteers, or others who provide services in the facility; and
 - (ix) cooperating with licensing staff and other appropriate agencies in maintaining compliance with requirements and in improving the quality of care.
- (2) **Lead teachers.** At least one full-time lead teacher is required for every 60 children for which the program is licensed. The director may be counted as a lead teacher.
- (3) **Teachers.** Teachers have primary responsibility for the direct care of children.
- (4) **Assistant teachers.** Assistant teachers work under the on-site supervision of a qualified director or teacher who is readily available at all times.
- (A) A director, lead teacher, or teacher does not directly supervise more than two assistant teachers.
 - (B) Assistant teachers are not permitted to have sole responsibility for a group of children except for special activities.
- (5) **Auxiliary personnel.** Auxiliary personnel, for example, cooks, building custodians, or other personnel who provide indirect services to children:
- (A) demonstrate knowledge and skills necessary to perform their job responsibilities;
 - (B) meet applicable requirements for staff caring for children as set forth in this Section if they are responsible for children for any part of the day; and
 - (C) are not included in the staff-child ratio while performing auxiliary functions. Minimal cleaning and food service, for example, light cleaning, picking up toys, sweeping the classroom, and reheating and serving food, are not considered auxiliary functions as long as supervision and program are not adversely affected.
- (6) **Volunteers.** Volunteers are required to meet all requirements in this paragraph.
- (A) Volunteers and student interns may not be included in the staff-child ratio unless they are assigned to the program for at least three consecutive months.

- Volunteers are permitted to serve as temporary or permanent substitutes.
- (B) Volunteers counted in the staff-child ratio meet all requirements in this Part.
- (C) Volunteers are under the direct supervision of the director or a designated staff member.
- (7) **Substitutes.** Substitutes carry out the assigned responsibilities of the position they are filling.
- (8) **Teen aides.** Teen aides:
- (A) are not counted toward meeting the staff-child ratio and are not included in the licensed capacity;
- (B) must be under the on-site supervision of a teacher who meets lead teacher qualifications. One lead teacher may supervise no more than two teen aides;
- (C) are placed only in groups where at least one staff member is ~~eighteen~~ 18 years of age. No more than two teen aides may be assigned to a group of children;
- (D) must be at least two years older than the group to which they are assigned;
- (E) must be visibly identifiable through means such as name tags or T-shirts; and
- (F) are never left alone with children.
- (j) **Professional development.** Requirements pertaining to professional development are contained in this ~~subsection~~.
- (1) **Orientation.** Within one week of employment and prior to having sole responsibility for a group of children, each staff member, including auxiliary staff, receives orientation.
- (A) Orientation includes a review of:
- (i) infection control;
 - (ii) injury prevention;
 - (iii) handling common childhood emergencies, including choking;
 - (iv) the program's policy and procedure and staff responsibility for implementation;
 - (v) licensing requirements;
 - (vi) employees' assigned duties and responsibilities;
 - (vii) emergency procedures in the event of injury, severe weather, or fire, including use of fire extinguishers;
 - (viii) the definition, identification, and mandatory reporting of child abuse and neglect;
 - (ix) the daily schedule;
 - (x) the methods used to inform staff of any special health, nutritional, or developmental needs of children assigned to the caregiver; and
 - (xi) confidentiality of information regarding children and their families.
- (B) Documentation includes a statement, signed by the employee and director, in each employee's personnel file attesting to the orientation and review.
- (C) New staff have a probationary period of at least 30 days during which they are closely supervised.
- (2) **Health and safety training.** Staff are required to comply with the health and safety training requirements contained in this paragraph.
- (A) When children are in care on or off the program premises-, including during transportation, staff are present who have current documentation of certification in age-appropriate first aid and cardio-pulmonary resuscitation (CPR) as approved by ~~Oklahoma Child Care Services~~ OCCS licensing.
- (B) The first aid certification includes the emergency management of:
- (i) bleeding;
 - (ii) burns;
 - (iii) poisoning;
 - (iv) choking;
 - (v) injuries, including insect, animal, and human bites;
 - (vi) shock;
 - (vii) convulsions or nonconvulsive seizures;
 - (viii) musculoskeletal injury, such as sprains and fractures;
 - (ix) dental emergencies;
 - (x) head injuries;
 - (xi) allergic reactions;
 - (xii) eye injuries;
 - (xiii) loss of consciousness;
 - (xiv) electric shock; and
 - (xv) drowning.
- (3) **Ongoing training.** Requirements of staff for ongoing training are contained in this ~~subsection~~ paragraph.
- (A) **Director.** The director is required to obtain 40 clock hours of training every two years by obtaining 20 clock hours of training annually from an OKDHS approved source, such as professional conferences or an accredited college, university, or vocational program.
- (i) OKDHS OCCS approves training upon request.
 - (ii) Training is relevant to job responsibilities and includes program administration or management, age-appropriate childhood education, and infection control.
- (B) **Staff with children.** Each person who is counted toward meeting the staff-child ratio is required to obtain 24 clock hours of training every two years, by obtaining 12 clock hours of training annually that is relevant to job responsibilities and includes infection control.
- (i) The director assists staff in identifying and selecting training that is varied, appropriate, and builds upon previous training.
 - (ii) No more than six hours of self-directed readings, use of videos, or informal on-site training is counted toward the required annual training hours.
 - (iii) Reports of self-directed reading are documented and submitted to the director.

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(4) **Food service training.** The person primarily responsible for food preparation is required to receive training in:

- (A) nutrition planning;
- (B) age-appropriate food selection;
- (C) food preparation, service, and storage; and
- (D) cleaning and sanitizing equipment and utensils.

(5) **Substitute and volunteer staff training.**

(A) Substitute and volunteer staff are required to be familiar with program policy and procedure before being left in charge of a group of children.

(B) Volunteers who are counted to meet the staff-child ratio meet the requirements for ongoing training in OAC 340:110-3-226(j)(3).

(6) **Documentation of training.** Documentation of training for each staff member is required and includes the topic, training provided, date, and hours.

SUBCHAPTER 5. REQUIREMENTS FOR CHILD-PLACING AGENCIES

PART 1. REQUIREMENTS FOR CHILD-PLACING AGENCIES

340:110-5-7. Finances

(a) **Evidence of sufficient funds.** The child-placing agency (agency) has evidence of sufficient funds.

(1) New agencies submit a letter from a licensed public accountant with the application for an initial license. In the letter, the accountant documents that procedures are in place for operating the fiscal management system so that the agency's financial statements can be audited at the end of the first fiscal year of operation.

(2) New agencies also submit a budget for the first year of operation with the application for an initial license which includes a written plan to document predictable funds for the first year of operation as well as reserve funds or documentation of reserve funds.

(3) Existing and new agencies have a written plan of financing which projects sufficient funds to enable them to carry out their defined purposes and provide proper care for children.

(b) **Fiscal responsibility.** The executive director of the agency is responsible for:

- (1) maintaining complete financial records of all income and disbursements; and
- (2) ensuring the person responsible for receiving cash funds is bonded.

(c) **Accountability.** The agency is financially accountable.

(1) All financial records pertaining to the agency are audited annually:

- (A) by a licensed public accountant who is not a staff or board member of the agency; or
- (B) in accordance with the governmental funding source.

(2) A copy of the auditor's letter:

(A) is submitted annually to the Oklahoma Department of Human Services (OKDHS); and

(B) includes a statement that the agency's financial records accurately reflect the financial operations, according to generally accepted accounting principles.

(d) **Insurance.** The agency is covered by property casualty insurance and liability insurance unless operated by a government entity that is self-insured in accordance with state statute. Coverage is at least \$200,000 for each occurrence of negligence. Form 07LC092E, Insurance Verification, that includes a certificate of insurance obtained from the insurance agent is completed and submitted annually, maintained at the child-placing agency, and made available to licensing which includes a certificate of liability insurance obtained from the insurance agent.

340:110-5-8. Personnel

(a) **Required staff.** The child-placing agency (agency) employs:

(1) an executive director or administrator. In the absence of the executive director or administrator, a person is designated in charge who is immediately accessible in person or by phone to authorized representatives of the Oklahoma Department of Human Services (OKDHS);

(2) a child placement supervisor responsible for all placements in out-of-home care and final approval of all home studies;

(3) social services staff responsible for providing social services, including, but not limited to:

- (A) casework services to children and their families;
- (B) adoptive child and family studies;
- (C) placement services;
- (D) certification of agency facilities;
- (E) admission assessments; and
- (F) service planning;

(4) child care workers, if applicable; and

(5) sufficient clerical staff to keep correspondence, records, bookkeeping, and files current and in good order.

(b) **Volunteers.** If volunteers have contact with children in care, the agency:

(1) has current written volunteer policy to protect the children's health, safety, and well-being that includes:

- (A) selection and screening criteria, including a criminal history records search in accordance with Section 404.1 of Title 10 of the Oklahoma Statutes; and
- (B) requirements for:
 - (i) orientation; and
 - (ii) supervision; and

(2) provides orientation before volunteers have contact with children.

(c) **Personnel policy.** Written personnel policy defining staff, job responsibilities, qualifications, and lines of authority is available to staff.

(1) The executive director or administrator is responsible for employment and dismissal of personnel.

(2) Agency policy includes availability of on-call and substitute staff.

(3) The agency obtains a minimum of three written references to include the most recent employer, if applicable, for all staff prior to employment.

(A) When written references cannot be obtained prior to employment, telephone interviews are conducted and documented which include dates, interview questions, responses, and the interviewer's signature. Written references are required after 30 days.

(B) Copies of references are maintained on file.

~~(C) The executive director or administrator ensures no person is employed without receipt of Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office.~~

(4) Tuberculosis skin testing is not required to qualify for employment. The agency requires employees to comply with the Oklahoma State Department of Health recommendations regarding tuberculosis skin testing when a local tuberculosis exposure is identified.

(d) **Criminal history records search.** The executive director or administrator submits the following documentation:

(1) **Required persons.** A completed criminal history records search conducted within the last 12 months including dispositions on all charges; and ~~Form 07LC096E, a criminal history review request on a form provided by Oklahoma Department of Human Services (OKDHS) to OCCS licensing records office requesting an Oklahoma State Court Courts Network search for:~~

(A) any person making application to establish or operate a child-placing agency;

~~(AB) all applicants for employment prior to being employed; and~~

(BC) all adults who live persons age 18 years or older who reside in the facility, including providers' spouses and adult children.

(2) **Unsupervised access to children.** ~~Obtain~~ The agency obtains a completed criminal history records search for persons who have unsupervised access to children, or who are counted to meet staff-child ratios, such as volunteers.

(3) **Exceptions.** Criminal history investigations are not required for:

(A) staff who move to a new agency operated by the same organization; and

(B) parent volunteers who transport children on an irregular basis.

(4) **Authorized agencies.** A criminal history records search is obtained from:

(A) the Oklahoma State Bureau of Investigation (OSBI); and

(B) the authorized agency in a person's previous state of residence if the person has resided in Oklahoma less than three years.

(5) **Sex Offenders Offender Registry.** The OSBI report must include a search of Oklahoma Department of

Corrections' files maintained by OSBI pursuant to the Sex Offenders Offender Registration Act.

~~(6) Verification of records search. Form 07LC096E, Criminal Background Review, completed by OCCS licensing records office must be on file at the facility prior to any persons being employed.~~

(A) Prior to issuance of initial permit or change of ownership. The agency must receive criminal history review results from OCCS licensing records office for all employees.

(B) Existing agencies. The agency must submit a criminal history review request on a form provided by OKDHS to OCCS licensing records office for all employees prior to employment. This request for review must be maintained on file at the agency while awaiting the results.

(e) **Prohibitions.** The agency is prohibited from knowingly hiring or allowing any person to provide services to children for whom there is documented evidence or reason to believe that the person would endanger the health, safety, or well-being of children or other persons. Included is any person who has been:

(1) convicted of, whether by verdict or plea of guilty or nolo contendere, no contest, or received a suspended sentence for, a sex crime pursuant to Section 581 of Title 57 of the Oklahoma Statutes;

(2) convicted of, whether by verdict or plea of guilty or nolo contendere, no contest:

(A) any criminal activity involving violence against a person;

(B) child abuse or neglect;

(C) possession, sale, or distribution of illegal drugs;

(D) sexual misconduct; or

(E) gross irresponsibility or disregard for the safety of others; or

(3) identified by a court as a perpetrator of child abuse or neglect or has made an admission of guilt to a person authorized by state or federal laws or regulations to investigate child abuse and neglect.

(f) **Request for waiver.** The agency may request a waiver from the requirements contained in ~~OAC 340:110-5-8 subsection~~ (e)(2) and (3) of this Section. A waiver may not be requested or granted to any person who has been convicted of a sex offense pursuant to the Sex Offenders Offender Registration Act or any person required to register under the Mary Rippy Violent Crime Offenders Registration Act.

(1) The waiver request is submitted in writing to OKDHS and considered by the residential licensing programs supervisor and includes:

(A) the type of crime or offense for which the person was convicted or a finding was made;

(B) the nature of the offense(s);

(C) the age of the person at the time of the offense(s);

(D) circumstances surrounding commission of the offense(s) that demonstrate the likelihood of repetition;

Emergency Adoptions

- (E) the number of offenses for which the person was convicted or findings made;
 - (F) the length of time since the last conviction or finding;
 - (G) the relationship of the offense(s) and the ability to care for children;
 - (H) evidence of rehabilitation, such as activities and education since the offense was committed;
 - (I) a statement from the person with the criminal history; and
 - (J) opinions of reliable community members concerning the person in question.
- (2) The person for whom the waiver is requested may not be employed by the agency or have access to children until a decision is made and written notification is received.
- (g) **Restrictions.** The restrictions contained in this subsection apply to employees and persons who provide services to the agency.
- (1) A person who is employed by the agency or provides services to the agency may not use or be under the influence of alcohol or illegal drugs during hours of work.
 - (2) If a staff member is alleged to have committed an act described in subsection (e) of this Section, a determination is made and documented as to whether the staff member is removed from contact with children until the allegation is resolved. If criminal charges are filed, the accused is removed from contact with children until the charges are resolved.
 - (3) A person who received a deferred sentence for any charge in subsection (e)(2) of this Section is removed from contact with children for the duration of the deferment.
- (1) an application, resume, or staff information sheet provided by the Oklahoma Department of Human Services (OKDHS) that documents qualifications for the position;
 - (2) health records as required by the agency;
 - (3) three written references obtained prior to employment. References:
 - (A) include the date, interview questions, responses, and the interviewer's signature; and
 - (B) are maintained in the employee's personnel record;
 - (4) reports and notes relating to the person's employment with the agency and job performance evaluations;
 - (5) dates of employment; and
 - (6) date and reason for leaving employment.
- (b) Personnel records are maintained for a minimum of five years after a staff member's separation.
- (c) Records of criminal history investigations are maintained in a confidential manner and kept separate from the person's personnel record and includes:
- (1) ~~documentation from OKDHS on Form 07LC096E, Criminal Background Review, of Oklahoma State Courts Network records search of request and/or results of a criminal history review; and~~
 - (2) ~~documentation from OKDHS on Form 07LC096E, of receipt of Oklahoma State Bureau of Investigation criminal history investigations and when other applicable, a criminal history investigation from the previous state(s) of residence if the individual has resided in Oklahoma less than three years records.~~
- (d) Licensing has access to personnel and any other confidential records relevant to the facility's employees.

[OAR Docket #09-1253; filed 9-3-09]

340:110-5-12. Personnel records

- (a) The child-placing agency (agency) keeps on file a written personnel record for every staff person working at the agency. The personnel record includes:

Executive Orders

As required by 75 O.S., Sections 255 and 256, Executive Orders issued by the Governor of Oklahoma are published in both the *Oklahoma Register* and the *Oklahoma Administrative Code*. Executive Orders are codified in Title 1 of the *Oklahoma Administrative Code*.

Pursuant to 75 O.S., Section 256(B)(3), "Executive Orders of previous gubernatorial administrations shall terminate ninety (90) calendar days following the inauguration of the next Governor unless otherwise terminated or continued during that time by Executive Order."

TITLE 1. EXECUTIVE ORDERS

1:2009-32.

EXECUTIVE ORDER 2009-32

I, Brad Henry, Governor of the State of Oklahoma, in recognition of Patriot Day, hereby direct the appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. until 5:00 p.m. on Friday, September 11, 2009, to honor the many innocent people who perished on September 11, 2001.

On that day, more than 3,000 people lost their lives in New York City, Washington, D.C. and Pennsylvania. The flying of the flags at half-staff reflects that Oklahomans remember those killed and demonstrates our sympathy for their families.

This executive order shall be forwarded to the Director of Central Services who shall cause the provisions of this order

to be implemented by all appropriate agencies of state government.

IN WITNESS WHEREOF, I have hereunto set my hand and caused the Great Seal of the State of Oklahoma to be affixed at Oklahoma City, Oklahoma, this 9th day of September, 2009.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Brad Henry

ATTEST:

M. Susan Savage
Secretary of State

[OAR Docket #09-1264; filed 9-10-09]

