Secretary of State
Certificate and Order for Filing

NOTICE OF PROPOSED RULEMAKING HEARING and STATEMENT OF NEED AND FISCAL IMPACT

Department of Human Services, Office of Child Welfare Programs		413
Agency and Division		**Chapter Number**
Kris Skaro	Human Services Building 500 Summer St NE, E-48 Salem, OR 97301	503-945-6067
Rules Coordinator	**Address**	**Telephone**

Rule Caption: *Implementation of SB 1515 (2016)*

In the Matter of: *Adopting, amending, and repealing rules in OAR chapter 413, divisions 10 and 215*

Submit Comments: Written comments may be submitted until **Friday, October 21, 2016 at 5:00 p.m.** via email to kris.a.skaro@state.or.us, faxed to 503-373-7032, or mailed to Kris Skaro, Rules Coordinator, 500 Summer Street NE, E-48, Salem, Oregon, 97301.

Public Hearing: A public rulemaking hearing will be held to take comments in person on **Monday, October 17, 2016 from 10 am to noon in the Human Services Building, room 137, at 500 Summer St. NE in Salem**. This location is accessible for people with mobility impairments and auxiliary aids are available upon request.

RULEMAKING ACTION

ADOPT: 413-215-0000, 413-215-0218, 413-215-0318, 413-215-0618

AMEND: 413-010, 413-215

REPEAL: 413-215-0000(T), 413-215-0001(T), 413-215-0006, 413-215-0011(T), 413-215-0016(T), 413-215-0021(T), 413-215-0026(T), 413-215-0031(T), 413-215-0036(T), 413-215-0041(T), 413-215-0046(T), 413-215-0051(T), 413-215-0056(T), 413-215-0061(T), 413-215-0066(T), 413-215-0071(T), 413-215-0076(T), 413-215-0081(T), 413-215-0086(T), 413-215-0091(T), 413-215-0096, 413-215-0101(T), 413-215-0106(T), 413-215-0111(T), 413-215-0116(T), 413-215-0121(T), 413-215-0126(T), 413-215-0131(T), 413-215-0201(T), 413-215-0206, 413-215-0211(T), 413-215-0216(T), 413-215-0221(T), 413-215-0226(T), 413-215-0231(T), 413-215-0236(T), 413-215-0241(T), 413-215-0246(T), 413-215-0251(T), 413-215-0256, 413-215-0261(T), 413-215-0266(T), 413-215-0271(T), 413-215-0276(T), 413-215-0301(T), 413-215-0306, 413-215-0311(T), 413-215-0313(T), 413-215-0316(T), 413-215-0321(T), 413-215-0326(T), 413-215-0331(T), 413-215-0336(T), 413-215-0341(T), 413-215-0346, 413-215-0349(T), 413-215-0351(T), 413-215-0356(T), 413-215-0361(T), 413-215-0366(T), 413-215-0371(T), 413-215-0376(T), 413-215-0381(T), 413-215-0386(T), 413-215-0391(T), 413-215-0396(T), 413-215-0401(T), 413-215-0406, 413-215-0411(T), 413-215-0416(T), 413-215-0421(T), 413-215-0426(T), 413-215-0431(T), 413-215-0436(T), 413-215-0441(T), 413-215-0446(T), 413-215-0451(T), 413-215-0456(T), 413-215-0461(T), 413-215-0466(T), 413-215-0471(T), 413-215-0476(T), 413-215-0481(T), 413-215-0501(T), 413-215-0506,

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413-215-0511(T), 413-215-0516(T), 413-215-0521(T), 413-215-0526(T), 413-215-0531(T), 413-215-0536(T), 413-215-0541(T), 413-215-0546(T), 413-215-0551(T), 413-215-0554(T), 413-215-0556(T), 413-215-0561(T), 413-215-0566(T), 413-215-0571(T), 413-215-0576(T), 413-215-0581(T), 413-215-0586(T), 413-215-0601(T), 413-215-0606, 413-215-0611(T), 413-215-0616(T), 413-215-0621(T), 413-215-0626(T), 413-215-0631(T), 413-215-0636(T), 413-215-0641(T), 413-215-0646(T), 413-215-0651(T), 413-215-0656(T), 413-215-0661(T), 413-215-0666(T), 413-215-0671(T), 413-215-0676(T), 413-215-0681(T), 413-215-0701(T), 413-215-0706, 413-215-0711(T), 413-215-0716(T), 413-215-0721(T), 413-215-0726(T), 413-215-0731(T), 413-215-0736(T), 413-215-0741(T), 413-215-0746(T), 413-215-0751(T), 413-215-0756(T), 413-215-0761(T), 413-215-0766(T), 413-215-0801(T), 413-215-0806, 413-215-0811(T), 413-215-0816(T), 413-215-0821(T), 413-215-0826(T), 413-215-0831(T), 413-215-0836(T), 413-215-0841(T), 413-215-0846(T), 413-215-0851(T), 413-215-0856(T), 413-215-0901(T), 413-215-0906, 413-215-0911, 413-215-0916(T), 413-215-0921(T), 413-215-0926(T), 413-215-0931(T), 413-215-0936(T), 413-215-0941(T), 413-215-0946(T), 413-215-0951(T), 413-215-0956(T), 413-215-0961(T), 413-215-0966(T), 413-215-0971(T), 413-215-0976(T), 413-215-0981(T), 413-215-0986(T), 413-215-0991(T), 413-215-0992(T), 413-215-0996(T), 413-215-1001(T), 413-215-1006(T), 413-215-1011(T), 413-215-1016(T), 413-215-1021(T), 413-215-1026(T), 413-215-1031(T)

ORS 409.050, 418.005, 418.015, Or Laws 2016, ch 106

Stat. Auth.

None.

Other Auth.

ORS 409.010, 409.050, 418.005, 418.015, Or Laws 2016, ch 106

Stats. Implemented

Rule Summary

The Department is adopting and amending rules to address gaps and improve the oversight by the Department of child-caring agencies, establish and implement new Department oversight requirements and enforcement authority including taking action on licensing violations and deficiencies, promote the safety and well-being of children residing in or receiving services from child-caring agencies licensed by the Department and proctor foster homes, and comply with and implement SB 1515 (Oregon Laws 2016, chapter 106.) A proctor foster home means a foster home certified by a child-caring agency. .Most of these rule changes have been in place as temporary rules that took effect July 1, 2016.

These rule changes --

- Set out the standards child-caring agencies must comply with as provided in section 4 of SB 1515;
- Update definitions to align with SB 1515, including "child in care," "child-caring agency," and "proctor foster home" and consolidating definitions in an overarching definitions rule;
- Require compliance with all applicable laws and rules, and the internal policies and procedures of the child-caring agency as a condition of licensure;
- Establish new financial oversight requirements required in SB 1515;
- Add specific rights for children and families served by child-caring agencies, including a prohibition on the restriction of child-parent communication as a condition of program participation, and a requirement

that child-caring agencies must afford the rights under ORS 418.200 - 418.202 to children in the care or custody of the Department;

- Require child-caring agencies to have child abuse reporting policies, procedures, and training as required in section 37 of SB 1515;
- Clarify requirements related to the internal written policies and procedures child-caring agencies must have, including the additional requirement to have a suicide prevention policy and requiring policies to be submitted at initial application and renewal;
- Require child-caring agencies to provide contact information for executive directors and board members and governmental agencies or units with whom they contract to provide services or care to children;
- Require child-caring agencies to provide access to children in care and the agencies' premises as required in section 20 of SB 1515 and, for those child-caring agencies who care for children on a 24-hour basis, to obtain parental consent to allow access to the child as required in SB 1515 and the licensing rules;
- Require child-caring agencies to provide the Department with information about children in its care and allow inspection of records and documents, including financial documents, when requested;
- State that the Department will investigate when it becomes aware that abuses, deficiencies, or failures to comply may be occurring in a child-caring agency;
- Update the civil penalty criteria consistent with section 31 of SB 1515;
- Require annual inspections of premises where children reside or receive services;
- Grant new authority for the Department to take licensing enforcement actions when licensing violations exist;
- Require licensing enforcement actions in certain circumstances;
- Update the foster care agency rules to align with the rules for Department-certified foster homes;
- Require prospective adoptive parents to sign a release of information regarding previous adoption application denials;
- Update requirements for therapeutic boarding schools;
- Update rules in OAR chapter 413, division 10 relating to client rights to reflect new terminology and align notice and hearing rights with SB 1515; and
- Make additional housekeeping changes to align requirements for different types of child-caring agencies; improve the organization of the rules; and update terminology to align with SB 1515.

In addition, non-substantive edits may be made to these rules to: ensure consistent terminology throughout child welfare program rules and policies; make general updates consistent with current law and Department practices; update statutory and rule references; correct formatting and punctuation; improve ease of reading; and clarify Department rules and processes.

The Department requests public comment on whether other options should be considered for achieving the substantive goals of the rules while reducing the negative economic impact of the rules on business. The rule text showing proposed changes is available at http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm.

The Department is amending additional rules to implement SB 1515, including rules for the Office of Child Welfare Programs (including Child Protective Services, Behavior Rehabilitation Services, and Monthly Contact and Monitoring Child and Young Adult Safety), the Office of Adult Abuse Prevention and Investigations, and the Background Check Unit. Those rule changes can be viewed at http://www.dhs.state.or.us/policy/childwelfare/drafts/drafts.htm. More information about the implementation of SB 1515 is available at https://www.oregon.gov/DHS/CHILDREN/Pages/sb1515.aspx.

Need for the Rules

These rules need to be adopted and amended comply with and implement SB 1515 (2016), address gaps and improve the oversight by the Department of child-caring agencies and proctor foster homes, and to promote the safety and well-being of children and young adults who reside in or receive services from child-caring agencies or proctor foster homes. These rule changes address these needs by:

- Stating the standards child-caring agencies must comply with as provided in section 4 of SB 1515;
- Updating definitions to align with SB 1515, including "child in care," "child-caring agency," and "proctor foster home" and consolidating definitions in an overarching definitions rule;
- Requiring compliance with all applicable laws and rules, and the internal policies and procedures of the child-caring agency as a condition of licensure;
- Establishing new financial oversight requirements required in SB 1515;
- Adding specific rights for children and families served by child-caring agencies, including a prohibition on the restriction of child-parent communication as a condition of program participation, and a requirement that child-caring agencies must afford the rights under ORS 418.200 - 418.202 to children in the care or custody of the Department;
- Requiring child-caring agencies to have child abuse reporting policies, procedures, and training as required in section 37 of SB 1515;
- Clarifying requirements related to the internal written policies and procedures child-caring agencies must have, including the additional requirement to have a suicide prevention policy and requiring policies to be submitted at initial application and renewal;
- Requiring child-caring agencies to provide contact information for executive directors and board members and governmental agencies or units with whom they contract to provide services or care to children;
- Requiring child-caring agencies to provide access to children in care and the agencies' premises as required in section 20 of SB 1515 and, for those child-caring agencies who care for children on a 24-hour basis, to obtain parental consent to allow access to the child as required in SB 1515 and the licensing rules;
- Requiring child-caring agencies to provide the Department with information about children in its care and allow inspection of records and documents, including financial documents, when requested;
- Stating that the Department will investigate when it becomes aware that abuses, deficiencies, or failures to comply may be occurring in a child-caring agency;
- Updating the civil penalty criteria consistent with section 31 of SB 1515;
- Requiring annual inspections of premises where children reside or receive services;
- Granting new authority for the Department to take licensing enforcement actions when licensing violations exist;
- Requiring licensing enforcement actions in certain circumstances;
- Updating the foster care agency rules to align with the rules for Department-certified foster homes;
- Requiring prospective adoptive parents to sign a release of information regarding previous adoption application denials;
- Updating requirements for therapeutic boarding schools;
- Updating rules in OAR chapter 413, division 10 relating to client rights to reflect new terminology and align notice and hearing rights with SB 1515; and
- Making additional housekeeping changes to align requirements for different types of child-caring agencies; improve the organization of the rules; and update terminology to align with SB 1515.

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Documents Relied Upon

Overview of SB 1515 available at https://olis.leg.state.or.us/liz/2016R1/Measures/Overview/SB1515.

Legislative budget actions for the Department are discussed in the SB 1515 budget report available at https://olis.leg.state.or.us/liz/2016R1/Downloads/MeasureAnalysisDocument/33644.

Fiscal and Economic Impact

1. Impact on state agencies:

The Department estimates that these rule changes do not impact the Department fiscally beyond the fiscal impact on the Department of requirements in SB 1515. The Department estimates the impact SB 1515 related to these rule changes to be $440,000 in current biennium. While the Department estimates a fiscal impact of SB 1515 on the Department to be approximately $1.3 million for the 2017-2019 biennium, some this fiscal impact is reflected in other rule changes, not these rule changes.

The Department estimates a negative fiscal impact to the Department of Justice from SB 1515 of $176,018 in the current biennium and $340,035 in 2017 – 2019. This fiscal impact on DOJ is offset and correspondingly increased on the Department to the extent DOJ bills the Department for actual legal services related to administrative rule development; litigation of contested case hearings; court litigations; child abuse investigations; foster home certifications; and other related legal advice.

The Department estimates that there will be a negative fiscal impact to Oregon Youth Authority as it responds to additional reports sent by the Department. The Department is unable to estimate this impact because it is too soon to conclude that the Oregon Youth Authority will need additional staff.

To the extent these changes will reduce future Department and Department of Administrative Services expenditures in connection with tort liability, the Department lacks sufficient information to estimate these savings.

2. Units of local government:

The Department estimates no fiscal impact to local government. Although the Department contracts with local governments to provide services or care to children, SB 1515 is limited to private child-caring agencies.

3. The public:

The Department estimates no fiscal impact on the general public. The fiscal impact on child-caring agencies is discussed under number 4 below. This fiscal impact applies all licensed child-caring agencies, most of which are non-profits, some of which are businesses (almost all of these businesses are small businesses). Any fiscal impact on business is not significant. There may also be a negative fiscal impact on some proctor foster homes who are subject to investigations due to the additional requirements in SB 1515 and these rules changes. The Department is unable to estimate these fiscal impacts due to a lack of available data.

4. Cost of compliance effect on small businesses:

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a. Estimate the number of small businesses and types of industries with small businesses subject to the rule:

The Department estimates that less than 30 child-caring agencies licensed by the Department are small businesses.

b. Projected reporting, recordkeeping and other administrative activities required for compliance, including costs of professional services:

Under SB 1515 and these rule changes, some child-caring agencies not in full compliance may face additional licensing enforcement actions that cause a negative fiscal impact on the child-caring agency. It is early in the implementation of these requirements; therefore, data is not available to estimate the fiscal impact to child-caring agencies who fail to come into compliance with licensing rules and standards in statute.

The following are new requirements under the bill and these rules and their associated costs:

- For child-caring agencies with revenue over $1 million, an annual audit must be conducted by a certified public accountant (CPA). The Department estimates each audit will cost the agency $7,000.
- For child-caring agencies with revenue under $1 million, an annual financial review must be conducted by a CPA. An annual financial review was required under the previous rule, but it was not required to be done by a CPA. That could result in a higher cost to agencies not already using CPAs. The Department lacks sufficient information to estimate this impact
- Requiring therapeutic boarding schools to procure the services of a Qualified Mental Health Provider to conduct assessments, review service plans, and provide services to children in care will have a negative fiscal impact on a therapeutic boarding school who is not currently providing these services, but data is not available to estimate the impact.

c. Equipment, supplies, labor and increased administration required for compliance:

Additional investigations and enforcement activities under SB 1515 and these rules changes may cause some child-caring agencies to incur additional expenses for equipment, supplies, labor, and administration to remedy violations or comply with contracts or rule. The Department is unable to estimate these fiscal impacts due to a lack of available data.

How were small businesses involved in the development of this rule?

Child-caring agencies, some of whom may qualify as small businesses, have been invited to participate in the Rule Advisory Committee process.

Administrative Rule Advisory Committee Consulted? If no, why not?

Yes.

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DEPARTMENT OF HUMAN SERVICES
OFFICE OF CHILD WELFARE PROGRAMS

CHAPTER 413
DIVISION 215

~~PRIVATE~~ CHILD CARING AGENCIES

Draft Proposed Rules

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Definitions

413-215-0000
Definitions

THIS IS A NEW RULE

Unless the context indicates otherwise, these terms are defined for use in OAR chapter 413, division 215:

(1) "Academic boarding school" means an organization or a program in an organization that --

(a) Provides educational services and care to children 24 hours a day; and

(b) Does not hold itself out as serving children with emotional or behavioral problems, providing therapeutic services, or assuring that children receive therapeutic services.

(2) "Adoption agency" means an organization providing any of the following services:

(a) Identifying a child for adoption and arranging an adoption.

(b) Securing the necessary consent to relinquishment of parental rights and to adoption.

(c) Performing a background study on a child or a home study on a prospective adoptive parent and reporting on such a study.

(d) Making determinations of the best interests of a child and the appropriateness of adoptive *placement* for the child.

(e) Monitoring a case after *placement* until final adoption.

(f) When necessary because of *disruption* before final adoption, assuming custody and providing childcare or other social services for the child pending an alternative *placement*.

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

(a) Activities or items that are generally accepted as suitable for children in care of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a *child in care* based on the development of

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cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and

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

(4) "Approval" means acceptable to the regulatory authority based on conformity with generally recognized standards that protect public health.

(5) "Approved proctor foster parent" means an individual approved by a *foster care agency* to provide care to children in a *proctor foster home*.

(6) "Background check" means a check done in compliance with the Department's criminal records and abuse check rules, OAR 407-007-0200 to 407-007-0370.

(7) "Birth parent" means each person who holds a legally recognized parental relationship to the child, but does not include the adoptive parents in the adoption arranged by the *adoption agency*.

(8) "Boarding" means care or treatment services provided on a 24 hour per day basis to children.

(9) "Child in care" means a person who is under 21 years of age who is residing in or receiving care or services from a *child caring agency* or *proctor foster home*.

(10) "Child-caring agency" is defined in ORS 418.205 and:

(a) Means any private school, private agency, or private organization providing:

(A) Day treatment for children with emotional disturbances;

(B) Adoption placement services;

(C) Residential care including, but not limited to, foster care or residential treatment for children;

(D) Outdoor youth programs; or

(E) Other similar care or services for children.

(b) Includes the following:

(A) A shelter-care home that is not a foster home subject to ORS 418.625 to 418.645;

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(B) An independent residence facility as described in ORS 418.475;

(C) A private residential boarding school; and

(D) A child-caring facility as described in ORS 418.950.

(c) Child-caring agency does not include:

(A) Residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental disability services.

(B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this paragraph, "respite services" means the voluntary assumption of short-term care and control of a minor child without compensation or reimbursement of expenses for the purposes of providing a parent in crisis with relief from the demands of ongoing care of the parent's child;

(C) A youth job development organization as defined in ORS 344.415;

(D) A shelter-care home that is a foster home subject to ORS 418.625 to 418.645; or

(E) A foster home subject to ORS 418.625 to 418.645.

(11) "Clinical supervisor" means a *Qualified Mental Health Professional* with two years post-graduate clinical experience in a mental health treatment setting. The clinical supervisor, as documented by the provider, operates within the scope of his or her practice or licensure, and demonstrates the competency to oversee and evaluate the mental health treatment services provided by other Qualified Mental Health Professionals or Qualified Mental Health Associates.

(12) "Contraband" means items the possession of which is prohibited by the *child-caring agency* including, but not limited to weapons or drugs.

(13) "Criminal history check" means compliance with the Department's criminal records history rules, OAR 407-007-0200 to 407-007-0370.

(14) "Day treatment" means a comprehensive, interdisciplinary, nonresidential, community-based, psychiatric treatment, family treatment, and therapeutic activities integrated with an accredited education program provided to children with emotional disturbances.

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(15) "Day treatment agency" means a *child-caring agency* that provides psychiatric *day treatment* services.

(16) "Debrief" means to interview a person (such as a *child in care* or *staff* member) usually upon return (as from an expedition) in order to obtain useful information.

(17) "Department" means the Oregon Department of Human Services.

(18) "Discipline" means a training process to help a *child in care* develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(19) "Disruption" means the interruption of an adoptive *placement* prior to the finalization of the adoption in a court of law.

(20) "Employee" means an individual holding a paid position with a *child-caring agency*.

(21) "Facility" means the physical setting, buildings, property, structures, administration, equipment, and *program* of a *child-caring agency*.

(22) "Family" means related members of a household, among whom at least one adult functions as a parent to one or more minor children.

(23) "Foster care agency" means a *child-caring agency* that offers to place children by taking physical custody of and then placing the children in homes certified by the *child-caring agency*.

(25) "Homeless or runaway youth" means a *child in care* who has not been emancipated by the juvenile court; lacks a fixed, regular, safe, and stable nighttime residence; and cannot immediately be reunited with his or her family.

(26) "Intercountry adoption" means an adoption in which a child who is a resident and citizen of one country is adopted by a citizen of another country.

(27) "Licensee" means a *child-caring agency* that holds a license issued by the Department.

(28) "Mass shelter" means a structure that contains one or more open sleeping areas in which, on a daily basis, only emergency services are provided to *homeless or runaway youth*, such as a meal and a safe place to sleep overnight.

(29) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.

(30) "Outdoor living setting" means an outdoor field setting in which services are provided to children in care either more than 10 days per month for each month of the year or for

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longer than 48 hours at a location more than two hours from community-based medical services.

(31) "Outdoor youth program" means a program that provides, in an *outdoor living setting*, services to children in care who are enrolled in the program because they have behavioral problems, mental health problems, or problems with abuse of alcohol or drugs. "Outdoor youth program" does not include any program, facility, or activity operated by a governmental entity, operated or affiliated with the Oregon Youth Conservation Corps, or licensed by the Department as a *child-caring agency* under other authority of the Department. It does not include outdoor activities for children in care designed to be primarily recreational.

(32) "Outdoor youth program activity" means an outdoor activity, provided to children in care for the purpose of behavior management or treatment, which requires specially trained staff or special safety precautions to reduce the possibility of an accident or injury. Outdoor youth activities include, but are not limited to: hiking, adventure challenge courses, climbing and rappelling, winter camping, soloing, expeditioning, orienteering, river and stream swimming, and whitewater activities.

(33) "Over the counter medication" means any medication that does not require a written prescription for purchase or dispensing.

(34) "Placement" means when the child is placed in the physical or legal custody of prospective adoptive parents.

(35) "Proctor foster home" means a foster home certified by a *child-caring agency* under Oregon Laws 2016, chapter 106, section 6 that is not subject to ORS 418.625 to 418.645.

(36) "Program" means a set of one or more services provided by a *child-caring agency* that make the *child-caring agency* subject to the rules in division 413-215.

(37) "Qualified Mental Health Professional (QMHP)" means a licensed medical practitioner or any other person meeting the qualifications specified in OAR 309-019-0125.

(38) "Re-adoption" means a process in which a child whose adoption was completed in another country is re-adopted in this country.

(39) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a *child in care* while encouraging the emotional and developmental growth of the *child in care*, that a substitute care provider shall use when determining whether to allow a *child in care* to participate in extracurricular, enrichment, cultural, and social activities.

(40) "Residential" means care or treatment services provided on a 24-hour per day basis to children. For the purpose of these rules, "residential care or treatment" does not include services provided in family foster homes or adoptive homes.

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(41) "Residential care agency" means a *child-caring agency* that provides services to children 24 hours a day.

(42) "Service plan" means an individualized plan of services to be provided to each *child in care* based on his or her identified needs and designed to help him or her reach mutually agreed upon goals. The service plan must address, at a minimum, the child in care's physical and medical needs, behavior management issues, mental health treatment methods, education plans, and any other special needs.

(43) "Shelter" means a facility operated by a *child-caring agency* that provides services for a limited duration to *homeless or runaway youth*.

(44) "Sole supervision" means being alone with a *child in care* or being temporarily the only *staff* in charge of a *child in care* or subgroup of children in care.

(45) "Special needs" mean a trait or disability of a child that requires special care or attention of the child or that historically has made placement of a child with similar characteristics or disability difficult.

(46) "Staff" means employees of the *child-caring agency* who are responsible for providing care, services, or treatment to a *child in care*.

(47) "Stationary outdoor youth program" means an *outdoor youth program* which remains in a stationary location that houses children in care.

(48) "Therapeutic boarding school" means an organization or a program in an organization that --

(a) Is primarily a school and not a *residential care agency*;

(b) Provides educational services and care to children for 24 hours a day; and

(c) Holds itself out as serving children with emotional or behavioral problems, providing therapeutic services, or assuring that children receive therapeutic services.

(49) "Transitional living program" means a set of services offered by a *child-caring agency* that provides supervision and comprehensive services for up to 18 months to assist *homeless or runaway youth* to make a successful transition to independent and self-sufficient living.

(50) "Wilderness first responder" means a medical training course and certification for outdoor professionals.

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Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

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Licensing Umbrella Rules

413-215-0001
Regulation of Child-caring Agencies ~~and Residential Programs for Children~~

(1) The Department is required to regulate and license certain organizations and agencies that care for children. The rules in this division of rules (413-215) establish the requirements of the Department for obtaining and maintaining the required license, and the policies of the Department required by ORS 418.205 to 418.327.

(2) These umbrella rules (OAR 413-215-0001 to 413-215-0131) apply to ~~both an organization that is a *private child-caring agency* (defined in OAR 413-215-0006) and an organization or school that offers a residential program for *children* (regulated by ORS 418.327). These rules apply to~~ all of the following types of child-caring agencies:

(a) An *adoption agency* (~~defined at OAR 413-215-0406 and~~ further regulated by OAR 413-215-0401 to 413-215-0481).

(b) ~~An~~A *child-caring agency* (~~which is~~ further regulated by OAR 413-215-0301 to 413-215-0396) that offers to place *children* for foster care by taking physical custody of and then placing the *children* in proctor foster homes approved by the *child-caring agency* ~~or by the state~~.

(c) ~~An~~A *child-caring agency* (~~which is~~ further regulated by OAR 413-215-0501 to 413-215-0586) that provides residential care services to *children* 24 hours a day.

(d) ~~An~~A *child-caring agency* that provides an o*utdoor youth program* (~~defined in OAR 413-215-0911 and~~ further regulated by 413-215-0901 to 413-215-1031).

(e) ~~An~~A *child-caring agency* (~~which is~~ further regulated by OAR 413-215-0801 to 413-215-0876) that provides day treatment for children in care with emotional disturbances.

(f) ~~An~~A *child-caring agency* (~~which is~~ further regulated by OAR 413-215-0701 to 413-215-0766) that provides residential services or operates a *shelter*, *mass shelter*, or *transitional living program* *for homeless or runaway youth*, pregnant or parenting girls, or other ~~youth~~children in care working towards independent living.

(g) ~~An~~A *child-caring agency* providing other services for children similar to the services covered by subsections (a) to (f) of this section.

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(h) An *academic boarding school* (~~which is~~ further regulated by OAR 413-215-0201 to 413-215-0276).

(i) A *therapeutic boarding school* (~~which is~~ further regulated by OAR 413-215-0601 to 413-215-0681).

(j) Any other *child-caring agency* ~~(defined at OAR 413-215-0006)~~ that falls under ORS 418.205(2)(a).

(3) ~~An~~A *child-caring agency* must comply with all of the Department rules that apply to the *child-caring agency*.

(4) A *child-caring agency* engaged in providing residential care for both adults and *children* is subject to the rules in division 413-215, unless each *child in care* residing in the child-caring agency's facility has a custodial parent residing in the facility.

(5) All child-caring agencies, their governing boards, and executive director, and program director, employees, contractors, and agents shall ensure the following standards, procedures, and protocols are met:

(a) The *child-caring agency* ensures child and family rights.

(b) The *child-caring agency* complies with abuse reporting and investigation requirements including, but not limited to, having and following abuse reporting procedures as required in OAR 413-215-0056 and providing training as required in OAR 413-215-0061.

(c) The *child-caring agency* engages in and applies appropriate behavior management techniques.

(d) The *child-caring agency* provides adequate furnishings and personal items for children.

(e) The *child-caring agency* provides appropriate food services.

(f) The *child-caring agency* ensures the safety of children, including ensuring adequate supervision.

(g) The *agency* utilizes approved procedures and protocols for use of medications for children receiving care or services from the *child-caring agency*.

(h) The *child-caring agency* or the child-caring agency's employees or agents have not engaged in financial mismanagement.

(i) The *child-caring agency* fully and timely corrects violations and maintains standards in accordance with any plan of correction imposed by the Department.

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(j) The *child-caring agency* provides access to a *child in care* or the child-caring agency's premises to the Department or the Department's employees, investigators, court appointed special advocates, attorneys for a *child in care*, the parent or legal guardian of the *child in care* if the *child in care* has not been committed to the custody of the Department or the Oregon Youth Authority, or other authorized persons or entities as required under ORS 418.305 and OAR 413-215-0091 and 413-215-0101.

(k) The *child-caring agency* permits the Department to inspect agency records including, but not limited to financial records, treatment records, services delivery records, logs, incident reports, case notes, medication records, and medical treatment records.

(l) The *child-caring agency* is incorporated as required by ORS 418.215 and OAR 413-215-0016.

(m) The *child-caring agency* is in full compliance with the standards of care and treatment in these rules.

(6) Department staff responsible for the regulation and oversight of child-caring agencies must review licensing applications, conduct on-site inspections, investigate complaints, and carry out all other duties necessary to ensure the safe operation of child-caring agencies. The Department will measure the time and resources needed to carry out these duties to create a workload model. The workload model will guide the Department when seeking additional resources to meet the Department's regulatory oversight responsibilities under Oregon law.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0006
Definitions

THIS RULE IS REPEALED

~~As used in OAR 413-215-0001 to 413-215-0131:~~

~~(1) "Agency" means a *private child-caring agency* (under ORS 418.205(2)(a) and section (6) of this rule) or an organization or school that offers a residential program for *children* (regulated by ORS 418.327).~~

~~(2) "Child" means an unmarried person who is under 18 years of age.~~

~~(3) "Children" mean unmarried persons under 18 years of age.~~

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~~(4) "Department" means the Oregon Department of Human Services.~~

~~(5) "Licensee" means a *private child-caring agency* or an organization or school that offers a residential program for *children* (regulated by ORS 418.327) and holds a license issued by the Department.~~

~~(6) "Private child-caring agency" is defined by the definitions in ORS 418.205, and means a "child-caring agency" that is not owned, operated, or administered by any governmental agency or unit.~~

~~(a) A "child-caring agency" means an *agency* or organization providing:~~

~~(A) Day treatment for disturbed *children*;~~

~~(B) Adoption placement services;~~

~~(C) Residential care, including but not limited to foster care or residential treatment for *children*;~~

~~(D) Outdoor youth programs (defined at OAR 413-215-0911); or~~

~~(E) Other similar services for *children*.~~

~~(b) A child-caring agency does not include residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830 and 443.835 for *children* receiving developmental disability services.~~

~~(7) "Program" means a set of one or more services provided by an *agency* that make the *agency* subject to the rules in Division 413-215.~~

~~(8) "Substantial compliance" means a level of adherence to the rules in Division 413-215 and other applicable law that, although failing to meet one or more of the requirements of these rules, in the Department's estimation does none of the following:~~

~~(a) Constitute a danger to the health or safety of any individual.~~

~~(b) Constitute a willful or ongoing violation of the rights of *children* or families served by an *agency*.~~

~~(c) Prevent the accomplishment of the Department's purposes.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.327

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413-215-0011
Requirement to Obtain and Comply with License

~~(1)~~ Except for a *licensee* ~~(defined in OAR 413-215-0006)~~ subcontractor that provides limited services under OAR 413-215-0061(~~5~~6)(b):

(~~a~~1) ~~An~~ A *child-caring agency* ~~(defined in OAR 413-215-0006)~~ must have a license issued by the Department in accordance with d~~D~~ivision 413-215. ~~An *agency* holding a license issued by the Department under these rules (a~~ A *licensee*~~)~~ must at all times comply with the provisions of the license and with all laws (including rules) applicable to the *child-caring agency*.

(~~b~~2) ~~An~~ A *child-caring agency* may not represent itself as able to or purport to provide services governed by the rules in d~~D~~ivision 413-215, except the services the *child-caring agency* is authorized by law (including rules) and licensed to provide.

~~(2) An *agency* engaged in providing residential care for both adults and *children* (defined in OAR 413-215-0006) is subject to the rules in Division 413-215, unless each *child* residing in the agency's facility has a custodial parent residing in the facility.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0016
Requirements Related to Corporation Status

(1) Only a corporation may receive a license from the Department under these rules (OAR 413-215-0001 to 413-215-0131). A limited liability company is an unincorporated association, and not a corporation, and may not be licensed under ~~D~~division 413-215.

(2) In-state and out-of-state corporations must meet all requirements of the Oregon Secretary of State, Corporation Division in order to receive a license from the Department.

(3) ~~An agency's~~A child-caring agency's articles of incorporation, its bylaws, or another written document approved by the board of directors must clearly set forth the purposes of the organization.

(4) A *licensee* ~~(defined in OAR 413-215-0006)~~ must submit to the Department within seven business days each amendment to its articles of incorporation, bylaws, statement of its purposes, and name registration.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

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413-215-0021
Governance

(1) Governing board requirements.

(a) ~~An~~A *child-caring agency* ~~(defined in OAR 413-215-0006)~~ must have a governing board that has responsibility for its mission, operation, policy, and practices. These responsibilities must be stated in writing.

(b) The governing board of ~~an~~a *child-caring agency* must be a board of directors consisting of no fewer than five responsible individuals of good moral character who are citizens or legal residents of the United States.

(c) ~~An~~A *child-caring agency* must maintain a list of the members of the governing board that includes the name, address, telephone number, board office, and term of membership for each.

(d) Members of the governing board of ~~an~~a *child-caring agency* that is a not-for-profit *agency* may not receive compensation for serving on the board, other than reasonable reimbursement for the expenses associated with their services.

(2) Responsibilities of the governing board. The governing board of ~~an~~a *child-caring agency* must have all of the following responsibilities:

(a) To provide leadership for the *child-caring agency*.

(b) To be responsible for establishing the child-caring agency's by-laws and policies, to monitor the agency's programs consistent with its policies and mission, and to guide *program* development.

(c) To adopt by-laws that provide a basic structure for the operation of the programs of the *child-caring agency*.

(d) To develop by-laws for selection and rotation of its members.

(e) To ensure the employment of a qualified executive director and to delegate appropriate responsibility to that individual for the administration, management, and operation of the *child-caring agency*, including the employment of all *child-caring agency staff* and the authority to dismiss any staff member.

(f) To formally evaluate the executive director's performance annually.

(g) To approve the annual budget of anticipated income and expenditures necessary to provide the services described in its *program* description.

(h) To review an annual report of actual income and expenditures.

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(i) To obtain and review an annual independent financial review of financial records.

(j) To establish and ensure compliance with personnel practices for the selection and retention of staff sufficient to operate the *child-caring agency*.

(k) To ensure a written quality improvement program that identifies systematic efforts to improve its services.

(l) To keep permanent records of meetings and deliberations on major decisions affecting the delivery of services.

(3) Executive director or program director requirements. ~~An~~A *child-caring agency* must operate under the direct supervision of an executive or program director appointed by the governing board. The executive director or program director must have all of the following qualifications:

(a) Knowledge of the requirements for providing care and treatment appropriate to the *child-caring agency*'s programs.

(b) Ability to maintain records on children in care and families, personnel, and the *child-caring agency* in accordance with these rules.

(c) Ability to direct the work of *staff*.

(d) No history of conduct indicating it may be unsafe to allow the individual to supervise the care of children.

(e) Health sufficient to carry out the duties of the position.

(f) Good moral character, including honesty, fairness, and respect for the rights of others.

(g) Approval from the Department's Background Check Unit as required in OAR 407-007-0200 to 407-007-0370.

(4) The executive or program director must be responsible for all of the following:

(a) The daily operation and maintenance of the *child-caring agency* and its facilities in compliance with the rules in ~~D~~division 413-215 and the established *program* budget.

(b) Administration of policies and procedures to ensure clear definition of staff roles and responsibilities, lines of authority, and equitable workloads that ensure safe and protective care, supervision, and treatment of the children served by the *child-caring agency*.

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(c) Ensuring that only individuals whose presence does not jeopardize the health, safety, or welfare of the children in care served by the *child-caring agency* are employed or used as volunteers.

(d) Recruiting, employing, supervising, training, or arranging for training.

(e) Reporting to the governing board on the operation of the *child-caring agency*.

(f) Providing for appropriate staff to assume the executive or program director's responsibility for the operation and maintenance of the *child-caring agency* whenever the executive or program director is absent from the *child-caring agency*.

(g) Terminating from employment any *staff* member who is unsuitable or who performs in an unsatisfactory manner.

(h) Complying with all laws, and ensuring that all *child-caring agency* employees, contractors, and agents comply with all laws, including mandatory child abuse reporting laws.

(i) Ensuring that the *child-caring agency*, including its employees, contractors, and agents, complies with all licensing rules and regulations and internal policies and procedures of the *child-caring agency*.

(5) Suitability. In order for the Department to evaluate the suitability of ~~an~~a *child-caring agency* and its *staff*, the *child-caring agency* must immediately disclose to the Department all of the following information:

(a) Each instance in which the *child-caring agency* or a member of its *staff* or board of directors has permanently lost the right to provide services to children or families in any jurisdiction, and the basis for each action.

(b) The circumstances and disposition of any licensing denial, suspension, or revocation; or any other negative sanction or proposed sanction by an oversight body against the *child-caring agency* or a member of its staff or board of directors, if the denial, suspension, or revocation; or any other negative sanction or proposed sanction results from conduct that is relevant to the child-caring agency's, staff's, or board member's ability or fitness to carry out the duties imposed by these rules and governing statutes.

(c) For the previous ~~ten~~ 10 years, any disciplinary action against or investigation of the *child-caring agency* or a member of its staff or board of directors by a licensing or accrediting body, including the basis and disposition of each action, if the disciplinary action or investigation results from conduct that is relevant to the

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agency's or ~~staff~~staff's or board member's ability or fitness to carry out the duties imposed by these rules and governing statutes.

(d) Any instance in which the *child-caring agency* or a member of its staff or board of directors has been found guilty of any crime under federal, state, or foreign law.

(e) Any civil or administrative violation involving financial irregularities by the *agency* or a member of its staff or board of directors under federal, state, or foreign law.

(f) For the previous five years, any instance in which the *child-caring agency*, a member of its board of directors, or its executive or program director has filed for bankruptcy.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0026
Financial Management

(1) Budget. ~~An~~A *child-caring agency* ~~(defined in OAR 413-215-0006)~~ must operate under an annual line-item budget, showing planned expenditures and sources of income, which has been approved by the governing board as the plan for management of its funds, and provide a copy to the Department upon request.

(2) Funding. The annual budget of a *licensee* ~~(defined in OAR 413-215-0006)~~ must document that the *licensee* has sufficient funds to meet the requirements of licensure, to operate the programs the *licensee* is licensed to operate, and to provide the services the *licensee* has stated the *child-caring agency* ~~(defined in OAR 413-215-0006)~~ will provide.

(3) Fiscal accountability.

(a) ~~An~~ A *child-caring agency* must maintain complete and accurate accounts, books, and records following generally accepted ~~accounting~~ principles of accounting ~~management~~. A *child-caring agency* must provide to the Department current internal financial statements, general ledgers, bank statements, and any other financial records upon request.

(b) Beginning January 1, 2017, agencies with annual revenue in excess of $1,000,000 must provide annually to the Department:

(A) An annual audit completed by an independent certified public accountant who is not an employee of the *child-caring agency* and not otherwise

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affiliated with the *child-caring agency* and any financial statements or records submitted for purposes of that audit; and

(B) A tax compliance certificate issued by the Department of Revenue.

(c) Beginning January 1, 2017, agencies with annual revenue less than $1,000,000 must provide annually to the Department:

(A) An annual review conducted by an independent certified public accountant who is not an employee of the *child-caring agency* and not otherwise affiliated with the *child-caring agency* and any financial statements or records submitted for purposes of that review; and

(B) A tax compliance certificate issued by the Department of Revenue.

~~(4) A for-profit *agency* must meet the financial reporting requirements of state and federal regulations and may not have filed for bankruptcy within five years prior to the date of application for licensure~~

(4) A *child-caring agency* that is a non-profit corporation must comply with the requirements of ORS 128.610 to 128.769.

(5) Insurance. ~~An~~A *child-caring* *agency* must at all times maintain each of the following:

(a) General liability insurance in an amount that is reasonably related to the exposure to risk, but in no case in an amount less than $1,000,000 for each occurrence and $3,000,000 aggregate.

(b) Adequate fire insurance.

(c) Adequate auto insurance if the *child-caring* *agency* owns or operates a vehicle.

~~(6) An *agency* must have an independent financial review performed annually.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0031
Cultural, Ethnic, and Gender-specific Services

~~An~~A *child-caring* *agency* ~~(defined in OAR 413-215-0006)~~ must make efforts, including attending available training, to ensure services provided to children in care and families are compatible with the cultural, ethnic, and gender considerations the children in care and families served by the *child-caring* *agency* consider important. The *child-caring* *agency* must ensure that

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written materials are made available in other languages as necessary, or as indicated by the demographic environment or the population served by the *program.*

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0036
Conflict of Interest

~~An~~A *child-caring* *agency* ~~(defined in OAR 413-215-0006)~~ must have a conflict ~~-~~of ~~-~~interest policy that prohibits preferential treatment of board members, employees, volunteers, and contributors. The policy must outline safeguards when the ~~*agency* allows dual relationships, such as employees serving as foster parents~~*child-caring agency* allows dual relationships, such as employees serving as proctor foster parents, including the requirement that all material facts of the conflicted transaction and the direct or indirect interest of the board member, employee, volunteer, or contributor are disclosed or known to the board approving the conflicted transaction. If circumstances do not permit board approval of the conflicted transaction, a non-profit *child-caring agency* may obtain the approval of the Attorney General or the Department prior to entering into the transaction.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0041
Code of Ethics

If ~~an~~ a *child-caring* *agency* ~~(defined in OAR 413-215-0006)~~ subscribes to a code of ethics, or if the *child-caring* *agency* expects that all or some portion of its *staff* subscribe to a code of ethics, the *child-caring* *agency* must identify the code and make it available for review upon request.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0046
Children and Families Rights **Policy** and Grievance ~~**Policy**~~**Procedures**

(1) Rights of children in care and families served by the child-caring agency. A *child-caring agency* must guarantee the rights of children in care and the families the *child-caring agency* serves. A *child-caring agency* must enact and adhere to a policy ensuring those rights. A written copy must be distributed to all children in care and families served by the *child-caring agency*, and afford the following rights:~~. An *agency* (defined in OAR~~

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~~413-215-0006) must subscribe to a policy regarding the rights of the children and families the *agency* serves, and must provide a written copy of its policy.~~

(a) The child in care's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by the parent or legal guardian consistent with any court orders governing contact with a parent or legal guardian. This right cannot be waived, including voluntarily. Restriction on communication between a *child in care* and his or her parent or legal guardian may not be a condition of participation in the *program*.

(b) The child in care's right to privacy.

(c) The child in care's right to participate in service planning or educational program planning.

(d) The child in care's right to fair and equitable treatment.

(e) The child in care's right to file a grievance (as provided in section (2) of this rule) if the *child in care* or family feels that they are treated unfairly or if they are not in agreement with the services provided.

(f) The child in care's right to have personally exclusive clothing.

(g) The child in care's right to personal belongings.

(h) The child in care's right to an appropriate education.

(i) The child in care's right to participate in recreation and leisure activities.

(j) The child in care's right to have timely access to physical and behavioral health care services.

(2) Grievance Procedures.

(a) ~~An~~A *child-caring agency* must ~~have~~ enact and adhere to written procedures for the children in care and families the *child-caring agency* serves to submit a grievance. For an *academic boarding school* ~~(defined in OAR 413-215-0206)~~, this subsection only applies to grievances about health or safety issues. The *child-caring agency* must provide the procedures to each *child in care* and family. The procedures must include all of the following:

(A) A process likely to result in a fair and expeditious resolution of a grievance.

(B) A prohibition of reprisal or retaliation against any individual who files a grievance.

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(C) A procedure to follow, in the event the grievance is filed against the executive director, that ensures that the executive director does not make the final decision on the grievance.

(D) The name, address, and phone number of –

(i) A Department licensing coordinator~~ in the Residential Treatment Services and Licensing Unit of the Department~~; and

(ii) ~~For each *agency* that is not an *academic boarding school*, a~~Any other governmental entities with oversight responsibilities.

(b) Grievances and complaints filed with the *child-caring agency* and all information obtained in their resolution must be maintained for a minimum of two years and provided to the Department upon request.

(3) A *child-caring agency* serving children in care who are also in the care or custody of the Department must:

(a) Post and adhere to the Oregon Foster Children's Bill of Rights in accordance with the requirements of OAR 413-010-0180 and comply with ORS 418.200 to 418.202; and

(b) Have and adhere to a process for children in care in Department care or custody to make complaints consistent with ORS 418.201(1).

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0051
Resources Required

(1) ~~An~~A *child-caring agency* ~~(defined in OAR 413-215-0006)~~ must ensure that it has sufficient safe space, equipment, and office equipment to deliver its services within Oregon.

(2) ~~An~~A *child-caring agency* must employ or contract for a sufficient number of competent and qualified employees to perform the functions regulated by these rules and to provide adequate care, safety, protection, and supervision of the children in care and families the *child-caring agency* serves.

(3) The *child-caring agency* must ensure that ~~a~~an individual who fulfills more than one *staff* function or position is trained for and meets the requirements for each position.

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Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0056
Policies and Procedures

(1) For each *program* ~~(defined in OAR 413-215-0006)~~ it is licensed to operate, a *licensee* ~~(defined in OAR 413-215-0006)~~ must have and ~~follow~~adhere to comprehensive policies and procedures that are well organized, accessible, and easy to use.

(2) ~~These~~ The policies and procedures in section (1) of this rule must include ~~expectation around~~a written policy on mandatory child abuse reporting, consistent with ORS 419B.005, 419B.010, ~~and~~ 419B.015, and Oregon Laws 2016, chapter 106 that includes requirements that *child-caring agency* employees, *staff*, contractors, agents, and proctor foster parents do all of the following:

(a) Immediately report suspected child abuse directly to the Department via the child abuse reporting hotline.

(b) Receive *child-caring agency*-provided training on mandatory abuse reporting requirements as part of employee orientation and at least annually thereafter as described in OAR 413-215-0061.

(c) Receive *child-caring agency*-provided training on the legal definition of child abuse in ORS 419B.005, and the definition of abuse that applies in child-caring agencies as set forth in Oregon Laws 2016, chapter 106, section 36.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0061
Personnel

(1) Staff requirements and hiring. In order to ensure that the *child-caring agency* ~~(defined in OAR 413-215-0006)~~ uses only *staff* and volunteers who do not jeopardize the health, safety, or welfare of children, ~~an~~a *child-caring agency* and its contractors must meet all of the following requirements:

(a) Comply with the Department's ~~criminal records history~~ *background check* rules at OAR 407-007-0200 to 407-007-0370~~ and the *agency* must appoint a Contact Person (CP), designated to receive and process criminal history and child abuse check request forms~~.

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~~(A) The CP may make preliminary fitness determinations under the authority of the Department when there is no indication of potentially disqualifying crimes or conditions;~~

~~(B) Final fitness determinations are made by the Department, the CP is not authorized to make final fitness determinations.~~

(b) Obtain ~~background and~~ reference checks.

(c) Employ individuals who meet the staff minimum qualifications as stated in the current job description.

(2) Personnel policies of the *child-caring agency* and its contractors must include all of the following:

(a) For each staff position, a job title and a written job description that defines the qualifications, duties, and lines of authority for the position.

(b) A staff development plan providing for opportunities for professional growth through supervision, training, and experience.

(c) Procedures for a written annual evaluation of the work and performance of each staff member that include provision for employee participation in the evaluation process.

(d) A description of the termination procedures established for resignation, retirement, and dismissal.

(e) A written grievance procedure for *staff*.

(3) Personnel Files. The *child-caring agency* and its contractors must have a personnel file for each employee that is maintained for a minimum of two years after the termination date of each employee and includes all of the following:

(a) A record of education, training, and previous employment.

(b) Documentation of reference checks.

(c) ~~Criminal records and child abuse check clearance and disposition~~Documentation that a *background check* was completed as required in OAR 407-007-0200 to 407-007-0370.

(d) Annual performance evaluations.

(e) Ongoing record of training received.

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(f) Records of personnel actions.

(g) Starting and termination dates, and reason for termination.

(h) A current job description.

(4) Staff orientation. ~~An~~A *child-caring agency* must provide orientation to each newly hired employee within 30 days of employment on all of the following subjects:

(a) *Child-caring agency* policies and procedures.

(b) Ethical and professional guidelines.

(c) Organizational lines of authority.

(d) Attributes of population served.

(e) Child-abuse reporting laws and requirements including the definition of abuse that applies specifically to a *child in care*.

(f) Privacy laws.

(g) Emergency procedures.

(5) Child abuse reporting training: A *child-caring agency* must provide training and written materials on mandatory child abuse reporting responsibilities to all employees and, if applicable, proctor foster parents as part of initial orientation and annually thereafter. The training must include written instruction on the following:

(a) The legal definition of child abuse in ORS 419B.005 and the definition of abuse that applies in child-caring agencies as set forth in Oregon Laws 2016, chapter 106, section 36;

(b) The legal responsibility to immediately report suspected child abuse or neglect by calling the appropriate child abuse reporting hotline; and

(c) The legal responsibility to report child abuse is personal to the employee and, if applicable, the *approved proctor foster parent* and is not fulfilled by reporting the child abuse or neglect to the owner, operator, or any other employee of the *child-caring agency* even if the owner, operator, or other employee reports the child abuse to the Department.

(~~5~~6) Contractor-related requirements.

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(a) If ~~an~~a *child-caring agency* contracts with other private providers or individuals in lieu of or in addition to hiring permanent employees, the *child-caring agency* must ensure that the contractor meets the applicable requirements of this rule and the rules in d~~D~~ivision 413-215 specific to the type of service the contractor provides.

(b) If the *child-caring agency* contracts to provide any of its services:

(A) The *child-caring agency* must ensure the contractor has a process to screen its employees for professional conduct and sufficient methods for holding its employees accountable.

(B) The contract between the *child-caring agency* and contractor must specify all of the following:

(i) The services the contractor provides.

(ii) The contractor's fees.

(iii) Disclosure of information from the contractor to the *agency*.

(iv) Lines of authority between the contractor and the *child-caring agency* and among employees of the contractor in connection with the provision of services.

(v) ~~The awareness of the contactor of~~Adherence to applicable Department rules and requirements, including, but not limited to the *background check* rules in OAR 407-007-0200 to 407-007-0370.

(vi) Any liability of the *child-caring agency* for acts of the contractor, any rights of indemnity, and any limitations on liability of the *child-caring agency* or contractor.

(C) The *child-caring agency* must amend any contracts that started prior to the effective date of this rule to comply with this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0066
Privacy

(1) A *child-caring agency* must have and adhere to a written policy that addresses protection of the privacy of children and families the *child-caring agency* serves or has served.

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(~~1~~2) ~~An~~ Except as provided section (4) of this rule, a *child-caring agency* ~~(defined in OAR 413-215-0006)~~ may not disclose any identifying information of a *child in care*, including a picture, without first obtaining the written consent from the child's parents or legal guardians.

(~~2~~3) ~~An~~A *child-caring agency* must ensure the privacy of all information that identifies a *child in care* or family the *child-caring agency* serves. ~~An~~A *child-caring agency* may not disclose such information without proper written consent or as otherwise allowed by law.

~~(3) An *agency* must have a written policy that addresses protection of the privacy of *children* and families the *agency* serves or has served~~.

(4) A person making a report of abuse as required in ORS 419B.010 and Oregon Laws 2016, chapter 106, section 37, may include references to otherwise confidential information for the sole purpose of making the report.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0071
Records and Documentation

With respect to the records on children in care and families ~~an~~a *child-caring agency* ~~(defined in OAR 413-215-0006)~~ serves and to other records maintained by ~~an~~a *child-caring agency*, the *child-caring agency* must meet all of the following requirements:

(1) The *child-caring agency* must accurately prepare and safely store its records and ensure the records are readily available for inspection by the Department.

(2) All entries in records required by the rules in d~~D~~ivision 413-215 must be permanent, legible, dated, and signed by the person making the entry.

(3) Records must be uniform in organization, readily identifiable and accessible, current and complete, and contain all of the information required of the *child-caring agency* by the rules in ~~D~~division 413-215.

(4) Records must be corrected, when necessary, by the use of a single line drawn through the incorrect information, the addition of the correct information, a notation of the date the correction is made, and the initials of the person making the correction. No "white out," eraser tape, or other means of eradicating information may be used to make a change to a record.

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(5) Fiscal records must be kept that are accurately prepared and properly reflect all direct and indirect revenues and expenditures for the operation and maintenance of the *child-caring agency*.

(6) The *child-caring agency* must keep reports of all inspections of the *child-caring agency* and its facilities for not less than five years after an inspection.

(7) The *child-caring agency* must maintain a permanent registry of each *child in care* the *child-caring agency* serves. The registry must include the ~~child's~~ child in care's name, gender, and birth date; the names and addresses of ~~its~~his or her parents or guardians; the dates of admission; and the placement upon discharge.

(8) If ~~an~~a *child-caring agency* changes ownership or executive or program director, all records of the children in care and families served by the *child-caring agency* must remain in a facility operated by the *child-caring agency*.

(9) Prior to the dissolution of ~~an~~a *child-caring agency*, the executive or program director must inform, in writing, a Department licensing coordinator ~~in the Residential Treatment Services and Licensing Unit~~ of ~~the Department of~~ either:

(a) ~~t~~The location and storage of records ~~on~~ regarding current or prior children in care; or

(b) T~~t~~hat the records have been transferred ~~with the *children*~~ to ~~a~~the child-caring agency's new facility.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0076
Discipline, Behavior Management, and Suicide Prevention (Excluding Adoption Agencies ~~and Academic Boarding Schools~~)

(1) ~~An *agency* (defined in OAR 413-215-0006), except an *agency* licensed only to provide adoption services under OAR 413-215-0401 to 413-215-0481 or an *agency* licensed only as an *academic boarding school* under OAR 413-215-0201 to 413-215-0286, must meet all of the requirements of this rule.~~A *child-caring agency*, except a *child-caring agency* licensed only to provide adoption services under OAR 413-215-0401 to 413-215-0481, must adopt and adhere to written policies and procedures on discipline, behavior management, and suicide prevention that meet all of the requirements of this rule. Copies of the policies must be provided to the Department as provided in OAR 413-215-0081 and any time policies are adopted or amended.

(2) Discipline Policy.

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(a) A *child-caring agency* must incorporate into the program's care-giving practices positive non-punitive discipline and ways of helping a *child in care* build positive personal relationships, self-control, and self-esteem.

(b) The discipline policy must prohibit all of the following:

(A) Spanking, hitting, or striking with an instrument.

(B) Committing an act designed to humiliate, ridicule, or degrade a *child in care* or undermine the self-respect of a *child in care*.

(C) Punishing a *child in care* in the presence of a group or punishment of a group for the behavior of one *child in care*.

(D) Depriving a *child in care* of food, clothing, shelter, bedding, rest, sleep, toilet access, or parental contact.

(E) Assigning extremely strenuous exercise or work or requiring a *child in care* to spend prolonged time in one position likely to produce unreasonable discomfort.

(F) Using *physical restraint* (see paragraph (3)(d)(A) of this rule) or seclusion as discipline.

(G) Permitting or directing a *child in care* to punish another *child in care*.

(H) Using any other kind of harsh punishment.

(I) Denying a parent, guardian, or sibling the right to visit a *child in care* solely as a disciplinary measure against the *child in care*.

~~The *agency* must have and follow behavioral management policies consistent with the requirements of this rule. The policies must include a description of the model, *program*, or techniques used (for instance, a level system or token economy), and its use of each of the following:~~

~~(a) Non-violent crisis intervention. For purposes of this rule, non-violent crisis intervention means a nationally recognized, holistic system for defusing escalating behavior and safely managing physically aggressive behavior. The agency's choice of a non-violent crisis-intervention system must be conveyed to and approved by the Department.~~

~~(b) Use of time out, if applicable.~~

~~(c) Use of restraints, if applicable.~~

~~(d) Use of seclusion, if applicable.~~

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(3) Behavior Management.

(a) The behavior management policy of the *child-caring agency* must identify appropriate and positive methods of behavior management based on a child's needs, developmental level, and behavior.

(b) The policies must include a description of the model, program, or techniques used and its use of each of the following:

(A) Non-violent crisis intervention. For purposes of this rule, "non-violent crisis intervention" means a nationally recognized, holistic system for defusing escalating behavior and safely managing physically aggressive behavior. The agency's choice of a "non-violent crisis-intervention system" must be conveyed to and approved by the Department.

(B) Use of time out, if applicable.

(C) Use of restraints, if applicable.

(~~4~~i) Chemical restraint, meaning the administration of medication for the management of uncontrolled behavior, is prohibited. Chemical restraint is different from the use of medication for treatment of symptoms of severe emotional disturbances or disorders.

(~~5~~ii) Mechanical restraint, meaning the use of any physical device to involuntarily restrain the movement of a *child in care* as a means of controlling his or her physical activities, is prohibited.

(D) Use of seclusion, if applicable.

(c) Time out.

(A) For the purpose of this rule, "time out" means restricting a *child in care* to a designated area for a period of time to give the *child in care* an opportunity to regain self-control.

(B) "Time out" must include frequent contact with staff.

(C) Rooms used for "time out" must have adequate space, heat, light, and ventilation, and must not be capable of locking.

(D) "Time out" episodes must be documented in the child in care's clinical record.

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~~(6) Discipline Policy. The *agency* must have and follow a discipline policy that includes prohibitions against all of the following:~~

~~(a) Spanking, hitting, or striking with an instrument.~~

~~(b) Committing an act designed to humiliate, ridicule, or degrade a *child* or undermine a child's self-respect.~~

~~(c) Punishing a *child* in the presence of a group or punishment of a group for the behavior of one *child*.~~

~~(d) Depriving a *child* of food, clothing, shelter, bedding, rest, sleep, toilet access, or parental contact.~~

~~(e) Assigning extremely strenuous exercise or work or requiring a *child* to spend prolonged time in one position likely to produce unreasonable discomfort.~~

~~(f) Using *physical restraint* (see subsection (8)(a) of this rule) or seclusion as discipline.~~

~~(g) Permitting or directing a *child* to punish another *child*.~~

~~(h) Using any other kind of harsh punishment.~~

~~(7) If the *agency* utilizes seclusion and restraint as part of its behavior management practices, its use of seclusion and restraint must be in compliance with all applicable federal and state regulations and rules.~~

(~~8~~d) Physical restraint.

(A~~a~~) For the purposes of this rule, "physical restraint" means the act of restricting a ~~child's~~child in care's voluntary movement as an emergency measure in order to manage and protect the *child*~~,~~ *in care* or others from injury when no alternate actions are sufficient to manage the child in care's behavior. "Physical restraint" does not include temporarily holding a *child in care* to assist him or her or assure his or her safety, such as preventing a *child in care* from running onto a busy street.

(B~~b~~) Only *child-caring agency staff* and proctor foster parents who have been trained in a nationally recognized non-violent crisis-intervention system ~~(described in subsection (2)(a) of this rule)~~ may use *physical restraint*~~, except~~ and only when *physical restraint* is necessary as a last resort to prevent a *child in care* from inflicting harm to self or others.

(C~~c~~) The *child-caring agency* must report each use of *physical restraint* on a *child in care* to the ~~child's~~child in care's parent or legal guardian,

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caseworker, or probation officer within five working days, and must document the notification in the ~~child's~~child in care's case file.

(D~~d~~) Any use of *physical restraint* by a staff member or *proctor foster parent* of the *child-caring agency*, if the member is not trained in a nationally recognized non-violent crisis intervention system, must also be reported to a Department licensing coordinator ~~in the Residential Treatment Services and Licensing Unit of the Department~~ within one working day of occurrence.

(E~~e~~) Limitations. The *child-caring agency* must have a policy that prohibits the application of a non-violent *physical restraint* to a *child in care* who has a documented physical condition that would contraindicate the use of that particular restraint, unless a qualified medical professional has previously and specifically authorized its use in writing for that *child in care*. Documentation of the authorization must be maintained in the ~~child's~~child in care's record.

(F~~f~~) Physical Restraint Documentation. The policies of the *child-caring agency* must require a report on an incident report form of behavior that required the use of *physical restraint*. The report must include the specific attempts to de-escalate the situation before using *physical restraint* and the length of time the *physical restraint* was applied. The report must include the time the restraint started and the time it was terminated, the debriefing completed with the staff and *child in care* involved in the *physical restraint*, and documentation of a review by the executive director, program director, or designee.

(G~~g~~) Review. The policies of the *child-caring agency* must require that whenever a *physical restraint* is used on a *child in care* more than two times in seven days, there is a review by the executive director, the director's designee, or a management team to determine the suitability of the *program* for the *child in care*, whether modifications to the ~~child's~~child in care's plan are warranted, and whether staff need additional training in alternative therapeutic behavior management techniques. The *child-caring agency* must take appropriate action indicated by the review.

(~~9~~e) Seclusion.

(~~a~~A) For the purposes of this rule, "seclusion" means that a *child in care* is involuntarily confined to an area or room, and is physically prevented from leaving.

(~~b~~B) Rooms used for seclusion must have adequate space, heat, light, and ventilation.

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(~~c~~C) Seclusion may only be used to ensure the safety of the resident or others during an emergency safety situation.

(~~d~~D) Episodes of seclusion are limited to two hours for children in care age nine and older and one hour for children in care under the age of nine.

(~~e~~E) Visual monitoring of a *child in care* in seclusion must occur and be documented at least every ~~fifteen~~ 15 minutes.

(~~f~~F) Each incident of seclusion must be documented in the ~~child's~~child in care's clinical record, and must include the clinical justification for its use.

(~~g~~G) If incidents of seclusion used with an individual *child in care* cumulatively exceed five hours in five days, or a single episode of more than two hours for children in care age nine and older or more than one hour for children in care under age nine, the executive director or designee must review the case with those with clinical leadership responsibilities to evaluate the ~~child's~~child in care's plan of care and make necessary adjustments.

(f) If the *child-caring agency* utilizes seclusion and restraint as part of its behavior management practices, its use of seclusion and restraint must be in compliance with all applicable federal and state regulations and rules.

~~(10) Time out.~~

~~(a) For the purpose of this rule, "time out" means restricting a *child* to a designated area for a period of time to give the *child* an opportunity to regain self-control.~~

~~(b) Time out must include frequent contact with staff.~~

~~(c) Rooms used for time out must have adequate space, heat, light, and ventilation, and must not be capable of locking.~~

~~(d) Time out episodes must be documented in the child's clinical record.~~

(4) Suicide Prevention. The policy must include the following:

(a) How the *child-caring agency* will respond in the event a *child in care* exhibits self-injurious, self-harm, or suicidal behavior;

(b) Warning signs of suicide;

(c) Emergency protocol and contacts;

(d) Training requirements for staff, including suicide prevention training and suicide risk assessment tool training;

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(e) Procedures for determining implementation of additional supervision precautions and for determining removal of additional supervision precautions;

(f) Suicide risk assessment procedures on the day of intake;

(g) Documentation requirements for suicide ideation, self-harm, and special observation precautions to ensure immediate communication to all staff;

(h) A process for tracking suicide behavioral patterns; and

(i) A "post-intervention" plan with identified resources.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0081
Application for License or Renewal

(1) For purposes of this rule, "applicant" means ~~an~~a *child-caring agency* ~~(defined in OAR 413-215-0006)~~ that is in the process of applying for ~~a~~an initial license or license renewal from the Department.

(2) Application required.

(a) ~~An~~A *child-caring agency* must submit a completed application in each of the following situations:

(A) To obtain an initial license.

(B) To renew a license.

(b) An *applicant* must apply for a license on forms provided by the Department.

(c) A *licensee* must submit an application for renewal prior to the expiration of the current license. If the Department receives an application for renewal before the license expires, the license remains effective until the Department issues a decision on the application.

(3) Documents to be submitted by a new applicant. The *applicant* must submit to the Department at the time of application all of the following documents:

(a) An application form that is complete and signed by the board chair and either the executive director or program director.

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(b) A copy of the articles of incorporation, bylaws, amendments to the articles of incorporation and bylaws, and documents evidencing each name change or assumed business name.

(c) A list of the current board of directors, including names, ~~addresses, telephone numbers,~~ term, and office held.

(d) A completed "CCA Contact Information" form that includes contact information for the state or governmental agency or unit, governing board, trustees, owners, managers or operators, or other appropriate authorities responsible for the child-caring agency and any governmental agency or unit that has a contract with the child-caring agency to provide care or services to a child.

(~~d~~e) A complete personnel list with job titles.

(~~e~~f) An organization chart with job titles and staff names.

(g~~f~~) ~~Authorization to obtain criminal histories and child abuse background checks in accordance with these rules~~Documentation that a *background check* was completed as required in OAR 407-007-0200 to 407-007-0370 on the executive director and program director.

(~~g~~h) A proposed annual budget adequate to finance the *program*. The budget must clearly indicate all sources of income and anticipated expenditures, as described in OAR 413-215-0026.

(~~h~~i) A written *program* description, including admission requirements, population served, gender and ages served, types of programs and services offered, the cost to clients (if any), the geographical area to be served, and the projected staffing pattern. The *program* description must identify all exclusions that would make a *child in care* ineligible to be served by the *child-caring agency*.

(~~i~~j) For new, expanding, or changing residential programs only, documentary proof of compliance with ORS 336.575, which requires notification of the superintendent or the district school board of possible effect of additional children in care and services, three months before children in care arrive at the agency's facility.

(k) Current copies of all written policies and procedures required by these rules including:

(A) A written policy on conflict of interest that meets the requirements of OAR 413-215-0036.

(~~j~~B) Written policies regarding the rights of children and families the *child-caring agency* would serve upon being licensed that meets the requirements of OAR 413-215-0046.

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(~~k~~C) A grievance procedure for children in care and families that meets the requirements of OAR 413-215-0046.

~~(l) Floor plans for any proposed facility.~~

(D) A written policy on mandatory child abuse reporting and training that meets the requirements of OAR 413-215-0056.

(E) A written policy regarding personnel that meets the requirements of OAR 413-215-0061.

(F) A written privacy policy that meets the requirements of OAR 413-215-0066.

(G) Written policies on discipline, behavior management, and suicide prevention that meet the requirements of OAR 413-215-0076.

(~~m~~H) A written policy for compliance with Interstate Compact on the Placement of Children (ICPC) (see ORS 417.200 to 417.260), if applicable.

(~~n~~I) A written policy for compliance with the Indian Child Welfare Act of 1978, Pub. L. No. 95-608, 92 Stat. 3069 (1978) (ICWA) (see OAR 413-070-0100 to 413-070-0260), if applicable.

(l) Floor plans for any proposed facility.

(~~o~~m) Proof of adequate fire, auto, and liability insurance.

(~~p~~n) Emergency procedures.

(~~q~~o) Current inspection report of the Fire Marshal and current sanitation inspection reports, unless the application is for a license as an *adoption agency* ~~(OAR 413-215-0001(2)(a))~~ or a *foster care* ~~placement~~ *agency* ~~(OAR 413-215-0001(2)(b))~~. For an *outdoor youth program* ~~(OAR 413-215-0001(2)(d))~~, these inspections reports are only required for each base camp component.

(~~r~~p) For the previous ~~ten~~ 10 years, a copy of each report by a federal or state authority concerning a criminal charge, charge of child abuse, malpractice complaint, or lawsuit against the *child-caring agency*, a member of the child-caring agency's board of directors, or one of its employees related to the provision of services, and the basis and disposition of each action, if applicable.

(~~s~~q) Other documents or information requested by the Department.

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(4) Documents to be submitted to renew a license. A *licensee* must submit to the Department at the time of application for renewal all of the following documents:

(a) An application renewal form that is complete and signed by the board chair and either the executive director or program director.

(b) A list of the current board of directors, including names, ~~addresses, telephone numbers,~~ term, and office held.

(c) Current "CCA Contact Information" form as described in subsection (3)(d) of this rule.

(~~c~~d) A complete personnel list with job titles.

(~~d~~e) An organization chart with job titles and staff names.

(~~e~~f) ~~Authorization to obtain criminal histories and child abuse *background* checks~~Documentation that a background *check* was completed as required in OAR 407-007-0200 to 407-007-0370 on the executive director and program director.

(~~f~~g) Proof of adequate fire, auto, and liability insurance.

(~~g~~h) Current inspection report of the Fire Marshal and current sanitation inspection reports, unless the re-application is for a license as an *adoption agency* ~~(OAR 413-215-0001(2)(a))~~ or a *foster care* ~~placement~~ *agency* ~~(OAR 413-215-0001(2)(b))~~. For an *outdoor youth program* ~~(OAR 413-215-0001(2)(d))~~, these inspections reports are only required for each base camp component.

(i) Annual financial statements and records as described in OAR 413-215-0026.

(j) A tax compliance certificate issued by the Oregon Department of Revenue.

(k) Policies required in subsection (3)(k) of this rule.

(~~h~~l) Other documents or information requested by the Department.

(5) Application fees.

(a) The Department requires no fee to be paid by an *applicant* for the inspection conducted to determine whether to grant, withhold, suspend, or revoke a license required by these rules.

(b) ~~An~~A *child-caring* *agency* may be required to pay for inspections done by other governmental agencies, such as county health departments and the State Fire Marshal, that are necessary to obtain a license from the Department.

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(6) Processing the Application. Within 30 days of the receipt of an application and the documents described in section (3) or (4) of this rule, the Department will begin its review to determine whether the *applicant* is or will be in ~~*substantial*~~ compliance ~~(defined in OAR 413-215-0006)~~ with the rules in d~~D~~ivision 413-215 and whether denial is required or appropriate under OAR 413-215-0121. In connection with its evaluations, the Department may examine the records and files of the *applicant*, inspect and observe the physical premises, and interview children and families served by the *program* ~~(defined in OAR 413-215-0006)~~, the *staff* of the *applicant*, and persons in the community.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0086
Issuance of License

(1) If the Department determines from the application and its review that the *child-caring agency* ~~(defined in OAR 413-215-0006)~~ is or will be in compliance with the rules in ~~D~~division 413-215 and that denial is not required or appropriate under OAR 413-215-0121, the Department issues a license to the *child-caring agency*. A license is effective for a two-year period subject to being suspended~~,~~ or revoked as provided in OAR 413-215-0121, or rendered invalid when not utilized for a period of six consecutive months ~~as provided in OAR 413-215-0121~~.

(2) The license is not transferable and is not applicable to an entity other than the corporation to which the license is issued. The license is applicable only to a facility or site identified on the license.

(3) The following information is included on the license:

(a) The incorporated name of the *licensee* ~~(defined in OAR 413-215-0006),~~ and its "assumed business name" if applicable.

(b) The address of the administrative office of the corporation.

(c) The address of each facility operated under authority of the license.

(d) The maximum number to be served at any one time in each facility, if applicable.

(e) The age and gender of the persons to be served by the *child-caring agency*.

(f) The types of services the *licensee* is authorized to provide.

(g) The effective date and term of the license.

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(h) Restrictions or conditions imposed by the Department, if applicable.

(i) Such other information deemed appropriate by the Department.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0091
Responsibilities of Licensees

A *licensee* ~~(defined in OAR 413-215-0006)~~ is responsible to do all of the following:

(1) Ensure that children in care are well cared for and safe from self-harm, physical harm, and abuse from others.

(2) Adhere to and comply with all policies and procedures of the *licensee* and ensure that the licensee's employees and volunteers adhere to and comply with the licensee's policies and procedures.

(3) Comply with all federal, state, and local laws, rules, regulations, executive orders, and ordinances applicable to the *licensee* and ensure that the licensee's employees and volunteers comply with all federal, state, and local laws, rules, regulations, executive orders, and ordinances applicable to the *licensee*.

(~~1~~4) Meet with an employee of the Department upon request and make all employees, *staff*, agents, and contractors available to meet with the Department upon request.

(5) Provide copies of all written policies and procedures required in OAR 413-215-0081(3)(k) when requested.

(6) Make reports to the Department as required by these rules and upon request to ensure that the requirements for licensing are met.

(7) Provide information about children in care when requested by the Department and as required by OAR 413-215-0026. The Department may request information about children in care at any time. Information requested may include, but is not limited to, the following:

(a) Names;

(b) Dates of birth;

(c) Dates of admission or service delivery;

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(d) Names and contact information for children's parents or guardians;

(e) Address where children reside or receive services;

(f) Assessments and diagnostic information;

(g) Treatment and service records;

(h) Medical records;

(i) Case notes; and

(j) Incident reports.

(8) Provide the Department with financial records and documents when requested by the Department. Records and documents requested by the Department may include, but are not limited to, the following:

(a) Annual operating budget;

(b) Annual financial statements;

(c) Tax returns and tax-related documentation;

(d) Tax compliance certificates issued by the Oregon Department of Revenue; and

(e) Signed releases authorizing the Department to obtain financial information about the *child-caring agency* from the Internal Revenue Service, the Department of Revenue, or any other government entity.

(9) Provide the Department with any completed *proctor foster home* studies as required in OAR 413-215-0316(3) upon request.

(10) Permit immediate access to a *child in care* and access to any area of the premises in which the *child in care* receives care or services to the following:

(a) Employees and representatives of the Department;

(b) The child in care's attorney;

(c) The child in care's court-appointed special advocate;

(d) The parent or legal guardian of the *child in care* if the *child in care* has not been committed to the custody of the Department or the Oregon Youth Authority;

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(e) Any governmental agency or unit that has a contract with the *child-caring agency* to provide care or services to the *child in care*; and

(f) Any other person authorized by the Department.

(11) Notify the Department in the following circumstances:

(a) When the *child-caring agency* employs a new executive director or a new manager of an individual facility or program and when a new board chairman or member of the governing board is appointed.

(b) Immediately when information on the "CCA Contact Information Form" changes. An updated form may be submitted electronically or the change may be communicated directly to a Department licensing coordinator.

(c) Within one business day if a *critical event* occurs. As used in this section, ~~a~~ "critical event" ~~is~~means a significant event occurring in the operation of ~~an~~a *child-caring agency* that is considered likely to cause complaints, generate concerns, or come to the attention of the media, law enforcement agencies, first responders, Child Protective Services, or other regulatory agencies. Compliance with this notification requirement does not satisfy the mandatory reporting requirements under ORS 419B.005 to 419B.045 and Oregon Laws 2016, chapter 106.

(d) 30 days or more prior to the voluntary closure or change to inactive status of a *program* of the *child-caring agency*.

(e) When services are discontinued or when the *child-caring agency* intends to reactivate a service after a period of inactivity.

(12) Post a copy of the license in a common area at each facility operated by the *licensee* and retain the license at the administrative offices of the *licensee*.

(13) Return the license to a Department licensing coordinator immediately upon the suspension or revocation of the license, a change to inactive status, or a change of ownership or location.

~~(2) Notify the Department if the *agency* (defined in OAR 413-215-0006) employs a new executive director or program director and submit a request to the Department for a criminal history and child abuse background check on that person.~~

~~(3) Make reports to the Department as necessary to ensure that the requirements for licensing are met.~~

~~(4) Notify a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department within one business day if a critical event occurs. As used in this section, a "critical event" is a significant event occurring in the operation of an *agency*~~

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~~that is considered likely to cause complaints, generate concerns, or come to the attention of the media, law enforcement agencies, first responders, Child Protective Services, or other regulatory agencies. Compliance with this notification requirement does not satisfy the mandatory reporting requirements under ORS 419B.005 to 419B.045.~~

~~(5) Notify a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department 30 days or more prior to the voluntary closure or change to inactive status of a *program* (defined in OAR 413-215-0006) of the *agency*.~~

~~(6) Post a copy of the license in a common area at each facility operated by the *licensee* and retain the license at the administrative offices of the *licensee*.~~

~~(7) Return the license to a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department immediately upon the suspension or revocation of the license, a change to inactive status, or a change of ownership or location.~~

~~(8) Inform a licensing coordinator in the Residential Treatment Services and Licensing Unit of the Department of the discontinuation of services or the intent to reactivate a service after a period of inactivity.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0096
Renewal of License

THIS RULE IS REPEALED

~~(1) To renew a license, a *licensee* (defined in OAR 413-215-0006) must submit to the Department an application for renewal prior to the expiration of the current license (see OAR 413-215-0081). If the Department receives an application for renewal before the license expires, the license remains effective until the Department issues a decision on the application.~~

~~(2) Before the Department will consider an application for renewal of a license, the *licensee* must submit the documents required in OAR 413-215-0081(4) with an application to renew a license. The *licensee* must make available for examination by the Department all records and files of the *agency* (defined in OAR 413-215-0006). The *licensee* must allow representatives of the Department to enter and inspect the physical premises, and interview *children* receiving services from the *agency* and *agency* staff.~~

~~(3) Within 30 days of the receipt of the renewal application, the Department will begin its review to determine whether the *licensee* is in compliance with the rules in Division 413-215.~~

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~~(4) The Department will not renew a license if the *licensee* is not in *substantial compliance* (defined in OAR 413-215-0006) with the rules in Division 413-215 and other applicable law.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.327

413-215-0101
Periodic Inspections

(1) The Department will visit and inspect each *licensee* ~~(defined in OAR 413-215-0006)~~ and each facility operated by the *licensee* ~~at least once every two years~~ as provided in this rule to determine whether the *program* ~~(defined in OAR 413-215-0006)~~ is maintained and operated in accordance with the rules in ~~D~~division 413-215 and all other applicable laws and rules.

(a) The Department will inspect premises where children in care reside and receive services from employees or staff who do not reside on the premises at least once per year. Unannounced inspections will occur at unexpected times and at irregular intervals.

(b) The Department will inspect premises not covered under subsection (a) of this section at least once every two years.

(2) Employees of the Department may conduct inspections and may visit the *licensee* at unannounced, irregular intervals.

(3) The Department may also make informal visits, with notice to the *licensee*, in order to provide technical assistance to the *licensee*.

(4) A *licensee* must allow employees of the Department~~, for the purposes of carrying out the inspections and investigations described in Division 413-215 and other applicable rules,~~ to enter the facilities of the *child-caring agency* ~~(defined in OAR 413-215-0006)~~; inspect all accounts, records of work, and physical premises; and interview all children and staff.

(5) ~~An~~A *child-caring agency* must make all of the following documents available for review during a site inspection:

(a) Personnel files on each employee.

(b) Criminal history, child abuse, and reference checks on volunteers.

(c) Board meeting minutes.

(d) A complete set of the policies and procedures of the *child-caring agency*.

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(e) Records of the children and families served by the *child-caring agency*.

(f) Other documents or information requested by the Department.

(6) A *licensee* must allow access by the State Fire Marshal or an authorized representative of the State Fire Marshal to all facilities maintained by the *licensee*, residents of its facilities, and records of the *licensee* that pertain to fire safety.

(7) A *licensee* must allow access by a registered sanitarian, for the purpose of conducting a health and sanitation inspection, to the facilities maintained by the *child-caring agency*, the records of the *child-caring agency* pertaining to sanitation, and residents.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0106
Investigation of Complaints

~~(1) The Department will investigate each report received of abuse, dereliction, or deficiency in or by an *agency* (defined in OAR 413-215-0006).~~

(1) A *child-caring agency* must cooperate fully and comply with all investigations by the Department conducted pursuant to the requirements of the law.

(2) The Department will immediately investigate and take appropriate action when the Department becomes aware, whether from the inspections undertaken pursuant to ORS 418.255 or otherwise, that any suspected or founded abuses, deficiencies, violations, or failures to comply with the full compliance requirements described in ORS 418.240 and these rules are occurring in a *child-caring agency*.

(3) The Department will immediately investigate when the Department becomes aware that a *child-caring agency*, or an owner, operator, or employee of a *child-caring agency*, is the subject of an investigation by another state, federal, or law enforcement agency and take action as provided in Oregon Laws 2016, chapter 106, section 4.

(4) Upon determination of a level of threat or risk to children in care, the Department will take appropriate steps to protect and ensure the health, safety, and welfare of children in care.

(~~2~~5) The Department will notify the executive director and board of directors of any ~~needed corrective action~~ action the Department may initiate as a result of the investigation, and of the deadlines for the *child-caring agency* to ~~completing the~~ complete any corrective action~~, and of any other actions the Department may initiate as a result of the investigation~~.

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~~(3) If there is a reasonable basis for sustaining a complaint against an organization or school that offers a residential program for *children* (regulated by ORS 418.327) that is not a *private child-caring agency* (defined in OAR 413-215-0006), the Department will initiate a contested case proceeding with the Office of Administrative Hearings.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 183.635, 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0111
Corrective Actions

(1) As a result of an inspection, or at any time, the Department may require a ~~*private*~~ *child-caring agency* ~~(defined in OAR 413-215-0006)~~ to comply with a plan of correction that explains the actions required to be taken by the ~~*private*~~ *child-caring agency* to be in compliance with the rules in ~~D~~division 413-215 and other applicable statutes and rules.

(2) The Department may establish deadlines by which the ~~*private*~~ *child-caring agency* must correct the deficiencies noted in the corrective action plan.

(3) The Department may impose conditions on a license as provided in OAR 413-215-0121 while corrections are pending ~~Where a condition exists in an organization or school that offers a residential program for *children* (regulated by ORS 418.327) that immediately endangers the health or safety of a *child*, the Director of the Department may issue an interim order without any notice, or with such notice as is practical under the circumstances, requiring the school or organization to alter the conditions under which the *child* lives or receives schooling. Such interim emergency order may remain in force until a final order, after a hearing provided in OAR 413-215-0106(3), is entered~~.

(4) When a condition exists that seriously endangers or places at risk the health, safety, or welfare of a *child in care*, the Director of the Department will issue an interim emergency order without notice, or with reasonable notice under the circumstances, requiring the *child-caring agency* to correct the conditions and ensure the safety of children in care of the *child-caring agency*. The interim emergency order remains in force until a final order, after a hearing, is entered in accordance with ORS chapter 183~~Where the evidence at a contested case hearing (OAR 413-215-0106(3)) justifies such an order, an Administrative Law Judge may issue a proposed order and the Department may issue a final order that orders a private school or organization that offers a residential program for *children* (regulated by ORS 418.327) to correct the conditions not in conformity with standards~~.

(5) The Director may commence an action to enjoin operation of a *child-caring agency*:

(a) If the *child-caring agency* is being operated without a license; or

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(b) If the *child-caring agency* fails to comply with a plan of correction imposed by the Department or an interim emergency order issued under section (4) of this rule within the time specified in the order~~If corrections required under section (3) or (4) of this rule are not made within time limits set by the final order, the Department may take any other lawful actions necessary for the protection of the *child* or *children* involved~~.

(6) In addition to the corrective actions in this rule and other rules in division 413-215, the Department may take any other lawful actions necessary to protect and ensure the health, safety, and welfare of children in care as necessary under the circumstances.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0116
Civil Penalties

(1) In addition to the actions described in OAR 413-215-0121, as provided in ORS 418.992 and Oregon Laws 2016, chapter 106, section 31, the Department may impose a civil penalty against a ~~*private*~~ *child-caring agency* ~~(defined in OAR 413-215-0006)~~ if ~~subsections (a) and (b) of this section both apply:(a) The *private*~~the *child-caring agency* has committed one of the following acts:

(a~~A~~) Violation of any of the terms or conditions of a license, certification, or other authorization issued under ORS 418.205 to 418.327, 418.470, 418.475, or 418.950 to 418.970~~418.205 to 418.310 and OAR 413-215-0086~~.

(b~~B~~) Violation of any rule in division 413-215 or a general order of the Department against a ~~*private*~~ *child-caring agency*.

(c~~C~~) Violation of any final order of the Department that pertains specifically to the ~~*private*~~ *child-caring agency*.

(d) Violation of the requirement to have a license, certificate, or other authorization under ORS 418.205 to 418.327, 418.470, 418.475, or 418.950 to 418.970.

~~(b) The violation involves one of the following:~~

~~(A) Direct care or feeding of *children*.~~

~~(B) Staff to *child* ratios (OAR 413-215-0561).~~

~~(C) Sanitation involving direct care. (OAR 413-215-0541);~~

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~~(D) The violation has occurred on two consecutive surveys on-site reviews of the *private child-caring agency.*~~

(2) The Department will by law impose a civil penalty not to exceed $500, unless otherwise required by law, on any *child-caring agency* for falsifying records, reports, documents, or financial statements or for causing another person to do so.

(3) The Department will by law impose a civil penalty of not less than $250 nor more than $500, unless otherwise required by law, on a *child-caring agency* or child-care facility that assumes care or custody of, or provides care or services to, a *child in care* knowing that the child in care's care needs exceed the license, certificate, or authorization classification of the *child-caring agency* if the assumption of care or custody, or provision of care or services, places the child in care's health, safety, or welfare at risk.

(4~~2~~) As required by ORS 418.995, the Department will consider the following factors in making a decision about the level of penalty imposed:

(a) The past history of the ~~*private*~~ *child-caring agency* incurring the penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.

(b) Any prior violations of statutes or rules pertaining to ~~private~~the *child-caring* ~~agencies~~*agency*.

(c) The economic and financial conditions of the ~~*private*~~ *child-caring agency* incurring the penalty.

(d) The immediacy and extent to which the violation threatens or places at risk the health, safety, and well-being of the children in care served by the ~~*private*~~ *child-caring agency*.

(~~3~~5) Civil Penalty Schedule. Except as provided otherwise in sections (2) and (3) of this rule, for each violation by ~~a *private*~~the *child-caring agency*, the following civil penalty may be imposed:

(a) $100 per violation if all four subsections of section (~~2~~4) of this rule favor the ~~*private*~~ *child-caring agency*.

(b) $200 per violation if three subsections of section (~~2~~4) of this rule favor the ~~*private*~~ *child-caring agency*.

(c) $300 per violation if two subsections of section (~~2~~4) of this rule favor the ~~*private*~~ *child-caring agency*.

(d) $400 per violation if one subsection of section (~~2~~4) of this rule favor the ~~*private*~~ *child-caring agency*.

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(e) $500 per violation if no subsections of section (~~2~~4) of this rule favor the ~~*private*~~ *child-caring agency*.

(~~4~~6) ~~In all~~Unless the health, safety, or welfare of a *child in care* is at risk, in cases in which the Department is considering the imposition of a civil penalty, the Department ~~must~~will prescribe a reasonable time period for the ~~*private*~~ *child-caring agency* to eliminate the violation:

(a) Not to exceed ~~30~~45 days after the first notice of violation; or

(b) In cases where the violation requires more than ~~30~~45 days to correct, such time as is specified in a plan of correction found acceptable by the Department.

(~~5~~7) Unless otherwise required by law, a~~A~~ civil penalty imposed under this rule may be canceled or reduced under terms or conditions determined by the Department to be proper and consistent with public health and safety.

(~~6~~8) A civil penalty will be imposed by written notice of violation and assessment of penalty provided to the ~~*private*~~ *child-caring agency*. Such notice shall be sent by registered or certified mail and will include:

(a) Reference to the statute, rule, standard, or order involved;

(b) A short statement of the matters asserted or charged;

(c) A statement of the amount of the penalty imposed; and

(d) A statement of the right of the ~~*private*~~ *child-caring agency* to request a hearing.

(~~7~~9) As provided in ORS 418.993, the ~~*private*~~ *child-caring agency* to which the notice of violation and assessment of penalties is addressed has 10 days from the date of service of the notice in which to make a written request for a hearing. All such hearings shall be conducted as a contested case hearing pursuant to the applicable provisions of ORS 183.413 to 183.470.

(~~8~~10) A civil penalty imposed under this rule is due and payable 10 days after the order imposing the civil penalty becomes final by operation of law or on appeal. A ~~*private*~~ *child-caring agency* against whom a civil penalty is to be imposed shall be served a notice in the form provided in ORS 183.415. Service of the notice shall be accomplished in the manner provided in ORS 183.415.

(~~9~~11) If the ~~*private*~~ *child-caring agency* does not request a hearing, or if after such a hearing the ~~*private*~~ *child-caring agency* is found to be in violation of a license, rule or order as specified in the notice, the Department will make a final order imposing the penalty.

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(~~10~~12) Judicial review of civil penalties shall be as provided under ORS 183.480. The reviewing court may, in its discretion, reduce the amount of the penalty.

(~~11~~13) Civil penalties are payable within 10 days after the order of the Department is entered, unless the order is appealed and is sustained or modified, in which case the penalty is payable within 10 days after the court decision is rendered.

(~~12~~14) If the order of civil penalty is not appealed or sustained on appeal, and the amount of penalty is not paid within 10 days after the order becomes final, the order may be recorded with the county clerk in any county of this state. The clerk shall thereupon record the name of the *child-caring agency* incurring the penalty and the amount of the penalty in the County Clerk Lien Record.

(~~13~~15) Upon recording an order in the County Clerk Lien Record, the Department may initiate proceedings to enforce the order by filing in the Circuit Court for the county where the order is recorded a certified copy of the civil penalty order and a certified copy of the recording made in the County Clerk Lien Record. Subject to any other requirements that may apply to the enforcement proceedings sought by the Department, the court shall then proceed as with judgments issued by the court. The Department may use enforcement proceedings available to the Department in ORS chapter 18~~through this procedure shall include:~~.

~~(a) Writ of Execution proceedings under ORS 23.030 to 23.105 and ORS 23.410 to ORS 23.600;~~

~~(b) Supplementary proceedings under ORS 23.710 to 23.730;~~

~~(c) Garnishee proceedings under ORS 29.285 to 29.335; and~~

~~(d) Renewal of judgment under ORS 18.360.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.992, 418.994, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, 418.992 - 418.998, Or Laws 2016, ch 106

413-215-0121
Denial, Suspension, or Revocation of License and Placing Conditions on a License

(1) The Department may place conditions on a license under this section or any other section of OAR 413-215-0001 through 413-215-1031 including, but not limited to the following~~Except as provided in section (2) of this rule~~:

(a) Placing full or partial restrictions on admission of children;~~The Department may deny, suspend, or revoke a license upon finding that an *agency* (defined in OAR~~

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~~413-215-0006) is not in *substantial compliance* (defined in OAR 413-215-0006) with the rules in Division 413-215.~~

(b) Temporary suspension;~~If an *agency* operates more than one facility, the Department may suspend, revoke, or deny the license only as it applies to the facility or facilities out of *substantial compliance* with applicable statutes or rules.~~

(c) Limitation of operations subject to an intent to revoke; and

(d) Limitation of operations subject to correction of violations as specified in a plan of correction imposed by the Department.

(2) The Department may suspend, revoke, or place conditions on the child-caring agency's license, certificate, or other authorization in the following circumstances:~~The Department may suspend or revoke the license of an organization or school that offers a residential program for *children* (regulated by ORS 418.327) that is not acting as a *private child-caring agency* only after corrections required under OAR 413-215-0111(4) are not made within time limits set by the Department or an Administrative Law Judge.~~

(a) The *child-caring agency* is not in full compliance with the requirements of OAR 413-215-0001(5) or other applicable requirements in OAR 413-215-0001 to 413-215-1031.

(b) The Department finds, after investigation by the Department or law enforcement, that abuses, deficiencies, violations, or failures to comply are founded.

(c) The *child-caring agency*, or the owner or operator of the *child-caring agency* including proctor foster homes, interfered with or hindered an investigation of abuse of a *child in care*, including, but not limited to, intimidation of witnesses, falsification of records, or denial or limitation of interviews with the *child in care* who is the subject of the investigation or the witnesses.

(3) The Department may immediately deny, suspend, revoke, or place conditions on the child-caring agency's license in the following circumstances:~~Immediate Suspension or Revocation. In the event of an imminent danger to the health or safety of *children* or families receiving services or of the public, the Department may take immediate action to suspend or revoke the license of a *private child-caring agency*.~~

(a) The *child-caring agency* failed to permit an inspection of premises or of the books and records of the *child-caring agency*.

(b) The *child-caring agency* failed to make corrections within 45 days from the effective date of the plan of correction under OAR 413-215-0111.

(c) The Department determines at any time during or after an investigation that the abuses, deficiencies, violations or failures to comply are or threaten a serious

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danger to any child or to the public, or place a *child in care* at risk with respect to the child in care's health, safety, or welfare.

(4) The Department will deny issuance or renewal of a license, certificate, or other authorization to a *child-caring agency* if the *child-caring agency* is not or will not be in full compliance with all of the standards, procedures, and protocols in OAR 413-215-0001(5) or other applicable requirements in OAR 413-215-0001 to 413-215-1031.

(5) The Department may deny issuance or renewal, suspend, revoke, or place conditions on a license, certificate or other authorization if the Department becomes aware that a *child caring agency*, or the owner or operator of the *child-caring agency*, has been found by other state or federal entities to have engaged in financial, civil, or criminal misconduct.

(6) The Department will take immediate steps to suspend or revoke the license of a *child-caring agency* if any of the following circumstances are found to exist:

(a) There has been the death of a *child in care* as a result of abuse or neglect on the part of the *child-caring agency* or any of the child-caring agency's employees or agents;

(b) There has been sexual or physical abuse or neglect of a *child in care* in the child-caring agency's care or custody that was known to the *child-caring agency*, and the *child-caring agency* did not take immediate steps to report the abuse or neglect and to ensure the child in care's safety;

(c) The *child-caring agency* failed to cooperate fully with any local, state or federal regulatory entity's investigation of the *child-caring agency* or the child-caring agency's operations or employees; or

(d) The *child-caring agency* failed to provide financial statements as required under these rules and ORS 418.255.

(7) If a *child-caring agency* operates more than one *program* or *facility*, the Department has the option to suspend, revoke, or deny the license only as it applies to the *program* or *facility* out of compliance with applicable statutes or rules.

(~~4~~8) ~~An~~A *child-caring agency* may appeal the decision to deny, suspend, ~~or~~ revoke, or place conditions on a license in a contested case hearing subject to the provisions of ORS ~~C~~chapter 183.

(~~5~~9) To request a contested case hearing, as provided in ORS ~~C~~chapter 183, the *child-caring agency* must provide the Department's Licensing Unit a written request for a hearing within 30 days of the date that the Department mailed the notice of denial, suspension, or revocation. If the Department does not receive a request for a contested case hearing within 30 days of the date that the Department mailed the notice of denial, suspension, or

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revocation, the *child-caring agency* has waived the right to a hearing, except as provided in OAR 137-003-0528(1).

(~~6~~10) Except for ~~an~~a *child-caring agency* that retains a facility with an active license under subsection ~~(1)~~(~~b~~7) of this rule, if the Department revokes a license, the *child-caring agency* may not apply under any name for licensure under this chapter of rules for the three years following the effective date of revocation.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0126
Temporary, Inactive, and Amended Licenses

(1) Temporary license.

(a) The Department may issue a temporary license when the application by ~~an~~a *child-caring agency* ~~(defined in OAR 413-215-0006)~~ for a license is approved, and the *child-caring agency* does not hold a current, valid license. A temporary license is valid for a period not to exceed six months. Use of a temporary license allows the *licensee* ~~(defined in OAR 413-215-0006)~~ to start providing services authorized by the temporary license. To obtain a temporary license, ~~an~~a *child-caring agency* must meet all requirements of the rules in ~~D~~division 413-215 except those that can be met only while providing services.

(b) Once ~~an~~a *child-caring agency* with a temporary license begins providing services, the *licensee* must request an inspection by the Department for the purpose of verifying its compliance with the rules in ~~D~~division 413-215. Upon verification, the Department will issue a license valid for two years beginning from the date of the temporary license, as described in OAR 413-215-0086.

(2) Inactive license.

(a) ~~An~~A *child-caring agency* is considered to have an inactive license if the *child-caring agency* discontinues or fails to provide a service for which the *child-caring agency* is licensed for a period of 180 days.

(b) ~~An~~A *child-caring agency* no longer providing services for which it is licensed must immediately inform a Department licensing coordinator ~~in the Residential Treatment Services and Licensing Unit of the Department~~.

(c) In order to reactivate an inactive license, ~~an~~a *child-caring agency* must request an inspection by the Department for the purpose of verifying its compliance with all applicable Department rules. The *child-caring agency* may not resume providing

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services until the Department has verified in writing that the *child-caring agency* is in compliance with all applicable Department rules and reinstated the *child-caring agency* to active status.

(3) Amended license.

(a) The Department may require additional documentation of a *licensee* if the Department is considering the amendment of a license.

(b) The Department may issue an amended license to a *licensee* that has an inactive facility or *program* ~~(defined in OAR 413-215-0006)~~, but retains another facility or *program* with an active license.

(c) The Department may issue an amended license upon written request of the *licensee* to accommodate changes in the factors upon which an existing license is based.

(4) The term of a temporary, inactive, or amended license is not extended by any action described in this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0131
Exceptions

(1) The Department may waive a requirement of a rule in ~~D~~division 413-215 upon written request of ~~an~~a *child-caring agency* ~~(defined in OAR 413-215-0006)~~. The written request must identify the rule, give the reasons that justify the exception, state the length of time for which the exception is requested, and explain how the needs of children in care and families would be affected if the *child-caring agency* did not comply with the rule.

(2) The Department may approve a request for an exception upon a determination that the failure of ~~an~~a *child-caring agency* to comply with the rule does not pose a threat to the health, safety, and welfare of children in care and families. In determining whether to grant an exception, the Department additionally must take into consideration:

(a) Whether the *child-caring agency* has consistently been in compliance with licensing regulations and has a history or provision of services that meet the best interests of children.

(b) Innovative approaches of the *child-caring agency*.

(c) The availability of services to children in care and families similar to the services provided by the *child-caring agency*.

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(d) The impact of the rule exception sought.

(e) Whether the Department may waive application of the rule under state statute or federal law.

(3) ~~An~~A *child-caring agency* granted an exception may, as a condition of obtaining and retaining the exception, be required to provide specific information on its operation under the exception.

(4) ~~An~~A *child-caring agency* may operate under an exception for a period of time set by the Department, not to exceed the term of its current license.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

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Licensing Academic Boarding Schools

413-215-0201
Academic Boarding Schools; What Law Applies

These rules, OAR 413-215-0201 to 413-215-0276, regulate a *child-caring agency* licensed as an *academic boarding school*. An *academic boarding school* must also comply with OAR 413-215-0001 to 413-215-0131.

~~(1) An *academic boarding school* (defined in OAR 413-215-0206) must be licensed in accordance with and comply with OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0201 to 413-215-0276..~~\

~~(2) Therapeutic boarding schools (OAR 413-215-0601 to 413-215-0681) and residential care agencies (OAR 413-215-0501 to 413-215-0586) are not subject to OAR 413-215-0201 to 413-215-0276.~~

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0206
Definitions

THIS RULE IS REPEALED.

~~The following definitions apply to OAR 413-215-0201 to 413-215-0276:~~

~~(1) "Academic boarding school" means an organization or a program in an organization that --~~

~~(a) Provides educational services and *care* to children for 24 hours a day; and~~

~~(b) Does not hold itself out as serving children with emotional or behavioral problems, providing therapeutic services, or assuring that children receive therapeutic services.~~

~~(2) "Approval" means acceptable to the regulatory authority based on conformity with generally recognized standards that protect public health.~~

~~(3) "Boarding student" means a student of an *academic boarding school* who resides on the school campus.~~

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~~(4) "Care" means services provided to meet the needs of a *child*, such as food, shelter, clothing, medical care, schooling, protection, and supervision. Care does not include services provided in family foster homes or adoptive homes.~~

~~(5) "Child" means an individual under 18 years of age.~~

~~(6) "Employee" means an individual holding a paid position with an *academic boarding school*.~~

~~(7) "Facility" means the physical setting, buildings, property, or structures of an *academic boarding school*.~~

~~(8) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.~~

~~(9) "Staff" means employees of the *academic boarding school* who are responsible for providing direct *care* to boarding students.~~

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327

413-215-0211
Educational Services

The educational services of an *academic boarding school* ~~(defined in OAR 413-215-0206)~~ must comply with all of the following requirements:

(1) The *academic boarding school* must comply with the minimum requirements for private schools as determined by the Oregon Department of Education.

(2) The *academic boarding school* must ensure that it has a curriculum that considers the goals of modern education as defined in OAR 581-022-1020 and the requirements of a sound comprehensive curriculum.

(3) Secondary schools must verify that they have academic standards necessary for students to obtain admission to community colleges and institutions of higher education and receive a high school diploma or GED.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

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413-215-0216
Physical Plant Requirements

(1) An *academic boarding school* ~~(defined in OAR 413-215-0206)~~ may not allow children in care to have access to, or provide services regulated by these rules (OAR 413-215-0201 to 413-215-0276) in, a building unless the building has been certified as meeting all applicable state and local construction-related requirements for a building used by the *academic boarding school.*

(2) An *academic boarding school* must meet all of the following requirements:

(a) All buildings where children in care are present must be smoke-free.

(~~1~~b) All buildings owned, maintained, or operated by the *academic boarding school* to provide services to children in care must meet all applicable state and local building, electrical, plumbing, and zoning codes.

(c) All areas of buildings where children in care are present must be kept clean and in good repair. Major appliances and heating, ventilation, plumbing, and electrical systems must be functional and in good repair.

(~~2~~d) Each room used by children in care must have floors, walls, and ceilings that meet the interior finish requirements of the applicable Oregon Structural Specialty Code (see the current version of OAR 837-040-0140) and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020) and be free of harmful drafts, odors, and excessive noise.

(~~3~~e) Each room used by children in care must be adequate in size and arrangement for the purpose in which it is used.

(~~4~~f) A system providing a continuous supply of hot and cold water must be distributed to taps conveniently located throughout each *facility* ~~(defined in OAR 413-215-0206)~~.

(~~5~~g) Water systems serving the property must be installed and maintained in compliance with applicable drinking water regulations (see OAR ~~C~~chapter 333~~ of the Oregon Administrative Rules~~) from the Public Health Division of the ~~Department of Human Services~~Oregon Health Authority.

(~~6~~h) Heat and ventilation.

(~~a~~A) Buildings must be ventilated by natural or mechanical means and must be free of excessive heat, condensation, and obnoxious odors.

(~~b~~B) Room temperature must be maintained within a normal comfort range.

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(i) Water temperature and access to water:

(A) A continuous supply of hot and cold water, installed and maintained in compliance with this rule and OAR 413-215-0218, must be distributed to taps conveniently located throughout each building used to provide services or housing for children in care.

(B) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in each building used to provide services or housing for children in care.

(C) Each *child in care* who lacks the ability to adjust and control water temperature safely must be directly supervised by a *staff* member of the *academic boarding school*.

~~(7) Individual Rooms.~~

~~(a) Living area. A separate living room or lounge area must be available for the exclusive use of students, employees, and invited guests.~~

~~(b) Bedrooms. Bedrooms for students may not be exposed to drafts, odors, or noises that interfere with the health or safety of the occupants. Each bedroom must comply with all of the following requirements:~~

~~(A) Be separate from the rooms used for dining, living, multi-purpose, laundry, kitchen, or storage.~~

~~(B) Be an outside room, with a window of at least the minimum size required by the State Fire Marshal and building codes.~~

~~(C) Have a ceiling height of at least 90 inches.~~

~~(D) Have a minimum of 60 square feet per bed.~~

~~(E) House no more than 25 boarding students in one room when a dormitory-style sleeping arrangement is used.~~

~~(F) Have permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.~~

~~(G) Have a window covering on each window to ensure privacy.~~

~~(H) Contain beds for boarding students that meet both of the following requirements:~~

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~~(i) There must be at least three feet between beds, including trundle beds if used; and~~

~~(ii) Bunk beds, if used, must be maintained to ensure safety of the boarding students.~~

~~(c) Restrooms must be provided and be conveniently located, and must have:~~

~~(A) A minimum of one toilet for every eight children.~~

~~(B) One hand-washing sink with mixing faucets for each toilet. The sink may not be used for the preparation of food or drinks or for dish washing.~~

~~(C) Hot and cold running water, soap, and paper towels at each hand washing sink or other hand drying options approved by an environmental health specialist.~~

~~(D) One bathtub or shower for every ten boarding students.~~

~~(E) Arrangements for individual privacy for users.~~

~~(F) Permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.~~

~~(G) A window covering on each window to ensure privacy.~~

~~(H) Adequate ventilation.~~

~~(I) Each self-closing metered faucet, if provided, must provide water flow for at least 15 seconds without the need to reactivate the faucet.~~

~~(d) Laundry facilities must be separate from ---~~

~~(A) Kitchen and dining areas;~~

~~(B) Student Living areas, including bedrooms; and~~

~~(C) Areas used for the storage of un-refrigerated perishable food.~~

~~(e) Storage areas must be provided appropriate to the size of the *facility*. Separate storage areas must be provided for:~~

~~(A) Food, kitchen supplies, and utensils.~~

~~(B) Clean linens.~~

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~~(C) Soiled linens and clothing.~~

~~(D) Cleaning compounds and equipment.~~

~~(E) Poisons, chemicals, pest control products, insecticides, and other toxic materials, which must be properly labeled, stored in the original container, and kept in a locked storage area.~~

~~(F) Outdoor recreational and maintenance equipment.~~

~~(f) Food service areas.~~

~~(A) Kitchens must have facilities for dish washing, storage, and preparation of food and must be separate from student living areas.~~

~~(B) The walls, floors, and floor coverings of all rooms in which food or drink is prepared or stored or in which utensils are washed or stored must be smooth, washable, and easily cleanable.~~

~~(C) All equipment and utensils used for food service, including plastic ware and food-contact surfaces, must be easily cleanable, durable, nontoxic, and non-absorbent and must be maintained in a clean and sanitary condition.~~

~~(D) All equipment used for food preparation must be installed and maintained in a manner providing ease of cleaning beneath, around, and behind each unit.~~

~~(g) Dining area. A separate dining room or area must be provided for the exclusive use of students, employees, and invited guests. The dining area must contain a minimum of 15 square feet per occupant.~~

~~(h) Classrooms and school buildings must be adequate in size and arrangement for the programs offered.~~

~~(i) Time-out rooms. Rooms used for time out or quiet time must have adequate space, heat, light, and ventilation and must not be capable of locking.~~

~~(j) Activity area. A usable recreational activity area must be provided that is --~~

~~(A) Protected from motor traffic and other hazards; and~~

~~(B) Of a size and availability appropriate to the age and needs of the children served by the *academic boarding school*.~~

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

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413-215-0218
Room and Space Requirements

THIS IS A NEW RULE

An *academic boarding school* must meet all of the following room and space requirements:

(1) All parts of the facility must ensure the safety of the children in care.

(2) All areas of the facility must be kept clean and in good repair. Major appliances and heating, ventilation, plumbing, and electrical systems must be functional and in good repair.

(3) Living area. A separate living room or lounge area must be available for the exclusive use of residents, employees, and invited guests with a minimum of 15 square feet per *child in care*.

(4) Bedrooms. Bedrooms for children in care may not be exposed to drafts, odors, or noises that interfere with the health or safety of the occupants. Each bedroom must comply with all of the following requirements:

(a) Have adequate furnishings and personal items for the children in care residing in them.

(b) Be separate from the rooms used for dining, living, multi-purpose, laundry, kitchen, or storage.

(c) Be an outside room, with a window allowing egress from the building.

(d) Have a ceiling height of at least 90 inches.

(e) Have a minimum of 60 square feet per bed.

(f) House no more than 25 children in care in one room when a dormitory-style sleeping arrangement is used.

(g) Have permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(h) Have a window covering on each window to ensure privacy.

(i) Contain beds for children in care that meet both of the following requirements:

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(A) There must be at least three feet between beds, including trundle beds if used; and

(B) Bunk beds, if used, must be maintained to ensure safety of the children in care.

(5) Bathrooms.

(a) Bathrooms must be provided and be conveniently located in each building containing a child in care's bedroom, and must have all of the following:

(A) A minimum of one toilet for every eight children in care.

(B) A minimum of one hand-washing sink with mixing faucets for each eight children in care. The sink may not be used for the preparation of food or drinks or for dish washing.

(C) A self-closing metered faucet, if used, that provides water flow for at least 15 seconds without a need to reactivate the faucet.

(D) Hot and cold running water, as well as soap and paper towels available at sinks, or, other hand-drying options approved by the local health department.

(E) One bathtub or shower for every 10 children in care.

(F) Arrangements for individual privacy for each *child in care*.

(G) A window covering on each window to ensure privacy.

(H) Permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(I) Adequate ventilation.

(J) Have adequate personal items for children in care.

(b) Use of wooden racks over shower floors is prohibited.

(c) When impervious shower mats are used, they must be disinfected and dried at least once per day.

(6) Dining area. A separate dining room or area must be provided for the exclusive use of children in care, employees, and invited guests. The dining area must have the capacity to seat at least one-half of the children in care at one time and must contain a minimum of 15 square feet per *child in care*.

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(7) Kitchen.

(a) Kitchens must be used exclusively for storage, food preparation, dish washing, and other activities related to eating and may not, except as provided in OAR 413-215-0236, be used for children in care's activities other than eating.

(b) The walls, floors, and floor coverings of all rooms in which food or drink is prepared or stored or utensils are washed or stored must be smooth, washable, and easily cleanable.

(c) All equipment and utensils used for food service, including plastic ware and food-contact surfaces, must be easily cleanable, durable, nontoxic, and nonabsorbent, and must be maintained in a clean and sanitary condition.

(d) All equipment used for food preparation must be installed and maintained in a manner that provides ease of cleaning beneath, between, and behind each unit.

(8) Laundry area. Laundry facilities, when provided, must be separate from all of the following:

(a) Living areas, including bedrooms for children in care.

(b) Kitchen and dining areas.

(c) Areas used for the storage of un-refrigerated perishable food.

(9) Storage. Separate storage areas must be provided for each of the following:

(a) Food, kitchen supplies, and utensils.

(b) Clean linens.

(c) Soiled linens and clothing.

(d) Cleaning compounds and equipment.

(e) Poisons, chemicals, pest and rodent control products, insecticides, and other toxic materials that must be properly labeled, stored in the original container, and kept in a locked storage area.

(f) Outdoor recreational and maintenance equipment.

(10) Outdoor activity area. A usable out-of-doors activity area must be provided that is –

(a) Protected from vehicular traffic and other hazards; and

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(b) Of a size and availability appropriate to the age and needs of the children in care.

(11) Classrooms and school buildings, if used, must be adequate in size and arrangement for the programs offered.

(12) Time-out rooms. Rooms used for time out or quiet time must have adequate space, heat, light and ventilation and must not be capable of locking.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0221
~~Boarding Student~~ Furnishings and Personal Items for Children in Care

An *academic boarding school* ~~(defined in OAR 413-215-0206)~~ must meet all of the following requirements:

(1) Furniture. ~~Furniture~~Adequate furnishings must be provided for each ~~*boarding student* (defined in OAR 413-215-0206)~~*child in care* including, but not limited to:

(a) A bed, including a frame;

(b) A clean, comfortable mattress, and a pillow; and

(c) A private dresser, closet, or similar storage area for personal belongings that is readily accessible to the ~~*boarding student*~~*child in care*.

(2) Linens. Linens in good repair must be provided or arranged for each ~~*boarding student*~~*child in care*, including:

(a) A waterproof mattress cover or waterproof mattress;

(b) Sheets~~, pillows,~~ and pillowcase;

(c) Blankets appropriate in number and type for the season and the ~~comfort of the~~ individual ~~*boarding student*~~*child in care*; and

(d) Towels and washcloths.

(3) Bedding must be changed at least weekly or when soiled and upon change of ~~occupant~~the *child in care*.

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(4) Personal hygiene supplies. Individual personal hygiene supplies that are appropriate to the child's age, gender, and culture must be made available to each *child in care*, stored in a clean and sanitary manner, and must include:

(a) A comb;

(b) Shampoo, or other hair cleansing product;

(c) A toothbrush;

(d) Soap;

(e) Deodorant;

(f) Toothpaste;

(g) Toilet paper;

(h) Menstrual supplies, if appropriate; and

(i) Other supplies that are appropriate to the child in care's age, gender, and cultural needs.

(5) Clothing. Adequate and seasonally appropriate clothing must be provided for the exclusive use of each *child in care*.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0226
New Facility or Remodel

An *academic boarding school* ~~(defined in OAR 413-215-0206)~~ must meet all of the following requirements:

(1) Building Plans.

(a) An *academic boarding school* must submit to the Department for *approval* a set of plans and specifications for each ~~*facility* (defined in OAR 413-215-0206),~~ building used for children in care operated by the *academic boarding school* ~~and utilized by boarding students,~~ at each of the following times:

(~~a~~A) Prior to construction of a new building~~;~~.

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(~~b~~B) Prior to construction of an addition to an existing building~~;~~.

(~~c~~C) Prior to the remodeling, modification, or conversion of a building~~; and~~.

(~~d~~D) In support of an application for initial license to operate an *academic boarding school* under OAR 413-215-0081~~413-215-0001 to 413-215-0131 and OAR 413-215-0201 to 413-215-0276~~.

(~~2~~b) ~~The required p~~Plans must comply with ~~both current~~ all applicable state and local requirements for a building used as a *child caring agency*, including the Oregon Structural Specialty Code~~s~~ (see OAR 837-040-0140), the Oregon Fire Code (see OAR 837-040-0010 and 837-040-0020), Oregon Health Authority requirements for buildings (see OAR chapter 333), the Oregon Plumbing Specialty Code (see OAR 918-750-0110 to OAR 918-750-0115), the rules of the State Fire Marshal for buildings (OAR chapter 837) and the local building, fire, and safety codes.

(~~3~~c) Plans must be drawn to scale and must specify the ~~estimated~~ date upon which construction, modification, or conversion will be completed, if applicable.

(2) Sanitarian approval. The water supply, sewage, and garbage disposal systems must be approved by a sanitarian registered with the Environmental Health Registration Board (see OAR 338-010-0025 to 338-010-0038).

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0231
Environmental Health

An *academic boarding school* ~~(defined in OAR 413-215-0206)~~ must meet all of the following requirements:

(1) The program of the *academic boarding school* must maintain an environment that ensures safety for program *staff* ~~(defined in OAR 413-215-0206) and boarding students~~and children in care.

(2) Environmental Health Specialist approval. Prior to licensure and every two years upon license renewal, the program must be assessed and provide documentation of *approval* by a registered environmental health specialist (see OAR 338-010-0025 to 338-010-0038) for the following safety areas:

(a) Food service risk assessment.

(b) Drinking water or waste water assessment.

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(c) Vector and pest control, including the use of pesticides and other chemical agents.

(d) Hazardous material management, including handinghandling and storage.

(e) Recreation assessments (such as playgrounds, swimming pools, and hot tubs) for injury prevention and hazard mitigation.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0236
Food Services

An *academic boarding school* (defined in OAR 413-215-0206) must meet all of the following requirements with regard to food services:

(1) Nutrition and dietary requirements.

(a) An *academic boarding school* must arrange meals daily, consistent with normal mealtimes that occur during hours of operation.

(b) Snacks must be available and provided as appropriate to the age and activity levels of boarding studentschildren in care.

(c) Menus must be prepared in advance in accordance with USDA guidelines and must provide a sufficient variety of foods served in adequate amounts for each *child in care* at each meal, adjusted for seasonal changes. Records of menus as served must be maintained in the record of the *academic boarding school* for at least six months.

(d) Drinking water must be freely available to the children in care served by the *academic boarding school*.

(2) Food selection, storage, and preparation.

(a) All food and drink provided by the *academic boarding school* must be stored, prepared, and served in a sanitary manner.

(b) All employees who handle food served to children in care must have a valid food handler's card pursuant to ORS 624.570.

(c) Selection of food. All food products served by an *academic boarding school* must be obtained from commercial suppliers, except:

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(A) Fresh fruits and vegetables and fruits or vegetables frozen by the *academic boarding school* may be served.

(B) The serving of unpasteurized juice is prohibited.

(d) Requirements related to milk.

(A) Only Grade A pasteurized and fortified milk may be served to children in care.

(B) Milk and fluid milk products must be dispensed from a commercially filled plastic container of not more than one-gallon capacity or from a refrigerated bulk container equipped with a dispensing device approved by the Food and Drug Administration or ~~the~~ Oregon Department of Agriculture.

(e) Children in care may participate in activities in a food-preparation area, other than routine clean up, only while under the supervision of the employees of the *academic boarding school*.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0241
Safety

An *academic boarding school* ~~(defined in OAR 413-215-0206)~~ must meet all of the following requirements related to safety:

(1) Fire safety. Prior to licensure and every two years upon license renewal, the program must be assessed and approved by the State Fire Marshall or designee for the following fire safety areas:

(a) The *academic boarding school* must provide fire safety equipment ~~which~~ that meets the requirements of applicable building codes and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020).

(b) The *academic boarding school* must comply with existing state and local fire safety codes.

(2) Emergency plan.

(a) The *academic boarding school* must have, for each boarding *facility* ~~(defined in OAR 413-215-0206)~~ it operates, a written emergency plan that includes:

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(A) Instructions for evacuation of children in care and employees in the event of fire, explosion, accident, or other emergency.

(B) Instructions for response in the event of a natural disaster, external safety threat, or other emergency.

(b) Telephone numbers for local police and fire departments and other appropriate emergency numbers must be posted near all telephones.

(c) Operative flashlights sufficient in number must be readily available to the *staff* ~~(defined in OAR 413-215-0206)~~ in case of emergency.

(3) Evacuation drills.

(a) An unannounced evacuation drill must be held monthly under varying conditions to simulate the unusual conditions that occur in the event of fire. For each drill, the *academic boarding school* must document the following information and retain it for a minimum of two years:

(A) Identity of the person conducting the drill.

(B) Date and time of the drill.

(C) Notification method used.

(D) *Staff* members on duty and participating.

(E) Number of ~~occupants~~children in care and *staff* evacuated.

(F) Special conditions simulated.

(G) Problems encountered.

(H) Time required to accomplish complete evacuation.

(b) The *academic boarding school* must ensure that all employees and children in care are aware of the procedures to follow in case of emergencies.

(4) Hazards.

(a) The *academic boarding school* must protect children in care it serves from guns, drugs, plastic bags, sharps, paint, hazardous materials, bio-hazardous materials, and other potentially harmful materials. An *academic boarding school* must have a written policy that addresses potentially harmful materials that are in the building accessible to the children in care in the program or on the grounds of the program.

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(b) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in all buildings serving children. Direct supervision by *staff* must be provided for any *child in care* who does not have the ability to adjust and control water temperature.

(c) Each light fixture must have a protective cover unless it is designed to be used without one.

(5) Transportation. The *academic boarding school* must ensure the following when providing transportation to ~~the~~ children in care~~it serves~~:

(a) Driver requirements.

(A) Each *employee* ~~(defined in OAR 413-215-0206)~~ transporting a *child in care* in a motor vehicle must have a current driver license on record with the *academic boarding school*.

(B) The *academic boarding school* may use an *employee* to provide transportation for children in care only if the *employee* is covered by an insurance policy in full force and effect, and in compliance with the standards set by the *academic boarding school*.

(C) The *academic boarding school* must ensure that employees providing transportation are trained in emergency procedures, including behavior management, while in a vehicle.

(D) The *academic boarding school* must ensure that each person who transports a *child in care* in a van for 15 or more passengers receives training in the safe operation of that type of vehicle prior to transporting children.

(b) Vehicle requirements.

(A) Each vehicle used to transport a *child in care* served by the *academic boarding school* must be covered by an insurance policy in full force and effect.

(B) Each vehicle used to transport a *child in care* served by the *academic boarding school* must be maintained in safe operating condition.

(C) Each vehicle used to transport a *child in care* must ~~meet the vehicle requirements as set by the Department of Education~~ have aboard a first aid kit, a fully charged and working fire extinguisher with a rating of at least 2-A:10-BC, and a copy of the medical insurance card of each *child in care* being transported.

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(D) Each vehicle used to transport a *child in care* must be smoke-free.

(E) Children in care and adults must ride in a vehicle manufactured seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0246
Health Services

(1) An *academic boarding school* ~~(defined in OAR 413-215-0206)~~ must obtain all private health record information referred to in this rule in a manner that complies with federal and state law.

(2) Medical History. Within 30 days of a *child in care* starting in an *academic boarding school*, the *academic boarding school* must obtain available medical history and other health-related information on the *child in care*, including:

(a) Significant findings of the most current physical examination;

(b) The child in care's current immunizations, history of surgical procedures and significant health issues or injuries, and past or present communicable diseases;

(c) Any known allergies;

(d) Dental, vision, hearing, and behavioral health;

(e) Documentation that the *child in care* has received age-appropriate instruction regarding pregnancy prevention, nutrition, prevention of HIV and AIDS, and general information about the prevention and treatment of sexually transmitted disease; and

(~~d~~f) Physician or qualified medical professional's orders, including those related to *medication* ~~(defined in OAR 413-215-0206)~~, if any.

(3) Health services. An *academic boarding school* must ~~have established protocols~~ provide or arrange for the following health services, as applicable:

(a) Information on maintaining reproductive health and birth control.

(b) Prenatal care.

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(c) Well-baby care.

(d) Fetal alcohol syndrome.

(e) Accessing child and infant health insurance programs.

(f) Screening for breast and other common cancers.

(g) Provide all necessary feminine hygiene products.

(h) Access to birth control, vaccinations, and information about preventing sexually transmitted diseases.

(4) Medical examinations. An *academic boarding school* must safeguard the health of each *child in care* it serves by providing for a medical examination by a physician or qualified medical professional at the following intervals:

(a) Three examinations during the first year of the child's life.

(b) One examination at the age of two.

(c) One examination at the age of four.

(d) One examination at the age of six.

(e) One examination at the age of nine.

(f) One examination at the age of 14.

(5) An *academic boarding school* must have written procedures for:

(a) ~~a~~Accessing routine and urgent ~~medical~~ care for the ~~boarding students~~ children in care with the *academic boarding school*.

(b) Documented processed and available contact information for each child in care to obtain parent or legal guardian consent in the case emergency medical treatment is necessary.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

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413-215-0251
Medication

An *academic boarding school* ~~(defined in OAR 413-215-0206)~~ must meet all of the following requirements:

(1) Policy and procedures. The *academic boarding school* must have policies and procedures that cover all prescription and non-prescription *medication* ~~(defined in OAR 413-215-0206)~~ that address all of the following:

(a) How the *medication* will be administered.

(b) By whom the *medication* will be administered.

(c) How the *staff* of the *academic boarding school* who administer *medication* will be trained.

(d) How the administration of *medication* will be documented.

(e) How the administration of *medication* will be monitored.

(f) How unused *medication* will be disposed of.

(g) The process that ensures that each child in care's prescription and non-prescription medications are reviewed, unless the medications are all provided through a single pharmacy. As used in this rule, "non-prescription medication" means any *medication* that does not require a written prescription for purchase or dispensing and includes the use of any herbal remedies or supplements.

(2) Program staff may not dispense medication to a *child in care* in any of the following situations:

(a) In excess of the prescribed or authorized amount.

(b) For disciplinary purposes.

(c) For the convenience of staff.

(d) As a substitute for appropriate treatment services.

(~~2~~3) A prescription, signed by a physician or qualified medical professional, is required before any prescription *medication* is administered to, or self-administered by a *child in care*. *Medication* prescribed for one *child in care* may not be administered to, or self-administered by another *child in care* or *staff* ~~(defined in OAR 413-215-0206)~~. As used in this rule, "self-administration of medication" refers to the act of a ~~*boarding student*~~

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~~(defined in OAR 413-215-0206)~~*child in care* placing a *medication* internally in, or externally on, his or her own body.

(4) A written approval, signed by a physician or qualified medical professional, is required for any use of herbal supplements or remedies.

(5) A written order, signed by a physician or qualified medical professional, is required for any medical treatment, special diet, physical therapy, aid to physical functioning, or limitation of activity.

(6) Before an *academic boarding school* permits a *child in care* to self-administer prescription *medication*, self-administration must be recommended by the qualified medical professional, approved in writing by a physician or qualified medical professional, and closely monitored by the *staff* of the *academic boarding school*.

(3) Medication storage.

(a) A prescription *medication* that is unused and any *medication* that is outdated or recalled may not be maintained in a *facility* ~~(defined in OAR 413-215-0206)~~. "Outdated" means any *medication* whose designated period of potency, as indicated on the label, has expired.

(b) The *facility* may maintain a stock supply of non-prescription medications.

(c) All prescription and non-prescription medications stored in the *facility* must be kept in a manner that they are accessible only to *staff* or the ~~*boarding student*~~*child in care* for whom the *medication* is intended.

(d) A *medication* requiring refrigeration must be refrigerated and ~~kept in a manner that it is accessible only to *staff* or the *boarding student* for whom the *medication* is intended~~ secured.

(e) *Medication* must be maintained and stored in its original container, including the prescription label.

(~~4~~8) Medication disposal. *Medication* must be disposed of in a manner that ensures that it cannot be retrieved, in accordance with all applicable state and federal law.

(5) A written record of all medications disposed of by the *academic boarding school* must be maintained and must include all of the following:

(a) A description of the prescribed *medication* and the amount disposed.

(b) The *child in care* for whom the *medication* was prescribed.

(c) The reason for disposal.

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(d) The method of disposal.

(e) The name of the person disposing the *medication*, and the initials of an adult witness.

(6) Medication Records. A written record must be kept for each *child in care* listing each *medication*, both prescription and over-the-counter, that is administered or dispensed by the *academic boarding school*. The record must include all of the following:

(a) The ~~child's~~ name of the *child in care*.

(b) A description of the *medication*, instructions for use, and the recommended dosage.

(c) Dates and times *medication* is administered.

(d) A record of missed dosages.

(e) *Medication* dropped or disposed of.

(f) Method of administration for each *medication*.

(g) Identification of the person administering the *medication*.

(h) Any possible adverse reactions to the *medication*.

(i) Documentation of any *medication* taken outside the *facility* to be administered during a home visit or other activity.

(11) Where applicable, the *academic boarding school* must maintain documentation of the continuing evaluation of the ability of the *child in care* to self-administer a *medication*.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0256
Staff Training

THIS RULE IS REPEALED

~~In addition to the requirements to provide orientation in OAR 413-215-0061(4), An *academic boarding school* (defined in OAR 413-215-0206) must meet the all of the following training requirements with respect to its *staff* (defined in OAR 413-215-0206):~~:

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~~(1) *Staff* of the *academic boarding school* must be provided with orientation training prior to or within 30 days of hire.~~

~~(2) *Staff* of the *academic boarding school* must receive ongoing training at least annually on all of the following:~~

~~(a) Mandatory child abuse reporting.~~

~~(b) Procedures for handling emergencies.~~

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327

413-215-0261
Minimum Staffing Requirements

~~An *academic boarding school* (defined in OAR 413-215-0206) must meet all of the following requirements:~~

(1) The *academic boarding school* must provide adequate supervision and protection for children. The supervision must be adequate for the type of program, location of program, the time of day or night, the age and type of children in care served, physical plant design, location, and ability of the supervisor to respond, electronic backup systems, and other means available to ensure supervision and protection.

(2) Additional staffing requirements for emergency response.

(a) When there is only one *employee* ~~(defined in OAR 413-215-0206)~~ of the *academic boarding school* on duty in a *facility* ~~(defined in OAR 413-215-0206)~~, there must be additional *staff* ~~(defined in OAR 413-215-0206)~~ immediately available in the event of an emergency, with a maximum response time of 30 minutes.

(b) One *employee* who is age 18 or over, has a current certification in cardiopulmonary resuscitation and first aid, and is capable of taking appropriate action in an emergency must be on site at all times when one or more ~~boarding students~~children in care are present on the premises of the *academic boarding school*.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

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413-215-0266
Separation of Children

An *academic boarding school* ~~(defined in OAR 413-215-0206)~~ must meet all of the following requirements:

(1) Combining children and adults. Special care must be taken by an *academic boarding school* to provide adequate supervision of children in care when ~~adults~~children in care 18 years of age or older are being served by the *academic boarding school*. ~~Children and adults must be housed in separate bedrooms, except that a *child* (defined in OAR 413-215-0206) and the child's parent may be housed in the same room if the parent is the child's caretaker. If a person is 18 years of age or older, and is to share a bedroom with a *child*, the *academic boarding school* must obtain written approval from the DHS Licensing Coordinator.~~

(2) Co-ed facilities. Special care must be taken by an *academic boarding school* to provide adequate supervision when the program serves both males and females concurrently. Children's bedrooms for males must be separated from bedrooms for females.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0271
Consents, Disclosures, and Authorizations

(1) Consents. For each ~~*boarding student* (defined *in* OAR 413-215-0206)~~*child in care* of an *academic boarding school* ~~(defined in OAR 413-215-0206)~~, the *academic boarding school* must ensure that a parent or legal guardian signs a consent that authorizes the *academic boarding school* to undertake each of the following:

(a) To provide routine and emergency medical care. However, if the parent or legal guardian relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the *academic boarding school* is not required to use medical, psychological, or rehabilitative procedures, unless the *child in care* is old enough to consent to these procedures and does so. The *academic boarding school* must have policies and procedures for this practice, which are reviewed and approved by the ~~boarding student's~~child in care's parent or legal guardian.

(b) To provide care to the *child in care* ~~(defined in OAR 413-215-0206) to the student~~.

(c) To allow access to a *child in care* as required in ORS 418.305 and OAR 413-215-0091 and 413-215-0101.

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(2) The *academic boarding school* will make any written policy or procedure pertaining to program services available for review by the *child*, parent, or legal guardian, upon request.

(3) Authorizations. Authorizations must be pre-approved by the child in care's parent or legal guardian to allow children to participate in potentially hazardous activities, ~~such as~~ including, but not limited to, using motorized yard equipment, swimming, and horseback riding.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0276
Information about ~~Boarding Students~~Children in Care

~~Child's files.~~Files of Children in Care. For each ~~*boarding student* (defined in OAR 413-215-0206)~~*child in care* of an *academic boarding school* ~~(defined in OAR 413-215-0206)~~, the *academic boarding school* must maintain a record that includes all of the following information:

(1) The ~~child's~~ name, gender, and date of birth of the *child in care*.

(2) The date of admission to the *program*.

(3) The name, address, and telephone number of:

(a) The child in care's parents.

(b) The child in care's legal guardian, if different than the parents, and a copy of the document that provides for his or her authority over the *child in care*.

(4) Incident Reporting. A written description of any injury, accident, or unusual incident involving a *child in care* must be placed in the individual child in care's record.

(5) Any required signed consents and authorizations.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

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Licensing Foster Care Agencies

413-215-0301
Foster Care Agencies, What Law Applies

These rules, OAR 413-215-0301 to 413-215-0396, regulate a *child-caring agency* licensed as a *foster care agency*. A *foster care agency* must also comply with OAR 413-215-0001 to 413-215-0131A ~~*private child-caring agency* (defined in OAR 413-215-0006) that uses care in the homes of provider parents or foster parents as a placement option must be licensed in accordance with and comply with OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0301 to 413-215-0396~~.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0306
Definitions

THIS RULE IS REPEALED

~~As used in OAR 413-215-0301 to 413-215-0396:~~

~~(1) "Age-appropriate or developmentally appropriate activities" means:~~

~~(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child or young adult 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 or young adult, activities or items that are suitable for the child or young adult based on the developmental stages attained by the child or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the child or young adult.~~

~~(2) "Approved provider parent" means an individual who a *foster care agency*, Oregon Youth Authority (OYA), or a governmental agency other than the Department has approved to provide care to children in the home of the individual.~~

~~(3) "Certified provider home" means the home of at least one *approved provider parent* or *foster parent* that a *foster care agency* has approved for this individual to provide care to children placed by the *foster care agency*.~~

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~~(4) "Criminal history check" means compliance with the Department's criminal records history rules (OAR 407-007-0200 to 407-007-0370). To comply with these rules, the *agency* must appoint a Contact Person (CP) who is designated to receive and process criminal history and child abuse check forms. Final fitness determinations will be made by the Department.~~

~~(5) "Department" means the Department of Human Services, Child Welfare.~~

~~(6) "Foster care agency" means a *private child-caring agency* (defined in OAR 413-215-0006) that offers to place children by taking physical custody of and then placing the children in homes certified by the agency.~~

~~(7) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated child or young adult placed in the home by the Department.~~

~~(8) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child or young adult while encouraging the emotional and developmental growth of the child or young adult, that a substitute care provider shall use when determining whether to allow a child or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325

413-215-0311
License Requirements

(1) A *foster care agency* ~~(defined in OAR 413-215-0306)~~ must be licensed by the Department to certify a home as a ~~*certified provider*~~*proctor foster home* ~~(defined in OAR 413-215-0306)~~.

(2) A *foster care agency* must be licensed by the Department before the *foster care agency* accepts physical custody of a *child in care* for placement in ~~the home of~~ a *proctor foster home*~~*parent* (defined in OAR 413-215-0306) or *approved provider parent* (defined in OAR 413-215-0306)~~.

(3) In addition to the requirements in OAR 413-215-0001 to 413-215-0131, to be licensed by the Department, a *foster care agency* must:

(a) Have a current, written program statement that describes:

(A) The type of provider and foster care provided.

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(B) The children in care served.

(C) The services provided to the children in care, their families, their foster families, or their approved provider families.

(D) The geographical area covered.

(b) Have an ongoing recruitment and retention program to ensure an adequate number of suitable ~~certified provider~~proctor foster homes based on the written program statement of the *foster care agency*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0313
Personal Qualifications Required for Approved ~~Provider~~Proctor Foster Parents

(1) To be approved by a *foster care agency* as an *approved ~~provider~~proctor foster parent* ~~(defined in OAR 413-215-0306)~~, the applicant must:

(a) Be at least 21 years of age.

(b) Possess the ability to exercise sound judgment and demonstrate responsible, stable, emotionally mature behavior.

(c) Possess the ability to manage the applicant's home and personal life.

(d) Possess the ability to apply the *reasonable and prudent parent standard* when determining whether to allow a *child* ~~or young adult in substitute~~*in care* to participate in extracurricular, enrichment, cultural, and social activities.

(e) Maintain conditions in the home that provide safety and well-being for the *child in care*.

(f) Have supportive relationships with adults and children living in the household and with others in the community.

(g) Have a lifestyle and personal habits free of criminal activity and abuse or misuse of alcohol or other drugs.

(h) Have the physical and mental capacity to care for a *child* ~~or young adult~~*in care*. A *foster care agency* or the Department may, by request, require an applicant to –

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(A) Provide copies of medical reports from a health care professional.

(B) Complete an expert evaluation with a report provided to the *foster care agency*.

(i) Assure that all adult members of the household:

(A) Possess the ability to exercise sound judgment and demonstrate responsible, stable, emotionally mature behavior, within the individuals' developmental and cognitive abilities;

(B) Do not pose a risk to the safety, health, and well-being needs of a child in care;

(C) Have a lifestyle and personal habit free of criminal activity and abuse or misuse of alcohol or other drugs; and

(D) Cooperate with the foster care agency's assessment of the household.

(2) A *foster care agency* may only approve an applicant as an *approved* ~~*provider*~~*proctor foster parent* if the applicant meets the requirements of section (1) of this rule.

(3) A *foster care agency* may only use a ~~*certified provider*~~ *proctor foster home* ~~(defined in OAR 413-215-0306)~~ if each *approved* ~~*provider*~~*proctor foster parent* ~~or *foster parent* (defined in OAR 413-215-0306)~~ meets the requirements of section (1) of this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0316
Assessment and Approval of Proctor Foster Homes~~Orientation for Certified Provider Home Applicants~~

THIS RULE IS AMENDED IN ITS ENTIRETY

A *foster care agency* must comply with all of the following requirements:

(1) Prior to approval of an *approved proctor foster parent* and prior to the certification of a *proctor foster home* the *foster care agency* must complete a *proctor foster home* assessment for each *proctor foster home* applicant.

(2) The *proctor foster home* assessment must be based on an on-site review of the *proctor foster home* applicant's home, and observations of and interviews with each member of the household, *background check* information, and any information gathered during the

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course of the assessment. The *foster care agency* must require that each applicant submit all of the following:

(a) A completed application. In a two-parent family, the application must be signed by both *proctor foster home* applicants.

(b) Assurance that the home is the primary residence of the *proctor foster home* applicant and is the residence where each *child in care* will reside.

(c) A completed statement of physical and mental health.

(d) If the *foster care agency* considers it appropriate, a report from a licensed health care or mental health professional concerning any medical, psychological, or substance-abuse problem that might interfere with a *proctor foster home* applicant's ability to care for a *child in care*.

(e) A minimum of four references, not more than one of which may be a relative of the *proctor foster home* applicant.

(f) Names and contact information of at least two individuals with whom the applicant is likely to remain in contact if displaced due to a natural disaster.

(3) The *foster care agency* must complete a written home study that includes all of the following information:

(a) Safety information, including documentation that the home is in full compliance with the standards for the proctor foster home environment in OAR 413-215-0318.

(b) The names and ages of children in the home and children no longer in the home.

(c) A *background check* for all members of the household age 18 and over as required by OAR 407-007-0200 to 407-007-0370. A *criminal history check* for a household member under the age of 18 is required if there is reason to believe that the *background check* may reveal information that is useful in assessing any risk posed by the household member.

(d) A completed child abuse history background check from every state, where the individual has resided in the last five years and a request for a child abuse history background check from any other country outside of the United States where the individual has resided in the last five years:

(A) For all members of the household age 18 and over; and

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(B) For a household member under the age of 18 if there is reason to believe that the child abuse history check may reveal information that is useful in assessing any risk posed by the household member.

(e) The *proctor foster home* applicant's placement preferences.

(f) The *proctor foster home* applicant's motivation for providing foster care.

(g) The *proctor foster home* applicant's life experiences and challenges.

(h) The *proctor foster home* applicant's relevant health history.

(i) The *proctor foster home* applicant's education and training.

(j) The *proctor foster home* applicant's employment and finances.

(k) The *proctor foster home* applicant's current support systems and need for additional support services.

(l) The *proctor foster home* applicant's marital history, including previous marriages, divorces, and long-term relationships.

(m) The *proctor foster home* applicant's parenting skills and values.

(n) The *proctor foster home* applicant's lifestyle.

(o) The *proctor foster home* applicant's religion or spiritual beliefs.

(p) Cultural background and experiences with diverse cultural groups.

(q) The proctor foster home applicant's ability to respect the spiritual beliefs, sexual orientation, gender identity and gender expression, disabilities, national origin, and cultural identifies of each child in care, and provide opportunities to enhance the positive self-concept and understanding of the heritage of the child in care.

(r) An assessment of current and previous licenses, certifications, and applications for relative care, adult or child foster care, day care, adoption, and other types of services for vulnerable individuals, including adult care giving. Information must include any denials, suspensions, revocations, or terminations.

(s) An assessment of the areas in which training is needed and the plan of the *foster care agency* for providing needed training, including time frames.

(t) The *proctor foster home* applicant's home and community.

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(u) Assessment and recommendations including the characteristics and maximum number of children in care who may be placed in the *proctor foster home*.

(4) A process for notifying *proctor foster home* applicants. The *foster care agency* must notify each *proctor foster home* applicant in writing of the acceptance or denial of the application for approval as a *proctor foster home* and certification as a *proctor foster home*. If the *foster care agency* denies an application based on information provided by the Department to the *foster care agency* concerning an ongoing abuse or neglect investigation involving the applicant or findings of substantiated allegations of abuse or neglect by the applicant, the *foster care agency* must disclose to the *proctor foster home* applicant the reason for the denial.

~~(1) To be approved by a *foster care agency* (defined in OAR 413-215-0306) to operate a *certified provider home* (defined in OAR 413-215-0306), an applicant must complete orientation training.~~

~~(2) The orientation training required by section (1) of this rule must, at a minimum, include all of the following:~~

~~(a) The policies and procedures of the *foster care agency*.~~

~~(b) The needs and characteristics of children needing placement.~~

~~(c) Attachment, separation, and loss issues for children and families.~~

~~(d) The importance of cultural identity to the child and ways to foster this identity.~~

~~(e) The impact of foster care on the child and family.~~

~~(f) The rights and responsibilities of the *foster parent* (defined in OAR 413-215-0306) or *approved provider parent* (defined in OAR 413-215-0306) and the *foster care agency*.~~

~~(g) The resources available to the *foster parent* or *approved provider parent*.~~

~~(h) Legal responsibility to report suspected child abuse.~~

~~(i) Confidentiality.~~

~~(j) Rights of families and children.~~

~~(k) Copies of all of the following documents:~~

~~(A) The program statement.~~

~~(B) The requirements for certified provider homes.~~

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~~(C) The policies of the *foster care agency* governing certified provider homes.~~

~~(D) The training requirements of the *foster care agency* for certified provider homes.~~

~~(E) The licensing rules for foster care agencies.~~

~~(F) Expectations for working with the *foster care agency*.~~

~~(3) The *foster care agency* must document in the file of each applicant:~~

~~(a) Whether the applicant has received the orientation described in section (2) of this rule;~~

~~(b) Whether the *foster care agency* has provided the notification described in OAR 413-215-0321(4); and~~

~~(c) Whether the applicant is approved and a certificate has been issued by the *foster care agency* to operate a *certified provider home*. If a certificate is issued, the *foster care agency* must document the number of children and the age range of children the home is certified to serve, and any specific gender or other restrictions and limitations.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0318
Standards for the Proctor Foster Home Environment

THIS IS A NEW RULE

A *foster care agency* must ensure a *proctor foster home* meets all of requirement in this rule. This must be documented and kept in the file of the *proctor foster home*.

(1) General Conditions.

(a) The home must be the primary residence of the applicant or *approved proctor foster parent* and the residence where the *child in care* will reside.

(b) The home must have adequate space, including space for safe and appropriate sleeping arrangements, for each *child in care*.

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(A) The *foster care agency* must consider the age, gender, special needs, behavior, and history of abuse or neglect of the *child in care* in determining appropriate sleeping arrangements.

(B) Children in care must be housed in separate bedrooms, except that a *child in care* who is the parent of a minor child may be housed in the same room if the parent is the caretaker of the child. If a *child in care* is 18 years of age or older and is to share a bedroom with a *child in care* under 18 years of age, written approval must be obtained from the Department licensing coordinator.

(C) Unrelated children in care may not share a bed.

(c) The home may not use video monitoring of bedrooms, bathrooms, and other personal spaces.

(d) If a child or young adult in the care or custody of the Department will be placed in the *proctor foster home*, the home must post and comply with the Foster Children's Bill of Rights as required by OAR 413-010-0170 to 413-010-0185.

(e) The applicant or *approved proctor foster parent* must have access to a working telephone to make and receive phone calls.

(f) The applicant or *approved proctor foster parent* must consider the age, special needs, and capabilities of the children in care, and have necessary safeguards to assure that---

(A) Swimming pools, hot tubs, wading pools, ponds, and other water hazards are inaccessible to a *child in care* unless responsibly supervised, and any safeguards comply with state and local ordinances;

(B) Outdoor tools and equipment, machinery, chemicals, flammables, and combustibles are stored in a safe manner;

(C) Animals are properly cared for and kept in compliance with local ordinances;

(D) Access of a *child in care* to potentially dangerous animals is restricted; and

(E) Hunting and sporting equipment, such as knives, spears, arrows, hunting sling shots, bows, and martial art weapons are stored in a safe and secure manner and inaccessible to a *child in care*.

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(g) The applicant or *approved proctor foster parent* must consider the age, special needs, and capabilities of the *child in care* when determining if an animal is a safe and appropriate pet.

(h) The applicant or *approved proctor foster parent* must receive authorization from the *foster care agency* prior to the beginning of hunting or target practice by the *child in care*.

(2) Sanitation and Health.

(a) If there are potential hazards in or around the home, a plan to prevent the exposure of the *child in care* to the potential hazard must be developed and approved by the *foster care agency*.

(b) The home must have the necessary equipment for the safe preparation, storage, serving, and clean-up of food.

(c) The home must have a safe, properly maintained, and operational heating system. Space heaters must be plugged directly into a wall outlet and must be equipped with tip-over protection.

(d) The home and furnishings must be clean and in good repair, and the grounds must be maintained.

(e) There must be no accumulation of garbage or debris.

(f) The home must have safe and adequate drinking water, and an adequate source of safe water to be used for personal hygiene.

(g) There must be provision for the safe storage and administration of all medications in the household, taking into consideration the child's age, developmental level, and need.

(h) There must be easily accessible first aid supplies, and a reasonable understanding of how to use such supplies.

(i) Smoking, tobacco and nicotine limitations:

(A) A *child in care* may not be exposed to any type of second-hand smoke in the family's home or vehicle; and

(B) A member of the household may not provide any form of tobacco, nicotine, or other product illegal for a minor to possess to a *child in care*.

(C) All products referenced in paragraph (B) of this subsection must be stored in a safe and secure manner inaccessible to a *child in care*.

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(3) Fire and Carbon Monoxide Safety.

(a) The home must have all of the following:

(A) A working smoke alarm in each bedroom where a *child in care* sleeps within 24 hours of the time the applicant is certified or approved.

(B) A working carbon monoxide detector within 15 feet of each bedroom where a *child in care* sleeps and at least one on each floor within 24 hours of the time the applicant is certified or approved.

(C) At least one operable fire extinguisher rated 2-A:10-B-C or higher within 24 hours of the time the applicant is certified or approved.

(D) At least one means of emergency exit and at least one means of rescue from the home.

(E) An adequate safeguard around operating fireplaces, wood stoves, or other heating systems that may cause burns to a *child in care* that is developmentally unable to reasonably follow safety rules regarding such devices.

(F) A written, comprehensive home evacuation plan, shared with each *child in care* at the time of placement, and practiced at least every six months. The written, comprehensive home evacuation plan must include a provision for the safe exit of a *child in care* who is not capable of understanding or participating in the evacuation plan.

(G) Interior doors that lock must be operable from both sides of the door.

(b) Each bedroom used by a *child in care* must have:

(A) At least one unrestricted exit;

(B) At least one secondary means of exit or rescue;

(C) Smoke alarms required under paragraph (3)(a)(A) of this rule;

(D) Unrestricted, direct access at all times to hallways, corridors, living rooms, or other such common areas; and

(E) Quick release mechanisms on all barred windows.

(4) Travel and Transportation Safety.

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(a) An applicant or *approved proctor foster parent* must have available, and be willing to use, a safe and reliable method of transportation.

(b) Any member of the household transporting a *child in care* must provide proof of a valid driver's license and current insurance on any family-owned motorized vehicle by which a *child in care* might be transported, when a family has applied for certification or renewal of certification.

(c) The applicant or *approved proctor foster parent* must assure that, as required by current state law:

(A) Only a licensed and insured driver transports a *child in care* in motorized vehicles; and

(B) A *child in care* uses a seat belt or age and size appropriate safety seat when transported in motorized vehicles.

(d) Written authorization from the *foster care agency* must be received by the *proctor foster home* prior to transporting a *child in care* out of the State of Oregon or outside the United States.

(e) A *proctor foster home* must request approval from the Department no less than 90 days prior to any international travel with a *child in care*. In an emergency, the *proctor foster home* must request approval from the *foster care agency* as soon as the need for international travel becomes known.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0321
Orientation for Proctor Foster Home Applicants~~Assessment and Approval of Certified Provider Homes~~

THIS RULE IS AMENDED IN ITS ENTIRETY

(1) To be approved by a *foster care agency* to operate a *proctor foster home*, an applicant must complete orientation training.

(2) In addition to the requirements in OAR 413-215-0061(4) and (5), the orientation training required by section (1) of this rule must, at a minimum, include all of the following:

(a) The policies and procedures of the *foster care agency*.

(b) The needs and characteristics of children in care needing placement.

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(c) Attachment, separation, and loss issues for children in care and families.

(d) The importance of cultural identity to the *child in care* and ways to foster this identity.

(e) The impact of foster care on the *child in care* and family.

(f) The rights and responsibilities of the *proctor foster parent* and the *foster care agency*.

(g) The resources available to the *foster parent* or *approved proctor foster parent*.

(h) Confidentiality.

(i) Rights of families and children in care.

(j) Copies of all of the following documents:

(A) The program statement.

(B) The requirements for proctor foster homes.

(C) The policies of the *foster care agency* governing proctor foster homes.

(D) The training requirements of the *foster care agency* for proctor foster homes.

(E) The licensing rules for foster care agencies.

(F) Expectations for working with the *foster care agency*.

(3) The *foster care agency* must document in the file of each applicant:

(a) Whether the applicant has received the orientation described in section (2) of this rule;

(b) Whether the *foster care agency* has provided the notification described in OAR 413-215-0316(4); and

(c) Whether the applicant is approved and a certificate has been issued by the *foster care agency* to operate a *proctor foster home*. If a certificate is issued, the *foster care agency* must document the number and the age range of children in care the home is certified to serve, any specific gender or other restrictions and limitations, and a statement that the *foster care agency* has determined the *proctor foster home* meets the standards established in these rules.

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~~A *foster care agency* (defined in OAR 413-215-0306) must comply with all of the following requirements:~~

~~(1) Prior to approval of an *approved provider parent* (defined in OAR 413-215-0306) and prior to the certification of a *certified provider home* (defined in OAR 413-215-0306), the *foster care agency* must complete a *certified provider home* assessment for each parent.~~

~~(2) The *certified provider home* assessment must be based on an on-site review of the applicant's home, and observations of and interviews with each member of the household. The *foster care agency* must require that each applicant submit all of the following:~~

~~(a) A completed application. In a two-parent family, the application must be signed by both parents.~~

~~(b) Assurance that the home is the primary residence of the applicant family and is the residence where each child will reside.~~

~~(c) A completed statement of physical and mental health.~~

~~(d) If the *foster care agency* considers it appropriate, a report from a licensed health care or mental health professional concerning any medical, psychological, or substance-abuse problem that might interfere with a parent's ability to care for a child.~~

~~(e) A minimum of four references, not more than one of which may be a relative of the applicant.~~

~~(3) The *foster care agency* must complete a written home study that includes all of the following information:~~

~~(a) Safety information, including documentation that the home is in full compliance with the safety standards identified in the Safety Assessment Checklist (CF 979).~~

~~(b) The names and ages of children in the home and children no longer in the home.~~

~~(c) A *criminal history check* for all members of the household age 18 and over as required by OAR 407-007-0200 to 407-007-0370. A *criminal history check* for a household member under the age of 18 is required if there is reason to believe that the household member may pose a risk to children placed in the home.~~

~~(d) A completed child abuse history background check from every state where the individual has resided in the last five years and a request for a child abuse history background check from any other county where the individual has resided in the last five years:~~

~~(A) For all members of the household age 18 and over; and~~

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~~(B) For a household member under the age of 18 is required if there is reason to believe that the household member may pose a safety threat to children placed in the home.~~

~~(e) The applicant's placement preferences.~~

~~(f) The applicant's motivation for providing foster care.~~

~~(g) The applicant's life experiences and challenges.~~

~~(h) The applicant's relevant health history. Each parent in a *certified provider home* must assure that a child will not be exposed to any type of second hand smoke in the home or in family vehicles, and that no member of the household provides any form of tobacco products to a child.~~

~~(i) The applicant's education and training.~~

~~(j) The applicant's employment and finances.~~

~~(k) The applicant's need for support services and description of current support systems.~~

~~(l) The applicant's marital history, including previous marriages, divorces, and long-term relationships.~~

~~(m) The applicant's parenting skills and values.~~

~~(n) The applicant's lifestyle.~~

~~(o) The applicant's religion or spiritual beliefs.~~

~~(p) Cultural background and experiences with diverse cultural groups.~~

~~(q) An assessment of current and previous licenses, certifications, and applications for relative care, foster care, day care, adoption, and other types of services for vulnerable individuals, including adult care giving. Information must include any denials, suspensions, revocations, or terminations.~~

~~(r) An assessment of the areas in which training is needed and the plan of the *foster care agency* for providing needed training, including time frames.~~

~~(s) The applicant's home and community.~~

~~(t) Summary assessment and recommendations including the characteristics and number of children who may be placed.~~

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~~(4) A process for notifying applicants. The *foster care agency* must notify each applicant in writing of the acceptance or denial of the application for approval as an *approved provider parent* and certification as a *certified provider home*.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0326
Training for Parents in ~~Certified Provider Homes~~Proctor Foster Care

(1) The *foster care agency* ~~(defined in OAR 413-215-0306)~~ must have and follow a written training plan that:

(a) Provides each *proctor foster home* parent in a ~~*certified provider home* (defined in OAR 413-215-0306)~~*proctor foster home* a minimum of 15 hours of training before the *foster care agency* places a *child in care* in the home.

(b) Provides each *proctor foster home* parent in a ~~*certified provider*~~*proctor foster home* a minimum of 15 hours of training annually prior to the issuance of the annual approval required by OAR 413-215-0331.

(c) The training plan must include all of the following topics:

(A) Characteristics and needs of children in care who may be placed with the ~~family~~*proctor foster home*.

(B) Ways to effectively parent children in care who are placed by the *foster care agency*, including application of the *reasonable and prudent parent standard*.

(C) Positive behavior management, non-punitive discipline.

(D) The importance of the family of the *child in care* and working with the family of the *child in care*.

(E) The importance of age-appropriate or developmentally appropriate extracurricular, enrichment, cultural, and social activities.

(F) Preparation of the *child in care* for independence based on the age, stage of development, and needs of the *child in care*.

(G) Legal responsibility to report suspected child abuse.

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(2) The *foster care agency* must document in ~~parent~~*proctor foster home* records the training received by each *proctor foster home* parent.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0331
Annual Review and Approval

A *foster care agency* ~~(defined in OAR 413-215-0306)~~ must comply with all of the following requirements:

(1) The *foster care agency* must evaluate every ~~*certified provider home* (defined in OAR 413-215-0306)~~*proctor foster home* at least once every ~~twelve~~ 12 months to ensure that the home continues to meet the ~~applicable~~ standards.

(2) The annual review must include all of the following:

(a) The *foster care agency* must update the written home study required by OAR 413-215-03~~2~~16(3).

(b) A ~~*criminal history*~~*background check* for all members of the household age 18 and over must be completed as required by OAR 407-007-0200 to 407-007-0370~~413-120-0400 to 413-120-0470~~. A ~~*criminal history*~~*background check* for a household member under the age of 18 is required if there is reason to believe that a *background check* may reveal information that is useful in assessing any risk posed by the household member ~~may pose a risk to children placed in the home~~.

(c) A completed state of Oregon child abuse history background check must be completed:

(A) For all members of the household age 18 and over; and

(B) For a household member under the age of 18 ~~is required~~ if there is reason to believe that the child abuse history check may reveal information that is useful in assessing any risk posed by the household member ~~may pose a safety threat to children placed in the home~~.

(d) If an adult member of the household has lived outside the state of Oregon in the previous five years, and an out-of-state child abuse history background check has not been completed, a child abuse history background check must be requested from each state or foreign country where the individual resided in the last five years.

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(e) Documentation that the home remains in full compliance with the safety standards ~~identified in the Safety Assessment Checklist (CF 979)~~in OAR 413-215-0318.

(f) A recommendation to approve or deny the re-issuance of the certificate of approval of the ~~*certified provider*~~ *proctor foster home*. If the *agency* denies renewal based on information provided by the Department to the *agency* concerning an ongoing abuse or neglect investigation involving the applicant or findings of substantiated allegations of abuse or neglect by the *proctor foster home* applicant, the *agency* must disclose to the *proctor foster home* applicant the reason for the denial.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0336
Complaints about ~~Certified Provider~~Proctor Foster ~~h~~Homes

(1) Employees of the *foster care agency* ~~(defined in OAR 413-215-0306)~~ are covered by the requirements to report suspected child abuse in ORS 419B.010 and, in addition to any other requirements of law, must refer a complaint of suspected child abuse to the ~~local branch of the~~ Department for investigation.

(2) If the *foster care agency* receives information alleging a ~~*certified provider home* (defined in OAR 413-215-0306)~~*proctor foster home* is not in compliance with the certification requirements of the *foster care agency*, including, but not limited to the rules in OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0301 to 413-215-0396, the *foster care agency* must immediately initiate an on-site assessment of the home ~~as soon as is appropriate, based on the nature of~~ and report the complaint to the Department.

(a) As part of the assessment, the *foster care agency* must prepare a detailed written ~~investigation~~ report that includes all of the following information:

(A) The name of the *foster care agency* employee who received the complaint, date the complaint was received, name of complainant, and the allegations.

(B) Dates and places of contacts, the names of persons interviewed or observed, and the names of the interviewers.

(C) Findings, summary, and conclusions regarding compliance or noncompliance and recommendations regarding corrective action.

(b) The *foster care agency* must complete the assessment ~~in a timely manner~~within 30 days following the receipt of the complaint and must provide a copy of the written assessment to a Department licensing coordinator.

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(c) The *foster care agency* must provide the *proctor foster parent* ~~(defined in OAR 413-215-0306) or *approved provider parent* (defined in OAR 413-215-0306)~~ with a copy of the report of the assessment once it is complete, and must inform ~~this~~the *proctor foster parent* in writing that he or she has a right to have his or her response included in an attachment to the report.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0341
Closures of ~~Certified Provider~~Proctor Foster Homes

If a *foster care agency* ~~(defined in OAR 413-215-0306)~~ decertifies a ~~*certified provider*~~ *proctor foster home* ~~(defined in OAR 413-215-0306) or withdraws approval of an *approved provider parent* (defined in OAR 413-215-0306)~~, the *foster care agency* must provide the *proctor foster home* parent or parents a written notice of the specific reasons for the action ~~and~~, must retain a copy of the notification in the record of the ~~*certified provider home*~~*proctor foster home*, and must notify the Department.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0346
Modifications to the Certification of a Certified Provider Home

THIS RULE IS REPEALED

~~A *foster care agency* (defined in OAR 413-215-0306) must document all of the following in the record of each *certified provider home* (defined in OAR 413-215-0306):~~

~~(1) Change of address of a parent.~~

~~(2) Change in name of a parent.~~

~~(3) Change in household composition.~~

~~(4) Any exceptions to or suspensions of the certification by the *foster care agency* of a *certified provider home*.~~

~~(5) Inactive referral status.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325

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413-215-0349
Notifications Required of Proctor Foster Home Parents

A *foster care agency* ~~(defined in OAR 413-215-0306)~~ must require *proctor foster home* parents in a ~~*certified provider*~~*proctor foster home* ~~(defined in OAR 413-215-0306)~~ to notify the *foster care agency* of each of the following:

(1) Any physical or structural changes in the *proctor foster home* in which they live.

(2) Any arrests or court convictions of any member of the household. A parent of the ~~*certified provider*~~*proctor foster home* must notify the *foster care agency* within one working day of learning about the arrest or conviction.

(3) Any allegation of child abuse or neglect perpetrated by any member of the household or any individual who regularly visits the *proctor foster home*. A *proctor foster home* parent ~~of the *certified provider home*~~ must notify the *foster care agency* on the day he or she learns of the allegation.

(4) The suspension of a driver's license of any adult on the Certificate of Approval or any member of the household.

(5) Any change in the physical or mental health or medication of a member of the household that reasonably could affect the ability of the ~~family~~*proctor foster home* to meet the safety needs of the *child in care*.

(6) Any time a member of the household applies to become an in-home child care provider, an adult foster care, or in-home adult day care provider~~, including the approval of the *foster care agency* to provide such care~~.

(7) Any other circumstance that could reasonably affect the safety or well-being of a *child in care*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0351
Records of Certified Provider Homes

(1) A *foster care agency* ~~(defined in OAR 413-215-0306)~~ must safely and consistently maintain a record for each ~~*certified provider*~~ *proctor foster home* ~~(defined in OAR 413-215-0306)~~ it approves. Such records must be separate from records the *foster care agency* maintains on the children in care and families it serves.

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(2) The record for each ~~*certified provider*~~*proctor foster* *home* must contain all of the following:

(a) All documents pertaining to approval of the ~~*certified provider*~~*proctor foster* *home*.

(b) All documents pertaining to formal complaints about the ~~*certified provider*~~*proctor foster* *home*.

(c) The contract between the *foster care agency* and the parents in the ~~*certified provider*~~*proctor foster* *home*.

(d) A list of all children in care placed in the ~~*certified provider*~~*proctor foster* *home* that includes identifying and placement information.

(e) Documentation that the *foster care agency* conducted a minimum of one home visit every 180 days to assure compliance with certification standards.

(3) A *foster care agency* must document all of the following in the record of each *proctor foster home*:

(a) Change of address of a *proctor foster home* parent.

(b) Change in name of a *proctor foster home* parent.

(c) Change in household composition.

(d) Any exceptions to or suspensions of the certification by the *foster care agency* of a *proctor foster home*.

(4) Inactive referral status.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0356
Placement of a Child by a Foster Care Agency

(1) A foster care agency ~~(defined in OAR 413-215-0306)~~ may place a child in care in a ~~*certified provider*~~proctor foster home ~~(defined in OAR 413-215-0306)~~.

(2) The placement of a *child in care* in a ~~*certified provider*~~*proctor foster* *home* must be consistent with the recommendations for the use of the *proctor foster* *home* as identified in the current home assessment.

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(3) The *foster care agency* may not issue a certification for a ~~*certified provider*~~ *proctor foster home* that allows the *proctor foster home* to exceed any of the following subsections:

(a) A total of four children to one *approved proctor foster parent* ~~or *approved provider parent*~~ living in the home;

(b) A total of seven children to two approved proctor foster parents ~~or approved provider parents~~ living in the home; or

(c) A total of two children under the age of three.

~~(4) The *foster care agency* may only place or supervise a child in a *certified provider home* approved by another *foster care agency*, or with a *foster parent*, or with an *approved provider parent* approved by the Oregon Youth Authority (OYA) or another governmental agency (other than the Department), without prior approval from the parent as well as the *foster care agency* or governmental agency. Before placing the child, the *foster care agency* must obtain copies of pertinent documents from the file of the *foster parent* or *approved provider parent* to determine the safety and appropriateness of the home for the child.~~

(~~5~~4) The *foster care agency* must base each placement on an assessment of the individual needs of the *child in care* and an assessment of the ability of the *proctor foster home* ~~provider~~ to meet those needs. The *foster care agency* must document the basis for the selection in the file of the *proctor foster home*~~*parent* or *approved provider parent*~~.

~~(6) Before or at the time of placement of a child in a *certified provider home*, or within two working days after placement if the placement is an emergency placement, the *foster care agency* must have a written contract signed by the *foster parent* or *approved provider parent* and by the *foster care agency*. The contract must contain all of the following:~~

~~(a) The rights and responsibilities of the *foster care agency* and the parents regarding placement and an acknowledgment that the parents agree to follow the policies and procedures of the *foster care agency* for certified provider homes and services.~~

~~(b) Language that requires the parents to notify the *foster care agency* immediately of any circumstances in their home that reasonably could affect the safety or well-being of a child in care, including injury, illness, an emotional or mental health issue, communicable disease, an accident, or an arrest.~~

~~(7) Sleeping Arrangements.~~

~~(a) Children and adults must be housed in separate bedrooms, except that a child and the parent of the child may be housed in the same room if the parent is the caretaker of the child. If a youth is 18 years of age or older and is to share a~~

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~~bedroom with a child less than 18 years of age, written approval must be obtained from the Department licensing coordinator.~~

~~(b) The *foster care agency* must consider the age, gender, special needs, behavior, and history of abuse or neglect of the child in determining appropriate sleeping arrangements.~~

~~(c) Unrelated foster children may not share a bed.~~

(~~8~~5) The *foster care agency* must provide to the ~~parent~~*proctor foster home* a copy of the signed contract and maintain a copy in the ~~parent~~ *proctor foster home* file.

(~~9~~6) At the time of placement of each *child in care* in a ~~*certified provider*~~*proctor foster home*, the *foster care agency* must provide the proctor foster home parents with all of the following information and authorizations:

(a) The name and date of birth of the *child in care*, and the reason for placement.

(b) The name of the assigned worker and a telephone number to contact the *foster care agency*.

(c) Information about the health, behavioral characteristics, and needs of the *child in care*.

(d) Authorization and clear written instructions for obtaining medical, dental, and other professional care, and authorization for emergency medical care.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0361
Documentation Required When a Foster Care Agency Changes a Placement

Within seven working days after a *child in care* is moved out of a ~~*certified provider*~~ *proctor foster home* ~~(defined in OAR 413-215-0306)~~ and placed in a different ~~*certified provider*~~ *proctor foster home*, a *foster care agency* ~~(defined in OAR 413-215-0306)~~ must record all of the following information in the case record:

(1) The reason for the new ~~placement.~~*proctor foster home*; and

(2) The name ~~of each new *foster parent* (defined in OAR 413-215-0306) or *approved provider parent* (defined in OAR 413-215-0306), and the~~and address of the new *proctor foster home*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0366
Respite Care

A *foster care agency* ~~(defined in OAR 413-215-0306)~~ must comply with all of the following requirements:

(1) The *foster care agency* must have a respite care policy for each *proctor foster home* ~~parents and approved provider parents~~ that addresses the need to provide *children in care* with safe and adequate ~~substitute~~ care when the *proctor foster home* parents are not present.

(2) The respite care policy of the *foster care agency* must include the following:

(a) The *foster care agency* is responsible for identifying and selecting safe and responsible alternate caregivers for a *child in care* placed in a ~~*certified provider*~~*proctor foster home* ~~(defined in OAR 413-215-0306)~~:

(A) Each alternate caregiver must be at least 21 years of age;

(B) The *foster care agency* must assure completion of ~~criminal records~~ background checks (pursuant to OAR 407-007-0200 to 407-007-0370)~~and child abuse history background checks prior to an individual providing relief or respite care~~; and

(C) Prior to determining that ~~an individual~~the alternate caregiver is safe and appropriate to provide relief or respite care, the *foster care agency* must analyze information relevant to paragraphs (A) and (B) of this subsection.

(b) The ~~*certified provider*~~*proctor foster home* must receive the approval of the *foster care agency* prior to using a relief or respite caregiver.

(c) The ~~*certified provider*~~*proctor foster home* is responsible for notifying the *foster care agency* in advance when the parents plan to provide relief or respite care for another ~~*family*~~*proctor foster home* and the number of children in care will exceed the maximum number of children in care authorized.

(d) There must be a respite care plan relating to the age, developmental ability, and *special needs* of each ~~foster~~ *child in care* placed in the ~~*certified provider*~~*proctor foster home*.

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(e) There must be plans for respite care in the event of an emergency that makes a ~~*foster parent* (defined in OAR 413-215-0306) or *approved provider parent* (defined in OAR 413-215-0306)~~*proctor foster home* unavailable.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0371
Training of Foster Care Agency Staff

In addition to the ~~orientation~~ requirements in OAR 413-215-0061(4) and (5), a *foster care agency* ~~(defined in OAR 413-215-0306)~~ must meet all of the following training requirements with respect to its employees:

(1) *Staff* of the *foster care agency* must be provided with orientation training prior to or within 30 days of hire. The orientation must include training on all of the following:

(a) Discipline and ~~B~~behavior management protocols including de-escalation skills training, crisis prevention skills, positive behavior management, and disciplinary techniques that are non-punitive in nature and are focused on helping children build positive personal relationships and self-control.

(b) If restraint and seclusion are utilized by the program, the approved techniques and monitoring procedures. ~~The training must be clear in~~ The policy ~~of~~and training provided by the *foster care agency* must be clear that restraint or seclusion is used as an intervention of last resort.

(2) *Staff* of the *foster care agency* must receive ongoing training at least annually on all of the following:

~~(a) Mandatory child abuse reporting.~~

(~~b~~a) Procedures for handling environmental emergencies.

(~~c~~b) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.

(c~~d~~) Discipline and ~~B~~behavior management.

(3) Staff of the *foster care agency* must receive training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.

(4) Staff of the foster care agency must receive training related to the reasonable and prudent parent standard~~,~~ and age-appropriate or developmentally appropriate activities.

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Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0376
Health Services

A *foster care agency* ~~(defined in OAR 413-215-0306)~~ must comply with all of the following requirements:

(1) The *foster care agency* must obtain all private health record information referred to in this rule in a manner that complies with federal and state law.

(2) Medical History. Within 30 days after the *foster care agency* assumes physical custody of a *child in care*, the *foster care agency* must obtain available medical history and other health-related information on the *child in care*, including:

(a) Significant findings of the most current physical examination;

(b) The ~~child's~~child in care's current immunizations, history of surgical procedures and significant injuries, and past or present communicable diseases, to the extent such information is available under ORS 192.553~~18~~ to 192.573~~26~~;

(c) Any known allergies;

(d) Dental, vision, hearing, and behavioral health;

(e) Documentation that the *child in care* has received age-appropriate instruction regarding pregnancy prevention, nutrition, prevention of HIV and AIDS, and general information about the prevention and treatment of sexually transmitted ~~disease~~diseases; and

(f) Physician's orders, including those related to medications, if any.

(3) ~~Female health care. If licensed to serve female children,~~Health services. The *foster care agency* must provide or arrange for the following health services, as applicable:

(a) Information on maintaining reproductive health and birth control.

(b) Prenatal care.

(c) Well-baby care.

(d) Fetal alcohol syndrome.

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(e) Accessing child and infant health insurance programs.

(f) Screening for breast and other common cancers.

(g) Provide all necessary feminine hygiene products.

(h) Access to birth control, vaccinations, and information about preventing sexually transmitted diseases.

(4) Medical examinations. The *foster care agency* must safeguard the health of each *child in care* it serves by providing for a medical examination by a physician or qualified health professional at the following intervals:

(a) Three examinations during the first year of the ~~child's~~child in care's life.

(b) One examination at the age of two.

(c) One examination at the age of four.

(d) One examination at the age of six.

(e) One examination at the age of nine.

(f) One examination at the age of fourteen.

(5) The *foster care agency* must have established protocols for accessing routine and urgent care for ~~the~~ children in ~~the physical custody of the *foster*~~ care ~~*agency*~~.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0381
Medication

A *foster care agency* ~~(defined in OAR 413-215-0306)~~ must comply with all of the following requirements:

(1) Policy and procedures. The *foster care agency* must have policies and procedures that cover prescriptions, herbal remedies, and all non-prescription medications that address all of the following:

(a) How the medication will be administered.

(b) By whom the medication will be administered.

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(c) How the staff of the *foster care agency* and the *proctor foster home* parents who administer medication will be trained.

(d) How the administration of medication will be documented.

(e) How the administration of medication will be monitored.

(f) How unused medication will be disposed of.

(g) The process that ensures that each ~~child's~~child in care's prescription and non-prescription medications are reviewed, unless the medications are all provided through a single pharmacy. As used in this rule, "non-prescription medication" means any medication that does not require a written prescription for purchase or dispensing.

(2) A prescription, signed by a physician or qualified health professional, is required before any prescription medication is administered to, or self-administered by a *child in care*. Medications prescribed for one *child in care* may not be administered to, or self-administered by another *child~~,~~ in care, proctor foster home~~parent~~* ~~(defined in OAR 413-215-0306), *approved provider parent* (defined in OAR 413-215-0306)~~, or staff. As used in this rule "self-administration of medication" refers to the act of a resident placing a medication internally in, or externally on, his or her own body.

(3) A written order, signed by a physician or qualified health professional, is required for any medical treatment, special diet, physical therapy, aid to physical functioning, or limitation of activity.

(4) Before a *foster care agency* permits a *child in care* to self-administer prescription medication, self-administration must be recommended by the *foster care agency*, approved in writing by a physician, and closely monitored by the *proctor foster home parent~~, approved provider parent,~~* or the staff of the *foster care agency*.

(5) Medication storage.

(a) Prescription medications that are unused and medication that is outdated or recalled may not be maintained in a ~~*certified provider home* (defined in OAR 413-215-0306)~~*proctor foster home*. "Outdated" means any medication whose designated period of potency, as indicated on the label, has expired.

(b) The ~~*certified provider*~~*proctor foster home* may maintain a stock supply of non-prescription medications.

(c) All prescription and non-prescription medications stored in the *proctor foster home* must be kept in a manner that they are inaccessible to children in care.

(d) Medications requiring refrigeration must be refrigerated and secured.

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(e) Medications must be maintained and stored in its original container, including the prescription label.

(6) Medication disposal. Medications must be disposed of in a manner that ensures that they cannot be retrieved, in accordance with all applicable state and federal law.

(7) A written record of all medication disposals must be maintained and must include all of the following:

(a) A description of the prescribed medication and the amount disposed.

(b) The *child in care* for whom the medication was prescribed.

(c) The reason for disposal.

(d) The method of disposal.

(e) The name of the person disposing the medication, and the initials of an adult witness.

(8) Medication records. A written record must be kept for each *child in care* listing all medications, both prescription and over-the-counter, that is administered. The record must include all of the following:

(a) The ~~child's~~ name of the *child in care*.

(b) A description of the medication, instructions for use, and the recommended dosage.

(c) Dates and times medication is administered.

(d) A record of missed dosages.

(e) Medication dropped or disposed of.

(f) Method of administration for each medication.

(g) Identification of person administering the medication.

(h) Any possible adverse reactions to the medication.

(i) Documentation of any medication taken out of the ~~*certified provider*~~*proctor foster home* by a *child in care* during a home visit or other activity.

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(9) Where applicable, the *foster care agency* must maintain documentation of the continuing evaluation of the ~~child's~~ ability of the *child in care* to self-administer a medication.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0386
Referral and Initial Evaluation of Children in care

A *foster care agency* ~~(defined in OAR 413-215-0306)~~ must comply with all of the following requirements:

(1) Referral. The *foster care agency* must have a policy that addresses the process by which children in care are referred to the *foster care agency*. The policy must include all of the following:

(a) From whom referrals are accepted.

(b) On what basis children in care are accepted by the *foster care agency*.

(c) How information necessary to provide for the safety and care of children in care will be provided to *proctor foster* ~~parents, approved provider~~*home* parents, and staff of the *foster care agency*.

(2) Initial evaluation of a child. The *foster care agency* must evaluate each *child in care* referred to the *foster care agency* for placement. In conducting the evaluation, the *foster care agency* must:

(a) Request and review all available reports of the ~~child's~~child in care's past and present behavior, educational status, and physical and ~~behavioral~~mental health.

(b) Make a preliminary determination whether the prospective *child in care* has disorders, disabilities, or deficits due to mental, emotional, behavioral, or physical problems for which care, supervision, training, rehabilitation, or treatment is needed to reduce a problem, maintain present level of functioning, or clarify the ongoing placement or service needs of the *child in care*.

(3) The *foster care agency* must be prepared to provide to a parent or legal guardian of a referred child suggestions for obtaining resources in the event the child is not accepted by the *foster care agency* for placement.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

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413-215-0391
Consents, Disclosures, and Authorizations

(1) Consents. For each *child in care* taken into the physical custody of a *foster care agency* ~~(defined in OAR 413-215-0306)~~, the *foster care agency* must ensure that a parent or legal guardian signs a consent that authorizes under what circumstances the *foster care agency* ~~to~~may undertake each of the following, as applicable:

(a) To provide routine and emergency medical care. If a *foster care agency* relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the *foster care agency* may not require medical, psychological, or rehabilitative procedures. The *foster care agency* must have policies and procedures for this practice, which are reviewed and approved by the parent or legal guardian of the *child in care*.

(b) To use the discipline and behavior management systems of the *foster care agency*, ~~including the point, level, or other behavior management techniques~~ utilized by the *foster care agency*.

(c) To use restraint or seclusion in the management of the *child in care*. The consent must specify the reasons such interventions are used by the *foster care agency* and how the employees of the *foster care agency*~~, approved provider parents, or~~ and *proctor foster home* parents are trained and supervised in the use of restraint or seclusion.

(d) To restrict the child in care's contact with persons outside the *foster care agency* and the ~~*certified provider*~~*proctor foster home* ~~(defined in OAR 413-215-0306)~~, including visits, telephone communication, electronic mail, and postal mail, except that access to a *child in care* must be allowed as provided in ORS 418.305 and OAR 413-215-0091 and 413-215-0101.

(e) To allow access to a *child in care* as required in ORS 418.305 and OAR 413-215-0091 and 413-215-0101.

~~(e) To exclude or limit the child's possession of personal items.~~

(f) To impose a dress code.

(g) To apply the *reasonable and prudent parent standard* to determine whether the *child* ~~or young adult~~*in care* is allowed to participate in *age-appropriate or developmentally appropriate activities*, including extracurricular, enrichment, cultural, and social activities.

(2) Disclosures. At admission, the *foster care agency* must ensure that each parent or legal guardian of the *child in care* receives and acknowledges in writing the receipt of each of the following policies and requirements of the *foster care agency*:

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(a) Mandatory child abuse reporting requirements.

(b) Information regarding any personal or room searches and protocols for confiscation of *contraband* items, including the notification of law enforcement if illegal *contraband* is discovered. This information will include the procedures and rationales of the *foster care agency* for any program-initiated room or body search.

(c) A statement concerning the rights of children in care and parents or legal guardians served by the *foster care agency* as provided in OAR 413-215-0046. The statement must be written in a manner that is easy to understand, and the *foster care agency* must ensure that the *child in care* and the parent or legal guardian understand the statement~~. The statement must explain all~~ and the requirement that the *foster care agency* afford the children in care each of these rights.~~the following:~~

~~(A) The child's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by the parent or legal guardian.~~

~~(B) The child's right to privacy.~~

~~(C) The child's right to participate in service planning.~~

~~(D) The child's right to fair and equitable treatment.~~

~~(E) The child's right to file a grievance if the child or family feels that they are treated unfairly, or, if they are not in agreement with the services provided.~~

~~(F) The child's right to have personally exclusive clothing.~~

~~(G) The child's right to personal belongings.~~

~~(H) The child's right to an appropriate education.~~

~~(I) The child's right to participate in recreation and leisure activities.~~

~~(J) The child's right to have timely access to physical and behavioral health care services.~~

(d) The grievance policies and procedures of the *foster care agency*.

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(e) The *foster care agency* will make any written policy or procedure pertaining to program services available for review by the *child in care*, parent, or legal guardian, upon request.

(3) Authorizations.

(a) Authorization to disclose information from other service providers must be filled out prior to signatures being requested and be specific to one other provider. Information may only be requested on a need-to-know basis.

(b) All child-specific visitors of the *child in care* must be approved or authorized by the parent or legal guardian, except court appointed special advocates (CASA) and attorneys appointed to represent the child.

(c) Visitation resources must be pre-approved by the parent or legal guardian of the *child in care* and the identity of these resources verified by the *foster care agency*.

(d) Activity-specific authorizations must be pre-approved by the parent or legal guardian of the *child in care* to allow ~~children to participate~~participation in potentially hazardous activities, such as using motorized yard equipment, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the parent or legal guardian of the *child in care*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0396
Information About Children in Care Placed in Physical Custody of the Foster Care Agency

A *foster care agency* ~~(defined in OAR 413-215-0306)~~ must comply with all of the following requirements:

(1) ~~Child's~~ Case files for children in care. For each *child in care* the *foster care agency* accepts for placement, the *foster care agency* must maintain an individual record that includes a summary sheet containing all of the following information:

(a) The ~~child's~~ name, gender, date of birth, religious preference, and previous address of the *child in care*.

(b) The name and location of the child in care's previous school.

(c) The date of admission to the *program*.

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(d) The status of the child in care's legal custody, including the name of each person responsible for consents and authorizations.

(e) The name, address, and telephone number of:

(A) The ~~child's~~ parents of the *child in care*.

(B) The ~~child's~~ legal guardian of the *child in care*, if different than parents, and his or her legal relationship to child.

(C) Other family members or other persons identified by the family as significant to the *child in care*.

(D) Other professionals to be involved in service planning, if applicable.

(f) Any required signed consents and authorizations.

(2) Service planning.

(a) All documentation, including, but not limited to service plans, daily notes, assessments, progress reports, medication records, and incident reports, must be written in terms that are easily understood by all persons involved in service planning.

(b) Intake documentation. A *foster care agency* must complete a written intake document containing screening information on the date the *foster care agency* accepts a *child* ~~for placement~~*in care* except in the case of an emergency placement, when the intake document must be completed within 48 hours of admission.

(c) Each *child in care* must be served according to an individual written service plan developed by staff of the *foster care agency* and including, whenever possible, the *child in care*, the child in care's family, and other professionals involved with the *child in care* or family. This document must outline goals for services and care coordination.

(d) Assessment. A comprehensive assessment must be completed within the first 30 days of placement. This assessment must include relevant historical information, current behavioral observations, any identified needs for services, and a description of how the *foster care agency* will provide or coordinate services.

(e) Service plan and review.

(A) Within 60 days of placement, a formal service plan must be developed by staff of the *foster care agency* in conjunction with the *child in care* and his

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or her parents or legal guardians, and any other persons who are actively involved with the family, as appropriate.

(B) The service plan must reflect how the *foster care agency* will address the child in care's issues, describe the anticipated outcomes of the placement, and be reviewed and approved by the *child in care* and the legal guardian or parent, unless contraindicated.

(C) The service plan must be reviewed by the *foster care agency* at least quarterly.

(D) Service plans must be revised at any time additional information becomes available indicating that other services should be provided.

(3) Case management.

(a) The *foster care agency* must document services provided, as necessary, to track and monitor progress toward the achievement of service plan goals.

(b) Discharge. The *foster care agency* must identify how a child in care's progress will be evaluated, and how the determination is made of readiness for discharge or unsuitability for continued stay.

(c) Discharge planning. Discharge planning for ~~children~~a *child in care* must be a participatory decision-making process between the *child in care*, staff of the *foster care agency*, the parent or legal guardian, and significant others. As used in this rule, "significant others" means relatives, friends, or interested members of the community who are approved by the parent or legal guardian.

(d) Discharge instructions. The *foster care agency* must provide the *child in care* and the child in care's guardian with discharge instructions on or before the discharge date, including current medications, name of the doctor who prescribed each medication, any outstanding medical or other appointments, and other follow-up instructions as needed.

(e) Follow-up services. The *foster care agency* must identify any transitional or aftercare services or service coordination that will be offered by the *program*.

(f) Incident reporting. A written description of any injury, accident, or unusual incident involving a *child in care* must be placed in the individual child in care's record.

(4) Financial records. A *foster care agency* must keep a separate written record for each *child in care* itemizing all money received or disbursed on behalf of the *child in care*. The record must include all of the following:

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(a) The date of each receipt and disbursement and the amount of each.

(b) The source of income.

(c) The purpose of each disbursement.

(d) The signature of the person making each entry.

(e) The signature of the *child in care* for each entry.

(5) Personal possessions records. An individual written inventory must be maintained for each *child in care* of all personal possessions belonging to the *child in care*. The record must be updated as needed.

(6) The *foster care agency* will ensure, in policy, that:

(a) Disallowable items are either stored, or returned to the parent or legal guardian; and

(b) All money and personal belongings are returned to the *child in care*, child in care's parent or legal guardian at the time of discharge, or an account provided of any missing items.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

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Licensing Adoption Agencies

413-215-0401
Adoption Agencies, What Law Applies

These rules, OAR 413-215-0401 to 413-215-0481, regulate a *child-caring agency* licensed as an *adoption agency*. An *adoption agency* must also comply with OAR 413-215-0001 to 413-215-0131.

~~A *child caring agency* (defined in OAR 413-215-0006) that is an *adoption agency* (defined in OAR 413-215-0406) must be licensed in accordance with –~~

~~(1) OAR 413-215-0001 to 413-215-0131 which sets forth the requirements of the Department for licensing child-caring agencies, including *adoption* agencies; and~~

~~(2) These rules, OAR 413-215-0401 to 413-215-0481, which provide additional regulation of adoption agencies.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0406
Definitions

THIS RULE IS REPEALED

~~As used in OAR 413-215-0401 to 413-215-0481:~~

~~(1) "Adoption agency" means an organization providing any of the following services:~~

~~(a) Identifying a child for adoption and arranging an adoption.~~

~~(b) Securing the necessary consent to relinquishment of parental rights and to adoption.~~

~~(c) Performing a background study on a child or a home study on a prospective adoptive parent and reporting on such a study.~~

~~(d) Making determinations of the best interests of a child and the appropriateness of adoptive *placement* for the child.~~

~~(e) Monitoring a case after *placement* until final adoption.~~

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~~(f) When necessary because of *disruption* before final adoption, assuming custody and providing childcare or other social services for the child pending an alternative *placement*.~~

~~(2) "Birth parent" means each person who holds a legally recognized parental relationship to the child but does not include the adoptive parents in the adoption arranged by the *adoption agency*.~~

~~(3) "Criminal history check" means compliance with the Department's criminal records history rules (OAR 407-007-0200 to 407-007-0370). To comply with these rules, the agency must appoint a Contact Person (CP) who is designated to receive and process criminal history and child abuse check forms. Final fitness determinations will be made by the Department.~~

~~(4) "Disruption" means the interruption of an adoptive *placement* prior to the finalization of the adoption in a court of law.~~

~~(5) "Intercountry adoption" means an adoption in which a child who is a resident and citizen of one country is adopted by a citizen of another country.~~

~~(6) "Placement" of a child occurs when the child is placed in the physical or legal custody of prospective adoptive parents.~~

~~(7) "Re-adoption" means a process in which a child whose adoption was completed in another country is re-adopted in this country.~~

~~(8) "Special needs" mean a trait or disability of a child that requires special care or attention of the child or that historically has made *placement* of a child with similar characteristics or disability difficult.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.310

413-215-0411
Information and Reporting Requirements of an Adoption Agency

(1) Public information.

(a) An *adoption agency* ~~(defined in OAR 413-215-0406)~~ must provide to each person making an inquiry about adoption a written program statement that describes the services of the *adoption agency* and includes all of the following information:

(A) A description of the children normally placed by the *adoption agency*.

(B) Eligibility requirements for adoptive families.

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(C) Timelines for intake screening and for being placed on a waiting list.

(D) A clear delineation of fees, charges, contributions, or donations required to obtain adoption services.

(E) The services provided during the adoption process.

(F) The geographical area covered by the *adoption agency*.

(b) The written and electronic materials of an *adoption agency* describing its adoption program must be accurate, must be reviewed regularly for accuracy, and must include the date the material was last updated.

(2) Cost disclosures. An *adoption agency* must provide the following information regarding the costs of an adoption:

(a) The *adoption agency* must provide all of the following information to all prospective adoptive parents:

(A) A written schedule of estimated fees and expenses.

(B) An explanation of the conditions under which estimated fees or expenses may be charged, waived, reduced, increased, or refunded.

(C) When, how, and to whom the estimated fees and expenses must be paid.

(b) Before providing an adoption service to a prospective adoptive parent, the *adoption agency* must itemize and disclose in writing to the parent the estimated fees and expenses the parent will be charged related to each of the following:

(A) A home study.

(B) The *adoption agency* fees in the United States.

(C) Other–country program expenses, if applicable.

(D) Translation and document expenses, if applicable.

(E) Travel and accommodation expenses, if applicable.

(F) Contributions.

(G) Post-*placement* ~~(defined in OAR 413-215-0406)~~ and post-adoption reports.

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(H) Likely charges of the U.S. Citizenship and Immigration Services (USCIS).

(I) Legal finalization or *re-adoption* ~~(defined in OAR 413-215-0406)~~ expenses, if applicable

(c) The *adoption agency* must specify in its written adoption contract when and how funds advanced to cover fees or expenses will be refunded if adoption services are not provided.

(d) When the delivery of adoption services is completed, the *adoption agency* must provide the prospective adoptive parents, within 30 days following the completion of services, a detailed written accounting of the total fees and expenditures for which the adoptive parents will be charged by the *adoption agency*.

(3) Data collection requirements. An *adoption agency* must maintain in a standard and accessible format all of the following information and make it available on request:

(a) The number of adoption placements it completes each year for the prior three calendar years, and the number and percentage of those placements that remain intact, are disrupted, and have been dissolved as of the time the information is provided.

(b) The number of parents who apply with the *adoption agency* to adopt a *child* each year.

(c) The number of waiting children available for adoption that the *adoption agency* is attempting to place.

(4) Mandatory reporting of disruption and dissolution. The *adoption agency* must submit to the Department on a prescribed form a written report within 14 days after a *disruption* ~~(defined in OAR 413-215-0406)~~ or *dissolution* is reported to the *adoption agency* if the *adoption agency* was involved in the study of the family, the *placement* of the *child*, or the supervision of the adoptive *placement*. As used in this rule, "dissolution" means the termination of an adoptive *placement* after finalization.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0416
Adoption Agency Staff

In addition to meeting the requirements in OAR 413-215-0021(3):

(1) Required staff. An *adoption agency* ~~(defined in OAR 413-215-0406)~~ must have an executive director and a social services supervisor. If one person fills both positions, that

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person must meet the qualifications of both the executive director and the social services supervisor listed in subsections (2)(a) and (b) of this rule.

(2) Qualifications.

(a) The executive director must possess all of the following qualifications:

(A) Management skills and abilities.

(B) A bachelor's degree from an accredited program.

(C) Two years of full-time experience in child social services.

(b) The social services supervisor must possess all of the following qualifications:

(A) A master's or doctorate degree from an accredited program in social work, psychology, guidance and counseling, or a similar subject area.

(B) Two years of experience in family and children's services, one year of which must include providing adoption services.

(C) If the agency provides *intercountry adoption* ~~(defined in OAR 413-215-0406)~~ services, the supervisor must have experience in intercountry adoptions.

(c) ~~On the date this rule as renumbered becomes effective, a~~An incumbent executive director or social services supervisor employed by the *adoption agency* prior to October 17, 2008 --- of an *adoption agency* already licensed by the Department --- who does not meet the qualifications listed is subsections (a) and (b) of this section is deemed to meet those requirements if he or she ~~has~~had been in the position for at least three years, ~~has~~had significant skills and experience with the adoption process, and has access to consultation with persons having the qualifications listed in subsections (a) and (b) of this section, as applicable.

(d) Social services staff, who are non-supervisory employees providing adoption-related social services requiring the application of clinical skills and judgment, must possess--

(A) A master's degree from an accredited program of social work education or another human service field;

(B) A bachelor's degree from an accredited program of social work education; or

(C) A combination of a bachelor's degree in another human service field and experience in family and children's services or adoption.

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(3) Supervision. All non-supervisory social services staff described in subsection (2)(d) of this rule must be supervised by an employee of the *adoption agency* who meets the requirements for social services supervisor set forth in subsection (2)(b) or (2)(c) of this rule.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0421
Staff Training Requirements for Adoption Agencies

An *adoption agency* ~~(defined in OAR 413-215-0406)~~ must meet all of the following requirements related to its *staff*:

(1) The *adoption agency* must have a comprehensive plan for providing basic training to newly hired social services employees on the issues that arise with adoptive *placement*.

(2) The *adoption agency* must ensure that all social services staff and contracted social services providers obtain a minimum of 10 hours of training annually on issues related to adoption.

(3) The *adoption agency* must ensure that all social services staff and all persons who provide adoption services complete training in all of the following areas:

(a) The potential short- and long-term effects of prenatal exposure to alcohol, drugs, and poor nutrition.

(b) The potential effects of separation and loss.

(c) The process of developing emotional ties to an adoptive family.

(d) Normal child and adolescent development.

(e) The potential effects of physical abuse, sexual abuse, neglect, and institutionalization on the development of the *child*.

(f) The potential issues of race, culture, and identity; issues of acculturation and assimilation; and, if applicable, the effects of having been adopted internationally.

(g) The emotional adjustment of adopted children and their families.

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(h) Open adoption.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0426
Policies and Procedures for Adoption Agencies

An *adoption agency* ~~(defined in OAR 413-215-0406)~~ must have and follow written policies and procedures for the adoption services it provides including, at a minimum all of the following:

(1) Policies and procedures prescribing safeguards relating to the needs, rights, and responsibilities of the following:

(a) A *birth parent* ~~(defined in OAR 413-215-0406)~~ who is considering the release of a *child* for adoption;

(b) A *child* who becomes available for adoption; and

(c) A family who adopts a *child*.

(2) Policies and procedures designed to ensure compliance by the *adoption agency* all applicable federal and state laws, including, but not limited to:

(a) The Indian Child Welfare Act of 1978, Pub. L. No. 95-608, 92 Stat. 3069 (1978) (ICWA)(see OAR 413-070-0100 to 413-070-0260);

(b) The Interstate Compact for Placement of Children (ICPC) (see ORS 417.200);

(c) Section 1808 of the Small Business Job Protection Act of 1996, Pub. L. No. 104-188, 110 Stat. 1903 (1996), amending 42 U.S.C. § 671;

(d) The Howard M. Metzenbaum Multiethnic Placement Act of 1994, Pub. L. No. 103-382, 108 Stat. 4056 (1994);

(e) The Intercountry Adoption Act of 2000, Pub. L. No. 106-279, 114 Stat. 825 (2000), 42 U.S.C. § § 14901 to 14954.

(f) ~~Oregon Revised Statutes~~ ORS ~~C~~chapter 109.

(3) Policies and procedures designed to ensure that the decision to place a *child* in a specific home or to disrupt a *placement* ~~(defined in OAR 413-215-0406)~~ is not made autonomously by a social services worker.

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Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0431
Records Requirements for Adoptions

In addition to compliance with the records and documentation requirements of OAR 413-215-0071 and 413-215-0456:

(1) Permanent record in a domestic adoption. An *adoption agency* ~~(defined in OAR 413-215-0406)~~ must maintain a permanent record on each *birth parent* ~~(defined in OAR 413-215-0406)~~ who has consented to and has surrendered a *child* to the *adoption agency*. Except as authorized by section (2) of this rule, the record must include all of the following documents or information:

(a) The date and place of the birth parent's initial inquiry with the *adoption agency* and the persons present when the inquiry was made.

(b) The date, place, and purpose of each subsequent contact between the *adoption agency* and the *birth parent*.

(c) Evidence that the following *adoption agency* forms were provided to the *birth parent*:

(A) Consent for Service;

(B) Receipt of Grievance Procedures;

(C) Clients' Rights and Responsibilities, including the notice required by ORS 109.346 when applicable; and

(D) Service Plan.

(d) Each alternative to adoption discussed with the *birth parent*.

(e) A description of each discussion relating to fees, expenses, or other consideration or thing of value relating to the adoption.

(f) The date, time, and place of birth of the *child*, the name and address of the hospital or birthing center if the *child* was born in one, and all pertinent prenatal information.

(g) The names, dates of birth, physical description of the birth parents at the time of the child's birth, including age, height, weight, and color of eyes, hair and skin.

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(h) Personality traits of the child's birth parents, siblings, and members of the child's extended family.

(i) A medical history of the birth parents, siblings, and extended family of the *child*, including medical, mental, and emotional history, including the history of the use of drugs or alcohol, gynecologic and obstetric history of the birth mother, and a record of inheritable genetic or physical traits or tendencies of the birth parents or their families.

(j) The ethnicity of the child's birth parents and the members of the child's extended family.

(k) Documentation of the efforts of the *adoption agency* to determine whether the Indian Child Welfare Act (ICWA) applies.

(l) The religious background of the child's birth parents and the members of the birth parents' extended family.

(m) The educational level and functioning, employment history, criminal history, and social and emotional functioning of the birth parents, siblings, and the members of their extended family.

(n) A notation that identifies the adoptive parents sufficient to cross-reference the file of the *adoption agency* on the adoptive parents.

(o) A copy of the *placement* agreement.

(p) Post-adoption communication agreements.

(q) Details about any termination of parental rights.

(r) A copy of the general judgment of adoption.

(s) Copies of any documents signed by the *birth parent*.

(2) If the *adoption agency* is unable to include in the permanent record a document or information required by subsections (1)(f) to (1)(m) of this rule, the *adoption agency* must include in the record a description of its reasonable effort to obtain the document or information.

(3) Preservation and retention of adoption records for adoptions. An *adoption agency* giving legal consent to the adoption of a *child* must permanently retain, to the extent allowed by law, the records concerning the child's adoption, as follows:

(a) The record must include all of the following:

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(A) Adoptive parent orientation documentation.

(B) Evaluation documentation of both the birth and adoptive parents.

(C) *Placement* ~~(defined in OAR 413-315-0406)~~ documentation.

(D) Post-*placement* supervision documentation.

(E) Originals of photographs, letters, and other personal items provided by the child's birth family.

(b) The *adoption agency* must store the records in fire-retardant, locked files kept in a secure location.

(c) If more than one *adoption agency* is involved in an adoption, the *adoption agency* that placed the *child* must preserve the permanent case record.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 109.342, 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0436
Services Prohibited

An *adoption agency* ~~(defined in OAR 413-215-0406)~~ may not guarantee or represent to prospective adoptive parents that a particular *child* will be placed in their home for payment of a fee.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0441
Services for Birth Parents Considering Domestic Adoption

(1) If an *adoption agency* ~~(defined in OAR 413-215-0406)~~ is serving a *birth parent* ~~(defined in OAR 413-215-0406)~~ who is considering the adoption of his or her child:

(a) The *adoption agency* must provide the services described in these rules, OAR 413-215-0401 to 413-215-0481.

(b) If the *adoption agency* is serving a *birth parent* who lives in a state other than Oregon, the *adoption agency* must make the services described in these rules (OAR 413-215-0401 to 413-215-0481) available to the *birth parent* in the state of residence of the *birth parent*.

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(2) Information.

(a) The *adoption agency* must make reasonable efforts to provide information described in subsection (2)(c) of this rule to each legal parent.

(b) The *adoption agency* must make reasonable efforts to provide information described in subsection (2)(c) of this rule to a putative father if --

(A) The putative father resided with the *child* within 60 days of the court proceeding about the adoption or custody of the *child*;

(B) The putative father repeatedly contributed or tried to contribute to the support of the *child* within 12 months of the court proceeding about the adoption or custody of the *child*; or

(C) There is a notice of initiation of filiation proceedings on file with the Center for Health Statistics of the Department prior to the initiation of either a court proceeding about the adoption or custody of the *child*, or the *placement* ~~(defined in OAR 413-215-0406)~~ of the child in the physical custody of a person for the purpose of adoption by them. There is no requirement to provide information under this paragraph if the notice of initiation of filiation proceedings was not on file at the time of *placement*.

(c) The *adoption agency* must provide all of the following information to the persons identified in subsections (2)(a) and (2)(b) this section:

(A) Information regarding support and resources needed to parent a *child*.

(B) Information regarding options within adoption and the consequences of each option, including the possibility of a *birth parent* continuing contact with the adopted *child* and the adopting parents after adoption, the variables and options for such continuing contact, the desire of the *child* for continuing contact, and the availability of mediation to resolve issues involving contact.

(C) Information regarding grief and loss inherent in adoption.

(D) Information regarding the effects and permanence of adoption.

(E) Information regarding availability of or referral to appropriate support services. The availability of these services may not be made contingent upon the birth parent's decision to select adoption as the plan for the *child*.

(3) The *adoption agency* must provide guidance if a child's birth parents disagree with each other about the adoption plan.

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(4) Identification of birth fathers. If the *adoption agency* is working with a birth mother, the *adoption agency* must ensure all of the following:

(a) The *adoption agency* asks the birth mother for the identity and whereabouts of the birth father.

(b) The *adoption agency* does not counsel or advise a birth mother to state that the identity or location of the father is unknown.

(c) If the birth mother indicates that the identity or location of the father is unknown, or if the birth mother refuses to identify the birth father, the *adoption agency* advises her of the potential ramifications of her knowing failure to provide the information.

(d) The *adoption agency* must contact the Center for Health Statistics of the Department within a reasonable period of time prior to *placement* to determine whether the child's legal or putative father can be identified.

(e) The adoption file of the *adoption agency* includes all reported information about the legal or putative father, even if his identity or location is unknown to the mother.

(5) Disclosures prior to *placement*:

(a) Potential disclosure of parental identity. The *adoption agency* must tell each *birth parent* who is contemplating making their child available for adoption that information related to their identities may subsequently be disclosed to the *child* in accordance with Oregon law.

(b) Voluntary adoption registry. As required by ORS 109.353, the *adoption agency* must inform each *birth parent* of the voluntary adoption registry established under ORS 109.450.

(c) Adoption–related counseling for birth parents. As required by ORS 109.346, the *adoption agency* must provide notice to each *birth parent* consenting to an adoption regarding his or her right to adoption-related counseling.

(6) Consent and surrender. The *adoption agency* may accept the voluntary consent and surrender of a *child* after taking all of the following actions:

(a) Providing to each *birth parent* full and accurate information, and the opportunity to discuss the consequences of the documents they are signing.

(b) Discussing with each *birth parent* the circumstances leading to the decision to choose adoption.

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(c) Informing each *birth parent* of their right to their own legal counsel at their own expense.

(d) Providing each *birth parent* with written information to assist them in understanding the changes that result from adoption in their parental legal rights, obligations, and responsibilities, including potential ramifications of post-*placement* establishment of paternity.

(e) After the birth of the *child*, reassessing the birth mother's ability to understand the consequences of her decision to sign a consent and surrender document. This assessment must include consideration of her emotional state and current influence of medication.

(f) In the case of an Indian child, informing the parents that if no different order of preference has been established by the child's tribe for adoptive *placement*, the *adoption agency* must, in the absence of the court's determination that good cause to the contrary exists, give preference to placing the *child* with a member of the child's extended family, other members of the Indian child's tribe, or other Indian families.

(g) Informing the *birth parent* that the *adoption agency* cannot honor a request of the *birth parent* to place the *child* with a family based solely on preferred race, color, or national origin unless the child is an Indian *child*, in which case the licensed agency must follow the Indian Child Welfare Act of 1978.

(7) Documents. The *adoption agency* must provide a copy of all documents signed by the birth parents to the birth parents at the time they sign a consent and surrender document.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 109.096, 109.346, 109.353, 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0446
Adoptive Family Recruitment and Screening

An *adoption agency* ~~(defined in OAR 413-215-0406)~~ must have a recruitment and screening process that meets all of the following standards:

(1) The *adoption agency* must have an ongoing recruitment program to ensure an adequate number of suitable adoptive families are identified for the types of children identified in the program statement of the *adoption agency*.

(2) Orientation. The *adoption agency* must provide orientation for the adoptive family before the *adoption agency* approves the home study. The orientation must include the following information:

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(a) The adoption program, policies, and procedures of the *adoption agency*.

(b) The needs and characteristics of children available for adoption.

(c) Attachment, separation, and loss issues for children and families.

(d) The importance of cultural and ethnic identity to the *child* and ways to foster these identities.

(e) The effects of adoption on the *child* and family.

(f) The adoption process.

(g) Rights and responsibilities of the adoptive family and *adoption agency*.

(h) Information on the potential risks and challenges inherent in adoption.

(i) Pre-*placement* ~~(defined in OAR 413-215-0406),~~, *placement*, and post-legal adoption services and resources available to the adoptive family.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0451
Adoptive Home Requirements

(1) Home study. Before an *adoption agency* ~~(defined in OAR 413-215-0406)~~ approves a family for an adoptive *placement* ~~(defined in OAR 413-215-0406)~~ and before referring or placing a *child* with a family for the purpose of adoption, a social services worker must complete a written home study of the adoptive family. The home study must include all of the following:

(a) An individual interview with each applicant parent as well as with each member of the applicants' household, as applicable.

(b) If the applicants are married or are a cohabiting couple, an additional, joint interview with the couple.

(c) An on-site evaluation of the applicants' home to determine whether the home is in full compliance with the safety standards identified in the Safety Checklist (CF 979).

(2) Written home study. The home study required by section (1) of this rule must include all of the following information:

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(a) The dates and places in which applicant parent and household members were interviewed or observed.

(b) The identity of each *child* to be considered for *placement*, if known.

(c) The applicants' motivation for adoption.

(d) The family's plan for honoring the child's ethnic and cultural heritage.

(e) Education or training needs of the adoptive parents, including education and training for children having *special needs* ~~(defined in OAR 413-215-0406)~~.

(f) The applicants' need for support services and description of current support system.

(g) Life experiences and challenges of the applicants.

(h) Marriage status or relationship of the applicants.

(i) The names and ages of the applicants' children in the home.

(j) The names and ages of the applicants' children not living in the home.

(k) The applicants' parenting skills and values.

(l) The applicants' lifestyle.

(m) The applicants' home and community.

(n) The applicants' health.

(o) The applicants' religion or spiritual beliefs, as applicable.

(p) The applicants' employment and finances.

(q) Safety information and safety issues discussed with the applicants.

(r) Minimum of four references not related to the applicants.

(s) Comply with the Department's *background check* rules at OAR 407-007-0200 to 407-007-0370.

(t) Signed release of information to determine if the applicant has been denied or revoked certification with another *adoption agency* or by the Department.

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(~~s~~u) *Criminal history check* and a child abuse and neglect history from every state in which the individual has lived within the preceding five years for each member of the household age 18 or older. Checks are also required for a household member under the age of 18 if there is reason to believe that the household member may pose a safety threat to children placed in the home.

(~~t~~v) Documentation that a child abuse and neglect history was requested from any other country in which a member of the household age 18 or older has lived within the preceding five years, and the response if any.

(~~u~~w) ~~Summary~~An assessment of all the ~~home~~information gathered regarding the adoptive applicants and any recommendations.

(~~v~~x) Signed approval or denial by a social services supervisor to use the home for adoption.

(3) Home study requirements.

(a) An *adoption agency* may not complete a home study until the prospective adoptive parents have received at least six hours of the pre-adoptive training and education required by OAR 413-215-0456.

(b) An adoptive home study is valid for a maximum of two years from the date of completion, providing significant changes have not occurred in the applicants' household.

(c) If significant changes occur in the applicants' household after the completion of the home study, but before the adoption is finalized, the *adoption agency* must complete an update of the home study.

(d) Once the adoption is finalized, the *adoption agency* must complete a new home study each time the family seeks to adopt another *child.*

(4) Certificate of approval. The *adoption agency* must issue a written document certifying the approval or disapproval of the applicants as potential adoptive parents.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0456
Information, Education, and Training for Adoptive Parents

An *adoption agency* must meet all of the following requirements related to information, education, and training for adoptive parents:

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(1) Adoptive parent training. The *adoption agency* must document that it has provided the prospective adoptive parents a minimum of 10 hours of comprehensive orientation and training, independent of the home study, that covers all of the following:

(a) The possible short- and long-term effects of prenatal exposure to alcohol, drugs, and poor nutrition.

(b) The effects of separation and loss.

(c) The process of developing emotional ties to an adoptive family.

(d) Normal child and adolescent development.

(e) What research indicates about the potential effect on a child's development of physical abuse, sexual abuse, neglect, institutionalization, and multiple caregivers.

(f) Issues related to race, culture, and identity.

(g) Acculturation, assimilation, and, if applicable, the effects of having been adopted internationally.

(h) Emotional adjustment of adopted children and their families, including attachment and psychological issues of adopted children who have experienced abuse, neglect, or trauma.

(i) In the case of an *intercountry adoption* ~~(defined in OAR 413-215-0406)~~, the process involved in an *intercountry adoption* and the general characteristics and needs of children awaiting *intercountry adoption*.

(2) Individual preparation. The *adoption agency* must document reasonable efforts to prepare prospective parents for the adoption of each *child* under consideration before the earliest of the following:

(a) The *child* is placed with them.

(b) Travel to the child's country for the purpose of adoption.

(3) Methods of training.

(a) The *adoption agency* must provide the required training using appropriate methods, such as:

(A) Collaboration among agencies or persons to share resources to meet the training needs of parents;

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(B) Group seminars offered by the *adoption agency* or others who provide training;

(C) Individual counseling sessions;

(D) Video, computer-assisted, or distance learning methods using standardized curricula.

(b) If the training cannot otherwise be provided, the *adoption agency* may allow the prospective adoptive family to complete an independent study that includes a system for evaluating the thoroughness of the subjects covered.

(4) Information and disclosures.

(a) The *adoption agency* must give the adoptive family detailed written information covering the following subjects:

(A) Resources for financial support, including tax credit, employee adoption benefit programs, and other financial assistance.

(B) Medical assistance availability, as applicable.

(C) Support services available to the family and the adoptive child, including adoptive family support groups, educational workshops and conferences, individual and family counseling, mental health services, and respite care.

(D) Information identifying each organization or individual who will be involved in the proposed *placement* ~~(defined in OAR 413-215-0406)~~, including whether the organization or individual will derive a fee or other consideration from a source other than the client in connection with the adoption.

(E) In domestic adoptions only, the potential ramifications of a failure of the birth father to sign the consent and surrender documents.

(b) If a *child* qualifies for adoption assistance through the department's Adoption Assistance Program, the *adoption agency* must assist the prospective adoptive parents in getting approvals or agreements in a timely manner, prior to adoption finalization.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

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413-215-0461
Evaluation and Selection of Adoptive Family

An *adoption agency* ~~(defined in OAR 413-215-0406)~~ must meet all of the following requirements regarding the *placement* ~~(defined in OAR 413-215-0406)~~ of a *child*:

(1) Pre-placement evaluation. A social services worker must review the record, evaluate, and document all of the following factors before making a *placement* with an adoptive family:

(a) Physical, emotional, social, behavioral, educational, and other individual needs of the *child*.

(b) The child's need for continued contact with siblings, relatives, foster parents, and other persons significant to the *child*.

(c) The ability and willingness of the prospective adoptive parents to accept the general and specific risks and challenges inherent in the *placement* being considered.

(2) Placement requirements. For the *placement* of a *child*, the *adoption agency* must select an adoptive family who is approved by an *adoption agency*, consistent with the needs of the *child* and the recommendations in the pre-*placement* evaluation.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0466
Domestic Adoptive Placement; Adoption Agency Requirements

An *adoption agency* ~~(defined in OAR 413-215-0406)~~ must meet all of the following requirements related to a domestic *placement* ~~(defined in OAR 413-215-0406)~~:

(1) Pre-*placement* visit. The *adoption agency* must develop a written transition plan based on the developmental needs and best interests of the *child*. The plan must include provisions for pre-*placement* visits with the prospective adoptive family.

(2) *Placement* agreement documents. Before placing the *child* in a home, the *adoption agency* must have a written agreement with the pre-adoptive parents. A signed copy of this agreement must be given to the pre-adoptive parents and a copy must be placed in the case record. The agreement must specify the following, if appropriate:

(a) That the pre-adoptive parents agree to legally finalize the adoption in a time frame that is based on the best interests of the *child*;

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(b) That the *adoption agency* will provide the documents necessary for finalizing the adoption in a time frame that is based on the best interests of the *child*;

(c) That the pre-adoptive parents agree to participate in supervision by the *adoption agency*, based on the best interests of the *child*, during the time prior to finalization of the adoption;

(d) That the pre-adoptive parents agree to provide written notification to the *adoption agency* prior to each of the following:

(A) A change of residency.

(B) The removal of the *child* from the state for more than 72 hours.

(C) *Placement* of the *child* in the care of another person for more than 72 hours.

(e) That the *adoption agency* will arrange for supervision in accordance with the Interstate Compact for Placement of Children if the adoptive family moves to another state.

(f) The plan must address all of the following subjects, based on the best interests of the *child*, in the event of a *disruption* ~~(defined in OAR 413-215-0406)~~:

(A) Who has responsibility for providing care and the cost of care.

(B) Financial arrangements to ensure transfer of custody when necessary.

(C) For intercountry adoptions ~~(defined in OAR 413-215-0406)~~ only, whether the *child* is to remain in the country of *placement* and how the authorities in the originating country will be notified of the *disruption*.

(3) Medical consent form. At the time of the child's *placement* in the adoptive home, the *adoption agency* must give the adoptive parents a signed medical consent form authorizing medical care of the *child*.

(4) Child and birth parent information. Before placing a *child* with a family, the *adoption agency* must make reasonable efforts to discuss with the adoptive parents and provide them in writing all available information about the *child* and his or her birth parents ~~(defined in OAR 413-215-0406)~~, including, but not limited to:

(a) Medical data.

(b) Information about genetic, congenital, or pre-existing conditions.

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(c) Information on the child's physical, emotional, and behavioral functioning and adjustment

(d) Pertinent information regarding the birth parents, excluding identity.

(e) Information about disabilities and their implications, including information from diagnosticians and, if applicable, appropriate therapists.

(5) The *adoption agency* may not withhold or misrepresent information, nor may it misrepresent the implications of child information. The *adoption agency* and its agents must provide to prospective adoptive parents, in accordance with these rules (OAR 413-215-0401 to 413-215-0481), all information obtained about the *child*.

(6) Post-*placement* supervision. The *adoption agency* is responsible for the *child* until the court has entered the general judgment of adoption. After the *child* is placed, the *adoption agency* must provide and document supervision of the home by a social services worker, including all of the following:

(a) A home visit with the family within the first 30 days following *placement* to establish a helping post-*placement* relationship. The frequency of contacts, including home visits, office visits, telephone calls, and e-mail, is dependent on the child's age and *special needs* ~~(defined in OAR 413-215-0406)~~, and the family's adjustment to the *child*.

(b) Any change in the adoptive family relating to health, finances, or composition that could affect the *child*.

(c) Providing to the adoptive parents any medical information on a child's birth family received by the *adoption agency* after the *child* was placed for adoption.

(d) If the *placement* appears likely to disrupt, the *adoption agency* must document its efforts to--

(A) Provide counseling services to preserve the *placement*; and

(B) Provide or arrange for replacement services, including foster care if needed, if *disruption* occurs.

(7) Post-legalization services. The *adoption agency* must make adoption services available to birth parents, adoptive parents, and adopted children after the adoption is finalized. The *adoption agency* must provide or inform the adoptive parents how to obtain information regarding all of the following:

(a) Counseling services.

(b) Crisis intervention.

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(c) Respite care.

(d) Specialized support groups.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0471
Adoption Finalization - Adoption Agency Requirements

(1) For the legal finalization of an adoption, an *adoption agency* ~~(defined in OAR 413-215-0406)~~ must prepare and promptly provide to the adoptive family or the family's attorney all documents required for filing with the court.

(2) After consenting to the adoption of a minor child, an *adoption agency* must promptly file with the appropriate court all required documents that are available.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0476
Intercountry Adoptions

In addition to the requirements for adoption agencies in OAR 413-215-0401 to 413-215-0481 other than OAR 413-215-0431(1) - (2), 413-215-0441, 413-215-0456(4)(a)(E), and 413-215-0466, an *adoption agency* ~~(defined in OAR 413-215-0406)~~ approved to provide intercountry adoptions ~~(defined in OAR 413-215-0406)~~ must meet all of the following standards with regard to intercountry adoptions:

(1) Compliance with foreign law.

(a) The *adoption agency* must comply with the laws and regulations of the sending country.

(b) The *adoption agency* must make reasonable efforts to learn and understand legal and procedural adoption requirements in the sending country.

(c) The *adoption agency* must establish written policies and procedures designed to fulfill and comply with the legal requirements, adoption laws, and adoption procedures of the sending country.

(d) The *adoption agency* must train its employees and volunteers about the adoption laws and procedures of the sending country.

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(2) Compliance by foreign representatives. If the *adoption agency* uses an organization or person in the foreign country to facilitate adoption services within the foreign country, the *adoption agency* must make reasonable efforts to see that the organization or person meets all of the following requirements:

(a) Fully complies with all adoption and other laws and procedures of the sending country.

(b) Is licensed or otherwise authorized to provide the contemplated adoption services within the sending country.

(c) Does not engage in practices that are not in the best interests of the *child* or that encourage or facilitate the sale, abduction, exploitation, or trafficking of children.

(d) Does not have a pattern of licensing suspensions or other sanctions within the foreign country and has not lost the right to provide adoption services in any jurisdiction for reasons associated with unlawful or unethical service.

(e) Provides full disclosure to the *adoption agency* regarding any suspension, debarment, sanction, criminal charge, or disciplinary action against the organization or person, or any person serving with the organization, related to adoption services or financial dealings within the past ~~ten~~ 10 years.

(f) Provides full disclosure to the *adoption agency* of business activities performed by or engaged in by employees or affiliates of the foreign representative that are inconsistent with the principles of these rules or the Intercountry Adoption Act of 2000, 42 U.S.C. 14901 to 14954.

(3) Pre-placement determination of compliance. Before a *child* can be placed for adoption, the *adoption agency* must determine that the adoption service or person authorized by the sending country has certified that:

(a) The *child* is qualified for adoption and is in the permanent custody of an authorized organization or person in the sending country.

(b) The authorized service or person has obtained proof from a competent authority in the child's country of origin that the necessary consents to the child's adoption have been obtained and that the necessary determination has been made that the prospective *placement* ~~(defined in OAR 413-215-0406)~~ is in the best interests of the *child*.

(c) The *child* has the proper emigration and immigration permits.

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(d) The authorized service or person has the child's social and medical history or, if either is not available, has documented adequate reasons why the *adoption agency* was not able to obtain the information.

(4) Child information requirements. The *adoption agency* must use reasonable efforts, or require the authorized organization or person in the child's country of origin to make reasonable efforts, to obtain and provide all available information concerning a *child* referred for adoption, if known to the *adoption agency* or foreign representative, including the all of following:

(a) The date an authorized authority in the sending country took custody of the *child* and the reasons why the *child* is in custody.

(b) Information concerning the child's history, including a chronology showing the persons and institutions that have had custody of and cared for the *child*, the nature of care provided, and the reasons for transferring custody.

(c) Information concerning the child's immediate family, including current status and location of the birth parents ~~(defined in OAR 413-215-0406)~~ and siblings of the *child*; history of abuse, neglect, or mistreatment of the *child*; history of alcohol and drug abuse by the birth parents; hereditary conditions; and other risk factors.

(d) Information concerning the child's cultural, racial, religious, ethnic, and linguistic background.

(e) The child's medical information, including all of the following:

(A) All medical records, including both summaries or compilations of medical records and original records.

(B) Information resulting from medical examinations of the *child*.

(C) A history of significant illnesses or medical events, hospitalizations, and changes in the child's condition, growth data, and developmental status at the time of the child's referral for adoption.

(f) Videotapes and photographs of the *child*, identified by the date on which the videotape or photograph was recorded or taken.

(g) Specific information regarding health risks in the specific region or country where the *child* resides.

(5) An *adoption agency* must provide the information described in section (4) of this rule to prospective adoptive parents regarding a *child* referred for adoption as follows:

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(a) The information must be provided at least two weeks before the earliest of the following:

(A) The adoption or *placement* for adoption.

(B) The date on which the prospective adoptive parents travel to the sending country to complete procedures relating to the adoption.

(b) To the extent the matter is within its control, the *adoption agency* may not withdraw the referral of a *child* until the prospective adoptive parents have had at least one week to consider the needs of the *child* and their ability to meet those needs, and to obtain medical review of *child* information. The *adoption agency* may withdraw the referral earlier if the best interests of the *child* require a more expedited decision.

(c) The information must be provided in both the original language, if available, and in English. The *adoption agency* must do nothing to discourage prospective adoptive parents from obtaining their own translation of the information.

(6) An *adoption agency* must document in its adoption file all of the following:

(a) The efforts of the *adoption agency* to obtain the information.

(b) Reasons why the *adoption agency* was not able to obtain the information, if applicable.

(c) All communications made with prospective adoptive parents regarding the information, including contents of, dates, and the manner in which the information was provided to the prospective adoptive parents.

(7) With regard to post-*placement* and post-legalization requirements and services, an *adoption agency* must meet all of the following requirements:

(a) The *adoption agency* must take all appropriate measures to ensure that the transfer of the *child* takes place in secure and appropriate circumstances, with properly trained and qualified escorts, if used, and, if practicable, in the company of the adoptive parents.

(b) Until the adoption is finalized, the *adoption agency* must provide post-*placement* reports on a *child* to the sending country when required by the sending country. When such reports are required, the *adoption agency*:

(A) Must inform the prospective adoptive parents of the requirement prior to the referral of the *child* for adoption; and

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(B) Must inform the prospective adoptive parents that they will be required to provide all necessary information for the reports.

(c) For children sent to the United States, in addition to post-*placement* reports required by the sending country, the *adoption agency* must require at least one home visit with all persons living in the adoptive home between one and four months after the child's arrival in the United States. Home visits must be documented in a post-*placement* report that includes all of the following issues:

(A) The status and adjustment of each child in the adoptive home.

(B) The status and adjustment of the prospective adoptive parents and other adoptive family members to each *child* placed in the home.

(C) A summary of the information obtained concerning the birth parents and the available social, medical, and genetic history of each *child* placed in the home.

(d) If an adoption or *re-adoption* ~~(defined in OAR 413-215-0406)~~ is sought in Oregon, the original post-*placement* report, along with recommendations, must be filed by the *adoption agency* with the court and a copy forwarded to the department.

(e) The *adoption agency* must inform the prospective adoptive parents of other available post-*placement* services and resources, including all of the following:

(A) Additional home visits, office visits, telephone conferences, and other contacts with the personnel of the *adoption agency*.

(B) Other professionals, organizations, and groups that provide support and information for adoptive parents of children adopted internationally.

(f) When an adoption is not finalized in the sending country, the *adoption agency* must meet all of the following requirements:

(A) Monitor and supervise the *placement* to ensure that the *placement* remains in the best interests of the *child*.

(B) Inform prospective adoptive parents of the importance of finalizing the adoption in the United States and contractually require the prospective adoptive parents to finalize the adoption in the United States within a specified period after receiving the consent of the *adoption agency* for adoption.

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(C) Advise adoptive parents regarding the means of obtaining proof of citizenship for the *child* and the process for obtaining a social security number.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0481
Services to Children from the United States Placed in Other Countries

Before making a plan to place a *child* from the United States with non-relative citizens of another country, an *adoption agency* ~~(defined in OAR 413-215-0406)~~ must make reasonable efforts to actively recruit and make a diligent search for prospective adoptive parents in the United States.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

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Licensing Residential Care Agencies

413-215-0501
Residential Care Agencies; What Law Applies

These rules, OAR 413-215-0501 to 413-215-0586, regulate a *child-caring* agency licensed as a *residential care agency.* A *residential care* agency must also comply with OAR 413-215-0001 to 413-215-0131.

~~(1) Except as provided in section (2) of this rule, a *private child-caring* agency (defined in OAR 413-215-0006) that provides services to children 24 hours a day must be licensed in accordance with and comply with OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0501 to 413-215-0586.~~

~~(2) Academic boarding schools (OAR 413-215-0201 to OAR 413-215-0276) and therapeutic boarding schools (OAR 413-215-0601 to 413-215-0681) are not subject to OAR 413-215-0501 to 413-215-0586.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0506
Definitions

THIS RULE IS REPEALED

~~When used in OAR 413-215-0501 to 413-215-0586:~~

~~(1) "Age-appropriate or developmentally appropriate activities" means:~~

~~(a) Activities or items that are generally accepted as suitable for children or young adults of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a *child* or young adult, 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 the *child* or young adult based on the developmental stages attained by the *child* or young adult with respect to the cognitive, emotional, physical, and behavioral capacities of the *child* or young adult.~~

~~(2) "Care" means services provided to meet the needs of a *child*, such as food, shelter, clothing, medical care, schooling, protection, and supervision.~~

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~~(3) "Child" means an unmarried person under 18 years of age.~~

~~(4) "Employee" means an individual holding a paid position with a *residential care agency*.~~

~~(5) "Facility" means the physical setting, buildings, administration, staff, equipment, and program of a *residential care agency*.~~

~~(6) "Family" means related members of a household, among whom at least one adult functions as a parent to one or more minor children.~~

~~(7) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.~~

~~(8) "Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a *child* or young adult while encouraging the emotional and developmental growth of the *child* or young adult, that a substitute care provider shall use when determining whether to allow a *child* or young adult in substitute care to participate in extracurricular, enrichment, cultural, and social activities.~~

~~(9) "Resident" means any *child* residing in a *residential care agency* other than an infant who resides with an adolescent parent.~~

~~(10) "Residential" means care or treatment services provided on a 24-hour per day basis to children. For the purpose of these rules, "residential care or treatment" does not include services provided in family foster homes or adoptive homes.~~

~~(11) "Residential care agency" means a *private child-caring agency* (defined in OAR 413-215-0006) that provides services to children 24 hours a day.~~

~~(12) "Staff" means employees of the *residential care agency* who are responsible for providing direct care or treatment to residents.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327
Stats. Implemented: ORS 418.205 - 418.327

413-215-0511
Physical Plant Requirements

(1) A *residential care agency* ~~(defined in OAR 413-215-0506)~~ may not allow children in care to have access to, or provide services regulated by these rules (OAR 413-215-0501 to 413-215-0586) in, a building unless the building has been certified as meeting all applicable state and local construction-related requirements for a building used ~~as a~~

~~residential *facility*, including: the Oregon Structural Specialty Code (see the current version of OAR 837-040-0140), the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020), DHS Public Health Division (see the current requirements for buildings in of the Oregon Administrative Rules), the Oregon Plumbing Specialty Code (see the current version of OAR 918-750-0110 to OAR 918-750-0140), the rules of the State Fire Marshal (see the current requirements for buildings in Chapter 837 of the Oregon Administrative Rules), and the local building, fire, and safety codes~~ by the *residential care agency*.

(2) A *residential care agency* must ~~ensure that~~ meet all of the following ~~standards are met~~ requirements:

(a) All buildings where children in care are present must be smoke-free.

(b) All buildings owned, maintained, or operated by the *residential care agency* to provide services to children in care must meet all applicable state and local building, electrical, plumbing, and zoning codes.

(c) All areas of buildings where children in care are present must be kept clean and in good repair. Major appliances and heating, ventilation, plumbing, and electrical systems must be functional and in good repair.

(d) Each room used by children in care must have floors, walls, and ceilings that meet the interior finish requirements of the applicable Oregon Structural Specialty Code (see the current version of OAR 837-040-0140) and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020) and be free of harmful drafts, odors, and excessive noise.

(e) Each room used by children in care must be adequate in size and arrangement for the purpose in which it is used.

(f) A system providing a continuous supply of hot and cold water must be distributed to taps conveniently located throughout each *facility*.

(g) Water systems serving the property must be installed and maintained in compliance with applicable drinking water regulations (see OAR chapter 333) from the Public Health Division of the Oregon Health Authority.

(h) Heat and ventilation.

(A) Buildings must be ventilated by natural or mechanical means and must be free of excessive heat, condensation, and obnoxious odors.

(B) Room temperature must be maintained within a normal comfort range.

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(b) Water temperature and access to water:

(A) A continuous supply of hot and cold water, installed and maintained in compliance with this rule and OAR 413-215-0516, must be distributed to taps conveniently located throughout each building used to provide services or housing for children in care.

(B) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in each building used to provide services or housing for children in care.

(C) Each ~~*resident* (defined in OAR 413-215-0506)~~ *child in care* who lacks the ability to adjust and control water temperature safely must be directly supervised by a *staff* ~~(defined in OAR 413-215-0506)~~ member of the *residential care agency*.

~~(c) Heating and ventilation. Room temperatures must be maintained within normal comfort range. Buildings must be ventilated and free of excessive heat and condensation and unpleasant odors.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0516
Room and Space Requirements

A *residential care agency* ~~(defined in OAR 413-215-0506)~~ must meet all of the following room and space requirements:

(1) All parts of the facility must ensure the safety of the children in care.

(2) All areas of the facility must be kept clean and in good repair. Major appliances and heating, ventilation, plumbing, and electrical systems must be functional and in good repair.

(3) Living area. A separate living room or lounge area must be available for the exclusive use of residents, employees, and invited guests with a minimum of 15 square feet per ~~*resident*~~*child in care*.

(~~2~~4) Bedrooms. Bedrooms for ~~residents~~children in care may not be exposed to drafts, odors, or noises that interfere with the health or safety of the occupants. Each bedroom must comply with all of the following requirements:

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(a) Have adequate furnishings and personal items for the children in care residing in them.

(~~a~~b) Be separate from the rooms used for dining, living, multi-purpose, laundry, kitchen, or storage.

(~~b~~c) Be an outside room, with a window allowing egress from the building.

(~~c~~d) Have a ceiling height of at least 90 inches.

(~~d~~e) Have a minimum of 60 square feet per bed.

(~~e~~f) House no more than 25 ~~residents~~children in care in one room when a dormitory-style sleeping arrangement is used.

(~~f~~g) Have permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(~~g~~h) Have a window covering on each window to ensure privacy.

(~~h~~i) Contain beds for ~~residents~~children in care that meet both of the following requirements:

(A) There must be at least three feet between beds, including trundle beds if used; and

(B) Bunk beds, if used, must be maintained to ensure safety of the ~~residents~~children in care.

(~~3~~5) Bathrooms.

(a) Bathrooms must be provided and be conveniently located in each building containing a ~~*resident*~~child in care's bedroom, and must have all of the following:

(A) A minimum of one toilet ~~and~~ for every eight children in care.

(B) A minimum of one hand-washing sink with mixing faucets for ~~each~~ every eight ~~residents~~children in care. The sink may not be used for the preparation of food or drinks or for dish washing.

(~~B~~C) A self-closing metered faucet, if used, that provides water flow for at least 15 seconds without a need to reactivate the faucet.

(~~C~~D) Hot and cold running water, as well as soap and paper towels available at sinks, or, other hand-drying options approved by the local health department.

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(~~D~~E) One bathtub or shower for ~~each ten residents~~ every 10 children in care.

(E) Arrangements for ~~residents'~~ individual privacy for each *child in care*.

(F) A window covering on each window to ensure privacy.

(G) Permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(H) Adequate ventilation.

(I) Have adequate personal items for children in care.

(b) Use of wooden racks over shower floors is prohibited.

(c) When impervious shower mats are used, they must be disinfected and dried at least once per day.

(~~4~~6) Dining area. A separate dining room or area must be provided for the exclusive use of ~~residents~~children in care, employees, and invited guests. The dining area must have the capacity to seat at least one-half of the ~~residents~~children in care at one time and must contain a minimum of 15 square feet per ~~*resident*~~*child in care*.

(~~5~~7) Kitchen.

(a) Kitchens must be used exclusively for storage, food preparation, dish washing, and other activities related to eating and may not, except as provided in OAR 413-215-0536, be used for ~~residents'~~children in care's activities other than eating.

(b) The walls, floors, and floor coverings of all rooms in which food or drink is prepared or stored or utensils are washed or stored must be smooth, washable, and easily cleanable.

(c) All equipment and utensils used for food service, including plastic ware and food-contact surfaces, must be easily cleanable, durable, nontoxic, and nonabsorbent, and must be maintained in a clean and sanitary condition.

(d) All equipment used for food preparation must be installed and maintained in a manner that provides ease of cleaning beneath, between, and behind each unit.

(~~6~~8) Laundry area. Laundry facilities, when provided, must be separate from all of the following:

(a) ~~*Resident*~~ Living areas, including bedrooms for children in care.

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(b) Kitchen and dining areas.

(c) Areas used for the storage of un-refrigerated perishable food.

(~~7~~9) Storage. Separate storage areas must be provided for each of the following:

(a) Food, kitchen supplies, and utensils.

(b) Clean linens.

(c) Soiled linens and clothing.

(d) Cleaning compounds and equipment.

(e) Poisons, chemicals, pest and rodent control products, insecticides, and other toxic materials that must be properly labeled, stored in the original container, and kept in a locked storage area.

(f) Outdoor recreational and maintenance equipment.

(~~8~~10) Outdoor activity area. A usable out-of-doors activity area must be provided that is:

(a) ~~p~~Protected from vehicular traffic and other hazards.

(b) ~~The area must be of sufficient~~ Of a size and availability appropriate to ~~meet~~ the age and ~~recreational~~ needs of the ~~residents~~children in care.

(11) Classrooms and school buildings, if used, must be adequate in size and arrangement for the programs offered.

(12) Time-out rooms. Rooms used for time out or quiet time must have adequate space, heat, light and ventilation and must not be capable of locking.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0521
~~Resident~~ Furnishings and Personal Items

A *residential care agency* ~~(defined in OAR 413-215-0506)~~ must meet all of the following requirements:

(1) Furniture. ~~Furniture~~ Adequate furnishings must be provided for each ~~*resident* (defined in OAR 413-215-0506)~~*child in care* including, but not limited to:

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(a) A bed, including a frame;

(b) A clean, comfortable mattress and a pillow; and

(c) A private dresser, closet, or similar storage area for personal belongings that is readily accessible to the ~~*resident*~~*child in care*.

(2) Linens. Linens in good repair must be provided or arranged for each ~~*resident*~~*child in care*, including:

(a) A waterproof mattress cover or waterproof mattress;

(b) Sheets and pillowcase;

(c) Blankets appropriate in number and type for the season and the individual resident's comfort; and

(d) Towels and washcloths.

(3) Bedding must be changed at least weekly or when soiled and upon change of ~~occupant~~the *child in care* using the bedding.

(4) Personal hygiene supplies. Individual personal hygiene supplies that are appropriate to the child's age, gender, and culture must be made available to each ~~*resident*~~*child in care*, stored in a clean and sanitary manner, and must include:

(a) A comb;

(b) Shampoo, or other hair cleansing product;

(c) A toothbrush;

(d) Soap;

(e) Deodorant;

(f) Toothpaste;

(g) Toilet paper;

(h) Menstrual supplies, if appropriate; and

(i) Other supplies that are appropriate to the child in care's age, gender, and cultural needs.

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(5) Clothing. Adequate and seasonally appropriate clothing must be provided for ~~each *resident* for~~ the ~~resident's~~ exclusive use of each *child in care*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0526
New Facility or Remodel

A *residential care agency* ~~(defined in OAR 413-215-0506)~~ must meet all of the following requirements:

(1) Building plans.

(a) A *residential care agency* must submit to the Department for approval a set of plans and specifications for each ~~residential care *facility*~~ building used for children in care operated by the *residential care agency* at each of the following times:

(A) Prior to construction of a new building.

(B) Prior to construction of an addition to an existing building.

(C) Prior to the remodeling, modification, or conversion of a building.

(D) In support of an application for initial license to operate as a *residential care agency*.

(b) Plans must comply with all applicable state and local requirements for a building used as a residential *facility*, including the Oregon Structural Specialty Code (see OAR 837-040-0140), the Oregon Fire Code (see OAR 837-040-0010 and 837-040-0020), ~~DHS~~ Oregon Health ~~Services~~Authority requirements for buildings (see OAR ~~C~~chapter 333~~of the Oregon Administrative Rules~~), the Oregon Plumbing Specialty Code (see OAR 918-750-0110 to OAR 918-750-0115~~40~~), the rules of the State Fire Marshal for buildings (OAR ~~C~~chapter 837~~ of the Oregon Administrative Rules~~), and the local building, fire, and safety codes.

(c) Plans must be drawn to scale, and must specify the date upon which construction, modification, or conversion will be completed, if applicable.

(2) Sanitarian approval. The water supply, sewage, and garbage disposal systems must be approved by a sanitarian registered with the Environmental Health Registration Board (see OAR 338-010-0025 to 338-010-0038).

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Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0531
Environmental Health

A *residential care agency* ~~(defined in OAR 413-215-0506)~~ must meet all of the following requirements:

(1) The program of the *residential care agency* must maintain an environment that ensures safety for program *staff* ~~(defined in OAR 413-215-0506)~~ and ~~clients~~children in care.

(2) Environmental Health Specialist approval. Prior to licensure and every two years upon license renewal, the program must be assessed and provide documentation of approval by a registered environmental health specialist (see OAR 338-010-0025 to 338-010-0038) for the following safety areas:

(a) Food service risk assessment.

(b) Drinking water or waste water assessment.

(c) Vector and pest control, including the use of pesticides and other chemical agents.

(d) Hazardous material management, including handling and storage.

(e) Recreation assessments (such as playgrounds, swimming pools, and hot tubs) for injury prevention and hazard mitigation.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0536
Food Services

A *residential care agency* ~~(defined in OAR 413-215-0506)~~ must meet all of the following requirements with regard to food services:

(1) Nutrition and dietary requirements.

(a) A *residential care agency* must arrange meals daily, consistent with normal mealtimes that occur during hours of operation.

(b) Menus must be prepared in advance in accordance with USDA guidelines and must provide a sufficient variety of foods served in adequate amounts for each

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child in care~~(defined in OAR 413-215-0506)~~ at each meal, adjusted for seasonal changes. Records of menus as served must be maintained in the record of the *residential care agency* for at least six months.

(c) Drinking water must be freely available to the children in care served by the *residential care agency*.

(2) Food selection, storage, and preparation.

(a) All food and drink provided by the *residential care agency* must be stored, prepared, and served in a sanitary manner.

(b) All employees who handle food served to children in care must have a valid food handlers card pursuant to ORS 624.570.

(c) Selection of food. All food products served by a *residential care agency* must be obtained from commercial suppliers, except:

(A) Fresh fruits and vegetables and fruits or vegetables frozen by the *residential care agency* may be served.

(B) The serving of un-pasteurized juice is prohibited.

(d) Requirements related to milk.

(A) Only Grade A pasteurized and fortified milk may be served to children in care.

(B) Milk and fluid milk products must be dispensed from a commercially-filled plastic container of not more than one-gallon capacity or from a refrigerated bulk container equipped with a dispensing device approved by the Food and Drug Administration or Oregon Department of Agriculture.

(e) Children in care may participate in activities in a food-preparation area, other than routine clean up, only while under the supervision of the employees of the *residential care agency*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0541
Safety

A *residential care agency* ~~(defined in OAR 413-215-0506)~~ must meet all of the following requirements related to safety:

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(1) Fire safety. Prior to licensure and every two years upon license renewal, the program must be assessed and approved by the State Fire Marshall or designee for the following fire safety areas:

(a) The *residential care agency* must provide fire safety equipment that meets the requirements of applicable building codes and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020).

(b) The *residential care agency* must comply with existing state and local fire safety codes.

(2) Emergency plan.

(a) The *residential care agency* must have, for each *facility* ~~(defined in OAR 413-215-0506)~~ it operates, a written emergency plan that includes:

(A) Instructions for evacuation of children in care and employees in the event of fire, explosion, accident, or other emergency.

(B) Instructions for response in the event of a natural disaster, external safety threat, or other emergency.

(b) Telephone numbers for local police and fire departments and other appropriate emergency numbers must be posted near all telephones.

(c) Operative flashlights sufficient in number must be readily available to the *staff* ~~(defined in OAR 413-215-0506)~~ in case of emergency.

(3) Evacuation drills.

(a) An unannounced evacuation drill must be held monthly under varying conditions to simulate the unusual conditions that occur in the event of fire. For each drill, the *residential care agency* must document the following information and retain it for a minimum of two years:

(A) Identity of the person conducting the drill.

(B) Date and time of the drill.

(C) Notification method used.

(D) *Staff* members on duty and participating.

(E) Number of ~~occupants~~children in care and *staff* evacuated.

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(F) Special conditions simulated.

(G) Problems encountered.

(H) Time required to accomplish complete evacuation.

(b) The *residential care agency* must ensure that all employees and children in care are aware of the procedures to follow in case of emergencies.

(4) Hazards.

(a) The *residential care agency* must protect children ~~it serves~~in care from guns, drugs, plastic bags, sharps, paint, hazardous materials, bio hazardous materials, and other potentially harmful materials. A *residential care agency* must have a written policy that addresses potentially harmful materials that are in the building accessible to the children in care in the *program* or on the grounds of the *program*.

(b) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in all buildings serving children in care. Direct supervision by *staff* must be provided for any *child in care*~~(defined in OAR 413-215-0506)~~ who does not have the ability to adjust and control water temperature.

(c) Each light fixture must have a protective cover unless it is designed to be used without one.

(5) Transportation. The *residential care agency* must ensure the following when providing transportation to children in care~~it serves~~:

(a) Driver requirements.

(A) Each *employee* ~~(defined in OAR 413-215-0506)~~ transporting a *child in care* in a motor vehicle must have a current driver license on record with the *residential care agency*.

(B) The *residential care agency* may use an *employee* to provide transportation for children in care only if the *employee* is covered by an insurance policy in full force and effect, and in compliance with the standards set by the *residential care agency*.

(C) The *residential care agency* must ensure that employees providing transportation are trained in emergency procedures, including behavior management, while in a vehicle.

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(D) The *residential care agency* must ensure that each person who transports a *child in care* in a van for 15 or more passengers receives training in the safe operation of that type of vehicle prior to transporting children in care.

(b) Vehicle requirements.

(A) Each vehicle used to transport a *child in care* served by the *residential care agency* must be covered by an insurance policy in full force and effect.

(B) Each vehicle used to transport a *child in care* served by the *residential care agency* must be maintained in safe operating condition.

(C) Each vehicle used to transport a *child in care* must have aboard a first aid kit, a fully charged and working fire extinguisher with a rating of at least 2-A:10-BC, and a copy of the medical insurance card of each *child in care* being transported.

(D) Each vehicle used to transport a *child in care* must be smoke-free.

(E) Children in care and adults must ride in a vehicle manufactured seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0546
Health Services

(1) A *residential care agency* ~~(defined in OAR 413-215-0506)~~ must obtain all private health record information referred to in this rule in a manner that complies with federal and state law.

(2) Medical history. Within 30 days of a *child in care* being placed with a *residential care agency*, the *residential care agency* must obtain available medical history and other health-related information on the *child in care*, including:

(a) Significant findings of the most current physical examination;

(b) The child in care's current immunizations, history of surgical procedures and significant health issues or injuries, and past or present communicable diseases;

(c) Any known allergies;

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(d) Dental, vision, hearing, and behavioral health;

(e) Documentation that the *child in care* has received age-appropriate instruction regarding pregnancy prevention, nutrition, prevention of HIV and AIDS, and general information about the prevention and treatment of sexually transmitted disease; and

(f) Physician or qualified medical professional's orders, including those related to medications, if any.

(3) ~~Female health care. If licensed to serve female children, a~~ Health Services. The *residential care agency* must provide or arrange for the following health services, as applicable:

(a) Information on maintaining reproductive health and birth control.

(b) Prenatal care.

(c) Well-baby care.

(d) Fetal alcohol syndrome.

(e) Accessing child and infant health insurance programs.

(f) Screening for breast~~, cervical,~~ and other common cancers.

(g) Provide all necessary feminine hygiene products.

(h) Access to birth control, vaccinations, and information about preventing sexually transmitted diseases.

(4) Medical examinations. A *residential care agency* must safeguard the health of each *child in care* it serves by providing for a medical examination by a physician or qualified medical professional at the following intervals:

(a) Three examinations during the first year of the child's life.

(b) One examination at the age of two.

(c) One examination at the age of four.

(d) One examination at the age of six.

(e) One examination at the age of nine.

(f) One examination at the age of 14.

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(5) A *residential care agency* must have ~~established protocols~~ written procedures for:

(a) ~~a~~Accessing routine and urgent care for the children in ~~placement~~care with the *residential care agency*~~.~~; and

(b) Documented processes and available contact information for each *child in care* to obtain parent or legal guardian consent in the case emergency medical treatment is necessary.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0551
Medication

A *residential care agency* ~~(defined in OAR 413-215-0506)~~ must meet all of the following requirements:

(1) Policy and procedures. The *residential care agency* must have policies and procedures that cover all prescription and non-prescription medications that address all of the following:

(a) How the *medication* ~~(defined in OAR 413-215-0506)~~ will be administered.

(b) By whom the *medication* will be administered.

(c) How the *staff* ~~(defined in OAR 413-215-0506)~~ of the *residential care agency* who administer *medication* will be trained.

(d) How the administration of *medication* will be documented.

(e) How the administration of *medication* will be monitored.

(f) How unused *medication* will be disposed of.

(g) The process that ensures that each child in care's prescription and non-prescription medications are reviewed, unless the medications are all provided through a single pharmacy. As used in this rule, "non-prescription medication" means any *medication* that does not require a written prescription for purchase or dispensing and includes the use of any herbal remedies or supplements.

(2) Program *staff* may not dispense *medication* to a *child in care* in any of the following situations:

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(a) In excess of the prescribed or authorized amount.

(b) For disciplinary purposes.

(c) For the convenience of staff.

(d) As a substitute for appropriate treatment services.

(~~2~~3) A prescription, signed by a physician or qualified medical professional, is required before any prescription *medication* is administered to, or self-administered by a *child in care*. Medications prescribed for one *child in care* may not be administered to, or self-administered by another *child in care* or *staff*. As used in this rule, "self-administration of medication" refers to the act of a ~~*resident*~~*child in care* placing a *medication* internally in, or externally on, his or her own body.

(~~3~~4) A written approval, signed by a physician or qualified medical professional, is required for any use of herbal supplements or remedies.

(~~4~~5) A written order, signed by a physician or qualified medical professional, is required for any medical treatment, special diet, physical therapy, aid to physical functioning, or limitation of activity.

(~~5~~6) Before a *residential care agency* permits a *child in care* to self-administer prescription *medication*, self-administration must be recommended by the qualified medical professional, approved in writing by a physician or qualified medical professional, and closely monitored by the *staff* of the *residential care agency*.

(~~6~~7) Medication storage.

(a) Prescription medications that are unused and medications that are outdated or recalled may not be maintained in the *facility* ~~(defined in OAR 413-215-0506)~~. "Outdated" means any *medication* whose designated period of potency, as indicated on the label, has expired.

(b) The *facility* may maintain a stock supply of non-prescription medications.

(c) All prescription and non-prescription medications stored in the *facility* must be kept in a manner that they are inaccessible to children in care.

(d) Medications requiring refrigeration must be refrigerated and secured.

(e) Medications must be maintained and stored in its original container, including the prescription label.

(~~7~~8) Medication disposal. Medications must be disposed of in a manner that ensures that they cannot be retrieved, in accordance with all applicable state and federal law.

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(~~8~~9) A written record of all *medication* disposals must be maintained and must include all of the following:

(a) A description of the prescribed *medication* and the amount disposed.

(b) The *child in care* for whom the *medication* was prescribed.

(c) The reason for disposal.

(d) The method of disposal.

(e) The name of the person disposing the *medication*, and the initials of an adult witness.

(~~9~~10) Medication records. A written record must be kept for each *child in care* listing all medications, both prescription and over-the-counter, that are administered. The record must include all of the following:

(a) The ~~child's~~ name of the *child in care*.

(b) A description of the *medication*, instructions for use, and the recommended dosage.

(c) Dates and times *medication* is administered.

(d) A record of missed dosages.

(e) *Medication* dropped or disposed of.

(f) Method of administration for each *medication*.

(g) Identification of the person administering the *medication*.

(h) Any possible adverse reactions to the *medication*.

(i) Documentation of any *medication* taken outside the *facility* to be administered during a home visit or other activity.

(10) Where applicable, the *residential care agency* must maintain documentation of the continuing evaluation of the ~~child's~~ ability of the *child in care* to self-administer a *medication*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

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413-215-0554
Extracurricular, Enrichment, Cultural, and Social Activities

The *residential care agency* ~~(defined in OAR 413-215-0506)~~ must:

(1) Support the *child* *in care*~~or young adult~~ in his or her interests to participate in *age-appropriate or developmentally appropriate activities*, including extracurricular, enrichment, cultural, and social activities.

(2) Ensure the *child* *in care*~~*or young adult*~~ has ongoing opportunities to participate in at least one age-appropriate or developmentally appropriate activity.

(3) Apply the *reasonable and prudent parent standard* when determining whether to allow a *child* *in care*~~or young adult~~ in substitute care to participate in extracurricular, enrichment, cultural, and social activities.

(4) Designate at least one on-site *employee* ~~to be the caregiver who is~~ authorized to apply the *reasonable and prudent parent standard* to decisions involving participation in *age-appropriate or developmentally appropriate activities* with respect to any *child* *in care*~~or young adult placed~~ at the residential care agency. When applying the *reasonable and prudent parent standard*, the designated ~~caregiver~~*employee* must consider:

(a) The age, maturity, and developmental level of a *child* *in care*~~or young adult~~.

(b) The nature and inherent risks of harm.

(c) The best interest of the *child* *in care*~~or young adult~~ based on information known by the designated *employee*~~caregiver~~.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0556
Staff Training

In addition to the ~~orientation~~ requirements in OAR 413-215-0061(4) and (5), a *residential care agency* ~~(defined in OAR 413-215-0506)~~ must meet all of the following training requirements with respect to its *staff* ~~(defined in OAR 413-215-0506)~~:

(1) *Staff* of the *residential care agency* must be provided with orientation training prior to or within 30 days of hire. The orientation must include training on all of the following:

(a) Discipline and ~~B~~behavior management protocols including de-escalation skills training, crisis prevention skills, positive behavior management, and disciplinary

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techniques that are non-punitive in nature and are focused on helping children *in care* build positive personal relationships and self-control.

(b) If restraint and seclusion are utilized by the *residential care agency*, which techniques are approved by the *residential care agency* and how use of these procedures is monitored. The~~ training must be clear that the~~ policy of the *residential care agency* ~~is~~must be clear in training that restraint or seclusion is used as an intervention of last resort.

(2) *Staff* of the *residential care agency* must receive ongoing training at least annually on all of the following:

~~(a) Mandatory child abuse reporting.~~

(~~b~~a) Procedures for handling environmental emergencies.

(~~c~~b) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.

(c~~d~~) Discipline and ~~B~~behavior management.

(3) *Staff* providing direct care of children *in care* of the *residential care agency* must receive training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.

(4) ~~Staff designated as the caregiver~~Designated staff authorized to apply the reasonable and prudent parent standard must receive training related to the application of the reasonable and prudent parent standard and age-appropriate or developmentally appropriate activities for a child in care.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0561
Minimum Staffing Requirements

A *residential care agency* ~~(defined in OAR 413-215-0506)~~ must meet all of the following requirements:

(1) Minimum staffing patterns. The *residential care agency* must establish staff-to-child ratios that will provide adequate supervision and protection for children in care. The ratios must be adequate for the type of program, location of program, the age and type of children in care served, physical plant design, location and ability of the supervisor to respond, electronic backup systems, and other means available to ensure a high standard of supervision and protection. The minimum staffing ratios are as follows:

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(a) For ~~*residents* (defined in OAR 413-215-0506)~~ children in care who are under 30 months of age -- one direct care *staff* ~~(defined in OAR 413-215-0506)~~ for each four children in care~~*residents*~~.

(b) For ~~*residents*~~children in care who are 30 months of age or older and either less than six years of age or non-ambulatory, one direct care *staff* for each six children in care~~*residents*~~.

(c) For ~~*residents*~~children in care who are six years of age or older, one direct care *staff* for each seven children in care~~*residents*~~.

(2) Overnight staffing requirements.

(a) A *residential care agency* must have policies and procedures regarding overnight supervision of children in care~~*residents*~~. The procedures must describe how *staff* must monitor and ensure the safety of ~~*residents*~~children in care during sleeping hours. If the *residential care agency* houses more than one *child* *in care*~~(defined in OAR 413-215-0506)~~ to a bedroom or uses dormitory-type sleeping arrangements, the procedure must specifically address those living arrangements.

(b) During normal sleeping hours, the minimum staffing requirement is one awake direct care *staff* on duty in the *facility* ~~(defined in OAR 413-215-0506)~~ for each 10 children in care.

(3) At least one *staff* member of each shift must have current certification in cardiopulmonary resuscitation and first aid.

(4) Additional staffing requirements for emergency response.

(a) When there is only one ~~*employee* (defined in OAR 413-215-0506)~~*staff* of the *residential care agency* on duty in the *facility*, there must be additional *staff* immediately available in the event of an emergency, with a maximum response time of 30 minutes. The names of additional *staff* who are available for immediate response must be listed on the schedule for each time period when only one *staff* person is on duty in the *facility*.

(b) One ~~*employee*~~*staff* who is age 18 or over and capable of taking appropriate action in an emergency must be on site at all times when one or more *residents* are present on the residential *facility* premises.

(5) Staffing requirements for *reasonable and prudent parent standard*. There must be at least one on-site *employee* designated to ~~be the caregiver who is authorized to~~ apply the *reasonable and prudent parent standard* to decisions involving participation in *age-appropriate or developmentally appropriate activities* with respect to any *child* *in care* placed at the *residential care agency*.

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Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0566
Separation of Residents

A *residential care agency* ~~(defined in OAR 413-215-0506)~~ must meet all of the following requirements:

(1) Combining children and adults. Special care must be taken by a *residential care agency* to provide adequate supervision of children in care when ~~adults~~children in care 18 years of age or older are being served by the *residential care agency*. Children ~~and adults~~in care 18 years of age or older must be housed in separate bedrooms from children in care under 18 years of age, except that a *child in care* and the child in care's parent may be housed in the same room if the parent is the child's caretaker. If a ~~person~~*child in care* is 18 years of age or older~~,~~ and is to share a bedroom with a *child in care* under 18 years of age, the *residential care agency* must obtain written approval from the Department licensing coordinator.

(2) Co-ed facilities. Special care must be taken by a *residential care agency* to provide adequate supervision when the program serves both males and females concurrently. Children's bedrooms for males must be separated from bedrooms for females.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0571
Referral and Initial Evaluation of Children

(1) Referral. A *residential care agency* ~~(defined in OAR 413-215-0506)~~ must have a policy that addresses the process by which children in care are referred to the *residential care agency*. The policy must include all of the following:

(a) From whom referrals are accepted.

(b) On what basis children are accepted by the *residential care agency*.

(c) How information necessary to provide for the safety and *care* ~~(defined in OAR 413-215-0506)~~ of children in care will be provided to the appropriate *care staff* ~~(defined in OAR 413-215-0506).~~

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(2) Initial evaluation of a child. A *residential care agency* must evaluate each *child in care* referred to the *residential care agency*. In conducting the evaluation, the *residential care agency* must:

(a) Request and review all available reports of the child in care's past and present behavior, educational status, and physical and behavioral health.

(b) Make a preliminary determination whether the prospective *child in care* has disorders, disabilities, or deficits due to mental, emotional, behavioral, or physical problems for which *care*, supervision, training, rehabilitation, or treatment is needed to reduce a problem, maintain present level of functioning, or clarify the ongoing placement or service needs of the *child in care*.

(3) A *residential care agency* must be prepared to provide to a parent or legal guardian of a referred *child in care* suggestions for obtaining resources in the event the *child in care* is not accepted by the *residential care agency*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0576
Consents, Disclosures, and Authorizations

(1) Consents. For each *child in care* in placement with a *residential care agency* ~~(defined in OAR 413-215-0506)~~, the *residential care agency* must ensure that a parent or legal guardian signs a consent that authorizes the *residential care agency* to undertake each of the following:

(a) To provide routine and emergency medical care. However, if the parent or legal guardian relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the *residential care agency* is not required to use medical, psychological or rehabilitative procedures, unless the *child in care* is old enough to consent to these procedures and does so. The *residential care agency* must have policies and procedures for this practice, which are reviewed and approved by the child in care's parent or legal guardian.

(b) To use the discipline and behavior management system of the *residential care agency*~~, including the point, level, or other behavior management techniques utilized by the *residential care agency*~~.

(c) To use restraint or seclusion in the management of the *child in care*. The consent must specify the reasons such interventions are used by the *residential care agency* and how the employees of the *residential care agency* are trained and supervised in the use of restraint or seclusion.

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(d) To restrict the child's contact with persons outside the *residential care agency*, including visits, telephone communication, electronic mail, and postal mail, except that access to a *child in care* must be allowed as provided in ORS 418.305 and OAR 413-215-0091 and 413-215-0101.

(e) To allow access to a *child in care* as required in ORS 418.305 and OAR 413-215-0091 and 413-215-0101.

~~(e) To exclude or limit the child's possession of personal items.~~

(f) To impose a dress code.

(g) To apply the *reasonable and prudent parent standard* to determine whether the *child in care*~~*or young adult*~~ is allowed to participate in *age-appropriate or developmentally appropriate activities*~~,~~ including extracurricular, enrichment, cultural, and social activities.

(2) Disclosures to parent or legal guardian. At the time a *residential care agency* takes a *child in care* into placement, the *residential care agency* must ensure that each parent or legal guardian of the *child in care* receives and acknowledges in writing the receipt of each of the following:

(a) Information regarding any personal or room searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the *residential care agency* for any program-initiated room or body search.

(b) A statement concerning the rights of children in care and parents or legal guardians served by the *residential care agency* as provided in OAR 413-215-0046. The statement must be written in a manner that is easy to understand, and the *residential care agency* must ensure that the *child* and the parent or legal guardian understand the statement. ~~The statement must explain all of the following:~~

~~(A) The child's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by the parent or legal guardian.~~

~~(B) The child's right to privacy.~~

~~(C) The child's right to participate in service planning.~~

~~(D) The child's right to fair and equitable treatment.~~

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~~(E) The right of the *child* or guardian to file a grievance if the *child* or *family* (defined in OAR 413-215-0506) feels that they are treated unfairly, or, if they are not in agreement with the services provided.~~

~~(F) The child's right to have personally exclusive clothing.~~

~~(G) The child's right to personal belongings.~~

~~(H) The child's right to a free and appropriate education.~~

~~(I) The child's right to participate in recreation and leisure activities.~~

~~(J) The child's right to have timely access to physical and behavioral health care services~~

(c) The *residential care agency* will make any written policy or procedure pertaining to program services available for review by the *child in care*, parent, or legal guardian, upon request.

(3) Authorizations.

(a) Written authorizations to exchange information with others must be filled out prior to signatures being requested.

(b) All child-specific visitors must be approved or authorized by the parent or legal guardian, except ~~CASAs and attorneys appointed~~access to ~~represent the~~a child in care must be provided as required in ORS 418.305 and OAR 413-215-0091 and 413-215-0101.

(c) Visitation resources must be pre-approved by the child's parent or legal guardian and the identity of these resources verified by the *residential care agency in care*.

(d) Activity-specific authorizations must be pre-approved by the child in care's parent or legal guardian to allow children to participate in potentially hazardous activities, such as using motorized yard equipment, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the child in care's parent or legal guardian.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

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413-215-0581
Information About Children in Care~~Placement with the Agency~~

(1) ~~Child's~~ Case files of children in care. For each *child in care* a *residential care agency* ~~(defined in OAR 413-215-0506)~~ accepts for placement, the *residential care agency* must maintain an individual record that includes a summary sheet containing all of the following information:

(a) The ~~child's~~ name, gender, date of birth, religious preference, and previous address of the *child in care*.

(b) The name and location of the child in care's previous school.

(c) The date of admission to the program.

(d) The status of the child in care's legal custody, including the name of each person responsible for consents and authorizations.

(e) The name, address, and telephone number of:

(A) The child in care's parents.

(B) The child in care's legal guardian, if different than parents, and documentation of his or her legal relationship to the *child in care*.

(C) Other family members or other persons identified by the *family* ~~(defined in OAR 413-215-0506)~~ as significant to the *child in care*.

(D) Other professionals to be involved in service planning, if applicable.

(f) Any required signed consents and authorizations.

(2) Service planning.

(a) All documentation, including, but not limited to service plans, daily notes, assessments, progress reports, *medication* records, and incident reports, must be written in terms that are easily understood by all persons involved in service planning.

(b) Intake documentation. A *residential care agency* must complete a written intake document containing screening information on the date the *residential care agency* accepts a *child in care* for placement except in the case of an emergency placement, when the intake document must be completed within 48 hours of admission.

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(c) Each *child in care* must be served according to an individual written service plan developed by *staff* ~~(defined in OAR 413-215-0506)~~ of the *residential care agency* and by, whenever possible, the *child in care*, the child's *family*, and other professionals involved with the *child in care* or *family*. This document must outline goals for services and care coordination.

(d) Assessment. A comprehensive assessment must be completed within the first 30 days of placement. This assessment must include relevant historical information, current behavioral observations, any identified needs for services, and a description of how the *residential care agency* will provide or coordinate services.

(e) Service plan and review.

(A) Within 60 days of placement, a formal service plan must be developed by *staff* of the *residential care agency* in conjunction with the *child in care* and his or her parents or legal guardians, and any other persons who are actively involved with the *family*, as appropriate.

(B) The service plan must reflect how the *residential care agency* will address the child in care's issues, describe the anticipated outcomes of the placement, and be reviewed and approved by the *child in care* and the legal guardian or parent, unless contraindicated.

(C) The service plan must be reviewed by the *residential care agency* at least quarterly.

(D) Service plans must be revised at any time additional information becomes available indicating that other services should be provided.

(3) Case management.

(a) The *residential care agency* must document services provided, and track and monitor progress toward the achievement of service plan goals.

(b) Discharge. The *residential care agency* must identify how a child in care's progress will be evaluated, and how the determination is made of readiness for discharge or unsuitability for continued stay.

(c) Discharge planning. Discharge planning for children in care must be a participatory decision-making process between the *child in care*, *staff* of the *residential care agency*, the parents or legal guardian, and significant others. As used in this rule, "significant others" mean relatives, friends, or interested members of the community.

(d) Discharge instructions. The *residential care agency* must provide the *child in care* and the child in care's guardian with discharge instructions on or before the

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discharge date, including current medications, name of the physician or qualified medical professional who prescribed each *medication* ~~(defined in OAR 413-215-0506)~~, any outstanding medical or other appointments, and other follow-up instructions as needed.

(e) Follow-up services. The *residential care agency* must identify any transitional or aftercare services or service coordination that will be offered by the program.

(f) Incident reporting. A written description of any injury, accident, or unusual incident involving a *child in care* must be placed in the individual child's record.

(4) Financial records. A *residential care agency* must keep a separate written record for each *child* itemizing all money received or disbursed on behalf of the *child in care*. The record must include all of the following:

(a) The date of each receipt and disbursement and the amount of each.

(b) The source of income.

(c) The purpose of each disbursement.

(d) The signature of the person making each entry.

(e) The signature of the *child in care* for each entry.

(5) Personal possessions records. An individual written inventory must be maintained for each *child in care* of all personal possessions belonging to the *child in care*. The record must be updated as needed.

(6) The *residential care agency* will ensure, in policy and practice, that:

(a) Disallowable items are either stored, or returned to the parent or legal guardian; and

(b) All money and personal belongings are returned to the *child in care* at the time of discharge.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0586
Notification to Public Schools

(1) This rule applies if a *residential care agency* ~~(defined in OAR 413-215-0506)~~ intends any of the actions:

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(a) To establish or expand a residential program for children.

(b) To change the type of educational services provided.

(c) To change the population of children to be served by an existing program.

(2) Prior to an action covered by section (1) of this rule, a *residential care agency* must notify the superintendent or school board of the local school district, in writing, three months prior to making the intended change in order for the school district to make a determination of the effect of different, or additional, services upon the facilities and programs of the district.

(3) A *residential care agency* must send written proof of compliance with ORS 336.575 to the Department licensing coordinator.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 336.575, 418.205 - 418.327, Or Laws 2016, ch 106

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Licensing Therapeutic Boarding Schools

413-215-0601
Therapeutic Boarding Schools; What Law Applies

These rules, OAR 413-215-0601 to 413-215-0681 regulate a *child-caring agency* licensed as a *therapeutic boarding school*. A *therapeutic boarding school* must also comply with OAR 413-215-0001 to 413-215-0131.

~~(1) A *therapeutic boarding school* (defined in OAR 413-215-0606) must be licensed in accordance with and comply with OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0601 to 413-215-0681.~~

~~(2) Academic boarding schools (OAR 413-215-0201 to 413-215-0276) and residential care agencies (OAR 413-215-0501 to 413-215-0586) are not subject to OAR 413-215-0601 to 413-215-0681.~~

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0606
Definitions

THIS RULE IS REPEALED

~~The following definitions apply to OAR 413-215-0601 to 413-215-0681:~~

~~(1) "Boarding" means *care* or treatment services provided on a 24 hour per day basis to children.~~

~~(2) "Care" means services provided to meet the needs of a child, such as food, shelter, clothing, medical care, schooling, protection, and supervision.~~

~~(3) "Child" means an individual under 18 years of age.~~

~~(4) "Employee" means an individual holding a paid position with a *therapeutic boarding school*.~~

~~(5) "Facility" means the physical setting, property, structures, or equipment of a *therapeutic boarding school*.~~

~~(6) "Family" means related members of a household, among whom at least one adult functions as a parent to one or more minor children.~~

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~~(7) "Medication" means any drug, chemical, compound, suspension, or preparation in suitable form for use as a curative or remedial substance either internally or externally by any person.~~

~~(8) "Staff" means employees of the *therapeutic boarding school* who are responsible for providing direct *care* or treatment to students.~~

~~(9) "Student" means a residential client of a *therapeutic boarding school*.~~

~~(10) "Therapeutic boarding school" means an organization or a program in an organization that --~~

~~(a) Is primarily a school and not a *residential care agency* (defined in OAR 413-215-0506);~~

~~(b) Provides educational services and *care* to children for 24 hours a day; and~~

~~(c) Holds itself out as serving children with emotional or behavioral problems, providing therapeutic services, or assuring that children receive therapeutic services.~~

Stat. Auth.: ORS 409.050, 418.005, 418.327
Stats. Implemented: ORS 409.010, 418.005, 418.327

413-215-0611
Educational Services

The educational services of a *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must comply with all of the following requirements:

(1) The *therapeutic boarding school* must comply with the minimum requirements for private education institutions as determined by the Oregon Department of Education.

(2) Education services must include at least one qualified teacher for every ~~fifteen~~ 15 children in care~~*students* (defined in OAR 413-215-0606)~~.

(3) The *therapeutic boarding school* must ensure that it has a curriculum that considers the goals of modern education as defined in OAR 581-022-1020 and the requirements of a sound, comprehensive curriculum.

(4) Secondary schools must verify that they have academic standards necessary for ~~*students*~~children in care to obtain admission to community colleges and institutions of higher education and receive a high school diploma or GED.

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Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0616
Physical Plant Requirements

(1) A *therapeutic boarding school* may not allow children in care to have access to, or provide services regulated by these rules (OAR 413-215-0601 to 413-215-0681) in, a building unless the building has been certified as meeting all applicable state and local construction-related requirements for a building used by the *therapeutic boarding school*.

(2) A *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must meet all of the following requirements:

(a) All buildings where children in care are present must be smoke-free.

(~~1~~b) All buildings owned, maintained, or operated by the *therapeutic boarding school* to provide services to ~~*students* (defined in OAR 413-215-0606)~~children in care must meet all applicable state and local building, electrical, plumbing, and zoning codes.

(c) All areas of any buildings where children in care receive services must be kept clean and in good repair. Major appliances and heating, ventilation, plumbing and electrical systems must be functional and in good repair.

(~~2~~d) Each room used by ~~*students*~~ children in care must have floors, walls, and ceilings that meet the interior finish requirements of the applicable Oregon Structural Specialty Code (see the current version of OAR 837-040-0140) and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020) and be free of harmful drafts, odors, and excessive noise.

(~~3~~e) Each room used by ~~*students*~~children in care must be adequate in size and arrangement for the purpose in which it is used.

(~~4~~f) A system providing a continuous supply of hot and cold water must be distributed to taps conveniently located throughout each *facility* ~~(defined in OAR 413-215-0606)~~.

(~~5~~g) Water systems serving the property must be installed and maintained in compliance with applicable drinking water regulations (see OAR ~~C~~chapter 333~~ of the Oregon Administrative Rules~~) from the Public Health Division of the ~~Department of Human Services~~Oregon Health Authority.

(~~6~~h) Heat and ventilation.

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(~~a~~A) Buildings must be ventilated by natural or mechanical means and must be free of excessive heat, condensation, and obnoxious odors.

(~~b~~B) Room temperature must be maintained within a normal comfort range.

(i) Water temperature and access to water:

(A) A continuous supply of hot and cold water, installed and maintained in compliance with this rule and OAR 413-215-0618 must be distributed to taps conveniently located throughout each building used to provide services or housing for children in care.

(B) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in each building used to provide services or housing for children in care.

(C) Each *child in care* who lacks the ability to adjust and control water temperature safely must be directly supervised by a *staff* member of the *therapeutic boarding school*.

~~(7) Individual rooms.~~

~~(a) Living area. A separate living room or lounge area must be available for the exclusive use of *students*, employees, and invited guests.~~

~~(b) Bedrooms. Bedrooms for *students* may not be exposed to drafts, odors, or noises that interfere with the health or safety of the occupants. Each bedroom must comply with all of the following requirements:~~

~~(A) Be separate from the rooms used for dining, living, multi-purpose, laundry, kitchen, or storage.~~

~~(B) Be an outside room, with a window of at least the minimum size required by the State Fire Marshal and building codes;~~

~~(C) Have a ceiling height of at least 90 inches.~~

~~(D) Have a minimum of 60 square feet per bed.~~

~~(E) House no more than 25 *students* in one room when a dormitory-style sleeping arrangement is used.~~

~~(F) Have permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.~~

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~~(G) Have a window covering on each window to ensure privacy.~~

~~(H) Contain beds for *students* that meet both of the following requirements:~~

~~(i) There must be at least three feet between beds, including trundle beds if used; and~~

~~(ii) Bunk beds, if used, must be maintained to ensure safety of the *students*.~~

~~(c) Restrooms must be provided and be conveniently located, and must have:~~

~~(A) A minimum of one toilet for every eight *students*.~~

~~(B) One hand-washing sink with mixing faucets for each toilet. The sink may not be used for the preparation of food or drinks or for dish washing.~~

~~(C) Hot and cold running water, soap, and paper towels at each hand washing sink or other hand drying options approved by an environmental health specialist.~~

~~(D) Arrangements for individual privacy for users.~~

~~(E) Permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.~~

~~(F) A window covering on each window to ensure privacy.~~

~~(G) Adequate ventilation.~~

~~(H) Each self-closing metered faucet, if provided, must provide water flow for at least 15 seconds without the need to reactivate the faucet.~~

~~(d) Laundry facilities must be separate from --~~

~~(A) Kitchen and dining areas;~~

~~(B) *Student* Living areas, including bedrooms; and~~

~~(C) Areas used for the storage of un-refrigerated perishable food.~~

~~(e) Storage areas must be provided appropriate to the size of the *facility*. Separate storage areas must be provided for:~~

~~(A) Food, kitchen supplies, and utensils.~~

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~~(B) Clean linens.~~

~~(C) Soiled linens and clothing.~~

~~(D) Cleaning compounds equipment.~~

~~(E) Poisons, chemicals, pest control products, insecticides, and other toxic materials, which must be properly labeled, stored in the original container, and kept in a locked storage area.~~

~~(F) Outdoor recreational and maintenance equipment.~~

~~(f) Food service areas.~~

~~(A) Kitchens must have facilities for dish washing, storage, and preparation of food.~~

~~(B) The walls, floors, and floor coverings of all rooms in which food or drink is prepared or stored or in which utensils are washed or stored must be smooth, washable, and easily cleanable.~~

~~(C) All equipment and utensils used for food service, including plastic ware and food-contact surfaces, must be easily cleanable, durable, nontoxic, and non-absorbent and must be maintained in a clean and sanitary condition.~~

~~(D) All equipment used for food preparation must be installed and maintained in a manner providing ease of cleaning beneath, around, and behind each unit.~~

~~(g) Dining area. A separate dining room or area must be provided for the exclusive use of *students*, employees, and invited guests. The dining area must have the capacity to seat at least one-half of the *students* at one time and must contain a minimum of 15 square feet per *student*.~~

~~(h) Classrooms and school buildings must be adequate in size and arrangement for the programs offered.~~

~~(i) Time-out rooms. Rooms used for time out or quiet time must have adequate space, heat, light, and ventilation and must not be capable of locking.~~

~~(j) Activity area. A usable recreational activity area must be provided that is --~~

~~(A) Protected from motor traffic and other hazards; and~~

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~~(B) Of a size and availability appropriate to the age and the needs of the *students* served by the *therapeutic boarding school.*~~

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0618
Room and Space Requirements

THIS IS A NEW RULE

A *therapeutic boarding school* must meet all of the following room and space requirements:

(1) All parts of the facility must ensure the safety of the children in care.

(2) All areas of the facility must be kept clean and in good repair. Major appliances and heating, ventilation, plumbing, and electrical systems must be functional and in good repair.

(3) Living area. A separate living room or lounge area must be available for the exclusive use of residents, employees, and invited guests with a minimum of 15 square feet per *child in care*.

(4) Bedrooms. Bedrooms for children in care may not be exposed to drafts, odors, or noises that interfere with the health or safety of the occupants. Each bedroom must comply with all of the following requirements:

(a) Have adequate furnishings and personal items for the children in care residing in them.

(b) Be separate from the rooms used for dining, living, multi-purpose, laundry, kitchen, or storage.

(c) Be an outside room, with a window allowing egress from the building.

(d) Have a ceiling height of at least 90 inches.

(e) Have a minimum of 60 square feet per bed.

(f) House no more than 25 children in care in one room when a dormitory-style sleeping arrangement is used.

(g) Have permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

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(h) Have a window covering on each window to ensure privacy.

(i) Contain beds for children in care that meet both of the following requirements:

(A) There must be at least three feet between beds, including trundle beds if used; and

(B) Bunk beds, if used, must be maintained to ensure safety of the children in care.

(5) Bathrooms.

(a) Bathrooms must be provided and be conveniently located in each building containing a child in care's bedroom, and must have all of the following:

(A) A minimum of one toilet for every eight children in care.

(B) A minimum of one hand-washing sink with mixing faucets for each eight children in care. The sink may not be used for the preparation of food or drinks or for dish washing.

(C) A self-closing metered faucet, if used, that provides water flow for at least 15 seconds without a need to reactivate the faucet.

(D) Hot and cold running water, as well as soap and paper towels available at sinks, or, other hand-drying options approved by the local health department.

(E) One bathtub or shower for every 10 children in care.

(F) Arrangements for individual privacy for each *child in care*.

(G) A window covering on each window to ensure privacy.

(H) Permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(I) Adequate ventilation.

(J) Have adequate personal items for children in care.

(b) Use of wooden racks over shower floors is prohibited.

(c) When impervious shower mats are used, they must be disinfected and dried at least once per day.

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(6) Dining area. A separate dining room or area must be provided for the exclusive use of children in care, employees, and invited guests. The dining area must have the capacity to seat at least one-half of the children in care at one time and must contain a minimum of 15 square feet per *child in care*.

(7) Kitchen.

(a) Kitchens must be used exclusively for storage, food preparation, dish washing, and other activities related to eating and may not, except as provided in OAR 413-215-0636, be used for children in care's activities other than eating.

(b) The walls, floors, and floor coverings of all rooms in which food or drink is prepared or stored or utensils are washed or stored must be smooth, washable, and easily cleanable.

(c) All equipment and utensils used for food service, including plastic ware and food-contact surfaces, must be easily cleanable, durable, nontoxic, and nonabsorbent, and must be maintained in a clean and sanitary condition.

(d) All equipment used for food preparation must be installed and maintained in a manner that provides ease of cleaning beneath, between, and behind each unit.

(8) Laundry area. Laundry facilities, when provided, must be separate from all of the following:

(a) Living areas, including bedrooms for children in care.

(b) Kitchen and dining areas.

(c) Areas used for the storage of un-refrigerated perishable food.

(9) Storage. Separate storage areas must be provided for each of the following:

(a) Food, kitchen supplies, and utensils.

(b) Clean linens.

(c) Soiled linens and clothing.

(d) Cleaning compounds and equipment.

(e) Poisons, chemicals, pest and rodent control products, insecticides, and other toxic materials that must be properly labeled, stored in the original container, and kept in a locked storage area.

(f) Outdoor recreational and maintenance equipment.

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(10) Outdoor activity area. A usable out-of-doors activity area must be provided that is –

(a) Protected from vehicular traffic and other hazards; and

(b) Of a size and availability appropriate to the age and needs of the children in care.

(11) Classrooms and school buildings, if used, must be adequate in size and arrangement for the programs offered.

(12) Time-out rooms. Rooms used for time out or quiet time must have adequate space, heat, light and ventilation and must not be capable of locking.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

413-215-0621
~~Student~~ Furnishings and Personal Items for Children in Care

A *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must meet all of the following requirements:

(1) Furniture. ~~Furniture~~Adequate furnishings must be provided for each ~~*student* (defined *in* OAR 413-215-0606)~~*child in care* including, but not limited to:

(a) A bed, including a frame;

(b) A clean, comfortable mattress; and a pillow; and

(c) A private dresser, closet, or similar storage area for personal belongings that is readily accessible to the ~~*student*~~*child in care*.

(2) Linens. Linens in good repair must be provided or arranged for each ~~*student*~~*child in care*, including:

(a) A waterproof mattress cover or waterproof mattress;

(b) Sheets and pillowcase;

(c) Blankets appropriate in number and type for the season and the ~~comfort of the~~ individual ~~*student*~~*child in care*; and

(d) Towels and washcloths.

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(3) Bedding must be changed at least weekly or when soiled and upon change of ~~occupant~~ the *child in care* using the bedding.

(4) Personal hygiene supplies. Individual personal hygiene supplies that are appropriate to the ~~student's~~child in care's age, gender, and culture must be ~~provided or arranged~~ made available for each ~~*student*~~*child in care*, stored in a clean and sanitary manner, and must include:

(a) A comb;

(b) Shampoo, or other hair cleansing product;

(c) A toothbrush;

(d) Soap;

(e) Deodorant;

(f) Toothpaste;

(g) Toilet paper;

(h) Menstrual supplies, if appropriate; and

(i) Other supplies that are appropriate to the age, gender, and cultural needs of the ~~*student*~~*child in care*.

(5) Clothing. Adequate and seasonally appropriate clothing must be provided ~~or arranged~~ for ~~each *student* for~~ the exclusive use of ~~the *student*~~ each *child in care*.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0626
New Facility or Remodel

A *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must meet all of the following requirements:

(1) Building plans.

(a) A *therapeutic boarding school* must submit to the Department for approval a set of plans and specifications for each ~~boarding *facility*~~ building used for children in care operated by the *therapeutic boarding school* ~~must be submitted to the~~

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~~Department and to the State Fire Marshal for approval --~~at each of the following times:

(~~a~~A) Prior to construction of a new building~~;~~.

(~~b~~B) Prior to construction of an addition to an existing building~~;~~.

(~~c~~C) Prior to the remodeling, modification, or conversion of a building~~; and~~.

(~~d~~D) In support of an application for initial license of a *therapeutic boarding school* under OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0601 to 413-215-0681.

(~~2~~b) ~~The required p~~Plans must comply with ~~both current~~ all applicable state and local requirements for a building used as a *therapeutic boarding school*, including the Oregon Structural Specialty Codes (see OAR 837-040-0140), the Oregon Fire Code (see OAR 837-040-0010 and 837-040-0020), Oregon Health Authority requirements for buildings (see OAR chapter 333), the Oregon Plumbing Specialty Code (see OAR 918-750-0110 to OAR 918-750-0115), the rules of the State Fire Marshal for buildings (OAR chapter 837) and the local building, fire, and safety codes.

(~~3~~c) Plans must be drawn to scale and must specify the ~~estimated~~ date upon which construction, modification, or conversion will be completed, if applicable.

(2) Sanitarian approval. The water supply, sewage, and garbage disposal systems must be approved by a sanitarian registered with the Environmental Health Registration Board (see OAR 338-010-0025 to 338-010-0038).

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0631
Environmental Health

A *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must meet all of the following requirements:

(1) The program of the *therapeutic boarding school* must maintain an environment that ensures safety for program *staff* and ~~clients~~children in care.

(2) Environmental Health Specialist approval. Prior to licensure and every two years upon license renewal, the program must be assessed and provide documentation of approval by a registered environmental health specialist (see OAR 338-010-0025 to 338-010-0038) for the following safety areas:

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(a) Food service risk assessment.

(b) Drinking water or waste water assessment.

(c) Vector and pest control, including the use of pesticides and other chemical agents.

(d) Hazardous material management, including handinghandling and storage.

(e) Recreation assessments (such as playgrounds, swimming pools, and hot tubs) for injury prevention and hazard mitigation.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0636
Food Services

A *therapeutic boarding school* (defined in OAR 413-215-0606) must meet all of the following requirements related to food services:

(1) Nutrition and dietary requirements.

(a) A *therapeutic boarding school* must arrange meals daily, consistent with normal mealtimes that occur during hours of operation.

(b) Snacks must be available and provided as appropriate to the age and activity levels of children in care*students* (defined in OAR 413-215-0606).

(c) Menus must be prepared in advance in accordance with USDA guidelines and must provide a sufficient variety of foods served in adequate amounts for each *student* at each meal, adjusted for seasonal changes. Records of menus as served must be maintained in the record of the *therapeutic boarding school* record for at least six months.

(d) Drinking water must be freely available to the *students*children in care served by the *therapeutic boarding school*.

(2) Food selection, storage, and preparation.

(a) All food and drink provided by the *therapeutic boarding school* must be stored, prepared, and served in a sanitary manner.

(b) All employees who handle food served to *students*children in care must have a valid food handler's card pursuant to ORS 624.570.

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(c) Selection of food. All food products served by a *therapeutic boarding school* must be obtained from commercial suppliers, except ~~that~~:

(A) Fresh fruits and vegetables and fruits or vegetables frozen by the *therapeutic boarding school* may be served.

(B) The serving of unpasteurized juice is prohibited.

(d) Requirements related to milk.

(A) Only Grade A pasteurized and fortified milk may be served to ~~*students*~~children in care.

(B) Milk and fluid milk products must be dispensed from a commercially filled plastic container of not more than one-gallon capacity or from a refrigerated bulk container equipped with a dispensing device approved by the Food and Drug Administration or the Oregon Department of Agriculture.

(e) ~~*Students*~~Children in care may participate in activities in a food-preparation area, other than routine clean up, only while under the supervision of the employees of the *therapeutic boarding school*.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0641
Safety

A *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must meet all of the following requirements related to safety:

(1) Fire safety. Prior to licensure and every two years upon license renewal, the program must be assessed and approved by the State Fire Marshall or designee for the following fire safety areas:

(a) The *therapeutic boarding school* must provide fire safety equipment that meets the requirements of applicable building codes and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020).

(b) The *therapeutic boarding school* must comply with existing state and local fire safety codes.

(2) Emergency plan.

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(a) The *therapeutic boarding school* must have, for each *facility* ~~(defined in OAR 413-215-0606)~~ it operates, a written emergency plan that includes:

(A) Instructions for evacuation of ~~*students*~~children in care and employees in the event of fire, explosion, accident, or other emergency.

(B) Instructions for response in the event of a natural disaster, external safety threat, or other emergency.

(b) Telephone numbers for local police and fire departments and other appropriate emergency numbers must be posted near all telephones.

(c) Operative flashlights sufficient in number must be readily available to the *staff* ~~(defined in OAR 413-215-0606)~~ in case of emergency.

(3) Evacuation drills.

(a) An unannounced evacuation drill must be held monthly under varying conditions to simulate the unusual conditions that occur in the event of fire. For each drill, the *therapeutic boarding school* must document the following information and retain it for a minimum of two years:

(A) Identity of the person conducting the drill.

(B) Date and time of the drill.

(C) Notification method used.

(D) *Staff* members on duty and participating.

(E) Number of ~~occupants~~children in care and *staff* evacuated.

(F) Special conditions simulated.

(G) Problems encountered.

(H) Time required to accomplish complete evacuation.

(b) The *therapeutic boarding school* must ensure that all employees and ~~*students*~~children in care are aware of the procedures to follow in case of emergencies.

(4) Hazards.

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(a) The *therapeutic boarding school* must protect ~~*students*~~children in care it serves from guns, drugs, plastics bags, sharps, paint, hazardous materials, bio-hazardous materials, and other potentially harmful materials. A *therapeutic boarding school* must have a written policy that addresses potentially harmful materials that are in the building accessible to the ~~*students*~~children in care in the program or on the grounds of the program.

(b) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in all buildings serving ~~*students*~~children in care. Direct supervision by *staff* must be provided for any ~~*student*~~*child in care* who does not have the ability to adjust and control water temperature.

(c) Each light fixture must have a protective cover unless it is designed to be used without one.

(5) Transportation. The *therapeutic boarding school* must ensure the following when providing transportation to ~~*students* it serves~~children in care:

(a) Driver requirements.

(A) Each *employee* ~~(defined in OAR 413-215-0606)~~ transporting a ~~*student*~~*child in care* in a motor vehicle must have a current driver license on record with the *therapeutic boarding school*.

(B) The *therapeutic boarding school* may use an *employee* to provide transportation for ~~*students*~~children in care only if the *employee* is covered by an insurance policy in full force and effect, and in compliance with the standards set by the *therapeutic boarding school*.

(C) The *therapeutic boarding school* must ensure that employees providing transportation are trained in emergency procedures, including behavior management, while in a vehicle.

(D) The *therapeutic boarding school* must ensure that each person who transports a ~~*student*~~*child in care* in a van for 15 or more passengers receives training in the safe operation of that type of vehicle prior to transporting *students*.

~~(E) Children and adults must ride in a vehicle manufactured seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads.~~

(b) Vehicle requirements.

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(A) Each vehicle used to transport a ~~*student*~~*child in care* served by the *therapeutic boarding school* must be covered by an insurance policy in full force and effect.

(B) Each vehicle used to transport a ~~*student*~~*child in care* served by the *therapeutic boarding school* must be maintained in safe operating condition.

(C) Each vehicle used to transport a ~~*student*~~*child in care* must have aboard a first aid kit, a fully charged and working fire extinguisher with a rating of at least 2-A:10-BC, and a copy of the medical insurance card of each *student* being transported.

(D) Each vehicle used to transport a ~~*student*~~*child in care* must be smoke-free.

(E) Children in care and adults must ride in a vehicle manufactured seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0646
Health Services

(1) A *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must obtain all ~~personal~~ private health record information referred to in this rule in a manner that complies with federal and state law.

(2) Medical history. Within 30 days of a ~~*student* (defined in OAR 413-215-0606)~~*child in care* starting with a *therapeutic boarding school*, the *therapeutic boarding school* must obtain available medical history and other health-related information on the ~~*student*~~ *child in care*, including:

(a) Significant findings of the most current physical examination;

(b) The ~~student's~~child in care's current immunizations, history of surgical procedures and significant health issues or injuries, and past or present communicable diseases, within ORS 192.55~~318~~ to 192.573~~26~~;

(c) Any known allergies;

(d) Dental, vision, hearing, and behavioral health; ~~and~~

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(e) Documentation that the *child in care* has received age-appropriate instruction regarding pregnancy prevention, nutrition, prevention of HIV and AIDS, and general information about the prevention and treatment of sexually transmitted disease; and

(~~e~~f) Physician or qualified medical professional's orders, including those related to *medication* ~~(defined in OAR 413-215-0606)~~, if any.

(3) Health services. The *therapeutic boarding school* must provide or arrange for the following health services, as applicable:

(a) Information on maintaining reproductive health and birth control.

(b) Prenatal care.

(c) Well-baby care.

(d) Fetal alcohol syndrome.

(e) Accessing child and infant health insurance programs.

(f) Screening for breast and other common cancers.

(g) Provide all necessary feminine hygiene products.

(h) Access to birth control, vaccinations and information about preventing sexually transmitted diseases.

(4) Medical examinations. A *therapeutic boarding school* must safeguard the health of each *child in care* it serves by providing for a medical examination by a physician or qualified medical professional at the following intervals:

(a) Three examinations during the first year of the child's life.

(b) One examination at the age of two.

(c) One examination at the age of four.

(d) One examination at the age of six.

(e) One examination at the age of nine.

(f) One examination at the age of 14.

(~~3~~5) A *therapeutic boarding school* must have ~~established protocols~~ written procedures for:

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(a) ~~a~~Accessing routine and urgent care ~~(defined in OAR 413-215-0606)~~ for the children in care~~*students* in placement~~ with the *therapeutic boarding school*~~.~~; and

(b) Documented processes and available contact information for each *child in care* to obtain parent or legal guardian consent in the case emergency medical treatment is necessary.

(6) A *therapeutic boarding school* must ensure each child in care receives services from a Qualified Mental Health Professional (QMHP) at least once every 30 days and ensure follow through with medical treatment requirements, adhere to treatment regimens related to a medical condition, and follow-up appointments and must provide transportation and access to health care providers for each *child in care*.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0651
Medication

A *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must meet all of the following requirements:

(1) Policy and procedures. The *therapeutic boarding school* must have policies and procedures that cover all prescription and non-prescription *medication* ~~(defined in OAR 413-215-0606)~~ that address all of the following:

(a) How the *medication* will be administered.

(b) By whom the *medication* will be administered.

(c) How the *staff* ~~(defined in OAR 413-215-0606)~~ of the *therapeutic boarding school* who administer *medication* will be trained.

(d) How the administration of *medication* will be documented.

(e) How the administration of *medication* will be monitored.

(f) How unused *medication* will be disposed of.

(g) The process that ensures that the prescription and non-prescription medications of each ~~*student* (defined in OAR 413-215-0606)~~*child in care* is reviewed, unless the medications are all provided through a single pharmacy. As used in this rule, "non-prescription medication" means any *medication* that does not require a written prescription for purchase or dispensing and includes the use of any herbal remedies or supplements.

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(2) Program staff may not dispense medication to a *child in care* in any of the following situations:

(a) In excess of the prescribed or authorized amount.

(b) For disciplinary purposes.

(c) For the convenience of staff.

(d) As a substitute for appropriate treatment services.

(~~2~~3) A prescription, signed by a physician or qualified medical professional, is required before any prescription *medication* is administered to, or self-administered by a ~~*student*~~*child in care*. *Medication* prescribed for one ~~*student*~~*child in care* may not be administered to, or self-administered by another ~~*student*~~*child in care* or *staff*. As used in this rule, "self-administration of medication" refers to the act of a ~~*student*~~*child in care* placing a *medication* internally in, or externally on, his or her own body.

(~~3~~4) A written approval, signed by a physician or qualified medical professional, is required for any use of herbal supplements or remedies.

(~~4~~5) A written order, signed by a physician or qualified medical professional, is required for any medical treatment, special diet, physical therapy, aid to physical functioning, or limitation of activity.

(6) Before a *therapeutic boarding school* permits a *child in care* to self-administer prescription *medication*, self-administration must be recommended by the qualified medical professional, approved in writing by a physician or qualified medical professional, and closely monitored by the *staff* of the *therapeutic boarding school*.

(~~5~~7) Medication storage.

(a) A prescription *medication* that is unused and any *medication* that is outdated or recalled may not be maintained in a *facility* ~~(defined in OAR 413-215-0606)~~. "Outdated" means any *medication* whose designated period of potency, as indicated on the label, has expired.

(b) The *facility* may maintain a stock supply of non-prescription medications.

(c) All prescription and non-prescription medications stored in the *facility* must be kept in ~~locked storage and in~~ a manner that makes them inaccessible to ~~children~~*child in care*.

(d) A *medication* requiring refrigeration must be refrigerated and secured.

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(e) Each *medication* must be maintained and stored in its original container, including the prescription label.

(~~6~~8) Medication disposal. *Medication* must be disposed of in a manner that ensures that it cannot be retrieved, in accordance with all applicable state and federal law.

(~~7~~9) A written record of all *medication* disposals must be maintained and must include all of the following:

(a) A description of the prescribed *medication* and the amount disposed.

(b) The ~~*student*~~*child in care* for whom the *medication* was prescribed.

(c) The reason for disposal.

(d) The method of disposal.

(e) The name of the person disposing the *medication*, and the initials of an adult witness.

(~~8~~10) Medication records. A written record must be kept for each ~~*student*~~*child in care* listing each *medication*, both prescription and over-the-counter, that is administered. The record must include all of the following:

(a) The ~~student's~~ name of the *child in care*.

(b) A description of the *medication*, instructions for use, and the recommended dosage.

(c) Dates and times *medication* is administered.

(d) A record of missed dosages.

(e) *Medication* dropped or disposed of.

(f) Method of administration for each *medication*.

(g) Identification of the person administering the *medication*.

(h) Any possible adverse reactions to the *medication*.

(i) Documentation of any *medication* taken outside the *facility* to be administered during a home visit or other activity.

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(~~9~~11) Where applicable, the *therapeutic boarding school* must maintain documentation of the continuing evaluation of the ~~student's~~ ability of the *child in care* to *self-administer* a *medication*.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0656
Staff Training

In addition to the ~~orientation~~ requirements in OAR 413-215-0061(4) and (5), a *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must meet all of the following training requirements with respect to its *staff* ~~(defined in OAR 413-215-0606)~~:

(1) *Staff* of the *therapeutic boarding school* must be provided with orientation training prior to or within 30 days of hire. The orientation must include training on all of the following:

(a) Discipline and ~~B~~behavior management protocols including de-escalation skills training, crisis prevention skills, positive behavior management, and disciplinary techniques that are non-punitive in nature and are focused on helping ~~*students* (defined in OAR 413-215-0606)~~children in care build positive personal relationships and self-control.

(b) If restraint and seclusion are utilized by the *therapeutic boarding school*, approved techniques and monitoring. The training must be clear that the policy of the *therapeutic boarding school* is that restraint or seclusion is used as an intervention of last resort.

(2) *Staff* of the *therapeutic boarding school* must receive ongoing training on all of the following:

~~(a) Mandatory child abuse reporting.~~

(~~b~~a) Procedures for handling environmental emergencies.

(~~c~~b) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.

(~~d~~c) Behavior management.

(3) At all times, at least one of the *staff* of the *therapeutic boarding school* working with ~~*students*~~children in care must have received training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.

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Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0661
Minimum Staffing Requirements

A *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must meet all of the following requirements:

(1) Minimum staffing patterns. The *therapeutic boarding school* must establish ratios of *staff* ~~(defined in OAR 413-215-0606) to *students* (defined in OAR 413-215-0606)~~ to children in care that will provide adequate supervision, safety and protection for ~~*students*.~~children in care. The ratios must be adequate to protect child safety and wellbeing for the type of program, location of program, the age and type of ~~*students*~~children in care served, physical plant design, location and ability of the supervisor to respond, electronic backup systems, and other means available to ensure a high standard of supervision and protection. The minimum staffing ratios outside normal sleeping hours are one direct care *staff* for each 10 ~~*students*~~children in care.

(2) Overnight staffing requirements.

(a) A *therapeutic boarding school* must have policies and procedures regarding overnight supervision of ~~*students*~~children in care. The procedures must describe how *staff* must monitor and ensure the safety of ~~*students*~~children in care during sleeping hours. If the *therapeutic boarding school* houses more than one ~~*student*~~*child in care* to a bedroom or uses dormitory-type sleeping arrangements, the procedure must specifically address those living arrangements.

(b) During normal sleeping hours, the minimum staffing requirement is one awake direct care *staff* on duty in the *facility* for each 14 ~~*students*~~children in care.

(3) Additional staffing requirements for emergency response.

(a) When there is only one *employee* ~~(defined in OAR 413-215-0606)~~ of the *therapeutic boarding school* on duty in a *facility*, there must be additional *staff* immediately available in the event of an emergency, with a maximum response time of 30 minutes. The names of additional *staff* who are available for immediate response must be listed on the schedule for each time period when only one *staff* person is on duty in a *facility*.

(b) One *employee* who is age 18 or over and capable of taking appropriate action in an emergency must be on site at all times when one or more ~~*students* are~~*child in care* is present on the residential *facility* premises.

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Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0666
Separation of ~~Students~~Children in Care
~~*(Adopted 10/17/08)*~~

A *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must meet all of the following requirements:

(1) Combining children and adults. Special care must be taken by a *therapeutic boarding school* to provide adequate supervision of children ~~when adults~~in care when children in care 18 years of age or older are being served by the *therapeutic boarding school*. Children ~~and adults~~in care 18 years of age or older must be housed in separate bedrooms, except that a *child in care*~~(defined in OAR 413-215-0606)~~ and the child in care's parent may be housed in the same room if the parent is the ~~student's~~child's caretaker. If a ~~youth~~*child in care* is 18 years of age or older~~,~~ and is to share a bedroom with a *child in care* under 18 years of age, the *therapeutic boarding school* must obtain written approval from the Department licensing coordinator.

(2) Co-ed facilities. Special care must be taken by a *therapeutic boarding school* to provide adequate supervision when the program serves both males and females concurrently. ~~*Student* b~~Bedrooms for children in care for males must be separated from bedrooms for children in care for females.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0671
Referral and Initial Evaluation of ~~Students~~Children in Care

(1) Referral. A *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ must have and follow a policy that addresses the process by which ~~*students* (defined in OAR 413-215-0606)~~children in care are referred to the *therapeutic boarding school*. The policy must include all of the following:

(a) From whom referrals are accepted.

(b) On what basis ~~*students*~~children in care are accepted by the *therapeutic boarding school*.

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(c) How information necessary to provide for the safety and care of ~~*students*~~children in care will be provided to the appropriate care *staff* ~~(defined in OAR 413-215-0606)~~.

(2) Initial evaluation ~~of a *student*~~. A *therapeutic boarding school* must evaluate each prospective ~~*student*~~*child in care* referred to the *therapeutic boarding school*. In conducting the evaluation, the *therapeutic boarding school* must:

(a) Request and review all available reports of the ~~student's~~child in care's past and present behavior, educational status, and physical and ~~behavioral~~mental health.

(b) Make a preliminary determination whether the prospective ~~*student*~~*child in care* has disorders, disabilities, or deficits due to mental, emotional, behavioral, or physical problems for which care, supervision, training, rehabilitation, or treatment is needed to reduce a problem, maintain present level of functioning, or clarify the ongoing placement or service needs of the ~~*student*~~*child in care*.

(c) Arrange for ongoing therapeutic services appropriate for the child in care's specific needs and provide regular reports to the parents or legal guardians regarding the child in care's progress.

(3) A *therapeutic boarding school* must be prepared to provide to a parent or legal guardian of a referred *student* suggestions for obtaining resources in the event the ~~*student*~~*child in care* is not accepted by the *therapeutic boarding school*.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0676
Consents, Disclosures, and Authorizations

(1) Consents. For each ~~*student* (defined *in* OAR 413-215-0606)~~*child in care* in placement with a *therapeutic boarding school* ~~(defined in OAR 413-215-0676)~~, the *therapeutic boarding school* must ensure that a parent or legal guardian signs a consent that authorizes the *therapeutic boarding school*, if applicable, to undertake each of the following:

(a) To provide routine and emergency medical care. However, if the parent or legal guardian relies on prayer or spiritual means for healing in accordance with the creed or tenets of a well-recognized religion or denomination, the *therapeutic boarding school* is not required to use medical, psychological, or rehabilitative procedures, unless the *child in care* is old enough to consent to these procedures and does so. The *therapeutic boarding school* must have policies and procedures for this practice, which are reviewed and approved by the ~~student's~~child in care's parent or legal guardian.

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(b) To use the discipline and behavior management system of the *therapeutic boarding school*~~, including the point, level, or other behavior management techniques utilized by the *therapeutic boarding school*~~.

(c) To use restraint or seclusion in the management of the ~~*student*~~*child in care*. The consent must specify the reasons such interventions are used by the *therapeutic boarding school* and how the employees of the *therapeutic boarding school* are trained and supervised in the use of restraint or seclusion.

(d) To restrict the student's contact with persons outside the *therapeutic boarding school*, including visits, telephone communication, electronic mail, and postal mail, except that access to a *child in care* must be allowed as provided in ORS 418.305 and OAR 413-215-0091 and 413-215-0101.

(e) To allow access to a *child in care* as required in ORS 418.305 and OAR 413-215-0091 and 413-215-0101.

~~(e) To exclude or limit the student's possession of personal items.~~

(f) To impose a dress code.

(g) To restrict the ~~student's~~child in care's participation in recreational or leisure activities in an appropriate manner, consistent with behavior or safety issues.

(2) Disclosures to parent or legal guardian. At the time a *therapeutic boarding school* takes a ~~*student*~~*child in care* into placement, the *therapeutic boarding school* must ensure that each parent or legal guardian of the ~~*student*~~*child in care* receives and acknowledges in writing the receipt of each of the following:

(a) Information regarding any personal or room searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the *therapeutic boarding school* for any program-initiated room or body search.

(b) A statement concerning the rights of ~~*students*~~children in care and parents or legal guardians served by the *therapeutic boarding school* as provided in OAR 413-215-0046. The statement must be written in a manner that is easy to understand, and the *therapeutic boarding school* must ensure that the ~~*student*~~*child in care* and the parent or legal guardian understand the statement. ~~The statement must explain all of the following:~~

~~(A) The student's right to communicate with parents, legal guardians, legal representatives, or other persons approved for communication by a parent or legal guardian.~~

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~~(B) The student's right to privacy.~~

~~(C) The student's right to participate in service planning.~~

~~(D) The student's right to fair and equitable treatment.~~

~~(E) The student's right to file a grievance if the *student* or *family* feels that they are treated unfairly, or, if they are not in agreement with the services provided.~~

~~(F) The student's right to have personally exclusive clothing.~~

~~(G) The student's right to personal belongings.~~

~~(H) The student's right to an appropriate education.~~

~~(I) The student's right to participate in recreation and leisure activities.~~

~~(J) The student's right to have timely access to physical and behavioral health care services~~

(c) The grievance policies and procedures of the *therapeutic boarding school*.

(d) The *therapeutic boarding school* will make any written policy or procedure pertaining to program services available for review by the ~~*student*~~*child in care*, parent, or legal guardian, upon request.

(e) A statement of program services that will be available to the *child in care*, including frequency of services and the professional credentials of the service providers.

(f) A statement that the *child-caring agency* may not make limitation on contact between a child and his or her parent or legal guardian a condition of *program* participation.

(3) Authorizations.

(a) Authorization to disclose information from other service providers must be filled out prior to signatures being requested and be specific to one other provider. Information may only be requested on a need to know basis.

(b) All ~~*student*-specific~~ visitors for the *child in care* must be approved or authorized by a parent or legal guardian, except that access to the child in care must be provided as required in ORS 418.305 and OAR 413-215-0091 and 413-215-0101.

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(c) Visitation resources must be pre-approved by the ~~student's~~child in care's parent or legal guardian and the identity of these resources verified by the agency.

(d) Activity-specific authorizations must be pre-approved by the ~~student's~~child in care's parent or legal guardian to allow ~~*students*~~children in care to participate in potentially hazardous activities, such as using motorized yard equipment, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the ~~student's~~child in care's parent or legal guardian.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

413-215-0681
Information about ~~Students~~Children in ~~Placement~~Care with the Therapeutic Boarding School

(1) Case files of ~~students~~children in care. For each ~~*student* (defined in OAR 413-215-0606)~~*child in care* a *therapeutic boarding school* ~~(defined in OAR 413-215-0606)~~ accepts for placement, the *therapeutic boarding school* must maintain an individual record that includes a summary sheet containing all of the following information:

(a) The ~~student's~~ name, gender, date of birth, religious preference, and previous address of the *child in care*.

(b) The name and location of the ~~student's~~child in care's previous school.

(c) The date of admission to the program.

(d) The status of the ~~student's~~child in care's legal custody, including the name of each person responsible for consents and authorizations.

(e) The name, address, and telephone number of:

(A) The ~~student's~~child in care's parents.

(B) The ~~student's~~child in care's legal guardian, if different than parents, and his or her legal relationship to the ~~*student*~~*child in care*.

(C) Other family members or other persons identified by the *family* as significant to the ~~*student*~~*child in care*.

(D) Other professionals to be involved in service planning, if applicable.

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(f) Any required signed consents and authorizations.

(2) Service planning.

(a) All documentation, including, but not limited to service plans, daily notes, assessments, progress reports, *medication* records, and incident reports, must be written in terms that are easily understood by all persons involved in service planning.

(b) Intake documentation. A *therapeutic boarding school* must complete a written intake document containing screening information on the date the *therapeutic boarding school* accepts a ~~*student* for placement~~*child in care*, except in the case of an emergency placement when the intake document must be completed within 48 hours of admission.

(c) Each ~~*student*~~*child in care* must be served according to an individual written service plan developed by *staff* of the *therapeutic boarding school* and including, whenever possible, the ~~*student*~~*child in care*, the ~~student's~~child in care's *family*, and other professionals involved with the ~~*student*~~*child in care* or *family*. This document must outline goals for services and *care* coordination.

(d) Assessment. A comprehensive assessment must be completed within the first 30 days of placement by a *Qualified Mental Health Professional* (QMHP). This assessment must include all of the following:

(A) ~~r~~Relevant historical information, current behavioral observations, any identified needs for services, and a description of how the *therapeutic boarding school* will provide or coordinate services.

(B) Suicide potential must be assessed and the record must contain follow-up actions and referrals when an individual reports symptoms indicating risk of suicide.

(C) Screening for the presence of co-occurring disorders and chronic medical conditions. When the assessment determines the presence of co-occurring disorders, the *therapeutic boarding school* must document referral for further assessment, planning, and intervention from an appropriate professional.

(D) Screening for the presence of symptoms related to physical or psychological trauma.

(e) Service plan and review.

(A) Within 60 days of placement, a formal service plan that meets the identified needs of the *child in care* must be developed by *staff* of the

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therapeutic boarding school in conjunction with the ~~*student*~~*child in care* and his or her parents or legal guardians, and any other persons who are actively involved with the *family*, as appropriate.

(B) The service plan must reflect how the *therapeutic boarding school* will address the ~~student's~~child in care's issues, describe the anticipated outcomes of the placement, and be reviewed and approved by the ~~*student*~~*child in care* and the legal guardian or parent, unless contraindicated.

(C) The service plan must be reviewed by ~~the *therapeutic boarding school*~~a QMHP at least quarterly.

(D) Service plans must be revised at any time additional information becomes available indicating that other services should be provided.

(3) Case management.

(a) The ~~*agency*~~*therapeutic boarding school* must document services provided, as necessary, to track and monitor progress toward the achievement of service plan goals.

(b) Discharge. The ~~*agency*~~*therapeutic boarding school* must identify how a ~~student's~~child in care's progress will be evaluated, and how the determination is made of readiness for discharge or unsuitability for continued stay.

(c) Discharge planning. Discharge planning for ~~*students*~~children in care must be a participatory decision-making process between the ~~*student, agency*~~*child in care, therapeutic boarding school staff*, the parent or legal guardian, and significant others. As used in this rule, "significant others" mean relatives, friends, or interested members of the community.

(d) Discharge instructions. The ~~*agency*~~*therapeutic boarding school* must provide the ~~*student*~~*child in care* and the ~~student's~~child in care's guardian with discharge instructions on or before the discharge date, including current medications, name of the doctor who prescribed each *medication* ~~(defined in OAR 413-215-0606)~~, any outstanding medical or other appointments, and other follow-up instructions as needed. The *therapeutic boarding school* must obtain a forwarding address for any discharge instructions received by the *therapeutic boarding school* after discharge of the *child in care*.

(e) Follow-up services. The ~~*agency*~~*therapeutic boarding school* must identify any transitional or aftercare services or service coordination that will be offered by the program.

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(f) Incident reporting. A written description of any injury, accident, or unusual incident involving a ~~*student*~~*child in care* must be placed in the individual ~~student's~~child in care's record.

(4) Financial records. ~~*An agency*~~*A therapeutic boarding school* must keep a written record for each ~~*student*~~*child in care*, itemizing all money received or disbursed on behalf of the ~~*student*~~*child in care*. The record must include all of the following:

(a) The date of each receipt and disbursement and the amount of each.

(b) The source of income.

(c) The purpose of each disbursement.

(d) The signature of the person making each entry.

(e) The signature of the ~~*student*~~*child in care* for each entry.

(5) The ~~*agency*~~*therapeutic boarding school* will ensure, in policy, that:

(a) Disallowable items are either stored, or returned to the parent or legal guardian; and

(b) All money and personal belongings are returned to the ~~*student*~~*child in care* at the time of discharge.

Stat. Auth.: ORS 409.050, 418.005, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.005, 418.327, Or Laws 2016, ch 106

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Licensing Homeless, Runaway, and Transitional Living Shelters

413-215-0701
Homeless, Runaway, and Transitional Living Shelters, What Law Applies

(1) These rules, OAR 413-215-0701 to 413-215-0766, regulate a *child-caring agency* that provides residential services for *homeless or runaway youth*, pregnant or parenting girls, or other children in care working towards independent livingagencies that provide residential services for *homeless or runaway youth*, pregnant or parenting girls, or other youth working towards independent living.

(2) A *child-caring agency* that provides residential services for *homeless or runaway youth* pregnant or parenting girls, or other children in care working towards independent living must also comply with OAR 413-215-0001 to 413-215-0131A *private*a *child-caring agency* (defined in OAR 413-215-0006) that provides residential services for *homeless or runaway youth* (defined in OAR 413-215-0706), pregnant or parenting girls, or other youth working towards independent living must be licensed in accordance with ORS 418.205 to 418.310 and these rules, as well as OAR 413-215-0001 to 413-215-0131, which set forth the requirements of the Department for licensing all types of private child-caring agencies.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0706
Definitions

THIS RULE IS REPEALED

As used in OAR 413-215-0701 to 413-215-0766:

(1) "Agency" means a *private child-caring agency* (defined in OAR 413-215-0006) that operates a *shelter*, *mass shelter*, or *transitional living program* for *homeless or runaway youth*, for pregnant or parenting girls, or for other youth under the age of 18 working towards independent living.

(2) "Department" means the Department of Human Services.

(3) "Homeless or runaway youth" means a youth who has not been emancipated by the juvenile court; lacks a fixed, regular, safe, and stable nighttime residence; and cannot immediately be reunited with his or her family.

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~~(4) "Individual service plan" means a plan of services to be provided to a youth, based on the identified needs of the youth, designed to help the youth reach mutually agreed upon goals.~~

~~(5) "Mass shelter" means a structure that contains one or more open sleeping areas in which, on a daily basis, only emergency services are provided to *homeless or runaway youth*, such as a meal and a safe place to sleep overnight.~~

~~(6) "Shelter" means a facility operated by a *private child-caring agency* that provides services for a limited duration to *homeless or runaway youth*.~~

~~(7) "Transitional living program" means a set of services offered by a *private child-caring agency* that provides supervision and comprehensive services for up to 18 months to assist *homeless or runaway youth* to make a successful transition to independent and self-sufficient living.~~

~~(8) "Youth" means an unmarried person under the age of 18.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.310

413-215-0711
Governance of the Agency

In addition to the governing board requirements in OAR 413-215-0021:

(1) ~~An~~A *child-caring agency* ~~(defined in OAR 413-215-0706)~~ must be directed by a governing board composed of a representative cross-section of the community, including ~~*youth*~~children in care, parents, and employees of the *agency*.

(2) ~~An~~A *child-caring agency* must provide training to the governing board designed to orient the members to the goals, objectives, and activities of the *agency*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0716
Client Rights

(1) ~~An~~A *child-caring agency* ~~(defined in OAR 413-215-0706)~~ must ensure that ~~*youth*~~children in care are actively involved in the design, delivery, and ongoing planning of the services provided by the program.

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(2) ~~An~~A *child-caring agency* must ensure that nutritional needs are met as appropriate for each ~~*youth*~~*child in care*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0721
Staffing Requirements

(1) ~~An~~A *child-caring agency* ~~(defined in OAR 413-215-0706)~~ must have and follow written policies regarding minimum staffing requirements, including a written staffing plan that indicates the number of paid and volunteer staff in each job category.

(2) During each shift, there must be at least one staff member who has been trained in a non-violent crisis intervention strategy. A volunteer or intern may be used to meet this requirement only if the volunteer or intern has met the training requirements for staff in OAR 413-215-072~~3~~6.

(3) ~~An~~A *child-caring agency* must have a ratio of staff to ~~*youth*~~children in care that is sufficient to ensure that ~~*youth*~~children in care receive adequate supervision and services.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0726
Staff Development and Training

A~~n~~ *child-caring agency* ~~(defined in OAR 413-215-0706)~~ must follow all of the following requirements:

(1) Initial training. Before being alone with a ~~*youth*~~*child in care* or being temporarily the only staff in charge of one or more ~~*youth*~~children in care, a staff member must receive the following training or acquire the following knowledge or understanding, as verified by the executive director or the executive director's designee:

(a) Successful completion of the agency's orientation.

(b) Effective understanding of the supervision structure at the shelters of the *agency*, including the appropriate staff to contact when questions or problems arise.

(c) Effective understanding and knowledge of and compliance with the behavior management policies of the *agency*.

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(d) Recognition and management of the presenting issues of the ~~*youth*~~children in care served, including mental health, behavioral, and substance abuse issues.

(e) Instruction in safety procedures and safe use of equipment.

(f) Sanitation procedures.

(g) First aid kit contents and use.

(h) Report writing, including documentation of medication dispensing and critical incident reports.

(i) Certification to provide cardiopulmonary resuscitation (CPR) and first aid.

(j) Completion of training in crisis intervention.

(2) Ongoing training. A~~n~~ *child-caring agency* must provide ongoing training for all paid and volunteer staff to increase knowledge, skills, and abilities in each of the following subject areas:

~~(a) Requirements to report child abuse.~~

(~~b~~a) Confidentiality requirements.

(~~c~~b) Universal precautions (infection control guidelines designed to protect workers from exposure to diseases spread by blood and certain body fluids) and hygiene.

(~~d~~c) Discipline and ~~B~~behavior management.

(3) Staff must receive training in cardiopulmonary resuscitation and first aid sufficient to retain a current certification.

(4) Staff working with food must possess a food handler's card.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0731
Admissions and Assessments

A~~n~~ *child-caring agency* ~~(defined in OAR 413-215-0706)~~ must follow all of the following requirements, except with respect to a *mass shelter* ~~(defined in OAR 413-215-0706)~~:

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(1) The *child-caring agency* must provide services to ~~*youth*~~children in care according to written policies that list the specific criteria under which ~~*youth*~~children in care are accepted for placement.

(2) Assessment. To determine the appropriateness of each ~~*youth*~~*child in care* who has applied for services provided by the *agency*, the *agency* must make reasonable efforts to gather all of the following basic background information:

(a) Family history.

(b) Health history, including a history of substance abuse as well as current use of prescription and over-the-counter medication.

(c) Mental health history, including diagnoses, a description of behavior problems, prior evaluations, and treatment history.

(d) Who has legal custody of the ~~*youth*~~*child in care*.

(3) Each assessment must include a statement about whether or not the ~~*youth*~~*child in care* meets the eligibility requirements necessary to be admitted into the program.

(4) Prior to admitting a ~~*youth*~~*child in care*, the *agency* must provide the ~~*youth*~~*child in care* with an explanation of the available services and the requirements for participation.

(5) After a ~~*youth*~~*child in care* is admitted, the assessment must be the basis for the ~~youth's *individual*~~child in care's *service plan* ~~(defined in OAR 413-215-0706)~~.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0736
~~Individual~~ Service Planning

A~~n~~ *child-caring agency* ~~(defined in OAR 413-215-0706)~~ must follow all of the following requirements, except with respect to a *mass shelter* ~~(defined in OAR 413-215-0706)~~:

(1) The *child-caring agency* must make services available that will meet the needs of each ~~*youth*~~*child in care* in the program.

(2) The *child-caring agency* must serve each ~~*youth*~~*child in care* according to ~~an *individual*~~a *service plan* ~~(defined in OAR 413-215-0706)~~ based on the assessment.

(a) Whenever possible, the ~~*individual*~~ *service plan* must include the ~~*youth*~~*child in care* and his or her family, staff, and other involved parties.

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(b) The program must provide competent and individualized service planning for each ~~*youth*~~*child in care* that includes at least a monthly review of the ~~*individual*~~ *service plan* and changes as needed.

(c) The ~~*individual*~~ *service plan* must address, at a minimum, the ~~youth's~~child in care's physical and medical needs, behavior management issues, mental health treatment needs, education plans, and any other special needs.

(3) The *child-caring agency* must make reasonable efforts to ensure participation by the ~~youth's~~child in care's family in all aspects of the service and service planning process whenever possible. To the extent such information is reasonably available to the *agency*, the staff of the *agency* must:

(a) Contact a parent or legal guardian of the ~~*youth*~~*child in care* early in the process, preferably within 24 hours, but no later than 72 hours following the ~~youth's~~child in care's admission into the program.

(b) Make a program orientation available to the ~~youth's~~child in care's family.

(c) Encourage participation by a parent in the program. If the ~~youth's~~child in care's parent cannot participate in the program, the *agency* must encourage participation by those responsible for the ~~youth's~~child in care's environment prior to admission.

(d) Consider the family's responsibility, needs, and values in the planning and service process.

(e) When appropriate, the *agency* must review individual service plans and the ~~youth's~~child in care's progress with the family at least on a monthly basis.

(4) Directly or through referral, the *agency* must make available individual, group, and family counseling by a qualified professional.

(5) The *child-caring agency* must establish and maintain links to community agencies and individuals who can provide required services to ~~*youth*~~children in care or their families that may not be directly available from the program. These services must include:

(a) Alternative living arrangements.

(b) Medical services.

(c) Mental health services.

(d) Educational services.

(e) Independent living services.

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(f) Other assistance required by ~~*youth*~~children in care or their families.

(6) Discharge summary. The *child-caring agency* must prepare a written discharge summary of each ~~*youth*~~*child in care* served by the program and retain this document in the ~~youth's~~child in care's file. The document must include:

(a) A summary of the ~~youth's~~child in care's participation in the program and the progress achieved.

(b) Results of evaluations of the ~~*youth*~~*child in care*.

(c) Condition of the ~~*youth*~~*child in care*.

(d) The ~~youth's~~child in care's compliance with the program guidelines of the *agency*.

(e) Recommendations regarding services.

(f) Discharge destination.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0741
Client Files

(1) General requirements. Except with respect to ~~*youth*~~children in care in a *mass shelter* ~~*individual*~~ *service plan* operated by the *child-caring agency* ~~(defined in OAR 413-215-0706)~~, ~~an~~ a *child-caring agency* must maintain an individual file on each ~~*youth*~~*child in care* admitted into the program.

(2) ~~Youth~~Child in care file requirements. A~~n~~ *child-caring agency* must have a file on the premises for each ~~*youth*~~*child in care* currently receiving services from the *agency*. To the extent such information is reasonably available to the *agency*, this file must be up to date and include all of the following:

(a) Sufficient information about the ~~youth's~~child in care's family or legal guardian to enable the staff of the *agency* to contact them at any time.

(b) Custody status of the ~~*youth*~~*child in care*.

(c) An authorization for medical treatment.

(d) A signed consent for the *child-caring agency* to treat the ~~*youth*~~*child in care* with the interventions in use at the program.

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(e) A signed acknowledgment that the ~~*youth*~~*child in care* is responsible for requesting their medication at the prescribed times.

(f) The assessment described in OAR 413-215-0731.

(g) The ~~*individual*~~ *service plan* required by OAR 413-215-0736.

(h) Documentation about the ~~youth's~~child in care's illnesses and injuries, including the follow up that was provided by the *child-caring agency*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0746
Medication Storage and Dispensing

(1) A~~n~~ *child-caring agency* ~~(defined in OAR 413-215-0706)~~ must have and follow written policies on the storage, dispensing, and disposal of prescription and non-prescription medication.

(2) Medication storage. All prescription and non-prescription medications must be contained in locked storage in the facility and must be kept in a manner that makes them inaccessible to ~~*youth*~~*child in care*.

(3) Medication dispensing.

(a) ~~*Youth*~~Children in care are expected to administer their own medication after they have requested their medication from the program staff at the prescribed times.

(b) Except in a *mass shelter* ~~(defined in OAR 413-215-0706)~~, medication, including non-prescription drugs, may not be dispensed unless the medication has been prescribed or authorized by a qualified professional.

(c) Program staff may not dispense medication to a ~~*youth*~~*child in care* in any of the following situations:

(A) In excess of the prescribed or authorized amount.

(B) For disciplinary purposes.

(C) For the convenience of staff.

(D) As a substitute for appropriate treatment services.

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(4) Documentation. Staff designated to dispense medications must document each dispensing. The documentation must include all of the following:

(a) The ~~youth's~~child in care's name.

(b) The name of the medication.

(c) The date and time the medication was dispensed.

(d) The dosage given.

(e) The name of the staff member who dispensed the medication.

(5) Disposal of unused or abandoned medication. Designated program staff must dispose of all medication abandoned by a ~~*youth*~~*child in care* or for which the period of potency, as indicated on the label, has passed. Two staff members must be present at and document the disposal of the unused medication, including when and how the medication was disposed.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0751
Health and Hygiene

(1) A~~n~~ *child-caring agency* ~~(defined in OAR 413-215-0706)~~ must have and follow policies that ensure the prompt and accurate assessment and care of injuries, illness, and physical complaints of ~~*youth*~~children in care.

(2) A~~n~~ *child-caring agency* must provide ~~*youth*~~children in care with access to a bathroom and a shower.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0756
Grouping

(1) A~~n~~ *child-caring agency* ~~(defined in OAR 413-215-0706)~~ must have and follow written policies regarding the grouping of ~~*youth*~~children in care.

(2) Except as provided in section (3) of this rule, an *agency* must place ~~*youth*~~children in care in groups based on the following factors:

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(a) Age.

(b) Developmental level.

(c) Physical maturity.

(d) Social maturity.

(e) Behavioral functioning.

(f) Cognitive level.

(g) Medical concerns.

(h) Individual needs.

(3) A ~~qualified *youth*~~*child in care* with a diagnosed disability may be served in the most integrated setting appropriate to the needs of the ~~*youth*~~*child in care* within the context of the program. For purposes of this section:

(a) ~~A "qualified youth" means a *youth*~~The *child in care* who can meet the essential eligibility requirements for a group with or without reasonable modification of rules, policies or procedures, or the provision of auxiliary aids and services may be served.

(b) "Integrated Setting" means a setting that enables ~~individuals~~children in care with disabilities to interact with non-disabled persons to the fullest extent possible.

(4) Placement with adults. ~~An~~A *child-caring agency* may place ~~*youth*~~children in care in the same group as emancipated ~~*youth*~~children in care or adults only after taking special care to assess and minimize the risk to the ~~*youth*~~children in care.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0761
Safety

A~~n~~ *child-caring agency* ~~(defined at 413-215-0706)~~ must meet all of the following requirements related to safety:

(1) Fire safety. Prior to licensure and every two years upon license renewal, the program must be assessed and approved by the State Fire Marshall or designee for the following fire safety areas:

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(a) The *child-caring agency* must provide fire safety equipment that meets the requirements of applicable building codes and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020).

(b) The *child-caring agency* must comply with existing state and local fire safety codes.

(2) Emergency plan.

(a) The *child-caring agency* must have, for each facility it operates, a written emergency plan that includes:

(A) Instructions for evacuation of ~~*youth*~~children in care and employees in the event of fire, explosion, accident, or other emergency.

(B) Instructions for response in the event of a natural disaster, external safety threat, or other emergency.

(b) Telephone numbers for local police and fire departments and other appropriate emergency numbers must be posted near all telephones.

(c) Operative flashlights sufficient in number must be readily available to the staff in case of emergency.

(3) Transporting ~~youth~~children in care. If a~~n~~ *child-caring agency* uses a vehicle to transport a ~~*youth*~~*child in care* participating in a program, the *child-caring agency* must ensure that all of the following requirements are met:

(a) The vehicle is ---

(A) Properly registered.

(B) Covered by insurance for personal injury and liability.

(C) Maintained in a safe condition.

(D) Equipped with a first aid kit.

(E) Equipped with a fully charged fire extinguisher that is properly secured and not readily available to ~~*youth*~~children in care.

(b) Each driver must have an Oregon driver license valid for the vehicle used and must comply with all applicable traffic laws while transporting ~~*youth*~~children in care.

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(c) Each person in the vehicle rides in a permanent seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads.

(d) The *child-caring agency* must ensure that each person who transports ~~*youth*~~children in care in a van for 15 or more passengers receives training in the safe operation of the type of vehicle prior to transporting ~~*youth*~~children in care.

(4) Contraband. A~~n~~ *child-caring agency* must require its staff to confiscate items prohibited by the *child-caring agency* that are found in the possession of a ~~*youth.*~~*child in care*. All such items must be disposed of or stored for a ~~*youth*~~*child in care* in a secure location that is inaccessible to ~~*youth*~~children in care.

(5) Searches. A~~n~~ *child-caring agency* that conducts a search must have and follow written policies on searches that, at a minimum, meet all of the following requirements:

(a) Require appropriate consent to search a ~~*youth*~~*child in care*, staff, or a visitor.

(b) Require the use of the least intrusive manner possible for a search.

(c) Pat-down searches. Authorize staff to conduct pat-down searches of ~~*youth*~~children in care, but only when the *child-caring agency* determines the search is necessary to discourage the introduction of contraband or to promote the safety of staff and other ~~*youth.*~~children in care. If a pat-down search is used:

(A) The search must be conducted by same gender staff members trained in proper search techniques.

(B) The search must be conducted in the presence of another staff member.

(C) The ~~*youth*~~*child in care* must be given warning of the search.

(D) Prior to the search, the ~~*youth*~~*child in care* should remove all outer clothing, for instance, gloves, coat, hat, and shoes, and empty all pockets.

(E) Once the ~~*youth*~~*child in care* has removed all outer clothing, the staff member conducting the search must then pat the clothing of the ~~*youth*~~*child in care* using only enough contact to conduct an appropriate search.

(F) If anything suspicious is detected during the search, the ~~*youth*~~*child in care* must be asked to identify the item, and appropriate steps should be taken to make the item available for inspection.

(G) If the ~~*youth*~~*child in care* refuses to comply with a requirement of the search, the program must follow established policies to determine if the ~~*youth*~~*child in care* can be refused admission to or discharged from the program.

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(d) Prohibit the use of strip searches of ~~*youth*~~children in care.

(e) Prohibit the use of body-cavity searches of ~~*youth*~~children in care.

(6) Building Requirements.

(a) A~~n~~ *child-caring agency* may not allow ~~*youth*~~children in care to have access to, or provide services regulated by these rules (OAR 413-215-0701 to 413-215-0766) in, a building unless the building has been certified as meeting all applicable state and local construction-related requirements for a building used as a residential facility, including the Oregon Structural Specialty Code (see the current version of OAR 837-040-0140), the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020), the rules of the ~~Department's~~ Public Health Division of the Oregon Health Authority (see the current requirements for buildings in OAR ~~C~~chapter 333~~ of the Oregon Administrative Rules~~), the Oregon Plumbing Specialty Code (see the current version of OAR 918-750-0110 to OAR 918-750-0115~~40~~), the rules of the State Fire Marshal (see the current requirements for buildings in OAR ~~C~~chapter 837~~ of the Oregon Administrative Rules~~), and the local building, fire, and safety codes.

(b) A~~n~~ *child-caring agency* must ensure that all of the following standards are met:

(A) All buildings where ~~*youth*~~children in care are present must be smoke-free.

(B) All buildings where children in care are present must be kept clean and in good repair. Major appliances and heating, ventilation, plumbing and electrical systems must be functional and in good repair.

(~~B~~C) Water temperature and access to water:

(i) A continuous supply of hot and cold water, installed and maintained in compliance with this rule, must be distributed to taps conveniently located throughout each building used to provide services or housing for children in care.

(ii) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in each building used to provide services or housing for ~~*youth*~~children in care.

(iii) Each ~~*youth*~~*child in care* who lacks the ability to adjust and control water temperature safely must be directly supervised by a staff member of the *child-caring agency*.

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(~~C~~D) Heating and ventilation. Room temperatures must be maintained within normal comfort range. Buildings must be ventilated and free of excessive heat and condensation and of unpleasant odors.

(c) Bathrooms.

(A) Bathrooms must be provided and be conveniently located in each building containing ~~*youth*~~children in care, and must have all of the following:

(i) A minimum of one toilet and one hand-washing sink with mixing faucets for each eight ~~*youth*~~children in care.

(ii) A self-closing metered faucet, if used, that provides water flow for at least 15 seconds without a need to reactivate the faucet.

(iii) Hot and cold running water, as well as soap and paper towels available at sinks or other hand-drying options approved by the local health department.

(iv) One bathtub or shower for each 10 ~~*youth*~~children in care.

(v) Arrangements for individual privacy of ~~*youth*~~children in care.

(vi) A window covering on each window to ensure privacy.

(vii) Permanently-wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(viii) A mirror, permanently affixed at eye level.

(ix) Adequate ventilation.

(B) Use of wooden racks over shower floors is prohibited.

(C) When impervious shower mats are used, they must be disinfected and dried at least once per day.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.310, Or Laws 2016, ch 106

413-215-0766
Environmental Health

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~~An~~A *child-caring* *agency* ~~(defined at OAR 413-215-0706)~~ must meet all of the following requirements:

(1) The program of the *agency* must maintain an environment that ensures safety for program staff and ~~clients~~children in care.

(2) Environmental Health Specialist approval. Prior to licensure and every two years upon license renewal, the program must be assessed and provide documentation of approval by a registered environmental health specialist (see OAR 338-010-0025 to 338-010-0038) for the following safety areas:

(a) Food service risk assessment.

(b) Drinking water or waste water assessment.

(c) Vector and pest control, including the use of pesticides and other chemical agents.

(d) Hazardous material management, including handling and storage.

(e) Recreation assessments (such as playgrounds, swimming pools, and hot tubs) for injury prevention and hazard mitigation.

Stat. Auth.: ORS 409.050, 418.005, 418.240, 418.327, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.327, Or Laws 2016, ch 106

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Licensing Day Treatment Agencies

413-215-0801
Day Treatment Agencies, What Law Applies

(1) ~~Except as provided in section (2) of this rule,~~These rules, OAR 413-215-0801 to 413-215-0856, regulate a ~~*private*~~ *child caring agency* ~~(defined in OAR 413-215-0006)~~ that provides *day treatment* services subject to the certificate of approval requirements of OAR 309-032-1120. A *day treatment agency* must--

(a) ~~Be licensed in accordance with and c~~Comply with OAR 413-215-0001 to 413-215-0131~~ and OAR 413-215-0801 to 413-215-0856~~; and

(b) Comply with ~~OAR 309-032-1100 to 309-032-1230, including the program service~~all requirements of OAR 309-022-0100 to 309-022-0230 applicable to providers of psychiatric day treatment.

(2) OAR 413-215-0801 to 413-215-0856 do not apply to a program that provides residential care under OAR 413-215-0501 to 413-215-0586, an *academic boarding school* (OAR 413-215-0201 to 413-215-0276), or a *therapeutic boarding school* (OAR 413-215-0601 to 413-215-0681).

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0806
Definitions

THIS RULE IS REPEALED

~~As used in OAR 413-215-0801 to 413-215-0856:~~

~~(1) "Clinical supervisor" means a Qualified Mental Health Professional with two years post-graduate clinical experience in a mental health treatment setting. The clinical supervisor, as documented by the provider, operates within the scope of his or her practice or licensure, and demonstrates the competency to oversee and evaluate the mental health treatment services provided by other Qualified Mental Health Professionals or Qualified Mental Health Associates.~~

~~(2) "Day treatment" means a comprehensive, interdisciplinary, nonresidential, community-based, psychiatric treatment, family treatment, and therapeutic activities integrated with an accredited education program provided to children with emotional disturbances.~~

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~~(3) "Day treatment agency" means a *private child caring agency* (defined in OAR 413-215-0006) that provides *day treatment* services subject to OAR 309-032-1100 to 309-032-1230.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 418.205 - 418.325

413-215-0811
Staff Qualifications and Minimum Staffing Requirements

(1) A *day treatment agency* ~~(defined in OAR 413-215-0806)~~ must utilize teachers licensed in accordance with the requirements of the Teachers Standards and Practices Commission.

(2) A qualified *clinical supervisor* ~~(defined in OAR 413-215-0806)~~ must direct the clinical program and supervise clinical staff.

(3) A *day treatment agency* must employ mental health service delivery staff who meet the qualifications described at OAR 309-032-1110(70) - (72).

(4) A *day treatment agency* must have sufficient Qualified Mental Health Professionals (QMHP) and other staff on duty to meet the severity and acuity of children in care served by the *day treatment agency*. In no case may the ratio of children to QMHP on duty be more than 12 children for each QMHP.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0816
Physical Plant Requirements

A *day treatment agency* ~~(defined in OAR 413-215-0806)~~ must meet all of the following requirements:

(1) All buildings owned, maintained, or operated by the *day treatment agency* to provide services to children must meet all applicable state and local building, electrical, plumbing, and zoning codes.

(2) All areas of the facility must be kept clean and in good repair. Major appliances and heating, ventilation, plumbing, and electrical systems must be functional and in good repair.

(3) Each room used by children in care must have floors, walls, and ceilings which meet the interior finish requirements of the applicable Oregon Structural Specialty Code (see the current version of OAR 837-040-0140) and the Oregon Fire Code (see the current version

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of OAR 837-040-0010 and 837-040-0020) and be free of harmful drafts, odors, and excessive noise.

(~~3~~4) Each room used by children in care must be adequate in size and arrangement for the purpose in which it is used.

(~~4~~5) A system providing a continuous supply of hot and cold water must be distributed to taps conveniently located throughout the facility.

(~~5~~6) Water systems serving the property must be installed and maintained in compliance with the applicable ~~Department of Human Services,~~Oregon Health Authority Public Health Division drinking water regulations (ORA ~~C~~chapter 333~~ of the Oregon Administrative Rules~~).

(~~6~~7) Heat and ventilation.

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

(b) Room temperature must be maintained within a normal comfort range.

(~~7~~8) Individual Rooms.

(a) Restrooms must be provided and be conveniently located, and must have:

(A) A minimum of one toilet for every 15 children in care.

(B) One hand-washing sink with mixing faucets for every two toilets. The sink may not be used for the preparation of food or drinks or for dish washing.

(C) Hot and cold running water, soap, and paper towels at each hand washing sink or other hand drying options approved by an environmental health specialist.

(D) Arrangements for individual privacy for ~~users~~children in care.

(E) Permanently wired light fixtures located and maintained so as to give adequate light to all parts of the room.

(F) A window covering on each window to ensure privacy.

(G) A mirror, permanently affixed at eye level.

(H) Adequate ventilation.

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(I) Each self-closing metered faucet, if provided, must provide water flow for at least 15 seconds without the need to reactivate the faucet.

(b) Laundry facilities, when provided, must be separate from --

(A) Kitchen and dining areas; and

(B) Areas used for the storage of unrefrigerated perishable food.

(c) Storage areas must be provided appropriate to the size of the facility. Separate storage areas must be provided for:

(A) Food, kitchen supplies, and utensils.

(B) Clean linens.

(C) Soiled linens and clothing.

(D) Cleaning compounds equipment.

(E) Poisons, chemicals, pest control products, insecticides, and other toxic materials, which must be properly labeled, stored in the original container, and kept in a locked storage area.

(F) Outdoor recreational and maintenance equipment.

(d) Food service areas.

(A) Kitchens must have facilities for dish washing, storage, and preparation of food and must be separate from child-caring areas.

(B) The walls, floors, and floor coverings of all rooms in which food or drink is prepared or stored or in which utensils are washed or stored must be smooth, washable, and easily cleanable.

(C) All equipment and utensils used for food service, including plastic ware and food-contact surfaces, must be easily cleanable, durable, nontoxic, and non-absorbent and must be maintained in a clean and sanitary condition.

(D) All equipment used for food preparation must be installed and maintained in a manner providing ease of cleaning beneath, around, and behind each unit.

(e) Classrooms and school buildings must be adequate in size and arrangement for the programs offered.

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(f) Time-out rooms. Rooms used for time out or quiet time must have adequate space, heat, light, and ventilation and must not be capable of locking.

(g) A usable recreational activity area must be provided that is protected from motor traffic and other hazards, of a size and availability appropriate to the age and the needs of the children in care served by the *day treatment agency*.

(~~8~~9) Furnishings and personal items.

(a) A *day treatment agency* must provide appropriate furniture for a learning environment.

(b) Each *child in care* must have a storage area available, such as a locker or other separate space to store personal items.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0821
Building Plans for New Facility or Remodel

A *day treatment agency* ~~(defined in OAR 413-215-0806)~~ must meet all of the following requirements:

(1) A set of plans and specifications for each day treatment facility operated by the *day treatment agency* must be submitted to the Department and to the State Fire Marshal for approval --

(a) Prior to construction of a new building;

(b) Prior to construction of an addition to an existing building;

(c) Prior to the remodeling, modification, or conversion of a building; and

(d) In support of an application for initial license of a *day treatment agency* not previously licensed under OAR 413-215-0801 to 413-215-0856.

(2) The required plans must comply with both current Oregon Structural Specialty Codes (see OAR 837-040-0140) and local fire and safety codes.

(3) Plans must be drawn to scale and must specify the estimated date upon which construction, modification, or conversion will be completed.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

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413-215-0826
Environmental Health

A *day treatment agency* ~~(defined in OAR 413-215-0806)~~ must meet all of the following requirements:

(1) The program of the *day treatment agency* must maintain an environment that ensures safety for program staff and ~~clients~~children in care.

(2) Environmental Health Specialist approval. Prior to licensure and every two years upon license renewal, the program must be assessed and provide documentation of approval by a registered environmental health specialist (see OAR 338-010-0025 to 338-010-0038) for the following safety areas:

(a) Food service risk assessment.

(b) Drinking water or waste water assessment.

(c) Vector and pest control, including the use of pesticides and other chemical agents.

(d) Hazardous material management, including handling and storage.

(e) Recreation assessments (such as playgrounds, swimming pools, and hot tubs) for injury prevention and hazard mitigation.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0831
Food Services

A *day treatment agency* ~~(defined in OAR 413-215-0806)~~ must meet all of the following requirements related to food services:

(1) Nutrition and dietary requirements.

(a) A *day treatment agency* must arrange meals daily, consistent with normal mealtimes that occur during hours of operation.

(b) Menus must be prepared in advance in accordance with USDA guidelines and must provide a sufficient variety of foods served in adequate amounts for each

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child at each meal, adjusted for seasonal changes. Records of menus as served must be maintained in the facility record for at least six months.

(c) Drinking water must be freely available to the children in care served by the *day treatment agency*.

(2) Food selection, storage, and preparation.

(a) All food and drink provided by the agency must be stored, prepared, and served in a sanitary manner.

(b) All employees who handle food served to children in care must have a valid food handler's card pursuant to ORS 624.570.

(c) Selection of food. All food products served by a *day treatment agency* must be obtained from commercial suppliers, except that:

(A) Fresh fruits and vegetables and fruits or vegetables frozen by the *day treatment agency* may be served.

(B) The serving of unpasteurized juice is prohibited.

(d) Requirements related to milk.

(A) Only Grade A pasteurized and fortified milk may be served to children in care.

(B) Milk and fluid milk products must be dispensed from a commercially filled plastic container of not more than one-gallon capacity or from a refrigerated bulk container equipped with a dispensing device approved by the Food and Drug Administration or Oregon Department of Agriculture.

(e) Children in care may participate in activities in a food-preparation area, other than routine clean up, only while under the supervision of the employees of the *day treatment agency*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0836
Safety

A *day treatment agency* ~~(defined in OAR 413-215-0806)~~ must meet all of the following requirements related to safety.

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(1) Fire safety. Prior to licensure and every two years upon license renewal, the program must be assessed and approved by the State Fire Marshall or designee for the following fire safety areas:

(a) The *day treatment agency* must provide fire safety equipment that meets the requirements of applicable building codes and the Oregon Fire Code (see the current version of OAR 837-040-0010 and 837-040-0020).

(b) The *day treatment agency* must comply with existing state and local fire safety codes.

(2) Emergency plan.

(a) The *day treatment agency* must have, for each facility it operates, a written emergency plan that includes:

(A) Instructions for evacuation of children in care and employees in the event of fire, explosion, accident, or other emergency.

(B) Instructions for response in the event of a natural disaster, external safety threat, or other emergency.

(b) Telephone numbers for local police and fire departments and other appropriate emergency numbers must be posted near all telephones.

(c) Operative flashlights sufficient in number must be readily available to the staff in case of emergency.

(3) Evacuation drills.

(a) An unannounced evacuation drill must be held monthly under varying conditions to simulate the unusual conditions that occur in the event of fire. For each drill, the *day treatment agency* must document the following information and retain it for a minimum of two years:

(A) Identity of the person conducting the drill.

(B) Date and time of the drill.

(C) Notification method used.

(D) Staff members on duty and participating.

(E) Number of ~~occupants~~children in care and *staff* evacuated.

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(F) Special conditions simulated.

(G) Problems encountered.

(H) Time required to accomplish complete evacuation.

(b) The *day treatment agency* must ensure that all employees and children in care are aware of the procedures to follow in case of emergencies.

(4) Hazards.

(a) The *day treatment agency* must protect children ~~it serves~~in care from guns, drugs, plastic bags, sharps, paint, hazardous materials, bio-hazardous materials, and other potentially harmful materials. A *day treatment agency* must have a written policy that ~~addresses~~prevents potentially harmful materials that are in the building accessible to the children in ~~the program~~care or on the grounds of the program.

(b) The temperature of hot water used for hand washing, bathing, or showering must be controlled so that it does not exceed 120 degrees Fahrenheit in all buildings serving children. Direct supervision by staff must be provided for any *child in care* who does not have the ability to adjust and control water temperature.

(c) Each light fixture must have a protective cover unless it is designed to be used without one.

(5) Transportation. The *day treatment agency* must ensure the following when providing transportation to children ~~it serves~~in care:

(a) Driver requirements.

(A) Each employee transporting children in care in a motor vehicle must have a valid current driver license on record with the *day treatment agency*.

(B) The *day treatment agency* may use an employee to provide transportation for children in care only if the employee is covered by an insurance policy in full force and effect, and in compliance with the standards set by the *day treatment agency*.

(C) The *day treatment agency* must ensure that employees providing transportation are trained in emergency procedures, including behavior management, while in a vehicle.

(D) The *day treatment agency* must ensure that each person who transports a *child in care* in a van for 15 or more passengers receives training in the safe operation of that type of vehicle prior to transporting children.

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(b) Vehicle requirements.

(A) Each vehicle used to transport a *child* *in care* served by the *day treatment agency* must be covered by an insurance policy in full force and effect.

(B) Each vehicle used to transport a *child* *in care* served by the *day treatment agency* must be maintained in safe operating condition.

(C) Each vehicle used to transport a *child* *in care* must have aboard a first aid kit, a fully charged and working fire extinguisher with a rating of at least 2-A:10-BC, and a copy of the medical insurance card of each child being transported.

(D) Each vehicle used to transport a *child* *in care* must be smoke-free.

(E) Children in care and adults must ride in a vehicle manufactured seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0841
Health Services

A day *treatment agency* ~~(defined in OAR 413-215-0806)~~ must provide oversight of the clinical aspects of health care provided to children in care and must provide psychiatric on-call consultation at all times.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0846
Medication

A day *treatment agency* ~~(defined in OAR 413-215-0806)~~ must comply with all of the following requirements:

(1) Policy and procedures. The *day treatment agency* must have policies and procedures that cover prescriptions, herbal remedies, and all non-prescription medications that address all of the following:

(a) How the medication will be administered.

(b) By whom the medication will be administered.

(c) How the staff of the *day treatment agency* who administer medication will be trained.

(d) How the administration of medication will be documented.

(e) How the administration of medication will be monitored.

(f) How unused medication will be disposed of.

(g) The process that ensures that each child in care's prescription and non-prescription medications are reviewed, unless the medications are all provided through a single pharmacy. As used in this rule, "non-prescription medication" means any medication that does not require a written prescription for purchase or dispensing.

(2) A prescription, signed by a physician or other qualified medical professional, is required before any prescription medication is administered to, or self-administered by a *child in care*. Medications prescribed for one *child in care* may not be administered to, or self-administered by another *child in care* or staff. As used in this rule "self-administration" refers to the act of a resident placing a medication internally in, or externally on, his or her own body.

(3) A written order, signed by a physician or other qualified medical professional, is required for any medical treatment, special diet, physical therapy, aid to physical functioning, or limitation of activity.

(4) Before a *day treatment agency* permits a *child in care* to self-administer prescription medication, self-administration must be recommended by the *day treatment agency*, approved in writing by a physician, and closely monitored by the child in care's guardian or the staff of the *day treatment agency*.

(5) Medication storage.

(a) Prescription medications that are unused and any medications that are outdated or recalled may not be maintained in the facility. "Outdated" means any medication whose designated period of potency, as indicated on the label, has expired.

(b) The facility may maintain a stock supply of non-prescription medications.

(c) All prescription and non-prescription medications must be contained in locked storage in the facility and must be kept in a manner that makes them inaccessible to children.

(d) Medications requiring refrigeration must be refrigerated and secured.

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(e) Medications must be maintained and stored in their original container, including the prescription label.

(6) Medication disposal. Medications must be disposed of in a manner that ensures that they cannot be retrieved, in accordance with all applicable state and federal law.

(7) A written record of all medication disposals must be maintained and must include all of the following:

(a) A description of the prescribed medication and the amount disposed.

(b) The *child in care* for whom the medication was prescribed.

(c) The reason for disposal.

(d) The method of disposal.

(e) The name of the ~~person~~adult disposing the medication, and the initials of an adult witness.

(8) Medication records. A written record must be kept for each *child in care* listing all medications, both prescription and over-the-counter, that are administered. The record must include all of the following:

(a) The ~~child's~~ name of the *child in care*.

(b) A description of the medication, instructions for use, and the recommended dosage.

(c) Dates and times medication is administered.

(d) A record of missed dosages.

(e) Medication dropped or disposed of.

(f) Method of administration for each medication.

(g) Identification of person administering the medication.

(h) Any adverse reactions to the medication.

(i) Documentation of any medication taken outside the facility by a *child in care* during a home visit or other activity.

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(9) Where applicable, the *day treatment agency* must maintain documentation of the continuing evaluation of the child's ability to self-administer a medication.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0851
Requirement to Have Policies and Procedures

A *day treatment agency* ~~(defined in OAR 413-215-0806)~~ must have a written policy that includes the following:

(1) Hours of operation.

(2) Service area.

(3) Family expectations and participation requirements.

(4) Type of behavioral and affective characteristics of the children ~~served~~in care.

(5) Psychiatric, therapeutic, or counseling services offered.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0856
Educational Services

The educational services of a *day treatment agency* ~~(defined in OAR 413-215-0806)~~ must comply with all of the following requirements:

(1) The *day treatment agency* must comply with the minimum requirements for private education institutions as determined by the Oregon Department of Education.

(2) Education services must include at least one qualified teacher for every 15 children in care~~fifteen~~ ~~students~~.

(3) The *day treatment agency* must ensure it has a curriculum that considers the goals of modern education as defined in OAR 581-022-1020 and the requirements of a sound, comprehensive curriculum.

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(4) Secondary schools must verify that they have academic standards necessary for ~~students~~children in care to obtain admission to community colleges, institutions of higher education, and receive a high school diploma or GED.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, Or Laws 2016, ch 106

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Licensing Outdoor Youth Programs

413-215-0901
~~Purpose and~~ Applicability ~~of Rules~~and General Provisions

(1) Required compliance. These rules, OAR 413-215-0901 to 413-215-1031, regulate a *child caring agency* licensed as an *outdoor youth program* subject to Oregon laws governing child caring agencies, ORS 418.205 to 418.325 and 418.990 to 418.998 and Oregon laws governing outdoor youth programs, ORS 418.205 to 418.246. An *outdoor youth program* must also comply with OAR 413-215-0001 to 413-215-0131.

(2) Stationary Outdoor Youth Program additional license requirement. An *outdoor youth program* that operates as a *stationary outdoor youth program* must secure an Organizational Camp License as described in OAR 333-030-0005 to 333-030-0130 from the Oregon Health Authority, Public Health Division.

(3) Bond required. Each *outdoor youth program* applying for licensure must file with the Department a Fiduciary Bond in the amount of $50,000 or 50 percent of the program's yearly budget, whichever amount is less. The Bond must be issued by a surety or insurer that is licensed to do business in the State of Oregon. The Bond must be written and issued on the Surety Bond Form (DHS CF 1066), provided to the *outdoor youth program* by the Department. The required Bond must be continuous until canceled and must remain in full force at all times to comply with this section. Any claims or potential impairment to the Bond must be reported to the Department within 30 days of the incident or occurrence involving the claim or potential impairment. In the event of impairment to the Bond, the *outdoor youth program* will be required to obtain additional bonding to satisfy the requirements of this section. The surety or insurer must give the Department at least 30 days written notice before canceling or terminating its liability under the Bond. An action on the Bond may be brought by any person aggrieved by the misconduct of an *outdoor youth program* required to be licensed under ORS 418.205 to 418.310. As evidence of the Bond, the *outdoor youth program* must keep a certified copy of the Bond on file with the Department at all times.

(4) Workers' Compensation. An *outdoor youth program* must comply with all provisions of ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. The *outdoor youth program* must ensure that each of its subcontractors complies with these requirements.

~~(1) Values. The State of Oregon, through the statutorily required adoption of administrative rules for licensing outdoor youth programs, has determined that the services provided by these programs are an important and valuable resource option for children, youth and families and the continued provision of these services is in the State's interest. Application of the rules is intended to recognize the treatment values of the outdoor youth~~

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~~wilderness experience and, to the extent that the required elements of safety and accountability are in place, to facilitate the provision of appropriate wilderness youth treatment programs in Oregon.~~

~~(2) Required compliance. OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0901 to 413-215-1031 set forth the Department requirements for licensing private *child caring* agencies providing *outdoor youth* programs, subject to Oregon laws governing private child caring agencies, ORS 418.205 to 418.325 and 418.990 to 418.998 and Oregon laws governing outdoor youth programs, ORS 418.205 to 418.246.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0906
General Provisions

THIS RULE IS REPEALED

~~(1) License required. No *private child caring agency* (defined in OAR 413-215-0006) may operate an *outdoor youth program* (defined in OAR 413-215-0911) in Oregon without a valid license issued by the Department in accordance with OAR 413-215-0001 to 413-215-0131 and OAR 413-215-0901 to OAR 413-215-1031.~~

~~(2) Compliance required. Any agency which provides the services of an *outdoor youth program* must comply with these rules governing outdoor youth programs (OAR 413-215-0901 to 413-215-1031) and OAR 413-215-0001 to OAR 413-215-0131.~~

~~(3) Stationary Outdoor Youth Program additional license requirement. An *outdoor youth program* that operates as a *stationary outdoor youth program* (defined in OAR 413-215-0911) must secure an Organizational Camp License as described in OAR 333-030-0005 to 333-030-0130 from the Oregon Department of Human Services, Public Health Division.~~

~~(4) Bond required. Each *outdoor youth program* applying for licensure must file with the Department a Fiduciary Bond in the amount of $50,000 or 50 percent of the program's yearly budget, whichever amount is less. The Bond must be issued by a surety or insurer that is licensed to do business in the State of Oregon. The Bond must be written and issued on the Surety Bond Form (DHS CF 1066), provided to the *outdoor youth program* by the Department. The required Bond must be continuous until canceled and must remain in full force at all times to comply with this section. Any claims or potential impairment to the Bond must be reported to the Department within 30 days of the incident or occurrence involving the claim or potential impairment. In the event of impairment to the Bond, the *outdoor youth program* will be required to obtain additional bonding to satisfy the requirements of this section. The surety or insurer must give the Department at least 30 days written notice before canceling or terminating its liability~~

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~~under the Bond. An action on the Bond may be brought by any person aggrieved by the misconduct of an *outdoor youth program* required to be licensed under ORS 418.205 to 418.310. As evidence of the Bond, the *outdoor youth program* must keep a certified copy of the Bond on file with the Department at all times.~~

~~(5) Workers' Compensation. An *outdoor youth program* must comply with all provisions of ORS 656.017 and provide the required Workers' Compensation coverage, unless such employers are exempt under ORS 656.126. The *outdoor youth program* must ensure that each of its subcontractors complies with these requirements.~~

Stat. Auth.: ORS 409.050, 418.005, 418.240
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998

413-215-0911
Definitions

THIS RULE IS REPEALED

~~The following definitions apply to OAR 413-215-0901 to 413-215-1031:~~

~~(1) "Contraband" means items the possession of which is prohibited by the outdoor youth program such as but not limited to weapons or drugs.~~

~~(2) "Debrief" means to interview a person (such as a youth or staff member) usually upon return (as from an expedition) in order to obtain useful information.~~

~~(3) "Department" means the Department of Human Services.~~

~~(4) "Outdoor living setting" means an outdoor field setting in which services are provided to youth either more than ten days per month for each month of the year or for longer than 48 hours at a location more than two hours from community-based medical services.~~

~~(5) "Outdoor youth program" means a program that provides, in an *outdoor living setting*, services to youth who are enrolled in the program because they have behavioral problems, mental health problems or problems with abuse of alcohol or drugs. "Outdoor youth program" does not include any program, facility or activity operated by a governmental entity, operated or affiliated with the Oregon Youth Conservation Corps, or licensed by the Department as a child caring agency under other authority of the Department. It does not include outdoor activities for youth designed to be primarily recreational.~~

~~(6) "Outdoor youth program activity" means an outdoor activity, provided to youth for the purpose of behavior management or treatment, which requires specially trained staff or special safety precautions to reduce the possibility of an accident or injury. Outdoor youth activities include, but are not limited to: hiking, adventure challenge courses,~~

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~~climbing and rappelling, winter camping, soloing, expeditioning, orienteering, river and stream swimming, and whitewater activities.~~

~~(7) "Over the counter medication" means any medication that does not require a written prescription for purchase or dispensing.~~

~~(8) "Service plan" means an individualized plan of services to be provided to each youth based on his or her identified needs and designed to help him or her reach mutually agreed upon goals. The service plan must address, at a minimum, the youth's physical and medical needs, behavior management issues, mental health treatment methods, education plans, and any other special needs.~~

~~(9) "Sole supervision" means being alone with a youth or being temporarily the only staff in charge of a youth or subgroup of youth.~~

~~(10) "Stationary outdoor youth program" means an *outdoor youth program* which remains in a stationary location that houses youth.~~

~~(11) "Wilderness first responder" means a medical training course and certification for outdoor professionals.~~

~~(12) "Youth" means a child aged 10 through 17 years of age who may be admitted to or is a participant in an outdoor youth program.~~

~~Stat. Auth.: ORS 409.050, 418.005, 418.240~~
~~Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998~~

413-215-0916
Administration

(1) Base of operations. An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ providing outdoor youth program services in Oregon must have a base of operation or field office in Oregon. The base of operation or field office at a minimum must have the following information immediately available upon the request of the Department licensing coordinator:

(a) Current list of the names of staff and ~~youth~~children in care in each field group;

(b) Master map of all *outdoor youth program activity* ~~(defined in OAR 413-215-0911)~~ areas used by the program in Oregon, copies of which must be made available to the Department licensing coordinator, the land managing agency, and local law enforcement and emergency services upon request;

(c) Copies of each group of children in care's expeditionary route with its schedule and itinerary, copies of which must be made available to the Department, the land

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managing agency and local law enforcement and emergency services upon request;

(d) Current logs of communications with each field group of children in care away from the base of operations; and

(e) Emergency response plan that is reviewed annually (as described in OAR 413-215-0936(2)~~(c)~~).

(2) ~~Youth~~Child in care file requirements. The base of operations for an *outdoor youth program* must have a file on each ~~youth~~*child in care* in the program, which includes:

(a) Legal guardian identification, contact information, and custody status of *child* ~~custody~~*in care*;

(b) Emergency contact information for the legal guardian or guardians of the ~~youth~~*child in care* which provides for contact with the parent or legal guardian at any time, ~~twenty four~~24 hours a day, seven days a week;

(c) Demographics including, but not limited to name, gender, date of birth, and previous address;

(d) Eligibility and exclusionary criteria, including the basis for admission of the ~~youth~~*child in care* into the program;

(e) Medical forms;

(f) Authorization for medical treatment; and

(g) Legal guardian consent for the *outdoor youth program* to treat the ~~youth~~*child in care* with the specific interventions used by the program and to confiscate *contraband* ~~(defined in OAR 413-215-0911)~~ found in the ~~youth's~~child in care's possession.

(3) Proof of compliance. An *outdoor youth program* which operates in Oregon must comply with the federal, state, local, and land managing agency regulations in the operations area and must maintain proof of compliance at the base of operations.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

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413-215-0918
Consents, Disclosures, and Authorizations

(1) Consents. For each ~~youth~~*child in* ~~placement~~*care* with an *outdoor youth program*~~ (defined in OAR 413-215-0911)~~, the *outdoor youth program* must ensure that the legal guardian signs a consent that authorizes the *outdoor youth program* to undertake each of the following:

(a) To provide routine and emergency medical care.

(b) To use the discipline and behavior management system of the *outdoor youth program*, including the point, level, or other behavior management techniques utilized by the *outdoor youth program*.

(c) If applicable, to use restraint in the management of the ~~youth~~*child in care*. The consent for the use of physical restraint must be limited to the requirements outlined in OAR 413-215-0076(~~8~~3)(d).

(d) If applicable, to use time outs. The consent for the use of time outs must be limited to the requirements outlined in OAR 413-215-0076(~~10~~3)(c).

(e) To allow access to a *child in care* as required in ORS 418.305 and OAR 413-215-0091 and 413-215-0101.

(2) Disclosures to parent or legal guardian. At the time an *outdoor youth program* takes a ~~youth~~*child in care* into placement, the *outdoor youth program* must ensure that each legal guardian of the youth receives and acknowledges in writing the receipt of each of the following:

(a) Information regarding any personal searches and protocols for confiscation of contraband items, including the notification of law enforcement if illegal contraband is discovered. This information will include the procedures and rationales of the *outdoor youth program* for any program-initiated pat down searches.

(b) A statement concerning the rights of ~~youth~~*child in care* and legal guardians served by the *outdoor youth program* as provided in OAR 413-215-0046. The statement must be written in a manner that is easy to understand, and the *outdoor youth program* must ensure that the ~~youth~~*child in care* and the parent or legal guardian understand the statement.~~ The statement must explain the following rights belonging to youth and, in some cases, legal guardians:~~

~~(A) Private and uncensored communications by mail, telephone, and visitation, subject to both of the following restrictions.~~

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~~(i) This right may be restricted only if the provider documents in the individual's record that there is a court order to the contrary, or that in the absence of this restriction, significant physical or clinical harm will result to the individual or others. The nature of the harm must be specified in reasonable detail, and any restriction of the right to communicate must be no broader than necessary to prevent this harm.~~

~~(ii) The individual and his or her guardian, if applicable, must be given specific written notice of each restriction of the individual's right to private and uncensored communication. The provider must ensure that correspondence can be conveniently received and mailed, that telephones are reasonably accessible and allow for confidential communication, and that space is available for visits. Reasonable times for the use of telephones and visits may be established in writing by the provider.~~

~~(B) The youth's right to reasonable privacy.~~

~~(C) The youth's right to meaningfully participate in service planning.~~

~~(D) The youth's right to fair and equitable treatment.~~

~~(E) The right to be free from unauthorized treatment.~~

~~(F) The right of the youth or guardian to file a grievance for any reason, including, if the youth or legal guardians believe that they have been treated unfairly, or, if they are not in agreement with the services provided.~~

~~(G) The youth's right to have and wear personally exclusive clothing of their choosing unless the type of clothing has been prohibited in writing on the basis that significant physical or clinical harm would result.~~

~~(H) The youth's right to have personal belongings unless they are prohibited by storage limits, or because the item is prohibited in writing on the basis that significant physical or clinical harm would result.~~

~~(I) The youth's right to receive an appropriate education, and if the youth has not yet graduated, to stay on course for graduation.~~

~~(J) The youth's right to participate in recreation and leisure activities unless the program restricts the youth's participation in recreation or leisure activities due to serious behavior or safety issues.~~

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~~(K) The youth's right to have timely access to physical and behavioral health care services.~~

~~(L) The right of the youth, or legal guardians, to promptly review the program policies and procedures regarding program services.~~

(c) An *outdoor youth program* shall provide a copy of transportation policies and procedures to the legal guardians at the time of admission to the program.

(d) An *outdoor youth program* will disclose orientation procedures to the client and legal guardians at the time of admission to the program and prior to transporting the ~~youth~~*child in care* to the field.

(3) Authorizations. An *outdoor youth program* must follow the following requirements:

(a) Written authorizations to exchange information with others must be filled out prior to signatures being requested.

(b) All ~~youth-specific~~ visitors for the *child in care* must be approved or authorized by the legal guardians, except Department personnel, child abuse investigators, Court Appointed Special Advocates, and attorneys appointed to represent the *child in care*.

(c) All other visitors must be pre-approved by the ~~youth's~~child in care's legal guardians.

(d) Activity-specific authorizations must be pre-approved by the ~~youth's~~child in care's legal guardians to allow children in care to participate in potentially hazardous activities, such as rock climbing, swimming, and horseback riding.

(e) All other required authorizations must be pre-approved by the ~~youth's~~child in care's legal guardians.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0921
Participant Clothing, Equipment, and Supplies

An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must comply with all of the following requirements:

(1) Participant requirements. Each program participant must have appropriate clothing, equipment, and supplies for each type of *outdoor youth program activity* ~~(defined in OAR 413-215-0911)~~ and for the weather conditions likely to be encountered.

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(2) Clothing, equipment, and supply requirements. Clothing, equipment, and supplies must include at a minimum the applicable items in each of the following subsections:

(a) Sunscreen if appropriate for the environmental conditions generally expected for the area and season.

(b) Insect repellent if appropriate for the environmental conditions generally expected for the area and season.

(c) A commercial backpack or the materials to construct a safe backpack or bedroll.

(d) Personal hygiene items necessary for cleansing.

(e) Appropriate feminine hygiene supplies.

(f) When the average nighttime temperature is expected to be 40 degrees Fahrenheit or higher:

(A) Wool blankets or an appropriate sleeping bag; and

(B) A tarp or poncho.

(g) Shelter from precipitation, appropriate sleeping bag, and ground pad when the average nighttime temperature is expected to be 39 degrees Fahrenheit or lower.

(h) Clothing appropriate for the temperature changes generally expected for the area.

(i) Each ~~youth~~*child in care* must be provided a clean change of undergarments and socks at least once a week or an opportunity to wash his or her clothing at least once a week; and all other clothing must be reasonably clean and in good repair.

(3) Denial of clothing, equipment, and supplies. An *outdoor youth program* must not remove, deny, or make unavailable for any reason the appropriate clothing, equipment, or supplies required by section (2) of this rule.

(4) Monitoring. Field staff are responsible for maintaining the safety and well-being of ~~youth~~children in care and must monitor each ~~youth~~*child in care* to make sure that clothing, equipment, and supplies are maintained in a manner adequate to ensure each ~~youth's~~child in care's safety.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

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413-215-0926
Water Requirements

An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must comply with all of the following requirements:

(1) Written policy. An *outdoor youth program* must have and follow written policy and procedures on water requirements.

(2) Water. ~~Youth~~Children in care must have access to potable water while engaged in hiking. Staff of the *outdoor youth program* must ensure that ~~youth~~children in care drink a sufficient amount of water to provide adequate hydration. Staff must encourage ~~youth~~children in care to consume at least three quarts of potable water a day.

(3) Water caches. When water caches are used, field staff must place each water cache and verify its location in advance of a group's arrival.

(4) Water from a natural source. Water from a natural source used for drinking or cooking must be treated for sanitation to eliminate health hazards. Staff must document what methods were used to sanitize the water.

(5) Electrolytes. Each group must have and use when appropriate a supply of electrolyte replacement, quantities to be determined by group size and environment conditions.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0931
Nutritional Requirements

An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must comply with all of the following requirements:

(1) Written policy. An *outdoor youth program* must have and follow written policy and procedures on nutritional requirements.

(2) Menu. There must be a written menu approved by a qualified dietitian or nutritionist with knowledge of program activity levels, listing the food supplies for each group.

(3) Calories. An *outdoor youth program* must provide each ~~youth~~*child in care* a level of nutrition which will supply the ~~youth's~~child in care's individual caloric need; but no ~~youth~~*child in care* may be offered less than 3,000 calories a day. When heat is not available for cooking, an *outdoor youth program* must provide sufficient food of sufficient caloric value which does not require cooking.

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(4) Hygiene procedures. The *outdoor youth program* must have reasonable hygiene procedures to prevent infection which are consistent with the particular program risk of infection.

(a) Cleansing of hands must occur after each latrine use.

(b) Means of cleansing the hands must be available to ~~youth~~children in care prior to food preparation and prior to food consumption.

(c) A weekly opportunity for total body hygiene.

(5) Fasting. There must be no imposed fasting.

(6) Monitoring. Field staff are responsible for maintaining the safety and well-being of ~~clients~~each *child in care* and must monitor each ~~youth's~~child in care's food intake to ensure that the ~~youth~~*child in care* has adequate nutrition.

(7) Food must not be used for behavior modification purposes, including reward or punishment.

(8) ~~Youth~~Children in care must be permitted a reasonable amount of uninterrupted time for each meal.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0936
Safety

(1) Written policies and procedures. An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must have and follow written policies and procedures on all of the following:

(a) Equipment Safety Procedures, including appropriate instruction and maintenance of equipment.

(b) Environmental Hazards.

(c) Risk Management Procedures.

(d) Health, nutrition, hydration, and physical stress management.

(2) Emergency plan. An *outdoor youth program* must have and follow a written emergency plan for disasters, medical emergencies, hostage situations, casualties and missing ~~youth~~children in care, and other critical incidents identified by the program. The plan must at a minimum include:

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(a) Designation of authority and staff assignments;

(b) Plans for evacuation;

(c) An emergency evacuation system that is on standby;

(d) Transportation and relocation of ~~program youth~~children in care when necessary;

(e) Supervision of ~~program youth~~ children in care after an evacuation or a relocation;

(f) Arrangements for medical care and notification of a ~~program participant's~~child in care's physician and nearest relative, parents, or legal guardian; and

(g) A procedure for a review of the emergency plan by the local law enforcement and emergency services agencies from the area in which the outdoor youth program is operating.

(3) Emergency instruction. An *outdoor youth program* must instruct ~~youth~~children in care on what to do in case of an emergency prior to any *outdoor youth program activity* ~~(defined in OAR 413-215-0911)~~.

(4) Emergency plan response review. In the case of the activation of an emergency plan response, the *outdoor youth program* must subsequently review the response in the context of the emergency plan to determine if changes need to be made to improve safety and efficiency. If local law enforcement and emergency services agencies have been involved in an emergency response on behalf of an *outdoor youth program*, the *outdoor youth program* must invite them to participate in the review of the emergency plan response.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0941
Potential Weapons

(1) Written policy. An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must have and follow written policy and procedures on management of weapons and potential weapons.

(2) Inventory required. Staff of an *outdoor youth program* must inventory knives, hatchets, other edged tools, or any item which might reasonably pose a danger to self or others and complete a daily count of these items against the inventory.

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(3) Supervision required. Staff of an *outdoor youth program* must have line of sight supervision of a ~~youth~~*child in care* who is in possession of and using knives, hatchets, other edged tools, or any item which might pose a danger to self or others.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0946
Contraband

(1) Written policy. An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must have and follow written policy and procedures on *contraband* ~~(defined in OAR 413-215-0911)~~.

(2) Confiscation. Staff must confiscate *contraband* found in the possession of ~~youth~~children in care in an *outdoor youth program* and, if stored, secure it in a location inaccessible to ~~youth~~children in care.

(3) Disposal. It is the responsibility of the *outdoor youth program* to store or dispose of all *contraband* not confiscated by or turned over to law enforcement, in accordance with the *contraband* policy.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0951
Searches

(1) Written policy. If an *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ conducts searches of ~~youth~~children in care or visitors, it must have and follow written policies and procedures. The program must obtain the appropriate consents for searches.

(2) Searches. An *outdoor youth program* must complete searches in the least intrusive manner possible for the type of search being conducted. The policies and procedures at a minimum must address all of the following:

(a) Pat down searches. An *outdoor youth program* may conduct pat down searches of ~~youth~~children in care only when the *outdoor youth program* judges that it is necessary to discourage the introduction of *contraband* ~~(defined in OAR 413-215-0911)~~, or to promote the safety of staff and other ~~youth~~children in care. An *outdoor youth program* may only conduct pat down searches as follows:

(A) By staff trained in proper search techniques;

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(B) By a staff member of the same sex as the ~~youth~~*child in care* being searched, and in the presence of another staff member;

(C) The ~~youth~~*child in care* must be told he or she is about to be searched;

(D) The ~~youth~~*child in care* must be asked to remove all outer clothing (gloves, coat, hat, and shoes) and empty all pockets;

(E) The staff member must then pat the clothing of the ~~youth~~*child in care* using only enough contact to conduct an appropriate search;

(F) If the staff detects anything unusual, the ~~youth~~*child in care* must be asked to identify the item and appropriate steps must be taken to remove the item for inspection;

(G) If the ~~youth~~*child in care* refuses to comply, the executive director or designee must be notified immediately and be responsible to resolve the matter; and

(H) All searches must be documented in writing.

(b) Strip searches. An *outdoor youth program* may not perform strip searches.

(c) Body cavity searches. An *outdoor youth program* may not perform body cavity searches.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, Or Laws 2016, ch 106

413-215-0956
Transportation

(1) Vehicle. Transportation of ~~youth~~children in care in an *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must be in a vehicle that is --

(a) Properly registered;

(b) Covered by insurance for personal injury and liability;

(c) Driven by a person with a valid driver's license for the type of vehicle who complies with all applicable traffic laws while transporting ~~youth~~children in care;

(d) Maintained in a safe condition;

(e) Equipped with a red triangle reflector device for use in emergency;

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(f) Equipped with a first aid kit; and

(g) Equipped with a fire extinguisher that is properly secured and not readily available to ~~youth~~children in care.

(2) Proper seating of ~~youth~~children in care and adults. ~~Youth~~Children in care and adults in an *outdoor youth program* must ride in a vehicle manufactured seat, properly using the passenger restraint device in accordance with Oregon law when traveling on public roads. An *outdoor youth program* must take all reasonable steps to assure the safety of ~~youth~~children in care and adults traveling in off road vehicles.

(3) ~~Youth~~Children in care must be accompanied by at least one person who has been trained in non-violent crisis intervention and de-escalation, physical restraints (if applicable), and First Aid/CPR.

(4) ~~Youth~~Children in care may not be blindfolded or otherwise have their vision obstructed and may not be handcuffed or shackled while being transported by the program or a subcontractor of the program.

(a) If a program recommends to parents or legal guardians a transport company to bring ~~their~~the *child in care* to the program, this information shall be noted by the program in the ~~youth's~~child in care's record.

(b) The Program shall inquire of each ~~youth~~*child in care* brought to the program by a transport company whether he or she was blindfolded or shackled during transport to the program and not this in the ~~youth's~~child in care's record.

(5) Policies. An *outdoor youth program* shall have and follow written policies that describe the following:

(a) The method of transportation.

(b) The circumstances when transportation is provided.

(c) Policies shall describe how the safety and integrity of the ~~youth~~*child in care* shall be maintained while being transported;

Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

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413-215-0961
Health Services
~~*(Amended 10/01/13)*~~

(1) Required physical examination. Prior to a ~~youth~~*child in care* engaging in an *outdoor youth program activity* ~~(defined in OAR 413-215-0911)~~, an *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must review and place in the file a physical examination report for the ~~youth~~*child in care*. This information must be shared with the field staff prior to any *outdoor youth program activity*. The ~~youth's~~child in care's health history must be provided by a physician prior to admission, and this history plus a new physical examination must be recorded on a form provided by the program, which clearly documents the type and extent of *outdoor youth program activity* in which the ~~youth~~*child in care* will be engaged. The examination must cover areas required by the Department and, after the appropriate consents are obtained from the ~~youth~~*child in care* or ~~youth's~~child in care's legal guardian, must be completed by a licensed physician, physician's assistant or nurse practitioner, who signs the form.

(a) In addition to any other areas required by the Department, the examination must include a physical assessment based on the climate, temperature, and altitude the ~~youth~~*child in care* will be participating in given the ~~participant's~~child in care 's age, weight, sex, physical condition, and recent use of drugs or alcohol, if any. The physician must state in the examination report any restrictions on the ~~youth~~*child in care* engaging in strenuous exercise based on these or any other factors;

(b) If a ~~youth~~*child in care* is currently taking or has been receiving prescribed medication within the past six months, a specific notation must be made on the physical examination form, by the clearing medical professional, which must include clearance for participation in an outdoor, high impact environment and a description of any possible special needs due to use of the medication in the field environment; and

(c) If a ~~youth~~*child in care* is in a risk group for strenuous exercise or extreme conditions due to medical issues, written clearance must be noted on the physical examination form, stating that the ~~youth~~*child in care* may participate in an *outdoor youth program activity*, which may:

(A) Occur in altitudes over 5,000 feet;

(B) Include strenuous exercise; and

(C) Expose ~~youth~~*child in care* to cold or hot temperatures.

(d) ~~Youth~~Children in care may not participate in an *outdoor youth program activity* until all blood work and other laboratory work has been received and reviewed by

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the physician, and the physician has found that the ~~youth~~*child in care* is qualified to start the program.

(2) Health information availability. An *outdoor youth program* must copy the health history and physical exam form and authorization to obtain medical care, maintain the original at the base of operations, and field staff must carry the copy in a waterproof container when the ~~youth~~*child in care* is away from the base of operations. All medications must be listed, including dose and frequency.

(3) Appropriate health care. An *outdoor youth program* must ensure -- through staff assignments, training, and program providers -- that injuries, illness, or physical complaints by ~~youth~~children in care will be promptly and accurately assessed; and that appropriate care is provided.

(4) Prompt first aid treatment. An *outdoor youth program* must provide first aid treatment in as prompt a manner as the location and circumstances allow.

(5) First aid. An *outdoor youth program* must have a first aid kit with sufficient supplies available at all times. The first aid kit must ---

(a) Meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used;

(b) Be reviewed with new staff for contents and use;

(c) Be reviewed at least annually with all staff for contents and use; and

(d) Be inventoried after each expedition and restocked as needed.

(6) Field treatment. An *outdoor youth program* must immediately transport to appropriate medical care any ~~youth~~*child in care* with an illness or physical complaint needing care or treatment beyond what can be provided in the field.

(7) Documentation of reports and treatment. An *outdoor youth program* must document complaints or reports by a ~~youth~~*child in care* of illness and injuries in a daily log along with any treatment provided.

(8) Negative consequences. An *outdoor youth program* may impose no negative consequence on a ~~youth~~*child in care* for reporting an injury or illness or for requesting to see a health care professional.

(9) Daily physical assessment. Field staff for an *outdoor youth program* must monitor and document ~~youth's~~child in care's hydration, skin condition, extremities, and general physical condition on a daily basis.

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(10) Weekly physical assessment. A Wilderness First Responder (WFR) or equivalent, an Emergency Medical Technician (EMT), or qualified medical professional must assess each ~~youth's~~child in care's physical condition in an *outdoor youth program* at least every seven days. The assessment must be documented and shall at a minimum include:

(a) Heart rate;

(b) Check of extremities;

(c) Condition of skin;

(d) Allergies if any;

(e) General physical condition;

(f) Any health issues specific to the individual ~~youth~~*child in care*; and

(g) Provision of appropriate medical treatment if needed.

(11) Medication storage and administration policies and procedures. An *outdoor youth program* must have and follow policies and procedures on the storage and administration of prescription and non-prescription medication. The policies and procedures must include contingency planning in the case of medications being lost or destroyed in the field.

(12) Medication storage. An *outdoor youth program* must store prescription and over-the-counter medication under lock and key safeguarded from ~~youth.~~children in care. For medications taken in the field, medication must be in the possession of a staff member and stored at required temperatures.

(13) Documentation of medications. Prescription medication in an *outdoor youth program* must be issued by a qualified medical professional's valid order that includes the dosage to be given. Senior field staff must administer all medication. Administration of medication must be documented and include:

(a) The ~~youth's~~ name of the *child in care*;

(b) The name of the medication;

(c) The date and time;

(d) The amount of dosage given and whether the ~~youth~~*child in care* did not take the medication; and

(e) The person who administered or assisted in self-administration of the medication.

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(14) Medication changes. An *outdoor youth program* may not stop or change dosage or administration of prescribed medication nor discontinue any prescription without consulting with a qualified medical professional and documenting the consultation and the change.

(15) Disposal of unused medication.

(a) For purposes of this rule, "unused medication" means any medication which has not been used for 60 days, or a medication held by the facility which has been prescribed for a ~~resident~~*child in care* who has been released from the facility.

(b) For purposes of this rule, "expired medication" means any medication whose designated period of potency, as indicated on the label, has expired.

(c) An *outdoor youth program* must return all unused or expired medication to the base of operations and dispose of it so it is not available to ~~youth.~~children in care. A field director or senior field staff must witness and document the disposal of the unused medication.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0966
Staff Qualifications and Requirements

(1) Staff written policy requirements. An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must have written policy regarding minimum staff requirements.

(2) Verification. An *outdoor youth program* must verify qualifications of staff through documentation of minimum requirements for work experience, education, and classroom instruction.

(3) Required staff positions.

(a) An *outdoor youth program* which provides outdoor youth programming as its primary function must have an executive director. The executive director may also function as the field director if the executive director meets those qualifications. In addition to meeting the requirements in OAR 413-215-0021(3)-(4), the executive director must comply with all of the following:

(A) Be at least 25 years of age.

(B) Have one of the following qualifications at time of hire:

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(i) Five years of paid full time experience in the social services or wilderness field with at least one year in a paid administrative capacity.

(ii) A Bachelor's degree and four years of paid full time experience in the social services or wilderness field with at least one year in a paid administrative capacity.

(iii) A Master's degree and three years of paid full time experience in the social services or wilderness field with at least one year in a paid administrative capacity.

(C) Have knowledge and experience demonstrating competence in the performance or oversight of the following essential job functions: program planning and budgeting, fiscal management, supervision of staff, personnel management, employee performance assessment, data collection, reporting, program evaluation, quality assurance, and developing and maintaining community resources.

(D) Demonstrate by his or her conduct the competencies required by this rule and compliance with the program policies and procedures implementing these rules.

(E) Have completed the field training as required by OAR 413-215-0981(3).

(b) Field director. An *outdoor youth program* must have a field director who is primarily responsible for the quality of each *outdoor youth program activity* ~~(defined in OAR 413-215-0911)~~, coordinates field operation, supervises direct care staff, and manages the field office. The field director must:

(A) Be at least 25 years of age;

(B) Have a minimum of 30 college level semester hours or 45 quarter hours in recreational therapy or in a related field or one year of *outdoor youth program* field experience;

(C) Demonstrate knowledge and understanding of applicable licensing rules;

(D) Have completed the field training as required by OAR 413-215-0981(3);

(E) Hold a Wilderness First Responder (WFR) certificate or equivalent; and

(F) Have completed an approved course in nonviolent crisis intervention.

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(c) Senior field staff. An *outdoor youth program* must have a senior field staff working directly with each group of ~~program youth.~~children in care. Senior field staff must:

(A) Be at least 21 years of age;

(B) Have an associate degree or high school diploma or equivalent with 30 college level semester hours or 45 quarter hours of study or comparable experience and training in a field related to recreation and *outdoor youth program activity*;

(C) Have a minimum of forty 24-hour field days of program experience or equivalent experience in outdoor programs documented in the personnel file;

(D) Have completed the field training as required by OAR 413-215-0981(3);

(E) Hold a Wilderness First Responder (WFR) certificate or equivalent; and

(F) Have completed an approved course in nonviolent crisis intervention.

(d) Field staff. Each field staff member of an *outdoor youth program* must:

(A) Be at least 21 years of age;

(B) Have a high school diploma, or its equivalent, or comparable experience directly relevant to assigned *outdoor youth program* responsibilities;

(C) Have completed the field training as required by OAR 413-215-0981(3); and

(D) Be certified to provide cardiopulmonary resuscitation (CPR) and first aid.

(4) Specific Outdoor Youth Program activity training. All staff of an *outdoor youth program* must have documented training and experience in conducting any *outdoor youth program activity* he or she is assigned to conduct.

(5) Multidisciplinary team. An *outdoor youth program* must have a multidisciplinary team of staff or consultants who have knowledge of the physical and emotional demands of the program and are available to ~~program youth~~children in care and staff upon the recommendation of the field director or senior field staff. The multidisciplinary team must also be available to *outdoor youth program* staff upon request for consultation regarding the appropriateness of admission of ~~youth.~~a *child in care.* At a minimum, the team must consist of:

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(a) A licensed health care professional (physician, doctor of osteopathy, nurse practitioner, or physician's assistant);

(b) A treatment professional who is a licensed or certified psychologist, clinical social worker, marriage and family counselor, or professional counselor; and

(c) If the program does not exclude ~~clients~~children in care with substance abuse problems, the multidisciplinary team must include a professional who is a Certified Alcohol Drug Counselor or who has demonstrated equivalent experience and training in the field of alcohol and drug abuse counseling.

Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0971
Staff Health Requirements

An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must comply with all of the following requirements:

(1) Staff health requirements. The *outdoor youth program* staff members having responsibility for ~~youth~~children in care must be free of infectious diseases and must be capable of competently fulfilling all responsibilities reasonably associated with their employment.

(2) Health history questionnaire. As part of orientation, and annually thereafter, staff must complete a health history questionnaire similar to that completed by the ~~youth~~children in care entering the program. It must include injuries or ailments that might affect the ability to function well in the field, or put other field staff or ~~youth~~children in care at risk of injury or infection.

(3) Health history questionnaire content. The health history questionnaire must include, but not be limited to, the following content areas:

(a) Standard physical health questions, including history of infectious diseases;

(b) History of physical injuries; and

(c) History of drug or alcohol abuse or dependence that required residential or outpatient treatment, or that might currently interfere with employment responsibilities.

Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

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413-215-0976
Physical Activity Limits and Requirements

An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must comply with all of the following requirements:

(1) Physical capability. Physical activity may not exceed the physical capability of a ~~youth~~*child in care*. Field staff must monitor the physical capability and condition of each ~~youth~~*child in care* to ensure that the *outdoor youth program activity* ~~(defined in OAR 413-215-0911)~~ does not exceed the ~~youth's~~child in care's capability.

(a) The program may not assign extremely strenuous exercise at any time.

(b) A ~~youth~~*child in care* when hiking may not carry a backpack and other equipment which exceeds their physical abilities.

(c) Staff shall assist ~~youth~~children in care in ensuring that backpacks are packed in a manner that allows them to be comfortably worn.

(d) ~~Youth~~Children in care shall have breaks prior to becoming weary to avoid risk of injury. Breaks shall be frequent and long enough to recover and return to the *outdoor youth program activity*.

(e) All ~~youth~~children in care in a group shall hike at the speed at which the slowest ~~member~~*child in care* is capable.

(2) Environmental conditions. Staff of the *outdoor youth program* must consider environmental conditions including, but not limited to temperature, humidity, and precipitation, when planning an *outdoor youth program activity* so as to minimize the risk of harm (such as heatstroke, frostbite, and hypothermia) to participants.

(3) Acclimation to environment. *Staff* must closely monitor ~~youth~~children in care for acclimation to the elevation and temperature of the environment for the first 72 hours of each ~~youth's~~child in care's stay in the program to ensure safe assessment of fitness.

(a) Staff must monitor and document each ~~youth's~~child in care's physical assessment at least three times per day, and more often if the ~~youth~~*child in care* is exhibiting signs of exhaustion or fatigue. ~~Youth~~The physical assessment must meet the same criteria as described in OAR 413-215-0961(10).

(b) Staff shall assess each ~~youth's~~child in care's level of overall fitness, and readiness mentally and physically to engage in more demanding exercise during this time period.

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(4) Log. There must be a common daily log, which is signed and dated by the participating senior staff daily. The log must:

(a) Contain information on health problems, accidents, injuries, illnesses, medications used, behavioral problems, and unusual occurrences; and

(b) Include notation of environmental factors such as weather, temperature, and terrain.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0981
Staff Training

An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must comply with all of the following requirements:

(1) Written policies, procedures, and training curriculum. An *outdoor youth program* must have written policies, procedures, and training curriculum regarding minimum requirements for orientation, field training, and ongoing training.

(2) Orientation. Each *employee* must complete orientation before having any contact with ~~clients~~children in care or prospective ~~clients (youth or their legal guardians)~~children in care. The orientation training must include at a minimum:

(a) *Outdoor youth program* mission and goals, including admissions criteria and services provided.

(b) Personnel structure of the *outdoor youth program*, including an organizational chart and job descriptions which accurately reflect the responsibilities of staff positions involved in the care and management of ~~youth~~children in care, and the management and supervision of field staff;

(c) Overview of the quality improvement program, including the critical incident program;

(d) Risk management procedures and safety precautions;

(e) Instruction in discipline and behavior management policies and procedures of the *outdoor youth program*, including de-escalation and the use of physical restraint, if applicable;

(f) Instruction in physical assist policies and procedures of the *outdoor youth program*;

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(g) Review and discussion of all other policies relevant to field staff responsibilities, such as clothing, nutrition, vehicle use, communication methods, cooking and camping equipment, and their use; and

(h) Emergency plan.

(3) Field training. Each field staff must receive a minimum of seven days of field training and must be assessed by the field director or designee for each of the following minimum required field skills before assuming sole supervision of ~~youth~~children in care:

(a) Water, food, and shelter procurement, preparation, and conservation.

(b) "Leave No Trace Principles" for *outdoor youth program activity* ~~(defined in OAR 413-215-0911)~~. For purposes of this rule, "Leave No Trace Principles" mean wilderness and land use ethics which are designed to minimize the impact of visitors to back country areas. The principles include: Plan Ahead and Prepare, Travel and Camp on Durable Surfaces; Pack it in, Pack it Out; Properly Dispose What You Can't Pack Out; Leave What You Find; and Minimize Use and Impact of Fire.

(c) Recognition and management of the presenting issues of the ~~youth~~children in care served, including mental health and substance abuse issues.

(d) Instruction in safety procedures and safe use of fuel, fire, and life protection equipment.

(e) Sanitation procedures related to food, water, and waste.

(f) Special instruction to ensure proficiency in each specific *outdoor youth program activity* for staff who conduct and staff who supervise an *outdoor youth program activity*.

(g) Wilderness medicine, including health issues related, but not limited to:

(A) Acclimation.

(B) Exposure to the environment and environmental elements.

(C) Signs, symptoms, and treatment of water intoxication and dehydration.

(D) Foot blisters.

(E) Diarrhea.

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(F) Recognizing differences between symptoms of a health concern and behavioral issues.

(G) Bites and Stings.

(H) Allergic reactions.

(I) Gender specific health issues.

(h) First aid kit contents and use.

(i) Basic navigation skills including understanding of contour maps, use of compass, and navigation using the positions of sun, moon, and stars to determine direction.

(j) Local environmental precautions, including terrain, weather, insects, poisonous plants, wildlife, and proper response to adverse situations.

(k) Critical incident prevention, identification, and response.

(l) Knowledge of and ability to implement the emergency plan of the *outdoor youth program*.

(m) Report writing, including development and maintenance of logs, journals, and incident reports.

(n) Other skills as required by the *outdoor youth program*.

(4) Sole supervision. No staff member of an *outdoor youth program* may provide sole supervision of program ~~youth~~children in care prior to ---

(a) Successful completion of orientation and field training; and

(b) Documented assessment by a senior field staff member of:

(A) Effective understanding of the supervision structure of the *outdoor youth program*, who is responsible, and to whom staff can refer questions or problems; and

(B) Understanding, knowledge, and compliance with the behavior management policies of the *outdoor youth program*.

(5) Ongoing training. An *outdoor youth program* must provide ongoing training for field staff to maintain and upgrade their skills.

(6) Documentation of training. An *outdoor youth program* must document the training received by each staff member and volunteer in their personnel file. For each training

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session, the documentation shall include the name and qualifications of the person providing the training, date of training, training content, and the number of hours of the training.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0986
~~Youth~~ Staff Ratios

An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must comply with all of the following requirements:

(1) ~~Youth~~ Staff ratio policy. The *outdoor youth program* must have written policy and maintain documentation of program compliance on ~~youth~~ *staff* ratios.

(2) Group size. For a field group, the number of participants may not exceed ~~twelve~~ 12 ~~*youth* (defined in OAR 413-215-0911)~~children in care.

(3) Staffing ratio. Each group of two or more ~~*youth*~~children in care must be staffed as follows:

(a) By at least two staff members, one of whom must be a senior field staff member;

(b) There must be at least one *staff* member to every three ~~*youth*~~children in care;

(c) Where the gender of a group of children in care is mixed, there must be at least one female staff and one male staff member;

(d) There must be a minimum of five years difference in age between a direct care staff member and the ~~*youth*~~*child in care* for whom the staff member has sole supervision; and

(e) Volunteers and interns may not be included in the staff ~~youth~~ ratio unless they meet the qualifications required of staff.

(4) Wilderness first responder (WFR). At least one staff member per group of children in care must have a current Wilderness First Responder (WFR) Certificate or equivalent.

(5) Nonviolent crisis intervention training. At least one staff per group of children in care must be trained in nonviolent crisis intervention.

(6) Field staff training.

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(a) There may not at any time be more than one staff member who has not completed all field training.

(b) Where there are four or more ~~*youth*~~children in care, at least two staff members must have completed all field training.

(7) Stationary Outdoor Youth Program staffing ratios.

(a) There must be at least one staff member to every three ~~*youth*~~children in care while a *stationary outdoor youth program* ~~(defined in OAR 413-215-0911)~~ is engaging in an *outdoor youth program activity* ~~(defined in OAR 413-215-0911)~~, whether at or away from the stationary camp.

(b) A *stationary outdoor youth program* when not engaged in an *outdoor youth program activity* at the stationary camp is exempt from the one staff member to every three ~~*youth*~~children in care staffing ratio. Staff ~~*youth*~~ ratios must be established to provide supervision and protection for ~~*youth*~~children in care and must be adequate in relationship to the type of program, location of program, age and type of ~~*youth*~~children in care served, physical plant design, location and ability of supervisor to respond, backup systems, or any other means to assure a high standard of supervision and protection:

(A) There must be at least one staff member to every ~~ten~~ 10 ~~*youth*~~children in care during the time ~~*youth*~~children in care are awake and present in the program.

(B) There must be at least one staff member on duty to every ~~fourteen~~ 14 ~~*youth*~~children in care during sleeping hours. If staff is sleeping, there must be at least one staff member on duty to every seven ~~*youth*~~children in care during sleeping hours.

Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0991
Age Grouping

An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must comply with all of the following requirements:

(1) Minimum Age. A ~~participant~~*child in care* in the *outdoor youth program* must be at least ~~ten~~ 10 years of age.

(2) Grouping. The *outdoor youth program* must have policy and documentation regarding age grouping. An *outdoor youth program* may place ~~youth~~children in care in groups only

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after taking into consideration these factors: the age, developmental level, physical maturity, social maturity, behavioral functioning, cognitive level, diagnosis (if any), and individual needs of each ~~youth~~*child in care*.

(3) Placement of youth age 10 years through 12 years. An *outdoor youth program* may place ~~youth~~children in care ~~ten~~ 10 years of age through ~~twelve~~ 12 years of age only in a program component designed for this age group, unless the *outdoor youth program* has been granted an exception by the Department licensing coordinator.

(4) Placement with adults. If the *outdoor youth program* serves ~~adults~~ children in care age ~~eighteen~~18 years of age or older, it may place ~~youth~~children in care under the age of 18 in the same group ~~as adults~~with children in care age 18 and older only after taking special care to assess and minimize the risk to ~~the youth~~children in care under the age of 18.

(5) Placement decisions. An *outdoor youth program* must make placements of ~~youth~~children in care in groups to maximize each ~~youth's~~child in care's functioning and minimize the possibility of exploitation. In making the placement decision in section (4) of this rule or in deciding to request an exception to place a ~~youth~~*child in care* age ~~ten~~ 10 years of age through ~~twelve~~ 12 years of age in an older group, an assigned staff member with documented experience placing ~~youth~~children in care in groups and who is familiar with the *outdoor youth program* must:

(a) Base the placement on the factors listed in section (2) of this rule;

(b) Document the basis for the decision and the appropriateness of the placement in the ~~youth's~~child in care's service plan; and

(c) Review the therapeutic appropriateness of the decision every week after the placement, document whether the decision remains appropriate, and make any changes indicated.

Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0992
Referral and Initial Evaluation of Youth

(1) Affirmative duty to gather sufficient information. An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ has an affirmative duty to make reasonable efforts to gather sufficient information to determine the appropriateness of the ~~youth~~*child in care* for the *outdoor youth program*.

(2) Referral. An *outdoor youth program* must have a policy that addresses the process by which ~~youth~~children in care are referred to the *outdoor youth program*. The policy must include all of the following:

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(a) From whom referrals are accepted and whether the program has any type of relationship with the source of referral, including payment for any services provided by the source of the referral to the program.

(b) On what basis ~~youth~~children in care are accepted by the *outdoor youth program*.

(c) How information necessary to provide for the safety and care of ~~youth~~ children in care will be provided to the appropriate care staff.

(3) Exclusionary policy.

(a) An *outdoor youth program* must have a written policy that describes any exclusionary criteria for the program.

(b) The *outdoor youth program* must exclude or have a written policy and must document in the ~~youth's~~child in care's service plan describing how the program will provide safe and effective treatment specific to each of the following:

(A) ~~Youth~~Children in care with current risk of fire setting behaviors.

(B) ~~Youth~~Children in care with active psychosis.

(C) ~~Youth~~Children in care with current risk of suicide.

(D) ~~Youth~~Children in care with current risk of harm to self or others.

(E) ~~Youth~~Children in care with any significant mental health diagnosis.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-0996
Program Services

(1) Admissions assessments. An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must perform an admission assessment on each ~~youth~~*child in care*.

(a) Admissions process. An assigned staff member with documented experience in the area of admissions screening and assessment, who is familiar with the *outdoor youth program*, must complete an individual admissions assessment for each ~~youth~~*child in care* prior to enrollment.

(b) Admissions to be based on admissions assessment. The *outdoor youth program* must base admission of each ~~youth~~*child in care* on the individual admissions

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assessment. The assessment must be the basis for the ~~youth's individual~~child in care's service plan. The assessment must include all of the following components:

(A) Social history including home, community, and environment~~;~~.

(B) Health history, including current prescriptions and *over the counter medication* ~~(defined in OAR 413-215-0911)~~;

(C) Psychological history, including behavior problems, aggression, substance abuse, family dynamics, prior evaluations, and any previous treatment~~;~~.

(D) For a ~~youth~~*child in care* with indications of a mental health diagnosis, the assessment must include a determination by a licensed, certified, or registered mental health professional whether the *outdoor youth program* is appropriate and how the program activities will address the ~~youth's~~child in care's needs, or whether another type of mental health treatment is indicated for the ~~youth~~*child in care* before the ~~youth~~*child in care* enters the field portion of the *outdoor youth program*.

(i) If the program has reasonable grounds to believe that a ~~youth~~*child in care* for whom admission is sought has a mental health diagnosis, the program must require the submission of an evaluation, completed not more than 90 days previously, of the ~~youth's~~child in care's mental health condition by a clinical psychologist of psychiatrist.

(ii) The evaluation described in subparagraph (i) of this paragraph and other available evaluations and relevant documentation must be reviewed by a qualified mental health professional who must describe in writing how the treatment to be provided at the *outdoor youth program* is appropriate for the identified mental health diagnosis. This description must include how the activities of the program will address the needs of the ~~youth~~*child in care* and relate to the ~~youth's~~child in care's service plan.

(E) For a ~~youth~~*child in care* with indications of substance abuse, the assessment must include a determination by a professional in chemical dependency whether detoxification is indicated for the ~~youth~~*child in care* before the ~~youth~~*child in care* enters the field portion of the *outdoor youth program*.

(c) Consultation and additional information. If after a review of the components required by the Admissions Assessment, there is any question as to the appropriateness of admission of a ~~youth~~*child in care*, the assigned staff member must consult with the Multidisciplinary Team and document the decision. If the information available about the ~~youth~~*child in care* is inadequate for the

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determination of appropriateness for the *outdoor youth program*, the *outdoor youth program* must require additional necessary information which may include evaluations by consulting professionals.

(d) Evaluation of appropriateness of admission. Each admissions assessment must include a summary evaluation of the appropriateness of the admission of the ~~youth~~*child in care* into the *outdoor youth program*.

(e) Field entry.

(A) An *outdoor youth program* must conduct an interview and orientation with each ~~youth~~*child in care* before the ~~youth~~*child in care* leaves for the field portion of the program away from the main base of operations.

(B) The field director or senior field staff assigned to the ~~youth's~~child in care's field experience must conduct an interview with the ~~youth~~*child in care* prior to entrance into the field; and

(C) The medically trained field staff assigned to the ~~youth's~~child in care's field experience must conduct a review of the ~~youth's~~child in care's health history and physical examination report.

(2) Service planning. Each ~~youth~~*child in care* must be served according to ~~an individual~~a *service plan* ~~(defined in OAR 413-215-0911)~~, developed by the *outdoor youth program* staff and including, whenever possible, the program director, child-care workers, other involved professionals, the ~~youth~~*child in care*, and his or her family. The program must make every effort to secure the participation of the legal guardians in planning, and, if they do not participate, must document the reasons why. An *outdoor youth program* has an affirmative responsibility to provide competent individualized service planning for each ~~youth~~*child in care* to include ongoing evaluation and change as needed. Service planning time lines must be as follows:

(a) Initial service plan. An *outdoor youth program* must write the initial *service plan* based on the admission assessments, all referral documents, and the ~~youth's~~child in care's individual needs on or before admission, and provide a copy to the senior field staff upon the ~~youth's~~child in care's entry into the *outdoor youth program*.

(b) Updated service plan. Within 14 days of the date the ~~youth~~*child in care* enters the field, the *outdoor youth program* must write an updated *service plan* based on field observations and additional information received (family information, medical reports, and ~~youth~~*child in care* disclosures). If a ~~youth~~*child in care* has a significant mental health diagnosis, the service plan must specify how and by whom the treatment related to the diagnosis will be addressed.

(c) Monthly review. The *outdoor youth program* must review and update the *service plan* monthly, and document the review. Changes in the service plan must be

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promptly shared with the ~~youth~~*child in care* and the ~~youth's~~child in care's legal guardian.

(d) Discharge summary. The discharge summary must include a written summary of the ~~youth's~~child in care's participation and progress achieved, results of evaluations, conditions of the ~~youth~~*child in care*, interactions of ~~youth~~*child in care* and staff, briefings and debriefings, compliance with program policies and procedures, and recommendations. The discharge summary must be retained in the ~~youth's~~child in care's file and a copy provided to the ~~youth's~~child in care's legal guardians.

(3) Areas of emphasis in the service plan and planning process. It is the intent of the Department that an *outdoor youth program* must make every reasonable effort to ensure participation by the ~~youth's~~child in care's family in all aspects of the service and service planning process. To that end, the *outdoor youth program* staff must:

(a) Encourage parent participation in the intake process;

(b) If the ~~youth's~~child in care's parent or legal guardian cannot participate in the intake process, ensure participation in the intake process by those responsible for the environment in which the ~~youth~~*child in care* resides prior to placement with the *outdoor youth program*;

(c) Support the family and those responsible for the environment in which the ~~youth lives~~*child in care* resides during intervention activities, including alternate suggestions for any ~~youth~~*child in care* not accepted at intake;

(d) Consider the family's responsibility, needs, and values in the planning and service process;

(e) Provide an orientation procedure for the ~~youth~~*child in care* and his or her family;

(f) Ensure that information regarding significant events in the ~~youth's~~child in care's family is passed on to appropriate staff members;

(g) Review service plans, activities, and progress with the family monthly; and

(h) Ensure that the educational needs of the *child in care* are an integral part of the *service plan*. ~~Youth~~Children in care who have not graduated from high school must have access to an appropriate education that affords sufficient transferable credits for the ~~youth~~*child in care* to stay on course to graduate.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

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413-215-1001
Critical Incident Program

(1) Quality improvement program. An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must have a written quality improvement program which identifies and defines critical incidents, includes a response to each type of critical incident, and includes procedures for the review of critical incidents.

(2) Critical incident training. An *outdoor youth program* must train staff in critical incident prevention, identification, and response.

(3) Documentation of critical incidents. The *outdoor youth program* staff must document each critical incident as follows:

(a) Record each incident in the common daily log and complete an incident report immediately following the incident;

(b) Categorize each incident as to type and seriousness;

(c) Record the results of staff debriefing of each critical incident; and

(d) Management must document review of each critical incident report within 24 hours of receipt.

(4) Review of critical incidents. An *outdoor youth program* must have procedures for review of critical incidents which include management and board review of critical incidents and a process for deciding if revisions to program policy and procedures, operations, or training are warranted for quality improvement.

(5) Documentation of critical incident review. An *outdoor youth program* must document in writing the process and results of its review of critical incidents and resulting program quality improvements if any and must provide this information to staff.

(6) Near miss. An *outdoor youth program* must review any near miss and determine whether to respond to it as if it were a critical incident in accordance with this rule. For purposes of this rule, "near miss" means:

(a) A close call;

(b) A potentially dangerous situation where safety was compromised, but that did not result in injury; or

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(c) An unplanned and unforeseen event after which those involved express relief that the incident ended without harm.

Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-1006
Field Outdoor Youth Program Activities

An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must comply with all of the following requirements:

(1) Written description. There must be a written description of each field *outdoor youth program activity* ~~(defined in OAR 413-215-0911)~~ and a schedule, including a detailed itinerary.

(2) Staff briefing. The executive director, field director, or designee must brief staff entering the field. The briefing at a minimum must include:

(a) The planned route, terrain, time schedule, weather forecast, and any potential hazards;

(b) Any procedures unique to that field experience; and

(c) ~~Youth~~The background of the *child in care* and any potential problems.

(3) Itinerary. Field staff must carry map routes, anticipated schedules, and times when a group is in the field.

(4) Supervision. The field director or designee must conduct and document supervisory evaluation of each ~~youth~~*child in care* and *staff* in a field group at least every seven days, either in person or through Department approved procedures. If the planned itinerary is longer in duration than three weeks, the field director or designee must make onsite visits at minimum increments of three weeks.

(5) Staff debriefing. The field director or designee must *debrief* ~~(defined in OAR 413-215-0911)~~ staff after they return from the field.

(a) An *outdoor youth program* must document the debriefing of staff (whether individual or group) received by each staff member in his or her personnel file.

(b) For each debriefing session, the documentation must include the name and qualifications of the person providing the debriefing, the date of the debriefing, any performance issues, and the length of time of the session.

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(6) ~~Youth~~Child in care debriefing. The field director or designee must *debrief* ~~youth~~a *child in care* after returning from the field. The debriefing must at a minimum --

(a) Include a written summary of the ~~youth's~~child in care's participation and progress achieved;

(b) Be provided in written form to the ~~youth's~~child in care's parents or guardian; and

(c) Legal guardians and ~~youth~~*child in care* must be given the opportunity and encouraged to submit a written evaluation of the outdoor youth experience, to be maintained by the *outdoor youth program*.

(7) Documentation. An *outdoor youth program* must document results of the evaluation of the conditions of the ~~youth~~*child in care*, interactions of ~~youth~~*child in care* and staff, briefings, debriefings, and compliance with program policies and procedures, and include them in the ~~youth's~~child in care's record and discharge summary.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-1011
Communication

(1) For purposes of this rule, a "Global Positioning System receiver" means a receiver which receives signals from a network of 24 satellites known as the Global Positioning System (GPS) and identifies the receiver's location: latitude, longitude, and altitude to within a few hundred feet.

(2) Communication and support system. An *outdoor youth program* must maintain a communication system that includes the use of Global Positioning System receivers, two way radio communication, and cell phone communication; or follows the applicable land managing agency requirement and includes:

(a) Reliable communication between each group and the base of operations; and

(b) A back up plan for re-establishing communication to be implemented in the event regular communication fails.

(3) Communication requirements. An *outdoor youth program* must have a reasonable communication plan which is sufficient to provide routine and emergency care and takes into consideration individual ~~youth~~*child in care* needs and terrain considerations.

(a) There must be oral communication between each field group and the base of operations on a regularly scheduled basis according to program procedures, unless special documented arrangements have been made;

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(b) In no case may the absence of oral communication between a field group of children in care and the base of operations exceed 72 hours, unless the Department has approved an exception for alternate program procedures for communication; and

(c) In no case may a field group of children in care be more than one hour away from the ability to make contact with emergency services.

(4) Emergencies. The base of operations support personnel for an *outdoor youth program* must have immediate access to emergency telephone numbers, contact personnel, and procedures for an emergency evacuation or critical incident requiring emergency medical support.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-1016
Work

In compliance with child labor laws, an *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ may as a constructive experience give ~~youth~~children in care non-vocational work assignments, which are age appropriate and within the ~~youth's~~child in care's capabilities. The primary purpose of work may not be to substitute for paid labor for the benefit of the *outdoor youth program*, nor may it be to discipline ~~youth~~the *child in care*.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-1021
Animals and Pets

An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must comply with all of the following requirements:

(1) Animals and pets must be free from disease and cared for in a safe and clean manner.

(2) An *outdoor youth program* must take reasonable measures to assure that ~~youth~~children in care are not exposed to danger from animals.

(3) All domestic animals and pets must be vaccinated against rabies. Documentation of the vaccination against rabies must be available in the responsible employee's personnel file.

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Stat. Auth.: ORS 418.005, Or Laws 2016, ch 106
Stats. Implemented: ORS 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-1026
Solo Experiences in Outdoor Youth Programs

If an *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ conducts individual or separate components for ~~youth~~*child in care* (solo experiences) as part of the therapeutic process, the program must have and follow written policies and procedures. The policies and procedures at a minimum must require all of the following:

(1) Individual solo plan. Each ~~youth~~*child in care* participating in a solo experience must have a plan which includes goals, methods, techniques, time frames, and takes into consideration the maturity, health, and physical ability of the ~~youth~~*child in care*.

(a) The ~~youth~~*child in care* must be instructed on the solo experience and individual plan including expectations, restrictions, communication, environment, and emergency procedures;

(b) Each ~~youth~~*child in care* must have and receive instruction on a back-up plan in case the primary plan does not work; and

(c) A designated staff member must be responsible for coordination and implementation of the plan.

(2) Environmental requirement. Staff must be familiar with the site chosen to conduct solo experiences and must pre-investigate the site to ensure the terrain is appropriate for the skill level of the ~~youth~~*child in care* and that hazardous conditions are considered. Staff must make arrangements for medication, food, and water drops if needed.

(3) Supervision. Plans for supervision must be in place during the solo experience, including the assignment of a staff member responsible for the supervision of the ~~solo participant~~*child in care*, and procedures for placement, supervision, and observation of the ~~participant.~~*child in care*. Supervision must include communication systems, visual checks, and regular checks of the ~~youth's~~child in care's emotional and physical condition.

(4) Emergency procedures. In addition to the requirements of the Emergency Plan section of these rules (OAR 413-215-0936), solo emergency plans must include, but are not limited to: instructing the ~~youth~~*child in care* on the safety and emergency procedures, establishing an effective system for emergency communication available at all times, instruction of other ~~youth~~children in care on how to respond if the emergency notification system is put into use, and a check-in system should an emergency occur.

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Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

413-215-1031
Behavior Management
~~*(Amended 10/01/13)*~~

An *outdoor youth program* ~~(defined in OAR 413-215-0911)~~ must comply with all of the following requirements:

~~(1) If the policies of an *outdoor youth program* allow for disciplining a youth or group of youth for actions of one youth, the organization's policies and procedures for behavior management and discipline must clearly prescribe the circumstances and safeguards under which disciplining the group is allowed.~~

(1~~2~~) If a ~~youth~~*child in care* refuses or is unable to hike, a contingency plan must be developed based on Department approved policies and procedures. The contingency plan must ensure that if the group of children in care is split, there is proper staff coverage for each group of children in care, and communication between the groups of children in care is maintained.

(~~3~~2) Physical assist.

(a) "Physical assist" means action by staff members to physically aid, support, or redirect ~~youth~~children in care who are not resisting. A physical assist includes staff leading ~~youth~~children in care along the trail, moving the ~~youth~~*child in care* to his or her campsite by gently pulling on a backpack strap, guiding him or her by the hand or elbow, or placing a hand on the ~~youth's~~child in care's back. The ~~youth~~*child in care* may not want to be physically assisted, but he or she does not offer resistance.

(b) Appropriate use of a physical assist occurs when staff members physically aid, support, or redirect ~~youth~~children in care who are not physically resisting. If a ~~youth~~*child in care* resists reasonable staff direction, staff must assess whether the use of physical restraint is warranted based on the written nonviolent physical restraint policy of the *outdoor youth program*. An intervention becomes a physical restraint when the ~~youth~~*child in care* resists, has "dug in his or her heels", and is propelled or held still against that resistance. Staff members must comply with all applicable physical restraint regulations, including OAR 413-215-0076.

(~~4~~3) Time out.

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(a) For purposes of this rule, "time out" means imposed separation of a ~~youth~~*child in care* from any group activity or contact as a means of behavior management.

(b) An *outdoor youth program* may use time out only when a ~~youth's~~child in care's behavior is disruptive to the ~~youth's~~child in care's ability to learn, to participate appropriately, or to function appropriately with other ~~youth~~*child in care* or the activity.

(c) The *outdoor youth program* must designate a staff member to be responsible for visually observing the ~~youth~~*child in care* at random intervals at least every ~~fifteen~~ 15 minutes.

(d) If the duration of a time out exceeds one hour, or there is visual separation of the ~~youth~~*child in care*, the *outdoor youth program* must write an incident report in sufficient detail to provide a clear understanding of the incident or behavior which resulted in the ~~youth~~*child in care* being placed in time out, and staff's attempts to help the ~~youth~~*child in care* avoid time out. The ~~youth's~~child in care's legal guardians must be provided with a copy of the documentation of each time out under this subsection within 72 hours.

(e) The *outdoor youth program* must reintroduce a ~~youth~~*child in care* to the group in a sensitive and non-punitive manner as soon as control is regained.

(f) If there are timeouts equaling more than 3 hours within a 24 hour period, the executive director or designee must conduct a review to determine the suitability of the ~~youth~~*child in care* remaining in the *outdoor youth program*, whether modifications to the ~~youth's~~child in care's plan are warranted, and whether staff need additional training in alternative therapeutic behavior management techniques. The *outdoor youth program* must take appropriate action as a result of the review.

(g) Time outs may be assigned by staff or self-imposed.

(h) ~~Youth~~Children in care may not be physically restrained because the ~~youth~~*child in care* leaves an assigned time-out.

Stat. Auth.: ORS 409.050, 418.005, 418.240, Or Laws 2016, ch 106
Stats. Implemented: ORS 409.010, 418.205 - 418.325, 418.990 - 418.998, Or Laws 2016, ch 106

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DEPARTMENT OF HUMAN SERVICES
OFFICE OF CHILD WELFARE PROGRAMS

CHAPTER 413
DIVISION 10

CLIENT RIGHTS

Definitions

413-010-0000
Definitions
(Amended 02/01/16)

The following definitions apply to OAR chapter 413, division 10.

(1) "Adoption assistance" means assistance provided on behalf of an eligible child or young adult to offset the costs associated with adopting and meeting the ongoing needs of the child or young adult. "Adoption assistance" may be in the form of payments, medical coverage, reimbursement of nonrecurring expenses, or special payments.

(2) "Adoption records, papers, and files" means all documents, writings, information, exhibits, and other filings retained in the court's record of an adoption case pursuant to ORS 109.319 and includes but is not limited to the Adoption Summary and Segregated Information Statement described in ORS 109.317 and exhibits attached to the statement, the petition and exhibits attached to the petition pursuant to ORS 109.315, and any other motion, judgment, document, writing, information, exhibit, or filing retained in the court's record of the adoption case.

(3) "Adoptive family" means an individual or individuals who have legalized a parental relationship to the *child* who joined the family through a judgment of the court.

(4) "Adult" means a person 18 years of age or older.

(5) "Base rate payment" means a payment to the foster parent or relative caregiver at a rate established by the Department for the costs of providing the *child* or *young adult* with the following:

(a) Food, including the special or unique nutritional needs of the *child* or *young adult*;

(b) Clothing, including purchase and replacement;

(c) Housing, including maintenance of household utilities, furnishings, and equipment;

(d) Daily supervision, including teaching and directing to ensure safety and well-being at a level appropriate for the chronological age of the *child* or *young adult*;

(e) Personal incidentals, including personal care items, entertainment, reading materials, and miscellaneous items; and

(f) Transportation, including gas, oil, and vehicle maintenance and repair costs for local travel associated with providing the items listed above, and transportation to and from extracurricular, child care, recreational, and cultural activities.

(6) "Case plan" means a written, goal oriented, and time-limited individualized plan for the child and the child's family, developed by the Department and the parents or guardians, to achieve the child's safety, permanency, and well-being.

(7) "Central Office CPS Founded Disposition Review" means a process wherein a *Central Office CPS Founded Disposition Review Committee* reviews a founded disposition, makes recommendations to the CPS Program Manager or designee, and the CPS Program Manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(8) "Central Office CPS Founded Disposition Review Committee" means a group of two child welfare employees who make a recommendation or recommendations to the Child Protective Services Program Manager or designee regarding the CPS founded disposition. No one may serve on the "Central Office CPS Founded Disposition Review Committee" who participated in or observed the *Local Child Welfare Office CPS Founded Disposition Review* or had a role in the CPS assessment, including having participated in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the "Central Office CPS Founded Disposition Review Committee" are found in OAR 413-010-0745 and 413-010-0746. The two child welfare staff on the committee must include any two of the following:

(a) Either the Program Manager for CPS or a designee;

(b) A CPS program coordinator;

(c) A CPS consultant; or

(d) A Department supervisor.

(9) "Certificate of Approval" means a document that the Department issues to approve the operation of a child-specific *relative caregiver* home, child-specific foster home, pre-adoptive home, or a regular foster home.

(10) "Certified family" means an individual or individuals who hold a current Certificate of Approval from the Department to operate a home to provide care, in the home in which they reside, to a child or young adult in the care or custody of the Department.

(11) "Child" means a person under 18 years of age.

(12) "Child Protective Services (CPS)" means a specialized social service program that the Department provides on behalf of children who may be unsafe after a report of child abuse or neglect is received.

(13) "Child-caring agency" is defined in ORS 418.205 and:

(a) Means any private school, private agency, or private organization providing:

(A) Day treatment for children with emotional disturbances;

(B) Adoption placement services;

(C) Residential care including, but not limited to, foster care or residential treatment for children;

(D) Outdoor youth programs; or

(E) Other similar care or services for children.

(b) Includes the following:

(A) A shelter-care home that is not a foster home subject to ORS 418.625 to 418.645;

(B) An independent residence facility as described in ORS 418.475;

(C) A private residential boarding school; and

(D) A child-caring facility as described in ORS 418.950.

(c) Child-caring agency does not include:

(A) Residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830 and 443.835 for children receiving developmental disability services.

(B) Any private agency or organization facilitating the provision of respite services for parents pursuant to a properly executed power of attorney under ORS 109.056. For purposes of this paragraph, "respite services" means the voluntary assumption of short-term care and control of a minor child without compensation or reimbursement of expenses for the

purposes of providing a parent in crisis with relief from the demands of ongoing care of the parent's child;

(C) A youth job development organization as defined in ORS 344.415;

(D) A shelter-care home that is a foster home subject to ORS 418.625 to 418.645; or

(E) A foster home subject to ORS 418.625 to 418.645.

(1~~3~~4) "Client" means any individual receiving services from the Department, including the *parent* or legal *guardian* of a *child* or *young adult*, or the custodian of an unemancipated minor client.

(1~~4~~5) "Client file" means an electronic or paper file that the Department marks with the names of one or more clients, into which the Department places all of the named clients' records. A "client file" may contain *confidential information* about other clients and persons who are not clients.

(1~~5~~6) "Client information" means *confidential information* about a *client* or identified with a *client*.

(1~~6~~7) "Client record" means any *record* that includes *client information* and is created, requested, or held by the Department. A "client record" does not include general information, policy statements, statistical reports, or similar compilations of data which are not identified with an individual *child*, family or other recipient of services.

(1~~7~~8) "Confidential information" means information that is unavailable to the public by statute, rule, or court order.

(1~~8~~9) "Contract Provider" means any individual or organization that provides services to a Child Welfare *client* pursuant to a contract or agreement with Child Welfare.

(~~19~~20) "Court Appointed Special Advocate (CASA)" means a volunteer who is appointed by the court, is a party to the juvenile proceeding, and advocates for the *child* pursuant to ORS 419A.170.

(2~~0~~1) "CPS Disposition" means a determination that completes a CPS assessment. Dispositions are discussed in OAR 413-015-1000 and include founded, unfounded, and unable to determine.

(2~~1~~2) "Department" means the Department of Human Services, Child Welfare.

(2~~2~~3) "Department adoption records" means all documents, writings, and information required to be retained in the Department's Central Office adoption file including, but not limited to:

(a) Adoption records, papers, and files;

(b) Records and information created, generated, produced, or submitted for purposes of selecting the *adoptive family* for the *child*;

(c) Documents, writings and information obtained, created, or submitted by the Department Child Permanency Program staff for the purposes of finalizing the child's adoption;

(d) Records and information obtained or created by the Department for the purposes of determining eligibility or making payment for *adoption assistance*;

(e) Any medical, psychiatric, or psychological records of the *child* received by the Child Permanency Program staff for retention as part of the Child Permanency Program adoption file of the *child*;

(f) The names, address, or other identifying information of the *adoptive family* of the *child*; and

(g) The birth certificate of the *child*.

(2~~3~~4) "Discipline" means a training process a family uses to help a child or young adult develop the self-control and self-direction necessary to assume responsibilities, make daily living decisions, and learn to conform to accepted levels of social behavior.

(2~~4~~5) "Disclose" means reveal or provide *client information* to a person, agency, organization, or other entity outside of the Department of Human Services. Disclosing includes, but is not limited to:

(a) Showing or providing a *client record* or copy of a *client record*; and

(b) Orally transmitting *client information*.

(2~~5~~6) "Foster parent" means an individual who operates a home that has been approved by the Department to provide care for an unrelated *child* or *young adult* placed in the home by the Department.

(2~~6~~7) "Guardian" means an individual who has been granted guardianship of a *child* through a judgment of the court.

(2~~7~~8) "Guardianship assistance" means assistance provided by the Department to the *guardian* on behalf of an eligible *child* or *young* adult to offset costs associated with meeting the ongoing needs of the *child* or *young adult*. "Guardianship assistance" may be in the form of a payment, medical coverage, or reimbursement of guardianship expenses.

(2~~8~~9) "Indian child" means an unmarried person who is under 18 years of age and who is either a member of an Indian tribe or is eligible for membership in an Indian tribe and who is the biological child of a member of an Indian tribe.

(~~29~~30) "Juvenile" means a person younger than the age of 18 years who is identified as a perpetrator. OAR 413-010-0716 provides specific requirements regarding application of these rules to juveniles.

(3~~0~~1) "Legal finding" means a court or administrative finding, judgment, order, stipulation, plea, or verdict that determines who was responsible for the child abuse that is the subject of a CPS founded disposition.

(3~~1~~2) "Legal proceeding" means a court or administrative proceeding that may result in a legal finding.

(3~~2~~3) "Legally emancipated " means a person under 18 years of age who is married or has been emancipated by the court in accordance with the requirements of ORS 419B.558.

(3~~3~~4) "Level of care payment" means the payment provided to an approved or *certified family*, a *guardian*, a *pre-adoptive family*, or an adoptive family based on the need for *enhanced supervision* of a *child* or *young adult* as determined by applying the CANS algorithm to the results of the CANS screening.

(3~~4~~5) "Level of personal care payment" means the payment to a qualified provider for performing the personal care services for an eligible *child* or *young adult* based on the child's or young adult's need for personal care services as determined by applying the personal care services algorithm to the results of the personal care services rating scale.

(3~~5~~6) "Licensee" means a ~~private~~ *child-caring agency* ~~or an organization or school that offers a residential program for children (regulated pursuant to ORS 418.327) and~~ that holds a license issued by the Department.

(3~~6~~7) "Local Child Welfare Office CPS Founded Disposition Review" means a process wherein a Local Child Welfare Office CPS Founded Disposition Review Committee reviews a founded disposition, makes recommendations to a Child Welfare program manager or designee, and the Child Welfare program manager or designee makes a decision to uphold, overturn, or change the abuse type of the founded disposition.

(3~~7~~8) "Local Child Welfare Office CPS Founded Disposition Review Committee" means a group of two child welfare employees who make a recommendation or recommendations to a Child Welfare Program Manager or designee regarding a CPS founded disposition. One of the members must be a manager and one must be staff trained in CPS assessment and dispositions. No one may serve on the "Local Child Welfare Office CPS Founded Disposition Review Committee" in the review of an assessment in which he or she had a role in the CPS assessment, including having participated in a staffing, that resulted in the CPS founded disposition under review. Further requirements of the "Local Child Welfare

Office CPS Founded Disposition Review Committee" are found in OAR 413-010-0735 and 413-010-0738.

(3~~8~~9) "Parent" means the biological or adoptive mother or the legal father of the *child*. A legal father is a man who has adopted the *child* or whose paternity has been established or declared under ORS 109.070, 416.400 to 416.465, or by a juvenile court. In cases involving an *Indian child* under the Indian Child Welfare Act (ICWA), a legal father includes a man who is a father under applicable tribal law. "Parent" also includes a putative father who has demonstrated a direct and significant commitment to the *child* by assuming or attempting to assume responsibilities normally associated with parenthood unless a court finds that the putative father is not the legal father.

(~~39~~40) "Participating tribe" means a federally recognized Indian tribe in Oregon with a Title IV E agreement with the Department.

(4~~0~~1) "Party" means a person entitled to a contested case hearing under these rules.

(4~~1~~2) "Perpetrator" means the person the Department has reasonable cause to believe is responsible for child abuse in a CPS founded disposition.

(4~~2~~3) "Person Requesting Review" or "Requestor" means a perpetrator, his or her attorney, or, if a juvenile is identified as the perpetrator, the person who may request a review on behalf of the juvenile, who requests a review of the founded disposition.

(4~~3~~4) "Potential guardian" means an individual who:

(a) Has been approved by the Department or *participating tribe* to be a child's *guardian*; and

(b) Is in the process of legalizing the relationship to the *child* through the judgment of the court.

(4~~4~~5) "Pre-adoptive family" means an individual or individuals who:

(a) Has been selected to be a child's adoptive family; and

(b) Is in the process of legalizing the relationship to the *child* through the judgment of the court.

~~(45) "Private child-caring agency" is defined by the definitions in ORS 418.205, and means a "child-caring agency" that is not owned, operated, or administered by any governmental agency or unit.~~

~~(a) A "child-caring agency" means an agency or organization providing:~~

~~(A) Day treatment for children with emotional disturbances;~~

~~(B) Adoption placement services;~~

~~(C) Residential care, including, but not limited to, foster care or residential treatment for children;~~

~~(D) Outdoor youth programs (defined at OAR 413-215-0911); or~~

~~(E) Other similar services for children.~~

~~(b) A child-caring agency does not include residential facilities or foster care homes certified or licensed by the Department under ORS 443.400 to 443.455, 443.830, and 443.835 for children receiving developmental disability services.~~

(46) "Record" means a record, file, paper, or communication and includes, but is not limited to, any writing or recording of information including automated records and printouts, handwriting, typewriting, printing, photostating, photographing, magnetic tapes, videotapes, or other documents. "Record" includes records that are in electronic form.

(47) "Registered domestic partner" means an individual joined in a domestic partnership that has been registered by a county clerk in accordance with ORS 106.300 to 106.340.

(48) "Relative" means any of the following:

(a) An individual with one of the following relationships to the *child* or *young adult* through the *parent* of the *child* or *young adult* unless the relationship has been dissolved by adoption of the *child*, *young adult*, or *parent*:

(A) Any blood relative of preceding generations denoted by the prefixes of grand, great, or great-great.

(B) Any half-blood relative of preceding generations denoted by the prefixes of grand, great, or great-great. Individuals with one common biological parent are half-blood relatives.

(C) An aunt, uncle, nephew, niece, first cousin, and first cousin once removed.

(D) A spouse of anyone listed in paragraphs (A) to (C) of this subsection, even if a petition for annulment, dissolution, or separation has been filed or the marriage is terminated by divorce or death. To be considered a "relative" under this paragraph, the *child* or *young adult* must have had a relationship with the spouse prior to the most recent episode of Department custody.

(b) An individual with one of the following relationships to the *child* or *young adult*:

(A) A *sibling*, also to include an individual with a sibling relationship to the *child* or *young adult* through a putative father.

(B) An individual defined as a relative by the law or custom of the tribe of the *child* or *young adult* if the *child* or *young adult* is an *Indian child* under the Indian Child Welfare Act or in the legal custody of a tribe.

(C) An individual defined as a relative of a refugee child or young adult under OAR 413-070-0300 to 413-070-0380.

(D) A stepparent or former stepparent if the *child* or *young adult* had a relationship with the former stepparent prior to the most recent episode of Department custody; a stepbrother; or a stepsister.

(E) A *registered domestic partner* of the *parent* of the *child* or *young adult* or a former *registered domestic partner* of the *parent* of the *child* or *young adult* if the *child* or *young adult* had a relationship with the former domestic partner prior to the most recent episode of Department custody.

(F) The adoptive parent or an individual who has been designated as the adoptive resource of a *sibling* of the *child* or *young adult*.

(G) An unrelated legal or biological father or mother of a half-sibling of the *child* or *young adult* when the half-sibling of the *child* or *young adult* is living with the unrelated legal or biological father or mother.

(c) An individual identified by the *child* or *young adult* or the family of the *child* or *young adult*, or an individual who self-identifies, as being related to the *child* or *young adult* through the *parent* of the *child* or *young adult* by blood, adoption, or marriage to a degree other than an individual specified as a "relative" in paragraphs (A) to (C) of subsection (a) of this section unless the relationship has been dissolved by adoption of the *child*, *young adult*, or *parent*.

(d) An individual meeting the requirements of at least one of the following:

(A) An individual not related to the *child*, *young adult*, or *parent* by blood, adoption, or marriage:

(i) Who is identified as a member of the family by the *child* or *young adult* or by the family of the *child* or *young adult*; and

(ii) Who had an emotionally significant relationship with the *child* or *young adult* or the family of the *child* or *young adult* prior to the most recent episode of Department custody.

(B) An individual who has a blood relationship to the *child* or *young adult* as described in paragraphs (A) to (C) of subsection (a) of this section through the birth parent of the *child* or *young adult*, but the prior legal relationship has been dissolved by adoption of the *child*, *young adult*, or birth parent,

and who is identified as a member of the family by the *child* or *young adult* or who self-identifies as a member of the family.

(e) For eligibility for the guardianship assistance program:

(A) A stepparent is considered a *parent* and is not a "relative" for the purpose of eligibility for guardianship assistance unless a petition for annulment, dissolution, or separation has been filed, or the marriage to the adoptive or biological parent of the *child* has been terminated by divorce or death.

(B) A foster parent may only be considered a "relative" for the purpose of eligibility for guardianship assistance when:

(i) There is a compelling reason why adoption is not an achievable permanency plan;

(ii) The foster parent is currently caring for a *child*, in the care or custody of the Department or a participating tribe, who has a permanency plan or concurrent permanent plan of guardianship;

(iii) The foster parent has cared for the *child* for at least 12 of the past 24 months; and

(iv) The Department or tribe has approved the foster parent for consideration as a guardian.

(49) "Relative caregiver" means an individual who operates a home that has been approved by the Department to provide care for a related child or young adult placed in the home by the Department.

(50) "Request for a Central Office CPS Founded Disposition Review" means a written request for a *Central Office CPS Founded Disposition Review* from a *requestor* who has received a Local Child Welfare Office CPS Founded Disposition Review Decision (Form CF 314) to retain a founded disposition. The specific requirements for a request for review by Central Office are described in OAR 413-010-0740.

(51) "Safety service provider" means a participant in a protective action plan, initial safety plan, or ongoing safety plan whose actions, assistance, or supervision help a family in managing a child's safety.

(52) "Service" means assistance that the Department provides clients.

(53) "Sibling" means one of two or more children or young adults who are related, or would be related but for a termination or other disruption of parental rights, in one of the following ways:

(a) By blood or adoption through a common *parent*;

(b) Through the marriage of the legal or biological parents of the children or young adults; or

(c) Through a legal or biological parent who is the *registered domestic partner* of the legal or biological parent of the children or young adults.

(54) "Substitute care" means the out-of-home placement of a *child* or *young adult* who is in the legal or physical custody and care of the Department.

(55) "Substitute caregiver" means a relative caregiver, foster parent, or provider authorized to provide care to a *child* or *young adult* in the legal or physical custody of the Department.

(56) "Voluntary services" means services that the Department provides at the request of a person or persons and there is no open and related juvenile court proceeding.

(57) "Young adult" means a person 18 through 20 years of age.

Stat Auth.: ORS 409.050, 418.005
Stats. Implemented: ORS 409.010, 409.225, 419A.255

Contested Case Hearings

413-010-0500
Purpose, Right to Request Hearing, Applicable Rules, and Computation of Time
(Amended 01/01/14)

(1) The purpose of these rules (OAR 413-010-0500 to 413-010-0535) is to--

(a) State the rights of individuals and entities to request a contested case hearing when the Department takes certain actions; and

(b) Set forth rules governing some aspects of the contested case hearings process.

(2) The individuals and entities described below have the right to request a contested case hearing under ORS Chapter 183. In order to exercise the right to a hearing, the individual or entity must submit and the Department must receive a hearing request which complies with OAR 413-010-0505 within the timeframes described in that rule.

(a) A *child* or *young adult* placed in *substitute care* by the Department may request a hearing in the manner set forth in OAR 413-010-0505 when the Department issues a notice and decision that includes a statement of hearing rights that:

(A) Reduces or terminates the *base rate payment*;

(B) Determines, denies, reduces or terminates a *level of care payment*;

(C) Determines, denies, reduces or terminates a *level of personal care payment*;

(D) Denies eligibility under Title IV-E of the Social Security Act when such denial impacts a benefit;

(E) Denies, reduces or terminates the *base rate payment* made on behalf of the child's or young adult's minor *child* when the minor *child*:

(i) Lives with the *child* or *young adult* in *substitute care*; and

(ii) Is not in the legal custody of the Department; or

(F) Denies eligibility for medical assistance under Child Welfare Policy I-E.6.2, "Title XIX and General Assistance Medical Eligibility," (OAR 413-100-0400 through 413-100-0610) when such denial impacts assistance.

(G) Denies prior authorization for the BRS Program under Child Welfare Policy I-E.5.1.1.1, "Behavior Rehabilitation Services Program," (OAR 413-090-0075(2)(b)).

(b) Unless an *adoption assistance* agreement automatically expires, a *pre-adoptive family* or an *adoptive family* applying for or receiving *adoption assistance* under Child Welfare Policy I-G.3.1, "Adoption Assistance," (OAR 413-130-0000 to 413-130-0130) may request a hearing in the manner set forth in OAR 413-010-0505 when the Department issues a notice and decision that includes a statement of hearing rights and:

(A) Denies Title IV-E *adoption assistance* benefits;

(B) Denies *adoption assistance* from state funds;

(C) Reduces *adoption assistance* payments or terminates *adoption assistance* without the concurrence of the *adoptive family*;

(D) Reduces *adoption assistance* payments or terminates *adoption assistance* for a reason other than a *child* turning age 18 or a *young adult* turning age 21 when an extension has been granted; or

(E) Offers the family a specific amount or type of *adoption assistance* when the Department and the *adoptive family* or *pre-adoptive family* are unable to reach agreement through a negotiation or renegotiation under OAR 413-130-0070 or 413-130-0075.

(c) Unless a *guardianship assistance* agreement automatically expires, a *potential guardian* or a *guardian* applying for or receiving *guardianship assistance* payments under Child Welfare Policy I-E.3.6.2, "Guardianship Assistance," (OAR 413-070-0900 to 413-070-0974) in the manner set forth in OAR 413-010-0505 when the Department issues a notice and decision that includes a statement of hearing rights and:

(A) Denies Title IV-E *guardianship assistance* benefits;

(B) Terminates, reduces, or otherwise changes *guardianship assistance* payments without the concurrence of the *guardian*;

(C) Terminates *guardianship assistance* for a reason other than a *child* turning age 18 or a *young adult* turning age 21 when an extension has been granted; or

(D) Offers the family a specific amount or type of *guardianship assistance* when the Department and the *guardian* or *potential guardian* are unable to

reach agreement through a negotiation or renegotiation under OAR 413-070-0917, 413-070-0939, or 413-070-0969.

(d) An applicant for a *Certificate of Approval* or a *certified family* may request a hearing in the manner set forth in OAR 413-010-0505 when the Department denies the application or revokes a certificate under Child Welfare Policy II-B.1, "Standards for Certification of Foster Parents, Relative Caregivers, and Approval of Potential Adoptive Resources," (OAR 413-200-0301 to 413-200-0396);

(e) An applicant for a license to operate a ~~*private*~~ *child-caring agency* or a *licensee* may request a hearing in the manner set forth in OAR 413-010-0505 when the Department denies, suspends, ~~or~~ revokes, or places conditions on a license or imposes a civil penalty under ~~Child Welfare Policy II-C.1, "Licensing Umbrella Rules," (~~OAR 413-215-000~~0~~1 to 413-215-0131~~)~~;

~~(f) An organization or school that operates a residential care program for children and is not also a *private child-caring agency* may request a hearing in the manner set forth in OAR 413-010-0500 when the Department orders the organization or school to alter the conditions under which a *child* lives or receives schooling or denies, suspends or revokes a license under Child Welfare Policy II-C.1, "Licensing Umbrella Rules," (OAR 413-215-0000 to 413-215-0131);~~

(~~g~~f) An applicant to adopt or an applicant for a *Certificate of Approval* may request a hearing in the manner set forth in OAR 413-010-0500 when the Department determines that the applicant is unfit based on the criminal offender information or a false statement regarding criminal offender information of the applicant or of another individual in the household of the applicant under Child Welfare Policy I-G.1.4, "Criminal Records Check Requirements for Relative Caregivers, Foster Parents, Adoptive Resources, and Other Persons in the Household," (OAR 413-120-0400 to OAR 413-120-0475).

(3) A person may request a hearing in the manner set forth in OAR 413-010-0505 when that person has the right to a contested case hearing under a statute concerning Child Welfare Programs or a rule in Chapter 413.

(4) These rules (OAR 413-010-0500 to 413-010-0535), apply to contested cases arising from the properly made hearings requests described in sections (2) and (3) of this rule. The following other rules do or do not apply as noted:

(a) OAR 137-003-0501 to 137-003-0700 apply to these contested cases, except to the extent that rules in Chapter 413 are permitted to and provide otherwise.

(b) Rules in Chapter 461 do not apply to these contested cases unless a rule in Chapter 413 expressly refers to them.

Stat. Auth.: ORS 418.005

Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

413-010-0501
Definitions
(Amended 08/04/15)

THIS RULE IS REPEALED

~~Definitions for OAR 413-010-0500 to 413-010-0535 are in OAR 413-010-0000.~~

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

413-010-0502
Representation
(Amended 11/04/11)

(1) When a *child* or *young adult* has the right to a hearing because the Department takes an action under OAR 413-010-0500(2)(a), the *foster parent* or *relative caregiver* may:

(a) Request a hearing on behalf of the *child* or *young adult*; and

(b) Participate in the hearing as a representative on behalf of the *child* or *young adult*.

(2) When the Department takes an action to deny, reduce, or terminate a benefit or service that is provided under Title IV-E or Title XIX of the Social Security Act, a *party* that is not an entity may be represented by an attorney, a relative, a friend, or other spokesperson as authorized by federal law.

(3) In all other cases, a *party* may represent themselves or be represented by an attorney.

(4) The Department, with the consent of the Attorney General, has authorized its employees to represent the Department in cases involving the actions described in OAR 413-010-0500(2)(a).

(5) A Department employee acting as the Department's representative may not make legal argument on behalf of the Department.

(a) "Legal argument" includes argument on:

(A) The jurisdiction of the Department to hear the contested case;

(B) The constitutionality of a statute or administrative rule or the application of a constitutional requirement to the Department; and

(C) The application of court precedent to the facts of the particular contested case proceeding.

(b) "Legal argument" does not include presentation of a motion, evidence, examination and cross-examination of a witness, or presentation of a factual argument or arguments on:

(A) The application of a statute or administrative rule to the facts in the contested case;

(B) Comparison of a prior Department action when handling a similar situation;

(C) The literal meaning of a statute or administrative rule directly applicable to an issue in the contested case;

(D) The admissibility of evidence; and

(E) The correctness of a procedure being followed in the contested case hearing.

(6) The Department may be represented in any contested case proceeding by the Department of Justice.

(7) Contested cases under these rules are not open to the public and are closed to nonparticipants, except nonparticipants may attend subject to the consent of each *part*y and the Department.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

413-010-0505
Hearing Requests
(Amended 11/04/11)

(1) To request a hearing under OAR 413-010-0500(2)(a):

(a) The *party* or the party's representative must complete and sign a hearing request form approved by the Department: and

(b) The form must be received by the Department not later than 30 days following the mailing date or date of personal delivery of the notice.

(2) Requests for a hearing under OAR 413-010-0500(2)(b)-(g) must be in writing and must be postmarked or received by the Department by the date specified in the Department's notice.

(3) In the event a request for a hearing is not timely, OAR 137-003-0528 applies, except to the extent provided otherwise in section (5) of this rule.

(4) If a contested case notice was sent by regular mail, and the *party* or party's representative indicates that neither the *party* nor the party's representative received or had actual knowledge of the contested case notice, the Department must advise the *party* or party's representative of the right to request a hearing under section (5) of this rule.

(5) When the Department receives a hearing request that is not filed within the timeframe required by section (1) or section (2) of this rule but is filed no later than 60 days after a notice becomes a final order under OAR 413-010-0510(3):

(a) If the Department finds that the *party* and party's representative did not receive the written notice and did not have actual knowledge of the notice, the Department refers the request for a hearing to the Office of Administrative Hearings (OAH) for a contested case hearing on the merits of the Department's action described in the notice.

(b) The Department may refer the request for a hearing to the OAH for a contested case proceeding to determine whether the *party* or party's representative received the written notice or had actual knowledge of the notice. At the hearing, the Department must show that the *party* or party's representative had actual knowledge of the notice or that the Department mailed the notice to the correct address of the *party* or party's representative.

(6) Upon receipt of a hearing request that is not described in OAR 413-010-0500(2), the Department may enter an order that the hearing request is not eligible for referral to OAH. Alternately, the Department may refer a hearing request to OAH for a decision on the question of whether there is a right to a contested case hearing.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 183.411 - 183.685, 411.095, 411.103, 418.005

413-010-0510
Notice
(Amended 11/04/11)

(1) When the Department takes any of the actions described in OAR 413-010-0500(2), the Department issues a written notice to the person that has the right to a contested case hearing.

(2) When the Department takes any of the actions described in OAR 413-010-0500(2)(a)-(c), the written notice must:

(a) Specify the date the notice is mailed or personally delivered;

(b) Specify the action the Department intends to take and the effective date of the action. If benefits are reduced or closed to reflect cost-of-living adjustments in benefits or other mass change under a program operated by a federal agency or to reflect a mass change to payments in another program operated by the Department, it is sufficient to meet this requirement that the notice state all of the following:

(A) The general nature of the change.

(B) Examples of how the change affects the benefits of the group of affected clients.

(C) The month in which the change will take place.

(c) Specify the circumstances under which payments or benefits are continued if a hearing is requested and whether continued payments or benefits may be subject to recovery by the Department if the Department's action is upheld; and

(d) If the Department intends to terminate benefits or payments because the individual is ineligible for the benefits or payments or the program is terminated, state that the individual may reapply for assistance if circumstances affecting the eligibility of the individual change.

(3) Department notices indicate that the Department designates the record of the proceeding, including information in the Department's file or files and materials added by a *party*, as the record upon default. ~~The~~ Unless another rule in OAR chapter 413 provides otherwise, the Department's notice becomes a final order --

(a) The day after the date prescribed in the notice as the deadline for requesting the hearing if the *party* fails to request a hearing; or

(b) The day the Department or OAH mails an order dismissing the hearing request because the *party* withdraws the request or fails to appear on the date and at the time set for the hearing.

(4) When the Department terminates or reduces benefits or services under subsections (2)(a) through (2)(c) of OAR 413-010-0500, the Department must send the notice --

(a) At least 10 calendar days before the effective date of the action, except as provided in subsection (b) of this section.

(b) When the Department changes a benefit standard that results in the reduction, suspension or closure of a grant of public assistance:

(A) At least 30 days before the effective date of the action; or

(B) At least 10 working days before the effective date of the action when the Department has fewer than 60 days before the effective date to implement the proposed change.

(c) For purposes of this rule, the term "changes a benefit standard" means a change to the applicable inflation-adjusted contribution, income, or payment standard. It does not include the annual adjustment to a standard based on a federal or state inflation rate.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

413-010-0515
Continuation of Benefits
(Amended 11/04/11)

(1) Except as otherwise provided in this rule, a recipient of benefits is entitled to receive continuing benefits when the Department takes any action to suspend, reduce, or terminate benefits or services as described in subsections (2)(a)(A)-(F), (2)(b), or (2)(c) of OAR 413-010-0500, and the Department has:

(a) Provided at least 10 days notice of such action as required by OAR 413-010-0510;

(b) Received a request for a hearing from the recipient not later than 30 days following the mailing date or date of personal delivery of the notice, whichever is earlier; and

(c) Received such request prior to the effective date of the action.

(2) Any continuing benefits authorized by this rule are subject to recovery by the Department to the extent that the Department's action is sustained or otherwise upheld.

(3) Continuing benefits may not be provided:

(a) When the recipient specifically requests that he or she not receive continued assistance pending a hearing decision;

(b) After a final order is issued by the Department;

(c) After a change affecting the recipient's grant, as described in subsections (2)(a)(A), (B), (D), and (E), (2)(b) or (2)(c) of OAR 413-010-0500, occurs while the hearing decision is pending and the recipient fails to request a hearing after notice of the change; or

(d) After a determination is made at a hearing that the sole issue is one of state or federal law or policy or change in state or federal law and not one of incorrect grant computation.

(4) Except as otherwise provided in this rule, if the Department provides less than 10 days notice of an action to suspend, reduce, or terminate benefits or services as described in subsections (2)(a)(A), (B), (D), and (E), (2)(b) or (2)(c) of OAR 413-010-0500, a recipient of benefits is entitled to receive continuing benefits if the Department:

(a) Receives a request for a hearing from the recipient within 10 days of the mailing of the notice of the action; and

(b) Determines that the action resulted from other than the application of federal or state law or policy or a change in state or federal law.

(5) Except as otherwise provided in this rule, if the Department provides less than 10 days notice of an action to suspend, reduce, or terminate benefits or services as described in subsection (2)(a)(C) or (F) of OAR 413-010-0500, or 5 days notice in cases of probable fraud as described in 42 CFR 431.214, a recipient of benefits is entitled to receive continuing benefits if the Department:

(a) Receives a request for a hearing from the recipient within 10 days of the mailing of the notice of the action; and

(b) Determines that the action resulted from other than the application of federal or state law or policy.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

413-010-0520
Informal Conference
(Amended 11/04/11)

(1) The Department representative and the *party* or party's representative may have an informal conference to discuss any of the matters listed in OAR 137-003-0575(4). The informal conference also may be used to:

(a) Provide an opportunity for the Department and the *party* to settle the matter;

(b) Ensure the *party* understands the reason for the action that is the subject of the hearing request;

(c) Give the *party* an opportunity to review the documents that are the basis for that action;

(d) Give the *party* an opportunity to review the rules that support the Department's action;

(e) Give the *party* and the Department the chance to correct any misunderstanding of the facts; and

(f) Give the Department an opportunity to review its action.

(2) The *party* may, at any time prior to the hearing date, request an additional informal conference with the Department representative.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

413-010-0525
Burden of Proof
(Amended 11/04/11)

In any contested case covered by these rules (OAR 413-010-0500 to 413-010-0535), the *party* has the burden of proof.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

413-010-0530
Withdrawals and Dismissals
(Amended 11/04/11)

(1) Withdrawals.

(a) A *party* or party's representative may withdraw a request for a hearing orally or in writing at any time before a final order has been issued on the contested case.

(b) Following a withdrawal under subsection (a) of this section, the Department or OAH sends an order dismissing the hearing request to the party's last known address. The *party* may cancel the withdrawal if a request to cancel the withdrawal is received by the Department representative up to the tenth work day following the date such an order is sent. If the *party* withdrew the hearing request

in writing, the Department must receive a timely written request to cancel the withdrawal.

(c) The Department may withdraw any pending referral from OAH at any time before a final order is served when:

(A) The Department provides to the *party* the relief sought; or

(B) The Department and the *party* reach an agreement under ORS 183.417(3).

(2) Dismissals. An order dismissing a hearing request is issued when the *party* or the party's representative does not appear at the time and place specified for the hearing.

(a) The dismissal by order is effective on the date the order is issued.

(b) The Department may reconsider and cancel the dismissal under OAR 137-003-0675 on request of the *party* on a timely showing that the *party* was unable to attend the hearing and unable to request a postponement for reasons beyond party's reasonable control. The Department may refer the reconsideration decision to OAH.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005

413-010-0535
Proposed and Final Orders
(Amended 11/04/11)

(1) When the Department refers a contested case under these rules (OAR 413-010-0500 to 413-010-0535) to OAH, the Department indicates on the referral whether the Department is authorizing:

(a) A proposed order;

(b) A proposed and final order (OAR 137-003-0645(4); or

(c) A final order.

(2) During or after a contested case hearing, when it is determined that the correct application of OAR 413-020-0230, 413-090-0133, or 413-090-0150 requires the consideration of facts that differ from the facts on which the Department made a decision to deny, reduce, or terminate either a *level of care payment* or a *level of personal care payment*, the Department will reapply OAR 413-020-0230, 413-090-0133, or 413-090-0150 based on new or different facts.

(3) When the Department authorizes either a proposed order or a proposed and final order:

(a) The *party* may file written exceptions and written argument to be considered by the Assistant Director for Children, Adults, and Families Division or the Assistant Director's designee. The exceptions and argument must be received at the location indicated in the order not later than the tenth day after service of the proposed order or proposed and final order.

(b) If the *party* does not submit timely exceptions or argument following a proposed and final order, the proposed and final order becomes a final order on the eleventh day after service of the proposed and final order unless the Department has issued a revised order or has notified the parties and the administrative law judge that the Department will issue the final order.

(c) When the Department receives timely exceptions or argument, the Department issues the final order, unless the Department requests that OAH issue the final order under OAR 137-003-0655.

(4) A request by a *party* for reconsideration or rehearing must be filed with the person who signed the final order within the time limits of OAR 137-003-0675.

(5) A final order should be issued or the case otherwise resolved no later than 90 days following the receipt of the request for a hearing.

(6) A final order is effective immediately upon being signed or as otherwise provided in the order.

(7) The Department reserves the right to withdraw or amend any final order issued by OAH or the Department at any time permitted by law.

Stat. Auth.: ORS 418.005
Stats. Implemented: ORS 183.411 - 183.685, 411.095, 418.005