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Mary Fallin, Governor
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PARDON and Parole Board	515	Oklahoma TURNPIKE Authority 11-1-05) - See Title 731	
Oklahoma PEANUT Commission	520	Oklahoma TURNPIKE Authority (Formerly: Oklahoma	
Oklahoma State PENSION Commission	525	TRANSPORTATION Authority AND Oklahoma TURNPIKE	
State Board of Examiners of PERFUSIONISTS	527	Authority) - See also Title 745	731
Office of PERSONNEL Management (<i>consolidated under Office</i>		State TREASURER	735
of Management and Enterprise Services 8-26-11 - See Title		Board of Regents of TULSA Community College (<i>exempted</i>	
260)	530	11-1-98)	740
Board of Commercial PET Breeders (<i>abolished 7-1-12 - See Title</i>		Oklahoma TURNPIKE Authority (<i>Name changed to Oklahoma</i>	
35)	532	TRANSPORATION Authority 11-1-99 - no rules enacted in this	
Oklahoma State Board of PHARMACY	535	<i>Title - See Title 731</i>)	745
PHYSICIAN Manpower Training Commission	540	Oklahoma UNIFORM Building Code Commission	748
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Oklahoma POLICE Pension and Retirement System	550	11-1-98)	750
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Oklahoma Board of PRIVATE Vocational Schools	565	Board of Regents of the UNIVERSITY of Oklahoma (<i>exempted</i>	
State Board for PROPERTY and Casualty Rates		11-1-98)	755
(<i>abolished 7-1-06; see also Title 365</i>)	570	Board of Regents of the UNIVERSITY of Science and Arts	
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<i>Services 8-26-11 - See Title 260</i>)	580	Board of VETERINARY Medical Examiners	775
		Statewide VIRTUAL Charter School Board	777

Agency/Title Index – *continued*

Agency	Title	Agency	Title
Oklahoma Department of CAREER and Technology Education (Formerly: Oklahoma Department of VOCATIONAL and Technical Education)	780	Oklahoma WHEAT Commission	795
Oklahoma WATER Resources Board	785	Department of WILDLIFE Conservation	800
Board of Regents of WESTERN Oklahoma State College (<i>exempted</i> <i>11-1-98</i>)	790	WILL Rogers and J.M. Davis Memorials Commission	805
		Oklahoma WORKERS' Compensation Commission	810

Submissions to Governor and Legislature

Within 10 calendar days after adoption by an agency of proposed PERMANENT rules, the agency must submit the rules to the Governor and the Legislature. A "statement" of such submission must subsequently be published by the agency in the *Register*.
For additional information on submissions to the Governor/Legislature, see 75 O.S., Section 303.1 and 308.

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #18-130]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 3. General Provider Policies
Part 1. General Scope and Administration
317:30-3-4.1 [AMENDED]
317:30-3-30 [AMENDED]
(Reference APA WF # 17-13)

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-130; filed 2-9-18]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #18-131]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 5. Individual Providers and Specialties
Part 51. Habilitation Services
317:30-5-482 [AMENDED]
(Reference APA WF # 17-25A)

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-131; filed 2-9-18]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #18-132]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 5. Individual Providers and Specialties
Part 110. Indian Health Services, Tribal Programs, and
Urban Indian Clinics (I/T/US)
317:30-5-1094 [AMENDED]
(Reference APA WF # 17-17)

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-132; filed 2-9-18]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #18-133]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 5. Individual Providers and Specialties
Part 110. Indian Health Services, Tribal Programs, and
Urban Indian Clinics (I/T/US)
317:30-5-1096 [AMENDED]
(Reference APA WF # 17-03)

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-133; filed 2-9-18]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 30. MEDICAL PROVIDERS-FEE FOR SERVICE

[OAR Docket #18-134]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 5. Individual Providers and Specialties
Part 113. Living Choice Program
317:30-5-1207 [NEW]
(Reference APA WF # 17-04A)

Submissions to Governor and Legislature

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-134; filed 2-9-18]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #18-135]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

- Subchapter 5. Eligibility and Countable Income
 - Part 1. Determination of Qualifying Categorical Relationships
 - 317:35-5-2 [AMENDED]
 - 317:35-5-7 [AMENDED]
 - Part 7. Application and Eligibility Determination Procedures
 - 317:35-5-63 [AMENDED]
 - Subchapter 6. SoonerCare for Pregnant Women and Families with Children
 - Part 1. General
 - 317:35-6-1 [AMENDED]
- (Reference APA WF # 17-20)

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-135; filed 2-9-18]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #18-136]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

- Subchapter 23. Living Choice Program
 - 317:35-23-2 [AMENDED]
 - 317:35-23-3 [AMENDED]
- (Reference APA WF # 17-04B)

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-136; filed 2-9-18]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 35. MEDICAL ASSISTANCE FOR ADULTS AND CHILDREN-ELIGIBILITY

[OAR Docket #18-137]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

- Subchapter 5. Eligibility and Countable Income
 - Part 5. Countable Income and Resources
 - 317:35-5-41.6 [AMENDED]
- (Reference APA WF # 17-01)

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-137; filed 2-9-18]

TITLE 317. OKLAHOMA HEALTH CARE AUTHORITY CHAPTER 40. DEVELOPMENTAL DISABILITIES SERVICES

[OAR Docket #18-138]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

- Subchapter 1. General Provisions
 - 317:40-1-3 [AMENDED]
 - Subchapter 7. Employment Services Through Home and Community-Based Services Waivers
 - 317:40-7-3 [AMENDED]
 - 317:40-7-4 [AMENDED]
- (Reference APA WF # 17-25B)

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-138; filed 2-9-18]

TITLE 375. OKLAHOMA STATE BUREAU OF INVESTIGATION CHAPTER 9. OKLAHOMA OPEN RECORDS

[OAR Docket #18-144]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

- 375:9-1-1.1 [AMENDED]
- 375:9-1-2 [AMENDED]
- 375:9-1-3 [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 15, 2018

[OAR Docket #18-144; filed 2-15-18]

**TITLE 590. OKLAHOMA PUBLIC EMPLOYEES RETIREMENT SYSTEM
CHAPTER 15. UNIFORM RETIREMENT SYSTEM FOR JUSTICES AND JUDGES**

[OAR Docket #18-150]

RULEMAKING ACTION:

Submission to governor and legislature

RULES:

Subchapter 1. General Provisions
590:15-1-23 [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 23, 2018

[OAR Docket #18-150; filed 2-23-18]

**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS**

[OAR Docket #18-127]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 1. Academic Scholars Program
610:25-1-4. Eligibility Requirements and Term of Scholarship Award [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-127; filed 2-9-18]

**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS**

[OAR Docket #18-128]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 23. Oklahoma Higher Learning Access Program

610:25-23-1. Purpose [AMENDED]

610:25-23-2. Eligibility of participants [AMENDED]

610:25-23-5. Securing Program benefits [AMENDED]

610:25-23-6. Retaining eligibility in postsecondary education [AMENDED]

610:25-23-7. Payment of awards; policies and limitations [AMENDED]

610:25-23-9. Heroes Promise [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-128; filed 2-9-18]

**TITLE 610. STATE REGENTS FOR HIGHER EDUCATION
CHAPTER 25. STUDENT FINANCIAL AID AND SCHOLARSHIPS**

[OAR Docket #18-129]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 25. Suspension or Non-renewal of Professional and Commercial Driver Licenses

610:25-25-1. Purpose [REVOKED]

610:25-25-2. Definitions [REVOKED]

610:25-25-3. Notification procedure [REVOKED]

610:25-25-4. Written repayment agreement executed subsequent to final notice [REVOKED]

610:25-25-5. Repayment agreement default [REVOKED]

610:25-25-6. Hearing Procedure [REVOKED]

610:25-25-7. Procedure for notification of licensing board to suspend and not renew [REVOKED]

610:25-25-8. Procedure for appeal of hearing official's decision [REVOKED]

610:25-25-9. Procedure for notification of licensing board to renew or terminate suspension [REVOKED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 9, 2018

[OAR Docket #18-129; filed 2-9-18]

**TITLE 777. STATEWIDE VIRTUAL CHARTER SCHOOL BOARD
CHAPTER 10. STATEWIDE VIRTUAL CHARTER SCHOOLS**

[OAR Docket #18-146]

RULEMAKING ACTION:

Submission to Governor and Legislature

Submissions to Governor and Legislature

RULES:

Subchapter 3. Statewide Virtual Charter School Sponsorship

777:10-3-3 [AMENDED]

777:10-3-4 [AMENDED]

777:10-3-5 [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 16, 2018

[OAR Docket #18-146; filed 2-16-18]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 10. SPORT FISHING RULES

[OAR Docket #18-140]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 1. Harvest and Possession Limits

800:10-1-3. Additional definitions [AMENDED]

Subchapter 3. Methods of Takiing

800:10-3-5. Use of bow and arrow, grabhooks, gigs, spears, and spearguns, snagging, noodling and netting [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 8, 2018

[OAR Docket #18-140; filed 2-14-18]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 25. WILDLIFE RULES

[OAR Docket #18-141]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 3. Hunting on Corps of Engineers Lands

800:25-3-2. Areas open to archery equipment and shotguns with pellets only [AMENDED]

Subchapter 7. General Hunting Seasons

Part 1. General Provisions

800:25-7-3. General provisions [AMENDED]

Part 5. Upland Game

800:25-7-15. Wild turkey - Fall; dates, limits and open areas [AMENDED]

800:25-7-20. Squirrel (fox and gray) [AMENDED]

Part 7. Falconry

800:25-7-29. License requirements [AMENDED]

Part 13. Deer

800:25-7-54. Legal firearms and archery specifications [AMENDED]

Part 15. Furbearers

800:25-7-61. Bag limits [AMENDED]

Part 19. Seasons on Areas Owned or Managed by the Oklahoma Department of Wildlife Conservation and the U.S. Fish and Wildlife Service

800:25-7-81. Altus-Lugert WMA [AMENDED]

800:25-7-81.2. Arbuckle Springs WMA [NEW]

800:25-7-86.1. Camp Gruber Maneuver Training Center (CGMTC) [AMENDED]

800:25-7-94.4. Deep Fork NWR [AMENDED]

800:25-7-102.1.1. Grady County WMA [AMENDED]

800:25-7-115. Kaw WMA [AMENDED]

800:25-7-118. Little River NWR [AMENDED]

800:25-7-131. Optima NWR [AMENDED]

800:25-7-133.2. Ozark Plateau NWR [AMENDED]

800:25-7-134. Packsaddle WMA [AMENDED]

800:25-7-139. Salt Plains NWR [AMENDED]

800:25-7-141. Schultz WMA [AMENDED]

800:25-7-142. Sequoyah NWR [AMENDED]

800:25-7-142.1. Shorb WMA [AMENDED]

800:25-7-151.1. Tishomingo NWR [AMENDED]

800:25-7-153. Washita NWR [AMENDED]

800:25-7-154.1. Wichita Mountains NWR [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 8, 2018

[OAR Docket #18-141; filed 2-14-18]

TITLE 800. DEPARTMENT OF WILDLIFE CONSERVATION CHAPTER 30. DEPARTMENT OF WILDLIFE LANDS MANAGEMENT

[OAR Docket #18-142]

RULEMAKING ACTION:

Submission to Governor and Legislature

RULES:

Subchapter 1. Use of Department Managed Lands

800:30-1-4. Camping [AMENDED]

800:30-1-5. Vehicles [AMENDED]

800:30-1-20. Restricted public use areas [AMENDED]

SUBMISSION OF ADOPTED RULES TO GOVERNOR AND LEGISLATURE:

February 8, 2018

[OAR Docket #18-142; filed 2-14-18]

Emergency Adoptions

"If an agency finds that a rule is necessary as an emergency measure, the rule may be promulgated" if the Governor approves the rules after determining "that the rule is necessary as an emergency measure to do any of the following:

- a. protect the public health, safety or welfare,
- b. comply with deadlines in amendments to an agency's governing law or federal programs,
- c. avoid violation of federal law or regulation or other state law,
- d. avoid imminent reduction to the agency's budget, or
- e. avoid serious prejudice to the public interest." [75 O.S., Section 253(A)]

An emergency rule is considered promulgated immediately upon approval by the Governor, and effective immediately upon the Governor's approval or a later date specified by the agency in the emergency rule document. An emergency rule expires on September 15 following the next regular legislative session after its 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 cites to 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 340. DEPARTMENT OF HUMAN SERVICES CHAPTER 2. ADMINISTRATIVE COMPONENTS

[OAR Docket #18-147]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

Subchapter 46. Office of Background Investigations [NEW]

Part 1. General provisions [NEW]

340:2-46-1 [NEW]

Part 2. Child care services [NEW]

340:2-46-2 through 340:2-46-5 [NEW]

(Reference WF 17-22)

AUTHORITY:

Director of Human Services; 56 O.S. § 162; 10 O.S. § 404.1; and § 405.3 of the Oklahoma Child Care Facilities Act.

ADOPTION:

December 20, 2017

APPROVED BY GOVERNOR:

January 31, 2018

EFFECTIVE:

Immediately upon Governor's approval.

EXPIRATION:

Effective through September 14, 2018, 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 to address compliance with federal Child Care Development Fund mandates and legislative mandates due to passage of Senate Bills (SB) 717 and SB 723. Without these rules, DHS would not be in compliance with federal and state statutes. Additionally, the health and safety of children in child care would be negatively impacted.

GIST/ANALYSIS:

The proposed rules establish the: (1) purpose and authority of the Office of Background Investigations (OBI); (2) applicable definitions related to the rules; and (3) confidentiality and dissemination guidelines for a national criminal history records check. The proposed rules also identify the background investigation process for child care programs, including language being moved from Oklahoma Administrative Code (OAC) 340:110-1-8.1 and language implementing new requirements of the Child Care Development Fund (CCDF) and Senate Bills (SB) 717 and SB 723 during the 2017 Oklahoma legislative session.

The reauthorization of CCDF requires additional criminal history prohibitions and repeating background investigations every five years for child

care programs. The passage of SB 723 amended Sections 404.1 and 405.3 of Title 10 of the Oklahoma Statutes (10 O.S. §§ 404.1 and 405.3), Oklahoma Child Care Facilities Licensing Act to align with the federal mandates.

The passage of SB 717 amended 10 O.S. §§ 404.1 and 405.3 of the Oklahoma Child Care Facilities Licensing Act. Statutory amendments include requiring additional registry searches of the nontechnical services worker abuse registry and community services worker registry for owners prior to issuance of a child care permit or license.

CONTACT PERSON:

Dena Thayer at 405-521-4326

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(F):

SUBCHAPTER 46. OFFICE OF BACKGROUND INVESTIGATIONS

PART 1. GENERAL PROVISIONS

340:2-46-1. Purpose

The purpose of the Oklahoma Department of Human Services (DHS) Office of Background Investigations is to conduct background checks and searches related to programs and services administered by DHS.

PART 2. CHILD CARE SERVICES

340:2-46-2. Authority

The Oklahoma Department of Human Services Office of Background Investigations performs background checks for Child Care Services, per:

- (1) Section 901 et seq. of Chapter IX of Title 28 of the Code of Federal Regulations; and
- (2) the National Child Protection Act of 1993 (NCPA), Public Law (P.L.) 103-209, as amended by the Volunteers for Children Act (VCA), P.L. 105-251, (NCPA/VCA).

Emergency Adoptions

340:2-46-3. Definitions

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

"Background check" means a review of state and/or national criminal history records that may include fingerprint submissions, public docket searches, public registry searches, national sex offender registry searches, and child abuse and neglect searches.

"General administrative office or "GAO" means an entity that receives background check results, including fingerprint results, and makes hiring decisions on behalf of one or more child care programs.

"Qualified entity" or "QE" means an entity that meets the criteria and complies with federal and state laws and policies. QE standards govern the security and confidentiality of national fingerprint results.

"Temporary hiring agency or "THA" means an entity that employs temporary staff who may be utilized as substitutes in a child care program.

340:2-46-4. Confidentiality and dissemination of national criminal history records checks

- (a) **National criminal history records check reports:**
- (1) are confidential, per Section 50.12 of Title 28 of the Code of Federal Regulations; and
 - (2) may not be disseminated outside of the Oklahoma Department of Human Services or authorized entities.
- (b) **The security, confidentiality, and dissemination of national criminal history records checks for child care programs are governed by qualified entity standards.**

340:2-46-5. Background investigations process for child care programs

- (a) **Fingerprint process.**
- (1) **Background check review packet.** The Oklahoma Department of Human Services (DHS) makes background check review packets available to individuals and child care programs.
 - (2) **Fingerprint rejections.** When low quality fingerprints, as determined by the Oklahoma State Bureau of Investigation (OSBI) and/or the Federal Bureau of Investigation (FBI), make it impossible for the national crime information databases to provide results, a state and/or national name-based search may be authorized.
 - (3) **Fingerprint exceptions.** When DHS Office of Background Investigations (OBI) receives a written request for a fingerprint exception from an individual, who has a severe physical condition precluding the individual from being fingerprinted, a state and/or national name-based search may be authorized. Individuals that resided outside of Oklahoma within the past five years must provide a name-based search from the state where they resided.
- (b) **Background check process.**
- (1) **Background check review requests.**

(A) **Upon receipt of completed Form 19MP006E, Background Check Review Request, or an electronic background check request, OBI conducts a background check review.**

(B) **Upon receipt of an incomplete Form 19MP006E, or an electronic background check request, OBI sends the program notification of an incomplete request.**

(2) Background check review results.

(A) **OBI processes complete background check requests by the:**

- (i) close of the fifth DHS-business day after receipt; or
- (ii) next DHS-business day for new programs in application status.

(B) **OBI disseminates the:**

- (i) background check results;
- (ii) criminal history record information (CHRI), when applicable; and
- (iii) dispute resolution documents, when applicable.

(c) Criminal history records dispute process.

(1) **Dispute rights.** When state and national CHRI are disseminated, OBI notifies individuals of the right to dispute the completeness and accuracy of the CHRI.

(2) **Reasonable time.** Individuals are given a reasonable time to dispute CHRI, prior to a final employment determination.

(d) **Five-year reassessment.** Child care programs must obtain a background check on required individuals every five years, per applicable Child Care Services (CCS) Licensing requirements.

(e) Record of Arrest and Prosecution (RAP) RAP Back process.

(1) **RAP Back notifications.** RAP Back is a notification from OSBI or FBI of subsequent arrests or prosecutions of individuals, who have had the CCS fingerprint-based national criminal history checks. OBI submits a request to the state repository to stop sending RAP Back on individuals, who:

- (A) are ineligible to be associated with any program; and
- (B) have not been associated with a program for two or more years.

(2) **RAP Back criminal history review results.** Upon receipt of RAP Back, OBI reviews the notification to determine if the record reflects arrests or prosecutions. OBI simultaneously disseminates RAP Back results to the:

- (A) programs with which the individual was last associated; and
- (B) CCS, when criminal history restrictions and prohibitions are involved.

(3) **Public record information.** When OBI becomes aware of additional arrests, charges, or convictions, OBI validates the information through public records and processes a new background check result.

(f) Qualified entity (QE) standards.

- (1) **Agreement compliance.** OBI maintains QE standards for DHS according to the user agreement with OSBI.
- (2) **QE status.** QE status may be achieved by a:
 - (A) program;
 - (B) general administrative office (GAO) on behalf of one or more programs; and
 - (C) temporary hiring agency (THA) used for child care substitutes.
- (3) **Dissemination to a QE.** OBI only disseminates national CHRI to a program, GAO, or THA identified as a QE that has written consent from the fingerprinted individual.
- (4) **Audits.** OBI periodically audits QEs to verify compliance with standards.
- (5) **Violations.** When QE standards violations are:
 - (A) identified during an audit, OBI follows the audit process; or
 - (B) reported by individuals, OBI conducts an investigation.
- (6) **QE status termination.** The QE status may be terminated, when the QE:
 - (A) no longer meets QE criteria including following the QE agreement;
 - (B) does not cooperate with the audit process or an investigation; or
 - (C) does not correct QE standards violations within an agreed upon time and manner.
- (g) **Restricted Registry referrals.** When OBI determines an individual meets criteria for the Restricted Registry, per Oklahoma Administrative Code 340:110-1-10.1(b)(1) through (5), the information is forwarded to Restricted Registry staff.
- (h) **Out-of-state inquiries.** OBI coordinates background check inquiries when requested by an out-of-state agency.

[OAR Docket #18-147; filed 2-16-18]

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

[OAR Docket #18-148]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions of Child Welfare Services
 - Part 1. Scope and Applicability
340:75-1-9.1 [NEW]
340:75-1-18 [AMENDED]
- Subchapter 3. Child Protective Services
 - Part 1. Purpose, Definitions, and Hotline Protocol
340:75-3-120 [AMENDED]
 - Part 3. Child Safety evaluation criteria and procedure
340:75-3-300 [AMENDED]
 - Part 4. Specialized Investigative Protocols, Child Death or Near-Death Reporting Protocols
340:75-3-400 [AMENDED]
- Subchapter 6. Permanency Planning
 - Part 5. Permanency Planning Services
340:75-6-31.4 [AMENDED]
 - Part 11. Permanency Planning and Placement Services
340:75-6-85 [AMENDED]

- Subchapter 7. Foster Home Care
 - Part 2. Development of Resources
340:75-7-15 [AMENDED]
- Part 6. Foster Resource Home Care Support Services
340:75-7-65 [AMENDED]
- Subchapter 15. Adoptions
 - Part 2. Adoption Services Program Legal Base Authority and Scope of the Adoption Program
340:75-15-9 [AMENDED]
 - Part 6. Adoption Process
340:75-15-41.1 [AMENDED]
 - Part 10. Integrated Family Assessment and Preparation Process
340:75-15-84.1 [NEW]

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); Chapter 75 Subchapter 1: Indian Child Welfare Act 10 O.S. §§ 40 through 40.9; 10A O.S. §§ 1-2-105, 1-4-204, 1-4-705, 1-4-706, 1-4-707, 1-4-709, and 1-4-809; Chapter 75 Subchapter 3: 10A O.S. §§ 1-1-102, 1-1-105, 1-2-105, 1-3-102, 1-4-201, 1-4-204, 1-4-806, and 1-6-105; 21 O.S. §§ 748, 748.2 and 1040.13a; Section 671 of the Social Security Act (42 U.S.C. § 671). Chapter 75 Subchapter 6: Oklahoma Indian Child Welfare Act 10 O.S. §§ 40 through 40.9; 10A O.S. §§ 1-1-102, 1-2-105, 1-4-101, 1-4-204, 1-4-705, 1-4-709, 1-4-710, 1-4-711, 1-4-803, 1-4-804, 1-4-805, 1-4-807, 1-4-812, 1-7-103, 1-7-106, 1-7-107, 1-7-110, and 1-9-119; Multiethnic Placement Act of 1994 (MEPA), Interethnic Provisions of 1996 (IEP), Federal Indian Child Welfare Act 25 U.S.C. §§ 1901 et seq., 42 U.S.C. § 673. Chapter 75 Subchapter 7: 10 O.S. §§ 404.1 and 405.3; 10A O.S. §§ 1-7-111, 1-7-115, and 1-9-119; 21 O.S. §§ 692; 57 O.S. § 582; 68 O.S. § 2358.5-1; 18 U.S.C. § 16. Chapter 75 Subchapter 15: 10 O.S. §§ 40.6, 404.1, 405.3, 601.6, 7504-1.2, 7505-1.1, 7505-3.2, 7505-5.3, 7505-6.3, 7505-6.6, 7508-1.2, and 7508-1.3; 10A O.S. §§ 1-4-705, and 1-7-111; 21 O.S. § 692; 57 O.S. § 582; Multiethnic Placement Act of 1994 (MEPA); 18 U.S.C. § 16; 25 U.S.C. 1915.

ADOPTION:

December 20, 2017

APPROVED BY GOVERNOR:

January 31, 2018

EFFECTIVE:

Immediately upon Governor's approval.

EXPIRATION:

Effective through September 14, 2018, 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 to: (1) create a policy on program planning and evaluation, per Senate Bill (SB) 727 (2017) and amends the rule regarding dispositional hearing, options, and placement guidelines to reflect statutory changes per House Bill (HB) 2621 (2016); (2) add and revise definitions to child welfare policy, per SBs 718 (2017) and 727 (2017) as well as establish a collaborative safety decision-making process; (3) amend the rule regarding reports of child abuse and neglect with specialized protocols to comply with HB 2491 (2016) and SB 1370 (2016); (4) amend child permanency planning rules to update guidance on separating siblings in placement, per SB 727 (2017) and amends permanent guardianship policy to comply with HBs 2431 (2016) and 2484 (2016); (5) update background check requirements for resource parents and alternate caregivers per SBs 717 (2017) and 723 (2017); and (6) amend adoptions policy to update: (a) background check requirements for adoptive parents, per SBs 717 (2017) and 723 (2017); and (b) adoption placement considerations to comply with HB 2621 (2016).

GIST/ANALYSIS:

Chapter 75 Subchapter 1: The proposed new section memorializes for staff guidance on program design and evaluation for children and youth services and placement preferences; and the revises dispositional hearing, options, and placement guidelines.

Chapter 75 Subchapter 3: The proposed revisions clarify the decision-making process used to evaluate a child's safety at home, identify services to address family needs, and notification process on reports of child abuse and neglect.

Chapter 75 Subchapter 6: The proposed revisions provide clear and concise rules for CWS staff working to follow guardianship processes and to improve permanency outcomes for siblings in DHS custody.

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Chapter 75 Subchapter 7: The proposed revisions update rules for Child Welfare Services (CWS) staff conducting background searches of resource families to improve outcomes for DHS custody children and streamline policy.

Chapter 75 Subchapter 15: The proposed revisions clarify the process for CWS staff conducting background searches of adoptive families to improve outcomes for DHS custody children.

CONTACT PERSON:

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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(F):

SUBCHAPTER 1. GENERAL PROVISIONS OF CHILD WELFARE SERVICES

PART 1. SCOPE AND APPLICABILITY

340:75-1-9.1. Programs and services design, evaluation, and reports

(a) **Program planning and evaluation.** The Oklahoma Department of Human Services (DHS) defines the purpose, population served, and performance expectations of its children and youth programs. Planning for new programs and services and major modifications to existing ones must include evaluations of their effect on other programs and services, as well as communication and coordination with other public and private children and youth service providers to assure successful and cost-effective implementation. Evaluation that includes monitoring and evaluation of client outcomes must be incorporated into all DHS children and youth programs and services provided by DHS directly or by contract.

(b) **Five-year plan.** DHS is to develop a five-year plan for children and youth services that includes:

(1) an analysis and evaluation of programs and services continued, established, and discontinued during the reporting period;

(2) a description of programs and services to implement;

(3) statutory changes, when needed;

(4) information about the number of children in DHS custody during the reporting period; and

(5) other information that demonstrates the effectiveness of DHS programs and services.

(c) **Legislative placement report.** Each year on or before January 31, DHS submits a report to the Governor, President Pro Tempore of the Senate, Speaker of the House of Representatives, and the Oklahoma Supreme Court that includes information on:

(1) the number of children in DHS custody placed in non-family-like placements including, but not limited to, the placement types used and the duration of children's stays in such placements;

(2) the number of approved foster homes, the number of children placed in them, and a comparative review of foster home room-and-board rates; and

(3) child welfare staff workloads and comparative salaries.

340:75-1-18. Dispositional hearing and options, and placement guidelines

(a) **Dispositional hearing purpose.** The purpose of the dispositional hearing is to determine the individualized needs of the child and family, and custody of the child during the deprived case. The court considers all helpful evidence in determining the disposition that is in the child's best interests.

(b) **Dispositional hearing.** After a child is adjudicated to be deprived, the court holds a dispositional hearing, per Section 1-4-706 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-706).

(1) When the child is removed from the parent's custody, the court ~~and~~or the Oklahoma Department of Human Services (DHS) ~~considers~~considers concurrent permanency immediately and throughout the case. When appropriate, a concurrent plan is developed to ensure permanency for the child occurs at the earliest opportunity in the event reunification fails or is delayed. Appropriate in-state and out-of-state placement options are identified and the placement selected is the best available placement to provide permanency for the child.

(2) At the hearing, a DHS recommended, individualized service plan is presented to the court. The judge makes the final decision regarding if the proposed individualized service plan is accepted and if any or all recommendations are ordered by the court.

(c) **Court orders regarding custody or guardianship.** Every effort is made to place a child with a member of the child's family in a safe and appropriate home, per ~~40~~10A O.S. § 1-4-706. When a child is removed from the custodial parent and the court, in the child's best interests, is unable to release the child to the noncustodial parent, a placement preference is given to relatives and persons who have a kinship relationship with the child. DHS reports to the court, the diligent efforts made to secure the placement per 10A O.S. § 1-4-204 and Oklahoma Administrative Code (OAC) 340:75-6-85.2. In cases when the Indian Child Welfare Act applies, the placement preferences of the Act are followed per OAC 340:75-19-14.

(d) **Placement prohibitions.** A ~~prospective~~potential foster or adoptive parent is not approved as placement for a child when the ~~prospective~~potential foster or adoptive parent or any other person residing in the home of the ~~prospective~~potential foster or adoptive parent ~~has been~~was convicted of any of the criminal offenses specified in 10A O.S. § 1-4-705 and OAC 340:75-7-15 or when the ~~prospective~~potential foster or adoptive parent is subject to, or is married to, or living with someone subject to the Oklahoma Sex Offender Registration Act.

(e) **Dispositional options.** 10A O.S. § 1-4-707 permits the court to enter dispositional orders including, but not limited to:

(1) placing the child under DHS protective supervision in the child's own home, with the child's parent or legal guardian with whom the child was residing at the time the

events or conditions arose that brought the child within the ~~court's jurisdiction of the court~~, subject to conditions as prescribed by the court that would reasonably prevent the child from continued deprivation. DHS supervision remains in effect for one year unless extended or reduced in appropriate circumstances by the court per 10A O.S. § 1-4-707; ~~or~~

(2) placing custody of the child with the non-custodial parent under DHS protective supervision; and ~~order~~ordering:

(A) reunification services for the parent or legal guardian from whom the child ~~has been~~was, or is being removed;

(B) services for the parent, who is assuming physical custody of the child to allow the parent to later obtain legal custody without court supervision; or

(C) services for both parents, with the court determining at a subsequent review hearing which parent, if either, will have legal custody of the child;

(3) placing the child in the home of a parent. The court gives a preference for placing temporary custody of the child with a relative, per 10A O.S. § 1-4-204, subject to the child's best interests and the conditions and restrictions specified in 10A O.S. § 1-4-705. In determining whether to place temporary custody of the child with a relative, the court may consider:

(A) the child's physical, psychological, educational, medical, and emotional needs;

(B) the wishes of the parent, the relative, and child, when appropriate;

(C) when placement of the siblings and half-siblings can be made in the same home, if that placement is found to be in the best interest of each child;

(D) the background information of the relative and any other person living in the home, including whether any such person has a prior history of violence, acts of child abuse or neglect, or any other background that would render the home unsuitable;

(E) the nature and duration of the relationship between the child and the relative, and the relative's desire to care for and to provide long-term permanency for the child when reunification is unsuccessful; and

(F) the ability of the relative to:

(i) provide a safe, secure, and stable environment for the child;

(ii) exercise proper and effective care and control of the child;

(iii) provide a home and the necessities of life for the child;

(iv) protect the child from his or her parents;

(v) facilitate court-ordered reunification efforts with the parent;

(vi) facilitate visitation with the child's siblings and other relatives; and

(vii) arrange for appropriate and safe child care, when necessary;

(4) placing the child in the custody of a private institution or agency, including any institution established and

operated by the county, authorized to care for children or to place them in family homes.

(A) In placing a child in a private institution or agency, the court selects one that is licensed by DHS or another state agency supervising or licensing private institutions and agencies; or, when such institution or agency is in another state, by the analogous department of that state.

(B) Whenever the court places a child in an institution or agency, it transmits with the order of commitment a summary of its information concerning the child, and the institution or agency gives to the court such information concerning the child as the court may at any time require;

(5) placing the child in DHS custody. DHS makes an individualized determination when selecting a placement for the child based upon the child's best interests and permanency plan, utilizing:

(A) a home or facility meeting the preferences specified by the ~~state and federal and state~~ Indian Child Welfare Acts, when applicable;

(B) a non-custodial parent's home;

(C) a DHS-approved relative's home;

(D) a DHS-approved non-relative's, kinship; family home;

(E) an approved foster home where the child was previously placed;

(F) a DHS-approved suitable, non-kinship, foster family home;

(G) a suitable licensed group home for children; or

(H) an independent living program;

(46) ordering that any person residing in the home follow specific conduct the court determines is in the child's best interests that ~~will~~ reasonably ~~prevent~~prevents the child from continued deprivation;

(57) ordering establishment of a permanent guardianship per 10A O.S. § 1-4-709; and

(68) dismissing the petition and terminating the court's jurisdiction at any time for good cause when it is in the child's best interests.

(f) **Additional court determinations.** The court makes a determination whether:

(1) reasonable efforts:

(A) ~~have been~~were made to reunite the child with his or her family; however, the period for reunification services may not exceed 17 months from the date the child was initially removed from the child's home, unless the court finds compelling reasons to the contrary;

(B) to reunite the child with his or her family are inconsistent with the child's permanency plan;

(C) ~~have been~~were taken to finalize the child's permanent placement including, when appropriate, through an interstate placement; or

(€D) to reunite the child with the family are not required, per 10A O.S. § 1-4-809 and OAC 340:75-1-18.4;

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(2) services provided to assist any youth, 16 years of age or older, in the transition from out-of-home care to independent living are appropriate; and

(3) to place siblings, who ~~have been~~ were removed, together in the same foster care, guardianship, or adoptive placement and provide for frequent visitation or other ongoing interaction for siblings, who ~~have been~~ were removed, and are not placed together. Guidance on when siblings may be separated is found in OAC 340:75-6-85.

(g) **Notification of hearing.** DHS provides notice of the hearing per OAC 340:75-1-16.1.

SUBCHAPTER 3. CHILD PROTECTIVE SERVICES

PART 1. PURPOSE, DEFINITIONS, AND HOTLINE PROTOCOL

340:75-3-120. Definitions and substantiation protocol

(a) **Legislative intent.** Legislative intent, per Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102) states, "*...it is the purpose of the laws relating to children alleged or found to be deprived to...intervene in the family only when necessary to protect a child from harm or threatened harm.*"

(b) **Definitions.** Terms used by Oklahoma Department of Human Services (DHS) Child Welfare Services (CWS) not found in the Oklahoma Children's Code are defined in Oklahoma Administrative Code (OAC) 340:75-3-120 Instructions to Staff. The following words and terms, when used in the Oklahoma Children's Code, 10A O.S. §§ 1-1-105, 1-2-105, and 1-6-105; 21 O.S. §§ 748, 748.2; and 1040.13a; ~~or~~ and in this Subchapter shall have the following meanings unless the context clearly indicates otherwise:

(1) **"Abandonment"** means the:

(A) willful intent by words, actions, or omissions of the person responsible for the child's (PRFC) health, safety, or welfare not to return for a child; ~~or~~

(B) failure to maintain a significant parental relationship with a child through visitation or communication, such as incidental or token visits or communication, which are not considered significant; or

(C) failure to respond to notice of deprived proceedings.

(2) **"Abuse"** means harm or threatened harm to a child's health, safety, or welfare by a PRFC including, non-accidental physical or mental injury; or sexual abuse or sexual exploitation; however, nothing prohibits a parent from using ordinary force as a means of discipline including, but not limited to, spanking, switching, or paddling.

(3) **"Age-appropriate or developmentally-appropriate"** means:

(A) activities or items that are generally accepted as suitable for children of the same age or level of maturity or that are determined to be developmentally-appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

(B) in the case of a specific child, activities or items that are suitable for that child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the specific child.

(4) **"Assessment"** means a comprehensive review of child safety and evaluation of family functioning and protective capacities conducted in response to a child abuse or neglect referral that does not allege a serious and immediate safety threat to a child.

(5) **"Behavioral health"** means mental health, substance use or abuse, or co-occurring mental health and substance use or abuse diagnoses, and the continuum of mental health, substance use or abuse, or co-occurring mental health and substance use or abuse treatment.

(6) **"Child"** means any unmarried person younger than 18 years of age, including an infant born alive.

(7) **"Children's emergency resource center"** means a community-based program that may provide:

(A) emergency care and a safe and structured, homelike environment or a host home for children providing food, clothing, shelter, and hygiene products to each child served; after-school tutoring; counseling services; life-skills training; transition services; assessments; family reunification; respite care; and transportation to or from school, doctors' appointments, visitations, court, and social or school activities, when necessary;

(B) a stable environment for children in crisis who are in DHS custody, when permitted under DHS policies and regulations; or

(C) who were voluntarily placed by a parent or custodian during a temporary crisis.

(8) **"Child safety meeting"** means the collaborative decision-making process DHS engages in to address each child's needs related to safety and if the child's condition warrants a safety intervention including, but not limited to, a change in placement, and:

(A) those involved in the collaborative decision-making process include, at a minimum, appropriate DHS staff, the child's parents, and, when the parent requests, an advocate or representative; and

(B) to protect the safety of those involved and to promote efficiency, DHS may limit participants as determined to be in the child's best interests.

(9) **"Child with disability"** means any child who has a physical or mental impairment which substantially limits one or more of the child's major life activities, or who is regarded as having such an impairment by a competent medical professional.

(10) **"Commercial sex"** means any form of commercial sexual activity, such as sexually explicit performances,

prostitution, participation in the production of pornography, performance in a strip club, or exotic dancing or display, per 21 O.S. § 748.

(11) **"Custodian"** means an individual other than a parent, legal guardian, or Indian custodian, to whom legal custody of the child was awarded by the court. As used in the Oklahoma Children's Code, the term "custodian" does not mean DHS.

(12) **"Dependency"** means a child who is homeless or without proper care or guardianship through no fault of his or her parent, legal guardian, or custodian.

(13) **"Deprived child"** means a child:

(A) who is for any reason destitute, homeless, or abandoned;

(B) who does not have the proper parental care or guardianship;

(C) who has been abused, neglected, or is dependent;

(D) whose home is an unfit place for the child by reason of depravity on the part of the child's parent, legal guardian, or other person responsible for the child's health or welfare;

(E) who is in need of special care and treatment because of the child's physical or mental condition, and the child's parents, legal guardian, or other custodian is unable or willfully fails to provide such special care and treatment. A child in need of special care and treatment includes, but is not limited to, a child who at birth tests positive for alcohol or a controlled dangerous substance and who, pursuant to a drug or alcohol screen of the child and an assessment of the parent, is determined to be at risk of harm or threatened harm to the health or safety of a child;

(F) with a disability deprived of the nutrition necessary to sustain life or of the medical treatment necessary to remedy or relieve a life-threatening medical condition in order to cause or allow the death of the child when such nutrition or medical treatment is generally provided to similarly situated children without a disability or children with disabilities; provided that no medical treatment shall be necessary when, in the reasonable medical judgment of the attending physician, such treatment would be futile in saving the life of the child;

(G) who, due to improper parental care and guardianship, is absent from school, per 70 O. S. § 10-106, when the child is subject to compulsory school attendance;

(H) whose parent, legal guardian, or custodian for good cause desires to be relieved of custody;

(I) who was born to a parent whose parental rights to another child were involuntarily terminated by the court and the conditions that led to the finding, which resulted in the termination of the parental rights of the parent to the other child, have not been corrected; or

(J) whose parent, legal guardian, or custodian subjected another child to abuse or neglect or allowed

another child to be subjected to abuse or neglect and is currently a respondent in a deprived proceeding.

(14) **"Drug-endangered child"** means a child who is at risk of suffering physical, psychological, or sexual harm as a result of the use, possession, distribution, manufacture, or cultivation of controlled dangerous substances or the attempt of any of these acts by a PRFC, per this Section and 10A O.S. § 1-1-105.

(A) This term includes circumstances wherein the PRFC's substance use or abuse interferes with his or her ability to parent and provide a safe and nurturing environment for the child.

(B) ~~The term also includes newborns who test positive for a controlled dangerous substance with the exception of those substances administered under the care of a physician.~~ Per 10A O.S. § 1-2-101, every physician, surgeon, or other health care professional including doctors of medicine, licensed osteopathic physicians, residents and interns, or any other health care professional attending the birth of a child involved in the pre-natal care of expectant mothers or the delivery or care of infants who test positive for alcohol or a controlled dangerous substance, must promptly report the matter to the DHS. This includes infants who are diagnosed with neonatal abstinence syndrome or fetal alcohol spectrum disorder.

(C) ~~Upon receipt of a report that a child may be abused, neglected, or drug-endangered, DHS conducts a safety analysis, per 10A O.S. § 1-2-102. When DHS determines that a child meets the definition of a "drug-endangered child" or was diagnosed with fetal alcohol syndrome, and the referral is assigned, DHS conducts an investigation of the allegations and does not limit the evaluation of the circumstances to an assessment, per 10A O.S. § 1-2-102.~~

(15) **"Emergency custody"** means court-ordered custody of a child prior to adjudication of the child.

(16) **"Failure to protect"** means failure to take reasonable action to remedy or prevent child abuse or neglect, and includes the conduct of a non-abusing parent or guardian who knows the identity of the abuser or the person neglecting the child, but lies, conceals, or fails to report the child abuse or neglect, or otherwise take reasonable action to end the abuse or neglect.

(17) **"Foster parent"** means any person maintaining a therapeutic, emergency, specialized-community home, tribal, kinship, or foster family home responsible for providing care, supervision, guidance, rearing, and other foster care services to a child.

(18) **"Harm or threatened harm"** means any real or threatened physical, mental, or emotional injury or damage to the body or mind of a child that is not accidental including, but not limited to:

(A) ~~physical abuse;~~

(~~B~~) sexual abuse or sexual exploitation;

(~~C~~) neglect; or

(~~D~~) ~~failure or omission to provide protection;~~

(~~E~~) ~~abandonment; or~~

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(~~F~~C) dependency.

(19) **"Heinous and shocking abuse"** means any aggravated physical abuse that results in serious bodily, mental, or emotional injury. Serious bodily injury means, but is not limited to, injury that involves:

- (A) substantial risk of death;
- (B) extreme physical pain;
- (C) protracted disfigurement;
- (D) loss or impairment of a function of a body member, organ, or mental faculty;
- (E) an injury to an internal or external organ or the body;
- (F) bone fractures;
- (G) sexual abuse or sexual exploitation;
- (H) chronic abuse including, but not limited to, physical, emotional, or sexual abuse or sexual exploitation that is repeated or continuing;
- (I) torture including, but not limited to, inflicting, participating in, or assisting in inflicting intense physical or emotional pain upon a child repeatedly over a period of time for the purpose of coercing or terrorizing a child, or for the purpose of satisfying the craven, cruel, or prurient desires of the perpetrator or another person; or
- (J) any other similar aggravated circumstance.

(20) **"Heinous and shocking neglect"** means neglect that includes, but is not limited to:

- (A) chronic neglect that includes, but is not limited to, a persistent pattern of family functioning in which the caregiver has not met or sustained the child's basic needs of a child, which ~~that~~ results in harm to the child;
- (B) neglect that resulted in a diagnosis of the child as a failure to thrive;
- (C) an act or failure to act by a parent that results in:
 - (i) serious physical or emotional harm;
 - (ii) sexual abuse or sexual exploitation;
 - (iii) the death or near death of a child or sibling;or
 - (iv) presents an imminent risk of serious harm to a child; or
- (D) any other similar aggravating circumstance.

(21) **"Human trafficking"** means modern-day slavery that includes, but is not limited to, extreme exploitation and the denial of freedom or liberty of an individual for purposes of deriving benefit from that individual's commercial sex act or labor.

(22) **"Human trafficking for commercial sex"** means:

- (A) recruiting, enticing, harboring, maintaining, transporting, providing, or obtaining, by any means, another person through deception, force, fraud, threat, or coercion for purposes of engaging the person in a commercial sex act;
- (B) recruiting, enticing, harboring, maintaining, transporting, providing, purchasing or obtaining, by any means, a minor for purposes of engaging the minor in a commercial sex act; or

(C) benefiting, financially or by receiving anything of value, from participating in a venture ~~that has~~ engaged in an act of trafficking for commercial sex.

(23) **"Infant"** means a child 12 months of age or younger.

(24) **"Investigation"** means a response to an allegation of abuse or neglect that involves a serious and immediate threat to the safety of the child making it necessary to determine:

- (A) the current safety of the child and the risk of subsequent abuse or neglect;
- (B) ~~whether~~if child abuse or neglect occurred; and
- (C) ~~whether~~if the family needs prevention and intervention-related services.

(25) **"Minor in need of treatment"** means a child in need of mental health or substance abuse treatment as defined by the Inpatient Mental Health and Substance Abuse Treatment of Minors Act.

(26) **"Multidisciplinary child abuse team"** means any team established pursuant to Section 1-9-102 of this title of three or more persons who are trained in the prevention, identification, investigation, prosecution, and treatment of physical and sexual child abuse and who are qualified to facilitate a broad range of prevention- and intervention-related services and services related to child abuse. For purposes of this definition, "freestanding" means a team not used by a child advocacy center for its accreditation;

(27) **"Near death"** means a child is in serious or critical condition as verified by a physician, a registered nurse, or other licensed health care provider. Verification of the medical condition of a child may be given in person or by ~~telephone~~phone, mail, email, fax, or facsimile mail.

(28) **"Neglect"** means the failure of or omission by the PRFC to:

- (~~1~~A) provide the child with adequate:
 - (~~A~~i) nurturance and affection, food, clothing, shelter, sanitation, hygiene, or an appropriate education;
 - (~~B~~ii) medical, dental, or behavioral health care;
 - (~~C~~iii) supervision or appropriate caretakers; or
 - (~~D~~iv) special care made necessary by the child's physical or mental condition; or
- (~~2~~B) protect the child from exposure to:
 - (~~A~~i) the use, abuse, possession, sale, or manufacture of illegal drugs;
 - (~~B~~ii) illegal activities;
 - (~~C~~iii) sexual acts or materials that are not age-appropriate; or
 - (~~D~~iv) abandonment.

(29) **"Person responsible for the child's health, safety, or welfare"** means:

- (A) the child's parent, legal guardian, custodian, or foster parent. Per 10A O.S. § 1-1-105, a custodian is an individual other than a parent, legal guardian, or Indian custodian to whom legal custody of the child ~~has been~~was awarded by the court;

(B) a person 18 years of age or ~~and~~ older with whom the child's parent cohabitates or any other adult residing in the home of the child;

(C) an agent or employee of a public or private residential home, institution, facility, or day-treatment program, per 10 O.S. § 175.20;

(D) an owner, operator, or employee of a child care facility, per 10 O.S. § 402, whether the home is licensed or unlicensed; or

(E) a foster parent maintaining a therapeutic, emergency, specialized-community, tribal, kinship, or foster family home responsible for providing care, supervision, guidance, rearing, and other foster care services to a child.

(30) **"Physical abuse"** means an injury resulting from punching, beating, kicking, biting, burning, or otherwise harming a child. Even though the injury is not an accident, the PRFC may not have intended to hurt the child.

(A) The injury may result from:

(i) extreme physical punishment inappropriate to the child's age or condition;

(ii) a single episode or repeated episodes that range in severity from significant bruising to death; or

(iii) any action including, but not limited to, hitting with a closed fist, kicking, inflicting burns, shaking, or throwing the child, even when no injury is sustained, but the action places the child at risk of grave physical danger.

(B) Minor injury of a child older than 10 years of age is not considered physical abuse unless the actions that caused the injury placed the child in grave physical danger.

(31) **"Protective custody"** means custody of a child taken by law enforcement or designated employee of the court, without a court order.

(32) **"Reasonable parental discipline"** means parental use of ordinary force as a means of discipline including, but not limited to, spankings, switching, or paddling that does not result in bodily injury to the child.

(33) **"Risk"** means the likelihood that an incident of child abuse or neglect will occur in the future.

(34) **"Risk factors"** means family behaviors and conditions that suggest the caregivers are likely to maltreat their child in the future.

(35) **"Safety analysis"** means DHS action taken in response to a report of alleged child abuse or neglect that may include an assessment or investigation based upon an analysis of the information received according to priority guidelines and other DHS-adopted criteria ~~adopted by DHS.~~

(36) **"Safety evaluation"** means a DHS evaluation of a child's situation ~~by DHS,~~ using a structured, evidence-based tool to determine if the child is subject to safety threats.

(37) **"Safety threat"** means the threat of serious harm due to child abuse or neglect occurring in the present or in the very near future ~~and that without the another person's~~

~~intervention of another person,~~ a child would likely or in all probability sustain severe or permanent disability or injury, illness, or death.

(38) **"Sexual abuse"** means any sexual activity, including sexual propositioning between the PRFC and child or any acts committed or permitted by the PRFC including, but not limited to:

(A) rape;

(B) sodomy;

(C) incest; and

(D) lewd or indecent acts or proposals to a child.

(39) **"Sexual exploitation"** means:

(A) allowing, permitting, encouraging, or forcing a child to engage in prostitution, as defined by law, by any person 18 years of age or older or by a PRFC; or

(B) allowing, permitting, or encouraging, or engaging in the lewd, obscene, or pornographic, as defined by law, photographing, filming, or depicting of the child in those acts by a PRFC.

(40) **"Trafficking in persons"** means sex trafficking or severe forms of trafficking in persons.

(A) "Sex trafficking" means the recruitment, harboring, transportation, provision, or obtaining of a person for the purpose of a commercial sex act; and

(B) "Severe forms of trafficking in persons" means:

(1) sex trafficking in which a commercial sex act is induced by force, fraud, or coercion, or in which the person induced to perform such act has not attained 18 years of age; or

(2) the recruitment, harboring, transportation, provision, or obtaining of a person for labor or services, through the use of force, fraud, or coercion for the purpose of subjection to involuntary servitude, peonage, debt bondage, or slavery.

(41) **"Youth"** means a child 13 through 17 years of age.

(c) **Substantiation of child abuse and neglect allegations.** Specific guidelines in conjunction with the definitions in this Section are utilized in substantiating abuse or neglect.

PART 3. CHILD SAFETY EVALUATION CRITERIA AND PROCEDURE

340:75-3-300. Child safety evaluation

(a) **Evaluating child safety.** Evaluating child safety is a primary child protective services (CPS) function. Safety refers to the child's present security and well-being when the child is assessed to be at risk of abuse or neglect. The safety evaluation is an adaptable and continuous process that is not complete until the child is safe and the case is closed.

(b) **Determining the need for protective or emergency custody.** ~~Oklahoma Department of Human Services (DHS)~~ evaluates whether to recommend ~~protective custody or~~ emergency DHS custody of a child based on the seriousness of the child's abuse or neglect and ~~whether~~ if the child is in need of immediate protection due to an imminent safety threat. A child taken into protective custody by law enforcement is not, ~~by virtue of a standing order,~~ considered in DHS emergency

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custody upon the child's admission to a shelter. A child cannot be placed in DHS emergency custody, per Section 1-4-201 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-4-201) until:

(1) the court issues a child-specific emergency custody order; or

(2) ~~DHS has completed~~completes a safety evaluation ~~and concluded~~concludes the child faces an imminent safety threat, ~~and the court issues a child-specific emergency custody order; and~~

~~(2) the court has issued a child-specific emergency custody order.~~

(c) **Child Safety Meeting.** A child safety meeting is a collaborative decision-making process conducted to address each child's needs related to safety and determining if the child's condition warrants a safety intervention including, but not limited to, a change in placement, and:

(1) includes at a minimum, appropriate Oklahoma Department of Human Services (DHS) staff, the child's parents and, when the parent requests, an advocate or representative, as participants; and

(2) to protect the safety of those involved and to promote efficiency, DHS may limit participants as determined to be in the child's best interests.

(ed) **Alternatives to protective or emergency custody in cases of serious abuse or neglect.** When an alternative to protective or emergency custody is determined appropriate in circumstances where serious neglect or abuse is documented, Form 04MP054E, Immediate Protective Action Plan (IPAP), is completed and implemented when the person responsible for the child's (PRFC) health, safety, or welfare (PRFC) agrees to cooperate with DHS efforts to ensure the child's safety. ~~The Immediate Protective Action Plan (IPAP) describes the present danger identified by the child welfare (CW) specialist and addresses actions to be taken to ensure the child's safety of the child until a complete thorough safety evaluation can be completed.~~ The PRFC and ~~any~~ identified safety monitors sign the IPAP and agree to cooperate with DHS oversight to ensure the child's safety.

(de) **Safety planning without court involvement in cases of serious abuse or neglect.** In circumstances where serious neglect or abuse is documented, and upon completion of a thorough safety evaluation, ~~it is determined~~and an alternative to court involvement is appropriate, Form 04MP064E, Safety Plan, is completed and implemented when the PRFC agrees to cooperate with DHS efforts to ensure the child's safety. The safety plan is developed and implemented by agreement without court intervention. The safety plan describes the impending danger identified by the CW specialist and addresses actions to ~~be taken~~take to control or eliminate any identified safety threat. The implementation of a short-term safety plan does not preclude DHS from recommending court involvement.

(ef) **Removal of a child from the home.** A recommendation to remove a child from the home is made when, upon evaluating relevant conditions, a determination is made that:

(1) ~~no~~ in-home safety responses are not available ~~or not~~ acceptable;

(2) the parent appears unable or unwilling to protect the child;

(3) an emergency exists that prohibits the ~~arrangements~~arrangement of timely resources or services to reduce risk and threats of abuse or neglect are unavailable; or

(4) continued placement in the home is contrary to the child's health, safety, and welfare.

(fg) **Placement considerations when the child is removed from the home.** When a child is removed from his or her home, placement preference is given to relatives and persons who have a kinship relationship with the child, per 10A O.S. § 1-4-204.

(1) Siblings are placed together in the same home when appropriate and possible.

(2) Placement decisions are made with the child's long-term best interests ~~of the child~~ in mind.

(gh) **Restoration of custody to the parent, legal guardian, or custodian when the child is in protective custody.** When the DHS safety evaluation indicates the child does not face an imminent safety threat, DHS restores the child to the custody and control of the parent, legal guardian, or custodian, per 10A O.S. § 1-4-201. Specific county procedures are followed ~~when with a request to release the child is released~~ from protective custody ~~by the court.~~

(hi) ~~Pre-petition~~**Emergency removal of a child not in DHS custody.**

(1) Reasonable efforts are made to prevent the pre-petition removal of a child from the home unless a documented emergency exists that requires immediate removal. Per 10A O.S. § 1-4-201 and Section 671 of Title 42 of the United States Code (42 U.S.C. § 671), a child is removed from the home prior to the filing of a petition only when there is reasonable suspicion the:

(A) child is in need of immediate protection due to an imminent safety threat; or

(B) child's circumstances or surroundings are such that continuation ~~of the child~~ in the child's home or in the care or custody of the parent, legal guardian, or custodian would present an imminent safety threat to the child and is contrary to ~~the child's~~ his or her welfare.

(2) A child who is in surroundings that pose an immediate threat to the child may be removed from the home by law enforcement without a court order. When law enforcement declines to remove the child or when DHS is responding to a referral without law enforcement involvement and the child is believed to be in need of immediate protection due to an imminent safety threat, DHS prepares ~~an affidavit~~Form 04CP008E, Affidavit-Child Protective Services, to present to the district attorney (DA) to request that the DA consider filing an application with the court to obtain an emergency custody order, per 10A O.S. § 1-4-201.

(i) ~~Pre-petition removal of a foreign national child.~~ **The pre-petition removal of a child from the home, a PRFC, or other caretaker is based on safety considerations related to the child**

and without regard to the child's citizenship or immigration status.

(j) **DHS authority to execute a pre-petition emergency custody order.** Per 10A O.S. § 1-4-201, when the district court issues a pre-petition order placing the child in DHS emergency custody pending further hearing, a DHS employee may execute the emergency order and physically take the child into custody, in limited circumstances when:

- (1) the child is located in a hospital, school, or daychild care facility program; and
- (2) it is believed assumption of custody of the child from the facility hospital, school, or child care program can occur without risk to the child or the DHS employee.

(k) **Medical care for child in protective custody.**

(1) When the child in protective custody is in need of emergency medical care prior to the emergency custody hearing, a peace officer, court employee, or the court may authorize such treatment as necessary to safeguard the child's health or life, when the:

- (A) treatment is related to the suspected abuse or neglect; or
- (B) parent or legal guardian is unavailable or unwilling to consent to physician-recommended treatment recommended by a physician. Before a peace officer, court employee, or the court authorizes treatment based on the unavailability of the parent or legal guardian, law enforcement exercises diligence to locate the parent or guardian, if/when known, per 10A O.S. § 1-3-102.

(2) When law enforcement, the parent, or guardian is unwilling to consent to emergency medical care, the DA is contacted to obtain a court order for the child's treatment.

(l) **Notification, disposition, and release of the child in pre-petition emergency custody.**

(1) The court may provide for the disposition of the child taken into custody and notification to the court of the assumption of custody in an administrative order or rule issued, pursuant to per 10A O.S. § 1-4-201, for the disposition of the child taken into custody and notification to the court of the assumption of custody. The administrative order or rule may include a process for the child's release of the child prior to an emergency custody hearing. Specific county procedures are followed when the child is released from emergency custody prior to the emergency hearing.

(2) The court may order the child released to the parent, legal guardian, custodian, or to any responsible adult without conditions or under conditions the court finds necessary to ensure the child's safety, health, or welfare.

(m) **Post-petition removal of the child in DHS custody.** ~~Following the filing of a deprived petition, DHS may remove the child in DHS custody directly from the child's home when continued placement in the home is contrary to the child's health, safety, or welfare, and the child is in DHS legal custody, unless ordered placed in the home by the court.~~ DHS notifies the court prior to removal, or when an emergency exists, as soon as possible, following the child's removal.

(1) To ensure the safety of the child and the DHS employee, law enforcement assistance is requested in these situations.

(2) Refer to 10A O.S. § 1-4-806 when the child is in trial reunification status.

(n) **Child who has left Oklahoma.** When the child who is the subject of an emergency custody or a pick-up order, ~~has left Oklahoma prior to the order's execution of the order,~~ enforcement of the emergency custody or pick-up order and recognition of Oklahoma's jurisdiction by the another state must occur to ~~have return~~ the child ~~returned~~ to Oklahoma. Each circumstance is managed according to the laws and procedures in the state where the child is located.

PART 4. SPECIALIZED INVESTIGATIVE PROTOCOLS, CHILD DEATH OR NEAR-DEATH REPORTING PROTOCOLS

340:75-3-400. Reports of child abuse and neglect with specialized protocols

Reports of child abuse and neglect with specialized protocols considered for acceptance for assessment or investigation include, but are not limited to, reports:

- (1) from Child Protective Services (CPS) ~~reports~~ regarding an Oklahoma Department of Human Services (DHS) employee;
- (2) ~~reports~~ of abuse or neglect of a child in an active permanency planning or family-centered services (FCS) case;
- (3) ~~reports~~ regarding a child whose address is confidential per the Address Confidentiality Program (ACP) ~~pursuant to per~~ Section 60.14 of Title 22 of the Oklahoma Statutes (22 O.S. § 60.14);
- (4) ~~reports~~ regarding Indian children;
- (5) ~~reports~~ regarding children in out-of-home care;
- (6) ~~reports~~ of abuse or neglect in a child care center program or home;
- (7) ~~reports~~ of abuse or neglect by someone other than the person responsible for the child's (PRFC) health, safety, or welfare (PRFC) per 10A O.S. § 1-2-102.

(A) DHS makes a referral, ~~either~~ verbally or in writing, to the appropriate ~~local~~ law enforcement agency jurisdiction for the purpose of conducting a possible criminal investigation when, upon receipt of a report alleging abuse or neglect, or during the assessment or investigation, DHS determines the alleged:

- (i) alleged perpetrator is someone other than a PRFC; and
- (ii) alleged abuse or neglect of the child does not appear to be attributable to failure on the part of a PRFC to provide protection for the child.

(B) After making the referral to the appropriate law enforcement agency jurisdiction, DHS is not responsible for further investigation unless:

- (i) DHS has reason to believe the alleged perpetrator is a parent of another child, not the subject

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- of the criminal investigation, or is otherwise a PRFC of another child;
- (ii) notice is received from ~~an appropriate~~ law enforcement ~~agency jurisdiction~~ that it determined the alleged perpetrator is a parent of, or a PRFC of another child, not the subject of the criminal investigation; or
- (iii) the appropriate law enforcement ~~agency jurisdiction~~ requests DHS, in writing, to participate in the investigation. ~~If~~ When funds and personnel are available, as determined by the DHS Director, or designee, DHS may assist law enforcement in interviewing children alleged to be victims of physical or sexual abuse;
- (8) ~~reports~~ resulting from judicial proceedings.
- (A) When a report of child abuse or neglect resulting from court proceedings concerning child custody or visitation is received, the CPS assessment or investigation protocol and the provisions of 10A O.S. § 1-4-102 are followed. The assessment or investigation is completed within 30-calendar days of the referral date. Upon completion, DHS:
- (4i) submits an assessment or investigation report to the ~~district attorney's office of the district attorney~~;
- (2ii) provides a copy of the report to the referring court; and
- (4iii) notifies the parties to the proceeding of the submission of the report to the court.
- (B) When the evidence in a court proceeding concerning child custody or visitation results in placing the child into DHS emergency custody by the referring court, the provisions of 10A O.S. § 1-4-203 apply.
- (C) Per 22 O.S. § 20, when a judge finds a defendant subject to incarceration is the sole custodian of a minor child and has not made safe and appropriate arrangements for the care of the child, the court makes a referral to DHS. The report is assigned for assessment or investigation;
- (9) ~~reports~~ of relinquishment of a child 7-calendar days of age or younger to DHS.
- (A) DHS ~~will~~, without court order, ~~take~~ takes possession of a child 7-calendar days of age or younger, when ~~the child is a parent~~ voluntarily ~~delivered~~ delivers and relinquishes a child to the child protective services agency ~~by a parent voluntarily relinquishing the child~~ per 10A O.S. § 1-2-109, and expresses an intent not to return for the child. At the parent's request, DHS respects the parent's desire to remain anonymous. DHS may:
- (i) request, but not demand, information the parent is willing to share about the child, including ~~the details of the child's and/or parent's relevant medical history relating to the child or the child's parents of the child~~ histories. ~~At the parent's request, DHS respects the parent's desire to remain anonymous; and~~
- (ii) provide the parent with printed information ~~relating to~~ regarding the parent's rights with respect to reunification with the child and counseling sources ~~of counseling~~ for the parents.
- (B) ~~Once~~ When a child is relinquished to DHS, DHS:
- (i) performs or provides for the performance of any act necessary to protect the child's ~~physical~~ health or safety; and
- (ii) immediately checks with the appropriate law enforcement ~~authorities jurisdiction~~ to determine if a child was reported missing and ~~whether if~~ the missing child ~~could be~~ is the relinquished child; ~~and~~
- (10) ~~reports~~ involving child victims of human trafficking. Per 21 O.S. 748.2, when law enforcement determines a child may be a victim of human trafficking, DHS initiates a joint investigation with law enforcement and the child is remanded to DHS emergency custody; and
- (11) involving children of active duty military parent(s) or legal guardian(s), per 10A O.S. § 1-2-102.
- (A) DHS inquires, during the course of an assessment or an investigation, if a child's parent or legal guardian is an active duty service member of the military or the spouse of an active duty service member.
- (B) DHS notifies the designated federal authorities at the federal military installation where the active duty service member is assigned when DHS receives a report that a child may be abused, neglected, or drug-endangered.
- (C) Upon completion of the assessment or the investigation, DHS forwards Form 04KI003E, Report to District Attorney, or Form 04KI030E, Assessment of Child Safety, to the appropriate military law enforcement entity.

SUBCHAPTER 6. PERMANENCY PLANNING

PART 5. PERMANENCY PLANNING SERVICES

340:75-6-31.4. Legal guardianship

(a) **Permanent guardianship established pursuant to the Oklahoma Children's Code.** The court may establish a permanent guardianship between a child and a relative or other adult per Sections 1-4-709 and 1-4-710 of Title 10A of the Oklahoma Statutes (10A O.S. §§ 1-4-709 and 1-4-710) when the guardianship is in the child's best ~~interest~~ interests and when all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied. ~~When the child is in Oklahoma Department of Human Services (DHS) custody, DHS conducts an assessment of the proposed guardian's home and provides a report to the court regarding:~~

(1) ~~the suitability of the proposed guardian; and~~ 10A O.S. § 1-4-709 conditions are, the:

- (A) child was adjudicated a deprived child;
(B) parent;

- (i) consented to the permanent guardianship;
 - (ii) had his or her parental rights terminated;
 - (iii) failed to substantially correct the conditions that led to the adjudication of the child;
 - (iv) was adjudicated as incompetent or incapacitated by a court;
 - (v) abandoned the child;
 - (vi) failed to be identified or was not located despite reasonably diligent efforts to ascertain the parent's whereabouts; or
 - (vii) died;
- (C) child consents to the permanent guardianship when the court finds the child of sufficient intelligence, understanding, and experience to provide consent;
- (D) termination of the parent's parental rights is not legally possible, not in the child's best interests, or adoption is not the permanency plan for the child;
- (E) child and proposed permanent guardian do not require protective supervision or preventive services to ensure the stability of the permanent guardianship;
- (F) proposed permanent guardian is committed to providing for the child until the child reaches the age of majority and to preparing the child for adulthood and independence;
- (G) proposed permanent guardian agrees not to return the child to the care of the person from whom the child was removed nor allow visitation without the court's approval; and
- (H) child resided or was placed with the proposed permanent guardian for at least the six preceding months or the proposed permanent guardian is a relative with whom the child has a relationship.
- (2) whether guardianship is in the child's best interests. When the child is in Oklahoma Department of Human Services (DHS) custody, a study of the proposed permanent guardian's home is completed and a report is provided to the court regarding the proposed permanent guardian's suitability and if permanent guardianship is in the child's best interests and other information as requested by the court. The child welfare (CW) specialist:
- (A) when the proposed permanent guardian is:
 - (i) a resource parent, updates Form 04AF003E, Resource Family Assessment - Family Profile; or
 - (ii) not an Oklahoma Department of Human Services (DHS) resource parent:
 - (I) completes Form 04PP008E, Title 10A Permanent Guardianship Home Study; and
 - (II) conducts a national criminal history records search in addition to the other background search requirements for each proposed permanent guardian and each adult household member; and
 - (B) provides the report to the court as directed by the court, or no later than 14-calendar days prior to the permanent guardianship hearing.
- (3) A permanent guardianship is not permitted when the proposed guardian would be denied placement as a potential foster or adoptive parent per 10A O.S. § 1-4-705(C) or when the proposed guardian is subject to the Oklahoma Sex Offenders Registration Act or living with an individual subject to the Oklahoma Sex Offenders Registration Act.
- (4) A permanent guardian is vested with the rights and responsibilities set forth in Title 30 of the Oklahoma Statutes relating to the powers and duties of a guardian of a minor, other than those rights and responsibilities retained by the child's parent, when any, are set forth in the decree of permanent guardianship.
- (b) **Filing the 10A permanent guardianship motion.** The district attorney or child's attorney is responsible for filing a motion for permanent guardianship with the juvenile court in the deprived case and the ~~prospective~~proposed guardian signs the verification of the information contained in the motion for permanent guardianship per 10A O.S. § 1-4-710.
- (c) **Filing the Title 30 guardianship proceeding.** The court must authorize a Title 30 guardianship to be filed following a determination by the court that a return home or adoption is not an appropriate permanency option for the child. When it is necessary that a Title 30 guardianship be filed in order for the child to achieve the permanency plan of guardianship, the proposed guardian has the responsibility to obtain an attorney for this purpose. Per 10A O.S. § 1-4-101, the written consent of the judge presiding over the deprived case must be obtained and filed in the Title 30 guardianship case, prior to the guardian being appointed for the child. Limited monetary reimbursement for attorney fees and costs is available when the attorney represents a proposed relative guardian in a Title 30 guardianship proceeding.
- (d) **Types of guardianship assistance funding available.** Guardianship assistance for a Title 10A or Title 30 guardianship may be funded through the:
- (1) Temporary Assistance for Needy Families (TANF) Supported Permanency Program;
 - (2) Title IV-E Subsidized Guardianship Program; or
 - (3) state.
- (e) **Requirements for guardianship without benefits.** A guardianship may be established without accessing a benefit funding source when the:
- (1) guardianship is in the child's best interests; and
 - (2) conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship; or
 - (3) the court authorized a Title 30 guardianship be filed when the court determined a return home or adoption is not an appropriate permanency option for the child.
- (f) **Requirements for guardianship with TANF Supported Permanency Program benefits.**
- (1) A guardianship may be established with TANF Supported Permanency Program benefits subject to the availability of funds and DHS approval when the:
 - (A) guardianship is in the child's best interests;
 - (B) conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship or a return home or adoption is not an appropriate

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permanency option for the child when a Title 30 guardianship was authorized by the court;

(C) child in DHS custody is placed in a paid kinship foster home with a relative who resides in Oklahoma and the relative meets the specified degree of relationship as defined by the TANF program, per Oklahoma Administrative Code (OAC) 340:10-9-1(a);

(D) child is 12 years of age or older or has a sibling 12 years of age or older who resides in the same relative foster home. The deputy director for programs may, for good cause, approve supported permanency for a child 8 years of age through 11 years of age and his or her sibling when the child has no older eligible sibling;

(E) court makes a finding that termination of the parent's rights is either not legally possible or not in the child's best interests of the child or adoption is not the permanency plan for the child;

(F) relative meets requirements for approval as a DHS foster home;

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

(H) relative is willing to assume legal responsibility for the child; and

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

(2) TANF Supported Permanency Program assistance includes:

(A) a limited monetary reimbursement to an attorney representing a ~~prospective~~proposed relative guardian for the legal fees and costs incurred in the transfer of legal responsibility for the child from DHS to the relative;

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

(C) a Medicaid card for the child's medical care; and

(D) an assigned Adult and Family Services worker who provides referrals for services, when needed.

(g) Requirements for Title IV-E Subsidized Guardianship benefits.

(1) A guardianship may be eligible for Title IV-E guardianship assistance when:

(A) the guardianship is in the child's best interests;

(B) all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was authorized by the court;

(C) the child meets eligibility for Title IV-E kinship guardianship assistance payments per Section 473(d)(3)(A) of Title IV-E of the Social Security Act (42 U.S.C. § 673(d)(3)(A)). The relative may reside in or out-of-state but must meet the specified relationship per OAC 340:75-7-24;

(D) the child was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination that continuation in the home is contrary to the child's welfare and the child is Title IV-E eligible, per OAC 340:75-13-13 for at least six consecutive months;

(E) the child is a sibling to a child eligible for, or receiving Title IV-E kinship guardianship assistance, and is residing or planning to reside in the same placement;

(F) the child is 12 years of age or older or has a sibling 12 years of age or older who resides in the same relative foster home. The deputy director may, for good cause, approve Title IV-E kinship guardianship assistance payments for a child 8 years of age through 11 years of age and his or her sibling when the child has no older, eligible sibling;

(G) termination of the parent's rights is either not legally possible or not in the child's best interests or adoption is not the permanency plan for the child;

(H) the relative ~~has~~ completed requirements to be ~~an~~ a DHS-approved DHS or tribal foster home;

(I) the child is currently residing with the relative and has ~~been~~ for six consecutive months;

(J) the relative is willing to assume legal responsibility for the child and has a strong commitment to permanently care for the child;

(K) the child who is 14 years of age or older was consulted regarding the kinship guardianship arrangement;

(L) the child demonstrates a strong attachment to the ~~prospective~~proposed relative guardian; and

(M) Form 04MP049E, Title IV-E Subsidized Guardianship Agreement, is signed prior to the transfer of legal responsibility by DHS and the ~~prospective~~proposed relative guardian, outlining the assistance provided to the relative guardian.

(2) The Title IV-E Subsidized Guardianship agreement outlines the assistance provided to the relative that includes:

(A) a limited monetary reimbursement to an attorney representing the ~~prospective~~proposed relative guardian when a Title 30 instead of a Title 10A guardianship is filed for legal fees and costs incurred in the transfer of legal responsibility of the child to the relative;

(B) a monthly payment standard for the child, per DHS Appendix C-20, Child Welfare Services Rates Schedule;

(C) the manner in which the payment may be adjusted periodically, in consultation with the relative guardian, based on the circumstances of the relative guardian and the child's needs;

(D) a Medicaid card for the child;

(E) a right to a fair hearing per OAC 340:75-1-12.6;

(F) the additional services and assistance for which the child and relative guardian are eligible under the agreement;

- (G) the procedure by which the relative guardian applies for additional services; and
- (H) assurance the agreement will remain in effect if the relative guardian moves to another state.
- (3) The child's case plan describes:
 - (A) how the child meets the eligibility requirements;
 - (B) the steps DHS took to determine that a return to the home or adoption is not appropriate and termination of the parent's rights is either not legally possible or not in the child's best interests;
 - (C) the efforts DHS made to discuss adoption with the child's relative foster parent and the reasons why adoption by the relative foster parent is not an option;
 - (D) the reason a permanent placement with a prospective proposed relative guardian and receipt of a guardianship assistance payment is in the child's best interests;
 - (E) the DHS efforts to discuss with the child's parent the kinship guardianship assistance arrangements or why efforts were not made; and
 - (F) when the child's placement with the prospective proposed relative guardian does not include siblings, a description of the reasons the child is separated from siblings during placement.
- (h) **Successor guardian and eligibility for Title IV-E guardianship assistance.** Per 42 U.S.C. § 673(d)(3)(C), in the event of the death or incapacity of the relative guardian, the eligibility of a child for a kinship guardianship assistance payment under this subsection is not affected by reason of the replacement of the relative guardian with a successor legal guardian named in the Title IV-E kinship guardianship assistance agreement.
- (i) **Requirements for a guardianship with state-funded benefits.**
 - (1) A guardianship may be established with state-funded assistance, when:
 - (A) the guardianship is in the child's best interests;
 - (B) all conditions listed in 10A O.S. § 1-4-709 are substantially satisfied for a Title 10A guardianship or a return home or adoption is not an appropriate permanency option for the child when a Title 30 guardianship was authorized by the court;
 - (C) the child is not eligible for TANF Supported Permanency Program or Title IV-E Subsidized Guardianship; and
 - (D) the deputy director for programs, for good cause, approves state-funded payments to the guardian for the benefit of the child.
 - (2) The state-funded benefit is a monthly payment standard for the child, per DHS Appendix C-20, Child Welfare Services Rates Schedule.
- (j) **Court-ordered provisions within permanent guardianship providing for child's safety and well-being.** Per 10A O.S. § 1-4-710, the court, upon finding grounds exist for a permanent guardianship, may order visitation with the parent, siblings, or other relatives of the child when contact

is in the child's best interests, and any other provision necessary to provide for the child's continuing safety and well-being.

(k) **Child support ordered with permanent guardianship.** Per 10A O.S. § 1-4-710, the court orders the parent to contribute to the support of the child pursuant to child support guidelines, per 43 O.S. §§ 118 and 119.

(l) **Permanent guardianship placement not supervised by DHS.** Per 10A O.S. § 1-4-710, the order appointing a permanent guardian ~~may does~~ not require DHS supervision of the placement.

(m) **Permanent guardianship placement review period.** Per 10A O.S. § 1-4-710, the permanent guardianship order:

(1) requires the placement be reviewed within one year after transfer;

(2) requires the permanent guardian to submit records or reports the court deems necessary for the one year review; ~~and~~

(3) divests DHS of legal custody and supervision of the child with no further responsibility for the child's custody or supervision; and

~~(34)~~ does not require periodic reviews by the court after the one year review when the parties and court agree the reviews are not necessary to serve the child's best interests, unless periodic reviews are otherwise required by the court.

(n) **Child returned to DHS custody when permanent guardianship terminated.** When a permanent guardianship, established pursuant to the Oklahoma Children's Code, is terminated due to the guardian's abuse or neglect of the child, death, or inability to care for the child, the court must order the child returned to DHS legal custody pending further hearing.

(1) DHS develops a new permanency plan for the child to present to the court within 30-calendar days from the permanent guardianship termination date.

(2) Unless parental rights were terminated, the child's parent is notified and is entitled to participate in the upcoming permanency planning hearing.

(3) The court may order that reunification services again be provided to each parent or consider each parent for custody of the child with DHS supervision when the parent can prove conditions previously existing at the time the permanent guardianship was granted were substantially corrected and reunification is the best alternative for, and in the child's best interests of the child.

PART 11. PERMANENCY PLANNING AND PLACEMENT SERVICES

340:75-6-85. Placement considerations for the child in Oklahoma Department of Human Services (DHS) custody

(a) **Legislative intent for the child placed outside the child's home.** Per Section 1-1-102 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-102), when a child's placement outside of the home is necessary, per Oklahoma Children's Code, each child is assured care, guidance, and supervision in a permanent home or foster home that serves the child's best

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interests including, but not limited to, the development of the child's moral, emotional, spiritual, mental, social, educational, and physical well-being. The child is entitled to a permanent home and placement in the least restrictive environment that meets the child's needs.

(b) **DHS responsibility for the child's out-of-home placement.** DHS has the duty to provide for the care and treatment of each child placed in DHS custody by an order of the court, per 10A O.S. § 1-7-103. DHS:

(1) may place the child in a:

(A) kinship care home or other foster care home; ~~or~~

(B) group home, or children's shelter subject to the Child Welfare Services (CWS) director's or designee's approval; or

(C) any licensed facility established for the care of children when a kinship or foster care home is not available;

(2) gives priority to the child's noncustodial parent unless the placement is not in the child's best interests; and

(3) reviews and assesses the child to determine the type of placement and services consistent with the child's needs in the nearest geographic proximity to the child's home as possible.

(c) **DHS authority to determine the child's placement.**

(1) DHS has the responsibility to determine if a placement is appropriate for the child in DHS custody and to remove the child from the placement when in the child's best interests, per 10A O.S. § 1-7-103, subject to the provisions of 10A O.S. §§ 1-4-804 and 1-4-805.

(2) A request by a placement provider for immediate removal of the child is examined and assessed to determine if the situation can be resolved to prevent disruption of the child's placement.

(d) **Court's authority to approve or disapprove placement.** When the court determines it is in the child's best interests, the court may place the child in DHS legal custody. Per 10A O.S. § 1-4-803, when the child is placed in DHS custody, the court may not direct DHS to place the child in a specific home or placement, but may approve or disapprove a specific placement when it does not conform to statutory requirements and the child's best interests.

(e) **Determining the appropriate placement.**

(1) Per 10A O.S. § 1-7-106, a placement is made that meets the treatment needs of the child and supports the permanency plans for the child and family.

(2) Per 10A O.S. § 1-4-204, when determining the appropriate placement for the child, DHS considers, but does not limit consideration to, the:

(A) person's ability to provide safety for the child including a willingness to cooperate with any restrictions placed on contact between the child and others and to prevent others from influencing the child in regard to allegations of the case;

(B) person's ability to support DHS efforts to implement the permanency plan for the child;

(C) person's ability to meet the child's physical, emotional, and educational needs, including the

child's need to continue in the same school or educational placement;

(D) person who has the closest existing personal relationship with the child, when more than one person requests placement;

(E) person's ability to provide a placement for the child's sibling who is in need of placement or continuation in out-of-home care;

(F) wishes of the parent, the relative, and the child when appropriate;

(G) person's ability to care for the child as long as necessary and to provide a permanent home, when needed; and

(H) child's best interests including placement in a non-family-like setting.

(f) **Relative placement preference when not with noncustodial parent.** Per 10A O.S. §§ 1-4-204 and 1-7-106, when DHS determines that placement with the noncustodial parent is not in the child's best interests, preference is given to relatives and persons who have a kinship relationship with the child, and who are determined to be suitable, capable, and willing to serve as the child's caretakers for the child.

(1) Per 10A O.S. §§ 1-4-204 and 1-7-106, every effort is made to place the child with a suitable relative.

(2) DHS makes efforts to locate the relative, kinship relation, or resource parent who is best able to meet the child's long-term best interests.

(3) Per 10A O.S. § 1-4-204, DHS reports to the court the diligent efforts made to secure the child's placement.

(4) When applicable to the child, DHS complies with Indian Child Welfare Act (ICWA) placement preferences, per Oklahoma Administrative Code (OAC) 340:75-19-14, and reports to the court the diligent efforts to secure the child's placement ~~to the court~~.

(5) When a child is not placed with a relative who was considered for placement, DHS must advise the court why the relative was denied listing the reasons on Form 04MP056E, Notice to the Court of Relative Denied Placement. The written reasons are made a part of the court record, per 10A O.S. § 1-4-204, and documented in the Child Welfare Services CWS case record.

(g) **Sibling placement.** Per 10A O.S. §§ 1-4-204 and 1-7-107, when two or more siblings are removed and placed in foster care, every reasonable attempt is made to place the siblings together in the same temporary or permanent placement.

(1) When siblings are separated, the siblings are allowed contact or visitation with each other, when safe.

(2) The safety and best interests of each child determine if joint placement, contact, or visitation is allowed.

(3) When the child is a part of a sibling group, it is presumed that placement of the entire sibling group in the same placement is in the best interests of the child and siblings.

(4) Siblings may be separated when the court and DHS find:

(A) one sibling resided in a resource home for six or more months and established a relationship with the resource family;

(B) the siblings never resided in the same resource together;

~~(C) there is no established relationship between the siblings;~~

~~(C) placement of siblings together is contrary to the safety or well-being of any of the siblings; and/or~~

(D) it is in the child's best interests to remain in the current placement.

(5) In making a permanent placement, siblings are placed in the same permanent home. When the siblings are separated, they are allowed contact or visitation with other siblings, provided that each child's best interests are the standard for determining if the siblings are placed in the same foster placement or permanent placement, or allowed contact or visitation with other siblings.

(h) Placement in nearest geographic proximity to parent or school.

(1) Per 10A O.S. § 1-4-707, unless the child is placed with relatives or in accordance with federal and state ICWA, the child is placed, when possible, in the parent or legal guardian's county of residence to facilitate family reunification.

(A) When an appropriate placement is not available in the parent or legal guardian's county of residence, the child is placed in an appropriate home in the nearest proximity to the parent or legal guardian's county of residence to facilitate family reunification. The child's placement is not intended to correspond in frequency to the parent or legal guardian's change of residence.

(B) When determining if the child is to be moved, DHS considers the potential harmful effects of disrupting the child's placement and the reason the parent or legal guardian changed residences.

(2) When an appropriate placement is not available in the parent or legal guardian's county of residence, the child is placed in an appropriate home in the nearest proximity to the child's school district to ensure his or her educational consistency.

(i) Child's placement preference. Per 10A O.S. § 1-7-110, when determining placement of a deprived child in foster care, DHS is governed by the child's long-term best interests. The child may express a preference as to placement and the preference may be expressed by the child with or without the parents, foster parents, guardians, or any other parties present. DHS determines if the child's long-term best interests are served by the child's preference, but is not bound by the child's preference and may consider other facts when determining placement.

(j) Former foster parent preferred placement. Per 10A O.S. § 1-9-119, the former foster parent has a right to be considered as a preferred placement option when the foster child who was formerly placed with the foster parent reenters foster care at the same level and type of care, when the placement is consistent with the best interests of the child and other children in the foster parent's home.

(k) Multiethnic Placement Act of 1994. DHS follows the provisions of the Multiethnic Placement Act of 1994 and the Interethnic Provisions of 1996, per OAC 340:75-1-9.

(l) ICWA and placement. DHS follows federal ICWA, Section 1915 of Title 25 of the United States Code, Oklahoma ICWA, 10 O.S. § 40.6, and OAC 340:75-19-14.

(m) Religious consideration in placement decision. Consideration is given to the parent's wishes regarding religious preference in the selection of a placement provider for the child, per OAC 340:75-6-49.

(n) Prescribed requirements for placement provider. Each placement utilized by DHS is approved or licensed by specified procedures and meets prescribed requirements.

(1) The child in DHS custody is not placed in a home prior to the person meeting provider standards, per OAC 340:75-7.

(2) Placement providers must:

- (A) provide safety for the child in DHS custody;
- (B) have sufficient space in the home to allow the child privacy;
- (C) support and participate in the child's permanency plan;
- (D) adhere to DHS rules, such as not using physical discipline; and
- (E) support the child's preferred religious and cultural choices.

(o) Certain criminal convictions prohibit placement approval. Per 10A O.S. § 1-4-705, DHS does not approve potential foster or adoptive parents for placement when the applicant, or any person residing in the potential applicant's home, has a criminal conviction for any of the felony offenses listed in ~~paragraphs~~ (1) through (5) of this subsection. The felony offenses are:

- (1) physical assault, battery, or a drug-related offense within the five-year period preceding the application date;
- (2) child abuse or neglect;
- (3) domestic abuse;
- (4) a crime against a child including, but not limited to, child pornography; or
- (5) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in paragraph (1) of this subsection.

(p) Placement provider's age. Per 10A O.S. § 1-4-705, when a prospective placement provider meets the minimum age required, per OAC 340:75-7-12, DHS may not use the age of an otherwise eligible individual as a reason for placement denial.

(q) Placement providers as essential participants.

(1) As placement providers, 10A O.S. § 1-9-119 and OAC 340:75-7-37 recognize foster parents and group home providers as essential participants in the decisions related to the growth, development, care, protection, and treatment of the child placed in the foster parent's home or in the group home with whom they have established a familial relationship.

(2) Per 10A O.S. §§ 1-4-807 and 1-4-811, a placement provider has the right to be heard in a proceeding concerning the child, although the provider is not considered a party to the proceeding, unless allowed to intervene.

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(r) **Foster parent rights.** A statement of foster parent's rights is given to every foster parent annually and found at 10A O.S. § 1-9-119.

(s) **Group home rights.** A statement of group home provider rights is attached to the group home contract.

(t) **Foster parent eligibility to adopt the child.** Per 10A O.S. § 1-4-812, during any permanency hearing when the court determines the child is to be placed for adoption, the court considers the foster parent eligible to adopt when the foster parent meets established eligibility requirements. When the child has resided with the foster parent for at least one year, the court gives great weight to the foster parent in the adoption consideration unless ~~there is~~ the child has an existing, loving, emotional bond with a relative ~~of the child~~, by blood or marriage, who is willing, able, and eligible to adopt the child.

SUBCHAPTER 7. FOSTER HOME CARE

PART 2. DEVELOPMENT OF RESOURCES RESOURCE FAMILIES

340:75-7-15. **Background ~~investigation~~ information search and assessment of results**

(a) **Authorization to conduct criminal history records searches.** The applicants and adult household members give consent for Oklahoma State Bureau of Investigation (OSBI) and Federal Bureau of Investigation (FBI) criminal histories records searches by signing Form 04AD003E, Request for Background Check.

(ab) **Background ~~investigation~~ information search for prospective ~~Bridge resource parents applicants and adult household members.~~** A background ~~investigation~~ information search is conducted regarding each adult in the ~~Bridge resource~~ applicant's home as a safeguard for children placed in Oklahoma Department of Human Services (~~OKDHS~~) (DHS) custody. Results from the background ~~investigation~~ information searches are obtained, ~~reviewed, and accepted~~ assessed, and documented prior to the ~~Bridge resource~~ applicant's approval for foster care maintenance payments. Background ~~investigation~~ information searches are conducted at the time of application and include, but are not limited to:

(1) an ~~Oklahoma State Bureau of Investigation (OSBI) name and criminal history records history search, including the Oklahoma Sex Offender Registry, of the applicant and any adult living in the applicant's household;~~

(2) a ~~Federal Bureau of Investigation (an FBI) national criminal history records search, based on the fingerprints of the applicant and any adult household members as required by~~ per Section 1-7-111 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-111);

(3) a search of the Oklahoma Sex Offender Registry;

(34) a search of the Mary Rippe Violent Offender Registry;

(45) an Oklahoma Department of Public Safety (DPS) report;

(56) a search of the Oklahoma State Courts Network (OSCN) — or including Oklahoma District Court Records (ODCR) to determine whether if the applicant or adult household member is, or was, a party in any court action;

(67) a search of all ~~OKDHS~~ DHS records, including Child Welfare child welfare (CW) records, for history of child maltreatment involving the applicant, or each adult household member, and any child of the applicant or adult household member living in or outside of the home;

(78) a ~~background check request~~ criminal military history from the service member's branch of service and Family Advocacy Program records, for the active, inactive, or retired military applicant or adult household member;

(9) search of the Restricted Registry;

(810) a search of all applicable out-of-state child abuse and neglect registries for the applicant or adult household member who has not lived continuously in Oklahoma for the past five years as required by 10A O.S. § 1-7-111 a search of Nontechnical Services Worker Abuse Registry maintained by the Oklahoma State Department of Health;

(A) The prospective resource home is not approved without the results for the applicant and adult household members of the out-of-state maintained child abuse and neglect registry checks, when a registry is maintained in the applicable state.

(B) When no child abuse and neglect registry is maintained in the applicable state, the resource specialist requests any information that can be provided;

(911) a search of Juvenile Justice Information System (JOLTS) records for any child 13 years of age or older residing in the applicant's household the Community Services Worker Registry;

(12) a search of all applicable out-of-state child abuse and neglect registries for the applicant or adult household member, who has not lived in Oklahoma continuously for the past five years, per 10A O.S. § 1-7-111.

(A) The potential resource home is not approved without the results for the applicant and adult household members of the out-of-state child abuse and neglect registry checks, when a registry is maintained in the applicable state.

(B) When a child abuse and neglect registry is not maintained in the applicable state, DHS requests any information that can be provided from the state; and

(13) a search of Juvenile Online Tracking System (JOLTS) records for any applicant's or adult household member's child, 13 through 17 years of age, living in or outside of the home.

(bc) **Authorization to conduct criminal records history search Background information summary.** The applicant and adult household members provide consent for an OSBI and FBI criminal records history search by signing Form 04AD003E, Request for Background Check, and Form 04AF001E, Bridge Resource Family Application. All background information is documented on Form 04AF007E, Records Check Documentation. A copy of Form 04AF007E is shared with the resource family partner (RFP) or the resource

family assessment (RFA) contractor responsible for completing an RFA. The RFP is provided background information only for searches the RFP does not conduct.

(ed) **Exception to fingerprinting.** Per Section 1-7-111 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-7-111), the ~~OKDHS~~DHS Director or designee may authorize an exception to the fingerprinting requirement, and authorize use of an alternative procedure for obtaining a national criminal history records ~~history check~~search for any applicant or adult residing in the home who has a severe condition that precludes such person being fingerprinted. In limited, case-specific circumstances, ~~OKDHS~~DHS may not be able to obtain:

- (1) an individual's fingerprints as a result of the individual's disability; or
- (2) legible fingerprints due to low quality fingerprints, as a result of age, occupation, or ~~otherwise~~other conditions, thereby making it impossible for the ~~national crime information databases (NCID)~~National Crime Information Center (NCIC) to provide results.

(ee) **Out-of-state equivalent records check required based on length of residency.** Prior to approval, applicants or adult household members who have lived in Oklahoma for less than five years must provide the equivalent background records ~~check~~checks from previous state(s) of residence. Equivalent records ~~check~~includes checks include, but ~~is~~are not limited to, a state's criminal history search, including DPS and Sex Offender Registry registries. ~~OKDHS~~Prior to approval, DHS obtains the child abuse and neglect registry check from the previous state(s) of residence, when a registry is available, ~~prior to approval. When a child abuse and neglect registry is not maintained in the applicable state, DHS requests any information that the state can provide.~~

(ef) **Residence time requirement for kinship applicants.** Prior to placement, kinship applicants or adult household members who have ~~resided~~not lived in Oklahoma less than continuously for the past five years must provide the equivalent background records check from the previous state(s) of residence ~~submit fingerprints. OKDHS~~DHS must obtain the child abuse and neglect registry check from the previous state(s) of residence, when a registry is available. Both the national criminal history records search and the child abuse and neglect registry checks must be completed, prior to a child's placement in a kinship home per 10A O.S. § 1-7-111. When a child abuse and neglect registry is not maintained in the applicable state, DHS requests any information that the state can provide.

(fg) **New occupants household members in the Bridge resource home.** The Bridge resource parent notifies ~~OKDHS~~the resource specialist within 24 hours of any person assuming residence ~~ea~~ new household member in the Bridge resource home. A Bridge resource family's failure to notify ~~OKDHS~~the resource specialist of a new household member or the refusal of a household member who remains in the home to consent to a background ~~check~~information search is ~~grounds~~cause for removal of the foster care child from the home and cancellation of the foster care contract.

- (1) ~~OKDHS~~DHS completes a background investigation ~~information~~ search, per this Section, for persons 18

years of age ~~or~~and older residing in the Bridge resource home for 30-calendar days or more. The Bridge resource parent's child who reaches 18 years of age is considered in this category.

(2) ~~An adult residing in the Bridge resource home has no provider responsibility until:~~

- (A) ~~the background investigation is complete; and~~
- (B) ~~OKDHS authorizes the adult to have provider responsibility.~~ An adult household member that moves into the resource home must consent to a background information search and be fingerprinted immediately after notification to the resource specialist.

(3) The resource parent's child who turns 18 years of age must consent to a background information search and be fingerprinted within 30-calendar days of turning 18 years of age.

(4) Any child, 13 through 17 years of age, that moves into the home must have a JOLTS check completed immediately.

(5) A new household member residing in the resource home cannot be left alone with a child in DHS custody, until the background information search is complete.

(gh) **Kinship Bridge resource applicant criminal background history records search** ~~searches~~ after normal business hours or on a holiday. In determining the suitability of the prospective potential kinship home, ~~OKDHS may elect to contract or otherwise collaborate with local law enforcement agencies.~~DHS uses the DHS Office of Background Investigations (OBI) to perform a name-based state and federal criminal history records ~~check~~ followed by fingerprint verification in accordance with the procedures set forth in 28 C.F.R., Section 901 et seq., and search, per Section 901 et seq. of Title 28 of the Code of Federal Regulations. When OBI is not operational, DHS may elect to contract or otherwise collaborate with local law enforcement agencies to perform a name-based state and federal criminal history records search followed by fingerprint verification, per 10A O.S. § 1-7-115.

(1) ~~When OKDHS considers placement of a child with a prospective kinship Bridge resource family in an emergency situation, after normal business hours, or on a holiday OKDHS requests that local law enforcement conduct a name-based National Crime Information Databases (NCID) criminal history search, permitted per 10A O.S. § 1-7-115 to determine whether any adult household member has been arrested for or convicted of any crime.~~

(A) ~~OKDHS submits the name, race, gender, date of birth, and Social Security number of each person 18 years of age or older living in the household considered for emergency placement of the child.~~

(B) ~~Each adult household member completes and signs Form 04AD003E to initiate the search.~~

(C) ~~The failure of any adult living in the household to submit to a name-based criminal records check or submit a full set of fingerprints and provide written permission authorizing OKDHS to forward the fingerprints to OSBI for submission to the Federal Bureau of Investigation for a national criminal records report within five business days results in~~

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denial of placement or the immediate removal of the child from the prospective kinship Bridge resource home per 10A O.S. § 1-7-115.

(2) ~~When requested by OKDHS, local law enforcement immediately conducts the requested name-based state and federal criminal history records check and provides OKDHS with a verbal response of each person's criminal history and whether any orders of protection or outstanding warrants exist per 10A O.S. § 1-7-115 B.2.~~

(3) ~~OKDHS forwards the fingerprints to the OSBI within 15 calendar days after the results of the preliminary name-based records check is received.~~

(h) Assessment of background investigation information search results.

(1) ~~History of felony~~ **Felony convictions.** ~~OKDHS~~ **DHS** denies a Bridge resource home application when the applicant, or any person residing in the applicant's home ~~of the applicant~~, has a criminal conviction record for any of the felony offenses listed in (A) through (E) of this paragraph. The criminal conviction of an approved Bridge resource parent or any person residing in the Bridge resource home of any of the felony offenses listed in ~~subparagraphs~~ (A) through (E) of this paragraph requires the closure of the Bridge resource home, cancellation of the foster care contract, and removal of ~~each~~ every child in ~~OKDHS~~ **DHS** custody from the home. The felony offenses are:

(A) physical assault, battery, or a drug-related offense, when the conviction occurs within the five-year period preceding the application date;

(B) child abuse or neglect;

(C) domestic abuse;

(D) a crime against a child, including, but not limited to, child pornography; or

(E) a crime involving violence, including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in ~~subparagraph~~ (A) of this paragraph. ~~Homicide~~ Per 21 O.S. § 692, homicide includes manslaughter. ~~Per Section 16 of Title 18 of the United States Code, a crime involving violence means, an offense that:~~

(i) has as an element of the use, attempted use, or threatened use of physical force against the person or property of another; or

(ii) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(2) **Sex-related crimes.** ~~OKDHS~~ **DHS** denies the application to become a Bridge resource parent, when the applicant:

(A) applicant, or any person residing in the applicant's home, has a conviction, for any crime, felony or misdemeanor, specified in Section 582 of Title 57 of the Oklahoma Statutes 57 O.S. § 582, whether the conviction occurred upon a:

(i) verdict;

(ii) plea of guilty; or

(iii) plea of nolo contendere; or

(B) applicant is subject to, living with, or married to a person who is subject to the Oklahoma Sex Offender Registration Act.

(3) ~~History of crimes~~ **Arrests, charges, or other convictions.** Approval of an applicant who has, or is living with a person who has, a history of arrests, charges, or convictions for any felony, other than those listed in OAC 340:75-7-15(i)(1) of this subsection, or a relevant misdemeanor may be approved as a Bridge resource parent on a case-by-case basis. A relevant misdemeanor includes:

(A) assault and battery;

(B) alcohol- or drug-related offenses;

(C) domestic violence; or

(D) other offenses involving the use of physical force or violence against the person or property of another.

(4) ~~History of child~~ **Child abuse and neglect investigations.** ~~OKDHS~~ **DHS** determines, on a case-by-case basis, the approval of any Bridge resource applicant with a history of child abuse and neglect investigations ~~on a case-by-case basis~~.

PART 6. FOSTER RESOURCE HOME CARE SUPPORT SERVICES

340:75-7-65. Foster care child Child care and support services for the Bridge resource home

(a) ~~Child care subsidy benefits for the child in Oklahoma Department of Human Services (OKDHS) and tribal custody.~~ Child care subsidy benefits paid by ~~OKDHS~~ the Oklahoma Department of Human Services (DHS) for a child in ~~OKDHS~~ **DHS** or tribal custody are available, when:

(1) a foster child attends an Early Head Start (EHS) program contracted with DHS to receive child care subsidy payments;

(2) the resource is a:

(A) paid or non-paid Bridge resource parent authorized for child care subsidy benefits by Child Welfare Services (CWS);

(B) tribal resource family providing care for the child in tribal custody in a paid placement when ~~child care subsidy is authorized by the tribal liaison~~ DHS tribal program staff;

(C) ~~contract resource~~ coordinated foster care parent when ~~child care subsidy is authorized by the district of service;~~

(D) shelter host home when ~~child care subsidy is authorized by the assigned child welfare (CW) specialist in the district of service;~~ or

(E) ~~contracted emergency resource care home approved on a case-by-case basis by the OKDHS Foster Care Program Units~~ supported home when authorized by the assigned DHS resource family partner liaison;

(3) the need for child care is met;

(A) ~~The need is met when: the~~ single Bridge resource parent is:

- (i) employed 20 hours a week or more;
- (ii) enrolled and attending a formal education program for at least six credit hours per semester. A formal education program is defined as a course of study that leads to the attainment of an associate, bachelor's, or post-graduate degree;
- (iii) enrolled and attending a training program. A training program is defined as a course of study that when completed, qualifies a person to meet requirements for a job the individual could not have obtained without the certificate of completion, accreditation, or licensure resulting from completion of training;
- (iv) employed during night hours and needs DHS paid child care to allow him or her to sleep during the day. During the night working hours, a feasible alternative is used at no cost to DHS. Night working hours are defined as the hours between 11:00 p.m. and 7:00 a.m. The maximum amount of child care time approved by the resource specialist allows the resource parent eight hours of sleep plus travel time to and from the child care provider; and
- (v) approved for child care by the resource program staff for reasons other than those listed in this subparagraph. These decisions are made on a case-by-case basis;

(B) ~~in a two-parent Bridge resource home, when:~~

- (i) both Bridge resource parents are employed 20 hours a week or more and have the same working hours; or
- (ii) one Bridge resource parent works and the other resource parent has a significant disability that precludes providing care for the child;
- (iii) one resource parent works during the same hours the other resource parent is enrolled and attending a formal education or training program as defined in (3)(A) of this subsection;
- (iv) sleep-time child care is needed during the day because one or both resource parents work nights. During the night working hours, a feasible alternative is used at no cost to DHS. When one resource parent works nights, the other resource parent must work or need child care for a reason that requires the approval of resource program staff during the hours the other resource parent is sleeping. Night working hours are defined as the hours between 11:00 p.m. and 7:00 a.m. The maximum amount of child care time approved by the resource specialist allows the resource parent eight hours of sleep, plus travel time to and from the child care provider; or
- (v) one resource parent works during the same hours the other resource parent needs child care for a reason other than those listed in this subparagraph. In this situation, the need for subsidized

child care must be approved by resource program staff on a case-by-case basis; or

~~(C) the Bridge resource parent works night hours, a feasible alternative is used at no cost to OKDHS during the night working hours, and the Bridge resource parent needs child care to allow the resource parent to sleep during the day. Night working hours are defined as the hours between 11:00 p.m. and 7:00 a.m.~~

~~(i) The maximum amount of child care time approved by the specialist allows the Bridge resource parent eight hours of sleep plus travel time to and from the child care provider.~~

~~(ii) In a two-parent Bridge resource home, child care subsidy is only approved for this reason when both Bridge resource parents work nights or when one Bridge resource parent works nights and the other Bridge resource parent works during the day while the other Bridge resource parent is sleeping;~~

~~(34) child care is provided:~~

~~(A) in a licensed and contracted child care center with a one star plus or higher star status, unless there are no centers with a one star plus or higher star status in the community or special exception criteria are met. Special exception criteria are:~~

~~(i) the child was already approved for care at this the one star center prior to January 1, 2003, or prior to the provider's star status being reduced to one star. The child can may remain at in this facility, unless the child stops attending there for more than 30-calendar days. The child may be approved at this same facility again if when the only reason the child did not attend for more than 30-calendar days was because of a school break or due to circumstances beyond the control of the resource home, such as the child's illness;~~

~~(ii) care is requested for a child living in the same home as a child already approved for care as described in per (3)(A)(i) of this subsection paragraph for the same one star child care provider; or~~

~~(iii) the Bridge resource parent demonstrates there is no other child care option that meets the family's needs;~~

~~(B) in a licensed and contracted child care home regardless of star level; or~~

~~(C) by an approved in-home provider who cares for the child at the resource parent's home, per Oklahoma Administrative Code (OAC) 340:40-13-2.~~

~~(b) Child care subsidy benefits available through Adult and Family Services (AFS). Child care subsidy benefits may be available through local OKDHS DHS AFS for child care, per OAC 340:40 to:~~

~~(1) Bridge resource parents who have finalized an adoption of a foster child;~~

~~(2) a child in tribal custody placed by the tribe in a home that has now without a resource case in KIDS; and~~

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- (3) ~~children a~~ child in the custody of another state placed in a kinship home in Oklahoma through the Interstate Compact on the Placement of Children (ICPC).
- (c) **Foster care child care subsidy benefits not paid by ~~OKDHS~~DHS.** Foster care child care subsidy benefits are not paid by ~~OKDHS~~DHS, when the:
- (1) child is placed in therapeutic foster care;
 - (2) ~~Bridge~~ resource parent has an ownership interest in the chosen child care center;
 - (3) foster child attends a family child care home where the child lives, unless:
 - (A) the child care home provided child care to the child immediately prior to the foster care placement; and
 - (B) it is in the child's best interests to remain in the kinship provider's child care home;
 - (4) ~~Bridge~~ resource parent works in the child care home during the same hours the child attends child care;
 - (5) ~~Bridge~~ resource parent ~~attends school or participates in training~~;
 - ~~(6) Bridge resource parent chooses more than one child care provider to provide service to a child on the same day;~~
 - ~~(7) Bridge resource parent's hours of employment interfere with the provision of suitable family life;~~
 - ~~(8) Bridge resource parent makes informal arrangements for child care;~~
 - ~~(9) provider is receiving state or federal funds, such as Head Start, Early Head Start, or public schools, and is not charging all parents for the hours the subsidy payment is requested. EHS programs are exempt from this rule;~~ or
 - ~~(10) provider is caring for a school-age child during the regular school day when such student could be attending a public or private school during those hours.~~
- (d) **Child care subsidy benefits for a child with disabilities.** A child with disabilities is potentially eligible for the higher special needs rate for child care subsidy benefits. Each child with disabilities requires a separate and specific certification of the child care provider.
- (1) A child with disabilities is defined as a child receiving:
 - (A) ~~receiving~~ Supplemental Security Income (SSI). This includes those whose SSI payment stops because of financial reasons, but who still meet the medical definition of disability as determined by the Social Security Administration;
 - (B) ~~receiving~~ SoonerStart early intervention services; or
 - (C) ~~receiving~~ special education services provided ~~in accordance with~~ per an Individualized Education ~~Plan~~Program (IEP) by the ~~local~~child's school district.
 - (2) When the child with disabilities is 13 years of age ~~or and~~ older, the ~~Bridge~~ resource parent must provide a statement from a licensed health care professional verifying that the child is physically or mentally incapable of self-care as age-appropriate before care is approved, and annually at review. When the Subsidized child care benefits are not approved when a licensed health care professional states that the child is capable of self-care as
- age-appropriate, ~~subsidized child care benefits are not approved.~~
- (e) **~~Bridge resource~~Resource parent's responsibility for electronic benefit transfer (EBT).** Refer to OAC 340:40-10 for information regarding the EBT system that includes the manual claim process. ~~Bridge resource~~Resource parent responsibilities for EBT include:
- (1) watching the EBT training video;
 - (2) ~~signing~~completing and submitting a signed Form 04MP042E, Application for Child Welfare Child Care Benefits;
 - (3) swiping the EBT card every day the child attends child care;
 - (4) not swiping the EBT card for any day the child does not attend child care;
 - (5) checking the message on the point of service (POS) machine for correct times of attendance and approval;
 - (6) not giving the EBT card or personal identification number (PIN) to anyone, including the child care provider; and
 - (7) paying for care that ~~OKDHS~~DHS does not pay because the:
 - (A) ~~the~~ EBT card was not swiped for the correct days and times the child attended child care;
 - (B) swipes were denied and not corrected within ~~ten~~10-business days; or
 - (C) ~~the~~ provider loses the weekly rate payment for absent days because the correct attendance for every day the child attended that month was not swiped.
- (f) **Therapeutic child care services.** Therapeutic child care services are paid by ~~OKDHS~~DHS when recommended by a mental health professional and supporting documentation is provided. Prior authorization from the CWS Operations and Business Processes Section (OBPS) is required. ~~The Operations and Business Processes Section~~CWS OBPS makes the determination of the availability of funds.
- (g) **Overpayment of child care.** ~~OKDHS~~DHS seeks repayment for any child care subsidy benefit paid in error to a licensed child care center, home, or professional in the ~~foster~~resource parent's own home. The ~~foster~~resource parent is responsible for reimbursing these costs to ~~the child care provider~~DHS when the overpayment occurs due to the ~~foster~~resource parent's ineligibility ~~for child care paid through OKDHS.~~
- (h) **Informal care arrangements or ~~babysitting~~for the foster child.** ~~Bridge resource~~Resource parents may make informal care arrangements with friends, neighbors, or relatives for the foster child's occasional care ~~of a child for less than 12 hours at a time on an irregular basis, including before and after school hours.~~
- (1) ~~The Bridge resource parent ensures informal care providers possess the maturity and skills to address the needs of the child in foster care~~Resource parents apply the reasonable and prudent parent standard when selecting an informal care provider to care for the foster child and ensure he or she possesses the maturity and skills to address the child's needs.

- (2) ~~Prior authorization by the resource specialist may apply to multiple events using the same informal provider. The foster child may stay with a friend, when the resource parent:~~
- ~~(A) knows the family;~~
 - ~~(B) reasonably believes the family, household members, and environment are safe for the child; and~~
 - ~~(C) exchanges contact information, including names, addresses, and phone numbers.~~
- (3) ~~A person younger than 18 years of age living outside of the home may not be an informal provider. The resource parent notifies the resource specialist when using informal care arrangements. The resource parent cannot use an informal care provider who the resource specialist determines is unsafe.~~
- (4) ~~An informal provider living in the home must be at least 16 years of age. The CW specialist and the Bridge resource parent discuss the situation in depth before a person, particularly a teen, babysits the child in OKDHS custody. The discussion assists in assessing the appropriateness of the person assuming responsibility for the child and ensures the child's needs and well-being are considered. must obtain permission from the foster child's assigned CW specialist before allowing the foster child's relatives to provide informal care for the child.~~
- (5) ~~Informal providers must be notified how to reach the Bridge resource parent and other emergency contacts. An informal care provider, living outside of the resource parent's home, must be 18 years of age and older.~~
- (6) ~~The Bridge resource parent may allow the child in OKDHS custody overnight stays with friends of the child when the Bridge Resource Parent:~~
- ~~(A) knows the family;~~
 - ~~(B) reasonably believes the family and all people in the household are safe for the child to have a relationship with;~~
 - ~~(C) exchanges contact information, including name, address and phone number; and~~
 - ~~(D) uses the same discretion as to the safety and well-being of the child as the foster parent would with his or her own child. An informal care provider living in the resource parent's home must be 16 years of age, related to the resource parent, and is limited to providing 12-consecutive hours of informal care. The resource specialist and the resource parent assess the teen's ability and appropriateness to assume responsibility for the foster child and ensure his or her needs and well-being can be met.~~
- (7) ~~The resource parent does not utilize a child in DHS custody to care for a younger child unless approved by the resource specialist.~~
- (8) ~~Informal care providers must be notified on how to reach the resource parent and other emergency contacts.~~
- (9) ~~An individual providing care for more than seven-consecutive days must be an approved alternate caregiver.~~
- (i) **Alternate caregiver selected by the Bridge resource parent.** The Bridge resource parent is required to identify ~~at~~ least one formal, alternate caregiver, but no more than two, who can ~~care-fulfill~~ the resource parent's role for the child in ~~OKDHS~~DHS custody placed in the Bridge resource home in case of family emergencies, family vacations, or when the family needs ~~aan~~ extended break for up to 14-consecutive days. ~~The alternate caregiver is limited to providing care only for resource families for which the caregiver is approved.~~
- (1) ~~The alternate caregiver may be used for periods of time over 12 hours at a time on an irregular basis not used as a placement for the child.~~
 - (2) ~~The Bridge resource parent is responsible for identifying and reimbursing the alternate caregiver. When funding is available, respite vouchers may be used for reimbursement.~~
 - (3) ~~The alternate caregiver must be at least 21 years of age.~~
 - (4) ~~The alternate caregiver and each adult household member in the alternate caregiver's home must be willing to:~~
 - ~~(A) submit to a background assessment name-based records search by the Oklahoma State Bureau of Investigation (OSBI), per OAC 340:75-7-15;~~
 - ~~(B) submit to a Child Abuse and Neglect Information System records search for Child Welfare Services DHS records search including, but not limited to:~~
 - ~~(i) CW history, per OAC 340:75-7-15;~~
 - ~~(ii) Restricted Registry; and~~
 - ~~(iii) Community Services Worker Registry;~~
 - ~~(C) submit to an Oklahoma State Department of Health Nontechnical Services Worker Abuse Registry search;~~
 - ~~(D) submit to a search of Juvenile Justice Information Online Tracking System (JOLTS) records search for each child, 13 through 17 years of age, or older living in or outside the household, per OAC 340:75-7-15;~~
 - ~~(E) engage in an evaluation of the home to assess the location, condition, and capacity to accommodate the child in foster care DHS custody;~~
 - ~~(F) provide one reference on Form 04AF026E, Alternate Caregiver Reference Letter;~~
 - ~~(G) comply with discipline policy, per OAC 340:75-7-38 and confidentiality policy, per OAC 340:75-1-42; and~~
 - ~~(H) participate in a yearly re-assessment.~~
 - (j) **Respite care.** Respite care can only be provided by an approved resource home. A resource home is not limited to providing respite care to only one resource family.
 - (k) **Insurance for the Bridge resource home.** Liability insurance is provided for Bridge resource families for damages ~~incurred~~caused by the child in ~~OKDHS~~DHS custody pursuant to ~~per~~ the terms of the policy. Resource families have the right to receive a copy of the liability insurance policy, per Section 1-9-119 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-9-119). ~~Questions related to Bridge resource parent liability insurance are referred to the designated insurance~~

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company. ~~Bridge resource~~ Resource parents are responsible for the ~~deductible~~ any deductibles.

(~~kl~~) **Foster care associations.** ~~OKDHS~~ DHS cooperates with and promotes the development of foster care associations for ~~Bridge~~ resource parents in each district. ~~OKDHS~~ DHS provides ~~names and addresses of Bridge resource~~ information to resource families, who have provided written authorization for the release of this information, to persons developing ~~about~~ local foster care association associations.

(~~lm~~) **Foster parent helpline** Care and Adoption Support Center. The ~~foster parent helpline~~ Foster Care and Adoption Support Center, 1-800-376-9729, is maintained by the ~~Bridge~~ Foster Care and Adoption Support Unit and assists with questions and problem resolution, policy clarification, and grievance information.

(~~mn~~) **Foster parents' rights.** Foster parents' rights are found in ~~Section 1-9-119 of Title 10A of the Oklahoma Statutes~~ O.S. § 1-9-119 and a copy is given to every resource parent at the annual update or at re-assessment.

(~~no~~) **Shared information.** Information shared between ~~Child Welfare Services~~ CWS employees, ~~foster~~ resource parents, and parents includes, but is not limited to the:

- (1) ~~the~~ child's legal status;
- (2) upcoming court hearings;
- (3) ~~the~~ reason for the child's foster care placement;
- (4) ~~the~~ child's and parent's prior and present living experiences; and
- (5) ~~the~~ child's medical, psychological, and behavioral information, current photographs, and educational records.

(~~op~~) **Foster care grievance procedures.** The ~~Bridge~~ resource parent and child in foster care have access to ~~OKDHS~~ DHS grievance procedures through the Office of Client Advocacy, per OAC 340:2-3.

(~~pq~~) **Foster care mediation program.** The ~~Bridge~~ resource parent may access the foster care mediation program through the Oklahoma Commission on Children and Youth (OCCY), per OAC 340:75-7-291.

(~~r~~) **Resource parent complaints about DHS employees.** Resource parents may file a complaint with OCCY Office of Juvenile System Oversight about an action of a DHS employee involving retaliation or discrimination against a resource parent, per OAC 340:75-7-292.

(~~qs~~) **Information Training topics relevant to fostering.** Pre-service and in-service training is provided to enhance the ~~Bridge~~ resource parent's foster parenting skills. ~~An informative quarterly newsletter is sent to each OKDHS foster family.~~

(~~rt~~) **Travel reimbursement for the Bridge resource parent.**

- (1) The ~~Bridge~~ resource parent, including a tribal resource parent, may be reimbursed for ~~three~~ four trips per child per month for mileage incurred when providing transportation for the child in ~~OKDHS~~ DHS custody placed in the ~~Bridge~~ resource home. When multiple children are included on a trip, the trip is counted as one trip for the group. Reimbursement Travel reimbursement may occur when the:

(~~1A~~) CW specialist is required to provide transportation for the child if not provided by Bridge resource parent, including provides travel associated with the child's permanency and well-being, limited to:

- (~~A~~i) visits with parents and any person approved by the child's CW specialist;
- (~~B~~ii) visits with the child's sibling;
- (~~C~~iii) court hearings; or
- (~~D~~iv) medical, behavioral health, dental, or vision appointments; Transportation for medical appointments is limited to appointments not covered by medical transport provided by Medicaid (SoonerCare);

(~~2B~~) round trip for the a single event in excess of 25 is 26 miles or more; or and

(~~3C~~) trip is documented trips are documented and filed monthly on Form 10AD006E, Travel Claim, provided by a CW specialist, and processed through the OKDHS office in the district of service each month Foster Care and Adoption Support Center.

(2) Travel reimbursement may occur when transporting a child to and from the foster placement to Oklahoma Schools for the Blind or Deaf on a bi-weekly basis after all other options are exhausted.

(~~u~~) **Tax deduction available.** An Oklahoma income tax deduction is available for resource parents who meet requirements, per 68 O.S. § 2358.5-1. A resource parent with tax questions related to the care of a child in DHS custody contacts a tax professional.

SUBCHAPTER 15. ADOPTIONS

PART 2. ADOPTION SERVICES PROGRAM LEGAL BASE AUTHORITY AND SCOPE OF THE ADOPTION PROGRAM

340:75-15-9. Confidentiality

Section 7505-1.1 of Title 10 of the Oklahoma Statutes (10 O.S. § 7505-1.1) requires that all papers and records pertaining to adoption are confidential except as authorized by ~~Sections 7504 1.2, 7505 6.6, 7508 1.2, and 7508 1.3 of Title 10 O.S. §§ 7505-3.2, 7505-6.6, 7508-1.2, and 7508-1.3~~ or upon order of a court of record for good cause shown. The adoption case record includes the child's case file and the adoptive family resource files. These files are adoption records once they become part of an authorized adoptive placement, per Oklahoma Administrative Code (OAC) 340:75-15-103.

- (1) **Disclosure of medical and social history.** ~~Pursuant to 10 O.S. § 7504 1.2, when~~ When a ~~minor~~ child is in ~~OKDHS legal~~ Oklahoma Department of Human Services (DHS) custody, per 10 O.S. § 7504-1.2 his or her medical and social ~~history~~ histories may be disclosed to the ~~prospective~~ potential adoptive parent without any agreement and without redacting identifying information,

unless DHS determines redaction of such information is in the child's best interests, when the:

- (A) the prospective adoptive parent is a kinship or relative caregiver for the minor child; or
- (B) the minor child lived in the prospective adoptive parent's home for two or more years, unless DHS determines redaction of such information is in the child's best interests.

(2) **Oklahoma Commission on Children and Youth (OCCY) access to pre-adoption or adoption records.** Pursuant to 10 O.S. § 601.6, OCCY may access, examine, and copy DHS Child Welfare Services records including records regarding the transition of the child in DHS custody into adoptive placement from foster care status, per 10 O.S. § 601.6. Pursuant to 10 O.S. § 7505-1.1, adoption records are confidential and not open to inspection except for good cause shown and upon an order of the court of record, per 10 O.S. § 7505-1.1.

(3) **Adoption assistance records.** All records regarding adoption assistance are confidential.

(4) **Oklahoma Mutual Consent Voluntary Registry.** Certain types of non-identifying information may be released when Form 04CI002E, Oklahoma Mutual Consent Voluntary Registry, is submitted by an adoptive family or adult adoptee, per OAC 340:75-15-132.

PART 6. ADOPTION PROCESS

340:75-15-41.1. Adoption placement considerations

(a) **Legislative intent.** The intent of the Oklahoma Legislature is that every child be raised in a secure, loving home and that adoption is the best way to provide a permanent family for a child whose biological parents are not able or willing to provide for the child's care or whose parents believe the child's best interest are served through adoption, per Section 7501-1.2 of Title 10 of the Oklahoma Statutes (10 O.S. § 7501-1.2).

(b) **Sibling placement.** Every reasonable attempt is made to place siblings together who have been removed together whether in temporary or permanent placement. When separated, siblings are provided frequent contact or visitation, when appropriate. Each child's best interests of each child determines whether determine if joint placement, contact, or visitation is allowed. When the child is a part of a sibling group, placement of the entire sibling group in the same placement is in the child's and siblings' best interests of the child and siblings unless there is a preponderance of evidence to the contrary interests. Guidance on when siblings may be separated is found in Oklahoma Administrative Code (OAC) 340:75-6-85, 10A O.S. § 1-7-107.

(c) **Indian Child Welfare Act (ICWA) and placement.** The federal Indian Child Welfare Act (ICWA), Section 1915 of Title 25 of the United States Code § 1915, Oklahoma Indian Child Welfare Act (OICWA) (ICWA), Section 40.6 of Title 10 of the Oklahoma Statutes (10 O.S. § 40.6), and OAC

340:75-19-14 define placement preferences for Indian children, unless the child's tribe established a different preference order by tribal resolution.

(d) **Multiethnic Placement Act (MEPA) of 1994.** The Oklahoma Department of Human Services (DHS) follows the MEPA provisions of the Multiethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996, per OAC 340:75-1-9, unless the court finds that the Indian Child Welfare Act (ICWA) applies to the child.

(e) **Placement provider's potential adoptive parent age.** When a prospective placement provider potential adoptive parent meets the minimum age required, per OAC 340:75-7-12, DHS may not use the age of an otherwise eligible individual as a reason for denial of placement, per 10A O.S. § 1-4-705, 10A O.S. § 1-4-705.

(f) **Child's placement preference.** In determining placement of a deprived child in foster care, DHS is governed by the child's long-term best interests of the child. The child may express a preference as to placement and the preference may be given with or without the parents, foster parents, guardians, or any other parties being present. DHS determines whether if the child's best interests of the child are served by the child's his or her preference. DHS is not bound by the child's preference and may consider other facts in determining the placement, per 10A O.S. § 1-7-110.

(g) **Bars to placement.** Per 10A O.S. § 1-4-705,

(1) Per Section 1356.30 of Title 45 of the Code of Federal Regulations, DHS does not approve prospective foster or potential adoptive parents as Bridge resource parents if when the applicant, or any person residing in the prospective applicant's home, has a criminal conviction record for any of the felony offenses listed in (A) through (E). The felony offenses are:

- (A) physical assault, battery, or a drug-related offense within the five-year period preceding the application date of the petition;
 - (B) child abuse or neglect;
 - (C) domestic abuse;
 - (D) a crime against a child; including, but not limited to, child pornography; or
 - (E) a crime involving violence, including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes specified in paragraph (A) of this Subsection. Homicide includes manslaughter.
- Per Section 16 of Title 18 of the United States Code, a crime involving violence means an offense that:

- (A) has as an element the use, attempted use, or threatened use of physical force against the person or property of another; or
- (B) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(2) Per 10 O.S. 7505-6.3, the court may choose to accept an individual as a potential adoptive parent for placement who has a felony conviction listed in (1)(A) and (C)

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of this subsection, when an evaluation of the individual considers the:

- (A) crime's nature and seriousness in relation to the adoption;
 - (B) time elapsed since the crime's commission;
 - (C) circumstances under which the crime was committed;
 - (D) degree of rehabilitation;
 - (E) number of crimes committed; and
 - (F) showing by clear and convincing evidence that the child will not be at risk by such placement.
- (3) DHS denies the application to become a resource parent, when, the applicant:
- (A) or any person residing in the applicant's home has a conviction for any crime, felony or misdemeanor, specified in 57 O.S. § 582, whether the conviction occurred upon a:
 - (i) verdict;
 - (ii) plea of guilty; or
 - (iii) plea of nolo contendere; or
 - (B) is subject to, living with, or married to a person who is subject to the Oklahoma Sex Offender Registration Act.

(hg) **Eligibility of foster parent to adopt the child.** Per 10A O.S. § 1-4-812, during any permanency hearing, ~~if~~when the court determines the child is to be placed for adoption ~~and the child has resided with the foster parent for at least one year,~~ the court considers the foster parent eligible to adopt ~~and, when the foster parent meets established eligibility requirements.~~ When the child has resided with the foster parent for at least one year, the court gives great weight to the foster parent in the adoption consideration unless there is an existing, loving, emotional bond with a relative of the child, by blood or marriage, who is willing, able, and eligible to adopt the child. The court must take into account the statutory factors to make the determination including, but not limited to, the age and preference of the child and the long term best interests of the child.

PART 10. INTEGRATED FAMILY ASSESSMENT AND PREPARATION PROCESS

340:75-15-84.1. Background information search

(a) Background checks.

(1) Mandate to conduct background searches.

(A) The Oklahoma Department of Human Services (DHS) is mandated to conduct a criminal background and child abuse and neglect information system (KIDS) search for DHS and private adoptive applicants and adult household members, 18 years of age and older, per Section 7505-5.3 of Title 10 of the Oklahoma Statutes (10 O.S. § 7505-5.3).

(B) The background search for DHS adoptive applicants and adult household members includes a search of:

- (i) Oklahoma State Bureau of Investigation (OSBI) name and criminal records histories;

(ii) the Oklahoma Sex Offender Registry;

(iii) the Mary Rippey Violent Crime Offender Registry;

(iv) Federal Bureau of Investigations (FBI) national criminal history records based on the applicant's and each adult household member's fingerprints;

(v) the applicant's or adult household member's involvement as a party in any court action found on the:

(I) Oklahoma State Courts Network (OSCN); or

(II) Oklahoma District Court Records (ODCR);

(vi) Oklahoma Department of Public Safety records;

(vii) DHS records including child welfare records involving the applicant, each adult household member, and any child of the applicant or adult household member, living in or outside the of home; and

(viii) applicable out-of-state child abuse and neglect registries when the applicant or adult household member has not lived continuously in Oklahoma for the past five years.

(I) When a child abuse and neglect registry is not maintained in the applicable state, the adoption specialist requests any information that can be provided.

(II) The applicant is not approved without state-maintained child abuse and neglect registry searches when a registry is maintained in the applicable state;

(ix) the Restricted Registry;

(x) the Oklahoma State Department of Health Nontechnical Services Worker Abuse Registry;

(xi) the Community Services Worker Registry;

(xii) a criminal military history from the service member's branch of service and Family Advocacy Program records, whether active, inactive, or retired; and

(xiii) Juvenile Online Tracking System (JOLTS) records for each applicant's or adult household member's child, 13 through 17 years of age, living in or outside of the home.

(2) **KIDS and the private adoptive applicant.** The private adoptive applicant, adoption agency, or another person authorized to conduct home study investigations:

(A) completes a written request for a KIDS search using Form 04AN028E, Request for Child Abuse and Neglect Information System Search; and

(B) submits Form 04AN028E, with verification of impending adoption, to the Child Protective Services Programs Unit, PO Box 25352, Oklahoma City, Oklahoma 73125-9975.

(3) **Exception to fingerprinting.** The DHS Director or designee may authorize an exception to the fingerprinting requirement and authorize use of an alternative procedure for obtaining a national criminal history records search for any DHS and private adoptive applicant or adult household member, who has a severe condition that precludes him or her from fingerprinting, per 10A O.S. § 1-7-111. In limited, case-specific circumstances, DHS may not be able to obtain:

- (A) an individual's fingerprints as a result of his or her disability; or
- (B) legible fingerprints due to low quality, as a result of age, occupation, or other conditions, making it impossible for the National Crime Information Center to provide results.

(b) **Felony convictions.**

(1) Per Section 1356.30 of Title 45 of the Code of Federal Regulations, DHS does not approve potential adoptive parents as resource parents when the applicant or any person residing in the potential applicant's home has a criminal conviction record for any of the felony offenses listed in (A) through (D) of this paragraph. The felony offenses are:

- (A) physical assault, battery, or a drug-related offense, when the conviction occurs within the five-year period preceding the petition date;
- (B) child abuse or neglect;
- (C) domestic abuse;
- (D) a crime against a child including, but not limited to, child pornography; or
- (E) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding physical assault or battery. Per Section 16 of Title 18 of the United States Code, a crime involving violence means an offense that:
 - (i) has an element of the use, attempted use, or threatened use of physical force against the person or property of another; or
 - (ii) by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

(2) Per 10 O.S. § 7505-6.3, the court may choose to accept an individual as a potential adoptive parent for placement who has a felony conviction listed in (1)(A) of this subsection, when an evaluation of the individual considers the:

- (A) crime's nature and seriousness in relation to the adoption;
- (B) time elapsed since the crime's commission;
- (C) circumstances under which the crime was committed;
- (D) degree of rehabilitation;
- (E) number of crimes committed; and
- (F) showing by clear and convincing evidence that the child will not be at risk by such placement.

(c) **Sex-related crimes.** DHS denies the application to become a resource parent, when an applicant:

(1) or any person residing in the applicant's home has a conviction for any crime, felony or misdemeanor, specified in 57 O.S. § 582, whether the conviction occurred upon a:

- (A) verdict;
- (B) plea of guilty; or
- (C) plea of nolo contendere; or

(2) is subject to, living with, or married to a person who is subject to the Oklahoma Sex Offender Registration Act.

[OAR Docket #18-148; filed 2-16-18]

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

[OAR Docket #18-149]

RULEMAKING ACTION:

EMERGENCY adoption

RULES:

- Subchapter 1. General Provisions
 - Part 1. Licensing Services - Child Care
 - 340:110-1-8.1 [AMENDED]
 - 340:110-1-8.3 [AMENDED]
 - 340:110-1-8.10 through 340:110-1-9 [AMENDED]
 - 340:110-1-10.1 [AMENDED]
 - Part 3. Licensing Services-Residential Care and Agencies
 - 340:110-1-47 [AMENDED]
 - Subchapter 3. Licensing Standards for Child Care Facilities
 - Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes
 - 340:110-3-85 [AMENDED]
 - Part 9. Requirements for Residential Child Care Facilities
 - 340:110-3-153.1 [AMENDED]
 - Part 15. Requirements for Child Care Centers, Day Camps, Drop-In Programs, Out-of-School Time Programs, Part-Day Programs and Programs for Sick Children
 - 340:110-3-282 [AMENDED]
 - Subchapter 5. Requirements for Child-Placing Agencies
 - Part 1. Requirements for Child-Placing Agencies
 - 340:110-5-8 [AMENDED]

AUTHORITY:

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (O.S. 56 § 162); 10 O.S. §§ 404, 404.1, 405.3, and 405.5 of the Oklahoma Child Care Facilities Licensing Act.

ADOPTION:

December 20, 2017

APPROVED BY GOVERNOR:

January 31, 2018

EFFECTIVE:

Immediately upon Governor's approval.

EXPIRATION:

Effective through September 14, 2018, 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 is requested to comply with Senate Bill (SB) 717 and 723 and House Bill (HB) 1968 changes with an effective date of November 1, 2017.

GIST/ANALYSIS:

Chapter 110, Subchapter 1, Part 1: The proposed amendments address alignment with Child Care Services (CCS) policy and procedures for federal Child Care Development Fund (CCDF) mandates and legislative mandates due to passage of SBs 717 and 723 and HB1968. Amendments also include: (1)

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requiring a self-assessment for child care programs participating in the stars program; and (2) the transition of the Department of Human Services (DHS) CCS Licensing Records Office (LRO) to DHS Office of Inspector General Office of Background Investigation (OBI).

Chapter 110, Subchapter 1, Part 3: The proposed amendments address alignment with CCS policy and procedures for HB1968.

Chapter 110, Subchapter 3, Part 5: The proposed amendments address licensing requirements for family child care homes by: (1) aligning with federal CCDF mandates and legislative mandates due to passage of SB 723; and (2) the transition of LRO to OBI.

Chapter 110, Subchapter 3, Part 9: The proposed amendments address licensing requirements for residential child care programs by: (1) aligning with federal CCDF mandates and legislative mandates due to passage of SB 723; and (2) the transition of LRO to OBI.

Chapter 110, Subchapter 3, Part 15: The proposed amendments address licensing requirements for child care centers, day camps, drop-in, out-of-school time and part-day programs, and programs for sick children by: (1) aligning with federal CCDF mandates and legislative mandates due to passage of SB 723; and (2) the transition of LRO to OBI.

Chapter 110, Subchapter 5, Part 9: The proposed amendments address licensing requirements for child-placing agencies by: (1) aligning with federal CCDF mandates and legislative mandates due to passage of SB 723; and (2) the transition of LRO to OBI.

CONTACT PERSON:

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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(F):

SUBCHAPTER 1. GENERAL PROVISIONS

PART 1. LICENSING SERVICES - CHILD CARE

340:110-1-8.1. Background investigations

(a) ~~Individual process.~~

~~(1) **Criminal history review packet.** Criminal history review packets are made available to individuals and programs.~~

~~(2) **Fingerprint rejections.** When low quality fingerprints, as determined by the Oklahoma State Bureau of Investigation (OSBI) and the Federal Bureau of Investigation (FBI), make it impossible for the national crime information databases to provide results, a name based search may be authorized.~~

~~(3) **Fingerprint exceptions.** When the Licensing Records Office (LRO) receives a written request for a fingerprint exception from an individual who has a severe physical condition precluding the individual from being fingerprinted, a name based search may be authorized.~~

~~(4) **Criminal history review requests for individuals.** This process is followed when an individual requests a criminal history review by LRO.~~

~~(A) Upon receipt of an incomplete criminal history review request for individuals, LRO sends the individual notification of an incomplete request.~~

~~(B) Upon receipt of a complete criminal history review request for individuals and a national Criminal~~

~~History Record Information (CHRI), LRO disseminates to the individual the national CHRI and, per (c) of this Section, dispute information.~~

~~(b) **Program Criminal history review-program process.**~~

~~(1) **Criminal history review requests and results for programs.** The process listed in (A) and (B) of this paragraph is followed when a program requests a criminal history review by LRO. Programs request criminal history reviews from the Oklahoma Department of Human Services (DHS) Office of Background Investigations (OBI), per Oklahoma Administrative Code (OAC) 340:2-46-4.~~

~~(A) Upon receipt of an incomplete Form 07LC096E, Criminal History Review Request for Programs, LRO sends the program notification of an incomplete request.~~

~~(B) Upon receipt of a complete Form 07LC096E and, per (a) of this Section, a complete criminal history review request for individuals, LRO disseminates by close of the next DHS business day for new programs or fifth DHS business day for existing programs the:~~

- ~~(i) criminal history review results;~~
- ~~(ii) CHRI, when applicable; and~~
- ~~(iii) dispute resolution documents, when applicable.~~

~~(2) **Criminal history restriction waiver process.** This The process in (A) - (D) of this paragraph is followed when a program requests a criminal history restriction waiver for an individual.~~

~~(A) The decision to grant or deny a criminal history restriction waiver is made by the restriction waiver review committee consisting of three Child Care Services (CCS) staff. The committee decision is based on received documentation indicating that the health, safety, and well-being of children will not be endangered and unanimously approved by the committee. The granting of a restriction waiver requires unanimous committee decision. Criteria considered includes include the:~~

- ~~(i) types of crimes or offenses for which the individual was convicted of or disposition, that includes including a plea of guilty or nolo contendere (no contest), or a finding made;~~
- ~~(ii) nature of the offense(s);~~
- ~~(iii) individual's age of the individual at the time of the offense(s);~~
- ~~(iv) circumstances surrounding commission of the offense(s) demonstrating whether the individual will re-offend;~~
- ~~(v) number of offenses for which the individual was convicted of or findings made;~~
- ~~(vi) length of time elapsed since the last conviction or disposition including a plea of guilty or nolo contendere (no contest), or a finding made;~~
- ~~(vii) relationship of the offense(s) to the individual's ability to care for children;~~

- (viii) evidence of rehabilitation or education activities since the offense was committed, such as counseling, ~~since the offense was committed~~;
 - (ix) statement from the individual with having the criminal history; and
 - (x) references of community members concerning the individual ~~in question~~ documented on Form 07LC090E, Criminal History Restriction Waiver Reference, including the reference's name, address, and phone number ~~of the individual providing the reference~~.
- (B) ~~CCS State Office notifies the program of the decision in writing provides programs with written notice of the decision.~~
- (C) ~~The licensing~~ Licensing staff monitors:
- (i) criminal history restriction waiver notification posting in the facility and placement in the compliance file, when required, ~~of a criminal history restriction waiver notification~~; and
 - (ii) any additional program instructions ~~made to the program~~.
- (D) A criminal history restriction waiver may be rescinded at the discretion of the criminal history restriction waiver review committee.
- (e) **Criminal history records dispute process.**
- (1) **Dispute rights.** When national CHRI are disseminated per (a) of this Section, LRO notifies individuals of the right to dispute the completeness and accuracy of the national CHRI.
 - (2) **Reasonable time.** Individuals are given a reasonable time to dispute prior to a final determination of employment.
- (b) **Additional background investigations.**
- (1) **DHS database searches.** Licensing staff searches DHS databases for involvement that may impact the individual's ability to meet requirements. Searches are conducted:
 - (A) on all adults with the exception of directors, who are not owners or responsible entities, who sign Forms 07LC004E, Request for License - Child Care Program, or 07LC040E, Request for License - Child-Placing Agency and Residential Child Care;
 - (B) prior to authorization to operate; and
 - (C) annually.
 - (2) **Docket searches.** Licensing staff conducts docket searches for prior criminal activity. Searches are conducted annually on all adults who sign Form 07LC004E or Form 07LC040E.
 - (3) **Background investigations for children 14 years of age and older living in a facility.** When Licensing has concerns or receives a report of criminal or delinquent activity, Licensing may request a criminal history investigation, including a juvenile justice information system review. However, this does not apply to residents receiving services from a residential child care program.
 - (4) **Treating medical personnel statement.** When concerns exist, Licensing staff may request information from the provider by requiring provider's signature on

- Form 08HI003E, Authorization to Disclose Medical Records. All medical information is confidential.
- (dc) **OSBI RAP Oklahoma State Bureau of Investigation (OSBI) Record of Arrest and Prosecution (RAP) Back process.**
- (1) **Definition.** ~~Record of Arrest and Prosecution (RAP) Back is an OSBI notification from OSBI of subsequent Oklahoma arrests of previously-fingerprinted individuals who were previously fingerprinted.~~
 - (2) **RAP Back list.** ~~LRO requests OSBI no longer send RAP Back on individuals who:~~
 - (A) ~~are ineligible to be associated with any program; and~~
 - (B) ~~have not been associated with a program for two or more years.~~
 - (3) **RAP Back criminal history review results.** This process is followed when RAP Back is received.
 - (A) ~~Upon receipt of RAP Back, LRO OBI simultaneously disseminates RAP Back criminal history review results and OSBI RAP Back to the:~~
 - (i) ~~program(s) where the individual is associated; and~~
 - (ii) ~~licensing staff, supervisor, and regional programs manager, when criminal history prohibitions and restrictions are involved CCS for determination of appropriate action.~~
 - (B) Within 24 hours of receiving RAP Back from ~~LRO OBI~~, excluding weekends or holidays when the program is closed, ~~the licensing~~ Licensing staff contacts the program, to:
 - (i) determine what action the program is taking to protect children; and
 - (ii) inform the program of required actions.
- (ed) **Qualified entity (QE) - CCS.**
- (1) **QE definition.** QE means an entity meeting the criteria and complying with federal and state laws and policies. QE standards govern the security and confidentiality of national fingerprint results.
 - (2) **Agreement compliance.** CCS maintains qualified entity QE standards, according to per the user agreement with OSBI.
 - (3) **Agreement revisions.** CCS submits a revised agreement to OSBI when the Oklahoma Department of Human Services (DHS) director/Director or CCS contact individual(s) changes.
- (fe) ~~Qualified entity programs or business entities with general administrative offices - QE violations.~~ Licensing staff reports QE standard violations to OBI.
- (1) **General.** ~~LRO disseminates national CHRI only to programs identified as qualified entities that have written consent from the specific individual.~~
 - (2) **Audits.** ~~To verify compliance with qualified entity standards, LRO periodically audits each qualified entity.~~
 - (3) **Violations.** ~~When qualified entity standards violations are:~~
 - (A) ~~identified during an audit, LRO follows the audit process; or~~

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- (B) reported by individuals, LRO conducts an investigation.
- (4) **Termination of qualified entity status.** The qualified entity status may be terminated when the qualified entity:
- (A) no longer meets the qualified entity criteria, including following the qualified entity agreement;
 - (B) does not cooperate with the audit process or an investigation; or
 - (C) does not correct qualified entity standards violations within an agreed-upon time and manner.
- (g) **Additional background investigations.**
- (1) **DHS database searches.** Licensing staff search DHS databases for DHS involvement that may impact the ability of the individual to meet requirements. Searches are conducted:
- (A) on all adults, with the exception of directors who are not owners or responsible entities, who sign Forms 07LC004E, Request for License—Child Care Program, or 07LC040E, Request for License—Child Placing Agency and Residential Child Care;
 - (B) prior to authorization to operate; and
 - (C) annually.
- (2) **Docket searches.** Licensing staff conduct docket searches for prior criminal activity. Searches are conducted:
- (A) on all adults who sign Form 07LC004E or 07LC040E; and
 - (B) annually.
- (3) **Background investigations for children 14 years of age and older living in a facility.** When Licensing has concerns or receives a report of criminal or delinquent activity, a criminal history investigation may be requested by Licensing, including a juvenile justice information system review. However, this does not apply to residents who are receiving services from a residential child care program.
- (4) **Treating medical personnel statement.** When the provider's medical information is confidential or concerns exist, the licensing staff may request information from the provider by requiring the provider sign Form 08HI003E, Authorization to Disclose Medical Records.

340:110-1-8.3. Certification of programs to receive a differential quality rating and improvement level

- (a) **Purpose.** The differential quality rating and improvement system was developed to improve the overall quality of care by increasing the professional development and education of child care providers and to provide the public with a method to evaluate child care. Certification is required for a provider program to receive a differential quality rate for children whose families are receiving subsidized child care benefits through the Oklahoma Department of Human Services (DHS).
- (b) **Criteria for child care centers and homes certification levels.** The certification process and quality rating and improvement criteria for child care programs is described in

Oklahoma Administrative Code (OAC) 340:110-1-8.3 through 340:110-1-8.10.

(c) **Request for star certification process.** The following process in (1) through (4) of this subsection is required for certification.

- (1) **Criteria for one star centers and homes.** A program operating on a permit or license is automatically designated as a one star program.
- (2) **Criteria for one star plus centers and homes.** ~~To be approved~~For approval as a one star plus program, the owner and director or primary caregiver, when applicable, must complete and submit Form 07LC025E, Request for Child Care Center Star Certification, or Form 07LC027E, Request for Family Child Care Home Star Certification, and meet all criteria described in (b) of this Section.
- (3) **Criteria for two star centers and homes.** ~~To be approved~~For approval as a two star program, the owner and director or primary caregiver, when applicable, must either complete the appropriate request for star certification, and meet:
 - (A) ~~complete Form 07LC025E or Form 07LC027E,~~ and meet all one star plus and two star criteria described in (b) of this Section; or
 - (B) ~~complete Form 07LC025E or Form 07LC027E,~~ meet licensing status and compliance, per OAC 340:110-1-8.4, and provide documentation the program is:
 - (i) accredited by a national accrediting body approved by Child Care Services (CCS); or
 - (ii) a Head Start grantee and compliant with Head Start Performance Standards.
- (4) **Criteria for three star centers and homes.** ~~To be approved~~For approval as a three star program, the owner and director or primary caregiver, when applicable, must:
 - (A) ~~complete Form 07LC025E or Form 07LC027E~~the appropriate request for star certification; and
 - (B) meet one star plus and two star criteria described in (b) of this Section, and either be:
 - (i) accredited by a national accrediting body approved by CCS; or
 - (ii) a Head Start grantee and compliant with Head Start Performance Standards.

(d) **Approval for certification for centers and homes.** The procedures ~~contained~~ in this subsection are followed for initial approval ~~for certification~~ and requests for higher star certification level.

- (1) The owner and director or primary caregiver, when applicable, submits ~~Form 07LC025E, or Form 07LC027E~~the appropriate request for star certification, and required documentation to CCS.
- (2) The stars outreach specialist determines ~~whether the when~~ certification criteria ~~have been~~are met by reviewing the case record and submitted documentation ~~submitted~~. ~~If~~When it has been four months since the last monitoring visit, the stars outreach specialist requests ~~licensing~~Licensing staff ~~make~~conduct a full-monitoring visit. The stars outreach specialist reviews all information

~~and consults~~ consulting with ~~licensing~~ Licensing staff and the stars program administrator or designee as needed, prior to approval.

(A) The monitoring visits and substantiated complaints for the last 24 months of operation are reviewed ~~to determine whether the program meets the for determination of criteria~~ compliance criteria. ~~If, within the 24-month period reviewed, The request may be denied when~~ there are numerous, repeated, or serious non-compliance, per OAC 340:110-1-8.4, or a single serious incident resulting in injury or imminent risk of harm to a child, ~~the request may be denied within the 24-month period.~~

(B) ~~If~~When the program meets the criteria, the stars outreach specialist ~~sends~~ provides a letter confirming the approval and the effective date, and updates the ~~licensing~~ database. ~~If~~When numerous, repeated, or serious non-compliance was identified during review of the case review for the star certification request, the letter includes a statement that these non-compliances are considered, and may result in ~~reduction of the star certification~~ ~~if~~reduction when subsequent serious non-compliances occur.

(C) ~~If~~When the program fails to meet the criteria, the stars outreach specialist ~~sends~~ provides a letter identifying criteria not being met. The request for star certification is also reviewed by the stars outreach specialist ~~to determine~~ determining if another star certification level can be met and ~~update~~ updating the ~~licensing~~ database accordingly.

(D) The owner and director or primary caregiver, when applicable, may reapply at any time the when criteria are met. ~~If~~When the request for a higher star certification level is denied due to numerous, repeated, or serious non-compliance with licensing requirements, the program is not approved for a higher star certification level ~~for~~ prior to six months after the date of the denial of the request certified denial letter has been received. The six-month waiting period may only be reduced by the regional programs manager (RPM) upon evaluation of the may reduce the six-month waiting period based on licensing record evaluation, corrective action written documentation of corrective actions taken, and Licensing staff observation and documentation by licensing staff of substantial compliance improvement in compliance. The RPM provides written notification of the decision to the program.

(E) The owner may withdraw the request for star certification prior to denial.

(F) The owner of a center or home may request a reduction in star status at any time certification level. The request must be made in writing to CCS. The stars outreach specialist sends Quality rating and improvement system (QRIS) personnel or designee provides a letter to the owner documenting the reduction request for reduction, including the effective date of the new star certification level effective date, and updates the

licensing database with the program's new star certification level. A reduction request does not constitute a reduction in star certification level, per (h) of this Section.

(e) **Complaint investigations.** Pending complaint investigations may impact the decision to approve the request for star certification request approval.

(f) **Ongoing review.** The procedures contained in this subsection are followed for ongoing review.

(1) **Program notification to CCS.** The owner, director, or primary caregiver is required to notify CCS in writing within five program-business days of any change in information changes affecting the program's star certification level, such as loss of a master teacher. If CCS has not been notified of changes and certification criteria have not been met for over 90 calendar days, the The case is reviewed by CCS Licensing staff, determining that whether criteria continue to be met. Referrals may be made to the stars program administrator or designee and the certification level may be reduced per (h) of this Section.

(2) **Periodic certification reviews.** CCS Licensing staff completes a full star certification review minimum of three reviews annually, using Form 07LC026E, Child Care Center Star Certification Review, or Form 07LC028E, Family Child Care Home Star Certification Review, during a minimum of three periodic monitoring visits annually verifying certification criteria is current and accurate. The three reviews consist of two partial and one full-star certification criteria reviews. Programs;

(A) operating less than a full-year or having a cooperative licensing agreement with a tribal program are required to have a minimum of two periodic one partial and one full-star certification reviews annually; and

(B) exempt from state licensure including federal or tribal programs, must have all applicable stars criteria reviewed at least annually.

(3) **Non-compliance.** ~~If~~The star certification level of a one star plus, two, or three star program may be reduced, when a program has;

(A) serious non-compliance with licensing requirements, within a 24-month period; and

(B) a serious incident resulting in injury or imminent risk of harm to a child; or

(C) violations with other star certification criteria; the star level of one star plus, two, or three star programs may be reduced.

(4) **Violations.** ~~If~~When violations of certification criteria are documented, or when the program notifies CCS in writing of any change of criteria changes, the procedures in (A) through (C)(E) of this paragraph are followed.

(A) CCS Licensing staff provides written notification to the director or primary caregiver and owner documenting the violations, including a statement that a reduction in the star certification level may occur, when:

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- (i) the program has serious non-compliances with licensing requirements;
 - (ii) a serious incident occurs resulting in injury or imminent risk of harm to a child;
 - (iii) violations are not corrected in the ~~agreed upon~~agreed on time frame; or
 - (iv) an Emergency Order or notice of proposed denial or revocation of license is issued.
- (B) ~~The statement informs the director or primary caregiver, he or she may request an extension of time to comply, per (g) of this Section.~~
- (C) ~~The program submits a written plan to CCS to correct the violations within an agreed upon~~Licensing staff documents a plan of correction for each star criteria violation noted during the criteria review indicating a specific agreed on correction time frame. The plan cannot exceed 90 calendar days from the date the violation occurred or the date a program was notified of a substantiated complaint.
- (C) When previous criteria violation were not corrected by the agreed on time frame, an additional plan of correction may be documented indicating a reduced correction time frame.
- (D) When the program fails to meet additional plans of correction, Licensing staff may submit a referral for star certification reduction or notify the program of a request for extension of time to comply including timeframes.
- (E) When the program does not apply for an extension of time to comply, there is no acceptable plan of correction; Licensing staff may submit a referral for star certification reduction.
- (5) ~~Follow-up of violation—of criteria violations.~~ CCS~~Licensing~~ staff is responsible for verifying violations of star certification criteria violations are corrected as determined by the approved plan of correction.
- (6) **Written notice.** CCS~~Licensing~~ staff provides written notice ~~to the owner~~ that star certification criteria are not being met, when:
- (A) there is serious non-compliance with requirements, per OAC 340:110-1-8.4;
 - (B) a serious complaint that may place the health, safety, or well-being of children at imminent risk of harm is substantiated; ~~and/or~~
 - (C) CCS~~Licensing~~ staff have knowledge the program is not meeting star certification criteria, such as having ~~an~~ insufficient number of master teachers; ~~and/or~~
 - (D) a program fails to employ a qualified director for six months or more.
- (g) **Extension of time to comply.**
- (1) A request for an extension of time to comply may be submitted when violations of star criteria cannot be corrected within the ~~agreed upon~~agreed on plan of correction time frame.
- (2) A request for an extension of time to comply to meet licensing requirements, such as director qualifications, is not approved.
- (3) The owner, director, or primary caregiver submits Form 07LC074E, Request for Extension of Time to Comply, ~~and supporting documentation to the stars program administrator or designee 30 calendar days prior to~~ no later than 10-calendar days after the plan of correction expires.
- (4) The decision to approve or deny an extension of time to comply is made by the stars program administrator or designee. One or more discretionary extensions of time to comply may be granted. Approval of an extension of time to comply does not set a precedent and each request is independently evaluated. The owner and director or primary caregiver, when applicable, is notified ~~of the decision~~ in writing of the decision.
- (h) **Reduction in one star plus, two, and three star certification levels.**
- (1) A reduction ~~in one star plus, two, and three star certification levels~~ occurs when CCS issued a written Emergency Order or notice of denial or revocation of license.
- (2) A reduction may occur when:
- (A) the program has serious non-compliance with licensing requirements within a 24-month time frame;
 - (B) a serious incident occurs resulting in injury or imminent risk of harm to a child;
 - (C) violations are not corrected within the ~~agreed upon~~agreed on time frame; or
 - (D) a program fails to employ a qualified director for ~~a period of~~ six months or more.
- (3) The procedures in this subsection are followed ~~if~~when a reduction is warranted.
- (A) Licensing staff reviews the case with the supervisor and RPM. The decision ~~on whether~~ to make a referral to the stars program administrator or designee is made by the RPM and referrals are made in writing to the stars program administrator or designee. The RPM may enter into an agreement for an alternative settlement with the owner of a program in lieu of reduction. The alternative settlement documents how the program will go above and beyond minimum licensing requirements and ensure a higher standard or quality of care. It is the RPM's decision to accept or deny the alternative settlement.
- (B) ~~If~~When a reduction is warranted, the stars program administrator or designee ~~sends~~provides the owner and director or primary caregiver, when applicable, a certified letter ~~to the primary caregiver or director and owner~~ documenting the reduction in star certification level and notifying the provider~~program~~ of the right to request an administrative review of the decision.
- (C) The certified mail delivery receipt card is addressed to return to the CCS director or designee.

(D) In order to receive an administrative review, the owner must submit a written request to the CCS director or designee within 15-calendar days of reduction notification letter receipt of the reduction notification letter.

(E) The request must include written documentation stating the provider's program's grounds for appeal.

(4) Licensing staff ~~ORIS personnel or designee~~ updates any changes in the star status—certification level and star payment rate following verification of certified letter receipt of the certified letter and the administrative review, if when requested.

(5) The purpose of the administrative review process is to determine if the ~~includes determining~~ when a star certification level ~~reduction of the star certification level~~ was in accordance with DHS policy and whether the reduction is substantially supported by the evidence. The procedures in (A) through (C) of this paragraph are followed when an administrative review is requested.

(A) Within 30-calendar days of receipt of receiving the request for an administrative review, a letter is sent provided notifying the provider owner and program of the date of the administrative review date, time, and location. ~~The letter is sent to the provider's last known address.~~ The provider is given at least ~~Prior to the administrative review, the owner is provided at least~~ 14-calendar days written notice prior to the administrative review. ~~Additional~~ The owner may submit written documentation may be presented prior to, or at the beginning of, the administrative review, with copies provided to all representatives. The provider may submit written documentation and appear at the administrative review.

(B) ~~The review is conducted by the stars review panel, consisting of two DHS staff not involved in the decision to reduce the star certification level and one Child Care Advisory Committee member of the Child Care Advisory Committee having no relationship to the program, conducts the review.~~

(C) ~~When possible, the review~~ The stars review panel makes a determination to either affirm or reverse affirming or reversing the CCS decision on at the date of the administrative review and announces the decision administrative review. Time constraints or the complexity of issues may require the panel to take a matter under advisement. Written findings are completed within 10-calendar days from the panel review date.

(6) The owner and director or primary caregiver, when applicable, may reapply for a higher star certification level any time the when criteria are met. ~~If~~ When the star certification level is reduced due to serious non-compliance with licensing requirements, the program is not approved for a higher star certification level for six months after receiving the receipt of the certified reduction letter.

(i) **Change in ownership.** When there is a change in ownership or ~~change in~~ form of business entity of a ~~family child care home, child care center, part day, or out of school time program,~~ the case is closed and the star status certification level is removed, unless otherwise determined, per OAC 340:110-1-9. ~~To be approved for~~ For approval as a higher star certification level, the new owner and director or primary caregiver, when applicable, completes and submits Form 07LC025E, Request for Child Care Center Star Certification, or Form 07LC027E, Request for Family Child Care Home Star Certification the appropriate star certification request, meeting all the requirements criteria applicable to the requested star certification level requested.

(j) **Transitional change of ownership.** When a program requests a transitional change of ownership (1) through (7) of this subsection are followed.

(1) Licensing staff conducts a full-star criteria review within five DHS-business days:

- (A) verifying all applicable criteria are met; and
- (B) obtaining the appropriate request for star certification completed by the prospective owner and director or primary caregiver, when applicable.

(2) The stars outreach specialist reviews the request for star certification completed by the prospective owner and verifies star level certification criteria are met per (d) of this Section.

(3) Transitional change of ownership procedures are followed, per OAC 340:110-1-9.

(4) Periodic and ongoing criteria reviews are conducted and maintained, per (f) of this Section.

(5) All star certification criteria reviews and correspondence are provided to both the current and prospective owners.

(6) Change of ownership procedures are followed, per (i) of this Section by the end of 90-calendar days, when applicable.

(7) When programs notify Licensing that transitional change of ownership is no longer proceeding, Licensing staff verifies program operation status and consults with the supervisor for appropriate action.

(k) **Inactive status.** When a program is determined inactive, per OAC 340:110-1-9, all applicable star certification criteria must be reviewed at least annually.

(l) **Change in location** ~~Address change.~~ If ~~When~~ the ~~location of a program address~~ address changes, licensing ~~Licensing~~ staff completes Form 07LC026E, Child Care Center Star Certification Review, or Form 07LC028E, Family Child Care Home Star Certification Review the appropriate star certification review, to verify verifying compliance with the criteria at the new location address. Licensing staff determines if a partial- or full-star certification review is conducted.

(m) **Record-keeping.** Periodic certification review, and certification request forms, and supporting documentation are maintained in the official licensing case file or in a separate open-record file as part of the open record. When maintained, children's photographs of children are kept confidential.

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340:110-1-8.10. Program evaluation differential quality rating and improvement certification criteria

(a) **Criteria one star plus centers and homes.** Program evaluation criteria ~~listed~~ in (1) ~~through~~ (2) of this subsection ~~is~~ are required for family child care homes. Program evaluation criteria ~~listed~~ in (2) of this subsection are required for all child care programs. In addition, program evaluation criteria ~~listed~~ in (3) of this subsection ~~is~~ are required for part-day programs.

(1) Health and safety checklists for both indoor and outdoor spaces are completed annually and ~~kept~~ maintained on file at the facility.

(2) Personnel and parents are surveyed annually ~~to identify~~ identifying program strengths and weaknesses of the program and evaluate the program's and evaluating effectiveness in meeting the needs of children, ~~parents~~ children's, parents', and ~~personnel~~ personnel's needs.

(3) An equipment inventory is conducted annually using the appropriate Oklahoma Department of Human Services (DHS) form and kept on file at the center.

(b) **Criteria two and three star centers and homes.** Program evaluation criteria ~~listed~~ in (a) of this Section ~~is~~ are required. ~~All methods of~~ In addition, program evaluation as methods described in (1) through (4) of this subsection must be completed within one year of receiving two star ~~status~~ level and repeated as required.

(1) The program is assessed ~~every three years~~ annually using an assessment tool approved by Child Care Services (CCS). This assessment is not required for programs accredited by a CCS-approved, national accrediting body.

(2) Program goals are established and updated annually ~~based on~~ considering information gathered from the completed health and safety checklists, parent and personnel surveys, and a CCS approved assessment tool.

(3) The program has a written plan and program policy and procedures for meeting established goals, including professional development and educational needs of personnel or the provider and assistant ~~as well as program policy and procedures~~.

(4) Personnel participate in program evaluation and the established goals are shared with personnel.

340:110-1-9. Case management

(a) **Periodic monitoring visits.** ~~Child Care Services (CCS) licensing~~ Licensing staff ~~makes~~ conducts a minimum of three, unannounced monitoring visits to programs operating a full-year program and two, unannounced monitoring visits annually to programs operating less than a full-year. Licensing staff varies the ~~time of~~ monitoring visits ~~to include~~ visit times, including a lunch observation and an evening visit to child care centers with extended hours.

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

(1) compliance with licensing requirements;

(2) compliance with stars criteria, per Oklahoma Administrative Code (OAC) 340:110-1-8.3;

(3) ~~records~~ for new personnel records including personnel sheets and compliance with background investigations, per OAC 340:110-1-8.1;

(4) personnel professional development records;

(5) the Oklahoma Department of Human Services (DHS) database on applicable individuals, ~~per~~ OAC 340:110-1-8.1 ~~(g)~~;

(6) fire and health inspections within the last 24 months, when applicable;

(7) Form 07LC092E, Insurance Verification, within the last 12 months, or posting of Form 07LC093E, Insurance Exception Notification; and

(8) other documentation requiring renewal.

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

(1) technical assistance to licensees ~~to assist~~ assisting 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.** DHS may enter into a cooperative licensing agreement with a tribal licensing program or other monitoring agency.

(e) **Equipment inventory.** Licensing staff completes Form 07LC006E, Equipment Inventory for Child Care Programs, prior to a license ~~being issued~~ dissuance. Licensing staff or the program may complete the appropriate equipment inventory prior to a change in class and prior to ~~an~~ a capacity increase ~~in licensed capacity~~ in a child care center, day camp, drop-in, out-of-school time, part-day program, ~~and~~ or program for sick children. ~~The purpose of the inventory is to document~~ Inventories document the available equipment available and the items needed to comply with the equipment requirements. Licensing staff may conduct a complete inventory ~~any time~~ when concern exists about the availability of required equipment.

(f) **Change of address** Address change. ~~Specific procedures are followed when a program moves to a new address.~~

(1) When a program moves to a new address, ~~licensing~~ Licensing staff:

(A) obtains an updated Form 07LC004E, Request for License Child Care Program;

(B) conducts a monitoring visit ~~to verify~~ verifying that the new location meets licensing requirements;

(C) obtains new fire and health inspections, ~~when applicable~~, for a child care center, day camp, drop-in, out-of-school time, part-day program, ~~and~~ or program for sick children, when applicable;

(D) obtains Oklahoma Department of Environmental Quality approval, when applicable;

(E) completes Form 07LC057E, Physical Plant, with required calculations; and

(F) requests a permit or license be issued reflecting the new address change.

- (2) When a ~~change of an~~ address change involves care provided in a location other than the primary caregiver's residence, refer to OAC 340:110-1-6(a)(3).
- (g) ~~Change in program~~**Program name change.** When there is a ~~change in~~ program name change, ~~licensing~~Licensing staff verifies there is no ~~change in~~ ownership change, and documents the name change in the case ~~record~~file and database. A new Form 07LC004E reflecting the program name change is completed. Licensing staff requests a permit or license be issued reflecting the new program name.
- (h) ~~Change in director~~**Director change.** When there is a ~~change in~~ director change, ~~licensing~~Licensing staff:
- (1) verifies the new director meets qualifications;
 - (2) obtains the applicable page of Form 07LC004E, completed by the new director;
 - (3) obtains references;
 - (4) obtains an appropriate, ~~complete~~completed Form 07LC117E, Compliance Review for Child Care Programs, from the director, when the director has no previous director experience;
 - (5) notifies the new director of current personnel, ~~who are granted a waiver~~waivers; and
 - (6) documents the information on Form 07LC080E, Licensing Services Supplemental Information.
- (i) ~~Change in primary~~**Primary caregiver change.** When there is a ~~change in~~ primary caregiver change, ~~licensing~~Licensing staff:
- (1) verifies the primary caregiver meets qualifications;
 - (2) obtains the applicable page of Form 07LC004E, completed by the new primary caregiver;
 - (3) obtains references;
 - (4) notifies the new primary caregiver of current personnel, ~~who are granted a waiver~~waivers; and
 - (5) documents the information on Form 07LC080E.
- (j) ~~Change in Facility household~~**Facility household change.** All ~~changes in~~ household members living in a facility ~~Facility household~~ changes are documented on the monitoring summary. Form 07LC096E, Criminal History Review Request for Programs, must be submitted prior to a new adult residing in the facility. When there is a new adult residing in a facility, the required documentation includes:
- (1) the applicable page of Form 07LC004E completed by the new adult;
 - (2) background investigations, per OAC 340:110-1-8.1; and
 - (3) a DHS database search.
- (k) **Change in ownership.** When there is a change in ownership or a change in the form of business organization of a child care program, the case is closed and a new Form 07LC004E is obtained. Prior to ~~the issuance of a~~ permit or license issuance, the program must be in compliance with background investigations, per OAC 340:110-1-8.1. A permit may be issued when a monitoring visit without numerous, repeated, or serious non-compliances was conducted ~~at the program~~ within the past 60-calendar days. A full-monitoring visit is conducted within 14-calendar days of change of ownership to ~~verify~~verifying the new owner is ~~able to meet~~meets minimum licensing requirements.

- (l) **Transitional change of ownership.** When a program requests a transitional change of ownership (1) through (6) of this subsection are followed.
- (1) Licensing staff conducts a monitoring visit within five DHS-business days, verifying compliance with licensing requirements and, obtains:
 - (A) Form 07LC015E, Transitional Change of Ownership, completed by the current and prospective owners;
 - (B) Form 07LC004E, completed by the prospective owner; and
 - (C) updated program personnel information on Form 07LC002E, Personnel Summary, verifying that the prospective owner employs the same personnel as the current owner, at the time of transitional change of ownership.
 - (2) Transitional change of ownership procedures for star certification are met, per OAC 340:110-1-8.3; when applicable.
 - (3) Periodic and ongoing monitoring is maintained, per (a) and (b) of this Section.
 - (4) All licensing monitoring and correspondence are provided to both the current and prospective owners.
 - (5) Change of ownership procedures are followed, per (k) of this Section by the end of 90-calendar days, when applicable.
 - (6) When programs notify Licensing that transitional change of ownership is no longer proceeding, Licensing staff verifies program operation status and consults with the supervisor for appropriate action.
- (m) **Change in class.** When a program requests a change in class, ~~the procedures contained in (1) through (2) of this subsection~~ are followed.
- (1) The case is closed and a new Form 07LC004E is required, when a:
 - (A) family child care home converts to a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children; or
 - (B) child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children converts to a family child care home.
 - (2) Other ~~request~~requests for change in class ~~does~~do not require case closure and, documentation includes:
 - (A) a request in writing from the ~~provider~~owner;
 - (B) a new Form 07LC004E, with updated information;
 - (C) documentation that the program meets the requirements for the requested class type;
 - (D) the appropriate equipment inventory, when applicable;
 - (E) a current, approved fire inspection, when applicable;
 - (F) a current, approved health inspection, when applicable; and
 - (G) ~~database updates to the~~ appropriate class and monitoring frequency plan database updates.
- (nn) ~~Procedure for increasing or decreasing capacity~~**Capacity increase or decrease.** When a program requests

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~~an~~ capacity increase or decrease in ~~licensed capacity~~, it is documented on Form 07LC080E, ~~Licensing Services Supplemental Information~~, and must be approved by the ~~licensing~~ supervisor. The program 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, reflecting adequate indoor and outdoor space, toilets, and sinks for the increase and other changes;
- (3) fire department approval of space not previously inspected;
- (4) health approval of additional food preparation space not previously inspected;
- (5) an updated equipment inventory reflecting adequate equipment for the increase; and
- (6) verification of the ~~number of~~ required number of master teachers.

(~~no~~) **Inactive ~~cases~~ programs.** A program is ~~determined to be~~ in inactive status when care ~~has~~ was not ~~been~~ provided for more than 90-calendar days.

(1) A program ~~wanting to remain~~ remaining open after 90-calendar days submits a request in writing, including a statement that the owner will notify ~~licensing~~ Licensing prior to resuming care. Licensing staff ~~verify~~ verifies compliance with requirements prior to resuming care.

(2) The program is contacted by ~~licensing~~ Licensing staff, a minimum of every four months by phone, letter, or email to update program status including new household members; or other program changes, per (j) of this Section.

(3) ~~When the program is a child care center, day camp, drop in, out of school time, part day program, or program for sick children voluntary~~ Voluntary closure is discussed with the owner and an agreement to close is reached, when possible.

(4) ~~When care has not been provided for 12 consecutive months or more, licensing staff provides a letter to notify the owner of case closure within 10 calendar days of receipt of letter, unless (CCS) is notified care has resumed.~~

(5) Licensing staff visits the inactive program, at least once during the 12-month timeframe to ~~verify~~ verifying compliance with licensing requirements until closure is final or the program resumes care.

(6) ~~When a change of an address change occurs during the time when~~ a program is in inactive status, a monitoring visit is required and ~~change of address is~~ address change procedures are followed per (f) of this Section.

(~~op~~) **Closure of an inactive ~~case~~ program closure.** Procedures (1) - (4) of this subsection are followed when closing an inactive program.

(1) To verify program status, Licensing staff contacts the owner of a ~~family child care home and large child care home~~ during the 12th month of inactive status to ~~verify case status~~.

(2) Licensing documents the ~~case~~ program status on Form 07LC080E, ~~Licensing Services Supplemental Information~~, and notifies the owner the case will be closed ~~should~~ when care does not resume, prior to the end of the 12th month.

(3) When care ~~has~~ was not ~~been~~ provided for 12-consecutive months or more, ~~licensing~~ Licensing staff provides a letter to ~~notify~~ notifying the owner of case closure within 10-calendar days of ~~letter~~ receipt of ~~letter~~, unless ~~CCS~~ Licensing is notified care ~~has~~ has resumed.

(4) The case is closed and the owner must reapply and be approved for a new license prior to resuming care, per OAC 340:110-1-6.

(~~pg~~) **Response to a child death.** When notified of ~~death of a child~~ death while in child care, ~~licensing~~ Licensing staff:

(1) completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee; and

(2) ~~When notified of a death, licensing staff~~ visits the program as soon as possible, unless advised otherwise by law enforcement officials.

(~~qr~~) **Serious incident reports.** The ~~licensing~~ supervisor submits ~~reports of serious incidents~~ incident reports to the ~~licensing~~ regional programs manager, county director, and statewide licensing coordinator.

(~~rs~~) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form 07LC080E is completed and the ~~licensing~~ Licensing database is updated.

340:110-1-10.1. ~~Child Care Restricted Registry~~

(a) **Legal basis.** Section 405.3 of Title 10 of the Oklahoma Statutes (10 O.S. § 405.3) requires the Oklahoma Department of Human Services (DHS) to establish and maintain a Child Care Restricted Registry or ~~Restricted Registry~~, also named Joshua's List. Individuals recorded on the Restricted Registry are identified as registrants and are prohibited from licensure, ownership, employment, unsupervised access to children, and/or residence in a facility or program licensed child care facility, certified, operated or contracted by, or with, DHS or the Office of Juvenile Affairs (OJA). The Restricted Registry search is required, per 10 O.S. § 404.1 and Oklahoma Administrative Code (OAC) 340:110-1-8.1.

(b) **Registrants.** ~~Individuals recorded on the Restricted Registry are identified as registrants.~~ Registration may result after review by the ~~restricted registry review committee~~ Restricted Registry Review Committee and after all appeals are exhausted, when:

(1) a substantiated finding of abuse or neglect, ~~as defined in~~ per 10A O.S. § 1-1-105, by an individual, when the abuse or neglect occurred to ~~children~~ a child while in the care of a facility licensed child care program, certified, operated or contracted by, or with, DHS or OJA;

(2) a denial or revocation of a child care program license;

(3) a specified criminal history for individuals who have entered a plea of guilty, nolo contendere (no contest), or a conviction for ~~the following~~ the following felony offenses in (A) through (C) of this paragraph:

(A) child abuse or neglect;

(B) a crime against a child; or

(C) a crime involving violence, including, but not limited to rape, sexual assault, or homicide;

(4) a specified criminal history for individuals who have entered a plea of guilty, nolo contendere (no contest), or a conviction within the five-year period preceding the application request for license date for licensure and ownership, prior to employment, unsupervised access to children, and residence, for the following felony offenses in (A) and (B) of this paragraph of:

- (A) domestic abuse; or
- (B) a drug-related offense; or

(5) an individual required to register, pursuant to the Sex Offender Registration Act or the Mary Rippy Violent Crime Offenders Act.

(c) **Restricted Registry search for program owners.** Upon receipt of a complete application, the licensing specialist conducts a Restricted Registry search on the program owners and Form 07LC101E, Restricted Registry Verification, is placed in the facility file. When the owner is a:

- (1) registrant, Licensing documents contact with the owner contact on Form 07LC080E, Licensing Services Supplemental Information, regarding the owner's registration; or
- (2) non-registrant, procedures for processing a program application request for license are followed, per OAC 340:110-1-6 or 340:110-1-45.

(d) **Restricted Registry search for child care program owners, employees personnel, individuals with unsupervised access, and residents.** The Licensing Records Office (LRO) DHS Office of Background Investigation (OBI) verifies on the submitted Form 07LC096E, Criminal History Review Request for Programs, that the program conducted a restricted registry search programs conduct an online search of the Restricted Registry within 30-calendar days of submission, per OAC 340:2-46-4.

(e) **Registration as a result of findings of abuse or neglect investigations by Child Welfare Services (CWS).** Licensing DHS staff notifies LRO upon Restricted Registry staff of receipt of substantiated or confirmed findings when the abuse or neglect occurred to children a child while in the care of a facility licensed child care program, certified, operated or contracted by, or with, DHS or OJA. LRO Restricted Registry staff verifies appeal status before requesting investigation additional information from Licensing for on potential registrants. Investigation information is then forwarded to the restricted registry review committee Restricted Registry Review Committee for consideration per (j) of this Section.

(f) **Registration as a result of findings of abuse or neglect investigations by Office of Client Advocacy (OCA).** OCA submits investigations of abuse or neglect investigations to the residential licensing programs manager who reviews the information. Information meeting Restricted Registry registration criteria identified in (b)(1) of this Section is are forwarded to LRO Restricted Registry staff. Investigation information is then forwarded to the restricted registry review committee Restricted Registry Review Committee for consideration per (j) of this Section. LRO Restricted Registry staff verifies OCA appeal status before requesting further review.

(g) **Registration as a result of findings of OJA abuse or neglect investigations.** OJA Office of Public Integrity personnel submits abuse or neglect investigations to Restricted Registry staff. Information meeting Restricted Registry registration criteria identified in (b)(1) of this Section are forwarded to Restricted Registry staff. Investigation information is forwarded to the Restricted Registry Review Committee for consideration per (j) of this Section. Restricted Registry staff verifies OJA appeal status before requesting further review.

(gh) **Registration as a result of a denial or revocation.** Procedures regarding the denial or revocation of a license are followed, per OAC 340:110-1-10 or 340:110-1-52. A copy of the cease and desist letter and revocation or denial letter is forwarded to LRO Restricted Registry staff by the statewide licensing coordinator or designee. Documentation relating to the denial and revocation is forwarded to the restricted registry review committee Restricted Registry Review Committee for consideration, per (j) of this Section.

(hi) **Registration as a result of a specified criminal history.** When a criminal history review conducted by LRO OBI, including Record of Arrest and Prosecution (RAP) Back, reveals an individual is a potential registrant as indicated in (b)(3) - (5) of this Section, and a criminal history restriction waiver has been was rescinded or not been granted, all criminal background information is forwarded to the restricted registry review committee Restricted Registry Review Committee for consideration per (j) of this Section.

(ij) **Restricted registry review committee Restricted Registry Review Committee.** The restricted registry review committee Restricted Registry Review Committee consists of six six DHS staff and one OJA staff, who makes make a determination of registration within 30-calendar days of receipt of all necessary information from LRO Restricted Registry staff.

(1) Criteria considered for Restricted Registry registration includes include, the:

- (A) age of the individual individual's age at the time of the offense(s);
- (B) length of time since the offense(s) occurred;
- (C) number and types of offenses for which the individual was convicted for, or for findings made;
- (D) circumstances surrounding commission of the offense(s) that demonstrate demonstrating willful intent;
- (E) likelihood the individual will re-offend; and
- (F) other documentation submitted indicating that the children's health, safety, and well-being of children are, or are not endangered.

(2) The review committee Restricted Registry Review Committee standard to determine Restricted Registry registration by clear and convincing evidence includes consideration of:

- (A) the individual's history of behavior likely to create a reasonable risk of harm to children; and
- (B) whether if the individual is unsafe with children; either alone or in a group.

(3) The determination is based upon on a majority decision of the committee Restricted Registry Review Committee members.

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(4) When ~~registration is recommended by the review committee~~, Restricted Registry Review Committee recommends registration, information is forwarded to ~~LRO~~Restricted Registry staff.

(~~jk~~) **Restricted Registry legal review.** ~~LRO~~Restricted Registry staff submits registration information to DHS Legal Services (LS) requesting legal review for registration.

(~~kl~~) **Restricted Registry notification.** Within five DHS-business days of receipt of DHS ~~Legal Services~~LS review, ~~LRO~~Restricted Registry staff notifies the potential registrant on Form ~~07LC102E07LC115E~~, Restricted Registry Notification. The notification:

(1) is ~~sent~~mailed to the most recent address of record as provided by the potential registrant through request for license, personnel documents, criminal background requests, or interviews. Notification is provided by regular and certified mail, return receipt requested; and

(2) advises the potential registrant of the:

(A) right to appeal within 30-calendar days of receipt of notice; ~~and~~

(B) failure to request a hearing, within the time frame specified, may result in Restricted Registry registration per subsection (m)(n) of this Section; and

(C) responsibility for notifying restricted registry staff of changes in mailing address.

(~~lm~~) **Restricted Registry appeal process.** A request for an appeal is forwarded to ~~LRO~~Restricted Registry staff. Appeal requests are forwarded to DHS LS.

(~~mn~~) **Registration.** When ~~no~~an appeal is not requested within the specified timeframe or when an administrative decision becomes final, ~~the LRO~~Restricted Registry staff:

(1) mails Form ~~07LC103E07LC114E~~, Restricted Registry Final Notification, to the registrant's last known address of record on file;

(2) mails Form ~~07LC104E07LC113E~~, Restricted Registry Program Notification to Child Care Program, to the program where registrant is associated;

(3) notifies ~~licensing~~appropriate CWS Resource Unit, OJA, or Licensing staff regarding Restricted Registry registration; and

(4) enters registrant information on the Restricted Registry database.

(~~no~~) **District Court appeal process.** Any ~~registrant~~Registrants aggrieved by the decision may appeal to the District Court of the county ~~in which~~where the ~~child care~~ program is maintained and operated by filing ~~with the clerk of the court~~ a verified petition with the court clerk within 10-calendar days after the decision.

(~~op~~) **Request for registration removal.** A registrant may request removal after 60 months from the date of ~~being recorded on the~~ Restricted Registry registration. A request for removal from the Restricted Registry is forwarded to the ~~LRO~~Restricted Registry staff for submission to the ~~restricted registry review committee~~Restricted Registry Review Committee. The ~~restricted registry review committee~~Restricted Registry Review Committee makes a determination ~~as to removal~~ within 30-calendar days of receipt of notice from the ~~LRO~~Restricted Registry staff.

(1) Criteria considered for removal includes, but ~~is~~are not limited to, criteria in ~~subsection (i)(j)(1)(A) through (F) of this Section~~, and:

(A) a current criminal background review, conducted within 30-calendar days;

(B) ~~statements~~ of work and training history/histories, since registration;

(C) a personal statement of rehabilitative efforts; and

(D) the length of time on the Restricted Registry.

(2) A decision ~~as to removal~~remove a registrant from the Restricted Registry is based ~~upon~~on a Restricted Registry Review Committee majority decision of review committee members.

(3) Restricted Registry staff notifies the registrant of the Restricted Registry Review Committee decision.

(~~p~~) **Registration removal.** ~~LRO~~provides notification to the registrant of the committee decision.

PART 3. LICENSING SERVICES - RESIDENTIAL CARE AND AGENCIES

340:110-1-47. Case management

(a) **Periodic visits.**

(1) Licensing staff ~~annually~~ conducts monitoring visits ~~to document~~documenting compliance with ~~the~~ requirements. Required monitoring visits annually include two:

(A) ~~two~~ unannounced and one announced, to residential programs; and

(B) ~~two~~ announced, to child-placing agencies.

(2) When caseloads prevent ~~licensing~~Licensing staff from conducting all visits, the programs manager consults with ~~licensing~~Licensing staff on case management, and the ~~number of~~ required monitoring visits may be reduced. This adjustment is approved and documented in the case ~~record~~file by the programs manager.

(3) During each monitoring visit, ~~licensing~~Licensing staff:

(A) observes the entire facility, including outdoor play space and ~~vehicles used for~~ transportation, when available; and

(B) ~~checks~~verifies:

(i) compliance with licensing requirements;

(ii) resident files, when applicable;

(iii) ~~records~~ for new personnel records including personnel sheets and compliance with background investigations, per Oklahoma Administrative Code (OAC) 340:110-1-8.1;

(iv) the Oklahoma Department of Human Services (DHS) database on applicable individuals, per OAC 340:110-1-8.1;

(iiiiv) Form 07LC092E, Insurance Verification, within the last 12 months;

(ivv) fire and health inspections within the last 12 months, when applicable; and

(vvi) other documentation requiring renewal.

(b) **Consultation and technical assistance.** Licensing staff provides technical assistance to operators to meet and maintain minimum requirements. Consultation is provided to parties interested in licensure and to licensed programs, and includes suggestions for improving the quality of care and for exceeding the minimum requirements.

(c) **Change of address**~~Address change.~~ When a program moves to a new address, ~~licensing~~ Licensing staff follows ~~specific~~ procedures in this subsection to document the change.

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

(A) obtains an updated Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care; and

(B) requests ~~the new~~ permit or license be issued reflecting the ~~new~~ address change.

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

(A) obtains an updated request for license;

(B) conducts a monitoring visit to ~~verify~~ verifying the new location meets licensing requirements;

(C) obtains new fire and health inspection approvals;

(D) obtains Oklahoma Department of Environmental Quality approval, when applicable; ~~and~~

(E) completes an updated physical plant drawing with required calculations; and

(F) requests ~~the new~~ permit or license be issued reflecting the ~~new~~ address change.

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

(1) documents ~~the location of~~ each office location; and

(2) requests ~~files as needed~~ files from satellite locations.

(e) **Change in program**~~Program or agency name change.~~ When ~~licensing~~ Licensing staff verifies there is a ~~change in~~ name change but no ~~change in~~ ownership change, the name change is documented in the case ~~record file~~ and the database is updated. A new Form 07LC040E reflecting the name change is completed. Licensing staff requests a permit or license be ~~issued~~ issuance reflecting the new program or agency name.

(f) **Change in executive**~~Executive or program director change.~~ When there is a ~~change in~~ director change, ~~licensing~~ Licensing staff:

(1) verifies the new director meets qualifications;

(2) obtains the applicable page of Form 07LC040E, completed by the new director;

(3) notifies the new director of current personnel ~~who were~~ granted a waiver; and

(4) documents the information on Form 07LC080E, Licensing Services Supplemental Information.

(g) **Increase or Capacity increase or decrease in licensed capacity.** When a program requests ~~an a~~ capacity increase or decrease in ~~licensed~~ capacity, it is documented on Form 07LC080E and must be approved by the programs manager. When the increase involves new construction, architectural plans approved by the State Fire Marshal are submitted to

~~licensing~~ Licensing for approval prior to construction. When the request to increase capacity is due to additional physical space, the required documentation includes:

(1) the reason for the increase;

(2) fire department approval;

(3) ~~local~~ health department approval of ~~any~~ additional food preparation space not previously inspected;

(4) ~~the~~ physical plant drawing indicating required calculations; and

(5) the request for additional personnel, when applicable.

(h) **Inactive cases**~~programs.~~ A program is ~~determined to be in~~ inactive status when care or child-placing agency activity ~~has~~ was not ~~been~~ provided for more than 90-calendar days ~~or more~~.

(1) A program ~~wanting to remain~~ remaining open after 90-calendar days submits a request in writing including a statement ~~that~~ the owner will notify ~~licensing~~ Licensing ~~when~~ prior to resuming care or child-placing agency activity is ~~resumed~~. Licensing staff verifies compliance with requirements prior to resuming care.

(2) The program is contacted by ~~licensing~~ Licensing staff, a minimum of every four months for residential programs; and a minimum of every six months for child-placing agencies by phone, letter, or email to update the program status including changes in personnel, household members, or other program changes.

(3) The closure is discussed with the owner and an agreement to close is reached, ~~if~~ when possible.

(4) ~~When care has not been provided for 12 consecutive months or more, licensing staff may send a letter to notify the owner of case closure within 10 calendar days from receipt of letter unless Child Care Services (CCS) is notified care or child-placing agency activity has resumed.~~

(5) Licensing staff visits the inactive program, at least once a year to ~~verify~~ during the 12-month timeframe verifying compliance with licensing requirements until closure is final or the program resumes care.

(6) When a ~~change of an~~ address change occurs during the time a program is in inactive status, a monitoring visit is required and ~~change of~~ address change is followed per (c) of this Section.

(i) **Inactive program closure.** Procedures in (1) thru (4) of this subsection are followed when closing an inactive residential program or child-placing agency.

(1) To verify program status, Licensing staff contacts the program or agency owner during the 12th month of inactive status.

(2) Licensing staff documents program status on Form 07LC080E and notifies the owner that if care or child-placing activity does not resume prior to the end of the 12th month, the case will be closed.

(3) When care was not provided for 12-consecutive months or longer, Licensing staff provides a letter notifying the owner of case closure within 10-calendar days of letter receipt, unless Licensing is notified care or child-placing activity resumed.

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(4) The case is closed and the owner must reapply and be approved for a new license prior to resuming care, per OAC 340:11-1-45.

(ij) **Change in ownership.** When a residential program or child-placing agency assumes new ownership, the case file is closed, and the program must apply for a new license under the new owner. ~~Prior to the issuance of a permit or license issuance,~~ the program must ~~be in compliance~~ comply with background investigations, per OAC 340:110-1-8.1. A permit may be issued when a monitoring visit without numerous, repeated, or serious non-compliances was conducted at the program within the past 60-calendar days. A full-monitoring visit is conducted within 14-calendar days of ~~change of ownership to verify change,~~ verifying the new owner is able to meet minimum licensing requirements.

(k) **Transitional change of ownership.** When a residential program or child-placing agency requests a transitional change of ownership (1) through (5) of this subsection are followed.

(1) Licensing staff conducts a monitoring visit within five DHS-business days, verifying compliance with licensing requirements and, obtains:

(A) Form 07LC015E, Transitional Change of Ownership, completed by the current and prospective owners;

(B) Form 07LC004E, completed by the prospective owner; and

(C) a list of all current personnel, verifying that the prospective owner employs the same personnel as the current owner, at the time of transitional change of ownership.

(2) Periodic and ongoing monitoring is maintained, per (a) of this Section.

(3) All licensing monitoring and correspondence are provided to both the current and prospective owners.

(4) Change of ownership procedures are followed, by the end of 90-calendar days, when applicable, per (j) of this Section.

(5) When programs notify Licensing that transitional change of ownership is no longer proceeding, Licensing staff verifies program operation or child-placing activity status and consults with the programs manager for appropriate action.

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

(1) completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee; and

(2) visits the residential program as soon as possible, and contacts the child-placing agency unless advised otherwise by law enforcement officials.

(km) **Serious incident reports.** ~~Licensing staff submits a report of any serious incident report to the programs manager. A serious incident includes, but is not limited to, an incident~~ Serious incidents include at least, incidents:

(1) resulting in the serious injury or death of a child death, such as a:

(A) shaken baby;

(B) drowning or near drowning; or

(C) traffic accident resulting in serious injury;

(2) placing a child at a high risk for death or injury, such as when a child is left:

(A) is left at a location away from the facility;

(B) is left unattended in a vehicle; or

(C) is left alone in a facility; or

(3) causing resulting in significant facility damage to a facility, such as:

(A) fire;

(B) flood; or

(C) tornado.

(ln) **Coordination with state agencies.** ~~Licensing staff works cooperatively with the Oklahoma Department of Human Services (DHS) Office of Client Advocacy and Child Welfare Services, the Oklahoma Commission on Children and Youth, the Oklahoma Health Care Authority, and law enforcement.~~

SUBCHAPTER 3. LICENSING STANDARDS FOR CHILD CARE FACILITIES

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

340:110-3-85. Requirements for caregivers ~~Caregiver requirements~~

(a) ~~Responsibilities of caregivers~~ Caregiver responsibilities ~~Responsibilities of caregivers~~ Caregiver responsibilities are ~~specified~~ listed in (1) through (15) of 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 program operation ~~of the program~~. The sole proprietor must be the primary caregiver.

(2) **Care and supervision.** The caregiver provides children's care and supervision ~~of children~~ at all times, both indoors and outdoors.

(A) Caregivers prevent and respond to allergies and life-threatening conditions by:

(i) being aware of children's known food and life-threatening allergies;

(ii) knowing the location of any life-threatening condition medications; and

(iii) ensuring life-threatening condition medications, such as epinephrine pens and rescue inhalers, are in close proximity to the child for immediate administration when needed, including outdoors when the child is outside, during transportation, or on field trips. However, medications are inaccessible to children.

(B) Supervision of children means observing, overseeing, and guiding a child or group of children, including:

- (i) awareness of, and responsibility for, the ongoing activity of each child and, ___ being near enough to intervene when needed;
 - (ii) observation of infants at least every 15 minutes while awake or sleeping; and
 - (iii) observation of ~~4-year-olds~~ children 1 year of age and older at least every 15 minutes while in cribs and playpens.
- (3) ~~Supervision of outdoor play~~ **Outdoor play supervision.** In addition to the requirements in (2) of this subsection, the caregiver remains outdoors with children at all times ~~to ensure 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 3 years of age ~~or~~ and younger present; or
 - (D) the outdoor area is not completely fenced.
- (4) ~~Supervision of overnight care~~ **Overnight care supervision.** When children are in care overnight and more than one caregiver is required due to the children's ages and number of ~~children~~ present, at least one caregiver must be awake at all times.
- (5) **Assistant and substitute caregivers.** When the primary caregiver employs an individual to assist with ~~the care of children~~ or to provide children's care and supervision in the primary caregiver's absence, the primary caregiver ensures the assistant or substitute caregiver is qualified, understands and complies with requirements, and has ~~documentation~~ documentation of current cardio-pulmonary resuscitation (CPR) and first aid certification documentation, per Oklahoma Administrative Code (OAC) 340:110-3-85(h).
- (A) **Required records.** Prior to employment, a ~~staff personnel~~ information form provided by Oklahoma Department of Human Services (DHS) is completed and ~~three references are verified. References from relatives~~ Relative references are not accepted. ~~Personnel~~ Assistant and substitute personnel records ~~on all assistant and substitute caregivers~~ are maintained at the home and ~~made~~ made available to Licensing ~~upon~~ upon request.
 - (B) **Assistant caregiver.** When an assistant caregiver is employed to meet the required staff to child ratio, the assistant caregiver must be a responsible, mature, and healthy individual at least 16 years of age. The caregiver is prohibited from leaving children alone in the care of ~~any individual~~ individuals 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 caregiver's 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 when~~ the substitute will be ~~earing for the child at these times~~ providing care.
 - (ii) The substitute's name, address, and ~~telephone~~ phone number of ~~the substitute~~ is ~~are~~ provided to Licensing and is ~~are~~ posted with the other required emergency numbers ~~in the family child care home~~.
- (6) ~~Verification of criminal~~ **Criminal history investigations investigation verification.** The family child care owner or primary caregiver is responsible for submitting to the ~~Licensing Records Office (LRO)~~ DHS Office of Background Investigations (OBI), criminal history investigations and obtaining dispositions on any charges shown on the report lacking dispositions.
- (7) **Realistic expectations.** The caregiver demonstrates a capacity for setting realistic behavior and performance expectations ~~for behavior and performance~~ based on the ~~age~~ children's ages, 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 and human trafficking reporting.** Reporting requirements ~~listed~~ in (A) and (B) of this paragraph are met.
- (A) Any person who has reason to believe a child ~~has been~~ was abused or neglected, per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105) is required to report the matter promptly to the DHS Child Abuse and Neglect Hotline at 1-800-522-3511, ~~per Section 1-2-101 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-2-101)~~. Failure to report is a misdemeanor offense and upon conviction is punishable by law. Failure to report with prolonged knowledge, six months or more, of ongoing abuse or neglect is a felony offense.
 - (B) Per 21 O.S. § 870, every person having reason to believe that a person or child-placing agency is engaging in the crime of human trafficking in children, ~~as described in~~ per 21 O.S. § 866 of the Oklahoma Statutes, reports the matter promptly to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.
- (11) **Notification of Licensing.** The primary caregiver notifies Licensing within:
- (A) ~~within~~ 24-hours of ~~the death of a child~~ death while in care;
 - (B) ~~within~~ 24-hours of ~~any accident~~ accidents involving transportation unless there were no injuries and only minor vehicle 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~~ child's injury requiring emergency medical attention;

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- (E) ~~within~~ 24-hours of ~~any~~ remodeling, changes, or physical facility damage to the physical facility affecting compliance with ~~any requirement~~licensing requirements;
- (F) ~~within~~ 24-hours of ~~any~~ known arrests, criminal investigations, criminal charges, or child abuse investigations involving persons ~~who live~~living in the home, ~~provide~~providing care, or ~~assist~~assisting with ~~the children's care of children~~;
- (G) ~~within~~ 24-hours of any legal action against a caregiver involving or affecting a child in care or ~~the program~~ 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-calendar days ~~when~~of an individual ~~moves~~moving into the home; and
- (J) ~~at least~~ 30-calendar days in advance of a ~~move~~moving from one residence to another, unless an emergency exists. The new home must comply with ~~minimum~~licensing requirements.
- (12) **Posting of license**License posting. 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 Licensing 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 license capacity of ~~the family child care home~~.
- (15) **Inactive care**. A primary caregiver is ~~determined to be~~ inactive status when care ~~has~~was not ~~been~~ provided for more than 90-consecutive calendar days.
- (A) Prior to resuming care, the caregiver must notify Licensing to verify compliance with ~~family child care home~~licensing requirements.
- (B) When care ~~has~~was 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**Caregiver qualifications. ~~Qualifications of caregivers~~Caregiver qualifications 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~~ensuring the children's 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.
- (B) Primary caregivers applying for a license after October 1, 2007, have obtained a high school diploma or General Educational Development credential (GED).
- (C) ~~All caregivers~~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~~Caregivers cooperate with ~~licensing staff~~licensing during monitoring visits and DHS investigations.
- (2) **Health**. The requirements relating to the ~~health of the caregiver~~caregiver's, assistant ~~caregiver~~caregiver's, and ~~members of the household~~ members' health are specified in (A) - (C) of this paragraph.
- (A) **General health**. ~~All caregivers~~Caregivers and ~~all household members of the household~~ where licensed care is provided must be in good physical, mental, and emotional health. When it is reported or observed that a caregiver or household member has a physical, mental, or emotional condition that could negatively impact ~~the children's care of children~~, a licensed physician's statement is requested.
- (B) **Tuberculosis testing**. The need for ~~employee~~personnel tuberculin skin testing is based upon a local identified tuberculosis exposure, the degree of transmission risk of ~~transmission~~ of latent tuberculosis infection, the impact to public health and safety, and Oklahoma State Department of Health specific recommendations.
- (C) **Immunizations**. There is documentation verifying ~~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 DHS Publication No. 86-104, Licensing Requirements for Family Child Care Homes and Large Child Care Homes.
- (3) **References**. The primary caregiver submits to Licensing the names of three non-relative references ~~other than relatives~~ that may include a licensed personal or family physician.
- (c) **Background investigations - general**.
- (1) **Required individuals**. Background investigations are required, per 10 O.S. §§ 401 et seq., Oklahoma Child Care Facilities Licensing Act (Licensing Act), unless an exception per ~~(2)~~ or (3) of this subsection applies for:
- (A) owners, prior to authorization to operate;
- (B) responsible entities, prior to authorization to operate and, when there is a change in a responsible entity;
- (C) personnel applicants, prior to hire. ~~However;~~ however, the program may hire individuals, when:
- (i) the program ~~may hire individuals who~~ are has submitted a criminal history review request to OBI;

(ii) only awaiting the national criminal history records search, based upon the on fingerprint submission of fingerprints, provided the:

(iii) preliminary criminal history review results from LROOBI are received by the program. However, until complete results are received, the individual does not have unsupervised access to children; and

(iv) ~~completed criminal history review results from LRO are received by the program within 30 calendar days from submission of the fingerprints for employment to continue; and~~

(v) ~~personnel who come coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity;~~

(D) individuals with unsupervised access to children, prior to having access to children, unless an exception per (3) of this subsection applies;

(E) adults living in the facility, prior to authorization to operate or moving into the facility of an existing program. This includes children, who ~~turn become~~ 18 years of age while living in the facility; and

(F) individuals ~~who have~~ having access to, or review of, the fingerprint results, prior to access to or review of the results.

(2) ~~Existing required individuals as of November 1, 2013~~ Resubmission of criminal history reviews as of November 2, 2017. On or before November 1, 2016, the fingerprinting and criminal history review process of this Section is completed for existing required individuals, with the exception of individuals who have access to or review of the fingerprint results. These individuals complete the process prior to having access to or review of the results. Effective November 2, 2017, programs request a criminal history review process, excluding fingerprinting, for required individuals every five years. However criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

(3) **Non-required individuals.** Background investigations are not required for:

(A) specialized service professionals who are not program personnel, provided parent releases are obtained, per OAC 340:110-3-88(c);

(B) volunteer drivers ~~who transport~~ transporting children on an irregular basis and ~~do not fill~~ filling another position, provided parent releases are obtained, per OAC 340:110-3-88(c);

(C) contracted drivers ~~who do not fill~~ filling another position or ~~have~~ having unsupervised access to children; and

(D) contracted non-personnel ~~who do not have~~ having unsupervised access to children, such

as when the program contracts for special activities or facility repair.

(d) **Background investigations - Restricted Registry.** The program conducts ~~an online~~ search of the ~~online Child Care Restricted Registry or~~ Restricted Registry, also named Joshua's List, when required, per (c) of this Section.

(1) **Non-registrants.** Non-registrants are individuals ~~who are~~ not recorded on the Restricted Registry.

(2) **Registrants.** Registrants are individuals ~~who are~~ recorded on the Restricted Registry, who are prohibited from licensure, ownership, employment, unsupervised access to children, or facility residence in the facility and are prohibited individuals per (e) of this Section.

(e) **Background investigations - criminal history.** The program and required individuals complete the criminal history review process. The program receives the completed criminal history review results from LROOBI, when required per (c) of this Section.

(1) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited, per (f) of this Section. Criminal history prohibitions include:

(A) required registration under the:

(Ai) Sex Offenders Registration Act; including state and national repositories; or

(Bii) Mary Rippy Violent Crime Offenders Registration Act; or

(B) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:

(i) murder, as defined in Section 1111 of Title 18 of United States Code;

(ii) child abuse or neglect;

(iii) crimes against children, including child pornography;

(iv) spousal abuse;

(v) crimes involving rape or sexual assault;

(vi) kidnapping;

(vii) arson;

(viii) physical assault or battery; or

(ix) a drug-related offense committed during the preceding five years, unless a criminal history restriction waiver per (2) of this subsection is granted; or

(C) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child involving:

(i) child abuse or child endangerment; or

(ii) sexual assault; or

(D) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child pornography.

(2) **Criminal history restrictions.** Individuals with criminal history restrictions are prohibited per (f) of this Section, unless a criminal history restriction waiver is granted. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or convictions of ~~any~~ criminal activity involving:

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

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- (B) violence against an individual;
 - (C) sexual misconduct;
 - (D) child abuse or neglect;
 - (E) animal cruelty;
 - (F) illegal drug possession, sale, or distribution of illegal drugs; or
 - (G) a pattern of criminal activity.
- (3) **Criminal history restriction waivers.** Restriction waivers are specified described in (A) through (C) of this subsection paragraph.
- (A) Restriction waivers may be requested for individuals who have having criminal history restrictions. The owner, responsible entity, or primary caregiver completes requests on a DHS form.
 - (B) Restriction waivers are not requested or granted for:
 - (i) Restricted Registry registrants;
 - (ii) individuals with criminal history prohibitions; or
 - (iii) individuals whose sentence has not expired for any of the criminal history restrictions per (2) of this subsection.
 - (C) Individuals identified in pending or denied restriction waiver requests are prohibited per (f) of this Section.
- (f) **Prohibited individuals.**
- (1) **Background investigation of required individuals.** The program does not allow a required individual to be the owner or responsible entity, to be employed, to live in the facility, or have:
- (A) access to children, such as being present at the facility during the hours of operation or present with the children in care while off-site, when the individual has criminal history:
 - (i) prohibitions; or
 - (ii) restrictions, unless a criminal history restriction waiver is granted. Individuals identified in a pending or denied restriction waiver request are prohibited; or
 - (B) unsupervised access to children, when the individual is a Restricted Registry registrant.
- (2) **Background investigation statements and consents.** Individuals are prohibited to be the owner or responsible entity, to be employed, or to live in the facility, when:
- (A) the individual refuses to consent to background investigations per (c) of this Section; or
 - (B) knowingly makes a materially-false statement in connection with criminal background investigations.
- (23) **Endangerment of children**~~Child endangerment.~~ An individual whose health or behavior would endanger ~~the children's~~ 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.
- (34) **Alcohol, drugs, and medication.** When children are in care, no caregiver is under the influence of:
- (A) alcohol or illegal drugs; or
 - (B) medication ~~impairing~~that impairs his or her functioning.
- (g) **Child Abuse Registry check**~~abuse and neglect-DHS database.~~ A ~~Child Abuse Registry check DHS database search~~ is conducted on ~~all persons who sign the individuals signing the request for license application.~~ A confirmed or substantiated allegation of child abuse or neglect is considered when evaluating the applicant's qualifications ~~of the applicant and the children's~~ safety and well-being of the children in care.
- (h) **Professional development requirements.** ~~Professional Caregiver professional development requirements for caregivers are specified in (1) - (4) of this subsection are met.~~
- (1) **General.** The primary caregiver is required to complete 12 clock-hours of professional development annually through workshops, formal training, videos, or individual position-related readings. Annually, no more than six clock-hours of videos or individual position-related readings is are counted toward the required 12 clock-hours.
- (2) **CPR and first aid certification.** CPR and first aid requirements ~~listed~~ in (A) through (B) of this subsection are met.
- (A) Current CPR and first aid certification is required for:
 - (i) the primary caregiver, prior to permission to operate or initial permit issuance ~~of the initial permit;~~
 - (ii) ~~any person who cares~~individuals caring for children alone, on or off the premises, including during transportation; and
 - (iii) other caregivers, included in the caregiver to child ratio. Caregivers employed:
 - (I) prior to November 1, 2016, obtain CPR and first aid certification by November 1, 2017; or
 - (II) on or after November 1, 2016, obtain CPR and first aid certification within three months of caring for children.
 - (B) CPR and first aid certification is kept current, approved by Licensing, and maintained at the facility.
- (3) **Health and safety training.** Prior to caring for children, ~~all~~ caregivers obtain training in:
- (A) prevention and control of infectious disease and injury prevention measures;
 - (B) fire extinguisher use of a fire extinguisher;
 - (C) prevention of shaken baby syndrome and abusive head trauma;
 - (D) prevention of sudden infant death syndrome (SIDS);
 - (E) infant safe sleep practices;
 - (F) car seat and transportation safety;
 - (G) physical premise safety including identification of and, protection from hazards that can cause bodily injury, such as, electrical hazards, bodies of water, or vehicular traffic;
 - (H) handling and storage of hazardous materials and appropriate disposal of bio-contaminants;

- (I) emergency preparedness and response planning for emergencies resulting from a natural disaster or human-caused event;
 - (J) immunizations;
 - (K) medication administration ~~of medication~~;
 - (L) prevention of and response to emergencies due to food and allergic reactions;
 - (M) the definition, identification, and mandatory reporting of child abuse and neglect; and
 - (N) behavior and guidance methods.
- (4) **Safe-sleep training.** Prior to caring for infants, the primary caregiver and ~~any individual~~ individuals caring for infants alone, ~~obtains~~ obtain two or more clock-hours of training in safe-sleep practices from an Oklahoma Professional Development Registry (OPDR) approved training organization.

PART 9. REQUIREMENTS FOR RESIDENTIAL CHILD CARE FACILITIES

340:110-3-153.1. Personnel

- (a) **Personnel policy.** Personnel policy includes, ~~but is not limited to,~~ defining staff, essential position functions, qualifications, and authority lines ~~of authority~~.
- (b) **Staff Personnel and responsibilities.** The program recruits staff personnel with specialized skills, knowledge, and the cultural understanding and competencies necessary for quality residential care services.
- (1) **Executive director.** The program employs an executive director, superintendent, or administrator; ~~In the and in his or her absence of the executive director,~~ an individual is designated as in charge.
- (A) The executive director, superintendent, or administrator is responsible for employing individuals possessing adequate education, training, and experience to perform the assigned positions' essential functions ~~of the assigned position~~.
- (B) The executive director is responsible for implementing the policies adopted by the governing board.
- ~~(C) The executive director is responsible for the and ongoing program operation of the program.~~
- (2) **Program director.** The program director is responsible for implementing and supervising programs and services. The executive director may also serve as the program director, when ~~the director meets~~ meeting the qualifications specified in (d)(2) of this Section.
- (3) **Social services staff personnel.** Social services staff personnel are responsible for admission assessments, placement services, counseling, residents' and their families' casework services ~~to residents and the residents' families~~, service plans, service plan reviews, and discharge plans.
- (4) **Child care staff personnel.** Child care staff personnel are responsible for meeting ~~the needs of residents~~ residents' needs, taking ~~into~~ in account the residents' ages, physical and mental conditions, and

- other factors ~~that affect~~ affecting the amount of attention indicated.
- (5) **Support staff personnel.** Support staff personnel are responsible for providing support duties.
- (6) **On-call and part-time staff personnel.** On-call and part-time staff personnel are responsible for the position duties ~~of the position~~ they are assigned.
- (7) **On-site official.** There must be an on-site official authorized to apply the reasonable and prudent parent standard.

- (c) **Volunteers.** When a program uses volunteers, the program ~~has~~ maintains current, written volunteer policy. Volunteers:
- (1) Volunteers counted in ~~the staff to child ratios~~ meet all requirements for child care staff personnel requirements;
- (2) Volunteers receive orientation ~~before having~~ prior to resident contact ~~with residents;~~ and
- (3) Volunteers work under the direct supervision of the executive ~~director~~ director's or a ~~designated staff member~~ personnel's direct supervision.
- (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 positions' essential functions ~~of the position~~.
- (1) In a program 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) Individuals hired after June 15, 1990, ~~who are~~ solely responsible for direct program supervision, whether when filling the position of executive director or program director positions, must meet one of these the qualifications in (A) - (D) of this subsection:
- (A) a bachelor's degree in a behavioral science or other related area of study from an accredited college or university and ~~three years~~ 36 months of children's services 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~~ 24 months of children's services 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~~ 12 months of children's services experience in children's services; or
- (D) for programs specializing in substance abuse treatment, ~~the program director is~~ certification as a Qualified Substance Abuse Professional (QSAP).
- (e) **Child care and supervisory staff personnel qualifications.** Child care and supervisory ~~staff~~ personnel possess

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adequate education, training, and experience to perform the position's essential functions of the position.

- (1) ~~All child~~ Child care workers personnel are 21 years of age ~~or~~ and older.
 - (2) Staff Personnel hired after June 15, 1990, have a high school diploma or equivalent within ~~one year~~ 12 months of employment.
- (f) **Social services staff personnel qualifications.** Social services staff personnel, whether employees or contractors, possess adequate education, training, and experience to perform the position's essential functions of the position.
- (1) Social services supervisory staff personnel, hired after June 15, 1990, ~~who are~~ responsible for developing and implementing the social services program, meet one of ~~these~~ the qualifications in (A) - (C) of this subsection:
 - (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 accredited college or university and ~~one year~~ 12 months of children's services experience in children's services; or
 - (C) for programs specializing in substance abuse treatment, ~~the~~ social services supervisory staff personnel are supervised by a QSAP.
 - (2) Social services staff personnel hired after June 15, 1990, ~~who provide~~ providing only casework services have a bachelor's degree in a related area of study from an accredited college or university.
- (g) **Employment requirements.** Staff Personnel meet requirements ~~specified~~ in (1) through (3) of this subsection.
- (1) **References.** The program obtains ~~a minimum of~~ three references for ~~all staff~~ staff personnel 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.** Testing for tuberculosis is not required on a routine basis. Programs comply with the Oklahoma State Department of Health recommendation regarding tuberculin skin testing, when there is a local identified tuberculin exposure.
 - (3) **Performance evaluation.** ~~Each employee has a~~ written performance evaluation is updated at least annually and maintained in the employee's personnel record.
- (h) **Background investigations - general.**
- (1) **Required individuals.** Background investigations are required, per Section 401 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. §§ 401 et seq.), Oklahoma Child Care Facilities Licensing Act (Licensing Act), unless an exception per ~~(2) or~~ (3) of this subsection applies for:
 - (A) owners, prior to authorization to operate;
 - (B) responsible entities, prior to authorization to operate and, when there is a change in a responsible entity;
 - (C) personnel applicants, prior to hire. ~~However;~~ however, the program may hire individuals, when:

- (i) the program ~~may hire individuals who~~ are has submitted a criminal history review request to the Office of Background Investigations (OBI);
- (ii) only awaiting the national criminal history records search, based ~~upon the~~ on fingerprint submission of fingerprints, ~~provided the:~~

- (iii) ~~preliminary~~ criminal history review results from the Licensing Records Office (LRO) OBI are received by the program. However, until complete results are received, the individual does not have unsupervised access to ~~children without personnel~~ being present who have a completed criminal history review residents; and

- (ii) ~~completed criminal history review results from LRO are received by the program within 30 calendar days from submission of the fingerprints for employment to continue; and~~

- (iii) ~~personnel who come~~ coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity;

- (D) individuals with unsupervised resident access to ~~children~~, prior to having resident access to ~~children~~, unless an exception per (3) of this subsection applies;

- (E) adults living in the facility prior to authorization to operate or moving into the facility of an existing program. This includes ~~children~~ residents, who become 18 years of age while living in the facility, unless exempt as a resident receiving services from the program; and

- (F) individuals ~~who have~~ having access to, or review of, ~~the~~ fingerprint results, prior to access to or review of ~~the~~ results.

(2) ~~Existing required individuals as of November 1, 2013~~ Resubmission of criminal history reviews as of November 2, 2017. ~~On or before November 1, 2016, the fingerprinting and criminal history review process of this Section is completed for existing required individuals, with the exception of individuals who have access to or review of the fingerprint results. These individuals complete the process prior to having access to or review of the results.~~ Effective November 2, 2017, programs request a criminal history review process, excluding fingerprinting, for required individuals every five years. However criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

(3) **Non-required individuals.** Background investigations are not required for:

- (A) specialized service professionals who are not program personnel, provided parent releases are obtained, per Oklahoma Administrative Code (OAC) 340:110-3-154(a)(4)(E);

(B) ~~volunteer drivers who transport children~~ transporting residents on an irregular basis and ~~do not fill~~ filling another position, provided parent releases are obtained, per OAC 340:110-3-154(a)(4)(E);

(C) ~~contracted drivers who do not fill~~ filling another position or ~~have~~ having unsupervised resident access to children;

(D) ~~contracted non-personnel who do not have~~ having unsupervised resident access to children, such as when the program contracts for special activities or facility repair;

(E) individuals who are not program personnel and have contact with residents as part of family, community, and social activities, education, or employment, provided administrative and program policies are met including policy regarding trips away from the facility; and

(F) residents who become 18 years of age while living in the facility and continue to receive program services from the program.

(i) **Background investigations - Restricted Registry.** The program conducts ~~an online search of the online Child Care Restricted Registry or~~ Restricted Registry, also named Joshua's List, when required, per (h) of this Section.

(1) **Non-registrants.** Non-registrants are individuals ~~who are~~ not recorded on the Restricted Registry.

(2) **Registrants.** Registrants are individuals ~~who are~~ recorded on the Restricted Registry, ~~who are~~ prohibited from licensure, ownership, employment, unsupervised resident access to children, or residence in the facility residence, and ~~are~~ prohibited individuals per (e)(j) of this Section.

(j) **Background investigations - criminal history.** The program and required individuals complete the criminal history review process. The program receives the completed criminal history review results from ~~LRGOBI~~, when required per (h) of this Section.

(1) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited, per (k) of this Section. Criminal history prohibitions include:

(A) required registration under the:

(A*i*) Sex Offenders Registration Act; including state and national repositories; or

(B*ii*) Mary Rippy Violent Crime Offenders Registration Act; or

(B) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:

(i) murder, as defined in Section 1111 of Title 18 of United States Code;

(ii) child abuse or neglect;

(iii) crimes against children, including child pornography;

(iv) spousal abuse;

(v) crimes involving rape or sexual assault;

(vi) kidnapping;

(vii) arson;

(viii) physical assault or battery; or

(ix) a drug-related offense committed during the preceding five years, unless a criminal history restriction waiver per (2) of this paragraph is granted; or

(C) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child involving:

(i) child abuse or child endangerment; or

(ii) sexual assault; or

(D) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child pornography.

(2) **Criminal history restrictions.** Individuals with criminal history restrictions are prohibited per (k) of this Section, unless a criminal history restriction waiver is granted. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or conviction of ~~any~~ criminal activity involving:

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

(B) violence against an individual;

(C) sexual misconduct;

(D) child abuse or neglect;

(E) animal cruelty;

(F) illegal drug possession, sale, or distribution of illegal drugs; or

(G) a pattern of criminal activity.

(3) **Criminal history restriction waivers.** Restriction waivers are ~~specified~~ described in (A) through (C) of this subsection paragraph.

(A) Restriction waivers may be requested for individuals ~~who have~~ having criminal history restrictions. The owner, responsible entity, or director completes requests on an Oklahoma Department of Human Services (DHS) form.

(B) Restriction waivers are not requested or granted for:

(i) Restricted Registry registrants;

(ii) individuals with criminal history prohibitions; or

(iii) individuals whose sentence has not expired for ~~any of the~~ criminal history restrictions.

(C) Individuals identified in pending or denied restriction waiver requests are prohibited per (k) of this Section.

(k) **Prohibited individuals.**

(1) **Background investigation of required individuals.** The program does not allow a required individual to be the owner or responsible entity, to be employed, ~~to~~ live in the facility, or have:

(A) resident access to children, such as being present at the facility during the hours of operation or present with the ~~children~~ residents in care while off-site, when the individual has criminal history:

(i) prohibitions; or

(ii) restrictions, unless a criminal history restriction waiver is granted. Individuals identified

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in a pending or denied restriction waiver request are prohibited; or

(B) unsupervised resident access to ~~children~~, when the individual is a Restricted Registry registrant.

(2) **Background investigation statements and consents.** Individuals are prohibited to be the owner or responsible entity, to be employed, or to live in the facility, when:

(A) the individual refuses to consent to background investigations per (h) of this Section; or

(B) knowingly makes a materially-false statement in connection with criminal background investigations.

(23) **Impaired functioning Alcohol, drugs, and medication.** When residents are in care, no individual employed by the program or who provide providing program services to the program may not use or be under the influence of:

(A) alcohol and/or illegal drugs during work hours; or

(B) medication that impairs his or her functioning.

(4) **Child endangerment.** An individual whose health or behavior would endanger residents' health, safety, or well-being is not permitted to live in or be on the premises when residents are in care.

(35) **Criminal allegations.** When a staff memberpersonnel is alleged to have committed an act described in per (j) of this Section, the program's executive director determines and documents whetherwhen the staff memberpersonnel is removed from resident contact with children until the allegation is resolved. However, when criminal charges are filed, the accused is removed from resident contact with children until the charges are resolved.

(46) **Deferred sentences.** Individuals who have receivedhaving a deferred sentence for any chargecharge's in (j)(2) of this Section are removed from resident contact with children for the deferment duration of the deferment.

(l) **Orientation.** StaffPersonnel receive orientation within 30-calendar days of employment.

(1) Staff who will work with residentsPersonnel receive orientation before being assigned prior to assignment as the primary staffpersonnel responsible for residents.

(2) Orientation includes, but is not limited to at least:

(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 procedureprocedures;

(I) ~~the mandatory child abuse reporting of child abuse; and~~

(J) administrative policy and procedure regarding behavior management.

(3) DHS Publication No. 86-78, Licensing Requirements for Residential Child Care Facilities, is part of the orientation process and is available to staffpersonnel at all times.

(4) Orientation may count toward ~~the~~ total professional development hours for the first year ~~12 months~~.

(m) **StaffPersonnel professional development.** StaffPersonnel meet the requirements for professional development specified in (1) - (7) of this subsection.

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

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

(3) **Professional development for child care staffpersonnel.** Child care staffpersonnel receive trainingprofessional development.

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

(B) Part-time child care staffpersonnel obtain a minimum of at least 12-clock hours per calendar year of staffprofessional development courses annually.

(C) On-call or substitute child care staffpersonnel obtain a minimum of at least six-clock hours per calendar year of staffprofessional development courses annually.

(D) The content for staffprofessional development courses for child care staffpersonnel is relative to the assigned positions, roles, and responsibilities of the position assigned.

(E) When residents are in care on the facility premises or on anya program-sponsored field trip, at least one staffpersonnel is present who haswith current documentation of certification in age-appropriate first aid and cardio-pulmonary resuscitation (CPR) documentation. All other child care staffcomplete training in personnel obtain and maintain age-appropriate first aid and CPR, including infant and child when appropriate, within 90-calendar 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 an individual certified as a first aid instructor, or a health care professional using a curriculum from a DHS-approved source through:
 - (I) Emergency Medical Services for Children (EMSC) First Care;
 - (II) American Red Cross;
 - (III) EMS Safety Services;
 - (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~~ other DHS-approved source.
- (4) **Professional development for support staff personnel.** Support ~~staff who occasionally provide~~ personnel providing occasional instruction or training to residents obtain a ~~minimum of at least~~ minimum of at least six-clock hours of ~~staff professional~~ professional development courses ~~per calendar year annually~~. The content is relative to the position, role, and responsibility ~~of the position or relative~~ to interacting with residents.
- (5) **Behavioral intervention techniques.** Within 30-calendar days of employment, and prior to being solely responsible for residents, child care ~~staff personnel~~ and those support staff that occasionally provide personnel providing occasional instruction or training to residents, complete professional development or provide proof of current certification in behavioral intervention techniques, to include:
 - (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) **Reasonable and prudent parent standard training.** Designated on-site official authorized to apply the reasonable and prudent parent standard receives training on use and application of the reasonable and prudent parent standards.
- (7) ~~Professional development for contracted~~ **Contracted personnel professional development.** Contracted personnel not providing direct care or counted in the supervision ratio are exempt from meeting ~~staff~~ the personnel professional development

requirements specified in ~~subsection~~ (m)(1) - (5) of this Section.

- (n) **Documentation.** ~~All orientation~~ Orientation and professional development hours are documented and available for ~~licensing~~ Licensing staff to review. Documentation includes ~~the names of staff members who attended~~ personnel names attending, course titles, ~~course and~~ and descriptions, dates, hours attended, and ~~the names of the~~ trainer or facilitator names.
- (o) **Personnel records.** Programs maintain personnel records for each employee.
 - (1) The program submits to DHS at the time of request for license a:
 - (A) current employee list of employees; and
 - (B) DHS-provided staff personnel information sheet, for each employee.
 - (2) The program maintains on file a written personnel record for each employee working at the program for at least ~~one year~~ 12 months following an employee's separation from employment. The personnel record includes:
 - (A) an application, resume, or staff personnel information sheet ~~that documents~~ documenting position qualifications;
 - (B) ~~any program-required~~ health records required by the program;
 - (C) ~~documentation of requests and results of criminal history reviews~~ review requests and results;
 - (D) other applicable criminal history records;
 - (E) three references;
 - (F) annual performance ~~evaluations~~ and any evaluation reports and notes relating to the individual's program employment ~~with the program~~;
 - (G) the employment date of employment; and
 - (H) the date and reason for leaving employment.

PART 15. REQUIREMENTS FOR CHILD CARE CENTERS, DAY CAMPS, DROP-IN PROGRAMS, OUT-OF-SCHOOL TIME PROGRAMS, PART-DAY PROGRAMS AND PROGRAMS FOR SICK CHILDREN

340:110-3-282. Background investigations

- (a) **General.** ~~These background~~ Background investigation requirements are ~~required to be~~ met.
 - (1) **Required individuals.** Background investigations are required, per Section 401 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. §§ 401 et seq.), Oklahoma Child Care Facilities Licensing Act (Licensing Act), unless an exception per ~~(2) or~~ (3) of this subsection applies for:
 - (A) owners, prior to authorization to operate;
 - (B) responsible entities, prior to authorization to operate and, when there is a change in a responsible entity;
 - (C) personnel applicants, prior to hire. However, the program may hire individuals, when:
 - (i) the program ~~may hire individuals who are~~ has submitted a criminal history review request to the Office of Background Investigations (OBI);

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(ii) only awaiting the national criminal history records search, based upon the on fingerprint submission of fingerprints, provided the;

(iii) ~~preliminary~~ criminal history review results from LROOBI are received by the program. However, until complete results are received, the individual does not have unsupervised access to children; and

(ii) ~~completed criminal history review results from LRO are received by the program within 30 calendar days from submission of the fingerprints for employment to continue; and~~

(iii) ~~personnel who come~~ coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity;

(D) individuals with unsupervised access to children, prior to having access to children, unless an exception per (3) of the subsection applies;

(E) adults living in the facility, prior to authorization to operate or moving into the facility of an existing program. This includes children, who ~~turn~~ become 18 years of age while living in the facility; and

(F) individuals who ~~have~~ having access to, or review of, the fingerprint results, prior to access to or review of the results.

(2) ~~Existing required individuals as of November 1, 2013~~ Resubmission of criminal history reviews as of November 2, 2017. On or before November 1, 2016, the fingerprinting and criminal history review process of this Section is completed for existing required individuals, with the exception of individuals who have access to or review of the fingerprint results. These individuals complete the process prior to having access to or review of the results. Effective November 2, 2017, programs request a criminal history review process, excluding fingerprinting, for required individuals every five years. However criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

(3) **Non-required individuals.** Background investigations are not required for:

(A) specialized service professionals who are not program personnel, provided parent releases are obtained, per Oklahoma Administrative Code (OAC) 340:110-3-281.4(b);

(B) volunteer drivers who ~~transport~~ transporting children on an irregular basis and do not ~~fill~~ filling another position, provided parent releases are obtained, per OAC 340:110-3-281.4(b);

(C) contracted drivers who ~~do~~ not ~~fill~~ filling another position or ~~have~~ having unsupervised access to children; and

(D) contracted non-personnel who ~~do~~ not ~~have~~ having unsupervised access to children, such as when the program contracts for special activities or facility repair.

(b) **Restricted Registry.** The program conducts an online search of the ~~online Child Care Restricted Registry~~ or Restricted Registry, also named Joshua's List, when required, per (a) of this Section.

(1) **Non-registrants.** Non-registrants are individuals who are not recorded on the Restricted Registry.

(2) **Registrants.** Registrants are individuals who are recorded on the Restricted Registry, who are prohibited from licensure, ownership, employment, unsupervised access to children, or facility residence, in the facility, and are prohibited individuals per OAC 340:110-3-283(a) and (c).

(c) **Criminal history.** The program and required individuals complete the criminal history review process. The program receives the completed criminal history review results from LROOBI when required per (a) of this Section.

(1) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited, per OAC 340:110-3-283(a) through (c). Criminal history prohibitions include:

(A) required registration under the:

(Ai) Sex Offenders Registration Act, including state and national repositories; or

(Bii) Mary Rippey Violent Crime Offenders Registration Act; or

(B) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:

(i) murder, as defined in Section 1111 of Title 18 of United States Code;

(ii) child abuse or neglect;

(iii) crimes against children, including child pornography;

(iv) spousal abuse;

(v) crimes involving rape or sexual assault;

(vi) kidnapping;

(vii) arson;

(viii) physical assault or battery; or

(ix) a drug-related offense committed during the preceding five years, unless a criminal history restriction waiver per (2) of this subsection is granted; or

(C) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child involving:

(i) child abuse or child endangerment; or

(ii) sexual assault; or

(D) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child pornography; or

(E) when an individual:

(i) refuses to consent to background investigations per (a) of this Section; or

- (ii) knowingly makes a materially-false statement in connection with criminal background investigations.
- (2) **Criminal history restrictions.** Individuals with criminal history restrictions are prohibited per OAC 340:110-3-283(a) and (c), unless a criminal history restriction waiver is granted. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or convictions of ~~any~~ criminal activity involving:
 - (A) gross irresponsibility or disregard for the safety of others;
 - (B) violence against an individual;
 - (C) sexual misconduct;
 - (D) child abuse or neglect;
 - (E) animal cruelty;
 - (F) illegal drug possession, sale, or distribution of illegal drugs; or
 - (G) a pattern of criminal activity.
- (3) **Criminal history restriction waivers.** Restriction waivers are ~~specified~~ described in (A) through (D) of this subsection paragraph.
 - (A) Restriction waivers may be requested for individuals ~~who have~~ having criminal history restrictions. The owner, responsible entity, or director completes requests on a DHS form.
 - (B) Restriction waivers are not requested or granted for:
 - (i) Restricted Registry registrants;
 - (ii) individuals with criminal history prohibitions; or
 - (iii) individuals whose sentence has not expired for ~~any of the~~ criminal history restrictions.
 - (C) Individuals identified in pending or denied restriction waiver requests are prohibited per OAC 340:110-3-283(a).
 - (D) Granted criminal history restriction waiver notifications are maintained per OAC 340:110-3-281.2(b).
- (d) **References.** The program obtains at least three, non-relative references prior to hiring personnel applicants, with at least two ~~of the~~ references from the most recent employers, when applicable.

SUBCHAPTER 5. REQUIREMENTS FOR CHILD-PLACING AGENCIES

PART 1. REQUIREMENTS FOR CHILD-PLACING AGENCIES

340:110-5-8. Personnel

- (a) **Required staffpersonnel.** The child-placing agency (agency) employs:
 - (1) an executive director or administrator. In the ~~absence of the~~ executive director or administrator absence, a person an individual is designated in charge ~~who is being~~

- immediately accessible in person or by ~~telephone~~ phone to Oklahoma Department of Human Services (DHS) authorized representatives;
- (2) a child placement supervisor responsible for ~~all~~ placements in out-of-home care and home studies final approval ~~of all home studies;~~
- (3) social services ~~staffpersonnel~~ responsible for providing social services, ~~including, but not limited to~~ includes at least:
 - (A) casework services to children and ~~the~~ children's families;
 - (B) adoptive child and family studies;
 - (C) placement services;
 - (D) agency facilities certification ~~of agency facilities;~~
 - (E) admission assessments; and
 - (F) service planning;
- (4) child care ~~workers~~ personnel, when applicable; and
- (5) sufficient clerical ~~staffpersonnel~~ to keep correspondence, records, bookkeeping, and files current and in good order.
- (b) **Volunteers.** When volunteers have contact with children in care, the agency:
 - (1) ~~has~~ maintains current written volunteer policy ~~to protect~~ protecting the children's health, safety, and well-being ~~that includes~~ including:
 - (A) selection and screening criteria, including a criminal history records search per Section 401 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. § 401 et seq.), Oklahoma Child Care Facilities Licensing Act (Licensing Act); and
 - (B) requirements for:
 - (i) orientation; and
 - (ii) supervision; and
 - (2) provides orientation ~~before volunteers have~~ prior to child contact with children.
- (c) **Personnel policy.** Written personnel policy is available to ~~staffpersonnel~~ defining position responsibilities, qualifications, and ~~authority~~ lines of authority.
 - (1) The executive director or administrator is responsible for personnel employment and dismissal ~~of personnel.~~
 - (2) Agency policy includes on-call and substitute personnel availability ~~of on-call and substitute staff.~~
 - (3) The agency obtains a ~~minimum of at least~~ three written references ~~to include~~ including the most recent employer, when applicable, ~~for all staff~~ prior to employment.
 - (A) When written references cannot be obtained prior to employment, ~~telephone~~ phone interviews are conducted and documented ~~that include~~ including dates, ~~interview~~ questions, responses, and the interviewer's signature. Written references are required after 30-calendar days.
 - (B) ~~Copies of references~~ Reference copies are maintained on file.
 - (4) ~~Tuberculosis skin testing~~ Testing for tuberculosis is not required ~~to qualify~~ for employment. The agency requires employees ~~to~~ comply with the Oklahoma State

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Department of Health recommendations regarding ~~tuberculosis~~ tuberculin skin testing when there is a local tuberculosis identified tuberculin exposure is identified.

(d) **Background investigations - general.**

(1) **Required individuals.** Background investigations are required, per ~~Section 401 et seq. of Title 10 of the Oklahoma Statutes (10 O.S. §§ 401 et seq.), Oklahoma Child Care Facilities Licensing Act (Licensing Act), unless an exception per (2) or (3) of this subsection applies for:~~

- (A) owners, prior to authorization to operate;
- (B) responsible entities, prior to authorization to operate and, when there is a change in a responsible entity;

(C) personnel applicants, prior to hire. ~~However;~~ however, the program may hire individuals when:

(i) ~~the agency may hire individuals who are~~ has submitted a criminal history review request to the Office of Background Investigations (OBI);

(ii) ~~only awaiting the national criminal history records search, based upon the on fingerprint submission of fingerprints, provided the:~~

(I) ~~preliminary~~

(iii) ~~criminal history review results from the Licensing Records (LRO)~~ OBI are received by the agency. However, until complete results are received, the individual does not have unsupervised access to children without personnel being present who have a completed criminal history review; and

(II) ~~completed criminal history review results from LRO are received by the agency within 30 calendar days from submission of the fingerprints for employment to continue; and~~

(iiiiv) ~~personnel who come~~ coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity;

(D) individuals with unsupervised access to children, prior to having access to children, unless an exception per (3) of this subsection applies;

(E) adults living in the facility, prior to authorization to operate or moving into the facility of an existing agency. This includes children, who ~~turn~~ become 18 years of age while living in the facility; and

(F) individuals who ~~have~~ having access to, or review of, ~~the~~ fingerprint results, prior to access to or review of the results.

(2) **Existing required individuals as of November 1, 2013** Resubmission of criminal history reviews as of November 2, 2017. ~~On or before November 1, 2016, the fingerprinting and criminal history review process of this Section is completed for existing required individuals, with the exception of individuals who have access to or review of the fingerprint results. These individuals~~

~~complete the process prior to having access to or review of the results.~~ Effective November 2, 2017, programs request a criminal history review process, excluding fingerprinting, for required individuals every five years. However criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

(3) **Non-required individuals.** Background investigations are not required for:

(A) specialized service professionals who are not agency personnel, provided parent releases, legal custodian or legal guardian releases are obtained, per the Licensing Act;

(B) volunteer drivers ~~who transport~~ transporting children on an irregular basis and ~~do not fill~~ filling another position, provided parent releases, ~~and~~ legal custodian or legal guardian releases are obtained per the Licensing Act; ~~and~~

(C) contracted drivers ~~and who do not fill~~ filling another position or ~~have~~ having unsupervised access to children; ~~and~~

(D) contracted non-personnel ~~who do not have~~ having unsupervised access to children, such as when the program contracts for special activities or facility repair.

(e) **Background investigations - Restricted Registry.** The agency conducts ~~an online~~ an online search of the ~~online Child Care Restricted Registry or Restricted Registry, also named Joshua's List, when required, per (d) of this Section.~~

(1) **Non-registrants.** Non-registrants are individuals ~~who are~~ not recorded on the Restricted Registry.

(2) **Registrants.** Registrants are individuals ~~who are~~ recorded on the Restricted Registry, who are prohibited from licensure, ownership, employment, unsupervised access to children, or facility residence in the facility and ~~are~~ prohibited individuals per ~~(e)~~ (f) of this Section.

(f) **Background investigations - criminal history.** The agency and required individuals complete the criminal history review process. The agency receives the completed criminal history review results from ~~LRO~~ OBI, when required per (d) of this Section.

(1) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited per (g) of this Section. Criminal history prohibitions include:

(A) required registration under the:

(A*i*) Sex Offenders Registration Act; including state and national repositories; or

(B*ii*) Mary Rippey Violent Crime Offenders Registration Act; or

(B) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:

(i) murder, as defined in Section 1111 of Title 18 of United States Code;

(ii) child abuse or neglect;

(iii) crimes against children, including child pornography;

(iv) spousal abuse;

(v) crime involving rape or sexual assault;

(vi) kidnapping;

- (vii) arson;
 - (viii) physical assault or battery; or
 - (ix) a drug-related offense committed during the preceding five years, unless a criminal history restriction waiver per (2) of this subsection is granted; or
 - (C) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child involving:
 - (i) child abuse or child endangerment; or
 - (ii) sexual assault; or
 - (D) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child pornography.
- (2) **Criminal history restrictions.** Individuals with criminal history restrictions are prohibited per (g) of this Section, unless a criminal history restriction waiver is granted. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or convictions of ~~any~~ criminal activity involving:
- (A) gross irresponsibility or disregard for the safety of others;
 - (B) violence against an individual;
 - (C) sexual misconduct;
 - (D) child abuse or neglect;
 - (E) animal cruelty;
 - (F) illegal drug possession, sale, or distribution of illegal drugs; or
 - (G) a pattern of criminal activity.
- (3) **Criminal history restriction waivers.** Restriction waivers are ~~specified~~ described in (A) through (C) of this ~~subsection~~ paragraph.
- (A) Restriction waivers may be requested for individuals ~~who have~~ having criminal history restrictions. The owner, responsible entity, or director completes requests on a DHS form.
 - (B) Restriction waivers are not requested or granted for:
 - (i) Restricted Registry registrants;
 - (ii) individuals with criminal history prohibitions; or
 - (iii) individuals whose sentence has not expired for ~~any of the~~ criminal history restrictions.
 - (C) Individuals identified in pending or denied restriction waiver requests are prohibited per (g) of this Section.
- (g) **Prohibited individuals.**
- (1) **Background investigation of required individuals.** The agency does not allow a required individual to be the owner or responsible entity, to be employed, to live in the facility, or have:
- (A) access to children, such as being present at the facility during the hours of operation or present with the children in care while off-site, when the individual has criminal history:

- (i) prohibitions; or
 - (ii) restrictions, unless a criminal history restriction waiver is granted. Individuals identified in a pending or denied restriction waiver request are prohibited; or
 - (B) unsupervised access to children, when the individual is a Restricted Registry registrant.
- (2) **Background investigation statements and consents.** Individuals are prohibited to be the owner or responsible entity, to be employed, or to live in the facility, when:
- (A) the individual refuses to consent to background investigations per (d) of this Section; or
 - (B) knowingly makes a materially-false statement in connection with criminal background investigations.
- (23) ~~Endangerment of children~~ **Child endangerment.** The agency is prohibited from knowingly hiring or allowing ~~any person~~ an individual to provide services to children when:
- (A) there is documented evidence or reason to believe the ~~person~~ individual would endanger ~~the children's~~ or other individuals health, safety, or well-being of children ~~or other persons~~; or
 - (B) the ~~person~~ individual is identified by a court as a perpetrator of child abuse or neglect or ~~has~~ made an admission of guilt to a ~~person~~ an individual authorized by state or federal laws or regulations to investigate child abuse and neglect.
- (34) ~~Impaired functioning~~ **Alcohol, drugs, and medication.** A ~~person who is~~ Individuals employed by the agency or ~~provides~~ providing agency services to ~~the agency~~ children may not use or be under the influence of:
- (A) alcohol or illegal drugs ~~during hours of work;~~ or
 - (B) medication that impairs his or her functioning.
- (45) **Criminal allegations.** When a ~~staff member~~ personnel is alleged to have committed an act ~~described in subsection~~ per (f) of this Section, a determination is made and documented as to whether the ~~staff~~ personnel member is removed from contact with children until the allegation is resolved. ~~If~~ However, when criminal charges are filed, the accused is removed from contact with children until the charges are resolved.
- (5) **Deferred sentences.** A ~~person who~~ Individuals having received a deferred sentence for ~~any charge~~ charge's in ~~subsection~~ (f)(2) of this Section ~~is~~ are removed from ~~child contact with children~~ for the ~~duration of the~~ deferral duration.

[OAR Docket #18-149; filed 2-16-18]

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

1:2018-4.

EXECUTIVE ORDER 2018-4

I, Mary Fallin, Governor of the State of Oklahoma, hereby direct that appropriate steps be taken to fly all American and Oklahoma flags on State property at half-staff from 8:00 a.m. to 5:00 p.m. on Friday, March 2, 2018, to honor the memory of Reverend Billy Graham.

This Executive Order shall be forwarded to the Department of Capital Assets Management, 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 27th day of February, 2018.

BY THE GOVERNOR OF THE
STATE OF OKLAHOMA

Mary Fallin

ATTEST:
Dave Lopez
Secretary of State

[OAR Docket #18-162; filed 2-27-18]
