

## **RULE IMPACT STATEMENT**

Proposed permanent rules to revoke 135:1-1-1.2, 135:1-1-8, 135:1-1-10, 135:10-23-1 through 135:10-23-3 and 135:10-24-1 through 135:10-24-3

Purpose: delete unnecessary and obsolete rules.

Classes of persons who will be affected by the proposed rules: None

Persons who will benefit from the proposed rules: None

Probable economic impact: None

Probable costs and benefits to the agency: The Commission will not have to amend its rules if the office address changes. The agency's address is readily located on its website.

Economic impact on any political subdivisions: NA

Adverse economic impact on small business: NA

Measures taken by the agency to minimize compliance costs: NA

Effect of the proposed rule on the public health, safety and environment: NA

Detrimental effect on the public health, safety and environment if proposed rule is not implemented: NA

Prepared: December 8, 2022

## **Chapter 1 – General Course and Method of Operation**

### **Subchapter 1**

#### **135:1-1-1.2. Official office**

~~The office of the Oklahoma Commission on Children and Youth is located at 500 North Broadway, Suite 300, Oklahoma City 73102. The telephone number is (405) 606-4900 and the facsimile number is (405) 524-0417. The office hours are from 8:00 a.m. to 5:00 p.m., central standard time, Monday through Friday, except legal holidays.~~

#### **135:1-1-8. Interagency Coordinating Council for Early Childhood Intervention**

~~The Interagency Coordinating Council for Early Childhood Intervention was established through 70 O.S. § 13-121 et seq. to establish and monitor a policy to provide for early intervention services to infants and toddlers with disabilities and their families in accordance with federal law.~~

#### **135:1-1-10. Juvenile Justice and Delinquency Prevention Program**

~~The Juvenile Justice and Delinquency Prevention Program was established by Executive Order 89-03 to administer funds received through the federal Office of Juvenile Justice and Delinquency Prevention with the advice and assistance of the State Advisory Group.~~

### **Subchapter 3**

#### **135:1-3-1. Powers and duties of the Commission**

~~In addition to the responsibilities exercised through the offices described in Subchapter 1, the Commission shall have the powers and duties set out in 10 O.S. § 601.3 and 601.4, and the Commission shall:~~

- ~~(1) Prepare a list of three names of attorneys with a minimum of three (3) years experience and who are admitted to practice law in Oklahoma. This list will be submitted to the Oklahoma Public Welfare Commission and an attorney will be selected as Advocate General.~~
- ~~(2) Exercise all incidental powers as necessary and proper for the performance of the duties and responsibilities of the Commission.~~

**TITLE 135. OKLAHOMA COMMISSION ON CHILDREN AND YOUTH  
CHAPTER 1. GENERAL COURSE AND METHOD OF OPERATION**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 1. General Course and Method of Operation

135:1-1-1.2. Official office [REVOKED]

135:1-1-8. Interagency Coordinating Council for Early Childhood Intervention [REVOKED]

135:1-1-10. Juvenile Justice and Delinquency Prevention Program [REVOKED]

Subchapter 3. Additional Powers and Duties

135:1-3-1. Powers and duties of the Commission [REVOKED]

**SUMMARY:**

The proposed change to 135:1-1-1.2 is necessary because it is not customary to list the address of an agency in its administrative rules. The proposed change to 135:1-1-8 is necessary because HB 1264 (2013) removed the Commission's administrative responsibility for the program. The proposed change to 135:1-1-10 is necessary because Executive Order 1989-03 giving the Commission responsibility for the program was terminated by Executive Order 1991-07. The proposed change to 135:1-3-1 is necessary because HB 2300 (2012) deleted the Commission's responsibility as to the selection of an advocate general for the Department of Human Services.

**AUTHORITY:**

The Oklahoma Commission on Children and Youth, pursuant to 10 O.S. Sec. 601.4(9).

**COMMENT PERIOD:**

The comment period will begin on January 4, 2023, and end on February 6, 2023. Written comments will be accepted during the comment period at the following address: Oklahoma Commission on Children and Youth, Attn: Marcia Johnson, 2915 North Classen Boulevard, Suite 300, Oklahoma City, OK 73106.

**PUBLIC HEARING:**

A public hearing will be held at 1:00 pm on February 9, 2023, at 2915 North Classen Boulevard, Suite 300, Oklahoma City, OK 73106. Individuals wishing to speak must sign in at the door by 12:45 pm on that day.

**REQUEST FOR COMMENTS FROM BUSINESS ENTITIES**

n/a

**COPIES OF PROPOSED RULES:**

Copies of the proposed rules may be obtained during normal business hours from the Oklahoma Commission on Children and Youth, 2915 North Classen Boulevard, Suite 300, Oklahoma City, OK, 73106. The proposed rules will be available on the OCCY website at <https://oklahoma.gov>occy> no later than January 4, 2023.

**RULE IMPACT STATEMENT:**

Pursuant to 75 O.S. Sec. 303(D), a rule impact statement will be prepared and available for review at the Commission on Children and Youth, 2915 North Classen Boulevard, Suite 300, Oklahoma City, OK 73106 beginning on or before January 18, 2023, as well as on the OCCY website at <https://oklahoma.gov>occy> on or before January 18, 2023.

**CONTACT PERSON:**

Marcia Johnson, Legislative Liaison, (405) 898-7915, [marcia.johnson@occy.ok.gov](mailto:marcia.johnson@occy.ok.gov)



## **Chapter 10 – Programs, Boards, and Councils: Operation and Administration**

### **Subchapter 23**

#### **135:10-23-1. Creation**

~~The Interagency Child Abuse Prevention Task Force is established pursuant to 63 O.S. § 1-227.4.~~

#### **135:10-23-2. Appointment of members**

~~The Commission shall appoint the members of the Interagency Child Abuse Prevention Task Force. Members shall be appointed for a two-year term and until a successor is appointed. State agency representatives shall be nominated by the agency's director. Other entities listed at 63 O.S. § 1-227.4 shall submit to the Commission no more than three nominations with resumes. The Oklahoma State Department of Health shall submit to the Commission no more than three nominations with resumes for all other positions. The Commission may reject any and all nominations. If the Commission rejects the nominations submitted, then the nominating entity shall provide new nominations for the Commission's consideration. Members may be renominated and reappointed for unlimited successive terms.~~

#### **135:10-23-3. Rescinding an appointment**

~~(a) The Commission may rescind an appointment at any time in its sole discretion and upon its own initiative.~~

~~(b) A nominating entity may submit a written request to the Commission to rescind the appointment of the person representing it on the Task Force. The written request shall include the reasons for the request. A committee appointed by the Chair of the Commission shall make inquiry into the request and make a recommendation to the full Commission within 90 days of receipt of the request.~~

### **Subchapter 24**

#### **135:10-24-1. Origin and authority**

~~(a) The legislature established the Oklahoma Commission on Children and Youth responsibilities for developing a certification program for the children's shelters managed and operated by the Oklahoma Department of Human Services in 10 O.S. §601.3(4).~~

~~(b) The Commission on Children and Youth shall have the authority:~~

- ~~(1) To establish a system of certification in accordance with the Oklahoma Child Care Facilities Licensing Act;~~
- ~~(2) To issue certifications based upon compliance with minimum requirements;~~
- ~~(3) To revoke certification based upon failure to meet minimum requirements.~~

#### **135:10-24-2. Duties and responsibilities**

~~The Commission on Children and Youth shall designate OCCY staff to perform the following duties:~~

- ~~(1) Provide continuing technical assistance and consultation to the shelters to obtain and maintain compliance with minimum requirements;~~
- ~~(2) Take corrective action based upon non-compliance with minimum requirements;~~
- ~~(3) Monitor shelter programs to maintain compliance with minimum requirements;~~

- (4) Issue certifications based upon compliance with minimum requirements;
- (5) Facilitate and perform training for shelter administration and staff;
- (6) Maintain official certification records.

### 135:10-24-3. Certification process

#### (a) ~~Definitions.~~

(1) ~~Commission~~ means the Oklahoma Commission on Children and Youth.

(2) ~~Manager or Operator~~ means the representative of the Department of Human Services who has been given authority to act on behalf of the state-operated children's shelter.

(3) ~~State-operated children's shelter~~ means the Laura Dester Shelter, the Pauline E. Mayer Shelter, the Pauline E. Mayer Annex, or any other shelter operated by the Oklahoma Department of Human Services.

#### (b) ~~Types of issuances.~~

(1) ~~Six-month temporary certification.~~ State-operated children's shelters may be granted a six-month temporary certification if documentation does not show compliance with all critical certification requirements.

(2) ~~Certification.~~ State-operated children's shelters may be granted an operating certification that is valid for twelve months from the date of its issuance when certification staff determines that the shelter is operating in a compliance with its own policy and procedures and in compliance with current Oklahoma Department of Human Services Licensing Requirements for Residential Child Care Facilities and any additional Commission requirements.

#### (c) ~~Case Management.~~

##### (1) ~~Periodic visits.~~

(A) Certification staff annually shall conduct one unannounced visit to each state-operated children's shelter to document compliance with all certification requirements and at least two announced visits to monitor compliance with certification requirements.

(B) During each unannounced compliance visit, certification staff shall:

(i) Observe the entire facility, including outdoor play space and vehicles used for transportation, if available, and

(ii) Check resident files and staff files, insurance verifications, and fire and health inspections within the preceding twelve months for compliance with certification requirements.

(C) During each announced monitoring visit, certification staff shall:

(i) Provide technical assistance to facility personnel to meet and maintain certification requirements;

(ii) Consult with facility personnel to meet and maintain certification requirements and improve the quality of care at the facility.

(2) ~~Forms.~~ The OCCY Certification staff shall use standardized certification forms available for public inspection and copy at [www.okkids.org](http://www.okkids.org).

(3) ~~Reports.~~ The OCCY Certification staff annually shall issue two monitoring reports and one compliance report.

##### (4) ~~Oklahoma Department of Human Services, Office of Client Advocacy Reports~~

~~(OCA).~~ The OCCY Certification staff shall review all referrals to OCA that concern the state-operated children's shelters and all investigation reports issued by the OCA to ensure compliance by the state-operated children's shelters with certification requirements.

#### (d) ~~Non-compliance with requirements.~~

~~(1) **Documentation of non-compliance.** The licensing staff shall document clearly and concisely on the monitoring reports and the compliance report areas of non-compliance and the discussion with the operator.~~

~~(A) A plan of correction, including an agreed upon time period for correction of the non-compliance, shall be documented on the monitoring report for each area of non-compliance.~~

~~(B) Immediate correction shall be required when the non-compliance has a direct impact on the health, safety, or well-being of a child or children in care.~~

~~(C) The certification staff shall request that the operator sign the monitoring reports and the compliance report, explaining that the operator's signature indicates acknowledgment of information recorded.~~

~~(D) If the person in charge refuses to sign, the refusal shall be documented on the report.~~

~~(E) The operator shall be given a copy of the completed report.~~

~~(2) **Referrals to fire and health officials.** If non-compliance regarding fire or health requirements places children at risk of harm or remains uncorrected, the certification staff shall request an inspection by a fire, health, or Oklahoma Department of Environmental Quality (ODEQ) official.~~

~~(3) **Case management responses to non-compliant facilities.** The responses in this subsection may be used when there is repeated, numerous, or serious non-compliance with certification requirements.~~

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

~~(B) **Follow-up phone call.** Phone calls are documented on OCCU standardized forms.~~

~~(C) **Non-compliance letter.** A non-compliance letter may be written to the operator. The certification staff shall send a copy of the report and the non-compliance letter to the operator's supervisor.~~

~~(D) **Return monitoring visit.** A return monitoring visit may be made if there is repeated, numerous, or serious non-compliance with certification 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 understaff after school or a lack of early morning supervision, the return visit shall be made at that approximate time.~~

~~(E) **Use of witnesses.** The certification staff may be accompanied by a witness during monitoring visits if the facility has had numerous, repeated, or serious areas of non-compliance or if denial or revocation of the license is being considered. The witness may be an OCCY employee or representative from the health or fire department. The witness shall sign the monitoring report in the space provided.~~

~~(F) **Increased monitoring visits.** Certification staff may increase the frequency of monitoring when there have been numerous, repeated or serious areas of non-compliance or when the need for additional technical assistance is indicated.~~

~~(G) **Notice to comply.** The certification staff shall provide the facility with a notice to comply, and the facility shall document the plan of correction. Immediate correction may be required if the area of non-compliance places the health, safety, or well-being of a child or children in care at risk.~~

~~(i) If the plan submitted by the operator is unacceptable to the certification staff, the staff shall negotiate and document a revised plan.~~

(ii) If the operator does not submit a response within a reasonable time period, the certification staff shall contact the operator and document the conversation. If concerns exist or the operator is uncooperative, the certification staff shall send a letter stating that failure to respond may result in denial or revocation of certification.

(H) **Office conference.** The certification staff may schedule an office conference with the operator of the facility. Areas of non-compliance and progress toward meeting the plan(s) of correction shall be reviewed and technical assistance shall be offered. The conference shall be documented.

(I) **Consent agreement.** OCCY and the operator of the facility may enter into a consent agreement whereby the facility agrees to specific conditions in lieu of certification denial or revocation.

(J) **Revocation.** The certification staff may recommend that the certification be denied or revoked when numerous, repeated, or serious non-compliance with requirements has been observed and documented or the facility has failed to adequately protect children.

(4) **Case management responses when children are at risk.** If the certification staff documents a situation where children may be at imminent risk of harm, or if the Office of Juvenile System Oversight is investigating a complaint that children may be at imminent risk of harm, the certification staff may consider the following options:

(A) The operator shall be asked to immediately correct the situation where children may be at risk of harm.

(B) The operator may agree to enter into a consent agreement whereby the facility shall agree to specific conditions.

(C) The certification staff may recommend that the certification be denied or revoked when the operator fails to take necessary steps to eliminate the situation giving rise to the imminent risk of harm.

(e) **Denial or revocation process.**

(1) Certification staff shall submit recommendation to deny or revoke facility certifications to the OCCY Director or the OCCY Director designee.

(2) Facility operators shall submit responses to recommendations to deny or to revoke facility certifications to the OCCY Director or the OCCY Director designee.

(3) The OCCY Director or the OCCY Director designee shall be the final decision maker regarding recommendations to deny or to revoke facility certifications.

(4) Facility operator may appeal certification denial or certification revocation final decisions to the Commission.

(f) **Complaint procedure.** All complaints received by OCCY concerning the state-operated children's shelters shall be referred to the OCCY Office of Juvenile System Oversight.

(g) **Public inspection of certification files.**

(1) **Legal basis.** The Oklahoma Commission on Children and Youth (OCCY) is subject to the Oklahoma Open Records Act, Section 24A.1 et. seq. of Title 51 of the inspection unless they are required by law to be kept confidential.

(2) **Certification records.** All OCCY records of facilities required to be certified under Section 601.3 of Title 10 of the Oklahoma Statutes that are considered public records shall be open and available for public inspection during reasonable hours.

(3) **Location of case records.** Certification records shall be located in the OCCY office and shall be inspected at that location. Certification records shall be inspected in the presence of



certification staff. The OCCY office is located at 500 N. Broadway Ave., Suite 300, Oklahoma City, Oklahoma.

~~(4) **Preparation of case files for inspection.** The certification staff carefully shall review the entire record and shall remove confidential information.~~

~~(5) **Release of confidential information.** Confidential information shall only be released as provided by statute.~~

**TITLE 135. OKLAHOMA COMMISSION ON CHILDREN AND YOUTH  
CHAPTER 10. PROGRAMS, BOARDS, AND COUNCILS: OPERATION AND  
ADMINISTRATION**

**RULEMAKING ACTION:**

Notice of proposed PERMANENT rulemaking

**PROPOSED RULES:**

Subchapter 23. Interagency Child Abuse Prevention Task Force

135:10-23-1. Creation [REVOKED]

135:10-23-2. Appointment of members [REVOKED]

135:10-23-3. Rescinding an appointment [REVOKED]

Subchapter 24. Certification of Children's Shelters Operated by the Oklahoma  
Department of Human Services

135:10-24-1. Origin and authority [REVOKED]

135:10-24-2. Duties and responsibilities [REVOKED]

135:10-24-3. Certification process [REVOKED]

**SUMMARY:**

The proposed changes to 135:10-23-1 through 135:10-23-3 are necessary because HB1467 (2013) repealed the task force. The proposed changes to 135:10-24-1 through 135:10-24-3 are necessary because SB 977 (2013) removed the Commission's responsibility for certification of the shelters.

**AUTHORITY:**

The Oklahoma Commission on Children and Youth, pursuant to 10 O.S. Sec. 601.4(9).

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