DEPARTMENT OF HUMAN SERVICES
SENIORS AND PEOPLE WITH DISABILITIES DIVISION
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 346

FOSTER HOMES FOR CHILDREN WITH DEVELOPMENTAL DISABILITIES

411-346-0100 Purpose
(Effective 7/5/2007)

These rules prescribe the standards and procedures for the provision of care and services for children with developmental disabilities in child foster homes certified by the Department of Human Services, Senior and People with Disabilities Division, as a condition for certification and payment.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0110 Definitions
(Temporary Effective 1/1/2010 – 6/30/2010)

(1) "30 Day Emergency Certificate" means a foster care home certificate issued for 30 days.

(2) "Abuse" means:

(a) Abuse of a child as defined in ORS 419B.005; and

(b) Abuse of an adult as defined in OAR 407-045-0260 when an individual over the age of 18 resides in a certified child foster home.

(3) "Administrator" means the Assistant Director of the Department of Human Services, Seniors and People with Disabilities Division, or that person's designee.

(4) "Alternate Caregiver" means any person over the age of 18 having contact with the child.

(5) "Aversive Stimuli" means the use of any natural or chemical product to alter a child's behavior such as the use of hot sauce or soap in the mouth, and spraying ammonia or lemon water in the face of a child. Psychotropic medications are not considered aversive stimuli.

(6) "Alternative Educational Plan (AEP)" means any school plan that does not occur within the physical school setting.

(7) "Appeal" means the process that the foster provider may use to petition the suspension, denial, non-renewal or revocation of their certificate or application under ORS chapter 183.

(8) "Applicant(s)" means a person who wants to become a child foster provider and is applying for a child foster home certificate or is renewing a child foster home certificate and lives at the residence where a child(ren) in care shall live.

(9) "Behavior Supports" means a positive training plan used by the foster provider and alternate caregivers to help children develop the self control and self direction necessary to assume responsibilities, make daily living decisions, and learn to conduct themselves in a manner that is socially acceptable.

(10) "Case Plan" means the goal-oriented, time-limited, individualized plan of action for a child and the child's family developed by the child’s family and the Department of Human Services, Children, Adults and Families Division for promotion of the child's safety, permanency, and well being.

(11) "Case Worker" means an employee of the Department of Human Services, Children, Adults and Families Division.

(12) "Certificate" means a document, issued by the Department of Human Services, Seniors and People with Disabilities Division, that notes approval to operate a child foster home, for a period not to exceed one year.

(13) "Certifier" or "Certifying Agency" means the Department of Human Services, Seniors and People with Disabilities Division or Community Developmental Disability Program who is authorized to gather required documentation for the issuance of a child foster home certificate.

(14) "Chemical Restraint" means the use of a psychotropic drug or other drugs to control or modify behavior in place of a meaningful support or treatment plan.

(15) "Child" means:

(a) An individual under the age of 18 who has a provisional eligibility determination of developmental disability; or

(b) A young adult age 18 through 21 who is remaining in the same foster home for the purpose of completing their Individualized Education Plan, based on their Individual Support Plan team recommendation and an approved certification variance.

(16) "Child Foster Home (CFH)" means a home certified by the Department of Human Services, Seniors and People with Disabilities Division that is maintained and lived in by the person named on the foster home certificate.

(17) "Child Foster Home Contract" means an agreement between a provider and the Department of Human Services that describes the responsibility of the foster care provider and the Department of Human Services.

(18) "Child Placing Agency" means the Department of Human Services, Community Developmental Disability Program, or the Oregon Youth Authority.

(19) "Commercial Basis" means providing temporary care for individuals not identified as members of the household, and receiving compensation for the care provided.

(20) "Community Developmental Disability Program (CDDP)" means an entity that is responsible for planning and delivery of services for persons with mental retardation or other developmental disabilities in a specific geographic area of the state under a contract with the Department of Human Services or a local mental health authority.

(21) "Denial" means the refusal of the certifying agency to issue a certificate of approval to operate a foster home for children because the

agency has determined that the home or the applicant is not in compliance with one or more of these rules.

(22) "Developmental Disability" is always provisional and means:

(a) For children five years and younger.

(A) The condition or impairment must be expected to last indefinitely and must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; AND

(B) There are standardized tests demonstrating adaptive impairment (more than two standard deviations below the norm) in at least two of the following areas of functioning:

(i) Self care;

(ii) Receptive and expressive language;

(iii) Learning;

(iv) Mobility; and

(v) Self-direction; OR

(C) There is a statement by a licensed medical practitioner that the child has a condition or syndrome that shall likely cause significant adaptive impairment in at least two of the areas listed in section (22)(a)(B) of this rule.

(b) For children six years and older.

(A) There is a diagnosis of mental retardation; OR

(B) There is a diagnosis of developmental disability; AND

(C) There is a significant adaptive impairment (more than two standard deviations below the norm) in at least two of the following areas:

(i) Self-care;

(ii) Receptive and expressive language;

(iii) Learning;

(iv) Mobility; and

(v) Self-direction; AND

(D) The condition or impairment must be expected to last indefinitely and must not be otherwise primarily attributed to mental illness, substance abuse, an emotional disorder, Attention Deficit and Hyperactivity Disorder (ADHD), a learning disability, or sensory impairment; and be expected to last indefinitely; AND

(E) The individual is expected to indefinitely need multiple, specialized supports.

(23) "Department-Approved Intervention Methods" means the method or intervention used for behavior management approved by the Department of Human Services. The Department-approved intervention method is the Oregon Intervention System.

(24) "DHS-CW" means the child welfare program area within the Department of Human Services, Children, Adults and Families Division.

(25) "DHS" means the Department of Human Services.

(26) "Discipline" for the purpose of these rules, discipline is synonymous with behavior supports.

(27) "Domestic Animals" means any various animals domesticated so as to live and breed in a tame condition. Examples of domestic animals are dogs, cats, and domesticated farm stock.

(28) "Direct Nursing Services" means the provision of individual-specific advice, plans or interventions, based on nursing process as outlined by the Oregon State Board of Nursing, by a nurse at the home or facility. Direct nursing service differs from administrative nursing services. Administrative nursing services include non-individual-specific services, such as quality assurance reviews, authoring health related agency policies and procedures, or providing general training for the foster provider or alternate caregivers.

(29) "Educational Surrogate" means an individual who acts in place of a parent in safeguarding a child's rights in the special education decision-making process:

(a) When the parent cannot be identified or located after reasonable efforts;

(b) When there is reasonable cause to believe that the child has a disability and is a ward of the state; or

(c) At the request of a parent or adult student.

(30) "Exception" means the process that the Department of Human Services uses to determine that the applicant possesses the qualifications to be a foster provider despite a record of criminal conviction or arrests in accordance with OAR 407-007-0200 to 407-007-0370 (Criminal Records Check Rules).

(31) "Foster Care" means 24-hour substitute care in a certified foster home for children placed away from their parents or guardians.

(32) "Foster Provider" means the certified care provider who resides at the address listed on the foster home certificate. For the purpose of these rules, "foster provider" is synonymous with child foster parent or relative caregiver and is considered a private agency for purposes of mandatory reporting of abuse.

(33) "Founded Reports" means the Department of Human Services, Children, Adults, and Families Division or Law Enforcement Authority (LEA) determination, based on the evidence, that there is reasonable cause to

believe that conduct in violation of the child abuse statutes or rules has occurred and such conduct is attributable to the person alleged to have engaged in the conduct.

(34) "Guardian" means a parent for individuals less than 18 years of age, or a person or agency appointed by a court, who is authorized by the court to make decisions about services for the foster child.

(35) "Health Care Provider" means a person or health care facility licensed, certified or otherwise authorized or permitted by law of this state to administer health care in the ordinary course of business or practice of a profession.

(36) "Home Inspection" means an on-site, physical review of the applicant's home to assure the applicant meets all health and safety requirements within these rules.

(37) "Home Study" is the assessment process used for the purpose of determining an applicant's abilities to care for children in need of foster care placement.

(38) "Incident Report" means a written report of any injury, accident, acts of physical aggression, or unusual incident involving the foster child.

(39) "Individualized Education Plan (IEP)" means a written plan of instructional goals and objectives in conference with the teacher, parent or guardian, student, and a representative of the school district.

(40) "Individual Support Plan (ISP)" means the written details of the supports, activities and resources required to meet the health, safety, financial and personal goals of the foster child. The ISP is the individual's Plan of Care for Medicaid purposes.

(41) "Individual Support Plan Team (ISP team)" means a team composed of:

(a) The child in foster care, when appropriate;

(b) The foster provider;

(c) The guardian;

(d) Relatives of the child;

(e) The Community Developmental Disability Program Services Coordinator; and

(f) Any other approved persons who are well liked by the child and approved by the child and the child's guardian to serve on the team.

(42) "Mandatory Reporter" means any individual who is required by Oregon statute and rule to report suspected abuse or neglect of an adult or child to the proper authorities.

(43) "Mechanical Restraint" means any mechanical device material, object or equipment that is attached or adjacent to an individual's body that the individual cannot easily remove or easily negotiate around and restricts freedom of movement or access to the individual’s body.

(44) "Member of the Household" means any adults and children living in the home, including any foster provider, employees or volunteers assisting in the care provided to children placed in the home, and excluding the foster children placed in the home.

(45) "Misuse of Funds" includes, but is not limited to providers or their staff:

(a) Borrowing from or loaning money to a child;

(b) Witnessing a will in which the provider or a staff is a beneficiary;

(c) Adding the provider’s name to an individual’s bank account(s) or other titles for personal property without approval of the individual, when of age to give legal consent, or the individual’s legal representative and authorization of the Individual Support Plan team;

(d) Inappropriately expending or theft of an individual’s personal funds;

(e) Using an individual’s personal funds for the provider’s or staff’s own benefit; or

(f) Commingling an individual's funds with provider or another individual's funds.

(46) "Monitoring" means the observation by the Department of Human Services, Seniors and People with Disabilities Division, or designee, of a certified child foster home to determine continuing compliance with certification rules.

(47) "Nurse" means a person who holds a valid, current license as a registered nurse (RN) or licensed practical nurse (LPN) from the Oregon Board of Nursing.

(48) "Nursing Care Plan" means a plan of care developed by a Registered Nurse (RN) that describes the medical, nursing, psychosocial, and other needs of the individual and how those needs shall be met. The nursing care plan includes which tasks shall be taught or delegated to the foster provider and alternate caregivers.

(49) "Occupant" means any person having official residence in a certified child foster home.

(50) "Oregon Intervention System (OIS)" means a system of providing training to people who work with designated individuals to intervene physically or non-physically to keep individuals from harming self or others. The system is based on a proactive approach that includes methods of effective evasion, deflection and escape from holding.

(51) "Oregon Youth Authority (OYA)" means an agency that has been given commitment and supervision responsibilities over those youth offenders, by order of the juvenile court under ORS 137.124 or other statute, until the time that a lawful release authority authorizes release or terminates the commitment or placement.

(52) "Permanent Foster Care Placement Agreement" means a long term contractual placement agreement between the foster parent and the Department of Human Services, Children, Adults and Families Division, approved by the juvenile court that specifies the responsibilities and authority of the foster parent and the commitment by the permanent foster parent to raise a child until the age of majority.

(53) "Physical Restraint" means any manual physical holding of or contact with an individual that restricts the individual's freedom of movement.

(54) "Physical Intervention" means the use of any physical action or any response to maintain the health and safety of an individual or others during a potentially dangerous situation or event.

(55) "Protected Health Information" means any oral or written health information that identifies the child and relates to the child's past, present or future physical or mental health condition, health care treatment or payment for health care treatment.

(56) "Psychotropic Medication" means a medication whose prescribed intent is to affect or alter thought processes, mood, or behavior. This includes, but is not limited to, anti-psychotic, antidepressant, anxiolytic (anti-anxiety), and behavior medications. Because a medication may have many different effects, its classification depends upon its stated, intended effect when prescribed.

(57) "Respite Care" means short-term services for a period of up to 14 consecutive days. Respite care may include both day and overnight care.

(58) "Revocation" means the action taken by the certifying agency to rescind a child foster home certificate of approval after determining that the child foster home is not in compliance with one or more of these rules.

(59) "Service Coordinator" means an employee of the Department of Human Services, a Community Developmental Disability Program, or agency that contracts with the Community Developmental Disability Program or the Department of Human Services who is selected to plan, procure, coordinate, and monitor individual support services and acts as a proponent for individuals with developmental disabilities.

(60) "Significant Medical Needs" means, but is not limited to, total assistance required for all activities of daily living such as access to food or fluids, daily hygiene, which is not attributable to the child’s chronological age, and frequent medical interventions required by the care plan for health and safety of the child.

(61) "SPD" means the Department of Human Services, Seniors and People with Disabilities Division.

(62) "Specialized Diet" means that the amount, type of ingredients or selection of food or drink items is limited, restricted, or otherwise regulated under a physician's order. Examples include, but are not limited to, low calorie, high fiber, diabetic, low salt, lactose free, low fat diets.

(63) "Substantiated" means an abuse investigation has been completed by the Department of Human Services or its designee and the preponderance of the evidence establishes the abuse occurred.

(64) "Suspension of Certificate" means a temporary withdrawal of the approval to operate a child foster home after the certifying agency determines that the child foster home is not in compliance with one or more of these rules.

(65) "These Rules" means the Oregon Administrative Rules in chapter 411, division 346.

(66) "Unauthorized Absence" means any length of time when a child is absent from the foster home, without prior approval as specified on the Individual Support Plan.

(67) "Unusual Incident" means those incidents involving serious illness or accidents, death of an individual, injury or illness of an individual requiring inpatient or emergency hospitalization, suicide attempts, a fire requiring the services of a fire department, or any incident requiring an abuse investigation.

(68) "Unsupervised Contact" means the time the foster child is cared for, supported or monitored, by an alternate caregiver, without the direct supervision or presence of the certified foster provider.

(69) "Variance" means a temporary exemption from a regulation or provision of these rules that may be granted by the Department of Human Services, Seniors and People with Disabilities Division, upon written application by the Community Developmental Disability Program.

(70) "Volunteer" means any individual assisting in a child foster home without pay to support the care provided to children placed in the child foster home.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0120 Certification Required
(Effective 7/5/2007)

(1) Any home that meets the definition of a child foster home must be certified by one of the following agencies:

(a) SPD;

(b) DHS-CW; or

(c) The OYA.

(2) Children will only be placed in a certified child foster home.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0130 Indian Child Welfare Act
(Effective 7/5/2007)

The Indian Child Welfare Act (ICWA) gives federally recognized Indian tribes the authority to select homes for children protected by the ICWA. Tribes and Alaskan Native Regional Corporations may license, approve or specify a foster home for children protected by the ICWA. The tribe is authorized to decide which of the following three preferences to use, or whether to request that SPD or DHS-CW certify the home. When the tribe requests SPD to certify the home, SPD will use these rules for certification. Indian children placed in relative homes, whether licensed, certified or selected by the tribe are eligible for foster care payments when DHS-CW has legal custody. Preference will be given for placement with:

(1) A member of the Indian child's extended family;

(2) A foster home licensed, approved, or specified by the Indian child's tribe; or

(3) An Indian foster home licensed or approved by an authorized non-Indian licensing authority.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0140 Selection
(Effective 7/5/2007)

(1) SPD or the CDDP will recruit foster providers who have the abilities and commitment to carry out the responsibilities set forth in these rules that can meet SPD's specific need for homes. SPD will determine which applicants will be certified. The CDDP staff will determine which home is best for a particular child.

(2) The foster provider must be a responsible, stable, emotionally mature adult who exercises sound judgment and has the capacity to meet the mental, physical and emotional needs of children placed in foster care.

(3) The foster provider must demonstrate the following traits:

(a) Capacity to give and receive affection;

(b) Kindness;

(c) Flexibility;

(d) A sense of humor; and

(e) The ability to deal with frustration and conflict.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0150 General Requirements for Certification
(Temporary Effective 1/1/2010 – 6/30/2010)

(1) The applicant or foster provider must participate in certification and certification renewal studies, and in the ongoing monitoring of their homes.

(2) The applicant or foster provider must give the information required by SPD to verify compliance with all applicable rules, including change of address and change of number of persons in the household such as relatives, employees or volunteers.

(3) The applicant seeking certification from SPD must complete the SPD application forms. When two or more adults living in the home share foster provider responsibilities to any degree, they must be listed on the application as applicant and co-applicant.

(4) The applicant must disclose each state or territory they have lived in the last five years and for a longer period if requested by the certifier. The disclosure must include the address, city, state and zip code of previous residences.

(5) Information provided by the applicants must include:

> (a) Names and addresses of any agencies in the United States where any occupant of the home has been licensed or certified to provide care to children or adults and the status of such license or certification. This may include, but is not limited to, licenses or certificates for residential care, nurse, nurse's aide, and foster care;
>
> (b) Proposed number, gender, age range, disability and support needs of children to be served in foster care;
>
> (c) School reports for any child of school age living in the home at the time of initial application. School reports for any child of school age living in the home within the last year may also be required;
>
> (d) Names and addresses of at least four persons, three of whom are unrelated, who have known each applicant for two years or more and who can attest to their character and ability to care for children. SPD may contact schools, employers, adult children and other sources as references;

(e) Reports of all criminal charges, arrests or convictions, the dates of offenses, and the resolution of those charges for all employees or volunteers and persons living in the home. If the applicant’s minor children shall be living in the home, the applicants must also list reports of all criminal or juvenile delinquency charges, arrests or convictions, the dates of offenses, and the resolution of those charges;

(f) Founded reports of child abuse or substantiated abuse allegations, with dates, locations and resolutions of those reports for all persons living in the home, as well as all applicant or provider employees, independent contractors and volunteers;

(g) Demonstration, upon initial certification, of successful completion of 15 hours of pre-service training.

(h) Demonstration, upon initial certification, of income sufficient to meet the needs and to ensure the stability and financial security of the family, independent of the foster care payment;

(i) All child support obligations in any state, whether the obligor is current with payments or in arrears, and whether any applicant's or foster provider's wages are being attached or garnished for any reason;

(j) A physician's statement, on a form provided by SPD, that each applicant is physically and mentally capable of providing care;

(k) A floor plan of the house showing the location of:

(A) Rooms, indicating the bedrooms for the foster child, caregiver, and other occupants of the home;

(B) Windows;

(C) Exit doors;

(D) Smoke detectors and fire extinguishers; and

(E) Wheel chair ramps, if applicable; and

(l) A diagram of the house and property showing safety devices for fire places, wood stoves, water features, outside structures and fencing.

(6) Falsification or omission of any of the information for certification may be grounds for denial or revocation of the child foster home certification.

(7) Applicants must be at least 21 years of age. Applicants who are "Indian," as defined in the Indian Child Welfare Act, may be 18 years of age or older, if an Indian child to be placed is in the legal custody of DHS-CW.

(8) Applicants, providers, alternate caregivers, providers' employees or volunteers, other occupants in the home who are 18 years or older, and other adults having regular contact in the home with the foster children must consent to a criminal records check by DHS, in accordance with OAR 407-007-0200 to 407-007-0370 (Criminal Records Check Rules) and under ORS 181.534. SPD may require a criminal records check on members of the household under 18 if there is reason to believe that a member may pose a risk to children placed in the home. All persons subject to a criminal records check are required to complete an Oregon criminal records check and a national criminal records check, as defined in OAR 407-007-0200 to 407-007-0370, including the use of fingerprint cards.

(a) Public funds may not be used to pay, in whole or in part, a provider, providers' employees, alternate caregivers, volunteers, or any other subject individual under OAR 407-007-0200 to 407-007-0370, who has been hired on or after January 1, 2010 or who are subject to a criminal records check after January 1, 2010 as required by administrative rule, and who have been convicted:

(A) Of a crime listed in Exhibit 346-1;

(B) In the last 10 years, of a crime involving the delivery or manufacture of a controlled substance;

(C) Of an attempt, conspiracy, or solicitation to commit a crime described in Exhibit 346-1; or

(D) Of a crime in another jurisdiction that is substantially equivalent to a crime described in Exhibit 346-1.

(b) A person may not be authorized as a provider or meet qualifications as described in this rule if the person has been hired on or after January 1, 2010, or is subject to criminal records checks after January 1, 2010 as required by administrative rule, and who has been convicted:

(A) Of a crime listed in Exhibit 346-1;

(B) In the last 10 years, of a crime involving the delivery or manufacture of a controlled substance;

(C) Of an attempt, conspiracy, or solicitation to commit a crime described in Exhibit 346-1; or

(D) Of a crime in another jurisdiction that is substantially equivalent to a crime described in Exhibit 346-1.

(9) The applicant or foster provider may request to withdraw their application any time during the certification process by notifying the certifier in writing. Written documentation by the certifier of verbal notice may substitute for written notification.

(10) SPD may not issue or renew a certificate if an applicant or member of the household:

(a) Has, after completing the DHS criminal records check required by SPD, a fitness determination of “denied.”

(b) Has, at any time, been convicted of a felony in Oregon or any jurisdiction that involves:

(A) Child abuse or neglect;

(B) Spousal abuse;

(C) Criminal activity against children, including child pornography;

(D) Violence specifically including rape, sexual assault, or homicide;

(E) Of a crime listed in Exhibit 346-1;

(F) In the last 10 years, of a crime involving the delivery or manufacture of a controlled substance;

(G) Of an attempt, conspiracy, or solicitation to commit a crime described in Exhibit 346-1; or

(H) Of a crime in another jurisdiction that is substantially equivalent to a crime described in Exhibit 346-1.

(c) Has, within the past five years from the date the DHS criminal records check was signed been convicted of a felony in Oregon or any jurisdiction that involves:

(A) Physical assault or battery (other than against a spouse or child); or

(B) Any drug-related offense.

(d) Has been found to have abused or neglected a child or adult as defined in ORS 419B.005 or as listed in OAR 407-045-0260.

(e) Has, within the past five years from the date the child foster home application was signed, been found to have abused or neglected a child or adult in the United States as defined by that jurisdiction or any other jurisdiction.

(11) SPD may not issue or renew a certificate for a minimum of five years if the applicant is found to have a license or certificate to provide care to children or adults, suspended, revoked or not renewed by other than voluntary request. This shall be grounds for suspension and revocation of the certificate.

(12) SPD may not issue or renew a certificate based on an evaluation of any negative references, school reports, physician's statement, or previous licensing or certification reports from other agencies or states.

(13) A DHS employee may be a foster provider, or an employee of an agency that contracts with DHS as a foster provider, if the employee's position with DHS does not influence referral, regulation or funding of such activities. Prior to engaging in such activity, the employee must obtain written approval from their Administrator. The written approval must be on file with their Administrator and in the SPD certification file.

(14) An application is incomplete and void unless all supporting materials are submitted to SPD within 90 days from the date of the application.

(15) An application may not be considered complete until all required information is received and verified by SPD. Within 60 days upon receipt of the completed application, a decision shall be made by SPD to approve or deny certification.

(16) SPD shall determine compliance with these rules based on receipt of the completed application material, an investigation of information submitted, an inspection of the home, a completed home study, and a personal interview with the provider. A certificate is valid for one year unless revoked or suspended earlier.

(17) SPD may attach conditions to the certificate that limit, restrict, or specify other criteria for operation of the child foster home.

(18) A condition may be attached to the certificate that limits the provider to the care of a specific individual. No other referrals shall be made to a provider with this limitation.

(19) A child foster home certificate is not transferable or applicable to any location or persons other than those specified on the certificate.

(20) The foster provider who cares for children funded by DHS must enter into a contract with DHS and follow the DHS rules governing reimbursement for services and refunds.

(21) The foster provider cannot be the parent or legal guardian of any children placed in their home for foster care services funded by DHS.

(22) If the applicant or foster provider intends to provide care for an individual with significant medical needs the provider must have the following:

(a) An equivalent of one year of full-time experience in providing direct care to individuals;

(b) Health care professional qualifications.

(A) Such as a registered nurse (RN) or licensed practical nurse (LPN); or

(B) Has the equivalent of two additional years full-time experience providing care and support to individual(s) who have a medical condition that is serious and could be life-threatening;

(c) Copies of all current health related license or certificates and provide those documents to the certifying agent;

(d) Current certification in First Aid and Cardiopulmonary Resuscitation (CPR). The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the ages of the children served in the foster home;

(e) Current satisfactory references from at least two medical professionals, such as a physician and registered nurse, who have direct knowledge of the applicant's ability and past experiences as a caregiver. The medical professional references serve as two of the four references in section (5)(d) of this rule; and

(f) Positive written recommendation from SPD's Medically Fragile Children's Unit (MFCU) if the provider or applicant has provided services through the program or if the provider or applicant has historically received services through the program for a child in their family home or foster home.

(23) A foster provider must not accept an individual with significant medical needs unless an initial care plan addressing the health and safety supports is in place at the time of placement.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0160 Renewal of Certificate
(Effective 7/5/2007)

(1) At least 90 days prior to the expiration of a certificate, SPD will send a reminder notice and application for renewal to the currently certified provider. Submittal of a renewal application prior to the expiration date will keep the certificate in effect until SPD takes action. If the renewal application is not submitted prior to the expiration date, the CFH will be treated as an uncertified home.

(2) The certification renewal process includes the renewal application, and the same supporting documentation as required for a new certification. With the discretion of the certifier or SPD, a financial statement, physician statement, and floor plan may not be required.

(3) Copies of the service coordinator's monitoring check list or recommendations from the service coordinators who have had children in the home within the last year may be requested at time of certification renewal.

(4) School reports may not be required if SPD or the CDDP can reasonably assume this information has not changed or is not necessary.

(5) SPD or the CDDP may investigate any information in the renewal application and will conduct a home inspection.

(6) The provider will be given a copy of the inspection form documenting any deficiencies and a time frame to correct deficiencies, but no longer than 60 days from the date of inspection. If documented deficiencies are not corrected within the time frame specified, the renewal application will be denied.

(7) Applicants, providers, providers' substitute caregivers, employees, volunteers and any other occupants in the home 18 years of age and older must submit to an Oregon criminal history check and must continue to meet all certification standards as outlined in these rules.

(8) Each foster provider must provide documentation of a minimum of ten hours of SPD approved training per year prior to annual renewal of the certificate. A mutually agreed upon training plan may be part of the re-certification process.

(9) When serving children with significant medical needs, the foster provider must have a minimum of six of the ten hours of annual training requirements in specific medical training beyond First Aid and CPR. The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the ages of the children served in the foster home.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0165 Emergency Certification
(Effective 7/5/2007)

(1) An emergency certificate may be issued by SPD for up to 30 days, provided the following conditions are met:

(a) An Oregon criminal history check (CHC) indicates no immediate need for fingerprinting for all persons living in the home;

(b) A DHS-CW background check identifies no founded allegations of abuse or neglect committed by persons living in the home;

(c) Applicant has no previous revocations or suspensions of any license or certificate by any issuing agency for a foster home, group home or any other care or support services;

(d) A review of support enforcement obligations and public assistance cases identifies no substantial financial concerns;

(e) An application and two references are submitted;

(f) An abbreviated home study is done; and

(g) A satisfactory home inspection and a Health and Safety Checklist are completed.

(2) When a child with significant medical needs will be living in the foster home, the following additional requirements must be met before an emergency certificate can be issued:

(a) Current satisfactory references from at least two medical professionals, such as a physician and registered nurse, who have direct knowledge of the applicant's ability and past experiences as a caregiver; AND

(b) A positive written recommendation from SPD's Medical Fragile Children's Unit (MFCU) if the provider or applicant has provided services through the program or has historically received services through the program for a child in their family home or foster home; AND

(c) Current certification in First Aid and CPR. The CPR training must be done by a recognized training agency and the CPR certificate must be appropriate to the ages of the children served in the foster home; AND

(d) Copies of all current medical related licenses or certificates must be provided to the certifying agent and SPD; AND

(e) Six hours of medical training beyond CPR and First Aid training as appropriate to the ages of the children served in the foster home; OR

(f) Licensed as a registered nurse, licensed practical nurse, emergency medical technician, nurse practitioner, or physician's assistant.

(3) Emergency certificates may be issued if the renewal process is incomplete at the time of annual renewal.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0170 Personal Qualifications of the Applicant and Foster Provider
(Effective 7/5/2007)

(1) The applicant and foster provider must:

(a) Be responsible, stable, emotionally mature adults who exercise sound judgment;

(b) Have the interest, motivation, and ability to nurture, support and meet the mental, physical, developmental and emotional needs of children placed in the home;

(c) Be willing to receive training, and have the ability to learn and use effective child-rearing practices, to enable children placed in their home to grow, develop, and build positive personal relationships and self esteem;

(d) Demonstrate that they have the knowledge and understanding of positive non-punitive discipline and ways of helping children build positive personal relationships, self-control and self esteem;

(e) Respect the child's relationship with his or her parents and siblings and be willing to work in partnership with family members, agencies and schools involved with the child to attain the goals as listed in the IEP, ISP and case plan;

(f) Respect the child's privacy in accordance with the child's age;

(g) Have supportive ties with others who might support, comfort and advise them. Supportive ties include but are not limited to:

(A) Family;

(B) Friends;

(C) Neighborhood contacts;

(D) Churches; or

(E) Community groups;

(h) Demonstrate that they have lifestyles and personal habits free from abuse or misuse of alcohol or drugs;

(i) Be at least 21 years of age, unless otherwise specified through ICWA and placement of Indian children requirements; and

(j) Be able to realistically evaluate which children they can accept, work with, and integrate into their family.

(2) HEALTH QUALIFICATIONS.

(a) The applicant and foster provider must provide SPD with the health history of each member of the household, including physical and mental health services and treatment received. Within one working day, the foster provider must inform SPD if any member of the household has or develops a serious communicable disease or other serious health condition that could affect the provider's ability to care for the child, or could affect the health and safety of the child.

(b) The applicant, foster provider and other adults in the household caring for foster children must be physically and mentally able to perform the duties of a foster provider as prescribed in these rules.

(c) The applicant, foster provider and others in the household must be free from abuse or misuse of alcohol or drugs. In the case of alcoholism or substance abuse, the applicant, foster provider or others in the household must demonstrate that they have been substance-free and sober for at least two years prior to making application for certification.

(d) When requested by SPD either during the application process or while certified, the applicant or foster provider must, at their expense and from a source acceptable to SPD, supply psychological, medical or physical, sex-offender, drug and alcohol, and psychiatric reports and evaluations to SPD.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0180 Professional Responsibilities of the Foster Provider
(Temporary Effective 1/1/2010 – 6/30/2010)

(1) TRAINING AND DEVELOPMENT.

(a) The foster provider must complete a minimum of 15 hours of pre-service training prior to certification, and ten hours annually for certification renewal. SPD or CDDP staff may require additional hours of training based on the needs of the children served in the home.

(b) The foster provider must participate in training provided or approved by SPD or the CDDP. Such training shall include educational opportunities designed to enhance the foster provider's awareness, understanding and skills to meet the special needs of children placed in their home.

(c) The foster provider must complete mandatory reporting training prior to initial certification and annually thereafter.

(d) Mandatory reporter training must be appropriate to the ages of the individuals living in the child foster home.

(2) RELATIONSHIP WITH THE CHILD PLACING AGENCY. The foster provider must:

(a) Take part in planning, preparation, pre-placement activities and visitation for the children placed in their home;

(b) Participate as team members in developing and implementing the ISP when initiated by the CDDP Service Coordinator for the children placed in their home;

(c) In advance or within one working day, notify the certifier of changes likely to affect the life and circumstances of the foster family or the safety in the home including, but not limited to the following:

(A) Foster family illness;

(B) Divorce, legal separation or loss of a household member;

(C) Significant change in financial circumstances;

(D) New household members or placement of a foster child by another agency, including respite care;

(E) Arrests or criminal involvement;

(F) The addition of firearms;

(G) Swimming pools; or

(H) Pets.

(d) Immediately notify the child's CDDP Service Coordinator and guardian of injury, illness, accidents, or any unusual incidents or circumstances that may have a serious effect on the health, safety, physical or emotional well-being of the foster child;

(e) Notify the legal guardian and CDDP staff of any unauthorized absence of a foster child within 12 hours, or other mutually agreed upon time, as determined by the ISP Team;

(f) Sign and abide by the responsibilities described in the Child Foster Home Contract or Agreement;

(g) Allow the certifying and placing agency reasonable access to their home and to the children placed in their care. This includes access by family members when placement is voluntary. For the purpose of these rules, reasonable access means with prior notice, unless there is cause for not giving such notice;

(h) Allow SPD or CDDP staff access to:

(A) Investigate reports of abuse, violations of a regulation or provision of these rules;

(B) Inspect or examine the home, the foster children's records and accounts, and the physical premises, including the buildings, grounds, equipment, and any vehicles; and

(C) Interview the child, adult or alternate caregivers.

(i) Participate in interviews conducted by SPD or CDDP staff; and

(j) Authorize substitute caregivers to permit entrance by SPD or CDDP staff for the purpose of inspection and investigation.

(3) ACCEPTING CHILDREN FOR CARE.

(a) Effective July 1, 2007, except as described in section (3)(c) of this rule, a certified provider must not exceed the following maximum number of children in the home:

(A) A total of four children when one certified adult lives in the home; or

(B) A total of seven children when two certified adults live in the home.

(b) All homes are limited to two children under the age of three.

(c) Any providers certified prior to July 1, 2007 with a capacity greater than the numbers listed in section (3)(a) of this rule must meet the standard through attrition as children move out of the foster home.

(d) Any child foster home provider contracted by a proctor agency to provide proctor care services must be limited to serving a total of two children.

(e) At the time of referral, the foster provider must be given available information about the child, including behavior, skill level, medical status and other relevant information. The foster provider is obligated to decline the referral of any child based on the referral information, parameters of their certification, or if they feel their skill level shall not safely or effectively support the child.

(f) A foster provider may provide respite care in the provider's home for a child upon approval by the CDDP or SPD.

(g) A foster provider must obtain approval from the Child Foster Home Certifier prior to accepting a child for placement.

(h) A child who turns 18 may continue to reside in their current certified child foster home when it has been determined by the ISP team it is in the best interest of the child to remain in the same home. When it has been determined by the ISP team a child who is turning 18 shall remain in their current certified child foster home the foster provider must:

(A) Submit a variance request to SPD in accordance with OAR 411-346-0210; and

(B) Submit to SPD and the CDDP, a copy of the ISP addendum signed by the ISP team noting it is in the best interest of the foster child to remain in the current certified foster home.

(i) Any variance to sections (3)(a), through (3)(h) of this rule must take into consideration the maximum safe physical capacity of the home including:

(A) Sleeping arrangements;

(B) The ratio of adult to child;

(C) The level of supervision available;

(D) The skill level of the foster provider;

(E) Individual plans for egress during fire;

(F) The needs of the other children in placement; and

(G) The desirability of keeping siblings placed together.

(j) The foster provider must not care for unrelated adults on a commercial basis in their own home or accept children for day care in their own home while currently certified as a foster provider.

(k) The foster provider may exit a foster child by giving 30 days written notice to the designated CDDP staff, except where undue delay shall jeopardize the health, safety, or well-being of the child or others.

(l) The foster provider must notify SPD prior to a voluntary closure of a child foster home, and give the foster child(ren)'s guardian and the CDDP 30 days written notice, except in circumstances where undue delay might jeopardize the health, safety or well-being of the foster child(ren), or foster provider.

(4) RELATIONSHIP WITH THE CHILD'S FAMILY. In accordance with the child's ISP and the guardian, the foster provider must:

(a) Support the child's relationship with the child's family members, including siblings;

(b) Assist the CDDP staff, and the guardian in planning visits with the child and the child's family members; and

(c) Provide the child reasonable opportunities to communicate with their family members.

(5) CONFIDENTIALITY.

(a) The foster provider and the provider's family must treat personal information about a child or a child's family in a confidential manner. Confidential information is to be disclosed on a need to know basis to law enforcement, CDDP staff, DHS-CW child protective services staff, DHS-CW case workers, and medical professionals who are treating or providing services to the child. The information shared must be limited to the health, safety and service needs of the child.

(b) In addition to the requirements in section (5)(a) of this rule, the foster provider and the provider's family must comply with the

provisions of ORS 192.518 to 192.523 and therefore may use or disclose a child's protected health information only:

(A) To law enforcement, CDDP staff, DHS-CW staff;

(B) As authorized by the child's personal representative or guardian appointed under ORS 125.305, 419B.370, 419C.481 or 419C.555;

(C) For purposes of obtaining health care treatment for the child;

(D) For purposes of obtaining payment for health care treatment; or

(E) As permitted or required by state or federal law or by order of a court.

(c) The foster provider must keep all written records for each foster child in a manner that ensures their confidentiality.

(6) MANDATORY REPORTING.

(a) The foster provider and their employees and volunteers are mandatory reports of suspected abuse or neglect of any child under ORS 419B.005. Upon reasonable cause to believe that abuse or neglect has occurred, all adult members of the household and any foster provider, employees, independent contractors or volunteers must report pertinent information to DHS-CW or law enforcement.

(b) When the certified child foster provider, their employees, independent contractors, or volunteers are providing services to an individual 18 years or older and has reason to believe abuse as defined in OAR 407-045-0260 has occurred, they must report the pertinent information to the CDDP or law enforcement in accordance with ORS 430.737.

(c) Any restraint or intervention that results in an injury to the child, as defined in ORS 419B.005, must be reported by the foster provider.

Same day verbal notification is required. The foster provider must notify DHS-CW and the child's CDDP Service Coordinator.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0190 Standards and Practices for Care and Services
(Effective 7/5/2007)

(1) The foster provider must:

(a) Provide structure and daily activities designed to promote the physical, social, intellectual, cultural, spiritual and emotional development of the foster children in their home.

(b) Provide playthings and activities in the foster home, including games, recreational and educational materials, and books appropriate to the chronological age, culture, and developmental level of the foster children.

(c) In accordance with the ISP and, if applicable, as defined the DHS-CW case plan, encourage the children to participate in community activities with family, friends, and on their own when appropriate.

(d) Promote the foster children’s independence and self-sufficiency by encouraging and assisting the children to develop new skills and perform age-appropriate tasks.

(e) In accordance with the ISP and, if applicable, as defined in the DHS-CW case plan ask children placed in the provider's care to participate in household chores appropriate to the children's age and ability and commensurate with those expected of their own children.

(f) Provide the children with reasonable access to a telephone and to writing materials.

(g) In accordance with the ISP and, if applicable, as defined in the DHS-CW case plan, permit and encourage the children to have visits with family and friends.

(h) Allow regular contacts and private visits or phone calls with the children's CDDP Service Coordinator and, if applicable, the DHS-CW case worker.

(i) Not allow foster children to baby-sit in the foster home or elsewhere without permission of the CDDP Service Coordinator and the guardian.

(2) RELIGIOUS, ETHNIC, AND CULTURAL HERITAGE.

(a) The foster provider must recognize, encourage, and support the religious beliefs, ethnic heritage, cultural identity and language of a child and his or her family.

(b) In accordance with the ISP and guardian preferences, the foster provider must participate with the ISP team to arrange transportation and appropriate supervision during religious services or ethnic events for a child whose beliefs and practices are different from those of the provider.

(c) The foster provider must not require a child to participate in religious activities or ethnic events contrary to the child's beliefs.

(3) EDUCATION. The foster provider:

(a) Must enroll each child of school age in public school, within five school days of the placement, and arrange for transportation.

(b) Must comply with any alternative educational plan described in the foster child's IEP.

(c) Must be actively involved in the child's school program and must participate in the development of the child's IEP. The Foster provider may apply to be the child's educational surrogate, if requested by the parent or guardian.

(d) Must consult with school personnel when there are issues with the child in school, and report to the guardian and CDDP Service Coordinator any serious situations that may require DHS involvement.

(e) Must support the child in his or her school or educational placement.

(f) Must assure the child regularly attends school or educational placement and monitor the child or young adult's educational progress.

(g) May sign consent to the following school related activities:

(A) School field trips within the state of Oregon;

(B) Routine social events;

(C) Sporting events;

(D) Cultural events; and

(E) School pictures for personal use only, unless prohibited by the court or legal guardian.

(4) ALTERNATE CAREGIVERS.

(a) The foster provider must arrange for safe and responsible alternate care.

(b) The foster provider must have a child care plan approved by SPD, the CDDP, or DHS-CW, as appropriate, if the foster provider is employed outside of the home. When a child is cared for by a child care provider or childcare center, the provider or center must be certified as required by the State Child Care Division (ORS 657A.280), or be a certified foster provider.

(c) The foster provider must have a respite plan approved by the CDDP or SPD when using alternate caregivers.

(d) The foster provider must assure the alternate caregivers, consultants and volunteers are:

(A) 18 years of age or older;

(B) Capable of assuming foster care responsibilities;

(C) Present in the home;

(D) Physically and mentally able to perform the duties of the foster provider as prescribed in these rules;

(E) Cleared by a DHS criminal history check including a DHS-CW background check (IIS);

(F) Able to communicate with the child, individuals, agencies providing care to the child, CDDP Service Coordinator and appropriate others;

(G) Trained on fire safety and emergency procedures;

(H) Trained on the child's ISP, Behavior Support Plan and any related protocols and able to provide the care needed for each child;

(I) Trained on the required documentation for health, safety and behavioral needs of the child;

(J) A licensed driver and with vehicle insurance in compliance with the Oregon DMV laws, when transporting children by motorized vehicle; and

(K) Not be a person who requires care in a foster care or group home.

(e) When the foster provider uses an alternate caregiver and the child will be staying at the alternate caregiver's home, the foster provider must assure the alternate caregiver's home meets the necessary health, safety and environmental needs of the child.

(f) When the foster provider arranges for social activities of the child for less than 24 hours, including an overnight arrangement, the foster provider must assure that the person will be responsible and capable

of assuming child care responsibilities, and be present at all times. The foster provider still maintains primary responsibility for the child.

(5) FOOD AND NUTRITION.

(a) The foster provider must offer three nutritious meals daily at times consistent with those in the community. Daily meals must include food from the four basic food groups, including fresh fruits and vegetables in season, unless otherwise specified in writing by a physician or physician assistant. There must be no more than a 14-hour span between the evening meal and breakfast, unless snacks and liquids are served as supplements. Consideration will be given to cultural and ethnic background in food preparation.

(b) The foster provider must implement special diets only as prescribed in writing by the child's physician or physician assistant.

(c) The foster provider must prepare and serve meals in the foster home where the child lives. Payment for meals eaten away from the foster home (e.g. restaurants) for the convenience of the foster provider is the responsibility of the foster provider.

(d) A child who must be bottle-fed and cannot hold the bottle must be held during bottle-feeding.

(6) CLOTHING AND PERSONAL BELONGINGS.

(a) The foster provider must provide each child with his or her own clean, well-fitting, seasonal clothing appropriate to age, gender, culture, individual needs, and comparable to the community standards.

(b) School-age children should participate in choosing their own clothing whenever possible.

(c) The foster provider must allow children to bring and acquire appropriate personal belongings.

(d) The foster provider must send all personal clothing and belongings with the child when the child leaves the foster home.

(7) BEHAVIOR SUPPORT AND DISCIPLINE PRACTICES.

(a) The foster provider must teach and discipline children with respect, kindness, and understanding, using positive behavior management techniques. Unacceptable practices include, but are not limited to:

(A) Physical force, spanking or threat of physical force inflicted in any manner upon the child;

(B) Verbal abuse, including derogatory remarks about the child or his or her family that undermine a child's self-respect;

(C) Denial of food, clothing or shelter;

(D) Denial of visits or contacts with family members, except when otherwise indicated in the ISP or, if applicable, the DHS-CW case plan;

(E) Assignment of extremely strenuous exercise or work;

(F) Threatened or unauthorized use of physical interventions;

(G) Threatened or unauthorized use of mechanical restraints;

(H) Punishment for bed-wetting or punishment related to toilet training;

(I) Delegating or permitting punishment of a child by another child;

(J) Threat of removal from the foster home as a punishment;

(K) Use of shower or aversive stimuli as punishment; and

(L) Group discipline for misbehavior of one child.

(b) The foster provider must set clear expectations, limits, and consequences of behavior in a non-punitive manner.

(c) If time-out separation from others is used to manage behavior, it must be included on the child's ISP and the foster provider must provide it in an unlocked, lighted, well-ventilated room of at least 50 square feet. The ISP must include whether the child needs to be within hearing distance or within sight of an adult during the time-out. The time limit must take into consideration the child's chronological age, emotional condition and developmental level. Time-out is to be used for short duration and frequency as approved by ISP team.

(d) No foster child or other child in a foster home will be subjected to physical abuse, sexual abuse, sexual exploitation, neglect, emotional abuse, mental injury or threats of harm as defined in ORS 419B.005 and OAR 411-320-0020. Sexual abuse and sexual exploitation includes all sexual acts defined in ORS chapters 163 and 167.

(e) Behavior Support Plan (BSP). For children who have demonstrated a serious threat to self, others or property and for whom it has been decided a BSP is needed, the BSP must be developed with the approval of the ISP team.

(f) Physical Restraint or Intervention. A physical restraint or intervention must be used only for health and safety reasons and under the following conditions:

(A) As part of the child's ISP team approved BSP.

(i) When physical restraint or intervention will be employed as part of the BSP the foster provider and alternate caregivers must complete OIS training prior to the implementation of the BSP.

(ii) The use of any modified OIS physical restraint or intervention must have approval from the OIS Steering Committee in writing prior to their implementation. Documentation of the approval must be maintained in the child's records.

(B) As in a health-related protection prescribed by a physician, or qualified health care provider, but only if absolutely

necessary during the conduct of a specific medical or surgical procedure, or only if absolutely necessary for protection during the time that a medical condition exists.

(C) As an emergency measure, if absolutely necessary to protect the child or others from immediate injury and only until the child is no longer an immediate threat to self or others.

(g) Mechanical Restraint.

(A) The foster provider must not use mechanical restraints on children in care other than car seat belts or normally acceptable infant safety products unless ordered by a physician, or health care provider and with an agreement of the ISP team.

(B) The foster provider must maintain the original order in the child's records, and forward a copy to the CDDP Service Coordinator and guardian.

(h) Documentation and notification of use of restraint or intervention. The foster provider must document the use of all physical interventions or mechanical restraints in an incident report. A copy of the incident report must be provided to the CDDP Service Coordinator and guardian.

(A) If an approved restraint is used the foster provider must send a copy of the incident report within five working days.

(B) If an emergency or non ISP team approved restraint is used, the foster provider must send a copy of the incident report within 24 hours. The foster provider must make verbal notification to the CDDP Service Coordinator and guardian no later than the next working day.

(C) The original incident report must be on file with the foster provider in the child's records.

(D) The incident report must include:

(i) The name of the child to whom the restraint was applied;

(ii) The date, location, type and duration of entire incident and restraint;

(iii) The name of the provider and witnesses or persons involved in applying the restraint;

(iv) The name and position of the person notified regarding the use of the restraint; and

(v) A description of the incident, including precipitating factors, preventive techniques applied, description of the environment, description of any physical injury resulting from the incident, and follow-up recommendations.

(8) MEDICAL AND DENTAL CARE. The foster provider must:

(a) Provide care and services, as appropriate to the child's chronological age, developmental level and condition of the child, and as identified in the ISP.

(b) Assure that physician or qualified health care provider orders and those of other licensed medical professionals are implemented as written.

(c) Inform the child's physicians or qualified health care providers of current medications and changes in health status and if the child refuses care, treatments or medications.

(d) Inform the guardian and CDDP Service Coordinator of any changes in the child's health status except as otherwise indicated in the DHS-CW Permanent Foster Care Placement Agreement and as agreed upon in the child's ISP.

(e) Obtain the necessary medical, dental, therapies and other treatments of care, including but not limited to:

(A) Making appointments;

(B) Arranging for or providing transportation to appointments; and

(C) Obtaining emergency medical care.

(f) Have prior consent from the guardian for medical treatment that is not routine, including surgery and anesthesia except in cases where a DHS-CW Permanent Foster Care Placement Agreement exists.

(9) MEDICATIONS AND PHYSICIAN OR QUALIFIED HEALTH CARE PROVIDER ORDERS.

(a) There must be authorization by a physician or qualified health care provider in the child's file prior to the usage of or implementation of any of the following:

(A) All prescription medications;

(B) Non prescription medications except over the counter topicals;

(C) Treatments other than basic first aid;

(D) Therapies and use of mechanical restraint as a health and safety related protection;

(E) Modified or special diets;

(F) Prescribed adaptive equipment; and

(G) Aids to physical functioning.

(b) The foster provider must have:

(A) A copy of an authorization in the format of a written order signed by a physician or a qualified health care provider; or

(B) Documentation of a telephone order by a physician or qualified health care provider with changes clearly documented

on the medication administration record (MAR), including the name of the individual giving the order, the date and time, and the name of the person receiving the telephone order; or

(C) A current pharmacist prescription or manufacturer's label as specified by the physician's order on file with the pharmacy.

(c) A provider or alternate caregiver must carry out orders as prescribed by a physician or a qualified health care provider. Changes must not be made without a physician or a qualified health care provider's authorization.

(d) Each child's medication, including refrigerated medication, must be clearly labeled with the pharmacist's label, or in the manufacturer's originally labeled container, and kept in a locked location, or stored in a manner that prevents access by children.

(e) Unused, outdated or recalled medications must not be kept in the foster home and must be disposed of in a manner that will prevent illegal diversion into the possession of people other than for whom it was prescribed.

(f) The foster provider must keep a medication administration record (MAR) for each child. The MAR must be kept for all medications administered by the foster provider or alternate caregiver to that child, including over the counter medications and medications ordered by physicians or qualified health care providers and administered as needed (PRN) for the child.

(g) The MAR must include:

(A) The name of the individual;

(B) A transcription of the written physician's or licensed health practitioner's order, including the brand or generic name of the medication, prescribed dosage, frequency and method of administration;

(C) A transcription of the printed instructions from the package for topical medications and treatments without a physician's order;

(D) Times and dates of administration or self-administration of the medication;

(E) Signature of the person administering the medication or the person monitoring the self-administration of the medication;

(F) Method of administration;

(G) An explanation of why a PRN (i.e., as needed) medication was administered;

(H) Documented effectiveness of any PRN (i.e., as needed) medication administration;

(I) An explanation of any medication administration irregularity; and

(J) Any known allergy or adverse drug reactions and procedures that maintain and protect the physical health of the children placed in the foster home.

(h) Treatments, medication, therapies and special diets must be documented on the MAR when not used or applied according to the order

(i) Self-administration of medication. For any child who is self-administering medication, the foster provider must:

(A) Have documentation that a training program was initiated with approval of the child's ISP team or that training for the child was unnecessary;

(B) Have a training program that provides for retraining when there is a change in dosage, medication and time of delivery;

(C) Provide for an annual review, at a minimum, as part of the ISP process, upon completion of the training program;

(D) Assure that the child is able to handle his or her own medication regime;

(E) Keep medications stored in a locked area inaccessible to others; and

(F) Maintain written documentation of all training in the child's medical record.

(j) Any medication that is used with the intent to alter behavior of a child with a developmental disability must be documented on the ISP.

(k) Balancing test. When a psychotropic medication is first prescribed and annually thereafter, the foster provider must obtain a signed balancing test from the prescribing health care provider using the SPD Balancing Test Form. Foster providers must present the physician or health care provider with a full and clear description of the behavior and symptoms to be addressed, as well as any side effects observed.

(l) PRN (i.e., as needed) prescribed psychotropic medication are prohibited.

(m) Within one working day of any new prescription for psychotropic medication, the foster provider must notify the CDDP Service Coordinator, and if applicable the DHS-CW caseworker. This notification from the foster provider to the CDDP Service Coordinator must contain:

(A) The name of the prescribing physician, or qualified health care provider;

(B) The name of the medication;

(C) The dosage administration schedule prescribed; and

(D) The reason the medication was prescribed.

(10) DIRECT NURSING SERVICES.

(a) When direct nursing services are provided to a child the foster provider must:

(A) Coordinate with the nurse and the ISP team to ensure that the services being provided are sufficient to meet the individual's health needs; and

(B) Implement the nursing care plan, or appropriate portions therein, as agreed upon by the ISP team and the registered nurse.

(b) When nursing tasks are delegated, they must be delegated by a licensed Registered Nurse and in accordance with OAR 851-047-0000 through 851-047-0040 (Standards for Registered Nurse Delegation and Assignment of Nursing Care Tasks to Unlicensed Persons).

(11) CHILD RECORDS.

(a) General Information or Summary Record. The provider must maintain a record for each child in the home. The record must include:

(A) The child's name, date of entry into the foster home, date of birth, gender, religious preference, and guardianship status;

(B) The names, addresses, and telephone numbers of the child's guardian, family, advocate, or other significant person;

(C) The name, address, and telephone number of the child's preferred primary health provider, designated back up health care provider and clinic, dentist, preferred hospital, medical card number and any private insurance information, and Oregon Health Plan choice;

(D) The name, address, and telephone number of the child's school program; and

(E) The name, address, and telephone number of the CDDP Service Coordinator and representatives of other agencies providing services to the child.

(b) Medical and behavioral information must include:

(A) History of physical, emotional and medical problems, illnesses or mental health status that may be pertinent to current care;

(B) Current orders for all medications, treatments, therapies, use of restraint or intervention, special diets, adaptive equipment and any known food or medication allergies;

(C) Completed MAR from previous months;

(D) Pertinent medical and behavioral information such as hospitalizations, accidents, immunization records including Hepatitis B status and previous TB tests, and incidents or injuries affecting the health, safety or emotional well-being of the child; and

(E) Documentation or other notations of guardian consent for medical treatment that is not routine, including surgery and anesthesia.

(c) Individual Support Plan (ISP). Within 60 days of placement, the child's ISP must be prepared by the ISP team and, at a minimum, updated annually.

(A) The foster provider must participate with the ISP team in the development and implementation of the ISP to address each child's behavior, medical, social, financial, safety and other support needs.

(B) Prior to or upon entry to or exit from the foster home, the foster provider must participate in the development and implementation of a transition plan for the foster child.

(i) The transition plan must include a summary of the services necessary to facilitate the adjustment of the child to the foster home or after care plan; and

(ii) Identify the supports necessary to ensure health, safety, and any assessments and consultations needed for ISP development.

(d) Financial records.

(A) The foster provider must maintain a separate financial record for each child. The financial record must include:

(i) The date, amount and source of all income received on behalf of the child;

(ii) The room and board fee that is paid to the provider at the beginning of each month;

(iii) The date, amounts and purpose of funds disbursed on behalf of the child; and

(iv) The signature of the person making the entry.

(B) Any single item over $25 purchased with the child's personal funds, unless otherwise indicated in the child's ISP, must be documented including receipts, in the child's financial record.

(C) The child's ISP team may address how the child's personal spending money will be managed.

(D) If the child has a separate commercial bank account, records from that account must be maintained with the financial record.

(E) The child's personal funds must be maintained in a safe manner and separate from other members of the household funds.

(F) Misuse of personal spending may be cause for suspension, revocation or denial of renewal of the child foster home certificate.

(e) Personal Property Record.

(A) The foster provider must maintain a written record of each child's property that has significant personal value to the child, parent or guardian or as determined by the ISP team.

(B) Personal property records are not required for children who have a court approved Permanent Foster Care Placement Agreement, unless requested by the child's guardian.

(C) The personal property record must include:

(i) The description and identifying number, if any;

(ii) The date when the child brought in the personal property or made a new purchase;

(iii) The date and reason for the removal from the record; and

(iv) The signature of the person making the entry.

(f) Educational Records. The foster provider must maintain the following educational records when available:

(A) The child’s report cards;

(B) Any reports received from the teacher or the school;

(C) Any evaluations received as a result of educational testing or assessment; and

(D) Disciplinary reports regarding the child or young adult.

(g) Child records must be available to representatives of SPD and DHS-CW conducting inspections or investigations, as well as to the

child, if appropriate, and the guardian, or other legally authorized persons.

(h) Child records must be kept for a period of three years. If a child moves or the foster home closes, copies of pertinent information must be transferred to the child's new home.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0200 Environmental Standards
(Effective 7/5/2007)

(1) GENERAL CONDITIONS.

(a) The buildings and furnishings must be clean and in good repair and grounds must be maintained.

(b) Walls, ceilings, windows and floors must be of such character to permit frequent washing, cleaning, or painting.

(c) There must be no accumulation of garbage, debris, or rubbish.

(d) The home must have a safe, properly installed, maintained, and operational heating system. Areas of the home used by a foster child must be maintained at normal comfort range during the day and during sleeping hours. During times of extreme summer heat, the provider must make reasonable effort to make the child comfortable using available ventilation, fans or air-conditioning.

(2) EXTERIOR ENVIRONMENT.

(a) The premises must be free from objects, materials and conditions that constitute a danger to the occupants.

(b) Swimming pools, wading pools, ponds, hot tubs, and trampolines must be maintained to assure safety, kept in clean condition, equipped with sufficient safety barriers or devices to prevent injury, and used by foster children only under direct supervision by the provider or approved alternate caregiver.

(c) The home must have a safe outdoor play area on the property or within reasonable walking distance.

(3) INTERIOR ENVIRONMENT.

(a) Kitchen.

(A) Equipment necessary for the safe preparation, storage, serving and cleanup of meals must be available and kept in working and sanitary condition.

(B) Meals must be prepared in a safe and sanitary manner that minimizes the possibility of food poisoning or food-borne illness.

(C) If the washer and dryer are located in the kitchen or dining room area, soiled linens and clothing must be stored in containers in an area separate from food, and food storage prior to laundering.

(b) Dining Area. The home must have a dining area so those children in placement can eat together with the foster family.

(c) Living or Family Room. The home must have sufficient living or family room space that is furnished and accessible to all members of the family including the foster child.

(d) Bedrooms. Bedrooms used by children in care must:

(A) Have adequate space for the age, size and specific needs of each child;

(B) Be finished and attached to the house, and have walls or partitions of standard construction that go from floor to ceiling, and a door that opens directly to a hallway or common use room without passage through another bedroom or common bathroom;

(C) Have windows that open and provide sufficient natural light and ventilation, with window coverings provided that take into consideration the safety, care needs and privacy of the child;

(D) Have no more than four children to a bedroom;

(E) Have safe and age appropriate furnishings provided for each child including:

(i) A bed or crib with a frame unless otherwise documented by an ISP team decision, a clean comfortable mattress, and a water proof mattress cover, if the child is incontinent;

(ii) A private dresser or similar storage area for personal belongings that is readily accessible to the child;

(iii) A closet or similar storage area for clothing that is readily accessible to the child; and

(iv) An adequate supply of clean bed linens, blankets and pillows.

(F) Be on the ground level for children who are non-ambulatory or have impaired mobility;

(G) Provide flexibility in the decoration for the personal tastes and expressions of the children placed in the provider's home;

(H) Be in close enough proximity to the provider to alert the provider to nighttime needs or emergencies, or be equipped with a working monitor;

(I) Have doors that do not lock; and

(J) Have no three-tier bunk beds in bedrooms occupied by foster children.

(e) A child of the foster provider must not be required to sleep in a room also used for another purpose in order to accommodate a foster child.

(f) The foster provider must not permit the following sleeping arrangements for children placed in their home:

(A) Children of different sexes in the same room when either child is over the age of five years of age; and

(B) Children over the age of 12 months sharing a room with an adult.

(g) Bathrooms.

(A) Must have tubs or showers, toilets and sinks operable and in good repair with hot and cold water.

(B) A sink must be located near each toilet.

(C) There must be at least one toilet, one sink, and one tub or shower for each six household occupants, including the provider and family.

(D) Must have hot and cold water in sufficient supply to meet the needs of the child for personal hygiene. Hot water temperature sources for bathing and cleaning areas that are accessible by the foster child must not exceed 120 degrees F.

(E) Must have grab bars and non-slip floor surfaces for toilets, tubs, or showers for the child's safety as necessary for the child's care needs.

(F) Must have barrier-free access to toilet and bathing facilities with appropriate fixtures for children who utilize a wheel chair or other mechanical equipment for ambulation. Barrier free must be appropriate for the non-ambulatory child’s needs for maintaining good personal hygiene.

(G) The foster provider must provide each child with the appropriate personal hygiene and grooming items that meet each child's specific needs and minimize the spread of communicable disease.

(H) Window coverings in bathrooms must take into consideration the safety, care needs, and privacy of the child.

(4) GENERAL SAFETY.

(a) The foster provider must protect the child from safety hazards;

(b) Stairways must be equipped with handrails.

(c) A functioning light must be provided in each room and stairway.

(d) In homes with foster children age three or under, or children with impaired mobility, the stairways must be protected with a gate or door.

(e) Hot water heaters must be equipped with a safety release valve and an overflow pipe that directs water to the floor or to another approved location.

(f) Adequate safeguards must be taken to protect children who may be at risk for injury from electrical outlets, extension cords, and heat-producing devices.

(g) The foster home must have a working landline telephone and it must be operable when there is a power outage for emergency or general communication to all in the home. The home must have emergency phone numbers readily accessible and in close proximity to the phone.

(h) The foster provider must store all medications, poisonous chemicals, and cleaning materials in a way that prevents access by children.

(i) The foster provider must restrict children's access to potentially dangerous animals. Only domestic animals must be kept as pets. Pets must be properly cared for and supervised.

(j) Sanitation for household pets and other domestic animals must be adequate to prevent health hazards. Proof of rabies or other vaccinations as required by local ordinances, must be available to SPD upon request;

(k) The foster provider must take appropriate measures to keep the house and premises free of rodents and insects.

(l) The foster provider and members of the household must store any ammunition and firearms, unloaded, in separate locked places. Trigger locks alone are not approved as the sole source of locking firearms. The foster provider must notify the certifier within one working day whenever a firearm is brought to the premises.

(m) Loaded firearms must not be carried in any vehicle used while transporting a child in foster care unless a law enforcement officer is transporting the child.

(n) Ammunition must be kept in a locked container while transporting the child.

(o) Law enforcement officers are exempt from sections (4)(l)-(4)(n) of this rule only when they are complying with their law enforcement agency’s firearm safety procedures.

(p) The foster provider must have first aid supplies in the home in a designated place easily accessible to adults.

(q) There must be emergency access to any room that has a lock.

(r) An operable flashlight, at least one per floor, must be readily available in case of emergency.

(s) House or mailbox numbers must be clearly visible and easy to read for easy identification by emergency vehicles.

(t) Use of video monitors must only be used as indicated in the ISP or Behavior Support Plan.

(5) FIRE SAFETY.

(a) Smoke detectors must be installed in accordance with manufacturer's instructions, equipped with a device that warns of low battery, and maintained to function properly.

(A) Smoke detectors must be installed in each bedroom, adjacent hallways leading to the bedrooms, common living areas, basements, and at the top of every stairway in multi-story homes.

(B) Ceiling placement of smoke detectors is recommended. If wall-mounted, the smoke detectors must be between 6" and 12" from the ceiling and not within 12" of a corner.

(b) At least one fire extinguisher, minimally rated 2:A:10:B:C, must be visible and readily accessible on each floor, including basements. A qualified professional who is well versed in fire extinguisher maintenance must inspect every fire extinguisher at least once per year. All recharging and hydrostatic testing must be completed by a qualified entity properly trained and equipped for this purpose.

(c) Use of space heaters must be limited to only electric space heaters equipped with tip-over protection. Space heaters must be plugged directly into the wall. No extension cords must be used with such heaters. No freestanding kerosene, propane or liquid fuel space heaters must be used in the foster home.

(d) An emergency evacuation plan must be developed, posted and rehearsed at least once every 90 days with at least one drill practice per year occurring during sleeping hours. Alternate caregivers and other staff must be familiar with the emergency evacuation plan, and new children placed in care must be familiar with the emergency evacuation plan within 24 hours. Fire drill records must be retained for one year.

(A) Fire drill evacuation rehearsal must document the date, time for full evacuation, location of proposed fire, and names of all persons participating in the evacuation rehearsal.

(B) The foster provider must be able to demonstrate the ability to evacuate all children from the home within three minutes.

(e) Foster homes must have two unrestricted exits in case of fire. A sliding door or window that can be used to evacuate children can be considered a usable exit.

(A) Barred windows or doors used for possible exit in case of fire must be fitted with operable quick release mechanisms.

(B) Main, second, and third floor or basement bedrooms must have a secondary exit that allows safe and direct exit to the ground.

(f) Every bedroom used by children in care must have at least one operable window, of a size that allows safe rescue, with safe and direct exit to the ground, or a door for secondary means of escape or rescue.

(g) All external and indoor doors must have simple hardware with an obvious method of operation that allows for safe evacuation from the home. Homes with one or more individuals that are known to leave their place of residence without permission must have a functional and activated alarm system to alert the caregiver.

(h) Fireplaces and wood stoves must include barriers to keep children away from exposed heat sources.

(i) Solid or other fuel-burning appliances, stoves or fireplaces must be installed according to manufacturer's specifications and under permit, where applicable. All applicants applying for a new child foster home certificate after July 1, 2007 must have at least one carbon monoxide sensor installed in the home in accordance with manufactures instructions if the home has solid or other fuel-burning appliances, stoves or fireplaces. All foster providers certified prior to July 1, 2007 and moving to a new location that uses solid or other fuel-burning

appliances, stoves or fireplaces, must install a carbon monoxide sensor in the home in accordance with manufactures instructions prior to being certified at the new location.

(j) Chimneys must be inspected at the time of initial certification and if necessary the chimney must be cleaned. Chimneys must be inspected annually, unless the fireplace and or solid fuel-burning appliance was not used through the year of certification and will not be used in the future.

(k) A signed statement by the foster provider and certifier assuring that the fireplace and or solid fuel-burning appliance will not be in use must be submitted to SPD with the renewal application if a chimney inspection will not be completed.

(l) Flammable and combustible materials must be stored away from any heat source.

(6) SANITATION AND HEALTH.

(a) A public water supply must be utilized if available. If a non-municipal water source is used, it must be tested for coliform bacteria by a certified agent yearly, and records must be retained for two years. Corrective action must be taken to ensure potability.

(b) All plumbing must be kept in good working order. If a septic tank or other non-municipal sewage disposal system is used, it must be in good working order.

(c) The foster provider must use only pasteurized liquid or powdered milk for consumption by children in care.

(d) Garbage and refuse must be suitably stored in readily cleanable, rodent proof, covered containers, and removed weekly.

(e) Smoking:

(A) The foster provider must not provide tobacco products in any form to children under the age of 18 placed in their home.

(B) Foster children must not be exposed to second hand smoke in the foster home or when being transported.

(7) TRANSPORTATION SAFETY.

(a) The foster provider must ensure that safe transportation is available for children to access schools, recreation, churches, scheduled medical care, community facilities and urgent care.

(b) If there is not a licensed driver and vehicle at all times there must be a plan for urgent and routine transportation.

(c) The foster provider must maintain all vehicles used to transport children in a safe operating condition and must ensure that a first aid kit is in each vehicle.

(d) All motor vehicles owned by the foster provider and used for transporting children must be insured to include liability.

(e) Only licensed adult drivers must transport children in care in motor vehicles that are insured to include liability.

(f) When transporting children in foster care, the driver must ensure that all children in foster care use seat belts or appropriate safety seats. Car seats or seat belts must be used for transporting all children in accordance with the Department of Transportation under ORS 815.055.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0210 Variance
(Effective 7/5/2007)

(1) SPD may grant a variance to these rules based upon demonstration by the foster provider that an alternative method or different approach provides equal or greater program effectiveness and does not adversely impact the welfare, health, safety or rights of the child.

(2) The foster provider requesting a variance must submit, to the CDDP, a SPD variance request form that contains the following:

(a) The section of the rule from which the variance is sought;

(b) The reason for the proposed variance;

(c) The alternative practice, service, method, concept or procedure proposed; and

(d) If the variance applies to an individual's services, evidence that the variance is consistent with a currently approved ISP.

(3) The CDDP will forward the signed variance request form to SPD, within 30 days of receipt of the request, indicating their position on the proposed variance.

(4) The Administrator, or designee, may approve or deny the request for a variance.

(5) SPD will notify the foster provider and the CDDP of the decision. SPD will send this notice, within 30 calendar days of receipt of the request, with a copy to other relevant DHS programs or offices.

(6) Any grievance of a denial for a variance request must be made in writing within 30 days to the Administrator with a copy sent to the CDDP. The Administrator's, or designee’s, decision will be final.

(7) SPD will determine the duration of the variance.

(8) Granting a variance does not set a precedent that must be followed by the child-placing agency when evaluating subsequent requests for variances.

(9) The foster provider may implement a variance only after written approval from the Department.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0220 Inactive Referral Status; Denial, Suspension, Revocation, Refusal to Renew
(Temporary Effective 1/1/2010 – 6/30/2010)

(1) INACTIVE REFERRAL STATUS. SPD may require that a foster provider go on inactive referral status. Inactive referral status is a period, not to exceed 12 months or beyond the duration of the foster provider's current certificate, when during that time no agency shall refer additional children to the home and the provider may not accept additional children. The foster provider may request to be placed on inactive referral status. The certifier may recommend that SPD initiate inactive referral status.

(a) SPD may place a foster provider on inactive referral status for reasons including, but not limited to the following:

(A) SPD or DHS-CW is currently assessing an allegation of abuse in the home.

(B) The special needs of the children currently in the home require so much of the foster provider's care and attention that additional children may not be placed in the home.

(C) The foster provider has failed to meet individualized training requirements or SPD has asked the foster provider to obtain additional training to enhance his or her skill in caring for the children placed in the home.

(D) The family or members of the household are experiencing significant family or life stress or changes in physical or mental health conditions that may be impairing their ability to provide care. Examples include, but are not limited to:

(i) Separation or divorce and relationship conflicts;

(ii) Marriage;

(iii) Death;

(iv) Birth of a child;

(v) Adoption;

(vi) Employment difficulties;

(vii) Relocation;

(viii) Law violation; or

(ix) Significant changes in the care needs of their own family members (children or adults).

(b) SPD shall notify the foster provider immediately upon placing them on inactive referral.

(c) Within 30 days of initiating inactive referral status, SPD shall send a letter to the foster provider that confirms the inactive status, states the reason for the status, and the length of inactive referral status.

(d) When the foster provider initiates inactive referral status, the inactive status ends at the request of the foster provider and when SPD has determined the conditions that warranted the inactive referral status have been resolved.

(A) There must be no conditions in the home that compromise the safety of the children already placed in the home.

(B) If applicable, a mutually agreed upon plan must be developed to address the issues prior to resuming active status.

(C) The foster provider must be in compliance with all certification rules, including training requirements, prior to a return to active status.

(2) DENIAL, SUSPENSION, REVOCATION, REFUSAL TO RENEW.

(a) SPD shall deny, suspend, revoke, or refuse to renew a child foster care certificate where it finds there has been substantial failure to comply with these rules.

(b) Failure to disclose requested information on the application or providing falsified, incomplete or incorrect information on the application shall constitute grounds for denial or revocation of the certificate.

(c) SPD shall deny, suspend, revoke, or refuse to renew a certificate if the foster provider fails to submit a plan of correction, implement a plan of correction, or comply with a final order of SPD.

(d) Failure to comply with OAR 411-346-0200(5) (Environmental Standards) may constitute grounds for denial, revocation, or refusal to renew.

(e) SPD may suspend the child foster home certificate where imminent danger to health or safety of individuals exists.

(f) SPD shall deny, suspend, revoke, or refuse to renew a certificate if the foster provider is convicted of any crime listed in Exhibit 346-1 or as described in OAR 411-346-0150(8).

(g) Suspension shall result in the removal of children placed in the foster home and no placements shall be made during the period of suspension.

(h) The applicant or foster provider whose certificate has been denied or revoked may not reapply for certification for five years after the date of denial or revocation.

(i) SPD shall provide the applicant or the foster provider a written notice of denial, suspension, or revocation that states the reason for such action.

(j) Such revocation, suspension, or denial shall be done in accordance with the rules of SPD and ORS chapter 183 that governs contested cases.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

411-346-0230 Appeals

(Effective 7/5/2007)

(1) Upon written notice of denial, suspension, revocation or non-renewal of a certificate from SPD, an applicant or foster provider may request an informal conference to appeal the decision. An informal conference is a requirement before a contested hearing. The written request must be submitted to the Assistant Administrator, or designee, of SPD.

(2) The written request must be submitted within ten days of the denial, suspension, revocation or non-renewal notification date and must specifically state the reasons for the appeal. The applicant or foster provider must submit documentation and explain the basis for the appeal at the informal conference. Following the informal conference, SPD will notify the applicant or foster provider of its decision by mail.

(3) No judicial review is available following a decision from an informal conference and appeals process with SPD. If an applicant or foster provider is not satisfied with the decision rendered by SPD during the informal conference, the applicant or foster provider may request a contested case hearing pursuant to ORS 183.413-183.470. The applicant or foster provider must notify SPD in writing of the request for a contested case hearing within ten days of the decision of the informal conference. The request for the contested case hearing must specifically state the reason for requesting the hearing.

Stat. Auth.: ORS 409.050, 410.070, 430.215, & 443.835
Stats. Implemented: ORS 443.830 & 443.835

Exhibit 346-1

(Temporary Effective 1/1/2010 – 6/30/2010)

ORS 163.095 Aggravated murder
ORS 163.115 Murder
ORS 163.118 Manslaughter I
ORS 163.125 Manslaughter II
ORS 163.145 Criminally negligent homicide
ORS 163.149 Aggravated vehicular homicide
ORS 163.165 Assault III
ORS 163.175 Assault II
ORS 163.185 Assault I
ORS 163.187 Strangulation
ORS 163.200 Criminal mistreatment II
ORS 163.205 Criminal mistreatment I
ORS 163.225 Kidnapping II
ORS 163.235 Kidnapping I
ORS 163.263 Subjecting another person to involuntary servitude II
ORS 163.264 Subjecting another person to involuntary servitude I
ORS 163.266 Trafficking in persons
ORS 163.275 Coercion
ORS 163.355 Rape III
ORS 163.365 Rape II
ORS 163. 375 Rape I
ORS 163.385 Sodomy III
ORS 163.395 Sodomy II
ORS 163.405 Sodomy I
ORS 163.408 Unlawful sexual penetration II
ORS 163.411 Unlawful sexual penetration I
ORS 163.415 Sexual Abuse III
ORS 163.425 Sexual Abuse II
ORS 163.427 Sexual Abuse I
ORS 163.432 Online sexual corruption of a child II, if the offender reasonably believed the child to be more than five years younger than the offender
ORS 163.432 Online sexual corruption of a child I, if the offender reasonably believed the child to be more than five years younger than the offender
ORS 163.435 Contributing to the sexual delinquency of a minor
ORS 163.445 Sexual misconduct, if the offender is at least 18 years of age
ORS 163.465 Public Indecency
ORS 163.467 Private Indecency
ORS 163.525 Incest with a child victim
ORS 163.535 Abandonment of a child
ORS 163.537 Buying or selling a person under 18 years of age
ORS 163.670 Using a child in display of sexually explicit conduct
ORS 163.680 Paying for viewing a child's sexually explicit conduct
ORS 163.684 Encouraging child sexual abuse I
ORS 163.686 Encouraging child sexual abuse II
ORS 163.687 Encouraging child sexual abuse III
ORS 163.688 Possession of materials depicting sexually explicit conduct of a child I
ORS 163.689 Possession of materials depicting sexually explicit conduct of a child II
ORS 163.700 Invasion of personal privacy
ORS 164. 055 Theft I
ORS 164. 057 Aggravated Theft I
ORS 164.098 Organized retail theft
ORS 164.125 Theft of services, if charged as a felony
ORS 164.215 Burglary II
ORS 164.225 Burglary I
ORS 164.325 Arson I
ORS 164.377 Computer crime, if charged with a felony
ORS 164.405 Robbery II
ORS 164.415 Robbery I
ORS 165.022 Criminal possession of a forged instrument I
ORS 165.032 Criminal possession of a forgery device
ORS 165.800 Identity theft
ORS 165.803 Aggravated identity theft
ORS 167.012 Promoting prostitution
ORS 167.017 Compelling prostitution
ORS 167.054 Furnishing sexually explicit material to a child
ORS 167.057 Luring a minor
ORS 181.594 Sex crimes, including: Transporting child pornography into the state