DEPARTMENT OF HUMAN SERVICES
DEVELOPMENTAL DISABILITIES
OREGON ADMINISTRATIVE RULES

CHAPTER 411
DIVISION 346

FOSTER HOMES FOR CHILDREN WITH INTELLECTUAL OR DEVELOPMENTAL DISABILITIES

411-346-0100 Statement of Purpose
(Temporary Effective 02/23/2016 to 08/20/2016)

(1) The rules in OAR chapter 411, division 346 prescribe the standards and procedures for the provision of Developmental Disabilities-funded foster care services for children with intellectual or developmental disabilities in child foster homes certified by the Department of Human Services as a condition for certification and payment.

(2) These rules incorporate the provisions for home and community-based services and settings and person-centered service planning set forth in OAR chapter 411, division 004. These rules and the rules in OAR chapter 411, division 004 ensure children with intellectual or developmental disabilities receive services in settings that are integrated in and support the same degree of access to the greater community as people not receiving home and community-based services.

(a) A foster provider initially certified on or after January 1, 2016, must meet the requirements in OAR chapter 411, division 004, prior to being certified.

(b) A foster provider certified prior to January 1, 2016, must make measurable progress toward compliance with the rules in OAR chapter 411, division 004, and be in full compliance by September 1, 2018.

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

411-346-0110 Definitions

(Temporary Effective 02/23/2016 to 08/20/2016)

Unless the context indicates otherwise, the following definitions and the definitions in OAR 411-317-0000 apply to the rules in OAR chapter 411, division 346:

(1) "Abuse" means:

(a) "Abuse" as defined in ORS 419B.005 for a child less than 18 years of age; and

(b) "Abuse" as defined in OAR 407-045-0260 when an individual aged 18 to 21 resides in a certified child foster home.

(2) "Alternate Caregiver" means any person 18 years of age and older responsible for the care or supervision of a child in foster care.

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

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

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

(6) "Aversive Stimuli" means the use of any natural or chemical product to alter the behavior of a child, 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.

(7) "Behavior Support" means the services consistent with positive behavioral theory and practice that are provided to assist with behavioral challenges due to the intellectual or developmental disability of a child that prevents the child from accomplishing activities of daily living, instrumental activities of daily living, health related tasks, and provides cognitive

supports to mitigate behavior. Behavior supports are provided in the home or community.

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

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

(10) "CDDP" means "Community Developmental Disability Program".

(11) "Certificate" means a document issued by the Department that notes approval to operate a child foster home for a period not to exceed two years.

(12) "Certifying Agency" means the Department, CDDP, or an agency approved by the Department who is authorized to gather required documentation to issue or maintain a child foster home certificate.

(13) "Child" means:

> (a) An individual who is less than 18 years of age who has a provisional determination of an intellectual or developmental disability by the CDDP; or
>
> (b) An individual age 18 to 21 with an intellectual or developmental disability who is remaining in the same foster home for the purpose of completing their IEP based on the recommendation of the ISP team and an approved certification variance.

(14) "Child Foster Home" means a home certified by the Department that is maintained and lived in by the person named on the foster home certificate. A child foster home is considered a provider owned, controlled, or operated residential setting.

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

(16) "Child Placing Agency" means the Department, CDDP, or the OYA.

(17) "Clinical Criteria" means the criteria used by the Department or the Medically Fragile Children's Unit as described in OAR 411-350-0055 to assess the private duty nursing support needs of a child.

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

(19) "Community Nursing Services" mean the nursing services that focus on the chronic and ongoing health and safety needs of a child. Community nursing services include an assessment, monitoring, delegation, training, and coordination of services. Community nursing services are provided according to the rules in OAR chapter 411, division 048 and the Oregon State Board of Nursing rules in OAR chapter 851.

(20) "Denial" means the refusal of the certifying agency to issue a certificate of approval to operate a child foster home because the certifying agency has determined that the home or the applicant is not in compliance with one or more of these rules.

(21) "Department" means the Department of Human Services.

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

(23) "Discipline" means "behavior support" as defined in this rule.

(24) "Domestic Animals" mean the animals domesticated so as to live and breed in a tame condition, such as dogs, cats, and domesticated farm stock.

(25) "Educational Surrogate" means the person who acts in place of a parent in safeguarding the rights of a child in the public education decision-making process:

> (a) When the parent of the child 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 the parent of the child or young adult student.

(26) "Emergency Certificate" means a foster home certificate issued for 30 days.

(27) "Foster Care" means a child is placed away from their parent or guardian in a certified child foster home.

(28) "Foster Provider" means the certified care provider who resides at the address listed on the foster home certificate. A foster provider is considered a private agency for purposes of mandatory reporting of abuse.

(29) "Functional Needs Assessment":

(a) Means the comprehensive assessment or re-assessment that:

(A) Documents physical, mental, and social functioning;

(B) Identifies risk factors, choices and preferences, service and support needs, strengths, and goals; and

(C) Determines the service level.

(b) The functional needs assessment for a child residing in a foster home is known as the Support Needs Assessment Profile (SNAP).

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

(31) "Home Study" means the assessment process used for the purpose of determining the ability of an applicant to care for a child in need of foster care placement.

(32) "ICWA" means the Indian Child Welfare Act.

(33) "IEP" means "Individualized Education Program".

(34) "ISP" means "Individual Support Plan".

(35) "Licensed Medical Professional" means a person who meets the following:

(a) Holds at least one of the following valid licensures or certifications:

(A) Physician licensed to practice in Oregon;

(B) Nurse practitioner certified by the Oregon State Board of Nursing under ORS 678.375; or

(C) Physician's assistant licensed to practice in Oregon; and

(b) Whose training, experience, and competence demonstrate expertise in children's mental health and the ability to conduct a mental health assessment and provide psychotropic medication management for a child in foster care.

(36) "MAR" means medication administration record.

(37) "Member of the Household" means any adult or child living in the home, including an employee or volunteer assisting in the care provided to a child placed in the home. A child in foster care is not considered a member of the household.

(38) "Mental Health Assessment" means the assessment used to determine the need for mental health services by interviewing a child and obtaining all pertinent biopsychosocial information as identified by the child, the family of the child, and collateral sources. A mental health assessment:

(a) Addresses the condition presented by the child;

(b) Determines a diagnosis; and

(c) Provides treatment direction and individualized services and supports.

(39) "Misuse of Funds" includes, but is not limited to, a foster provider or staff person:

(a) Borrowing from, or loaning money to, a child in foster care;

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

(c) Adding the name of the foster provider or staff person to the bank account of a child or other titles for personal property without approval of the child when of age to give legal consent, or the guardian of the child and authorization of the ISP team;

(d) Inappropriately expending or theft of the personal funds of a child;

(e) Using the personal funds of a child for the benefit of the foster provider or staff person; or

(f) Commingling the funds of a child with the funds of the foster provider or the funds of another child.

(40) "Monitoring" means:

(a) The observation of a certified child foster home by the Department or the designee of the Department to determine continuing compliance with these rules; and

(b) The periodic review of the implementation of services and supports identified in an ISP and the quality of services delivered.

(41) "Nursing Services" means the provision of individual-specific advice, plans, or interventions by a nurse at a home based on the nursing process as outlined by the Oregon State Board of Nursing.

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

(43) "OHA" means "Oregon Health Authority".

(44) "OIS" means "Oregon Intervention System".

(45) "OYA" means "Oregon Youth Authority". OYA is the agency that has been given commitment and supervision responsibilities over a youth offender 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.

(46) "Permanent Foster Care" means the long term contractual agreement between a foster provider and the Children, Adults, and Families Division of the Department, approved by the juvenile court that specifies the responsibilities and authority of the foster provider and the commitment by the permanent foster provider to raise a child until the age of majority or until the court determines that permanent foster care is no longer the appropriate plan for the child.

(47) "Positive Behavioral Theory and Practice" means a proactive approach to behavior and behavior interventions that:

(a) Emphasizes the development of functional alternative behavior and positive behavior intervention;

(b) Uses the least intrusive intervention possible;

(c) Ensures that abusive or demeaning interventions are never used; and

(d) Evaluates the effectiveness of behavior interventions based on objective data.

(48) "Private Duty Nursing" means the state plan nursing services described in OAR chapter 410, division 132 (OHA, Private Duty Nursing Services) and OAR 411-350-0055 that are determined medically necessary to support a child or young adult in a foster home.

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

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

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

(52) "Safeguarding Equipment" means a device used to provide support to a child for the purpose of achieving and maintaining functional body position, proper balance, and protecting the individual from injury or symptoms of existing medical conditions.

(53) "Significant Medical Needs" includes, but is not limited to, total assistance required for all activities of daily living, such as access to food or fluids, daily hygiene that is not attributable to the chronological age of a child, and frequent medical interventions required by a Nursing Service Plan or ISP for health and safety of the child.

(54) "Suspension" means an immediate, temporary withdrawal of the approval to operate a child foster home after the certifying agency determines a foster provider or the child foster home is not in compliance with one or more of these rules or there is a threat to the health, safety, or welfare of a child.

(55) "These Rules" mean the rules in OAR chapter 411, division 346.

(56) "Unauthorized Absence" means any length of time when a child is absent from a foster home without prior approval as specified in the ISP for the child.

(57) "Urgent Medical Need" means the onset of psychiatric or medical symptoms requiring attention within 48 hours to prevent a serious deterioration in the mental or physical condition of a child.

(58) "Variance" means the temporary exemption from a regulation or provision of these rules that may be granted by the Department upon written application by the certifying agency.

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

411-346-0120 Certification Required
(Amended 12/28/2013)

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

(a) The Department;

(b) DHS-CW; or

(c) The OYA.

(2) A child in foster care shall only be placed in a certified child foster home.

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

411-346-0130 Native American Child Welfare Act
(Amended 12/28/2013)

The Native American Child Welfare Act (ICWA) gives federally recognized Native American tribes the authority to select a home for a child protected by the ICWA. Tribes and Alaskan Native Regional Corporations may license, approve, or specify a foster home for a child protected by the ICWA. The tribe is authorized to decide which of the following three preferences to use or whether to request that the Department or DHS-CW certify the home. When the tribe requests the Department to certify the home, the Department shall use these rules for certification. Native American 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 shall be given for placement with:

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

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

(3) A Native American foster home licensed or approved by an authorized non-Native American licensing authority.

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

411-346-0140 Selection
(Amended 12/28/2013)

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

(2) A 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 a child placed in foster care.

(3) A 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 and 443.835
Stats. Implemented: ORS 430.215, 443.830, and 443.835

411-346-0150 General Requirements for Certification
(Amended 12/28/2014)

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

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

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

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

(5) An applicant must provide the following information:

(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, such as 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 people, three of whom are unrelated, who have known each applicant for two years or more and who can attest to the character of the applicant and the ability of the applicant to care for children. The Department may contact schools, employers, adult children, and other sources as references;

(e) Reports of all criminal charges, arrests, or convictions, including the date of offense and the resolution of those charges, for all employees or volunteers and people living in the home. If the minor children of the applicant are living in the home, the applicant must

also list reports of all criminal or juvenile delinquency charges, arrests, or convictions, including the date of offense and the resolution of those charges;

(f) Founded reports of child abuse or substantiated abuse, including dates, locations, and resolutions of those reports, for all people 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, including whether the obligor is current with payments or in arrears, and whether any wages of the applicant or foster provider are being attached or garnished for any reason;

(j) A statement from a physician, on a form provided by the Department, 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 child in foster care, caregiver, and other occupants of the home;

(B) Windows;

(C) Exit doors;

(D) Smoke alarms 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 ICWA 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, foster providers, alternate caregivers, employees of foster providers, volunteers, other occupants in the foster home who are 18 years of age or older, other adults having regular contact in the foster home with a child in foster care, and any subject individual as defined in OAR 407-007-0210 must consent to a background check by the Department in accordance with OAR 407-007-0200 to 407-007-0370 (Background Check Rules) and under ORS 181.534. The Department may require a background check on members of the household less than 18 years of age if there is reason to believe that a member of the household may pose a risk to a child placed in the home. All people subject to a background check are required to complete an Oregon background check and a national background check as described in OAR 407-007-0200 to 407-007-0370, including the use of fingerprint cards.

(a) Alternate caregivers, employees of foster providers, and volunteers may be approved to work in multiple homes within a county only when working in the same employment role at each home. The indication of worksite location must be included in the background check request for each alternate caregiver, employee of the foster provider, or volunteer who intends to work at various child foster homes within the licensing jurisdiction of the county.

(b) Effective July 28, 2009, public funds may not be used to support, in whole or in part, a person described in section (8) of this rule in any capacity who has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(c) A person does not meet qualifications as described in this rule if the person has been convicted of any of the disqualifying crimes listed in OAR 407-007-0275.

(d) Section (8)(a) and (b) of this rule do not apply to employees hired prior to July 28, 2009 that remain in the current position for which the employee was hired.

(e) Any person as described in section (8) of this rule must self-report any potentially disqualifying condition as described in OAR 407-007-0280 and OAR 407-007-0290. The person must notify the Department or the designee of the Department within 24 hours.

(9) The Department may not issue or renew a certificate if an applicant or member of the household:

(a) Has, after completing the background check, 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; or

(D) Rape, sexual assault, or homicide.

(c) Has, within the past five years from the date the background 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.

(10) An applicant or foster provider may request to withdraw an application any time during the certification process by notifying the certifying agency in writing. Written documentation by the certifying agency of oral notice may substitute for written notification.

(11) The Department may suspend or revoke a certificate or may not issue or renew a certificate for a minimum of five years, if an 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.

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

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

(14) An application is incomplete and void unless all supporting materials are submitted to the Department 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 the Department. A decision to approve or deny certification is made by the Department within 60 days from the receipt of the completed application.

(16) Compliance with these rules is determined by the Department 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 issued on or after February 1, 2010 is valid for a maximum of two years unless revoked or suspended.

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

(18) A condition may be attached to a certificate that limits a foster provider to the care of a specific child. A foster provider with this limitation does not receive referrals.

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

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

(21) A foster provider may not be the parent or legal guardian of any child placed in their home for foster care services funded by the Department.

(22) If an applicant or foster provider intends to provide care for a child with significant medical needs, at least one provider or applicant 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, such as a registered nurse (RN) or licensed practical nurse (LPN), or the equivalent of two additional years full-time experience providing care and support to an individual who has a medical condition that is serious and may be life-threatening;
>
> (c) Copies of all current health related licenses 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 child 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 ability of the applicant and past experiences as a caregiver. The medical professional references may serve as two of the four references in section (5)(d) of this rule; and

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

(23) A foster provider may not accept a child with significant medical needs unless an initial Nursing Service Plan for the child is in place at the time of placement that addresses the health and safety supports for the child.

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

411-346-0160 Renewal of Certificate
(Amended 12/28/2013)

(1) At least 90 days prior to the expiration of a certificate, the Department shall send a reminder notice and application for renewal to the currently certified provider. Submittal of a renewal application prior to the expiration date keeps the certificate in effect until the Department takes action. If the renewal application is not submitted prior to the expiration date, the child foster home shall 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 certifying agency, a financial statement, physician statement, and floor plan may not be required.

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

(4) School reports may not be required if the Department or the certifying agency reasonably assumes this information has not changed or is not necessary.

(5) The Department or the certifying agency may investigate any information in the renewal application and shall conduct a home inspection.

(6) The provider shall be given a copy of the inspection form documenting any deficiencies and a time frame to correct deficiencies. Deficiencies must be corrected no longer than 60 days from the date of inspection. If documented deficiencies are not corrected within the time frame specified, the renewal application shall 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 background 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 10 hours of Department approved training per year prior to the 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 6 of the 10 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 and 443.835
Stats. Implemented: ORS 430.215, 443.830, and 443.835

411-346-0165 Emergency Certification
(Amended 12/28/2013)

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

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

(b) A DHS-CW background check identifies no founded reports of child abuse 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 shall be living in the foster home, the following additional requirements must be met before an emergency certificate may 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;

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

(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;

(d) Copies of all current medical related licenses or certificates must be provided to the certifying agency; 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 the renewal.

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

411-346-0170 Personal Qualifications of the Applicant and Foster Provider
(Temporary Effective 02/23/2016 to 08/20/2016)

(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 a child placed in the foster home;

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

(d) Demonstrate the knowledge and understanding of positive supports and ways of helping a child in foster care 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, such as family, friends, neighborhood contacts, churches, or community groups;

(h) Demonstrate a lifestyle 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 requirements for placement of Native American children; and

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

(2) HEALTH QUALIFICATIONS.

(a) The applicant and foster provider must provide the Department 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 the Department if any member of the household has or develops a serious communicable disease or other serious health condition that may affect the provider's ability to care for the child, or may affect the health and safety of the child.

(b) The applicant, foster provider, and other adults in the household caring for a child in foster care must be physically and mentally able to perform the duties of a foster provider as described 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 the Department either during the application process or while certified, the applicant or foster provider must, at their expense and from a source acceptable to the Department, supply psychological, medical or physical, sex-offender, drug and alcohol, and psychiatric reports and evaluations to the Department.

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

411-346-0180 Professional Responsibilities of the Foster Provider
(Amended 12/28/2014)

(1) TRAINING AND DEVELOPMENT.

(a) The foster provider must complete a minimum of 15 hours of pre-service training prior to certification and 10 hours annually for certification renewal. The Department or the certifying agency may require additional hours of training based on the needs of the child served in the home.

(b) The foster provider must participate in training provided or approved by the Department or the certifying agency. Such training must include educational opportunities designed to enhance the awareness, understanding, and skills of the foster provider to meet the special needs of a child placed in the home of the foster provider.

(c) The foster provider must complete mandatory reporter 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 child placed in their home;

(b) Participate as team members in developing and implementing the ISP when initiated by the CDDP services coordinator for the child placed in their home;

(c) In advance or within one business day, notify the certifying agency 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 child in foster care by another agency, including relief care;

(E) Arrests or criminal involvement;

(F) The addition of hunting equipment and weapons;

(G) The addition of a swimming pool; or

(H) The addition of a pet.

(d) Immediately notify the CDDP services coordinator and guardian of an injury, illness, or accident of the child or any unusual incident or circumstance involving the child that may have a serious effect on the health, safety, physical, or emotional well-being of the child in foster care;

(e) Notify the guardian and CDDP staff of any unauthorized absence of a child in foster care 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;

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

(h) Allow the Department or certifying agency staff access to:

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

(B) Inspect or examine the home, the records and accounts of a child, 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 the Department or the certifying agency; and

(j) Authorize substitute caregivers to permit entrance by the Department or the certifying agency for the purpose of inspection and investigation.

(3) ACCEPTING CHILDREN FOR CARE.

(a) Except as described in section (3)(c) of this rule, a certified provider may not exceed the following maximum number of children in the foster home including the biological children of the provider:

(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) 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 the certification of the child foster home, or if the provider feels his or her skill level may not safely or effectively support the child.

(e) A foster provider may provide relief care in the child foster home for a child upon approval by the certifying agency or the Department.

(f) A foster provider must obtain approval from the certifying agency prior to accepting a child for placement.

(g) A child who turns 18 may continue to reside in their current certified child foster home when the ISP team determines it is in the best interest of the child to remain in their current certified child foster home. When the ISP team determines a child who is turning 18 may remain in their current certified child foster home, the foster provider must:

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

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

(h) Any variance to subsections (3)(a) through (3)(h) of this section must take into consideration the maximum safe physical capacity of the home including:

(A) Sleeping arrangements;

(B) The ratio of adults to children;

(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.

(i) The foster provider may not care for unrelated adults on a commercial basis in the child foster home or accept children for day care in the child foster home while currently certified as a foster provider.

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

(4) INVOLUNTARY REDUCTIONS, TRANSFERS, AND EXITS.

(a) A foster provider must only reduce, transfer, or exit a child involuntarily for one or more of the following reasons:

(A) The behavior of the child poses an imminent risk of danger to self or others;

(B) The child experiences a medical emergency;

(C) The service needs of the child exceed the ability of the foster provider;

(D) Failure to pay for services; or

(E) The certification for the child foster home is suspended, revoked, not renewed, or voluntarily surrendered.

(b) NOTICE OF INVOLUNTARY REDUCTION, TRANSFER, OR EXIT. A foster provider must not reduce services, transfer, or exit a child involuntarily without 30 days advance written notice to the parent or guardian of the child and the CDDP services coordinator, except in the case of a medical emergency or when a child is engaging in behavior that poses an imminent danger to self or others as described in subsection (c) of this section.

(A) The written notice must be provided on the Notice of Involuntary Reduction, Transfer, or Exit form approved by the Department and include:

(i) The reason for the reduction, transfer, or exit; and

(ii) The right to a hearing as described in subsection (e) of this section.

(B) A Notice of Involuntary Reduction, Transfer, or Exit is not required when the parent or guardian of a child requests the reduction, transfer, or exit.

(c) A foster provider may give less than 30 days advance written notice only in a medical emergency or when a child is engaging in behavior that poses an imminent danger to self or others in the home. The notice must be provided to the parent or guardian of the child and the CDDP services coordinator immediately upon determination of the need for a reduction, transfer, or exit.

(d) A foster provider is responsible for the provision of services until a child exits the home.

(e) HEARING RIGHTS. A child and the parent or guardian of a child must be given the opportunity for a hearing under ORS chapter 183 and OAR 411-318-0030 to dispute an involuntary reduction, transfer, or exit. If a child or the parent or guardian of a child requests a hearing, the child must receive the same services until the hearing is resolved. When a child has been given less than 30 days advance written notice of a reduction, transfer, or exit as described in subsection (c) of this section and the child or the parent or guardian of the child has requested a hearing, the foster provider must reserve the room of the child until receipt of the final order.

(5) RELATIONSHIP WITH THE FAMILY OF A CHILD. In accordance with the ISP for a child and the guardian of the child, the foster provider must:

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

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

(c) Provide the child reasonable opportunities to communicate with his or her family members.

(6) CONFIDENTIALITY.

(a) The foster provider and the family of the foster provider must treat personal information about a child or the family of a child in a confidential manner. Confidential information is to be disclosed on a need to know basis to law enforcement, certifying agency staff, 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 subsection (6)(a) of this section, the foster provider and the family of the foster provider must comply with the provisions of ORS 192.553 to 192.568 and therefore may use or disclose the protected health information of a child only:

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

(B) As authorized by the personal representative or guardian of the child appointed under ORS 125.305, 419B.372, 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 child in a manner that ensures their confidentiality.

(7) MANDATORY REPORTING.

(a) The foster provider and the employees and volunteers of the foster provider are mandatory reporters of suspected abuse of any child as defined by ORS 419B.005. Upon reasonable cause to believe that abuse 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, employees of the foster provider, independent contractors, or volunteers are providing services to an individual 18 years or older and have reason to believe abuse as defined in OAR 407-045-0260 has occurred, the foster provider, employees of the foster provider, independent contractors, or volunteers must report the pertinent information to the CDDP or law enforcement in accordance with ORS 430.737.

(c) Any protective physical intervention that results in an injury to the child, as defined in ORS 419B.005, must be reported to DHS-CW and

the CDDP services coordinator by the foster provider. Same day oral notification is required.

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

411-346-0190 Standards and Practices for Care and Services
(Temporary Effective 02/23/2016 to 08/20/2016)

(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 child in the child foster 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 child;

(c) In accordance with the ISP and as defined in the DHS-CW case plan (if applicable), encourage the child to participate in age-appropriate and developmentally-appropriate activities including, but not limited to, extracurricular, enrichment, cultural, and social activities, and support the participation of the child in such activities with family, friends, and on his or her own when appropriate;

(d) Promote the independence and self-sufficiency of the child by encouraging and assisting the child to develop new skills and perform age-appropriate tasks;

(e) In accordance with the ISP and as defined in the DHS-CW case plan (if applicable), ask the child in foster care to participate in household chores appropriate to the age and ability of the child that are commensurate with household chores expected of the children of the foster provider;

(f) Provide the child with reasonable access to a telephone and to writing materials;

(g) In accordance with the ISP and as defined in the DHS-CW Case Plan (if applicable), permit and encourage the child to have visits with family and friends;

(h) Allow regular contacts and private visits or phone calls with the CDDP services coordinator and the DHS-CW case worker (if applicable); and

(i) Not allow a child in foster care to baby-sit in the child foster home or elsewhere without permission of the CDDP services coordinator and the guardian.

(2) RIGHTS OF A CHILD.

(a) The rights of a child are described in OAR 411-318-0010 (Individual Rights).

(b) The individual rights are provided as described in OAR 411-318-0010 (Individual Rights).

(3) 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 the family of a child.

(b) In accordance with the ISP and the preferences of the guardian of the child, 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 foster provider.

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

(4) PUBLIC 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 IEP for the child;

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

(d) Must consult with school personnel when there are issues with the child in school and report to the guardian and CDDP services coordinator any serious situations that may require Department 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 educational progress of the child; and

(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.

(5) ALTERNATE CAREGIVERS.

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

(b) A child care plan for a child in foster care must be approved by the Department, the CDDP, or DHS-CW before it is implemented. When a child is cared for by a child care provider or child care 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 Relief Care Plan approved by the certifying agency or the Department 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 capable to perform the duties of the foster provider as described in these rules;

(E) Cleared by a background check as described in OAR 411-346-0150, including a DHS-CW background check;

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

(G) Trained on fire safety and emergency procedures;

(H) Trained on the ISP, Behavior Support Plan, and any related protocols for the child;

(I) Able to provide the care needed for the child;

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

(K) A licensed driver and vehicle insurance in compliance with the laws of the Driver and Motor Vehicle Services Division when transporting children by motorized vehicle;

(L) Not be a person who requires care in a foster care or group home; and

(M) Not be the parent or guardian of the child.

(e) When the foster provider uses an alternate caregiver and the child is staying at the home of the alternate caregiver, the foster provider must assure the home of the alternate caregiver 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 is responsible and capable of assuming child care responsibilities and is present at all times. The foster provider still maintains primary responsibility for the child.

(6) FOOD AND NUTRITION.

(a) The foster provider must offer three nutritious meals daily at times consistent with those in the community.

(A) 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 licensed medical professional or qualified health care provider.

(B) There must be no more than a 14-hour span between the evening meal and breakfast unless snacks and liquids are served as supplements.

(C) Consideration must be given to cultural and ethnic background in food preparation.

(b) Children must be permitted to acquire, store, and access personal foods in the home in a manner consistent with age-typical practices for children living in the community and in accordance with the child's person-centered service plan.

(c) Any home canned food used must be processed according to the guidelines of Oregon State University extension services (http://extension.oregonstate.edu/fch/food-preservation).

(d) All food items must be used prior to the expiration date.

(e) The foster provider must implement special diets only as prescribed in writing by a licensed medical professional or qualified health care provider.

(f) 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.

(g) When serving milk, the foster provider must only use pasteurized liquid or powdered milk for consumption by a child in foster care.

(h) A child who must be bottle-fed and cannot hold the bottle, or is 11 months or younger, must be held during bottle-feeding.

(7) CLOTHING AND PERSONAL BELONGINGS.

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

(b) A school-age child must participate in choosing his or her own clothing whenever possible.

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

(d) The foster provider must assure that when a child leaves the child foster home the belongings of the child, including all personal funds, medications, and personal items, remain with the child. This includes all items brought with the child and obtained while living in the child foster home.

(8) BEHAVIOR SUPPORT PRACTICES.

(a) The foster provider must teach and support a child with respect, kindness, and understanding, using positive behavioral theory and practice. Unacceptable disciplinary 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 the family of the child that undermine the self-respect of the child;

(C) Denial of food, clothing, or shelter;

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

(E) Assignment of extremely strenuous exercise or work;

(F) Threatened or unauthorized use of protective physical intervention;

(G) Threatened or 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 child foster home as a punishment;

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

(L) Group punishment for misbehavior of one child;

(M) Locking a child in a room or area inside or outside of the home; and

(N) Isolating or secluding the child from others.

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

(c) The foster provider may use a time-out only for the purpose of giving the child a short break for the child to regain control. If the foster provider uses time-out, the following conditions apply:

(A) Use of time-out must be approved by the ISP team and documented in the ISP.

(B) Only common-use living areas of the home are to be used for time-out.

(C) Time-out is to be used for short duration and frequency as approved by the ISP team. The duration must be appropriate to the chronological age, emotional condition, and developmental level of the child.

(d) No child in foster care or other child in a child foster home is to 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 407-045-0260.

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

(f) PROTECTIVE PHYSICAL INTERVENTION. A protective physical intervention must be used only for health and safety reasons and under the following conditions:

(A) As part of the ISP team approved Behavior Support Plan.

(i) When protective physical intervention is employed as part of the Behavior Support Plan, the foster provider and alternate caregivers must complete OIS training prior to the implementation of the Behavior Support Plan.

(ii) The use of any modified OIS protective physical intervention must have written approval from the OIS Steering Committee prior to implementation. Documentation of the approval of the OIS Steering Committee must be maintained in the records for the child.

(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. The use of mechanical restraints is prohibited. Mechanical restraint is not:

(A) The use of acceptable infant safety products;

(B) The use of car safety systems, consistent with applicable (Oregon) state law for children without disabilities; or

(C) The use of safeguarding equipment when ordered by a physician or health care provider and approved by the ISP team.

(h) DOCUMENTATION AND NOTIFICATION OF USE OF PROTECTIVE PHYSICAL INTERVENTION.

(A) The foster provider must document the use of all protective physical interventions in an incident report. A copy of the

incident report must be provided to the CDDP services coordinator and guardian.

(B) If an approved protective physical intervention is used, the foster provider must send a copy of the incident report within five business days to the CDDP services coordinator and guardian.

(C) If an emergency or non ISP team approved protective physical intervention is used, the foster provider must send a copy of the incident report within 24 hours to the CDDP services coordinator and guardian. The foster provider must make oral notification to the CDDP services coordinator and guardian no later than the next business day.

(D) The original incident report must be on file with the foster provider in the records for the child.

(E) The incident report must include:

(i) The name of the child to whom the protective physical intervention was applied;

(ii) The date, location, type, and duration of entire incident and protective physical intervention;

(iii) The name of the provider and witnesses or people involved in applying the protective physical intervention;

(iv) The name and position of the person notified regarding the use of the protective physical intervention; 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.

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

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

(b) Assure that the orders of a physician, qualified health care provider, or other licensed medical professional are implemented as written;

(c) Inform the 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 services coordinator of any changes in the health status of the child except as otherwise indicated in the DHS-CW Permanent Foster Care contract agreement and as agreed upon in the 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 of the child for medical treatment that is not routine, including surgery and anesthesia, except in cases where a DHS-CW Permanent Foster Care contract agreement exists;

(g) Keep current medical records. The records must include when applicable:

(A) Any history of physical, emotional, and medical problems, illnesses, and mental health status;

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

(C) Completed medication administration record (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;

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

(F) Record of medical appointments;

(G) Medical appointment follow-up reports provided to the foster provider; and

(H) Copies of previous mental health assessments, assessment updates including multi-axial DSM diagnosis and treatment recommendations, and progress records from mental health treatment services.

(h) Provide, when requested, copies of medical records and medication administration records to the legal guardian of the child, CDDP services coordinator, and DHS-CW caseworker; and

(i) Provide copies, as applicable, of the medical records described in subsection (9)(g)(H) of this section to a licensed medical professional prior to a medical appointment or no later than the time of the appointment with the licensed medical professional.

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

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

(A) All prescription medications;

(B) Nonprescription 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 the authorization in the format of a written order signed by a physician or a qualified health care provider;

(B) Documentation of a telephone order by a physician or qualified health care provider with changes clearly documented on the MAR, including the name of the person giving the order, the date and time, and the name of the person receiving the telephone order; or

(C) A current prescription or label from the manufacturer as specified by the order of a physician 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 may not be made without the authorization of a physician or a qualified health care provider.

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

(e) Unused, outdated, or recalled medications may not be kept in the child foster home and must be disposed of in a manner that prevents illegal diversion into the possession of people other than for which the medication was prescribed.

(f) The foster provider must keep a 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 child in foster care;

(B) A transcription of the written order of the physician or licensed health care provider, 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 an order from a physician or licensed health care provider;

(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 medication was administered;

(H) Documented effectiveness of any PRN medication administration;

(I) An explanation of all medication administration or documentation irregularities; and

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

(h) Any errors in the MAR must be corrected by circling the error and then writing on the back of the MAR what the error was and why.

(i) Treatments, medication, therapies, and special diets must be documented on the MAR when not used or applied according to the order of a physician or licensed health care provider.

(j) 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 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 medical record for the child.

(k) The foster provider may not use alternative medications intended to alter or affect mood or behavior, such as herbals or homeopathic remedies, without direction and supervision of a licensed health care provider.

(l) Any medication that is used with the intent to alter the behavior of a child must be documented in the ISP for the child.

(m) 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 Balancing Test Form (form SDS 4110). 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.

(n) PRN prescribed psychotropic medication is prohibited.

(o) A mental health assessment by a qualified mental health professional or licensed medical professional must be completed, except as noted in subparagraph (A) of this subsection, prior to the administration of a new medication for more than one psychotropic or any antipsychotic medication to a child in foster care.

(A) A mental health assessment is not required in the following situations:

(i) In a case of urgent medical need;

(ii) For a substitution of a current medication within the same class; or

(iii) A medication order given prior to a medical procedure.

(B) When a mental health assessment is required, the foster provider:

(i) Must notify the DHS-CW caseworker when the child is in legal custody of DHS-CW; or

(ii) Must arrange for a mental health assessment when the child is a voluntary care placement.

(C) The mental health assessment:

(i) Must have been completed within three months prior to the prescription; or

(ii) May be an update of a prior mental health assessment that focuses on a new or acute problem.

(D) Whenever possible, information from the mental health assessment must be communicated to the licensed medical professional prior to the issuance of a prescription for psychotropic medication.

(p) Within one business day after receiving a new prescription or knowledge of a new prescription for psychotropic medication for the child in foster care, the foster provider must notify:

(A) The CDDP services coordinator; and

(B) The parent of the child when the parent retains legal guardianship or the person who has legal guardianship; or

(C) DHS-CW when DHS-CW is the legal guardian of the child.

(q) The notification from the foster provider to the parent or guardian and the CDDP services coordinator must contain:

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

(B) The name of the medication;

(C) The dosage, any change of dosage, suspension, or discontinuation of the current psychotropic medication;

(D) The dosage administration schedule prescribed; and

(E) The reason the medication was prescribed.

(r) The foster provider must get a written informed consent prior to filling a prescription for any new psychotropic medication except in a case of urgent medical need from DHS-CW when DHS-CW is the legal guardian.

(s) The foster provider must cooperate as requested, when a review of psychotropic medications is indicated.

(11) NURSING SERVICES. When nursing services are provided to a child, the foster provider must:

(a) Coordinate with the registered nurse and the ISP team to ensure that the nursing services being provided are sufficient to meet the health needs of the child; and

(b) Implement the Nursing Service Plan, or appropriate portions therein, as agreed upon by the ISP team and the registered nurse.

(12) COMMUNITY NURSING SERVICES.

(a) Community nursing services include:

(A) Nursing assessments, including medication reviews;

(B) Care coordination;

(C) Monitoring;

(D) Development of a Nursing Service Plan;

(E) Delegation and training of nursing tasks to a foster provider or alternate caregiver;

(F) Teaching and education of the foster provider and identifying supports that minimize health risks while promoting the autonomy of a child and self-management of healthcare; and

(G) Collateral contact with a services coordinator regarding the community health status of a child to assist in monitoring safety and well-being and to address needed changes to the ISP for the child.

(b) Community nursing services exclude direct nursing services.

(c) A Nursing Service Plan must be present when Department funds are used for community nursing services. A services coordinator must authorize the provision of community nursing services as identified in an ISP.

(d) After an initial nursing assessment, a nursing reassessment must be completed every six months or sooner if a change in medical condition requires an update to the Nursing Service Plan.

(e) When community nursing services are provided to a child, the foster provider must:

(A) Coordinate with the registered nurse and the ISP team to ensure that the nursing services being provided are sufficient to meet the health needs of the child; and

(B) Implement the Nursing Service Plan, or appropriate portions therein, as agreed upon by the ISP team and registered nurse.

(f) A registered nurse providing community nursing services must:

(A) Be enrolled in the Long Term Care Community Nursing Program as described in OAR chapter 411, division 048;

(B) Meet the qualifications described in OAR 411-048-0210; and

(C) Submit a resume to the CDDP indicating the education, skills, and abilities necessary to provide nursing services in accordance with Oregon law, including at least one year of experience with individuals with intellectual or developmental disabilities.

(g) A registered nurse providing community nursing services must comply with:

(A) Provider record and documentation requirements referenced in OAR 407-120-0100 -1505 for financial, clinical, and other records including the Provider Enrollment Agreement and electronic billing procedures;

(B) Department direct contracts (if applicable); and

(C) Service record requirements outlined in this rule.

(13) PRIVATE DUTY NURSING. As defined in OAR chapter 410, division 132 (OHA, Private Duty Nursing Services) and the Medicaid State Plan, private duty nursing services may be provided to a child or young adult aged 0 through 20 that resides in a foster home and meets the clinical criteria described in OAR 411-350-0055 (Private Duty Nursing).

(a) A Nursing Service Plan must be present when OHA funds are used for private duty nursing services. The services coordinator must authorize the provision of private duty nursing services as identified in an ISP.

(b) When private duty nursing services are provided, the provider must:

(A) Coordinate with the registered nurse and the ISP team to ensure that the nursing services being provided are sufficient to meet the health needs of the child; and

(B) Implement the Nursing Service Plan, or appropriate portions therein, as agreed upon by the ISP team and registered nurse.

(c) A nurse providing private duty nursing services must be an enrolled Medicaid Provider as described in OAR 410-132-0200 (OHA, Provider Enrollment).

(14) DELEGATION AND SUPERVISION OF NURSING TASKS. Nursing tasks must be delegated by a registered nurse to a foster provider or

alternate caregiver in accordance with the rules of the Oregon State Board of Nursing in OAR chapter 851, division 047.

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

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

(C) The name, address, and telephone number of the preferred primary health care 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 of the child;

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

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

(b) EMERGENCY INFORMATION. The foster provider must maintain emergency information for each child receiving foster care services in the child foster home. The emergency information must be kept current and must include:

(A) The name of the child;

(B) The address and telephone number of the child;

(C) The physical description of the child, which may include a picture and the date it was taken, and identification of:

(i) The race, gender, height, weight range, hair, and eye color of the child; and

(ii) Any other identifying characteristics that may assist in identifying the child if the need arises, such as marks or scars, tattoos, or body piercing.

(D) Information on the abilities and characteristics of the child including:

(i) How the child communicates;

(ii) The language the child uses or understands;

(iii) The ability of the child to know how to take care of bodily functions; and

(iv) Any additional information that may assist a person not familiar with the child to understand what the child may do for him or herself.

(E) The health support needs of the child including:

(i) Diagnosis;

(ii) Allergies or adverse drug reactions;

(iii) Health issues that a person needs to know when taking care of the child;

(iv) Special dietary or nutritional needs such as requirements around textures or consistency of foods and fluids;

(v) Food or fluid limitations due to allergies, diagnosis, or medications the child is taking that may be an aspiration risk or other risk for the child;

(vi) Additional special requirements the child has related to eating or drinking such as special positional needs or a specific way foods or fluids are given to the child;

(vii) Physical limitations that may affect the ability of the child to communicate, respond to instructions, or follow directions;

(viii) Specialized equipment needed for mobility, positioning, or other health related needs;

(ix) The emotional and behavioral support needs of the child including:

(I) Mental health or behavioral diagnosis and the behaviors displayed by the child; and

(II) Approaches to use when supporting the child to minimize emotional and physical outbursts.

(x) Any court ordered or guardian authorized contacts or limitations;

(xi) The supervision requirements of the child and why; and

(xii) Any additional pertinent information the provider has that may assist in the care and support of the child if a natural or man-made disaster occurs.

(c) EMERGENCY PLANNING. The foster provider must post emergency telephone numbers in close proximity to all phones utilized by the foster provider or alternate caregivers. The posted emergency telephone numbers must include:

(A) Telephone numbers of the local fire, police department, and ambulance service if not served by a 911 emergency services; and

(B) The telephone number of any emergency physician and additional people to be contacted in the case of an emergency.

(d) WRITTEN EMERGENCY PLAN.

(A) Foster providers must develop, maintain, update, and implement a written Emergency Plan for the protection of all children in foster care in the event of an emergency or disaster. The Emergency Plan must:

(i) Be practiced at least annually. The Emergency Plan practice may consist of a walk-through of the responsibilities of the foster provider and alternative caregiver.

(ii) Consider the needs of the child and address all natural and human-caused events identified as a significant risk for the child foster home such as a pandemic or an earthquake.

(iii) Include provisions and sufficient supplies, such as sanitation and food supplies, to shelter in place when unable to relocate for a minimum of three days under the following conditions:

(I) Extended utility outage;

(II) No running water;

(III) Inability to replace food supplies; and

(IV) An alternate caregiver is unable to provide relief care or additional support and care.

(iv) Include provisions for evacuation and relocation that identifies:

(I) The duties of the alternate caregivers during evacuation, transporting, and housing of the child, including instructions to notify the parent or legal

guardian of the child, the Department or the designee of the Department, the CDDP services coordinator, and DHS-CW as applicable, of the plan to evacuate or the evacuation of the child foster home as soon as the emergency or disaster reasonably allows;

(II) The method and source of transportation;

(III) Planned relocation sites that are reasonably anticipated to meet the needs of the child;

(IV) A method that provides people unknown to the child the ability to identify each child by the name of the child and to identify the name of the supporting provider for the child; and

(V) A method for tracking and reporting to the Department or the designee of the Department and the local CDDP, the physical location of each child in foster care until a different entity resumes responsibility for the child.

(v) Address the needs of the child including provisions to provide:

(I) Immediate and continued access to medical treatment, information necessary to obtain care, treatment, food, and fluids for the child during and after an evacuation and relocation;

(II) Continued access to life sustaining pharmaceuticals, medical supplies, and equipment during and after an evacuation and relocation;

(III) Behavior support needs anticipated during an emergency; and

(IV) The supports needed to meet the life-sustaining and safety needs of the child.

(B) The foster provider must provide and document all training to alternate caregivers regarding the responsibilities of the alternate caregiver for implementing the Emergency Plan.

(C) The foster provider must re-evaluate and revise the Emergency Plan at least annually or when there is a significant change in the child foster home.

(D) The foster provider must complete the Emergency Plan Summary, on the form supplied by the Department, and must send the Emergency Plan Summary to the Department annually and upon change of foster provider or location of the child foster home.

(e) INDIVIDUAL SUPPORT PLAN (ISP). Within 60 days of placement, the ISP for a child must be prepared and updated at least annually.

(A) If requested by the child or guardian, the foster provider must participate with the ISP team in the development and implementation of the ISP to address the behavior, medical, social, financial, safety, and other support needs of the child.

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

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

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

(f) FINANCIAL RECORDS.

(A) The foster provider must maintain a separate financial record for each child. Errors must be corrected with a single

strike through and initialed by the person making the correction. 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 foster provider at the beginning of each month;

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

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

(B) Any single transaction over $25 purchased with the personal funds of the child, unless otherwise indicated in the ISP for the child, must be documented in the financial record for the child and include the receipt.

(C) The ISP team may address how the personal spending money of a child is managed.

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

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

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

(g) PERSONAL PROPERTY RECORD.

(A) The foster provider must maintain a written record of the property of a child of monetary value of more than $25 or that has significant personal value to the child, parent, or guardian, or as determined by the ISP team. Errors must be corrected

with a single strike through and initialed by the person making the correction.

(B) Personal property records are not required for children who have a court approved Permanent Foster Care contract agreement unless requested by the guardian of the child.

(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.

(h) EDUCATIONAL RECORDS. The foster provider must maintain the following educational records when available:

(A) The report cards for the child;

(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.

(i) Child records must be available to representatives of the Department, the certifying agency, and DHS-CW conducting inspections or investigations, as well as to the child, if appropriate, and the guardian or other legally authorized people.

(j) 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 new home of the child.

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

411-346-0200 Environmental Standards
(Temporary Effective 02/23/2016 to 08/20/2016)

(1) GENERAL CONDITIONS.

(a) The buildings and furnishings must be clean and in good repair and grounds must be maintained and accessible according to the needs of the children residing in the home.

(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 the child in foster care 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 a child in foster care 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 the child in foster care may 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 child in foster care.

(d) BEDROOMS. Bedrooms used by the child in foster care must:

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

(B) Be finished and attached to the house, have walls or partitions of standard construction that go from floor to ceiling.

(C) Have an entrance door that:

(i) Opens directly to a hallway or common use room without passage through another bedroom or common bathroom; and

(ii) Meets the following requirements for the use of locks:

(I) Locks must be single action release; and

(II) For a child under the age of 18, a lock is only permitted when the ISP team has determined that a lock is a safe and appropriate means to support the privacy and independence of the child; or

(III) For a child age 18 or older, a lock is required unless there is a health or safety risk and an individually-based limitation has been implemented in accordance with OAR 411-004-0040.

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

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

(F) Have safe, age appropriate furnishings that are in good repair 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. Bed linens are to be properly fitting and provided for each child's bed.

(G) Be on the ground level for a child who is non-ambulatory or has impaired mobility;

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

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

(J) Have no three-tier bunk beds in bedrooms occupied by a child in foster care; and

(K) Not be located on the third floor or higher from the ground level.

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

(f) The foster provider may not permit the following sleeping arrangements for a child 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) Bathrooms must have:

(i) Tubs or showers, toilets, and sinks operable and in good repair with hot and cold water;

(ii) A sink located near each toilet;

(iii) At least one toilet, one sink, and one tub or shower for each six household occupants, including the provider and family;

(iv) 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 child in foster care may not exceed 120 degrees F;

(v) 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; and

(vi) Barrier-free access to toilet and bathing facilities with appropriate fixtures for a child who utilizes 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.

(B) 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.

(C) 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 a child in foster care three years of age or less, or a child 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 a child who may be at risk for injury from electrical outlets, extension cords, and heat-producing devices.

(g) The foster home must have operable phone service at all times that is available to all persons in the foster home, including when there are power outages. 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 a child.

(i) The foster provider must restrict a child's access to potentially dangerous animals. Only domestic animals may 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 made available to the Department upon request.

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

(l) To protect the safety of a child in foster care, the provider must store hunting equipment and weapons in a safe and secure manner inaccessible to the child.

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

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

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

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

(q) Use of video monitors must only be used as indicated in the ISP or BSP.

(5) FIRE SAFETY.

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

(A) A smoke alarm 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 alarms is recommended. If wall-mounted, smoke alarms must be mounted as per the manufacturer's instructions.

(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. Extension cords may not be used with space heaters. Freestanding kerosene, propane, or liquid fuel space heaters may not 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 a new child placed in foster 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 in foster care from the home within three minutes.

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

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

(g) Every bedroom used by a child in foster 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.

(h) All external and inside doors must have simple hardware with an obvious method of operation that allows for safe evacuation from the home. A home with a child that is known to leave their place of residence without permission must have a functional and activated alarm system to alert the foster provider.

(i) Fireplaces and wood stoves must include secure barriers to keep a child safe from potential injury and away from exposed heat sources.

(j) 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 manufacturer's 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 manufacturer's instructions prior to being certified at the new location.

(k) 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 certification period and may not be used in the future. Required annual chimney inspections must be made available to the certifying agency during the certification renewal process.

(l) A signed statement by the foster provider and certifying agency assuring that the fireplace, or solid fuel-burning appliance, or both may not be in use must be submitted to the Department with the renewal application if a chimney inspection is not completed.

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

(d) SMOKING.

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

(B) A child in foster care may 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 a child 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 a child must be insured to include liability.

(e) Only licensed adult drivers may transport a child in foster care in a motor vehicle. The motor vehicle must be insured to include liability.

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

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

411-346-0210 Variance
(Amended 12/28/2014)

(1) The Department may grant a variance to these rules based upon a 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 a child or violate state or federal laws.

(2) The foster provider requesting a variance must submit to the certifying agency, a Department 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 the services of a child, evidence that the variance is consistent with the currently approved ISP for the child.

(3) The certifying agency must forward the signed variance request form to the Department within 30 days from the receipt of the request indicating the position of the certifying agency on the proposed variance.

(4) The request for a variance is approved or denied by the Department. The decision of the Department is sent to the foster provider, the certifying agency, and to all relevant Department programs or offices within 30 days from the receipt of the variance request.

(5) The foster provider may request an administrative review of the denial of a variance request within 30 days from the receipt of the denial by sending a written request for review to the Director and a copy of the request to the certifying agency. The decision of the Director is the final response from the Department.

(6) The Department determines the duration of the variance.

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

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

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

411-346-0220 Inactive Referral Status, Denial, Suspension, Revocation, Refusal to Renew
(Amended 12/28/2013)

(1) INACTIVE REFERRAL STATUS. The Department may require that a foster provider go on inactive referral status. Inactive referral status is a

period, not to exceed 24 months or beyond the duration of the foster provider's current certificate, when during that time an agency may not 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 certifying agency may recommend that the Department initiate inactive referral status.

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

(A) The Department or DHS-CW is currently assessing an allegation of abuse in the home;

(B) The special needs of the child 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 the Department has asked the foster provider to obtain additional training to enhance his or her skill in caring for the child placed in the home; or

(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, including but 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 the foster provider's own family members (children or adults).

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

(c) Within 30 days of initiating inactive referral status, the Department 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 the Department 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 child 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) The Department 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) The Department 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 the Department.

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

(e) The Department may deny, suspend, revoke, or refuse to renew the child foster home certificate where imminent danger to health or safety of a child exists, including any founded report or substantiated abuse.

(f) The Department shall deny, suspend, revoke, or refuse to renew a certificate if the foster provider has been convicted of any crime that would have resulted in an unacceptable background check as defined in OAR 407-007-0210 upon certification.

(g) Suspension shall result in the removal of a child 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) The Department 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 the Department and ORS chapter 183 that govern contested cases.

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

411-346-0230 Appeals
(Amended 12/28/2013)

(1) Upon written notice of denial, suspension, revocation, or non-renewal of a certificate from the Department, an applicant or foster provider may request a contested case hearing to appeal the decision pursuant to ORS 183.413 to 183.470.

(2) The written request must be submitted within 10 days of the denial, suspension, revocation, or non-renewal notification date and must specifically state the reasons for the appeal.

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