

Oklahoma Administrative Code Currentness _Title 340. Department of Human Services _Chapter 110. Licensing Services _Subchapter 1. General Provisions _Part 1. Licensing Services - Child Care (Refs & Annos)

Okla. Admin. Code 340:110-1-1

340:110-1-1. Purpose

The purpose of this Chapter is to describe the responsibilities and functions of Licensing Services in regard to the licensure of child care facilities.

Okla. Admin. Code 340:110-1-2

340:110-1-2. Definitions [REVOKED]

Okla. Admin. Code 340:110-1-3

340:110-1-3. Legal base and authority

The Oklahoma Department of Human Services (OKDHS) is responsible for implementing the Oklahoma Child Care Facilities Licensing Act (Act). [10 O.S. § 401 et seq.] This Act mandates that a license be obtained from OKDHS to provide care for children away from their own homes. The child care facilities subject to licensing that are addressed in this Part are family child care homes, child care centers, part-day children's programs, and school-age programs. OKDHS responsibilities in relation to these facilities include:

(1) developing minimum requirements for the care and supervision of children cared for in child care facilities;

(2) assisting child care providers in achieving maximum standards;

(3) providing continuing technical assistance and consultation to the facility;

(4) developing sufficient and adequate facilities for child care in the community;

(5) issuing licenses based upon compliance with minimum requirements;

(6) investigating complaints received against child care facilities; and

(7) taking corrective action as authorized by the Oklahoma Child Care Facilities Licensing Act and stated OKDHS policy based upon non-compliance with minimum requirements.

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Okla. Admin. Code 340:110-1-4

340:110-1-4. Roles and responsibilities

(a) The staff members responsible for licensing child care facilities are under the supervision of Licensing Services within Oklahoma Child Care Services (OCCS). The licensing staff makes recommendations on all case actions to the licensing supervisor. The statewide licensing coordinator or designee is responsible for the final approval of all licensing recommendations.

(b) Official licensing records for child care programs are maintained in the licensing staff's office. These records are open to the public upon request and the procedures in 340:110-1-14 are followed.

(c) In addition to licensing child care facilities, licensing staff:

(1) communicate with local fire and health officials within their assigned area regarding licensing policy, requirements, inspections, and other issues related to a specific facility or child care in general;

(2) refer facilities to local city officials regarding local ordinances and related compliance;

(3) assist parents in identifying child care options and providing information on choosing quality care;

(4) facilitate or sponsor training for child care providers; and

(5) promote the availability of quality, affordable child care within the licensing staff's assigned area.

(d) When possible, a licensing staff member is not assigned to the facility where the staff member's child is in care.

(e) All media requests for information regarding the licensing process, procedures, or case specific information are immediately forwarded to the licensing supervisor. The licensing supervisor forwards media contact information to the statewide licensing coordinator or designee, who provides the information to the Office of Communications per OAC 340:2-37-1.

Okla. Admin. Code 340:110-1-4.1

340:110-1-4.1. Forms

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

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

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

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

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

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

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

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

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

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

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

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obtained.

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

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

(13) **07LC023E, Monitoring Report - School-Age Program.** Form 07LC023E is used to document compliance with licensing requirements for school-age programs during a monitoring visit and record any other information obtained.

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

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

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

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

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

(19) **07LC037E, Notice to Comply.** Form 07LC037E is used by a child care facility to document required plans of correction .

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

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

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

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

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

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

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

(27) **07LC070E, Fire Safety Inspection Report for Child Care.** Form 07LC070E is used by fire officials for inspection of facilities.

(28) **07LC071E, Licensing Services Waiver Referral.** Form 07LC071E is used by licensing staff when submitting a waiver request to State Office.

(29) **07LC072E, Compliance Review for School-Age Programs and Summer Day Camps.** Form 07LC072E is used by school-age and summer day camp directors to verify their knowledge of the licensing requirements.

(30) **07LC073E, Compliance Review for Part-Day Children's Programs.** Form 07LC073E is used by part-day children's program directors to verify their knowledge of the licensing requirements.

(31) **07LC074E, Request for Extension of Time to Comply.** Form 07LC074E is used by child care providers to request an extension of time to comply with Stars criteria.

(32) **07LC075E, Notice of Alternative Compliance.** Form 07LC075E is used by licensing staff to notify a facility of an approved request for alternative method of compliance.

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(33) **07LC079E, Child Death Report.** Form 07LC079E is used by licensing staff in the event of a child death in a child care facility.

(34) **07LC080E, Licensing Services Supplemental Information.** Form 07LC080E is used to provide supplemental facility information.

(35) **07LC081E, Licensing Complaint Report Summary.** Form 07LC081E is placed in the case record and includes the findings of an investigation in compliance with Section 406 of Title 10 of the Oklahoma Statutes.

(36) **07LC084E, Notice to Parents.** Form 07LC084E is posted in child care facilities to inform parents of the requirements for licensing compliance posting and the licensing compliance file.

(37) **07LC085E, Notice of Voluntary Cease Care.** Form 07LC085E is used to verify with facilities their agreement to voluntary cease care.

(38) **07LC086E, Staff Information - Family Child Care Home.** Form 07LC086E is used to record information regarding family child care home staff persons as required by licensing requirements.

(39) **07LC087E, Waiver Notification.** Form 07LC087E is used to inform facilities of a decision regarding a waiver request.

(40) **07LC088E, Notice of Emergency Order.** Form 07LC088E is used to notify parents of an immediate closure of their child care facility.

(41) **07LC089E, Child Care Waiver Request.** Form 07LC89E is used by a program director to request a waiver for a person with a restricted criminal history.

(42) **07LC090E, Waiver Reference.** Form 07LC090E is used to obtain references for a person with a restricted criminal history.

(43) **07LC091E, Change of Ownership.** Form 07LC091E is used by current and prospective owners of facilities to notify licensing of ownership changes.

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(44) **07LC092E, Insurance Verification.** Form 07LC092E is completed annually to verify liability insurance coverage.

(45) **07LC093E, Insurance Exception Notification.** Form 07LC093E is completed and posted at the facility to notify parents that liability insurance coverage is not provided or facility reports they are self-insured.

(46) **07LC095E, Notice Regarding Unlicensed Care.** Form 07LC095E is provided to facilities during the investigation of unlicensed care.

(47) **07LC096E, Criminal History Review Request.** Form 07LC096E is completed by facilities to request a criminal history review by licensing records office.

(48) **07LC097E, Citation Request.** Form 07LC097E is used when requesting assistance of Council on Law Enforcement Education and Training (CLEET)-certified officers.

(49) **07LC098E, District Attorney Referral.** Form 07LC098E is used when requesting a district attorney file criminal charges and/or issue an injunction.

(50) **07LC099E, Dual Approval Request for Kinship Placement in a Licensed Family Child Care Home.** Form 07LC099E is used for approving acceptance of a foster care placement in a family child care home.

(51) **07LC100E, Emergency Order Request.** Form 07LC100E is used by licensing specialist and supervisor when requesting an emergency order.

(52) **07LC101E, Restricted Registry Verification.** Form 07LC101E is used by child care facilities and licensing to verify non-registration and registration of individuals recorded on the Child Care Restricted Registry.

(53) **07LC102E, Restricted Registry Notification.** Form 07LC102E is used by the licensing records office to notify individuals of potential registration on the Child Care Restricted Registry.

(54) **07LC103E, Restricted Registry Final Notification.** Form 07LC103E is used by licensing records office to notify individuals of registration on the Child Care Restricted Registry.

(55) **07LC104E, Restricted Registry Notification to Child Care Facility.** Form 07LC104E is used by the licensing records office to notify child care facilities of individuals registered on the Child Care Restricted Registry.

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(56) **Form 07LC105E, Alternative Compliance Referral.** Form 07LC105E, is used by licensing staff to refer an alternative compliance request to State Office personnel.

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

(58) **Form 07LC107E, Child Care Restricted Registry Notice.** Form 07LC107E is used as additional notification to facility employees and residents of the Child Care Restricted Registry registration process.

Okla. Admin. Code 340:110-1-5

340:110-1-5. Inquiries

(a) **Inquiries.** An inquiry regarding licensing child care facilities is referred to the licensing staff in whose geographical area the inquirer is located.

(1) The referral includes the name, address, telephone number, and type of care the facility is giving or planning to give.

(2) Upon receipt of an inquiry, the licensing staff provides the inquirer with a copy of the applicable requirements and, when appropriate, refers facilities to other agencies involved in regulating child care facilities, such as the fire department, health department, and local city regulatory offices.

(3) When the inquirer has informed licensing staff they are currently providing care for children, procedures in OAC 340:110-1-13 are followed. Licensing informs the inquirer they are not to provide care of children without permission to operate from Oklahoma Child Care Services (OCCS).

(b) Tribal facilities. Child care facilities on Indian tribal land do not require a state license but may request licensure. Facilities that are licensed by a tribe with whom OCCS has a cooperative licensing agreement and that care only for Indian children do not require a state license, but may request licensure.

(c) Federal facilities. Facilities operated on military bases or on federal property are exempt.

(d) In-home caregiver. Family Support Services approves contracted child care when care is provided in the child's

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own home. No license is required for this type of care.

(e) **Inquiry records.** Inquiry records are maintained in the licensing staff's office. Inquiry information is sent to the supervisor on request.

(f) **Request for licensure.** When the inquirer indicates an interest in becoming licensed, the licensing staff:

(1) determines the necessity for a license according to Section 403 of Title 10 of the Oklahoma Statutes. Additional exemptions for programs that are not designed or intended for child care include:

(A) programs that operate less than eight weeks annually;

(B) summer programs that operate less than eight hours per day;

(C) programs where children are limited from enrolling in multiple sessions because of the type of activity or ages accepted;

(D) programs where children are not enrolled by the parents and are free to come and go;

(E) family child care homes that operate 15 hours per week or less; and

(F) sponsors that operate two or more programs in the same building if each operates 15 hours or less per week;

(2) reviews the requirements with the inquirer to help decide whether requirements can be met;

(3) ascertains the qualifications of the inquirer to operate a facility; and

(4) provides consultation to assist in the development of a child care facility that provides quality care

Okla. Admin. Code 340:110-1-6

340:110-1-6. Application process

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(a) **Application.** The licensing staff provides Form 07LC004E, Request for License - Child Care Facility, to persons interested in licensure.

(1) If requested, a family child care home application is filed and a license issued to a caregiver and spouse. References are obtained for both persons, and both must demonstrate compliance with requirements. A primary caregiver must be identified and meet all primary caregiver requirements.

(2) Proof of ownership must be provided according to Oklahoma Department of Human Services (OKDHS) Appendix L-7, Ownership Proof Chart, for a:

(A) child care center; or

(B) family child care home.

(3) Care may be provided in a location other than the caregiver's primary residence.

(4) Contact is made by phone every two months and documented on Form 07LC080E, Licensing Services Supplemental Information, when no permission to operate has been granted.

(b) **Permission to Operate.** The facility may be granted permission to operate on application status if the licensing staff determines that an applicant is temporarily unable to comply with all licensing requirements, but the services are needed and the non-compliance does not place children at risk of imminent harm. These situations are staffed with the regional programs manager for permission to operate. Permission to operate cannot exceed 30 days.

(c) **Child care provider contract.** The licensing staff advises the child care facility of the opportunity to contract with OKDHS for the care of children whose families receive subsidized child care benefits, per OAC 340:40-13-5. The licensing staff documents that a child care contract promotional flyer is provided to the facility with contact information for the county child care liaison.

(d) **Reopening a family child care home case.** If a family child care home has been closed for less than one year and had a record of compliance prior to closure, the licensing staff obtains a new application and may recommend license issuance after one compliant monitoring visit, utilizing previous references. Prior to issuance of the license, background investigations must be conducted per OAC 340:110-1-8.1.

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(e) **Reopening a child care center, part-day children's program, or school-age program.** If a child care center has been closed and the same owner wishes to reopen, a new application must be completed.

(1) Fire and health inspections completed within the last 12 months may be used, unless concerns exist.

(2) If the facility has been closed less than one year:

(A) previously obtained director references may be used;

(B) background investigations must be conducted per OAC 340:110-1-8.1; and

(C) with a record of compliance prior to closure, the licensing staff may recommend license issuance after one compliant monitoring visit.

(f) **Computer checks on license applicants.** Computer checks to identify prior involvement with OKDHS are completed on required persons per OAC 340:110-1-8.1(g).

(g) **Family child care homes approved to provide foster care.** A caregiver approved to provide kinship foster care may be licensed as a family child care home. No other foster care placement will be approved. The caregiver cannot be licensed if approved for therapeutic foster care per OAC 340:75-7-19. The approval for dual service is made by the licensing supervisor in writing prior to each child placement, based upon the recommendation of the licensing staff and foster care staff of the child-placing agency. When a joint consensus is not achieved, either division may request a review by the dual approval committee for a final decision. The decision for approval is:

(1) based upon the number, ages, and specific needs of children potentially eligible for child care and foster care and receipt of a written agreement from the caregiver stating the individual(s) from whom the child was removed will not be present during the hours of child care;

(2) documented in the case record; and

(3) reviewed with the provider and foster care worker at least once per year or more often if concerns exist.

(h) **Withdrawal of application.** If a child care facility applicant wishes to withdraw the application prior to issuance of an initial permit the licensing staff:

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(1) documents this request on Form 07LC080E, Licensing Services Supplemental Information;

(2) confirms that no children are in care; and

(3) may close the case, unless negative action is warranted.

Okla. Admin. Code 340:110-1-6.1

340:110-1-6.1. Appendices [REVOKED]

Okla. Admin. Code 340:110-1-7

340:110-1-7. Disposition of application [REVOKED]

Okla. Admin. Code 340:110-1-8

340:110-1-8. Types of issuance

(a) **Six-month permit.** New child care centers, part-day children's programs, school-age programs, and family child care homes may be issued a six-month permit. The primary purpose of a permit is to provide an opportunity for the Oklahoma Department of Human Services (OKDHS) Oklahoma Child Care Services (OCCS) licensing staff to evaluate the facility's ability to comply with minimum licensing requirements on an ongoing basis, and to provide a legal basis to contract with OKDHS and receive Child Care Food Program funding.

(1) The licensing staff may recommend a permit when the facility is in compliance with critical requirements regarding background investigations, required number of qualified staff, required training, hazards indoors or outdoors, liability insurance coverage, adequate equipment, fencing, playground safety, fire safety, or other areas affecting children's safety. The owner's previous history of licensing compliance is considered.

(2) The licensing staff makes a complete monitoring visit documenting compliance with critical requirements no more than 60 days prior to issuance of the six-month permit.

(b) **Documentation for six-month permit.**

(1) **Child care centers, part-day children's programs, and school-age programs.** Items required to be on file for issuance of a six-month permit are:

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- (A) Form 07LC004E, Request for License - Child Care Facility and proof of ownership;
 - (B) verification of approved director credential and required master teachers;
 - (C) Form 07LC002T, Staff Summary;
 - (D) Form 07LC041E, Staff Information - Child Care Facility, for each staff person;
 - (E) Form 07LC057E, Physical Plant, including drawing and calculation;
 - (F) verification of adequate equipment for the recommended capacity;
 - (G) documentation of fire department approval within the previous 12 months;
 - (H) documentation of health approval within the previous 12 months if meals are prepared and served;
 - (I) Form 07LC003E, Monitoring Report - Child Care Center, Form 07LC010E, Monitoring Report - Part-Day Children's Program, or Form 07LC023E, Monitoring Report - School-Age Program; and
 - (J) documentation of all required background investigations per OAC 340:110-1-8.1.
- (2) **Family child care homes.** The items required to be on file for issuance of a six-month permit for a family child care home are:
- (A) Form 07LC042E, Request for License - Family Child Care Home and Large Child Care Home;
 - (B) Form 07LC086E, Staff Information - Family Child Care Home, for primary caregiver;
 - (C) Form 07LC086E, Staff Information - Family Child Care Home, for assistants and substitutes, prior to their employment;

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

(E) documentation of fire department approval within the previous 12 months for a large family child care home operating in a mobile home; and

(F) documentation of all required background investigations per OAC 340:110-1-8.1.

(c) **Second and subsequent six-month permits.** If additional six-month permits are recommended, the procedures in this subsection are followed.

(1) Assistant licensing coordinator approval is needed for subsequent permits if facilities are recommended for, or are in the process of a negative action.

(2) The licensing staff consults with the licensing supervisor prior to recommending a second permit.

(3) The licensing supervisor consults with the licensing regional programs manager (RPM) before recommending the issuance of a third permit.

(4) The licensing RPM consults with the state-wide licensing coordinator or designee before recommending the issuance of a fourth or subsequent permit.

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

(6) If the permit is due to numerous, repeated, or serious non-compliance with requirements, the licensing staff visits the facility at least monthly and is accompanied, when possible, by a witness. If at any point the non-compliance indicates the facility is unable or unwilling to meet licensing requirements, the statewide licensing coordinator or designee is consulted to discuss negative actions.

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

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(8) If children have not been in care on a regular basis during the previous year, the applicant is asked to withdraw his or her application.

(d) Issuance of license. A license is issued after OKDHS has investigated the activities and standards of care of the applicant and has determined that the applicant meets all critical requirements identified in (a) and (b) of this Section and has demonstrated substantial compliance with all other requirements, including entry level training requirements for child care center employees.

(1) Prior to recommending issuance of a license, the licensing staff completes a minimum of three monitoring visits, and in child care centers, part-day children's programs, and school-age programs, an equipment inventory.

(2) Children in care must be observed by licensing staff during at least one monitoring visit.

(3) A monitoring visit must be made within 60 days of the issuance date.

(4) A license is in effect unless it is revoked or the facility voluntarily closes.

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(e) Documentation for license.

(1) **Child care centers.** In addition to the items listed in (a) through (b)(1) of this Section for issuance of a six-month permit, items required to be on file before a license is issued to a child care center are:

(A) daily program schedule;

(B) updated Form 07LC002T, Staff Summary;

(C) outdoor play schedule, if applicable;

(D) Form 07LC006E, Equipment Inventory - Child Care Center;

(E) statement of completed compliance review, if applicable;

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(F) director's references;

(G) one-week sample menu;

(H) documentation of fire department approval within the previous 24 months;

(I) documentation of health approval within the previous 24 months if meals are prepared and served; and statement of water test results if not on public water supply.

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

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

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

(J) Form 07LC003E, Monitoring Report - Child Care Center.

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(2) **Part-day children's programs and school-age programs.** In addition to the items listed in (a) through (b)(1) of this Section for issuance of a six-month permit, the items required to be on file before a license is issued to a part-day children's program or school-age program are:

(A) outdoor play schedule, if applicable;

(B) daily program schedule for school-age programs;

(C) updated Form 07LC002T, Staff Summary;

(D) Form 07LC020E, Equipment Inventory - Part-Day Children's Program, or 07LC024E, Equipment

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Inventory - School-Age Program, as applicable;

(E) statement of completed compliance review, if applicable;

(F) director's references for school-age programs;

(G) one-week sample menu of foods provided by the program;

(H) documentation of fire department approval within the previous 24 months;

(I) documentation of health department approval within the previous 24 months if meals are prepared and served; and

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

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

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

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

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

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

(A) one-week sample menu;

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(B) references;

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

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

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

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

(f) Evaluation and disposition.

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

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

Okla. Admin. Code 340:110-1-8.1

340:110-1-8.1. Background investigations

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

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

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

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

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

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

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

(c) **Oklahoma State Courts Network (OSCN) search for new facilities.** Prior to the issuance of an initial permit, the facility submits a completed Form 07LC096E, Criminal History Review Request, to OCCS licensing records office for completion of an OSCN criminal history investigation. Upon completion, receives Form 07LC106E, Criminal History Review Results, for:

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

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

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

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

(1) any persons prior to employment at a child care facility, including all caregivers, auxiliary staff, substitute or assistant caregivers; and

(2) any person age 18 years or older prior to their residence in the facility.

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(e) **Child Care Restricted Registry.** Child Care Restricted Registry searches are conducted per OAC 340:110-1-10.1 and verification of non-registration on Form 07LC101E, Restricted Registry Verification, is submitted to licensing records office for:

- (1) any person making application for licensure of a child care facility;
- (2) any person signing the application as a household member or person age 18 years or older prior to their residence in the facility; and
- (3) any person to be employed by a child care facility, including all caregivers, auxiliary staff, and substitute or assistant caregivers.

(f) **Exceptions.** OSBI, out-of-state criminal history, OSCN investigations and Child Care Restricted Registry searches are not required for:

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

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

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

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Medical Records.

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

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

(1) OSBI; and

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

(j) **Sex Offender, Mary Rippy Violent Crime Offenders, and Child Care Restricted Registries.** According to Section 404.1 of Title 10 and Section 589 of Title 57 of the Oklahoma Statutes, it is unlawful for any person who is required to register pursuant to the Sex Offender Registration Act or the Mary Rippy Violent Crime Offenders Registration Act to work with or provide services to children, to live in a child care facility, or to be employed or contracted by the facility to care for children. According to Section 405.3 of Title 10, it is also prohibited for a registrant of the Child Care Restricted Registry to be licensed, employed, or reside in a child care facility. If it is determined that a facility has violated these Statutes, OKDHS may pursue:

(1) an Emergency Order;

(2) revocation of the license or denial of the application for license;

(3) an injunction;

(4) an administrative penalty not to exceed \$10,000; and

(5) referral for criminal proceedings.

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

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

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

(I) Waiver.

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

(A) has been convicted of a sex offense pursuant to the Sex Offender Registration Act or Mary Rippy Violent Crime Offenders Registration Act; or

(B) whose sentence has not expired for any of the specified crimes.

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

(A) type of crime or offense for which the person was convicted or disposition that includes a plea of guilty or nolo contendere or a finding made;

(B) nature of the offense(s);

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

(D) circumstances surrounding commission of the offense(s) that demonstrate whether it is likely the person will re-offend;

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(E) number of offenses for which the person was convicted or findings made;

(F) length of time elapsed since the last conviction or disposition that includes a plea of guilty or nolo contendere or a finding made;

(G) relationship of the offense(s) to the ability to care for children;

(H) evidence of rehabilitation or education activities, such as counseling, since the offense was committed;

(I) statement from the person with the criminal history; and

(J) opinions of community members concerning the person in question documented on Form 07LC090E, Waiver Reference, that includes name, address, and phone number of the individual providing the opinion.

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

Okla. Admin. Code 340:110-1-8.2

340:110-1-8.2. Procedures for Day Care Provider Contract, OAC 340:70, Appendix I [REVOKED]

Okla. Admin. Code 340:110-1-8.3

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

(a) **Purpose.** The differential quality rating and improvement system was developed to improve the overall quality of care by increasing the professional development and education of child care providers and to provide the public with a method to evaluate child care. Certification is required for a provider to receive a differential quality rate for children whose families are receiving subsidized child care benefits through the Oklahoma Department of Human Services (OKDHS).

(b) **Criteria for child care centers and homes certification levels.** The quality rating and improvement criteria for child care facilities are contained in OAC 340:110-1-8.4 through OAC 340:110-1-8.10.

(c) **Application process.** The following application process is required for certification.

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(1) **Criteria for one star centers and homes.** A facility operating on a permit or license is automatically designated as a one star facility.

(2) **Criteria for one star plus center and home facilities.** To be approved as a one star plus facility, the owner must complete and submit Form 07LC025E, Request for Child Care Center Star Certification, or Form 07LC027E, Request for Family Child Care Home Star Certification, and meet all criteria described in (b).

(3) **Criteria for two star centers and homes.** To be approved as a two star facility the owner must either:

(A) complete Form 07LC025E or Form 07LC027E, and meet all one star plus and two star criteria described in (b) of this Section; or

(B) complete Form 07LC025E or Form 07LC027E, meet licensing status and compliance per OAC 340:110-1-8.4 and provide documentation that the facility is :

(i) accredited by a national accrediting body approved by Oklahoma Child Care Services (OCCS); or

(ii) a Head Start grantee and compliant with Head Start Performance Standards.

(4) **Criteria for three star center and home facilities.** To be approved as a three star facility, the owner of a facility must:

(A) complete Form 07LC025E, or Form 07LC027E; and

(B) meet one star plus and two star center criteria described in (b) of this Section and either be:

(i) accredited by a national accrediting body approved by OCCS; or

(ii) a Head Start grantee and compliant with Head Start Performance Standards.

(d) **Approval for certification for homes and centers.** The procedures contained in this subsection are followed for Current through rules published in Volume 31, Number 18 of the Oklahoma Register dated June 2, 2014

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initial approval for certification and requests for higher certification level.

(1) The owner submits Form 07LC025E, Request for Child Care Center Star Certification, or Form 07LC027E, Request for Family Child Care Home Star Certification, and required documentation to OCCS.

(2) The stars outreach specialist determines whether the certification criteria have been met by reviewing the case record and the documentation submitted. If it has been four months since the last monitoring visit, the stars outreach specialist requests licensing staff make a monitoring visit. The stars outreach specialist reviews all information and consults with the licensing staff and stars program manager as needed, prior to approval.

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

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

(C) If the facility fails to meet the criteria, the stars outreach specialist sends a letter identifying criteria that have not been met. The application is also reviewed by the stars outreach specialist to determine if another certification level can be met. The stars outreach specialist updates the licensing database accordingly.

(D) The owner may reapply at any time the criteria are met. If the request for a higher certification level is denied due to numerous, repeated, or serious non-compliance with licensing requirements, the facility is not approved for a higher certification level for six months after the date of the denial of the request. The six-month waiting period may only be reduced by the regional programs manager (RPM) upon evaluation of the facility's licensing record, written documentation of corrective actions taken, and observation and documentation by licensing staff of substantial improvement in compliance. The RPM notifies the provider in writing of the decision.

(E) The owner may withdraw the application prior to certification denial.

(F) The owner of a home or center may request a reduction in star status at any time. The request must be made in writing to OCCS. The stars outreach specialist sends a letter documenting the request for reduction, along with the effective date of the new star level, and updates the database to show the facility's new star level. A request to be reduced does not constitute a reduction in certification level as set forth in (h) of this Section.

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(e) **Complaint investigations.** Pending complaint investigations do not impact the decision to approve the stars application.

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

(1) **Facility notification to OCCS.** The owner, director, or primary caregiver is required to notify OCCS in writing within five working days of any change in information that affects the facility's star certification, such as loss of a master teacher. If OCCS has not been notified of changes and certification criteria have not been met for over 90 days, the case is reviewed by OCCS staff. Referrals may be made to the stars outreach specialist and the certification level may be reduced according to (h) of this Section.

(2) **Periodic certification reviews.** OCCS staff completes a full star certification review, a minimum of once a year using Form 07LC026E, Child Care Center Star Certification Review, or Form 07LC028E, Family Child Care Home Star Certification Review, to verify that certification criteria is still current and accurate.

(3) **Periodic monitoring visits.** If OCCS staff observe violations of the star criteria during periodic monitoring visits, staff complete Form 07LC026E, Child Care Center Star Certification Review, or Form 07LC028E, Family Child Care Home Star Certification Review, as a partial visit to address the violations.

(4) **Non-compliance.** If a facility has serious non-compliance with licensing requirements, within a 24-month period, a serious incident resulting in injury or imminent risk of harm to a child or violations with other star criteria, the star level of a one star plus, two, or three star facility may be reduced.

(5) **Violations.** If violations of certification criteria are documented, or when the facility notifies OCCS in writing of any change, the procedures in (A) through (C) of this paragraph are followed.

(A) OCCS staff provides written notification to the director or primary caregiver and owner of a facility to document the violations and include a statement that a reduction in the star certification level may occur when:

(i) the facility has serious non-compliances with licensing requirements;

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

(iii) violations are not corrected in the agreed-upon time frame; or

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(iv) an Emergency Order or notice of proposed denial or revocation of license is issued.

(B) The statement informs the director or primary caregiver, they may request an extension of time to comply, as outlined in (g) of this Section.

(C) The facility submits a written plan to OCCS to correct the violations within an agreed-upon time frame. The plan can not exceed 90 days from the date the violation occurred or the date a facility was notified of a substantiated complaint.

(6) **Follow up of violation of criteria.** OCCS staff are responsible for verifying violations of star criteria are corrected as determined by the approved plan of correction.

(7) **Written notice.** OCCS staff provides written notice to the owner that certification criteria are not being met when:

(A) there is serious non-compliance with requirements, per OAC 340:110-1-8.4;

(B) a serious complaint that may place the health, safety, or well-being of children at imminent risk of harm is substantiated; and/or

(C) OCCS staff have knowledge the facility is not meeting certification criteria such as having an insufficient number of master teachers.

(g) **Extension of time to comply.**

(1) A request for an extension of time to comply may be submitted when violations of star criteria cannot be corrected within the agreed upon plan of correction time.

(2) A request for an extension of time to comply to meet licensing requirements such as director qualifications is not approved.

(3) The owner, director, or primary caregiver submits Form 07LC074E, Request for Extension of Time to Comply, along with supporting documentation to the stars program manager or designee 30 days prior to the expiration of the agreed-upon time frame for the correction of the violations.

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(4) The decision to approve or deny an extension of time to comply is made by the stars program manager or designee. One or more discretionary extensions of time to comply may be granted. Approval of an extension of time to comply does not set a precedent and each request is independently evaluated. The director or primary caregiver is notified of the decision in writing.

(h) Reduction in one star plus, two, and three star certification levels.

(1) A reduction in one star plus, two, and three star occurs when OCCS has issued a written Emergency Order or notice of denial or revocation of license.

(2) A reduction may occur when :

(A) the facility has serious non-compliance with licensing requirements within a 24 month time frame;

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

(C) violations are not corrected within the agreed-upon time frame; or

(D) a facility fails to employ a qualified director for a period of six months or more.

(3) The procedures in this subsection are followed if a reduction is warranted.

(A) The licensing staff reviews the case with the supervisor and RPM. The decision on whether to make a referral to the stars program manager or designee is made by the RPM and referrals are made in writing to the stars program manager or designee. The RPM may enter into an agreement for an alternative settlement with the owner of a facility in lieu of referral for reduction. The alternative settlement documents how the facility will go above and beyond minimum licensing requirements and ensure a higher standard or quality of care. It is the RPM's decision to accept or deny the alternative settlement.

(B) If a reduction is warranted, the stars program manager or designee sends a certified letter to the primary caregiver or director and owner documenting the reduction in certification level and notifying the provider of the right to request an administrative review of the decision.

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(C) The certified mail delivery receipt card is addressed to return to the director of OCCS or designee.

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

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

(4) OCCS licensing staff update any changes in the star status level and star payment rate following verification of receipt of the certified letter and the administrative review, if requested.

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

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

(B) The review is conducted by the stars review panel, which consists of two OKDHS staff persons who have not been involved in the decision to reduce the certification level and one member of the Child Care Advisory Committee who has no relationship to the facility.

(C) When possible, the reviewing panel makes a determination to either affirm or reverse the OCCS decision on the date of the administrative review and announces the decision at the conclusion of the review. Time constraints or the complexity of issues may require the panel to take a matter under advisement. Written findings are completed within ten calendar days from the date of the review.

(6) The owner may reapply for a higher certification level at any time the criteria are met. If the certification level is reduced due to serious non-compliance with licensing requirements, the facility is not approved for a higher certification level for six months after the receipt of the certified reduction letter.

(i) **Change in ownership.** When there is a change in ownership or change in form of business entity of a family child care home, child care center, part-day children's program, or school-age program, the case is closed and the star status is removed, unless otherwise determined per OAC 340:110-1-9. To be approved for a higher star level, the new owner must complete and submit Form 07LC025E, Request for Child Care Center Star Certification, or Form 07LC027E, Request for Family Child Care Home Star Certification,

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and meet all the requirements applicable to the star level for which application is made.

(j) **Change in location.** If the location of a facility changes, the licensing staff completes Form 07LC026E, Child Care Center Star Certification Review, or Form 07LC028E, Family Child Care Home Star Certification Review, to verify compliance with the criteria at the new location.

(k) **Record-keeping.** Periodic review forms, certification request forms, and supporting documentation are maintained in the official licensing file or in a separate file that is part of the open record, with the exception of page 6, of Form 07LC025E, Request for Child Care Center Star Certification, staff salary report, which is kept confidential. When maintained, pay stubs and photos that include children are also kept confidential.

Okla. Admin. Code 340:110-1-8.4

340:110-1-8.4. Licensing status and compliance for differential quality rating and improvement certification criteria

(a) **Licensing status criteria for one star plus, two star, and three star levels.** For certification, facilities must have a license or permit.

(b) **Compliance criteria for one star plus, two star, and three star levels.** The monitoring visits and substantiated complaints for the last 24 months of operation are reviewed. The licensing record from the applicant's previous licenses if any is considered. Numerous, repeated, and serious non-compliance per OAC 340:110-1-9.3 are considered when approving or denying star certification. The request for certification may be denied or status may be reduced, if:

(1) there are numerous, repeated, or serious non-compliance with applicable licensing requirements; or

(2) a serious incident resulting in injury or imminent risk of harm.

Okla. Admin. Code 340:110-1-8.5

340:110-1-8.5. Administrative differential quality rating and improvement certification criteria

(a) **Criteria one star plus centers.** Administrative criteria listed in (1) - (5) of this subsection are required.

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(1) At least annually, the director or supervising staff evaluates staff in writing using the Oklahoma Core Competencies and develops the educational professional development plan.

(2) All staff have access to licensing requirements.

(3) The center provides an employee handbook for staff and includes information on hiring and firing, job duties and responsibilities, professional development requirements, child abuse reporting, and personnel attendance policy.

(4) The facility is registered as a direct care organization with the Oklahoma Professional Development Registry.

(5) Staff counted in staff-child ratio are members of the Oklahoma Professional Development Registry and have current professional development ladder certificates. New staff must be listed on the registry within 12 months of employment.

(b) Criteria two star and three star centers. Administrative criteria listed in subsection (a) and (1) - (2) of this subsection are required.

(1) A policy and procedure manual is maintained on site for staff and includes the program's mission or vision statement, information on organizational structure, code of professional conduct, and the center's discipline philosophy.

(2) A minimum of two staff meetings are conducted annually and include time to discuss quality and its impact on the facility.

(c) Criteria one star plus homes. Administrative criteria listed in (1) - (2) of this subsection are required.

(1) The primary caregiver is a member of the Oklahoma Professional Development Registry and has a current professional development ladder certificate.

(2) Assistant caregivers are members of the Oklahoma Professional Development Registry and have current professional development ladder certificates.

(d) Criteria two and three star homes. Administrative criteria listed in subsection (c) and (1) - (2) of this

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subsection are required.

(1) The owner or primary caregiver has a written job description for any assistant caregiver that defines the assistant's responsibilities.

(2) Assistants are evaluated in writing annually by the owner or primary caregiver, including developing the educational professional development plan.

Okla. Admin. Code 340:110-1-8.6

340:110-1-8.6. Director, staff, and primary caregiver qualifications for differential quality rating and improvement certification criteria

(a) Master teacher and primary caregiver qualifications for two and three star levels. Master teachers and primary caregivers must be employed on-site on a full-time basis and trained in Oklahoma's Early Learning Guidelines. A person is not counted as a center master teacher, director, or primary caregiver at more than one facility, unless the facilities are programs that do not operate concurrently at any given time.

(1) Master teachers meet and maintain one of the requirements in (A) through (G) of paragraph (2) of this subsection.

(2) Primary caregivers meet and maintain one of the requirements in (A) through (H) of this paragraph.

(A) Occupational child care competency certificate for master teacher or lead teacher through an Oklahoma technology center and three months of satisfactory full-time experience in a licensed or legally exempt child care setting.

(B) Current Child Development Associate (CDA) or Certified Childcare Professional (CCP) credential.

(C) Certificate of Mastery in early childhood education or child development from an accredited Oklahoma college or university.

(D) Thirty college credit hours from an accredited college or university, including 15 credit hours in early childhood education, child development, or other coursework that supports working with children.

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(E) Four-year degree from an accredited college or university with six college credit hours in early childhood education, child development, or other coursework that supports working with children.

(F) Two or four-year degree from an accredited college or university in early childhood education or child development.

(G) A valid teaching certificate in early childhood education from the Oklahoma State Department of Education.

(H) if approved prior to June 1, 2004, the provider may continue to meet this criteria if the provider maintains 120 hours of job-related professional development within the last five years, five years of full-time experience in a licensed or legally exempt child care setting, and every two years receives a minimum score of 5.0 on the Family Child Care Environment Rating Scale - Revised.

(b) **School-age master teacher qualifications.** In centers licensed as school-age programs or programs where the majority of children are school-age, the master teacher must be employed and on-site at least 50 per cent of the weekly operating hours. The master teacher must currently meet and maintain either:

(1) one of the qualifications in (a) of this Section; however, a degree or coursework in (a)(C) through (G) may also be in elementary education, recreation, or other coursework that supports working with children, families, and the community; or

(2) 120 clock hours of professional development within the last five years, one year of full-time experience in a licensed school-age child care program or legally exempt school-age child care program, and every two years receive a minimum score of 5.0 on the School-Age Environment Rating Scale in a classroom where the master teacher is the lead teacher.

(c) **Master teachers required for two and three star centers.** There is a full-time master teacher for every 30 children of the licensed capacity. During the second and subsequent years as a two or three star center, there must be a master teacher for every 20 children of the licensed capacity. This number does not include school-age children, if the majority of children in care are younger than five years of age.

(1) Centers licensed as school-age programs or programs where the majority of children are school-age must have a master teacher for every 40 children of the licensed capacity.

(2) A person is not counted as a master teacher, director, or primary caregiver in more than one facility or considered a master teacher in one facility and a director of another facility, unless the facilities are programs that do not operate concurrently at any given time.

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(d) **Director as master teacher.** The director may be counted as a master teacher only if the licensed capacity minus school-age children is 30 or less. The director may be counted as a master teacher in centers licensed as school-age programs or programs where the majority of children are school-age.

(e) **Master teacher responsibilities.** Master teachers work directly with children and support other teaching staff with responsibilities such as program development, weekly lesson plans, use of space and equipment, interactions with parents, and program evaluation.

Okla. Admin. Code 340:110-1-8.7

340:110-1-8.7. Professional development for differential quality rating and improvement certification criteria

(a) **Director professional development requirements for one star plus, two star, and three star centers.** Director qualifications listed in (1) - (6) of this subsection are required.

(1) The director must have documentation of at least two college credits or 30 clock hours of job-related professional development within the last 12 months prior to application.

(2) If a new director is hired, the director must have documentation of at least two college credits or 30 clock hours of job-related professional development within the last 12 months prior to employment. If the new director does not have the two college credits or 30 clock hours of professional development, the facility is required to submit a written plan to licensing staff for correcting the violation within 90 days of the new director's hire date.

(3) In subsequent years of star status certification, the director must have documentation of at least two college credits or 30 clock hours of job-related professional development per employment year.

(4) A director may count a total of six hours of in-service training each year. In-service training includes videos and informal on-site staff training. Reading does not count for professional development.

(5) A person is not counted as a center master teacher, director, or primary caregiver at more than one facility, unless the facilities are programs that do not operate concurrently at any given time.

(6) The director has a written educational professional development plan on file at the center. The educational professional development plan is reviewed annually and updated as needed.

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(b) **Staff professional development requirements for one star plus, two star, and three star centers.** Staff qualifications listed in (1) - (7) of this subsection are required.

(1) At application, center staff employed at the facility for at least 12 months and counted toward meeting the staff-child ratio must have at least two college credits or 20 clock hours of job-related professional development per employment year. At initial application, professional development may be counted if obtained within the last 12 months or within the staff's employment year.

(2) After initial approval for certification, the professional development criteria of at least two college credits or 20 clock hours of job-related professional development must be met within the staff's employment year.

(3) The professional development requirement applies to part-time staff and permanent substitutes who have worked at the child care center more than a total of 40 hours. Staff persons who perform only auxiliary duties, such as cooking, transportation, or maintenance are exempt from this professional development requirement.

(4) Staff may count a total of six hours of in-service training each year. In-service training includes videos and informal on-site staff training. Reading does not count for professional development.

(5) All full-time staff have a written educational professional development plan on file at the center. The educational professional development plan is reviewed annually and updated as needed.

(6) One staff for every 20 children of the licensed capacity must actively work toward the educational requirements to obtain master teacher qualifications.

(7) Staff working toward or meeting master teacher qualifications are trained in Oklahoma's Early Learning Guidelines.

(c) **Primary caregiver professional development requirements for one star plus, two star, and three star homes.** Primary caregiver qualifications listed in (1) - (2) of this subsection are required.

(1) At application, the primary caregiver must have documentation of at least two college credits or 20 clock hours of job-related professional development. At initial application, the professional development may be counted if obtained within the last 12 months or within the primary caregiver's employment year.

(2) After approval for certification, the professional development criteria must be met within the primary

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caregiver's employment year.

(A) A primary caregiver may count a total of six hours of in-service training each year. In-service training includes videos, informal on-site and home association training. Reading does not count for professional development.

(B) The primary caregiver has a written educational professional development plan that is kept on file in the home. The educational professional development plan is reviewed annually and updated as needed.

(C) The primary caregiver must actively work toward the education requirements to obtain the provider qualifications.

(D) The primary caregiver is trained in Oklahoma's Early Learning Guidelines.

(d) Assistant caregiver professional development for one star plus, two star, and three star level homes. Assistant caregiver qualifications listed in (1) - (3) of this subsection are required.

(1) Any assistant caregiver employed for at least 12 months must have documentation of at least two college credits or 20 clock hours of job-related professional development per employment year.

(2) The assistant caregiver may count a total of six hours of in-service training each year. In-service training includes videos, informal on-site, and home association training. Reading does not count for professional development.

(3) The assistant caregiver has a written educational professional development plan on file in the home. The educational professional development plan is reviewed annually and updated as needed.

Okla. Admin. Code 340:110-1-8.8

340:110-1-8.8. Learning environment differential quality rating and improvement certification criteria

(a) Criteria for one star plus centers. Learning environment criteria listed in (1) - (5) of this subsection are required.

(1) The center has and follows current weekly lesson plans appropriate for the developmental needs of all

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groups of children. Current lesson plans are readily available in each classroom.

(2) Space for children two years of age and older is arranged in a minimum of six well-defined and equipped interest areas in each classroom to facilitate a variety of activities that must include art, block building, book reading, dramatic play, manipulative play, and music and movement.

(3) Teachers read to children a minimum of 15 minutes each day.

(4) The indoor, and as weather permits, outdoor environment are utilized daily for children to engage in physical activity.

(5) Television or other screen time is not used for children younger than two years of age.

(b) **Criteria for two and three star centers.** Learning environment criteria listed in subsection (a) and (1) - (4) of this subsection are required.

(1) The center has and follows a schedule that allows children time to complete tasks. The schedule reflects a balance and variety of activities that includes time for indoor and outdoor play, active and quiet play, rest periods, and meals.

(2) Space for children two years of age and older is arranged in a minimum of eight well-defined and equipped interest areas in each classroom to facilitate a variety of activities that must include art, block building, book reading, dramatic play, manipulative play, math, music and movement, and science or nature. The program has at least two learning centers available outdoors for children's use.

(3) The program utilizes Oklahoma Early Learning Guidelines as a resource for lesson and curriculum planning.

(4) Staff participate in physical activity with children at least once per day.

(c) **Criteria for one star plus homes.** Learning environment criteria listed in (1) - (4) of this subsection are required.

(1) A written daily schedule that reflects a balanced program of opportunities for learning, physical activity, indoor and outdoor play, rest periods, and meals is followed.

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(2) The daily schedule is posted.

(3) Children are read to a minimum of 15 minutes each day.

(4) Television or other screen time is not used for children younger than two years of age.

(d) **Criteria for two and three star homes.** Learning environment criteria listed in subsection (c) and in (1) - (2) of this subsection are required.

(1) Children have opportunities during the day to access art, block building, book reading, dramatic play, manipulative play, and music and movement.

(2) The provider has a plan for transition times.

Okla. Admin. Code 340:110-1-8.9

340:110-1-8.9. Family engagement quality rating and improvement certification criteria

(a) **Criteria one star plus centers.** Family engagement criteria listed in (1) - (8) of this subsection are required.

(1) A system is established and maintained for sharing with and communicating to families the happenings, activities, and related issues about a child's physical and emotional state.

(2) Families are welcomed into the center at all times, for example, to eat lunch with a child, observe, or volunteer in the classroom.

(3) Individual parent conferences are arranged and documented to discuss and set goals regarding the child's progress, accomplishments, and challenges, at least annually and as needed. Documentation of parent conferences is maintained with the child's records.

(4) There is a family resource area with books, pamphlets, and articles on children and family issues accessible and available to families.

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(5) At least two family meetings with guest speakers or special events are held each year such as open houses, brown bag lunches, family pot-luck dinners, and children's programs.

(6) Families are informed of the center's program by two of these methods:

(A) bulletin board;

(B) newsletter;

(C) parent handbook;

(D) website, specific to each center location; or

(E) email.

(7) Families participate in program and policy development through board involvement and planning meetings or are given an opportunity to complete yearly questionnaires.

(8) The program makes a copy of applicable licensing requirements available to families.

(b) **Criteria two and three star centers.** Family engagement criteria listed in subsection (a) and (1) - (2) of this subsection are required.

(1) Parent conferences are held at least twice a year and a written report about the child is provided to parents at the conference.

(2) The program maintains a current list of available community resources including health care, education, nutrition, and counseling and assists families in locating and connecting with these services, as needed.

(c) **Criteria one star plus homes.** Family engagement criteria listed in (1) - (6) of this subsection are required. The primary caregiver:

Current through rules published in Volume 31, Number 18 of the Oklahoma Register dated June 2, 2014

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(1) maintains a signed contract on file for each family that includes, but is not limited to policy concerning hours, fees, payment schedules, vacations, and terminations;

(2) encourages families to visit any time their children are present and provides access to all parts of the home used for child care;

(3) arranges for and documents individual parent conferences to discuss and set goals regarding the child's progress, accomplishments, and challenges, at least annually and as needed. Documentation of parent conferences is maintained with the child's records;

(4) provides opportunities for families to be involved in the program's activities;

(5) has information available about common childhood issues and resources including health care, education, nutrition, and counseling that provide services to families and children and makes referrals as needed; and

(6) makes a copy of applicable licensing requirements available to families.

(d) **Criteria two and three star homes.** Family engagement criteria listed in subsection (c) and (1) - (2) of this subsection are required. The primary caregiver:

(1) provides parents a minimum of two references, including contact information. Relative references are not accepted; and

(2) has and uses a system to communicate with families the happenings, activities, and related issues regarding their child's physical and emotional state.

Okla. Admin. Code 340:110-1-8.10

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

(a) **Criteria one star plus centers and homes.** The program evaluation criteria listed in (1) - (3) of this subsection are required for child care centers. Program evaluation criteria listed in (1) - (2) of this subsection are required for family child care homes.

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

(2) Staff and parents are surveyed annually to identify strengths and weaknesses of the program and evaluate the program's effectiveness in meeting the needs of children, parents, and staff.

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

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

(1) The program is assessed every three years using an assessment tool approved by Oklahoma Child Care Services (OCCS). This assessment is not required for programs accredited by an OCCS approved national accrediting body.

(2) Program goals are established and updated annually based on information gathered from the completed health and safety checklists, parent and staff surveys, and an assessment tool approved by OCCS.

(3) The program has a written plan for meeting established goals that includes professional development and educational needs of center staff or provider and assistant as well as facility policy and procedures.

(4) Staff participate in program evaluation and the established goals are shared with staff.

Okla. Admin. Code 340:110-1-9

340:110-1-9. Case management

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

(b) Ongoing monitoring. During monitoring visits, the licensing staff observes the entire facility, including outdoor

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play space and vehicles used for transportation, if available. At or subsequent to each visit, licensing staff checks:

(1) compliance with licensing regulations;

(2) records for new staff including staff sheets and compliance with background investigations per OAC 340:110-1-8.1;

(3) staff training records;

(4) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons per OAC 340:110-1-8.1;

(5) fire and health inspections within the last 24 months, if applicable;

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

(7) other documentation requiring renewal.

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

(1) technical assistance to licensees to assist them in meeting minimum requirements; and

(2) consultation on various aspects of quality child care.

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

(e) **Equipment inventory.** Licensing staff completes the appropriate Equipment Inventory Form 07LC006E, 07LC020E, or 07LC024E, prior to a license being issued. The licensing staff or the facility may complete the appropriate equipment inventory prior to a change in facility class and prior to an increase in licensed capacity in a child care center, part-day children's program, and school-age program. The purpose of the inventory is to document the equipment available and items needed to comply with the equipment requirements. The licensing staff may

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conduct a complete inventory any time concern exists about the availability of required equipment.

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

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

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

(1) verifies the new director meets qualifications;

(2) obtains the applicable page of Form 07LC004E, Request for License - Child Care Facility, completed by the new director;

(3) obtains references;

(4) obtains from the director an appropriate, complete Compliance Review Forms 07LC069E, 07LC072E, or 07LC073E, if the director has no previous director experience;

(5) notifies the new director of current employees that have been granted a waiver; and

(6) documents the information on Form 07LC080E, Licensing Services Supplemental Information.

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

(1) verifies primary caregiver meets qualifications;

(2) obtains the applicable page of Form 07LC004E, Request for License-Child Care Facility, completed by the

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new primary caregiver;

(3) obtains references;

(4) notifies the new primary caregiver of current employees who have been granted a waiver; and

(5) documents the information on Form 07LC080E.

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

(1) the applicable page of Form 07LC004E completed by the new adult household member(s);

(2) background investigations per OAC 340:110-1-8.1; and

(3) an OKDHS computer check.

(k) **Change in ownership.** When there is a change in ownership or change in form of business organization of a family child care home, child care center, part-day program, or school-age program, typically the case is closed and a new application is obtained. Prior to the issuance of a permit or license, the facility must be in compliance with background investigations per OAC 340:110-1-8.1. A permit may be issued if a monitoring visit without numerous, repeated, or serious non-compliances was conducted at the facility within the past 60 days. A full monitoring visit is conducted within two weeks of change of ownership to verify the new owner is able to meet minimum licensing requirements.

(l) **Change in facility class.** When a facility requests a change in facility class, the procedures contained in this subsection are followed.

(1) The case is closed and a new application is required when a family child care home converts to a child care center, part-day program, or school-age program, or when a child care center, part-day program, or school-age program converts to a family child care home.

(2) Any other request for change in class does not require case closure and documentation includes:

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- (A) a request in writing from the provider;
- (B) a new application with updated information;
- (C) documentation that the facility meets the requirements for the requested class type;
- (D) the appropriate equipment inventory, if applicable;
- (E) a current approved fire inspection, if applicable;
- (F) a current approved health inspection, if applicable; and
- (G) database updates to the appropriate class and monitoring frequency plan.

(m) Procedure for increasing or decreasing capacity. When a facility requests an increase or decrease in licensed capacity, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the licensing supervisor. If the request to increase capacity is due to additional physical space, the facility must not have a history of numerous, repeated, or serious non-compliance, and must provide:

- (1) the reason for the increase;
- (2) an updated floor plan on Form 07LC057E, Physical Plant, that reflects adequate indoor and outdoor space, toilets, and sinks for the increase and any changes;
- (3) fire department approval of any space not previously inspected;
- (4) health approval of any additional food preparation space not previously inspected;**
- (5) an updated equipment inventory reflecting adequate equipment for the increase; and

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(6) verification of the number of required master teachers.

(n) **Inactive cases.** A facility is determined to be in inactive status when care has not been provided for more than 90 days.

(1) A facility wanting to remain open after 90 days submits a request in writing including a statement that the owner will notify licensing when care is resumed. Licensing staff verify compliance with requirements prior to resuming care.

(2) The facility is contacted by licensing staff every four months by telephone or letter to update the facility status including new household members per (j) of this Section, or other facility changes.

(3) If the facility is a child care center, part-day, or school-age program voluntary closure is discussed with the owner and an agreement to close is reached if possible.

(4) If care has not been provided for more than 12 consecutive months, licensing staff sends a letter to notify the owner of case closure unless OCCS is notified within 10 days of receipt of letter.

(5) Licensing staff visits the inactive facility at least once a year to verify compliance with licensing requirements until closure is final.

(6) If a change of address occurs during the time a facility is in inactive status, a full visit is required to verify compliance and follow change of address per (f) of this Section.

(o) **Closure of an inactive family child care home and large child care home.** Procedures (1) - (4) are followed when closing an inactive family child care home.

(1) Licensing staff contacts the owner of a family child care home and large child care home during the twelfth month of inactive status to verify case status.

(2) Licensing documents the case status on Form 07LC080E, Licensing Services Supplemental Information, and notifies the owner the case will be closed should care not resume.

(3) If care has not been provided for more than 12 consecutive months, licensing staff sends a letter to notify the owner of case closure unless OCCS is notified within 10 days of receipt of letter.

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(4) The family child care home and large child care home is closed and must reapply and be approved for a license prior to resuming care, per OAC 340:110-1-6.

(p) **Response to a child death.** When notified of death of a child while in child care, licensing staff completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee. When notified of a death, the licensing staff visits the facility as soon as possible, unless advised otherwise by law enforcement.

(q) **Serious incident reports.** The licensing supervisor submits to the licensing regional programs manager, county director, and statewide licensing coordinator a report of any serious incident.

(r) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form 07LC080E, Licensing Services Supplemental Information, is completed and the data system is updated. A letter to include a copy of Form 07LC080E is provided to the facility.

Okla. Admin. Code 340:110-1-9.1

340:110-1-9.1. Certification of child care facilities to receive increased reimbursement rate for the care of children with disabilities

(a) **Purpose.** Certification is the process through which Oklahoma Child Care Services (OCCS) licensing staff documents that a child care facility meets certification requirements for a child with disabilities.

(1) Certification is required for a provider to receive the child care rate for a child with disabilities.

(2) To qualify for the higher rate the:

(A) facility must be licensed, have a provider contract, and be certified to care for the child;

(B) child's family must be eligible for Oklahoma Department of Human Services (OKDHS) subsidized child care services; and

(C) child must be receiving benefits from at least one source listed in (i) - (iii) of this subparagraph.

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- (i) Supplemental Security Income (SSI) benefits;

- (ii) SoonerStart, early intervention program for children birth to age three; or

- (iii) Special Education Services, public school program for children three years of age and older.

(b) **Initial approval for certification.** For initial approval for certification the procedures contained in this subsection are followed.

(1) Upon receipt of Form 08AD006E, Certification for Special Needs Child Care Rate, the licensing staff contacts the facility by phone within five working days when a monitoring visit has been made in the last four months. When a monitoring visit has not been made within the last four months the licensing staff visits the child care facility within ten working days.

(2) Approval for certification is based upon verification that:

(A) the facility director or family child care home provider has completed Form 08AD006E, agreeing to meet the individual needs of the child;

(B) the facility has a previous record of compliance with minimum licensing requirements. A facility on a six-month permit may be certified if currently in compliance with licensing requirements; and

(C) the facility staff persons who work with the child have received on-site consultation regarding the nature of the child's disability and the development of a child care plan, to include staffing, equipment, and specialized training needs. The consultant provides resource materials to the facility for future reference. After initial certification, the facility staff who work with the child must conduct and document annual conferences with the child's parent or guardian to review the needs of the child. If the child's needs have changed, the procedures in (5) of this subsection are followed; and

(D) within six months of certification, appropriate staff obtain six hours of training in areas that address the care of children with disabilities.

- (i) The center director and at least one person who works directly with the child must receive training. It is preferable that all staff persons who work with the child are trained.

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(ii) First aid, CPR, or informal training is not counted to meet the special training requirement.

(iii) Recommended training includes Special Care's Unique Environments, Child Care Careers' Helping Children with Special Needs, Tic-Toc training, SoonerStart training, or specialized workshops or conferences addressing the care of children with special needs.

(3) Upon completion of Form 08AD006E, the licensing staff sends the original to the appropriate county child welfare staff, if child welfare involvement, or Family Support Services Division Child Care Subsidy state office staff responsible for child care assistance. Copies of Form 08AD006E and the monitoring report are sent to the licensing supervisor, and copies are maintained in the facility's file.

(4) When Form 08AD006E is completed and Family Support Services Division (FSSD) has determined the child is eligible for one of the special needs rates, a new Form 08AD006E is completed when:

(A) the needs of the child change; or

(B) the child stops attending the facility for more than six months.

(5) If the licensing staff documents that certification requirements have not been met, the licensing supervisor reviews the documentation and approves the denial. The licensing staff inform the provider in writing within 30 days of the initial receipt of Form 08AD006E of the certification criteria that have not been met and the right to request an administrative review.

(6) A request for an administrative review must be submitted in writing to the statewide licensing coordinator or designee within ten calendar days of notification. An administrative review is conducted within ten calendar days of receipt of the request.

(7) The administrative review committee consists of the statewide licensing coordinator or designee and two staff from OCCS.

(8) The facility and FSSD are notified in writing of the decision by the statewide licensing coordinator.

(c) **Ongoing monitoring.** The procedure for ongoing monitoring contained in this subsection is followed.

(1) **Periodic monitoring visits.** During periodic monitoring visits, the licensing staff completes Form

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07LC008E, Special Needs Rate Monitoring Report, and verifies that certification requirements are met for each child certified, including:

(A) annual conference with the child's parent or guardian;

(B) director and staff training relative to care of children with disabilities; and

(C) observations that indicate that the program is meeting the individual needs of the child as recorded on Form 08AD006E.

(2) **Violations.** All violations observed are documented on Form 07LC080E, Licensing Services Supplemental Information, and a plan of correction is developed with agreed-upon time frames for correction of violations. If there are serious or ongoing violations of certification requirements, a letter is sent to the operator documenting the violations, plan of correction, and a copy is sent to the parent(s) of the child with special needs who is affected by the violation(s).

(3) **Changes in facility personnel.** As personnel changes occur, a new director or new staff who work directly with the child must obtain training within six months of that assignment.

(d) **Withdrawal of certification.** Withdrawal of certification occurs when there is documentation of serious or ongoing violations of certification requirements or when OKDHS has issued an Emergency Order or a notice of proposed denial or revocation of license. Violations of certification requirements are different from non-compliance with licensing requirements, although they may involve the same issue, for example, understaffing. If violations are not corrected and represent a potential risk to the child, such as serious understaffing in the child's room or staff without first aid training, the procedure in this subsection is followed.

(1) The licensing staff reviews the case with his or her supervisor.

(2) An office conference is held with the provider at which time the provider is notified that certification is being withdrawn and the provider has the right to request an administrative review of the decision.

(3) A letter is sent to the provider documenting withdrawal of certification and the right to request an administrative review of the decision. If the provider did not attend the office conference, the letter is sent by certified mail. A copy of the letter is sent to the appropriate county office staff responsible for child care assistance who is responsible for notifying the parent and provider of the rate change and its effective date.

(4) A request for an administrative review must be submitted in writing by the facility to the statewide licensing

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coordinator or designee within seven calendar days of receipt of the letter. An administrative review is conducted within ten calendar days of receipt of the request.

(5) The administrative review committee consists of the statewide licensing coordinator or designee and two staff from OCCS.

(6) The facility and FSSD are notified in writing of the decision by the statewide licensing coordinator or designee.

(7) A provider may reapply for certification when compliance with certification requirements has been reestablished.

Okla. Admin. Code 340:110-1-9.2

340:110-1-9.2. Complaint investigations

(a) **Legal basis.** The Child Care Facilities Licensing Act (Act) [10 O.S. § 406] mandates the Oklahoma Department of Human Services (OKDHS) conduct a full investigation of a complaint alleging a violation against the Act or any licensing requirement.

(b) **Receipt of the complaint.** Complaints may be made to licensing in writing, in person, by telephone, or electronically.

(c) **Complaint information.** Licensing staff obtains as much relevant information as possible from the complainant.

(d) **Screening complaints.** Licensing staff accepts a complaint for investigation when it alleges:

(1) non-compliance with licensing requirements;

(2) operation of an unlicensed facility in violation of the Act; or

(3) abuse or neglect of a child in care.

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(e) **Complaint risk levels.** Risk levels are determined by licensing staff based upon the degree of harm or danger to children in care. Risk levels are used to ensure that investigations occur in a timely manner and to track types of complaints.

(1) **Risk level I complaints.** Risk level I complaints indicate a child is in imminent risk of serious physical harm. The level of risk is not influenced by the removal of a child from the facility if other children remain in care. Investigations are initiated immediately or no later than 24 hours after receipt of the complaint by licensing staff unless awaiting investigation by Child Welfare Services(CWS) or law enforcement. This does not include weekends and holidays when the facility is closed. Examples of risk level I complaints include:

(A) alleged physical or sexual abuse;

(B) presence or use of illegal drugs while children are in care;

(C) distribution of drugs;

(D) children left alone in the facility or in a vehicle;

(E) extreme facility temperatures;

(F) an infant placed on the stomach for sleeping;

(G) threatening or impaired behavior of a caregiver;

(H) severe understaffing or over licensed capacity;

(I) unlicensed facility;

(J) violating an Emergency Order;

(K) required staff without current cardio-pulmonary resuscitation and first aid training;

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(L) failure to obtain background investigations; or

(M) knowingly permitting access to children by persons identified as restricted or registrants.

(2) **Risk level II complaints.** Risk level II complaints do not indicate there is imminent risk of harm, but without intervention, a child may not be safe. Investigations are initiated within 15 calendar days of receipt of the complaint by licensing staff, or sooner depending on the degree of risk, unless advised by CWS or law enforcement to delay the investigation. Examples include:

(A) leaving children with an underage staff person;

(B) alleged physical abuse from a staff person no longer working in the facility;

(C) inappropriate discipline where no injury is reported;

(D) broken playground equipment;

(E) injury caused by lack of supervision; or

(F) minor understaffing.

(3) **Risk level III complaints.** Risk level III complaints do not indicate imminent risk of harm and there are no injuries alleged. Investigations are initiated within 30 calendar days of the date of receipt of the complaint by licensing staff or immediately if a telephone investigation is appropriate. Examples include:

(A) inadequate meal service;

(B) lack of play equipment;

(C) inappropriate use of television or videos; or

(D) inadequate cleanliness of the facility.

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(f) **The investigation.** Licensing staff conducts a full investigation, obtaining sufficient information to make a finding.

(g) **Telephone investigation.** With supervisory approval, licensing staff may investigate a complaint by telephone. The discussion and, if necessary, an agreed-upon plan of correction, is documented on Form 07LC080E, Licensing Services Supplemental Information. A copy is sent to the operator. A complaint may be investigated by telephone only when:

(1) the alleged non-compliance does not place children at risk of harm, for example, the facility did not serve milk one day or children have head lice;

(2) the facility has not had numerous, repeated, or serious non-compliance; and

(3) a monitoring visit has been made in the last three months during which substantial compliance was documented.

(h) **Procedure for investigating an allegation of operating an unlicensed facility.** When a complaint alleging operation of an unlicensed facility is received, the procedure per OAC 340:110-1-13 is also followed.

(i) **Child abuse and neglect complaints.** Upon receipt of a complaint alleging abuse or neglect of a child in care, licensing staff immediately notifies the licensing supervisor and makes a referral to CWS. If the allegation involves child abuse or neglect or a report indicating that a child is in imminent risk of serious physical harm, the licensing regional programs manager is also notified.

(j) **Findings.** After the investigation is completed, the licensing staff, in consultation with the licensing supervisor, as appropriate, makes a finding as to whether the complaint is substantiated, unsubstantiated, or ruled out.

(1) **Substantiated.** A finding of substantiated is made when a weighing of the information obtained during the investigation clearly indicates the facility violated any licensing requirement or the Act.

(2) **Unsubstantiated.** A finding of unsubstantiated is made when the information does not lead to a definite conclusion, for example:

(A) there is insufficient or conflicting information on which to conclude that a violation occurred; or

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(B) information needed to make a finding is unavailable.

(3) **Ruled out.** A finding of ruled out is made when a weighing of the information clearly indicates that there was not a violation of any licensing requirement or the Act.

(k) **Documentation of findings.** Upon completion of the investigation, licensing staff:

(1) documents the findings;

(2) notifies the provider of the complaint allegations and findings by sending a complaint findings cover letter, Form 07LC081E, Licensing Complaint Report Summary, and if applicable, Form 04CP004E, Child Welfare Investigative Summary Notification to Child Care Licensing Services;

(3) enters the complaint information on the licensing database using complaint key words; and

(4) updates and closes the complaint tracking screen.

(l) **Use of Notice to Comply.** When a complaint allegation has been substantiated, licensing staff advises the facility to correct the violations immediately and requests the facility complete Form 07LC037E, Notice to Comply, following the procedure in OAC 340:110-1-9.3(d)(7).

(m) **Summary of facts.** Facility owners, directors, or primary caregivers may submit a written request for a summary of the facts used to evaluate and determine the licensing complaint findings.

(n) **Complaint overview.** Licensing staff complete an overview of completed complaint investigations on Form 07LC080E. This overview provides a summary of the investigation, how the complaint findings were determined, and is filed in the confidential section.

Okla. Admin. Code 340:110-1-9.3

340:110-1-9.3. Non-compliance with requirements

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(a) **Documentation of non-compliance.** Licensing staff documents clearly and concisely areas of non-compliance and the discussion with the operator on the monitoring report.

(1) A plan of correction, including a specific agreed-upon time period for correction of the non-compliance, is documented for each non-compliance on the monitoring report. If a previous non-compliance was not corrected by the agreed-upon time period, the non-compliance is documented again with a shorter plan of correction date.

(2) Immediate correction is required when the non-compliance has a direct impact on the health, safety, or well-being of one or more children in care.

(3) Licensing staff requests the operator sign the monitoring report, and explains the operator's signature indicates acknowledgment of information recorded.

(4) If the person in charge refuses to sign, the refusal is documented on the report.

(5) The operator is given a copy of the completed monitoring report.

(b) **Referrals to fire and health officials.** If non-compliance regarding fire or health requirements places children at risk or remains uncorrected, licensing staff requests an inspection by a fire, health, or Department of Environmental Quality official. If there is non-compliance regarding smoke detectors, the child care provider is given a copy of the Smoke Detector Law, Section 324.11A of Title 74 of the Oklahoma Statutes. If the non-compliance is not corrected by the third monitoring visit or is frequently repeated, copies of the monitoring reports are sent with a cover letter to the appropriate fire official for enforcement of the law.

(c) **Numerous, repeated, and serious non-compliance.**

(1) Numerous non-compliance is any monitoring visit with:

(A) five or more items documented as non-compliant on the monitoring report for a family child care home or large child care home;

(B) six or more items documented as non-compliant on the monitoring report for a child care center, part-day children's program, or school-age program with a licensed capacity of less than 60; or

(C) seven or more items for a child care center, part-day children's program, or school-age program with a

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licensed capacity of 60 or more.

(2) Repeated non-compliance is three or more documented incidents of non-compliance with the same requirement within the last 12 months. For missing immunizations to be considered a repeat non-compliance, they must be regarding the same child.

(3) Serious non-compliance is a non-compliance with licensing requirements that exposes children to conditions that present an imminent risk of harm. Imminent risk of harm must be assessed based on the age of the child, the amount of time the caregiver was out of compliance, and the caregiver's efforts to mitigate the risk. Serious non-compliances are identified through licensing observations, confirmed complaint investigations, and/or self-reported incidences. Some examples of non-compliance that may be considered as serious are:

(A) staff-child ratio;

(B) supervision of children;

(C) infant sleep environments;

(D) prohibited disciplinary actions;

(E) licensed capacity;

(F) use of passenger restraints;

(G) water activities;

(H) pools and other water hazards;

(I) multiple hazards;

(J) weapons;

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(K) reporting child abuse;

(L) knowingly permitting access to children by persons identified as restricted or registrants;

(M) failure to obtain background investigations or Child Care Restricted Registry searches;

(N) administering medication to children;

(O) room temperatures;

(P) heat sources and loss of any utility service;

(Q) compliance file and or posting;

(R) cardio-pulmonary resuscitation and first aid training;

(S) liability insurance; and

(T) vehicle liability insurance.

(d) **Case management responses to non-compliant facilities.** When there is numerous, repeated, or serious non-compliance, one or more of the actions in (1) through (12) is taken.

(1) **Technical assistance.** Technical assistance is offered along with referrals to consultants or training resources, if necessary, to assist the operator in meeting and maintaining licensing requirements.

(2) **Follow-up phone call.** Follow-up phone calls are made, and documented on Form 07LC080E, Licensing Services Supplemental Information. A copy of the documentation is mailed to the facility.

(3) **Non-compliance letters.** A non-compliance letter may be written to the operator. A copy of the non-

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compliance letter is sent to the owner or registered agent, if applicable, with a copy of the monitoring report.

(4) **Return monitoring visit.** A return monitoring visit may be made if there is numerous, repeated, or serious non-compliance with licensing requirements or when non-compliance places children at imminent risk of harm. If the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of early morning supervision, the return visit is made at that approximate time.

(5) **Use of witnesses.** Licensing staff may be accompanied by a witness during monitoring visits if the facility has had numerous, repeated, or serious non-compliances or if denial or revocation of the license is under consideration. The witness may be an Oklahoma Department of Human Services (OKDHS) employee or a representative from the health or fire department. The witness signs the monitoring report in the space provided.

(6) **Increased monitoring visits.** Licensing staff may increase the frequency of monitoring when there has been numerous, repeated, or serious non-compliance or when the need for additional technical assistance is indicated.

(7) **Notice to comply.** Licensing staff provides the facility with Form 07LC037E, Notice to Comply, on which the facility documents the plan of correction. Immediate correction may be required if the non-compliance places the health, safety, or well-being of one or more children in care at risk.

(A) If the plan submitted by the operator is unacceptable to licensing staff, licensing staff negotiates and documents a revised plan.

(B) If Form 07LC037E is not submitted within the specified time period, licensing staff contacts the operator and documents the conversation.

(C) When non-compliances continue to place children at risk, licensing staff sends a letter stating the non-compliances and/or continued failure to correct non-compliances may result in revocation of license, denial of the application, filing of an injunction, or Emergency Order.

(8) **Office conference.** Licensing staff may schedule an office conference with the owner of the facility. The licensing supervisor is present at the office conference. The licensing regional programs manager (RPM) is informed of the office conference and may be present, if necessary.

(A) Areas of non-compliance and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered.

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(B) The conference is documented on Form 07LC080E, which is signed by licensing staff, the operator, and any witnesses present. This documentation includes a list of every person who is present, the purpose of the conference, and verification of correct documentation regarding ownership.

(C) Form 07LC037E is completed if one addressing these issues has not been completed recently.

(9) **Consent agreement.** OKDHS and the facility owner may enter into a consent agreement whereby the facility owner agrees to specific conditions in lieu of license denial or revocation, per OAC 340:110-1-9.5.

(10) **Revocation.** Licensing staff may recommend the application to become licensed be denied or the license be revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility failed to adequately protect children, per OAC 340:110-1-10.

(11) **Voluntary cease care.** With State Office approval, the owner is asked to voluntarily cease caring for children. The RPM is notified of every situation involving a request for voluntary cease care.

(12) **Voluntary closure.** With State Office approval, the owner is asked to voluntarily close the facility, per OAC 340:110-1-11.

(e) **Case management responses when children are at risk.** When licensing staff documents non-compliance with requirements or is investigating a complaint that may place the health, safety, or well-being of children at imminent risk of harm, options to consider during consultation with the operator and licensing supervisor are outlined in this subsection.

(1) The operator is asked to immediately correct the non-compliance, for example, the staff person will not work at the facility pending the outcome of an investigation.

(2) The owner is asked to discontinue child care until the non-compliance is corrected or the investigation is complete.

(3) The owner is asked to voluntarily close the facility.

(4) Licensing staff requests an Emergency Order, per OAC 340:110-1-9.4, when immediate action is needed to protect children in a child care facility.

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(5) The owner agrees to enter into a consent agreement whereby the facility owner agrees to specific conditions in lieu of license denial or revocation, per OAC 340:110-1-9.5.

(6) Licensing staff may recommend the application be denied or license be revoked when numerous, repeated, or serious non-compliance with requirements was observed and documented or the facility failed to adequately protect children, per OAC 340:110-1-10.

(7) An injunction may be requested when a child care facility is:

(A) unlicensed;

(B) on application status;

(C) licensed;

(D) violating an Emergency Order;

(E) operating during an appeal following revocation or denial and children are at risk; or

(F) violating the notice to cease care following revocation or denial of license.

(f) **Notification to supervisor when children are at risk.** If during a monitoring visit licensing staff is concerned the health, safety, or well-being of children is at imminent risk, the licensing supervisor or OCCS State Office staff is contacted immediately for an appropriate response.

(g) **Alternative method of compliance.** OCCS may approve an alternative method of compliance to a minimum licensing requirement. An alternative method of compliance may be authorized if licensing determines the alternative method of compliance offers equal protection of health, safety, and well-being to children, meets the basic intent of the requirements for which the alternative compliance was requested, and does not violate statutory requirements.

(1) An applicant or licensee may submit a written request with any supporting documentation on Form 07LC061E, Alternative Compliance Request, to the licensing specialist. A separate request is submitted for each requirement for which an alternative method of compliance is requested.

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- (2) Licensing specialist completes Form 07LC105E, Alternative Compliance Referral, and submits all documentation to the statewide licensing coordinator or designee for authorization.
- (3) Approval of an alternative method of compliance does not set a precedent, and is independently evaluated on the merits of each request.
- (4) The facility's record of compliance is taken into consideration in determining whether to approve the request.
- (5) An alternative method of compliance is not authorized for critical items affecting the health and safety of a child, such as exceeding licensed capacity or staff-child ratios, fire safety violations, or behavior and guidance violations.
- (6) Written notice from OCCS, Form 07LC075E, Notice of Alternative Compliance, stating the nature of the exception, is posted with the license.

Okla. Admin. Code 340:110-1-9.4

340:110-1-9.4. Emergency Order

(a) **Purpose.** An Emergency Order directing the closure of a child care facility and/or immediate removal of children may be issued by the Oklahoma Department of Human Services (OKDHS) when there is a direct and serious hazard to the health, safety or welfare of any child cared for by the facility. Examples of serious hazardous situations may include, but is not limited to, circumstances:

- (1) that result in the serious injury or death of a child;
- (2) that place a child at a high risk for death or injury;
- (3) when compelling evidence of child abuse or neglect exists;
- (4) when a child leaves a facility without the staff's knowledge;

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- (5) when a child is left at a location away from the facility;
- (6) when a child is left unattended in a vehicle;
- (7) when a child is left alone in a facility;
- (8) when there are serious non-compliance issues;
- (9) when a person is on the premises whose health or behavior would endanger the health, safety, or well-being of children;
- (10) when there is compelling evidence of the presence of illegal drugs and/or drug paraphernalia; or
- (11) continued operation of an unlicensed facility.

(b) **Issuance of Emergency Order.** If the operator is unable or unwilling to correct the hazardous situation and/or refuses to voluntarily cease care of children:

- (1) the licensing specialist or the licensing supervisor submits a request for an Emergency Order to the licensing regional programs manager or assistant licensing coordinator, or statewide licensing coordinator;
- (2) the licensing regional programs manager may contact the operator by phone to determine if the operator will voluntarily cease care of children. A voluntary cease care agreement by the operator does not prohibit the issuance of an Emergency Order; and
- (3) a request for an Emergency Order is considered by the licensing regional programs manager, assistant licensing coordinator, or licensing coordinator within one facility business day. The decision to issue an Emergency Order may be made by the licensing regional programs manager. Upon making a decision, the official will:
 - (A) issue a written Emergency Order, signed by the approving official and notify the licensing specialist, the licensing supervisor, the assistant licensing coordinator, and statewide licensing coordinator; or

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(B) submit a written denial notice to the licensing specialist, the licensing supervisor, the assistant licensing coordinator, and the statewide licensing coordinator.

(c) **Provisions of the Emergency Order.** The Emergency Order shall provide for:

- (1) basis for the Emergency Order;
- (2) if the facility is to close;
- (3) if children are to be removed from the facility;
- (4) the Emergency Order is effective immediately;
- (5) the Emergency Order remains in effect until modified or rescinded; and
- (6) the right to have a hearing on the Emergency Order.

(d) **Serving of the Emergency Order.** The procedures for serving an Emergency Order are:

- (1) prior to delivery, the licensing specialist contacts law enforcement and requests assistance in serving the Emergency Order on the operator; and
- (2) an Emergency Order is served on the operator within one business day of issuance, or an alternate date, if approved by an assistant licensing coordinator or statewide licensing coordinator.

(e) **Removal of children.** If there is a threat of a direct and serious hazard to the health, safety and welfare of children and the operator is unable or unwilling to correct the situation and immediate removal from the child care facility is indicated, a licensing regional programs manager, assistant licensing coordinator, or statewide licensing coordinator may give verbal approval for removal of children. Parents are provided Form 07LC088E, Notice of Emergency Order, explaining the Emergency Order and how to locate other child care programs. Two options available are:

- (1) the operator and parents are told that the child care facility will not reopen on the following day; or

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(2) parents are contacted and advised to pick up their children immediately. If every effort has been made to contact the parents, and children are at imminent risk of harm, the licensing staff contacts law enforcement to request children be taken into protective custody.

(f) Duration of Emergency Order.

(1) The facility remains closed and care of children by the operator is prohibited pending a hearing on the Emergency Order.

(2) A review of the Emergency Order is conducted. If the decision to deny or to issue an Emergency Order is made by a licensing regional programs manager, an assistant licensing coordinator reviews all requests for an Emergency Order within three business days from the date of the decision by the licensing regional programs manager. The assistant licensing coordinator provides written notification to the licensing specialist, licensing supervisor, regional programs manager, and statewide licensing coordinator that they:

(A) concur with the issuance of the Emergency Order;

(B) issue a modified Emergency Order; or

(C) rescind the Emergency Order.

(3) Modification or rescission of Emergency Order may occur when there is documentation that the direct and serious hazard has been corrected, or that children are no longer at imminent risk of serious harm.

(4) Licensing staff verify compliance with Emergency Order for a period of 30 days after the action becomes final, unless the Emergency Order is rescinded within that timeframe.

(g) Violation of the Emergency Order. If an operator violates the conditions set forth in the Emergency Order, the licensing specialist, after consultation with the approving official, contacts a CLEET-certified officer for assistance.

(h) Citation request. A referral is made on Form 07LC097E, Citation Request, for the assistance of a CLEET-certified officer. The following procedures are followed:

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(1) Licensing staff contacts a CLEET-certified officer to schedule a visit to the facility.

(2) Upon violations of conditions set forth in the Emergency Order, a citation may be issued by the CLEET-certified officer for not less than \$100 nor more than \$500 for every day the facility maintains and receives children.

(3) Licensing staff and a CLEET-certified officer monitor the facility until care of children has ceased.

(i) **Referral to the District Attorney (DA).** If violation of Emergency Order occurs, licensing staff consults with regional programs manager for the necessity of a referral to DA. Should a referral be necessary, licensing staff complete Form 07LC098E, District Attorney Referral, that includes documentation of the facts of the case. A copy is sent to the statewide licensing coordinator who informs the OKDHS Legal Division of the referral.

(j) **Referral to the Attorney General.** If no action is taken by a DA of the county where the facility is operating, a referral may be made to the Attorney General by the statewide licensing coordinator or designee.

Okla. Admin. Code 340:110-1-9.5

340:110-1-9.5. Consent agreement

(a) **Purpose.** The Oklahoma Department of Human Services (OKDHS) may offer to enter into a consent agreement with a facility in lieu of license denial or revocation. If such action has already taken place, a consent agreement may be used during the appeal process if the facility comes into compliance with licensing requirements. The use of a consent agreement is not required prior to denying or revoking a license.

(b) **Process.** When the documented evidence reflects that the facility operator is unable or unwilling to comply with minimum requirements, the Oklahoma Child Care Services (OCCS) licensing staff discusses the use and terms of a consent agreement with the licensing supervisor. If the licensing regional programs manager and the statewide licensing coordinator or designee concur with this action, a meeting is scheduled with the operator.

(1) The operator is asked to provide the names and addresses of all children currently enrolled at the facility.

(2) During the meeting, areas of non-compliance and the terms of the agreement are discussed. The meeting is documented on Form 07LC080E, Licensing Services Supplemental Information, and is signed by the operator, licensing staff, and any witness present. A copy is provided to the operator.

(3) An agreement is written by the statewide licensing coordinator or designee. Terms and time frames of the

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agreement are based upon the nature and severity of the non-compliance. The agreement may include voluntary restrictions, such as a ban on future admissions of children to the facility, a restriction on the ages of children cared for in the facility, a reduction in the number of children attending the facility or the number of hours the facility may operate each day, specific staff training, drug testing, and medical or psychological evaluation. Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the statewide licensing coordinator or designee and the OKDHS Legal Division.

(4) The operator is advised to prominently post a copy of the consent agreement in the child care facility. During the next monitoring visit, the licensing staff verifies that the consent agreement is posted. If it is not posted, the licensing staff documents it as a violation of the terms of the consent agreement.

(5) The licensing staff mails a copy of the consent agreement, with a cover letter, to parents of children currently enrolled at the facility. Upon enrollment of new children, the facility must provide those names and addresses to licensing staff. Licensing staff mails a copy of the consent agreement and cover letter upon receipt of this information. If the operator has not provided children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

(c) **Violations of the terms of the consent agreement.** Any violation of the terms of the consent agreement is considered grounds for proceeding with license revocation, denial, or refusal to renew.

(d) **Appeals.** The child care facility is not entitled to an appeal of the terms of the consent agreement, as participation in the agreement is voluntary.

Okla. Admin. Code 340:110-1-10

340:110-1-10. Revocation or denial of license

(a) **Failure to meet requirements.** When numerous, repeated, or serious non-compliance with licensing requirements is observed and documented, or the facility fails to adequately protect the health and safety of children, the Oklahoma Department of Human Services (OKDHS) may deny the application for license or revoke the license.

(1) **Denial of application for license.** If a facility has filed an application for an initial license, OKDHS may deny the application for licensure.

(2) **Revocation of license.** If a license or provisional license is currently in effect, the licensing staff may recommend that the license be revoked.

(b) **Licensing staff recommendation.** The licensing staff consults with the licensing supervisor regarding his or her recommendation for revocation or denial. If the licensing supervisor concurs with the recommendation, the decision

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is discussed with the licensing RPM, and the statewide licensing coordinator, or designee. If they concur with the decision, licensing staff prepares the case for review by the statewide licensing coordinator or designee. Licensing staff submits the complete case record to the licensing supervisor who reviews the case to ensure all monitoring visits, complaints, correspondence, and relevant documents are included. The facility is notified in writing that the case has been referred to the statewide licensing coordinator.

(c) **Approval of recommendation and notification.** The case record and summary are reviewed by the statewide licensing coordinator or designee. Licensing staff's recommendation of revocation or denial is either approved, disapproved, or the decision delayed pending further investigation.

(1) When the recommendation is approved by the state-wide licensing coordinator, it is submitted to OKDHS Legal Division for review of the legal adequacy of the notice of pending action that is mailed to the owner. The director of Child Care Services or designee has final approval of the revocation or denial.

(2) The statewide licensing coordinator sends a written notice of the pending action to the owner by certified mail at least 30 days prior to the effective date of the action. The notice includes:

(A) a copy of the summary;

(B) a statement regarding the owner's right to appeal the decision;

(C) a statement that the law requires written notification to parents of the action taken, and instruction to the owner to submit the names and addresses of children currently enrolled;

(D) a sign providing notice of proposed revocation or denial that is required to be prominently posted in the facility; and

(E) a statement regarding the facility's reduction in Stars status, if applicable.

(3) During the next monitoring visit, the licensing staff and a witness verify that the sign providing notice of proposed revocation or denial is posted. If the sign is not posted, the licensing staff sends a letter to the owner documenting the violation of the legal notice.

(4) If the owner does not provide children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

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(5) Questions from the owner regarding the action and appeal process are referred to the state-wide licensing coordinator or designee.

(6) If the owner does not appeal the decision within the designated time period, the statewide licensing coordinator sends a letter to the owner giving notice of the denial or revocation and stating the effective date. The closure date is entered into the database by the statewide licensing coordinator or designee. A copy of the correspondence is sent to the licensing staff and to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1.

(7) The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. The state-wide licensing coordinator or designee is notified of the visit.

(8) If the owner continues to maintain and operate the facility for child care after a final decision revoking or denying licensure, after consultation with RPM, licensing staff contacts a Council on Law Enforcement Education and Training (CLEET)-certified officer for assistance and submits a referral to the district attorney (DA) on Form 07LC098E, District Attorney Referral, for further action.

(9) **Citation Request.** A referral is made on Form 07LC097E, Citation Request, for the assistance of a CLEET-certified officer. The following procedures are followed:

(A) Licensing staff contacts a CLEET-certified officer to schedule a visit to the facility.

(B) Upon violations of conditions set forth in the Emergency Order, or following the revocation, or denial of a license, a citation may be issued by the CLEET-certified officer for not less than \$100, nor more than \$500 for every day the facility maintains and receives children.

(C) Licensing staff and a CLEET-certified officer monitor the facility until care of children has ceased.

(10) **Referral to the District Attorney (DA).** If violation of an Emergency Order occurs, licensing staff consults with RPM for the necessity of a referral to DA. Should a referral be necessary, licensing staff complete Form 07LC098E, District Attorney Referral, that includes documentation of the facts of the case. A copy is sent to the statewide licensing coordinator who informs the OKDHS Legal Division of the referral.

(11) **Referral to the Attorney General.** If no action is taken by a DA of the county where the facility is operating, a referral may be made to the Attorney General by the statewide licensing coordinator or designee.

(d) **Appeal process.** The appeal process regarding denial of application or revocation of license is described in this

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subsection.

(1) The appeal is submitted to the Oklahoma Commission for Human Services by the owner within 30 days of receipt of the notice.

(2) If the owner appeals, a hearing is scheduled by the OKDHS Appeals Unit.

(3) The facility may continue to operate during any appeal process unless an Emergency Order is in effect. The licensing staff conducts monitoring visits at least once a month, unless advised otherwise by the statewide licensing coordinator or designee, and is accompanied by the same witness whenever possible. If at any time during the appeal process OKDHS believes that the health, safety, or well-being of children cannot be ensured:

(A) an Emergency Order is requested; or

(B) following consultation with the statewide licensing coordinator or designee, the licensing supervisor contacts the DA and requests that an injunction be filed.

(4) If the decision of OKDHS to revoke or deny a license is upheld during all appeals, the statewide licensing coordinator sends a letter to the owner that child care must immediately cease. A copy of the cease and desist letter is forwarded to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1. The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. If the owner continues to operate the child care facility, the licensing field staff, in consultation with the statewide licensing coordinator or designee, may request that the local DA pursue an injunction or initiate criminal proceedings, or the statewide licensing coordinator may pursue legal action through the Attorney General.

(5) If the decision of OKDHS to revoke or deny a license is not upheld, OKDHS takes action to implement the decision within ten calendar days.

(6) When OKDHS denies or revokes a facility's license, the responsible entity can not make application for a new child care facility license within Oklahoma for five years following notification to the responsible entity of the license denial or revocation and during an appeal process.

(e) **Change in ownership during appeal process.** If there is a change in ownership during the appeal process, the owner must provide documentation verifying the change. This information is reviewed by the RPM. The state-wide licensing coordinator may proceed with the previous owner's denial or revocation.

Okla. Admin. Code 340:110-1-10.1

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

a) **Legal basis.** Section 405.3 of Title 10 of the Oklahoma Statutes requires the Oklahoma Department of Human Services (OKDHS) to establish and maintain a Child Care Restricted Registry (Restricted Registry), which is named Joshua's List. Individuals identified as registrants are prohibited from licensure, ownership, employment, and/or residence in a licensed child care facility. The Restricted Registry search is required for:

(1) any individual making application for licensure to operate a child care facility;

(2) any individual signing the application as a household member;

(3) any individuals age 18 years or older, prior to their residence in a licensed child care facility, excluding residential facilities and child placing agencies; and

(4) any individuals to be employed by a licensed child care facility, including all caregivers, auxiliary staff, and substitute or assistant caregivers.

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

(1) a finding of abuse or neglect, as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, by an individual when the abuse or neglect occurred to children while in the care of a licensed child care facility;

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

(3) a specified criminal history for individuals who have entered a plea of guilty, nolo contendere, no contest, or a conviction for the following felony offenses:

(A) child abuse or neglect;

(B) a crime against a child;

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

(4) a specified criminal history for individuals who have entered a plea of guilty, nolo contendere, no contest, or a conviction within the five-year period preceding the application date for licensure, prior to employment and residence, for the following felony offenses:

(A) domestic abuse;

(B) a drug-related offense; or

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

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

(1) registrant, licensing documents contact with owner on Form 07LC080E, Licensing Services Supplemental Information, regarding their registration.

(2) non-registrant, procedures for processing a facility application are followed per OAC 340:110-1-6 or 340:110-1-45.

(d) **Restricted Registry search for child care facility owners, employees, and residents.** For individuals identified in (a)(1) - (4) of this Section, Form 07LC101E, dated within the last 30 days, is submitted to the licensing records office with Form 07LC096E, Criminal History Review Request.

(e) **Registration as a result of findings of abuse or neglect investigations by Child Welfare.** Licensing staff notifies the licensing records office upon receipt of substantiated or confirmed findings when the abuse or neglect occurred to children while in the care of a licensed child care facility. The licensing records office verifies appeal status before requesting investigation information from licensing for potential registrants identified in (a)(1) - (4) of this Section. Investigation information is then forwarded to the restricted registry review committee for consideration per (i) of this Section.

(f) **Registration as a result of findings of abuse or neglect investigations by Office of Client Advocacy (OCA).** OCA submits investigations of abuse or neglect to the residential licensing programs manager who reviews the information. Information meeting registration criteria identified in (b)(1) of this Section is forwarded to the licensing

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records office supervisor. Investigation information is then forwarded to the restricted registry review committee for consideration per subsection (i). The licensing records office verifies OCA appeal status before requesting legal review.

(g) **Registration as a result of a denial or revocation.** Procedures regarding the denial or revocation of a license are followed per OAC 340:110-1-10 or 340:110-1-52. A copy of the cease and desist letter and revocation or denial letter is forwarded to the licensing records office. Documentation relating to the denial and revocation is forwarded to the restricted registry review committee for consideration per subsection (i).

(h) **Registration as a result of a specified criminal history.** If a criminal history review conducted by the licensing records office reveals an individual is a potential registrant as indicated in (b)(3) - (5), and a waiver has not been granted, all criminal background information is forwarded to the restricted registry review committee for consideration per subsection (i).

(i) **Restricted registry review committee.** The restricted registry review committee consists of five OKDHS staff who make a determination of registration within 30 days of receipt of information from the licensing records office.

(1) Criteria considered for registration includes the:

(A) age of the individual at the time of the offense(s);

(B) length of time since the offense(s) occurred;

(C) number and types of offenses for which the individual was convicted or findings made;

(D) circumstances surrounding commission of the offense(s) that demonstrate willful intent;

(E) likelihood the individual will re-offend; and

(F) other documentation submitted indicating that the health, safety, and well-being of children are or are not endangered.

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

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(A) the individual's history of behavior likely to create a reasonable risk of harm to children; and

(B) whether the individual is unsafe with children; either alone or in a group.

(3) The determination is based upon a majority decision of the committee members.

(4) When registration is recommended by the review committee, registration information is forwarded to the licensing records office supervisor.

(j) **Restricted Registry Legal Review.** The licensing records office supervisor or designee submits registration information to OKDHS Legal Division requesting legal review for registration.

(k) **Restricted Registry notification.** Within five days of receipt of OKDHS Legal Division review, the licensing records office notifies the potential registrant on Form 07LC102E, Restricted Registry Notification. The notification:

(1) is sent by certified mail, return receipt requested; and

(2) advises the potential registrant of their;

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

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

(l) **Restricted Registry appeal process.** A request for an appeal is forwarded to the licensing records office.

(m) **Registration.** When no appeal is requested within the specified timeframe or when an administrative decision becomes final, the licensing records office:

(1) mails Form 07LC103E, Restricted Registry Final Notification, to registrant's last known address;

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(2) mails Form 07LC104E, Restricted Registry Notification to Child Care Facility, to the facility where registrant resides and/or is employed;

(3) notifies licensing staff regarding registration; and

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

(n) **District Court appeal process.** Any registrant aggrieved by the decision may appeal to the District Court of the county in which the child care facility is maintained and operated by filing with the clerk of the court a verified petition. Notice of such appeal shall be served on the OKDHS Director within five days of the date of its filing.

(o) **Request for registration removal.** A registrant may request removal after 60 months from the date of being recorded on the Restricted Registry. A request for removal from the Registry is forwarded to the licensing records office for submission to the restricted registry review committee. The restricted registry review committee makes a determination as to removal within 30 days of receipt of notice from the licensing records office.

(1) Criteria considered for removal includes, but is not limited to criteria in subsection (i)(1)(A) - (F) and:

(A) current criminal background review conducted within 30 days;

(B) statements of work and training history since registration;

(C) personal statement of rehabilitative efforts; and

(D) length of time on the Restricted Registry.

(2) A decision as to removal is based upon a majority decision of review committee members.

(p) **Registration removal.** Licensing Records office provides notification to the registrant of the committee decision.

Okla. Admin. Code 340:110-1-11

340:110-1-11. Voluntary case closures

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(a) **Child care centers, part-day children's programs, and school-age programs.** When a facility is sold to a new owner or discontinues providing child care, the case record is closed, unless the case has been recommended for revocation or denial. A facility's case is closed when care has not been provided for more than 12 consecutive months in accordance with OAC 340:110-1-9(n). State Office is consulted for appropriate action. A license is not transferable.

(b) **Family child care home.** A family child care home case is closed when the caregiver discontinues care or care has not been provided for more than 12 consecutive months in accordance with OAC 340:110-1-9(o). When a family child care home is sold to a new owner, the case record is closed, unless the case has been recommended for revocation or denial. State Office is consulted for appropriate action.

(c) **Reopening a closed family child care home.** Policy regarding reopening a family child care home is at OAC 340:110-1-6(c).

Okla. Admin. Code 340:110-1-12

340:110-1-12. OAC 340:70, Appendix I, Day Care Provider Contract [REVOKED]

Okla. Admin. Code 340:110-1-13

340:110-1-13. Unlicensed facilities

(a) **Legal basis and authority.** Pursuant to Section 405 of Title 10 of the Oklahoma Statutes, no child care facility may be operated or maintained in this state, unless licensed or given permission to operate by the Oklahoma Department of Human Services (OKDHS).

(b) **Procedure for investigating the operation of an unlicensed facility.** When information is received regarding the operation of an unlicensed facility, staff conducts a full monitoring visit no later than three facility business days to assess the necessity of a license.

(1) If care is being provided, staff informs the facility they have not been given permission to operate and they are in violation of the Oklahoma Child Care Facilities Licensing Act. During the visit the facility is informed on Form 07LC095E, Notice Regarding Unlicensed Care, that:

(A) care must cease by the end of the current business day unless imminent risk indicates the need for the facility to cease care immediately; or

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(B) permission to operate may be granted when the facility:

(i) is in compliance with health and safety requirements without serious non-compliances as referenced in OAC 340:110-1-9.3;

(ii) has submitted a completed application in accordance with OAC 340:110-1-6;

(iii) provides all required background information per OAC 340:110-1-8.1; and

(iv) has staff present who meet the following licensing requirements:

(I) documented current cardio-pulmonary resuscitation and first aid certification ;

(II) required health and safety training completed; and

(III) minimum educational qualifications for the position held.

(2) If a facility is not granted permission to operate, a follow-up visit is conducted within one facility business day to verify the termination of care and The follow-up visit timeframe may be extended up to five days with supervisory approval and is documented on Form 07LC080E, Licensing Services Supplemental Information. When care of children has not ceased, staff proceed per OAC 340:110-1-9.4.

(3) When the necessity of a license is not required, licensing staff documents the investigation of unlicensed operation on Form 07LC080E.

(c) **Documentation of Findings.** Following the unlicensed complaint investigation licensing staff proceed with procedures in OAC 340:110-1-9.2(k). All case staffings and discussions of case actions are documented on Form 07LC080E and maintained in the case file.

Okla. Admin. Code 340:110-1-14

340:110-1-14. Public inspection of licensing files

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(a) **Legal basis.** The Oklahoma Department of Human Services (OKDHS) is subject to the Oklahoma Open Records Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes (O.S.), which mandates that public records are open for public inspection unless they are required by law to be kept confidential.

(b) **Licensing records.** All OKDHS records of facilities required to be licensed under 10 O.S. § 401 et seq. that are considered public records are open and available for public inspection during reasonable hours. Information obtained concerning a report of a violation of a licensing requirement is confidential pursuant to 10 O.S. § 406 with the exception of a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits the public to evaluate the facility.

(c) **Location of case records.** Child care facility licensing records are located and inspected in the OKDHS Human Service Center where licensing staff reside. If a parent resides in another county, the licensing staff makes the record available in that county.

(d) **Preparation of case files for inspection.** The licensing staff carefully reviews the entire record and removes confidential information.

(e) **Records of complaints.** To allow persons inspecting a licensing record to have access to information regarding complaints, Form 07LC081E, Licensing Complaint Report Summary, is included in the file. Form 07LC012E, Licensing Complaint, is removed from the file that is open for public inspection. If information regarding a complaint is requested prior to completion of the investigation, the licensing staff explains that information regarding the allegation and findings is released after the investigation is complete.

(f) **Supervision of files during inspection.** Facility records are inspected in the presence of OKDHS staff persons who are available to provide clarification on licensing policy and requirements.

(g) **Fees for photocopying.** Guidelines for photocopying fees are provided per OAC 340:2-21-16.

(h) **Release of confidential information.**

(1) A complete case file that includes confidential information is not released to the public, and may be provided only to certain persons according to applicable laws and regulations, for example, OKDHS Legal Division, Children and Family Services Division, law enforcement officials, and upon order of a court of competent jurisdiction.

(2) The name or other identifying information of a complainant listed on Form 07LC012E is confidential and released only upon order of a court of competent jurisdiction.

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(i) **Computer licensing record.** A summary of the facility licensing record maintained on the OKDHS Web site as recorded in public view may be provided upon request at no charge. A cover letter is sent with the licensing summary that notes that the summary does not include the complete case record, and that the complete case record may be reviewed in the OKDHS Human Service Center where the facility is located.

(j) **Release of information over the telephone.** Information on public view may be released over the telephone, including completed complaint information. If more information is requested, the file may be viewed at the county office.

Okla. Admin. Code 340:110-1-15

340:110-1-15. Grievance and complaint policy and procedure

(a) **Grievance and complaint policy.** The owner or director of a licensed child care facility may file a grievance or complaint regarding the application of any written or unwritten policy, rule, or regulation of the Oklahoma Department of Human Services (OKDHS) or any decision by an OKDHS employee that affects the facility. A grievance or complaint is not accepted concerning the denial or revocation of a child care facility license. The procedure for appealing this action is provided in the Oklahoma Child Care Facilities Licensing Act. [10 O.S. § 407]

(b) **Grievance or complaint procedure.** Persons wanting to file a grievance or complaint are encouraged to seek informal resolution of their concerns by contacting the appropriate licensing supervisor, who attempts to resolve the matter.

(1) If a resolution cannot be reached at the local level or through verbal conversation with State Office staff, the grievant or complainant is requested to file a written request with the licensing supervisor.

(2) The licensing supervisor notifies the licensing regional programs manager (RPM) and statewide licensing coordinator that a formal grievance or complaint was filed and efforts were made to resolve the issue. The licensing supervisor responds to written grievances or complaints within 10 working days of receipt.

(3) When the grievant or complainant is not satisfied with the proposed resolution, he or she may appeal to the RPM. The RPM responds to written grievances or complaints within 10 working days of receipt.

(4) When the grievant or complainant is not satisfied with the proposed resolution, he or she may appeal to the Child Care Advisory Committee (CCAC). The CCAC responds within 10 working days of receipt to the statewide licensing coordinator with advisement for resolution.

(5) The statewide licensing coordinator notifies the grievant or complainant of the Oklahoma Child Care Service (OCCS) decision within 10 working days of receipt of the CCAC advisement.

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(6) When the grievant or complainant is not satisfied with the proposed resolution, he or she may appeal to the OCCS director, chief coordinating officer (CCO), and OKDHS Director, respectively. The OCCS director, CCO, and OKDHS Director each respond within 10 working days of receipt and the OKDHS Director's decision is final.

(7) The grievant or complainant is requested to file only one written complaint. Referrals for resolution are made by the OKDHS staff involved in the response.

Okla. Admin. Code 340:110-1-16

340:110-1-16. Certification of child care facilities to care for children with special needs [REVOKED]

Okla. Admin. Code 340:110-1-17

340:110-1-17. Child Care Advisory Committee bylaws

(a) Purpose. The purpose of the Child Care Advisory Committee (Advisory Committee or CCAC) is to:

(1) carry out the provisions of the Oklahoma Child Care Facilities Licensing Act, Section 404 of Title 10 of the Oklahoma Statutes to:

(A) ensure maintenance of minimum standards for the care and protection of children away from their homes that include:

(i) constructive programs and services to meet the needs of each child and family;

(ii) staff of good moral character and ability to care for children;

(iii) adequate and safe housing, sanitation, and equipment;

(iv) good health care;

(v) full educational and religious opportunities;

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(vi) good community relationships;

(vii) essential records and administrative methods; and

(viii) sufficient funds for sound operation;

(B) encourage and assist child care facilities toward maximum standards; and

(C) work for the development of sufficient and adequate services for child care through joint work with public and private agencies;

(2) prepare and recommend minimum requirements and standards for child care facilities for adoption by the Oklahoma Department of Human Services (OKDHS);

(3) serve in an advisory capacity to OKDHS for developing quality child care programs and services; and

(4) educate the public and consumers regarding quality child care.

(b) **Function.** The function of CCAC is to:

(1) become informed on OKDHS programs and policies regarding children;

(2) express the needs and concerns of the community and the State of Oklahoma as they relate to the care and treatment of children; and

(3) bring recommendations for change, including the adoption of minimum requirements and encouraging maximum standards for child care

(c) **Membership.**

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(1) **Representation.** CCAC provides names for consideration of new appointments and reappointments of members to the director of Child Care Services. The director of Child Care Services makes recommendations for membership to the OKDHS Director. Members are appointed to serve at the pleasure of the OKDHS Director, based on their expertise, experience, and leadership in the field of child care.

(A) CCAC at a minimum consists of 18 members.

(B) The majority are representatives of facilities licensed by OKDHS to care for children.

(C) Other members include at least one representative from

Oklahoma State Department of Health;

Oklahoma Department of Education;

Office of the State Fire Marshal; tribal agencies; and

Oklahoma Child Care Services (OCCS). These representatives are exempt from term limits.

(D) Other members include associations and agencies as recommended to the OKDHS Director, such as the Oklahoma Child Care Association, Oklahoma Children's Agencies and Residential Enterprises Incorporated (OKCARE), Oklahoma Department of Mental Health and Substance Abuse Services, Oklahoma Association of Youth Services, Office of Juvenile Affairs, Early Childhood Association of Oklahoma, and Head Start.

(E) A representative from the Oklahoma Commission on Children and Youth serves as an ex-officio member.

(2) **Terms of office.**

(A) The terms of CCAC members are for three years with a two-consecutive-term limit. Effective November 1, 2008 members shall be appointed to CCAC for a period of three years and may be reappointed for an additional three year term.

(B) Members may be recommended for reappointment after completing their first term of office.

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(3) **Officers.** The officers of CCAC are chairperson, vice-chairperson, and secretary.

(A) **Chairperson.** The chairperson is responsible for:

(i) presiding over all meetings;

(ii) in coordination with OCCS, planning the meeting agenda at least two weeks in advance;

(iii) with the director of Child Care Services or representative, appointing members of subcommittees;

(iv) moderation of public hearings; and

(v) serves as spokesperson for CCAC.

(B) **Vice-Chairperson.** The vice-chairperson works closely with the chairperson, assumes the responsibilities of the chairperson in his or her absence, and attends public hearings.

(C) **Secretary.** The position of secretary is held by the OCCS representative. The secretary is responsible for accurately recording the minutes of each meeting and making them available to the members prior to the next meeting. A permanent copy of the minutes is maintained by OKDHS.

(4) **Election of officers and terms of office.**

(A) Upon vacancy of office, the chairperson and vice-chairperson are elected by a majority vote of members present during the next quarterly meeting following the office vacancy. Officers assume duties during the meeting in which the election is held.

(B) Terms of office are for one year. Officers may be elected to serve in one office for a maximum of three terms.

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(5) **Subcommittees.**

(A) Subcommittees are appointed by the chairperson with consultation from OCCS and are designated to:

(i) draft licensing requirements for child care programs and services;

(ii) study CCAC concerns; and

(iii) address special issues of CCAC.

(B) The chairperson of the subcommittee is a member of CCAC.

(C) Subcommittee members include representatives of child care programs and services with experience and expertise in the field of child care and children's services.

(D) Subcommittees appointed to draft licensing requirements for child care programs:

(i) present their recommendations to CCAC for approval prior to being approved by the Commission for Human Services and the Governor;

(ii) have a majority of members who represent private child care programs affected by the requirements; and

(iii) include representatives from licensing, including supervisory and field staff.

(E) Standing subcommittees expand the opportunity for child care program operators to identify quality improvement resources, express concerns facing the industry, and recommend issues for consideration by CCAC.

(i) The chairpersons of four standing subcommittees, representing family child care, child care centers, residential child care, and child-placing agencies, are appointed by CCAC chairperson CCAC membership.

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(ii) Subcommittee members are identified and recruited by the subcommittee chairpersons with consultation from OCCS.

(iii) Subcommittees meet a minimum of twice a year.

(iv) The subcommittee chairperson provides a written report to CCAC at least twice a year.

(F) A standing membership subcommittee helps to insure a broad representation of licensed facilities are included within CCAC.

(i) The chair of the standing membership subcommittee works closely with other CCAC officers and provides oversight to the standing membership subcommittee.

(ii) The membership subcommittee meetings are held at least quarterly, prior to CCAC meetings.

(iii) The membership subcommittee chairperson provides a written quarterly report to CCAC.

(iv) The membership subcommittee recommends to CCAC the names for new appointments.

(v) The membership subcommittee recommends to CCAC the reappointment of existing members based upon their attendance and participation on CCAC subcommittees.

(vi) The membership subcommittee recommends a slate of officers to CCAC.

(d) **Meetings.**

(1) **Frequency.** The CCAC meets quarterly. Additional meetings may be called or regular meetings cancelled at the discretion of the chairperson and OCCS representative.

(2) **Quorum.** A minimum of one third plus one of the membership must be present for a quorum.

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(3) **Voting.** All members or their designees must receive orientation on the goals and practices of CCAC prior to voting.

(4) **Attendance.** Committee members or their designees must attend at least two Advisory Committee meetings a year or may be removed from the committee at the discretion of the CCAC or OKDHS Director.

(5) **Active participation.** Advisory Committee members or their designees are required to serve on subcommittees annually.

(6) **Guidelines.** The CCAC adheres to established Guidelines for Organization and Function. The practices of the CCAC are compatible with the Child Care Facilities Licensing Act.

(7) **Rules of order.** Roberts Rules of Order, as amended, are used to govern the meetings.

(e) **Change of bylaws.** Bylaws may be altered, amended, or repealed only by a majority vote of the CCAC, provided that written notice of the proposed action is given in the call to the meeting and a quorum is present.

Okla. Admin. Code 340:110-1-18

340:110-1-18. Criminal background checks [REVOKED]

Okla. Admin. Code 340:110-1-19

340:110-1-19. Emergency order [REVOKED]

Okla. Admin. Code 340:110-1-20

340:110-1-20. Professional development of OCCS staff

(a) **Licensing staff training.** All Oklahoma Child Care Services (OCCS) licensing staff are required to receive job-related training on an annual basis. This includes the new worker licensing training required for all new licensing staff. An annual training plan is developed for each employee with the employee's supervisor.

(b) **Professional development of OCCS staff.** OCCS may award scholarships for coursework leading to a master's degree in early childhood education at an Oklahoma public university. The program may be discontinued at any time based on unavailability of funding.

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(1) Scholarships are awarded to employees based upon supervisory recommendation and selection by the OCCS Education Assistance Committee. Preference is given to staff who have three years of Oklahoma Department of Human Services (OKDHS) employment.

(2) Applications are not accepted for participants while in probationary status or a trial period or during any level of corrective discipline. Once approved, any continued participation is based upon supervisory approval, satisfactory job performance appraisal, and OCCS Education Assistance Committee approval.

(3) Participation is limited to two courses per semester per person.

(c) **Scholarship requirements.**

(1) **Mandatory service requirement.** The OCCS Education Assistance Committee establishes conditions of a mandatory service requirement for participants in the scholarship program. The service requirement is included in a written contract between OCCS and the participant.

(2) **Grade report.** At the end of each semester, scholarship recipients submit a copy of their grades to their supervisor and to the OCCS Education Assistance Committee.

(3) **Reimbursement requirement.** Exceptions to the reimbursement requirement may be granted, at the discretion of the OCCS Education Assistance Committee, for serious illness, injury, or a personal situation requiring the recipient to withdraw from school. The OCCS Education Assistance Committee specifies and includes the terms of reimbursement in a contract between OCCS and the participant. Unless an exception is granted by the OCCS Education Assistance Committee, reimbursement to OKDHS for the cost of tuition, books, fees, and other expenses incurred is required and a recipient is not permitted to enroll in further courses until the debt is paid in full when a recipient:

(A) withdraws from a class;

(B) earns a grade below "C" in any class;

(C) receives a grade of "incomplete" that is not converted to an acceptable grade during the next semester; or

(D) is removed from the program by the university.

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(4) **Use of leave.** With supervisory approval, scholarship recipients may use educational leave up to 160 hours per year. Such requests are submitted and approved in accordance with OKDHS:2-1-42. Attendance at night or weekend classes does not qualify the recipient for compensatory time.

(5) **Application.** Applications and supporting documentation for the scholarship program are submitted within the designated time frames. Upon scholarship award, a contract is signed by the recipient to indicate an understanding of and commitment to the scholarship requirements.

Okla. Admin. Code 340:110-1-21

340:110-1-21. Evaluation of the child care licensing services program

The Oklahoma Child Care Services (OCCS) is responsible for the evaluation of the child care licensing services program.

(1) The evaluation includes quality assurance audits and provider satisfaction surveys.

(2) OCCS establishes a method for continuously improving the internal audit program through feedback and recommendations from all parties concerned. The audit:

(A) is performed to determine whether licensing requirements, policies, and procedures are being fully implemented and to evaluate the effectiveness of the program;

(B) provides objective evidence to support the need for the reduction, elimination, and prevention of non-conformities; and

(C) is conducted by the OCCS lead auditor, who is responsible for all activities associated with the evaluation of the program.

Okla. Admin. Code 340:110-1-40

340:110-1-40. Purpose

The purpose of this Part is to describe the responsibilities and functions of Oklahoma Child Care Services in regard to Residential Licensing Services.

Okla. Admin. Code 340:110-1-41

340:110-1-41. Definitions

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

“Child care staff” means staff, including part-time, on-call, and substitute staff who provide direct care and supervision of residents. To be counted as required child care staff, workers must be engaged in providing care and meet the minimum qualification for child care staff.

“Child-placing agency” means an agency that provides social services to children and their families that supplement, support, or substitute parental care and supervision for the purpose of safeguarding and promoting the welfare of children. The agency may provide full-time placement service for children away from their own homes, such as adoptive homes, foster family homes, group homes, and independent living programs.

“Residential child care facility” means a 24-hour child care facility with children living together with adults other than their parents or relatives.

Okla. Admin. Code 340:110-1-42

340:110-1-42. Legal base and authority

(a) The Oklahoma Department of Human Services (OKDHS) is responsible for implementing the Oklahoma Child Care Facilities Licensing Act. [10 O.S. § 401 et seq.] This Act mandates that a license must be obtained from OKDHS to provide care for children away from their own homes. The child care facilities subject to licensing that are addressed in this Part are residential child care facilities and child-placing agencies. Residential facilities operated by OKDHS are certified. The responsibilities of OKDHS in relation to these facilities include:

- (1) developing minimum requirements for the care and protection of children cared for in child care facilities;
- (2) assisting child care providers in achieving maximum standards;
- (3) providing continuing technical assistance and consultation to the facility;
- (4) developing sufficient and adequate facilities for child care in the community;
- (5) issuing licenses based upon compliance with minimum requirements;

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(6) investigating complaints received against child care facilities; and

(7) taking corrective action as authorized by the Oklahoma Child Care Facilities Licensing Act and stated policy based upon non-compliance with minimum requirements.

(b) OKDHS has established the Oklahoma Child Care Services to carry out the responsibility of the Oklahoma Child Care Facilities Licensing Act.

Okla. Admin. Code 340:110-1-43

340:110-1-43. Roles and responsibilities of licensing staff

(a) Licensing staff for residential child care and child-placing agencies conducts onsite visits, documents findings, provides technical assistance and consultation in the licensing staff's assigned areas, and makes recommendations on all case actions to the programs manager. The programs manager or designee is responsible for final approval of all licensing recommendations.

(b) Official licensing records for child care programs are maintained in the licensing staff's office and are open to the public upon request.

(c) In addition to licensing facilities and agencies, licensing staff:

(1) communicate with local fire and health officials within the licensing staff's assigned area regarding licensing rules and policy, requirements, inspections, and other issues related to a specific facility or child care in general;

(2) refer facilities to local city officials regarding local ordinances and related compliance;

(3) facilitate or sponsor training for child care providers; and

(4) coordinate with other regulatory and investigative state entities in promoting quality care in residential settings within the licensing staff's assigned area.

Okla. Admin. Code 340:110-1-43.1

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340:110-1-43.1. Forms

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

(1) **07LC005E, Transportation Information.** Form 07LC005E is used by a child care facility director to document compliance with licensing requirements on transportation.

(2) **07LC012E, Licensing Complaint.** Form 07LC012E is used by licensing staff to record a complaint against a child care facility.

(3) **07LC016E, Recommendation for Licensing or Certification of a Child Care Center.** Form 07LC016E is used by licensing staff and supervisors to make recommendations on the licensing or certification of child care facilities.

(4) **07LC021E, Comments and Recommendations Regarding Licensing Requirements.** Form 07LC021E is used to make comments and recommendations pertaining to licensing requirements and policy.

(5) **07LC037E, Notice to Comply.** Form 07LC037E is used by a facility to document required plans of correction .

(6) **07LC039E, Child Care Staff Health Record.** Form 07LC039E is used to document tuberculosis testing and also used by an examining physician to document an employee's physical exam.

(7) **07LC040E, Request for License - Child-Placing Agency, Residential Child Care, and Children's Shelter.** Form 07LC040E is used by an agency or residential facility to request application for a child care facility license.

(8) **07LC041E, Staff Information - Child Care Facility.** Form 07LC041E is used to record required information regarding child care facility staff.

(9) **07LC043E, Child Placing Agency Compliance Review.** Form 07LC043E is used by licensing staff to assess compliance with child-placing agency requirements.

(10) **07LC047E, Agency Certification Report.** Form 07LC047E is completed by child-placing agency staff to certify to the Oklahoma Department of Human Services that each foster home or independent living arrangement complies with the Licensing Requirements for Child-Placing Agencies.

Current through rules published in Volume 31, Number 18 of the Oklahoma Register dated June 2, 2014

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(11) **07LC050E, Personnel File Review - Agency and Residential Programs.** Form 07LC050E is used by licensing staff to document compliance with personnel record requirements in residential and child-placing agency requirements.

(12) **07LC056E, Compliance Review-Residential Child Care Facility.** Form 07LC056E is used by licensing staff to assess compliance with residential requirements.

(13) **07LC058E, Monitoring Report-Residential Child Care Facility.** Form 07LC058E is used by licensing staff to document compliance with requirements during a visit to a residential facility and record any other information obtained.

(14) **07LC059E, Residential Child Care Facility - Resident File Review.** Form 07LC059E is used by licensing staff as part of the licensing process to document compliance with residential facility requirements.

(15) **07LC060E, Residential Child Care Policy and Records Check.** Form 07LC060E is used by licensing staff to document compliance with residential policy and procedure requirements.

(16) **07LC065E, Resident Monitoring Report.** Form 07LC065E is used by licensing staff to record the agency's compliance with independent living program licensing requirements .

(17) **07LC071E, Licensing Services Waiver Referral.** Form 07LC071E is used by licensing staff when submitting a waiver request to State Office.

(18) **07LC078E, Child-Placing Agency - Record of Foster Home Closure.** Form 07LC078E is used by a child-placing agency to report a foster home closure .

(19) **07LC079E, Child Death Report.** Form 07LC079E is completed by licensing staff to record the death of a child while in child care.

(20) **07LC080E, Licensing Services Supplemental Information.** Form 07LC080E is used when additional space for documentation is needed, when a complete monitoring report is not required, to document office and telephone contacts, and to record other information for the licensing record.

(21) **07LC081E, Licensing Complaint Report Summary.** Form 07LC081E is placed in the case record and

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includes the findings of the investigation in compliance with Section 406 of Title 10 of the Oklahoma Statutes.

(22) **07LC087E, Waiver Notification.** Form 07LC087E is used to inform facilities of a decision regarding a waiver request.

(23) **07LC089E, Child Care Waiver Request.** Form 07LC89E is used by a program director to request a waiver for a person with a restricted criminal history.

(24) **07LC090E, Waiver Reference.** Form 07LC090E is used to obtain references for a person with a restricted criminal history.

(25) **07LC092E, Insurance Verification.** Form 07LC092E is completed annually to verify liability insurance coverage.

(26) **07LC095E, Notice Regarding Unlicensed Care.** Form 07LC095E is provided to facilities during the investigation of unlicensed care.

(27) **07LC096E, Criminal History Review Request.** Form 07LC096E is completed by facilities to request a criminal history review by licensing records office.

(28) **07LC097E, Citation Request.** Form 07LC097E is used when requesting assistance of Council on Law Enforcement Education and Training (CLEET)-certified officers.

(29) **07LC098E, District Attorney Referral.** Form 07LC098E is used when requesting a district attorney file criminal charges and/or issue an injunction.

(30) **07LC101E, Restricted Registry Verification.** Form 07LC101E is used by child care facilities and licensing to verify non-registration and registration of individuals recorded on the Child Care Restricted Registry.

(31) **07LC102E, Restricted Registry Notification.** Form 07LC102E is used by the licensing records office to notify individuals of potential registration on the Child Care Restricted Registry.

(32) **07LC103E, Restricted Registry Final Notification.** Form 07LC103E is used by licensing records office to notify individuals of registration on the Child Care Restricted Registry.

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(33) **07LC104E, Restricted Registry Notification to Child Care Facility.** Form 07LC104E is used by the licensing records office to notify child care facilities of individuals registered on the Child Care Restricted Registry.

(34) **07LC106E, Criminal History Review Results.** Form 07LC106E is used to notify facilities of the results of the criminal history review.

(35) **Form 07LC107E, Child Care Restricted Registry Notice.** Form 07LC107E is used as additional notification to facility employees of the Child Care Restricted Registry registration process.

(36) **Form 07LC108E, Monitoring Report - Child Placing Agencies.** Form 07LC108E is used by licensing staff to document compliance with licensing requirements during a monitoring visit to a child placing agency and to record other information obtained.

(37) **Form 07LC110E, Child Placing Agency - Policy and Records Check.** Form 07LC110E is used by licensing staff to document compliance with child placing agency policy and procedure requirements.

Okla. Admin. Code 340:110-1-43.2

340:110-1-43.2. Appendices [REVOKED]

Okla. Admin. Code 340:110-1-44

340:110-1-44. Inquiries

(a) **Inquiries.** Inquiries regarding the licensing of residential child care facilities or child-placing agencies are referred to the licensing staff in whose geographical area the inquirer is located. Upon receipt of an inquiry, the licensing staff provides the inquirer with a copy of the applicable requirements and, when appropriate, refers facilities to other agencies involved in licensing residential child care facilities or child-placing agencies, such as the fire department, health department, and local city regulatory offices. When the inquirer has informed licensing they are currently providing care for children procedures in OAC 340:110-1-54.1 are followed. Licensing informs the inquirer they are not to provide care of children without permission to operate by Oklahoma Child Care Services (OCCS). When the inquirer indicates an interest in becoming licensed, the licensing staff:

(1) reviews the requirements with the inquirer to help him or her determine whether the requirements can be met;

(2) determines the qualifications of the inquirer to operate a facility; and

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(3) provides consultation to assist in the development of a residential child care facility or child-placing agency that can provide quality care.

(b) **Tribal facilities.** Child care facilities on Indian tribal land do not require a state license, but may request licensure.

(c) **Federal facilities.** Facilities operated on military bases or on federal property are exempt.

Okla. Admin. Code 340:110-1-45

340:110-1-45. Application process

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

(1) Form 07C040E, Request for License -- Child Placing Agency, Residential Child Care, and Children's Shelter;

(2) Form 07LC041E, Staff Information - Child Care Facility; and

(3) Form 07LC043, Child Placing Agency Compliance Review, or Form 07LC056E, Residential Child Care Facility Compliance Review, as applicable.

(b) **Receipt of application.** Upon receipt of the application packet to Oklahoma Child Care Services, the case is assigned a license number and a file is created. Contact is made by phone every two months and documented on Form 07LC080E, Licensing Services Supplemental Information, when children have not been accepted into care.

(c) **Permission to operate.** The facility may be granted permission to operate on application status. If the licensing staff determines that an applicant is temporarily unable to comply with all licensing requirements, but the services are needed and the non-compliance does not place children at risk of imminent harm, these situations are staffed with programs manager for permission to operate. Permission to operate can not exceed 30 days.

(d) **Reopening a residential child care facility or child-placing agency.** A new application must be completed when a residential facility or child-placing agency that has been closed is reopened. Prior to the issuance of the license, background investigations must be conducted per OAC 340:110-1-51.

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(e) **Computer checks.** Computer checks to identify prior involvement with the Oklahoma Department of Human Services are completed on required persons per OAC 340:110-1-51.

(f) **Withdrawal of application.** If a residential child care facility or child-placing agency applicant wishes to withdraw the application prior to issuance of an initial permit, the licensing staff:

(1) documents this request on Form 07LC080E;

(2) confirms that no children are in care; and

(3) may close the case unless negative action is warranted.

Okla. Admin. Code 340:110-1-46

340:110-1-46. Types of issuances

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

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

(A) criminal history investigations;

(B) tuberculosis (TB) tests;

(C) required number of qualified staff;

(D) required training;

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(E) hazards indoors and outdoors;

(F) liability insurance coverage;

(G) fire safety; and

(H) other areas affecting children's safety.

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

(A) Form 07LC040E, Request for License - Child Placing Agency, Residential Child Care, and Children's Shelter;

(B) proof of ownership;

(C) list of current staff;

(D) Form 07LC041E, Staff Information - Child Care Facility;

(E) documentation of all required background investigations per OAC 340:110-1-51;

(F) TB test or chest x-ray results for direct care staff;

(G) State Fire Marshal's approval for residential facilities;

(H) health department approval for residential facilities;

(I) physical plant drawing for residential facilities;

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(J) compliance review questionnaire with supporting documentation;

(K) monitoring reports; and

(L) Form 07LC060E, Residential Child Care Policy and Records Check

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

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

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

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

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

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

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

(c) **License issuance.** When the licensing staff determines that the facility or agency is operating in compliance with the facility's or agency's own policy and procedures and in compliance with the licensing requirements, a recommendation is made to issue a license. Prior to recommending issuance of a license, the licensing staff completes a minimum of three monitoring visits. A monitoring visit must be made within 60 days of the issuance date. A license is in effect unless it is revoked or the facility voluntarily closes.

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Okla. Admin. Code 340:110-1-47

340:110-1-47. Case management

(a) **Periodic visits.**

(1) Licensing staff annually conducts monitoring visits to document compliance with the requirements:

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

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

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

(3) During each monitoring visit, licensing staff:

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

(B) checks:

(i) resident files, if applicable;

(ii) records for new staff including staff sheets and compliance with background investigations per OAC 340:110-1-51 and copies of Form 07LC041E, Staff Information - Child Care Facility, obtained for the case record;

(iii) Oklahoma Department of Human Services (OKDHS) computer checks on applicable persons per OAC 340:110-1-51;

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

(v) fire and health inspections within the last 12 months, if applicable; and

(vi) other documentation that requires renewal.

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

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

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

(A) obtains an updated application; and

(B) files a narrative in the case file stating the new address and finding directions.

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

(A) obtains an updated application;

(B) conducts a monitoring visit and completes a monitoring report to verify the new location meets licensing requirements;

(C) obtains new fire and health approvals;

(D) obtains Department of Environmental Quality approval, if applicable; and

(E) files a narrative in the case file stating the new address and finding directions.

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

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

(e) **Change in facility or agency name.** If the licensing staff verifies there is a change in name but no change in ownership, the name change is documented in the case record and the database is updated. A new application reflecting the name change is completed.

(f) **Change in executive or program director.** When there is a change in director, licensing staff:

- (1) verifies the new director meets qualifications;
- (2) obtains the applicable page of Form 07LC040E, Request for License - Child Placing Agency or Residential Child Care Facility, completed by the new director;
- (3) notifies the new director of current employees that have been granted a waiver; and
- (4) documents the information on Form 07LC080E, Licensing Services Supplemental Information.

(g) **Increase or decrease in licensed capacity.** When a facility requests an increase or decrease in licensed capacity, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the programs manager. When the increase involves new construction, architectural plans approved by the State Fire Marshal are submitted to licensing for approval prior to construction. If the request to increase capacity is due to additional physical space, the required documentation includes:

- (1) reason for the increase;
- (2) fire department approval;
- (3) health department approval of any additional food preparation space not previously inspected;

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(4) physical plant drawing indicating the measurements, total square footage, and number of additional children that can be accommodated; and

(5) additional staff, if applicable.

(h) **Inactive cases.** A facility is determined to be in inactive status when care has not been provided for more than 90 days.

(1) A facility wanting to remain open after 90 days submits a request in writing including a statement that the owner will notify licensing when care is resumed. Licensing staff verify compliance with requirements prior to resuming care.

(2) The facility is contacted by licensing staff every four months by telephone or letter to update the facility status including changes in personnel, household members, or other facility changes.

(3) The closure is discussed with the owner and an agreement to close is reached if possible.

(4) If care has not been provided for more than 12 consecutive months, licensing staff sends a letter to notify the owner of case closure unless Oklahoma Child Care Services is notified within 10 days of receipt of letter.

(5) Licensing staff visits the inactive facility at least once a year to verify compliance with licensing requirements until closure is final.

(6) If a change of address occurs during the time a facility is in inactive status, a full visit is required to verify compliance and follow change of address per (c) of this Section.

(i) **Change in ownership.** If a residential program or child-placing agency assumes new ownership, the case file is closed, and the program must apply for new license under the new owner. Prior to the issuance of a permit or license, the facility must be in compliance with background investigations per OAC 340:110-1-51. A permit may be issued if a monitoring visit without numerous, repeated, or serious non-compliances was conducted at the facility within the past 60 days. A full monitoring visit is conducted within two weeks of change of ownership to verify the new owner is able to meet minimum licensing requirements.

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

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

(2) visits the facility as soon as possible, unless advised otherwise by law enforcement.

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

(1) that results in the serious injury or death of a child, such as:

(A) shaken baby;

(B) drowning or near drowning; or

(C) traffic accident resulting in serious injury;

(2) that places a child at a high risk for death or injury, such as a child:

(A) leaves a facility without the staff's knowledge;

(B) is left at a location away from the facility;

(C) is left unattended in a vehicle; or

(D) is left alone in a facility;

(3) that causes significant damage to a facility, such as:

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(A) fire;

(B) flood; or

(C) tornado; and

(4) where media involvement is anticipated.

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

Okla. Admin. Code 340:110-1-47.1

340:110-1-47.1. Complaint investigations

(a) **Legal basis.** The Child Care Facilities Licensing Act (Act), [10 O.S. § 406], mandates the Oklahoma Department of Human Services (OKDHS) conduct a full investigation of a complaint alleging a violation against the Act or any licensing requirement.

(b) **Receipt of the complaint.** Complaints may be made to Licensing Services, in writing, in person, by telephone, or electronically.

(c) **Complaint information.** Licensing staff obtains as much relevant information as possible from the complainant.

(d) **Screening complaints.** Licensing staff accepts a complaint for investigation when it alleges:

(1) non-compliance with licensing requirements;

(2) operation of an unlicensed facility in violation of the Act; or

(3) abuse or neglect of a child in care.

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(e) **Disposition of complaints.** Upon receipt of a complaint, licensing staff determines a disposition, as described in this subsection.

(1) A complaint that does not meet the criteria in (d) is discussed with the complainant, and, when appropriate, a referral is made to another entity, such as law enforcement, the Office of Juvenile Affairs, Office of Client Advocacy (OCA), Child Welfare Services, or Office for Civil Rights.

(2) A complaint alleging violation of licensing requirements or operation of an unlicensed facility is investigated by Licensing Services.

(3) A complaint alleging child abuse or neglect is immediately referred to OCA with a copy of Form 07LC012E, Licensing Complaint. When an immediate response to the referral is not received, licensing staff follows up the next business day to obtain a response.

(4) When a complaint alleges commission of a crime, including illegal drug activity in the child care facility, it is immediately referred to Office of Inspector General (OIG) and local law enforcement where the facility is located.

(A) Referral follow ups are documented in writing; a copy is filed in the facility record; and the programs manager is notified.

(B) It is the responsibility of licensing staff to follow up with local law enforcement officials to determine and document the outcome of the investigation.

(C) A referral to OIG is documented on Form 19MP001E, Referral Form.

(5) A complaint received from another division within OKDHS or an agency responsible for monitoring residential child care facilities or child-placing agencies, such as the Oklahoma Commission on Children and Youth (OCCY), OCA, or the local health or fire department, is deemed valid when documented in writing by the agency representative. Licensing staff determines whether the observation is a non-compliance. The facility is advised of the report and given an opportunity to respond.

(6) The programs manager is notified of any complaint:

(A) in which the alleged non-compliance caused or could cause imminent risk of harm to a child in care;

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(B) when the facility has numerous, repeated, or serious non-compliance with requirements;

(C) when the alleged non-compliance was addressed in a previous Form 07LC037E, Notice to Comply;

(D) referred to OCA or law enforcement; or

(E) receiving special attention, such as from the media or a legislator.

(f) **Complaint risk levels.** Risk levels are determined by licensing staff based upon the degree of harm or danger to children in care. Risk levels are used to ensure that investigations occur in a timely manner and to track types of complaints.

(1) **Risk level I complaints.** Risk level I complaints indicate a child is in imminent danger of serious physical injury. The level of risk is not influenced by the removal of a child from the facility if other children remain in care. Investigations are initiated immediately or no later than 24 hours after receipt of the complaint by licensing staff unless awaiting investigation by OCA or law enforcement. Examples of risk level I complaints include:

(A) alleged physical or sexual abuse;

(B) presence or use of illegal drugs while children are in care;

(C) distribution of drugs;

(D) children left alone in the facility or in a vehicle;

(E) extreme facility temperatures;

(F) an infant placed on the stomach for sleeping;

(G) threatening or impaired behavior of a caregiver;

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(H) severe understaffing or over licensed capacity;

(I) unlicensed facility;

(J) violating an Emergency Order;

(K) required staff without current cardio-pulmonary resuscitation and first aid training;

(L) failure to obtain background investigations; or

(M) knowingly permitting access to children by persons identified as restricted or registrants.

(2) **Risk level II complaints.** Risk level II complaints do not indicate there is imminent danger of injury, but without intervention a child may not be safe. Investigations are initiated within 15 calendar days of receipt of the complaint by licensing staff, or sooner, depending on the degree of risk, unless advised by OCA or law enforcement to delay the investigation. Examples of risk level II complaints include:

(A) leaving children with an underage staff person;

(B) alleged physical abuse from a staff person no longer working in the facility;

(C) inappropriate discipline where no injury is reported;

(D) broken playground equipment;

(E) injury caused by lack of supervision; or

(F) minor understaffing.

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(3) **Risk level III complaints.** Risk level III complaints do not indicate imminent danger and there are no injuries alleged. Investigations are initiated within 30 calendar days of the date of receipt of the complaint by licensing staff or immediately if a telephone investigation is appropriate. Examples of risk level III complaints include:

(A) inadequate meal service;

(B) inappropriate use of television or videos; or

(C) inadequate cleanliness of the facility.

(g) **The investigation.** Licensing staff conducts a full investigation, obtaining sufficient information to make a finding.

(h) **Telephone investigation.** With supervisory approval, licensing staff may investigate a complaint by telephone. The discussion and, when necessary, an agreed-upon plan of correction are documented on Form 07LC080E, Licensing Services Supplemental Information. A copy is sent to the operator. A complaint may be investigated by telephone only when:

(1) the alleged non-compliance does not place children at risk of harm, for example, the facility did not serve milk one day or children have head lice;

(2) the facility has not had numerous, repeated, or serious non-compliance; and

(3) a monitoring visit has been made in the last three months during which substantial compliance was documented.

(i) **Procedure for investigating allegations of operating an unlicensed facility.** When allegations of operating an unlicensed facility are investigated, procedures per OAC 340:110-1-54.1 are also followed.

(j) **Child abuse and neglect complaints.** Upon receipt of a complaint alleging abuse or neglect of a child in care, licensing staff immediately notifies the programs manager and makes a referral to the Office of Client Advocacy.

(k) **Findings.** After the investigation is completed, licensing staff, in consultation with the programs manager, as appropriate, makes a finding as to whether the complaint is substantiated, unsubstantiated, or ruled out.

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(1) **Substantiated.** A finding of substantiated is made when a weighing of the information obtained during the investigation clearly indicates the facility violated a licensing requirement or the Act.

(2) **Unsubstantiated.** A finding of unsubstantiated is made when the information does not lead to a definite conclusion, for example:

(A) there is insufficient or conflicting information on which to conclude a violation occurred; or

(B) information required to make a finding is unavailable.

(3) **Ruled out.** A finding of ruled out is made when a weighing of the information clearly indicates there was not a violation of a licensing requirement or the Act.

(l) **Documentation of findings.** Upon completion of the investigation, licensing staff documents the complaint allegations, findings, notifies the provider in writing, and enters the complaint information on the licensing database using complaint key words.

(m) **Notice to Comply.** When a complaint allegation is substantiated, licensing staff advises the facility to correct the violations immediately, using Form 07LC037E, Notice to Comply, following procedure per OAC 340:110-1-47.2(c)(7). The facility must complete a plan of correction.

(n) **Summary of facts.** Facility or agency owners or program directors may submit a written request for a summary of the facts used to evaluate and determine the licensing complaint findings.

(o) **Complaint overview.** Licensing staff complete an overview of completed complaint investigations on Form 07LC080E. This overview provides a summary of the investigation, how the complaint findings were determined, and is filed in the confidential section.

Okla. Admin. Code 340:110-1-47.2

340:110-1-47.2. Non-compliance with requirements

(a) **Documentation of non-compliance.** Licensing staff documents clearly and concisely areas of non-compliance and the discussion with the operator on the monitoring report.

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(1) A plan of correction, including an agreed-upon time period for correction of the non-compliance, is documented on the monitoring report for each non-compliance or documentation indicates a plan of correction will be submitted by the executive or program director. If a previous non-compliance was not corrected by the agreed-upon time period, the non-compliance is documented again with a shorter plan of correction date.

(2) Immediate correction is required when the non-compliance has a direct impact on the health, safety, or well-being of a child(ren) in care.

(3) Licensing staff requests that the operator sign the monitoring report, explaining the operator's signature indicates acknowledgment of information recorded.

(4) When the person in charge refuses to sign, the refusal is documented on the report.

(5) The operator is given a copy of the completed monitoring report.

(b) **Referrals to fire and health officials.** When non-compliance regarding fire or health requirements places children at risk of harm or remains uncorrected, licensing staff requests an inspection by a fire, health, or Oklahoma Department of Environmental Quality (ODEQ) official.

(c) **Case management responses to non-compliant facilities.** The responses in this subsection may be used when there is repeated, numerous, or serious non-compliance.

(1) **Technical assistance.** Technical assistance is offered along with referrals to consultants or training resources, when necessary, to assist the operator in meeting and maintaining licensing requirements.

(2) **Follow-up phone call.** Phone calls are documented on Form 07LC080E, Licensing Services Supplemental Information, and a copy is mailed to the facility.

(3) **Non-compliance letter.** A non-compliance letter may be written to the operator. Licensing staff sends a copy of the monitoring report and non-compliance letter to the governing board or owner, when applicable.

(4) **Return monitoring visit.** A return monitoring visit may be made if there is repeated, numerous, or serious non-compliance with licensing requirements or when non-compliance places children at imminent risk of harm. If the non-compliance is associated with a specific time of day, such as understaffing after school or a lack of

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early morning supervision, the return visit is made at that approximate time.

(5) **Use of witnesses.** Licensing staff may be accompanied by a witness during monitoring visits if the facility has had numerous, repeated, or serious non-compliances or if license denial or revocation is being considered. The witness may be an Oklahoma Department of Human Services (OKDHS) employee or a representative from the health or fire department. The witness signs the monitoring report in the space provided.

(6) **Increased monitoring visits.** Licensing staff may increase the frequency of monitoring when there has been numerous, repeated, or serious non-compliance or when the need for additional technical assistance is indicated.

(7) **Notice to comply.** Licensing staff provides the facility with Form 07LC037E, Notice to Comply, on which the facility documents the plan of correction. Immediate correction may be required when the non-compliance places the health, safety, or well-being of a child(ren) in care at risk.

(A) when the plan submitted by the operator is unacceptable to licensing staff, the staff negotiates and documents a revised plan.

(B) If the operator does not submit Form 07LC037E within the specified time period, licensing staff contacts the operator and documents the conversation.

(C) When non-compliances continue to place children at risk, licensing staff sends a letter stating non-compliances and/or continued failure to correct non-compliances may result in revocation of license, denial of the application, filing of an injunction, or Emergency Order.

(8) **Office conference.** Licensing staff may schedule an office conference with the owner of the facility. The programs manager is present at the office conference. Areas of non-compliance and progress toward meeting the plan(s) of correction are reviewed and technical assistance is offered. The conference is documented on Form 07LC080E and signed by licensing staff, the operator, and witnesses present. This documentation includes a list of the persons present, purpose of the conference, and verification of correct documentation regarding ownership. Form 07LC037E is completed if one addressing these issues has not been completed recently.

(9) **Consent agreement.** OKDHS and the facility owner may enter into a consent agreement whereby the facility owner agrees to specific conditions in lieu of license denial or revocation.

(10) **Revocation.** Licensing staff may recommend the application for licensure be denied or the license revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility failed to adequately protect children.

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(11) **Voluntary cease care.** With State Office approval, the owner is asked to voluntarily cease caring for children. The programs manager is notified of every situation involving a request for voluntary cease care.

(12) **Voluntary closure.** The owner is asked to voluntarily close the facility.

(d) **Case management responses when children are at risk.** When licensing staff documents non-compliance with requirements or is investigating a complaint that children may be at imminent risk of harm, options to consider during consultation with the operator and the programs manager are outlined in this subsection.

(1) The operator is asked to immediately correct the non-compliance; for example, the staff person will not work at the facility pending the outcome of an investigation.

(2) The owner is asked to voluntarily close the facility.

(3) Licensing staff requests an Emergency Order when immediate action is needed to protect children in a child care facility that is on permit, licensed, on notice of revocation or denial, or operating during an appeal following revocation or denial.

(4) The owner agrees to enter into a consent agreement whereby the facility owner agrees to specific conditions in lieu of license denial or revocation.

(5) Licensing staff may recommend the license be denied or revoked when numerous, repeated, or serious non-compliance with requirements was observed and documented or the facility failed to adequately protect children.

(6) An injunction may be requested when the residential facility or child-placing agency is:

(A) unlicensed;

(B) on application status;

(C) licensed;

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(D) violating an Emergency Order;

(E) operating during an appeal following revocation or denial and children are at risk of harm; or

(F) violating the notice to cease care following denial or revocation of license.

Okla. Admin. Code 340:110-1-48

340:110-1-48. Change of address [REVOKED]

Okla. Admin. Code 340:110-1-49

340:110-1-49. Increase in licensed capacity [REVOKED]

Okla. Admin. Code 340:110-1-50

340:110-1-50. Decrease in capacity [REVOKED]

Okla. Admin. Code 340:110-1-51

340:110-1-51. Background investigations

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

(1) any person making application to establish or operate a residential child care facility and child-placing agency;

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

(3) others who have unsupervised access to children, such as students, workers, contracted staff, volunteers, or custodians; and

(4) adults, including the provider's spouse or adult children, who live in the child care facility.

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

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

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

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

(3) adults, including providers' spouses or adult children, who live in the child care facility.

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

(1) any persons prior to employment at a child care facility, including all caregivers, auxiliary staff, substitute or assistant caregivers; and

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

(e) **Child Care Restricted Registry.** Child Care Restricted Registry searches are conducted per OAC 340:110-1-10.1 and verification of non-registration on Form 07LC101E, Restricted Registry Verification, is submitted to licensing records office for:

(1) any person making application for licensure of a child care facility;

(2) any person signing the application as a household member; and

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

(f) **Exceptions.** OSBI, out-of-state criminal history, OSCN investigations, and Child Care Restricted Registry searches are not required for:

(1) staff persons who move to a facility or agency operated by the same organization;

(2) contracted staff persons who provide transportation, lessons, or other services, provided facility staff are present with children at all times;

(3) parent volunteers who transport children on an irregular basis; and

(4) provider's children who become adults, age 18, during continuous residence at the licensed facility.

(g) **Oklahoma Department of Human Services (OKDHS) background checks.** Prior to permission to operate, computer checks to identify prior involvement with OKDHS are completed by licensing staff on owners and program directors who sign the application.

(1) When there has been prior involvement with Child Welfare, the licensing staff reviews the case for information regarding the person's ability to meet licensing requirements. Other cases are reviewed only if concerns exist.

(2) When the provider's medical information is confidential or concerns exist, the licensing staff may request information from the provider by requiring the provider to sign OKDHS Form 08HI003E, Authorization to Disclose Medical Records.

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

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

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

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(i) **Sex Offender, Mary Rippy Violent Crime Offenders, and Child Care Restricted Registries.** According to Section 404.1 of Title 10 and Section 589 of Title 57 of the Oklahoma Statutes, it is unlawful for any person who is required to register pursuant to the Sex Offender Registration Act or the Mary Rippy Violent Crime Offenders Registration Act to work with or provide services to children, to live in a child care facility, or to be employed or contracted by the facility to care for children. According to Section 405.3 of Title 10 of the Oklahoma Statutes, it is also prohibited for a registrant of the Child Care Restricted Registry to be licensed, or employed at a child care facility. If it is determined that a facility has violated these Statutes, the OKDHS may pursue:

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

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

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

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

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

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

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

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(A) has been convicted of a sex offense pursuant to the Sex Offender Registration Act or the Mary Rippy Violent Offenders Registration Act; or

(B) whose sentence has not been completed for any of the specified crimes.

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

(A) type of crime or offense for which the person was convicted or disposition that includes a plea of guilty or nolo contendere or a finding made;

(B) nature of the offense(s);

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

(D) circumstances surrounding commission of the offense(s) that demonstrate whether it is likely that the person will re-offend;

(E) number of offenses for which the person was convicted or findings of guilt made;

(F) length of time that has elapsed since the last conviction or disposition that includes a plea of guilty or nolo contendere or a finding made;

(G) relationship of the offense(s) and the person's ability to care for children;

(H) evidence of rehabilitation or education activities such as counseling since the offense was committed;

(I) statement from the person who has the criminal history; and

(J) opinions of community members concerning the person in question documented on Form 07LC090E,

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Waiver Reference, which includes name, address, and phone number of the individual providing the opinion.

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

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

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

Okla. Admin. Code 340:110-1-52

340:110-1-52. Legal actions

(a) **Failure to meet requirements.** When numerous, repeated, or serious non-compliance with licensing requirements is observed and documented, or when an operator is unable to comply with the requirements, or fails to protect the health and safety of children, the Oklahoma Department of Human Services (OKDHS) may deny or revoke the license. Denial or revocation of a license is based on observation, investigation, and documentation that the operator is unable or unwilling to comply with minimum requirements.

(1) Denial of a license is recommended for a facility or agency that has filed an application for license.

(2) Revocation of a license is recommended for a facility or agency that is currently licensed.

(b) **Consent agreement.** OKDHS may offer to enter into a consent agreement with a facility in lieu of license denial or revocation. If such action has already taken place, a consent agreement may be used during the appeal process if the facility comes into compliance with licensing requirements. The use of a consent agreement is not required prior to denying or revoking a license.

(1) An office conference with the operator is scheduled to develop the consent agreement. The programs manager is present at the meeting. The operator may bring legal representation.

(A) The programs manager determines the minimum terms that are acceptable to avoid negative sanctions. Terms and time frames of the agreement are based upon the nature and severity of the non-compliance.

(B) The agreement may include emergency voluntary restrictions, such as a ban on future admissions of

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children to the facility, a restriction on the ages of children cared for in the facility, a reduction in the number of children attending the facility, and specific staff training, drug testing, and medical or psychological evaluation.

(C) Time frames to initiate and conclude the terms of the agreement are established and may be extended upon approval of the programs manager and the OKDHS Legal Division.

(2) The operator is required to prominently post a copy of the consent agreement in the residential facility or child-placing agency. During the next monitoring visit, the licensing staff verifies that the consent agreement is posted. If it is not posted, the licensing staff documents it as a violation of the terms of the consent agreement.

(3) The licensing staff mails a copy of the consent agreement, with a cover letter to parents or guardians of children currently housed at the facility. If the operator has not provided children's names and addresses, the licensing staff records the information from the children's records during the next monitoring visit.

(4) The licensing staff conducts monitoring visits at least monthly while the consent agreement is in effect. The same witness accompanies the licensing staff on monitoring visits whenever possible.

(5) Any violation of the terms of the consent agreement is:

(A) documented on Form 07LC080E, Licensing Services Supplemental Information; and

(B) considered grounds for proceeding with license revocation or denial.

(6) The residential child care facility or child-placing agency is not entitled to an appeal of the terms of the consent agreement, as participation in the agreement is voluntary.

(c) **Denial or revocation of license.** The licensing staff consults with the programs manager regarding the denial or revocation recommendation.

(1) The licensing staff prepares a summary of non-compliance and submits it to the programs manager for review, with a recommendation to approve, disapprove, or delay decision pending further investigation.

(2) When the programs manager approves the denial or revocation, it is reviewed by the OKDHS Legal Division. The director of Child Care Services or designee has final approval of denial or revocation.

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(3) Notification of proposed denial or revocation is sent by certified mail to the operator, and to the OKDHS Legal Division, at least 30 days prior to the effective date of the proposed action, and includes a:

(A) copy of the recommendation summary;

(B) notice of the operator's right to appeal the decision;

(C) statement that the law requires notice in writing of the denial or revocation be given to parents or custodians of children attending the facility. The operator is instructed to submit to OKDHS the names and addresses of currently enrolled children; and

(D) sign providing notice of proposed denial or revocation that must be prominently posted in the facility.

(d) Appeal.

(1) An appeal of the decision to deny or revoke license must be submitted to the Oklahoma Commission for Human Services by the operator within 30 days of receipt of the notice. If the operator does not appeal the decision within the time period, the programs manager sends to the operator by regular mail a notice of denial or revocation that includes the effective date. This is also forwarded to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1.

(2) If an appeal is made by an operator to OKDHS, a hearing is scheduled by the OKDHS Appeals Unit. The operator is notified of the hearing by personal service, or by delivery to the proper address by certified mail, at least two weeks prior to the date of the hearing.

(3) If the administrative hearing officer upholds the OKDHS decision, the hearing officer provides a written notice at the conclusion of the hearing, which contains an explanation of appeal rights.

(4) The facility may continue to operate during any appeal process unless an Emergency Order is in effect.

(A) The licensing staff conducts monitoring visits at least once a month, unless advised otherwise in writing by the programs manager or designee, and is accompanied by the same witness whenever possible.

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(B) If at any time during the appeal process OKDHS believes the health, safety, or well-being of children is at risk:

(i) an Emergency Order is requested; or

(ii) following consultation with the programs manager or designee, the licensing staff contacts the district attorney (DA) of the local county or Attorney General and requests that an injunction be filed.

(e) Child care discontinued.

(1) If the decision of OKDHS to deny or revoke is upheld during all appeals, the programs manager informs the operator in a letter that child care must immediately cease. This is also forwarded to the licensing records office for potential restricted registration procedures per OAC 340:110-1-10.1.

(A) The licensing staff conducts a follow-up visit to confirm that child care has been discontinued. The programs manager or designee is notified of the visit.

(B) If the operator continues to maintain and operate the residential child care facility or child-placing agency after a final decision to deny or revoke license, the licensing staff consult with the programs manager regarding following procedures in (i) - (l) of this Section.

(2) If the OKDHS decision to deny or revoke is not upheld, OKDHS takes action to implement the decision within ten days.

(3) When OKDHS denies or revokes a facility's license, the responsible entity can not make application for a new residential child care facility or child-placing agency license within Oklahoma for five years.

(f) Emergency Order. An Emergency Order may be issued by OKDHS when immediate action is needed to protect the health, safety, or well-being of children in a child care facility or served by a child-placing agency.

(1) If the operator is unwilling to voluntarily correct the hazardous situation, the licensing staff notifies the programs manager of the circumstances. If the programs manager agrees that an Emergency Order is warranted, all supporting documentation is given to the director of Oklahoma Child Care Services (OCCS) for review. The written order is issued and signed by the programs manager. If the risk is such that children must be immediately removed from the residential facility or placement through a child-placing agency, the director of OCCS may give verbal approval for removal of children.

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(A) The administrator or director and parents or custodians are told that the facility will not be open on the following day; or parents or custodians are contacted to pick up their children immediately.

(B) If every effort has been made to reach the parents or custodians, and children are at immediate risk of harm, the programs manager contacts law enforcement to remove the children.

(2) The Emergency Order states the existence of an emergency and sets forth remedies such as removal of children from the facility or closure of a facility. The order is effective immediately and includes the right to appeal the decision.

(3) Licensing staff verify compliance with Emergency Order for a period of 30 days after the action becomes final, unless the Emergency Order is rescinded within that timeframe.

(4) The Emergency Order may be rescinded when the programs manager verifies correction of the hazardous situation. Upon receipt of such documentation, the director of OCCS notifies the operator in writing that the order has been rescinded.

(5) The operator may request a hearing by filing a written request within ten days of receipt of the Emergency Order. The hearing is conducted within ten days from receipt of the operator's request.

(6) If operator disagrees with the results of the administrative hearing, the operator may appeal to the district court within 30 days of the decision of the administrative hearing officer.

(g) **Rescinding the order.** The Emergency Order may be rescinded when the licensing staff verifies correction of the hazardous situation. Upon receipt of such documentation, the programs manager notifies the operator in writing that the order has been rescinded.

(h) **Hearing process.**

(1) The operator may request a hearing by filing a written request within ten days of receipt of the Emergency Order. The hearing is conducted within ten days from receipt of the operator's request. An OKDHS hearing officer conducts the hearing.

(2) If the results of the OKDHS hearing are disputed, the operator may file an appeal in district court within ten days of the decision.

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(i) **Violation of the Emergency Order.** If an operator violates the conditions set forth in the Emergency Order, the licensing specialist, after consultation with the programs manager, contacts a Council on Law Enforcement Education and Training (CLEET)-certified officer for assistance and makes a referral to the DA for further action.

(j) **Citation Request.** A referral is made on Form 07LC097E, Citation Request, for the assistance of a CLEET-certified officer. Procedures regarding citation request are:

(1) Licensing staff contacts a CLEET-certified officer to schedule a visit to the facility.

(2) Upon violations of conditions set forth in the Emergency Order, or following the revocation, or denial of a license, a citation may be issued by the CLEET-certified officer for not less than \$100, nor more than \$500 for every day the facility maintains and receives children.

(3) Licensing staff and a CLEET--certified officer monitor the facility until care of children has ceased.

(k) **DA referral.** If violation of an Emergency Order occurs, licensing staff consults with Programs Manager for the necessity of a referral to DA. Should a referral be necessary, licensing staff completes Form 07LC098E, District Attorney Referral, which includes documentation of the facts of the case. A copy is sent to the statewide licensing coordinator who informs the OKDHS Legal Division of the referral.

(l) **Referral to the Attorney General.** If no action is taken by a DA of the county where the facility is operating, a referral may be made to the Attorney General by the statewide licensing coordinator or designee.

Okla. Admin. Code 340:110-1-53

340:110-1-53. Case closures

(a) A case is closed when:

(1) the residential child care facility or child-placing agency is sold to a new owner unless a case is in the appeal process;

(2) care of children is discontinued, or in a child-placing agency, operation is discontinued unless the case is in

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the appeal process; or

(3) the license is revoked or the application for license is denied.

(b) When a licensed child care facility closes of its own accord, the licensing staff updates the database and submits to the licensing programs manager a narrative and a copy of the letter sent to the facility verifying closure.

(c) If the case is closed because of denial or revocation, the facility may not make application for a new child care facility license in Oklahoma for five years following closure of the facility.

Okla. Admin. Code 340:110-1-54

340:110-1-54. Grievance and complaint policy and procedure

(a) **Grievance and complaint policy.** The owner, director, or administrator of a licensed child care facility may file a grievance or complaint regarding the enforcement of any written or unwritten policy, rule, or regulation of the Oklahoma Department of Human Services (OKDHS) or any decision by an OKDHS employee that affects the facility. A grievance or complaint is not accepted concerning the denial or revocation of a child care facility license. The procedure for appealing this action is provided for in the Oklahoma Child Care Facilities Licensing Act. [10 O.S. § 407]

(b) **Grievance or complaint procedure.** Persons wanting to file a grievance or complaint are encouraged to seek informal resolution of their concerns by contacting the programs manager, who attempts to resolve the matter.

(1) If a resolution cannot be reached, the grievant or complainant is requested to file a written request with the programs manager.

(2) The programs manager notifies the statewide licensing coordinator that a formal grievance or complaint was filed and efforts were made to resolve the issue. The programs manager responds to written grievances or complaints within 10 working days of receipt.

(3) When the grievant or complainant is not satisfied with the proposed resolution, he or she may appeal to the statewide licensing coordinator. The statewide licensing coordinator responds to written grievances or complaints within 10 working days of receipt.

(4) When the grievant or complainant is not satisfied with the proposed resolution, he or she may appeal to the Child Care Advisory Committee (CCAC). The CCAC responds within 10 working days of receipt to the

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Oklahoma Child Care Services (OCCS) director with advisement for resolution.

(5) The OCCS director notifies the grievant or complainant of the OCCS decision within 10 working days of receipt of the CCAC advisement.

(6) When the grievant or complainant is not satisfied with the proposed resolution, he or she may appeal to the chief coordinating officer (CCO) and OKDHS Director, respectively. The CCO and OKDHS Director each respond within 10 working days of receipt and the OKDHS Director's decision is final.

(7) The grievant or complainant is requested to file only one written complaint. Referrals for resolution are made by the OKDHS staff involved in the response.

Okla. Admin. Code 340:110-1-54.1

340:110-1-54.1. Unlicensed facilities

(a) **Legal basis and authority.** Pursuant to 405 of Title 10 of the Oklahoma Statutes, no child care facility may be operated or maintained in this state, unless licensed or given permission to operate by the Oklahoma Department of Human Services (OKDHS).

(b) **Procedures for investigating the operation of an unlicensed residential facility.** When information is received regarding the operation of an unlicensed residential facility , staff conducts a full monitoring visit no later than three facility business days to assess the necessity of license.

(1) If care is being provided, staff informs the facility they have not been given permission to operate and they are in violation of the Oklahoma Child Care Facilities Licensing Act (Act). During the visit the facility is informed on Form 07LC095E, Notice Regarding Unlicensed Care, that:

(A) care must cease by the end of the current business day unless imminent risk indicates the need for the facility to cease care immediately; or

(B) permission to operate may be granted when the facility:

(i) is in compliance with health and safety requirements without serious non-compliances as referenced in OAC 340:110-1-46(a)(1);

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(ii) has submitted a completed application in accordance with OAC 340:110-1-45;

(iii) provides all required background information per OAC 340:110-1-51; and

(iv) has staff present who meet the following licensing requirements:

(I) documented current cardio-pulmonary resuscitation and first aid certification ;

(II) completed behavioral intervention training; and

(III) minimum educational qualifications for the position held.

(2) If a facility is not granted permission to operate, a follow-up visit is conducted within one facility business day to verify the termination of care . The follow-up visit timeframe may be extended up to five days with programs manager approval and is documented on Form 07LC080E, Licensing Services Supplemental Information. When care of children has not ceased, staff proceed per OAC 340:110-1-52(f).

(3) When the necessity of a license is not required, licensing staff documents the investigation of unlicensed operation on Form 07LC080E.

(c) Procedures for investigating the operation of an unlicensed child placing agency. When information is received regarding the operation of an unlicensed child placing agency, staff makes contact with the agency representative within three agency business days to assess the necessity of license.

(1) If child placing activity is being provided, staff informs the agency they have not been given permission to operate and they are in violation of the Oklahoma Child Care Facilities Licensing Act (Act). Licensing staff document on Form 07LC080E:

(A) child placing activity must cease by the end of the current business day, unless imminent risk indicates the need for the agency to cease operation immediately; or

(B) permission to operate may be granted when the agency:

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(i) has submitted a completed application per OAC 340:110-1-45;

(ii) provides all required background information per OAC 340:110-1-51; and

(iii) has staff who meet minimum educational qualifications for the position held.

(2) If an agency is not granted permission to operate, a follow-up visit is conducted within one agency business day to verify the termination of child placing activity. The follow-up visit timeframe may be extended up to five days with programs manager approval and is documented on Form 07LC080E. When child placing activity has not ceased, staff proceed per OAC 340:110-1-52(f).

(3) When the necessity of a license is not required, licensing staff documents the investigation of an unlicensed operation on Form 07LC080E.

(d) **Documentation of Findings.** Following the unlicensed complaint investigation, licensing staff proceed with procedures in OAC 340:110-1-47.1(1). All case staffings and discussions of case action are documented on Form 07LC080E and maintained in the case file.

(e) **Procedures for investigating unlicensed out of state child-placing agencies.**

(1) The licensing staff mails to the owner the licensing requirements and a letter that includes information about licensure and a request for a response within 14 days.

(2) If a response is not received within 14 days, several contacts are made or attempted to encourage the owner of an unlicensed facility to comply with the Act.

(3) If the owner fails to apply for licensure as required by the Act, the licensing staff consults with the programs manager and statewide licensing coordinator for appropriate action which could include the issuance of an Emergency Order.

Okla. Admin. Code 340:110-1-55

340:110-1-55. Public inspection of licensing files

(a) **Legal basis.** The Oklahoma Department of Human Services (OKDHS) is subject to the Oklahoma Open Records

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Act, Section 24A.1 et seq. of Title 51 of the Oklahoma Statutes, which mandates that public records are open for public inspection unless they are required by law to be kept confidential.

(b) **Licensing records.** All OKDHS records of facilities required to be licensed under Sections 401 through 410 of Title 10 of the Oklahoma Statutes that are considered public records are open and available for public inspection during reasonable hours. However, information obtained concerning a report of a violation of a licensing requirement is confidential pursuant to Section 406 of Title 10 with the exception of a summary of allegations and findings of an investigation involving a child care facility that does not disclose identities but that permits the public to evaluate the facility.

(c) **Location of case records.** Child care facility licensing records are located in the OKDHS Human Service Center of the licensing staff and are inspected at that location. Licensing records may be inspected by the public in the presence of licensing staff.

(d) **Preparation of case files for inspection.** The licensing staff carefully reviews the entire record and removes confidential information.

(e) **Fees for photocopying.** For photocopy fee information refer to OAC 340:2-21-16.

(f) **Release of confidential information.** A complete case file that includes confidential information may be provided only to certain persons according to applicable laws and regulations, such as the OKDHS Legal Division and Division of Children and Family Services, law enforcement officials, and upon order of a court of competent jurisdiction.

(g) **Computer licensing record.** A summary of the facility licensing record maintained on the computer database may be provided upon request at no charge. A cover letter is sent with the licensing summary that notes the summary does not include the complete case record, and the complete case record may be reviewed in the OKDHS Human Service Center where the facility is located.

Okla. Admin. Code 340:110-1-70

340:110-1-70. Purpose

The purpose of this Part is to provide guidelines for basic rules and procedures for administration of the Child Care and Development Fund.

Okla. Admin. Code 340:110-1-71

340:110-1-71. Definitions

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

“CCDF” means the Child Care and Development Fund which is a federal grant awarded annually to states and tribes for the improvement of child care.

“Contract” means a set of promises constituting an agreement between parties, giving each a legal duty to the other and also the right to seek a remedy for the breach of the promises or duties owed to each. The elements of an enforceable contract are competent parties, a proper or legal purpose, consideration, and mutuality of agreement and of obligation.

“Local projects contract” means projects funded through the Division of Child Care to accomplish specific goals to meet a documented community need. The contract process ensures that the available funds are awarded to those applicants whose proposals best address that need.

“Maintenance” means the continuation of services at the current level.

“Resource and referral program” means a program that provides resources for child care providers and the community, and referrals for parents seeking child care.

“School-age child care program” means a program designed to serve children ages 5 - 13 years during the hours or days that school is not in session.

“State plan” means a plan that sets goals and objectives for meeting the needs of families needing child care and is a requirement for receipt of funds from the Child Care and Development Fund.

Okla. Admin. Code 340:110-1-72

340:110-1-72. Legal base and authority

The Division of Child Care within the Department of Human Services is responsible for the development and implementation of the state child care plan to qualify for the federal Child Care and Development Fund (CCDF).[63 O.S., Sections 1-240]

Okla. Admin. Code 340:110-1-73

340:110-1-73. Overall responsibility as required by state and federal law

The overall responsibility as required by state and federal law includes:

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- (1) developing and implementing the state child care plan;
- (2) overseeing distribution of state and federal funds related to child care;
- (3) providing technical assistance to employers who are interested in exploring child care benefits and community child care needs;
- (4) assisting the Department of Commerce in promoting Oklahoma as a state that cares about families and children;
- (5) addressing barriers that limit the availability of care for children with disabilities, infants, school-age children, and children whose parents work non-traditional hours;
- (6) providing oversight, training, and technical assistance to resource and referral programs;
- (7) coordinating the provision of training statewide for child care providers;
- (8) increasing community awareness of the need for quality child care that is both available and affordable;
- (9) serving as a clearinghouse for child care data, resources, and initiatives;
- (10) cooperating with the Compensation Division of the Office of Personnel Management regarding child care benefits for state employees;
- (11) submitting the application to receive CCDF Funds;
- (12) complying with the provisions of the approved applications and state plan;
- (13) complying with federal block grant rules and requirements;
- (14) submitting amendments for state plan changes;

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(15) responding to requests from the regional or federal offices;

(16) coordinating all inquiries, questions, and responses regarding finances with the Office of Finance; and

(17) assuming responsibility for program reviews.

Okla. Admin. Code 340:110-1-74

340:110-1-74. Office of Child Care Advisory Council [REVOKED]

Okla. Admin. Code 340:110-1-75

340:110-1-75. Dependent care planning and development grant funds [REVOKED]

Okla. Admin. Code 340:110-1-76

340:110-1-76. Child Care and Development Fund (CCDF)

The Division of Child Care submits a state plan to the Administration of Children and Families in accordance with Section 418 of Title IV-A of the Social Security Act as amended by Title VI of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, P.L. 104-193, for mandatory matching funds. Discretionary funds are subject to the requirements of the Child Care and Development Block Grant Act of 1990 as amended by Title VI of PRWORA of 1996, P.L. 104-193.

Okla. Admin. Code 340:110-1-77

340:110-1-77. Contracting procedures

The Division of Child Care shall work closely with the Office of Finance, Contracts and Purchasing Unit, and the Department of Central Services to ensure that all contracting and purchasing regulations and policies are followed.

Okla. Admin. Code 340:110-1-78

340:110-1-78. Monitoring procedures

All contracts, request for proposals, or agreements with state agencies, funded through the Division of Child Care, will be monitored programmatically and fiscally at least annually. The purpose is to be in compliance with state statute and to evaluate compliance with the terms of the contract or agreement. Additional monitoring visits may be

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made to provide technical assistance to the contractor for the purpose of improving services.

Okla. Admin. Code 340:110-1-79

340:110-1-79. Local projects

The Child Care and Development Fund allows the Division of Child Care to implement projects enabling child care providers to receive funding to ensure that Oklahoma's children and their parents have access to affordable quality child care and to increase the availability of care.