

**COMMENT DUE DATE: January 15, 2024**

**Date: December 15, 2023**

**Mitzi Lee, Program Manager II  
Holli Kyker, Program Administrator  
Brandi Smith, Policy Specialist**

**405-202-7449  
405-982-2217  
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It is important that you provide your comments regarding the **draft copy** of policy by the comment due date. Comments are directed to \*STO.LegalServices.Policy@okdhs.org. The proposed policy is **PERMANENT**.

**SUBJECT:**

**Chapter 110. Licensing Services**

Subchapter 1. General Provisions

Part 1. Licensing Services - Child Care

340:110-1-9.2 [AMENDED]

340:110-1-10.1 [AMENDED]

Part 3. Licensing Services – Residential Care and Agencies

340:110-1-47.1 [AMENDED]

Part 5. Child Care Services

340:110-1-70 through 340:110-1-73 [REVOKED AND RENUMBERED]

340:110-1-76 [AMENDED]

340:110-1-77 through 340:110-1-79 [REVOKED AND RENUMBERED]

Subchapter 3. Licensing Standards for Child Care Facilities

Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes

340:110-3-97.1 [AMENDED]

Part 9. Requirements for Residential Child Care Facilities

340:110-3-152 [AMENDED]

340:110-3-153.1 through 340:110-3-154.4 [AMENDED]

340:110-3-157 [AMENDED]

340:110-3-168 [AMENDED]

Subchapter 5. Requirements for Child-Placing Agencies

Part 1. Requirements for Child-Placing Agencies

340:110-5-3 [AMENDED]

340:110-5-12 [AMENDED]

Part 5. Requirements for Foster Homes Agencies

340:110-5-57 [AMENDED]

340:110-5-60 [AMENDED]

340:110-5-63 [AMENDED]

**(Reference WF 24-110)**

**SUMMARY:**

Proposed amendments to Chapter 110, Subchapter 1, Part 1 amend Oklahoma Human Services (OKDHS) Child Care Services (CCS) policy by amending complaint investigation and Restricted Registry processes.

Proposed amendments to Chapter 110, Subchapter 1, Part 3 amend OKDHS CCS policy by amending complaint investigation processes.

Proposed amendments to Chapter 110, Subchapter 1, Part 5 amend CCS policy by aligning current language and practice regarding the Child Care Development Fund (CCDF) and also provide for revocation of unnecessary Oklahoma Administrative Code (OAC) Sections.

Proposed amendments to Chapter 110, Subchapter 3, Part 5 amend licensing requirements for large family child care homes.

Proposed amendments to Chapter 110, Subchapter 3, Part 9 amend licensing requirements for residential child care facilities.

Proposed amendments to Subchapter 5, Parts 1 and 5, amend licensing requirements for child-placing agencies. CCS conducted residential and child-placing agency roundtable sessions to receive program comments regarding requirement revisions. A summary of proposed licensing requirements were reviewed by residential and child-placing agency standing subcommittees and the Child Care Advisory Committee. Child Welfare Services (CWS) was consulted for necessary licensing requirement amendments for improved health and safety and services to residents in residential facilities and child-placing agencies serving adoptive and foster families and children.

**Permanent rulemaking approval is requested.**

**LEGAL AUTHORITY:**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); 10 O.S. §§ 401, 404, 404.1, 405.1, 405.3, and 406 of the Oklahoma Child Care Facilities Licensing Act.



OKLAHOMA DEPARTMENT OF HUMAN  
SERVICES



Rule Impact Statement

**To:** Programs administrator  
Legal Services - Policy

**From:** Brittany Lee  
Director of Child Care Services

**Date:** October 18, 2023

**Re: TITLE 340. DEPARTMENT OF HUMAN SERVICES  
CHAPTER 110. LICENSING SERVICES**

Subchapter 1. General Provisions

Part 1. Licensing Services - Child Care

340:110-1-9.2 [AMENDED]

340:110-1-10.1 [AMENDED]

Part 3. Licensing Services – Residential Care and Agencies

340:110-1-47.1 [AMENDED]

Part 5. Child Care Services

340:110-1-70 through 340:110-1-73 [REVOKED AND RENUMBERED]

340:110-1-76 [AMENDED]

340:110-1-77 through 340:110-1-79 [REVOKED AND RENUMBERED]

Subchapter 3. Licensing Standards for Child Care Facilities

Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes

340:110-3-97.1 [AMENDED]

Part 9. Requirements for Residential Child Care Facilities

340:110-3-152 [AMENDED]

340:110-3-153.1 through 340:110-3-154.4 [AMENDED]

340:110-3-157 [AMENDED]

340:110-3-168 [AMENDED]

Subchapter 5. Requirements for Child-Placing Agencies

Part 1. Requirements for Child-Placing Agencies

340:110-5-3 [AMENDED]

340:110-5-12 [AMENDED]

Part 5. Requirements for Foster Homes Agencies

340:110-5-57 [AMENDED]

340:110-5-60 [AMENDED]  
340:110-5-63 [AMENDED]  
**(Reference WF 24-110)**

**Contact:** Mitzi Lee, Programs Manager II, 405-202-7449

**A. Brief description of the purpose of the proposed rule:**

**Purpose.**

Proposed amendments to Chapter 110, Subchapter 1, Part 1 amend Oklahoma Human Services (OKDHS) Child Care Services (CCS) policy by amending complaint investigation and Restricted Registry processes.

Proposed amendments to Chapter 110, Subchapter 1, Part 3 amend OKDHS CCS policy by amending complaint investigation processes.

Proposed amendments to Chapter 110, Subchapter 1, Part 5 amend CCS policy by aligning current language and practice regarding the Child Care Development Fund (CCDF) and also provide for revocation of unnecessary Oklahoma Administrative Code (OAC) Sections.

Proposed amendments to Chapter 110, Subchapter 3, Part 5 amend licensing requirements for large family child care homes.

Proposed amendments to Chapter 110, Subchapter 3, Part 9 amend licensing requirements for residential child care facilities.

Proposed amendments to Subchapter 5, Parts 1 and 5, amend licensing requirements for child-placing agencies. CCS conducted residential and child-placing agency roundtable sessions to receive program comments regarding requirement revisions. A summary of proposed licensing requirements were reviewed by residential and child-placing agency standing subcommittees and the Child Care Advisory Committee. Child Welfare Services (CWS) was consulted for necessary licensing requirement amendments for improved health and safety and services to residents in residential facilities and child-placing agencies serving adoptive and foster families and children.

**Strategic Plan Impact.**

The proposed amendments achieve OKDHS goals by continuously improving systems and processes impacting CCS policy for licensed child care programs and licensing requirements for large family child care homes, residential child care facilities, and child-placing agencies.

**Substantive changes.**

Subchapter 1. General Provisions

Part 1. Licensing Services - Child Care

OAC 340:110-1-9.2 is amended to alter complaint investigation processes to include a duplicate complainant category and provide for expedited complaint investigations in child care facilities.

OAC 340:110-1-10.1 is amended to: (1) establish timeframes for submission of insufficient or incomplete registry referral information; (2) clarify restricted registry legal review processes; (3) reflect current restricted registry notification processes; (4)

remove appeal process from continued placement decision; and (5) align CCS terminology.

#### Part 3. Licensing Services – Residential Care and Agencies

OAC 340:110-1-47.1 is amended to alter complaint investigation processes to include a duplicate complainant category and provide for expedited complaint investigations in residential facilities and child-placing agencies.

#### Part 5 Child Care Services

OAC 340:110-1-70 through 340:110-1-73 are revoked and renumbered to OAC 340:110-1-76 for language to reflect processes for administering the CCDF.

OAC 340:110-1-76 is amended to: (1) include language reflecting the purposes and processes of administering the CCDF; and (2) align CCS terminology.

OAC 340:110-1-77 through 340:110-1-79 are revoked and renumbered to OAC 340:110-1-76 for language to reflect processes for administering the CCDF.

#### Subchapter 3. Licensing Standards for Child Care Facilities

#### Part 5. Requirements for Family Child Care Homes and Large Family Child Care Homes

OAC 340:110-3-97.1 is amended to align annual professional development hours for primary caregivers licensed before October 1, 2007 with required professional development hours for caregivers licensed after October 1, 2007 by requiring five additional hours of professional development.

#### Part 9. Requirements for Residential Child Care Facilities

OAC 340:110-3-152 is amended to: (1) include licensing notification when program director change occurs; (2) clarify reporting of emergency medical treatment and incidents involving law enforcement; and (3) align CCS terminology.

OAC 340:110-3-153.1 is amended to: (1) clarify responsible personnel behavior and cooperation with OKDHS staff; (2) include program director responsibility for day-to-day program operation; (3) create language addressing contracted personnel; (4) require new personnel, upon employment, have obtained a high school diploma or General Education Development (GED); (5) remove documentation of reference information; (6) clarify timeframes for professional development and submission of personnel information; and (7) align CCS terminology.

OAC 340:110-3-153.2 is amended to (1) clarify resident supervision and ratios for programs accepting mothers and their children; and (2) align CCS terminology.

OAC 340:110-3-154 is amended to (1) reformat requirement language for improved licensing requirement interpretation; and (2) align CCS terminology.

OAC 340:110-3-154.1 is amended to (1) address resident's safety for protection of behavior involving a sexual nature; and (2) align CCS terminology.

OAC 340:110-3-154.2 is amended to: (1) include improved behavior management techniques impacting resident physical health and emotional safety; and (2) align CCS terminology.

OAC 340:110-3-154.3 is amended to: (1) improve health practices regarding medication administration and over-the-counter medication; and (2) align CCS terminology.

OAC 340:110-3-154.4 is amended to: (1) restrict personnel from eating in front of residents except during meal or snack times; and (2) align CCS terminology.

OAC 340:110-3-157 is amended to: (1) reduce required resident sleeping area from 110 to 90 square feet; (2) require resident table space and chair for meals or provide a rotation schedule; and (3) align CCS terminology.

OAC 340:110-3-168 is amended to: (1) clarify supervision and when residential treatment personnel may count in ratios; and (2) align CCS terminology.

#### Subchapter 5. Requirements for Child-Placing Agencies

##### Part 1. Requirements for Child-Placing Agencies

OAC 340:110-5-3 is amended to: (1) delete unnecessary terminology; (2) clarify current definitions; and (3) align CCS terminology.

OAC 340:110-5-12 is amended to: (1) clarify personnel record submissions upon employment; and (2) align CCS terminology.

##### Part 5. Requirements for Foster Homes Agencies

OAC 340:110-5-57 is amended to: (1) align criminal history records search for previous out-of-state residence; (2) delete requirement for private visits with children in foster care; (3) clarify submission timeframes for foster parents' children health information; (4) clarify agency-provided foster parent professional development and timeframes; and (5) align CCS terminology.

OAC 340:110-5-60 is amended to: (1) require licensed veterinarians administer rabies vaccinations; (2) provide consideration for related children of different sexes to share a sleeping room; and (3) align CCS terminology.

OAC 340:110-5-63 is amended to: (1) clarify children's medical exams assess the child's overall health; and (2) align CCS terminology.

#### **Reasons.**

Chapter 110, Subchapter 1, Part 1 and 3. The proposed amendments address needed clarifications of CCS policy practice and procedures regarding Restricted Registry and revisions to CCS complaint investigation policy. Amendments provide a category for duplicate complainants, therefore streamlining and expediting complaint investigation processes. Amendments provide improved services for licensed child care programs, residential facilities, and child-placing agencies.

Subchapter 1, Part 5. The proposed amendments the revocation of unnecessary CCDF language and provide administrative updates.

Subchapter 3, Part 5 amends licensing requirements for large family child care homes.

Amendments address aligning required professional development hours annually for primary caregivers licensed before October 1, 2007 with required professional development hours for caregivers licensed after October 1, 2007. Professional development is critical to the quality of child care and provides caregivers with necessary education. Licensed programs impacted by the proposed licensing requirement amendments include large family child care homes licensed before October 1, 2007.

Subchapter 3, Part 9 amends licensing requirements for residential facilities.

Amendments include: (1) providing improved services to programs; (2) clarifying regulation enforcement; and (3) improving resident's health and safety. Subchapter 5, Parts 1 and 5 amend licensing requirements for child-placing agencies. Amendments include: (1) providing improved services to child-placing agencies; (2) clarifying regulation enforcement; and (3) improving children's health and safety while in foster

care. Licensed programs impacted by the proposed licensing requirement amendments include: (1) residential child care facilities; and (2) child-placing agencies.

Amendments to clarify and improve CCS rules and procedures impact: (1) family child care homes and large family child care homes; (2) child care centers; (3) day-camps; (4) drop-in programs; (5) out-of-school time programs; (6) part-day programs; (7) programs for sick children; (8) community hope centers; (9) residential child care facilities; and (10) child-placing agencies.

### **Repercussions.**

Chapter 110, Subchapter 1, Parts 1 and 3. The proposed amendments: (1) address the need for a duplicate complainant category; (2) provide for streamlining and expediting the complaint investigation processes; and (3) address needed Restricted Registry clarifications and process updates.

Subchapter 1, Part 5 amends CCDF language.

Subchapter 3, Part 5 amends licensing requirements for large family child care homes to provide improved professional development for primary caregivers licensed before October 1, 2007.

Subchapter 3, Part 9 amend licensing requirements for residential facilities. Subchapter 5, Parts 1 and 5 amend licensing requirements for child-placing agencies. Amendments to proposed licensing requirements: (1) provide consistent interpretation of CCS licensing requirements; (2) improve services for licensed programs and child-placing agencies; and (3) improve children's health and safety.

### **Legal authority.**

Director of Human Services; Section 162 of Title 56 of the Oklahoma Statutes (56 O.S. § 162); 10 O.S. §§ 401, 404, 404.1, 405.1, 405.3, and 406 of the Oklahoma Child Care Facilities Licensing Act.

### **Permanent rulemaking approval is requested.**

**B. A description of the classes of persons who most likely will be affected by the proposed rule, including classes that will bear the costs of the proposed rule, and any information on cost impacts received by the Agency from any private or public entities:** The classes of persons most likely to be affected by the proposed amendments are CCS staff, licensed program personnel involved with Restricted Registry registration, licensed child care programs, residential child care facilities, child-placing agencies, and families and children utilizing licensed facilities, foster care and residential care.

**C. A description of the classes of persons who will benefit from the proposed rule:** The classes of persons most likely to benefit by the proposed amendments are CCS staff, licensed child care programs, residential child care facilities, child-placing agencies, and families and children utilizing licensed facilities, foster care and residential care.

**D. A description of the probable economic impact of the proposed rule upon the affected classes of persons or political subdivisions, including a listing of all fee changes and, whenever possible, a separate justification for each fee change:**

There is no anticipated economic impact of the proposed amendments for residential programs and large family child care homes. Minimum financial impact may occur for foster families acquiring animal vaccinations administered by a licensed veterinarian. There are professional development opportunities that are no cost and available statewide to large family child care home primary caregivers.

**E. The probable costs and benefits to the Agency and to any other agency of the implementation and enforcement of the proposed rule, the source of revenue to be used for implementation and enforcement of the proposed rule and any anticipated effect on state revenues, including a projected net loss or gain in such revenues if it can be projected by the Agency:** There are no anticipated agency costs associated with the proposed amendments.

**F. A determination whether implementation of the proposed rule will have an impact on any political subdivisions or require their cooperation in implementing or enforcing the rule:** Proposed amendments provide: (1) needed improvements to complaint investigation processes; (2) clarification and updated Restricted Registry processes; (3) CCDF administration updates; (4) improved professional development for primary caregivers in large child care homes licensed before October 1, 2007; (5) improved consistency of licensing requirement interpretation and enforcement; (6) improved children's health and safety; and (7) improved services for improved services for licensed child care programs, residential facilities, and child-placing agencies.

**G. A determination whether implementation of the proposed rule will have an adverse economic effect on small business as provided by the Oklahoma Small Business Regulatory Flexibility Act:** No economic impact with proposed amendments would be expected for primary caregivers in large family child care homes licensed before October 1, 2007, as many professional development opportunities are provided at no cost. Minimal economic impact with proposed amendments could be expected for some foster families acquiring animal vaccinations by a licensed veterinarian.

**H. An explanation of the measures the Agency has taken to minimize compliance costs and a determination whether there are less costly or nonregulatory methods or less intrusive methods for achieving the purpose of the proposed rule:** There are no less costly, non-regulatory, or less intrusive methods for achieving the purpose of the proposed amendments.

**I. A determination of the effect of the proposed rule on the public health, safety, and environment and, if the proposed rule is designed to reduce significant risks to the public health, safety, and environment, an explanation of the nature of the risk and to what extent the proposed rule will reduce the risk:** Implementation of the proposed amendments: (1) improve the complaint investigation process; (2) allow



consistent application of CCS rules and procedures; (3) align professional development hours for all primary caregivers in a large family child care home; and (4) improve health and safety requirements for children in care at residential facilities and child-placing agencies.

**J. A determination of any detrimental effect on the public health, safety, and environment if the proposed rule is not implemented:** If the proposed amendments are not implemented: (1) children's health, safety, and quality of care would be negatively impacted; (2) improved services for licensed child care programs, residential facilities and child-placing agencies could not occur; (3) CCS rules and licensing interpretation would not be clarified; and (4) CCDF administrative language would not be updated.

**K. The date the rule impact statement was prepared and, if modified, the date modified:** Prepared: June 26, 2023, modified October 18, 2023

## SUBCHAPTER 1. GENERAL PROVISIONS

### Part 1. LICENSING SERVICES – CHILD CARE

#### **340:110-1-9. Case management [ITS ONLY]**

Revised 12-17-18

(a) **Periodic monitoring visits.** Licensing staff conducts a minimum of three, unannounced monitoring visits to programs operating a full-year, and two, unannounced monitoring visits annually to programs operating less than a full-year. ■ 1 Licensing staff varies the monitoring visit times, including a lunch observation and an evening visit to child care centers with extended hours. ■ 2

(b) **Ongoing monitoring.** During monitoring visits, Licensing staff observes the entire facility, including the outdoor play space and transportation vehicles, when available. ■ 3 through 5 At, or subsequent to each monitoring visit, Licensing staff verifies:

- (1) compliance with Licensing requirements;
- (2) compliance with stars criteria, per Oklahoma Administrative Code (OAC) 340:110-1-8.3;
- (3) new personnel records including personnel sheets and compliance with background investigations, per OAC 340:110-1-8.1; ■ 6 & 7
- (4) personnel professional development records; ■ 8
- (5) the Oklahoma Department of Human Services (DHS) database on applicable individuals, per OAC 340:110-1-8.1;
- (6) fire and health inspections within the last 24 months, when applicable; ■ 9
- (7) Form 07LC092E, Insurance Verification, within the last 12 months, or posting of Form 07LC093E, Insurance Exception Notification; and
- (8) other documentation requiring renewal.

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

- (1) technical assistance to licensees assisting 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.** DHS may enter into a cooperative licensing agreement with a tribal licensing program or other monitoring agency. ■ 10

(e) **Equipment inventory.** Licensing staff completes Form 07LC006E, Equipment Inventory for Child Care Programs, prior to license issuance. Licensing staff or the program may complete the appropriate equipment inventory prior to a change in class and prior to a capacity increase in a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children. Inventories document the available equipment and the items needed to comply with the equipment requirements. Licensing staff may conduct a complete inventory when concern exists about the availability of required equipment. ■ 11

(f) **Address change.**

- (1) When a program moves to a new address, Licensing staff: ■ 12
  - (A) obtains an updated Form 07LC004E, Request for License Child Care Program;
  - (B) conducts a monitoring visit verifying that the new location meets Licensing requirements;

- (C) obtains new fire and health inspections for a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children, when applicable;
  - (D) obtains Oklahoma Department of Environmental Quality approval, when applicable;
  - (E) completes Form 07LC057E, Physical Plant, with required calculations; and
  - (F) requests a permit or license issuance reflecting the address change.
- (2) When an address change involves care provided in a location other than the primary caregiver's residence, refer to OAC 340:110-1-6(a)(3).
- (g) **Program name change.** When there is a program name change, Licensing staff verifies there is no ownership change, and documents the name change in the case file and database. A new Form 07LC004E, Request for License Child Care Program, reflecting the program name change is completed. Licensing staff requests a permit or license issuance reflecting the new program name. ■ 13
- (h) **Director change.** When there is a director change, Licensing staff:
- (1) verifies the new director meets qualifications;
  - (2) obtains the applicable page of Form 07LC004E, Request for License Child Care Program, completed by the new director;
  - (3) obtains references;
  - (4) obtains an appropriate, completed Form 07LC117E, Compliance Review for Child Care Programs, from the director, when the director has no previous director experience;
  - (5) notifies the new director of current personnel, who are granted waivers; and ■ 14
  - (6) documents the information on Form 07LC080E, Licensing Services Supplemental Information.
- (i) **Master teacher change.** When an individual replaces a master teacher:
- (1) Form 07LC031E, Probationary Master Teacher Agreement, is completed;
  - (2) the probationary master teacher is granted a one-year probationary period to fulfill the master teacher educational qualifications per applicable Licensing requirements and Quality Rating and Improvement System (QRIS) criteria, when applicable; and
  - (3) Licensing may extend the probationary period for a second year, providing the probationary master teacher is actively pursuing educational qualifications as identified on Form 07LC031E. ■ 15
- (j) **Primary caregiver change.** When there is a primary caregiver change, Licensing staff:
- (1) verifies the primary caregiver meets qualifications;
  - (2) obtains the applicable page of Form 07LC004E, Request for License Child Care Program, completed by the new primary caregiver;
  - (3) obtains references;
  - (4) notifies the new primary caregiver of current personnel, who are granted waivers; and
  - (5) documents the information on Form 07LC080E, Licensing Services Supplemental Information.
- (k) **Facility household change.** Facility household changes are documented on the monitoring summary. Form 07LC096E, Criminal History Review Request for Programs,

must be submitted prior to a new adult residing in the facility. When there is a new adult residing in a facility, the required documentation includes:

- (1) the applicable page of Form 07LC004E, Request for License Child Care Program, completed by the new adult;
- (2) background investigations, per OAC 340:110-1-8.1; and
- (3) a DHS database search.

(l) **Change in ownership.** When there is a change in ownership or a change in the form of business organization of a child care program, the case is closed and a new Form 07LC004E, Request for License Child Care Program, is obtained. Prior to permit or license issuance, the program must be in compliance with background investigations, per OAC 340:110-1-8.1. A permit may be issued when a monitoring visit without numerous, repeated, or serious non-compliances was conducted within the past 60-calendar days. A full-monitoring visit is conducted within 14-calendar days of change of ownership verifying the new owner meets minimum Licensing requirements. ■ 16

(m) **Transitional change of ownership.** When a program requests a transitional change of ownership (1) through (6) of this subsection are followed.

(1) Licensing staff conducts a monitoring visit within five DHS-business days, verifying compliance with Licensing requirements and, obtains: ■ 17

(A) Form 07LC015E, Transitional Change of Ownership, completed by the current and prospective owners;

(B) Form 07LC004E, Request for License Child Care Program, completed by the prospective owner; and

(C) updated program personnel information on Form 07LC002E, Personnel Summary, verifying that the prospective owner employs the same personnel as the current owner, at the time of transitional change of ownership.

(2) Transitional change of ownership procedures for star certification are met, per OAC 340:110-1-8.3; when applicable.

(3) Periodic and ongoing monitoring is maintained, per (a) and (b) of this Section.

(4) All Licensing monitoring and correspondence are provided to both the current and prospective owners.

(5) Change of ownership procedures are followed, per (l) of this Section by the end of 90-calendar days, when applicable.

(6) When programs notify Licensing that transitional change of ownership is no longer proceeding, Licensing staff verifies program operation status and consults with the supervisor for appropriate action.

(n) **Change in class.** When a program requests a change in class, procedures in (1) through (2) of this subsection are followed.

(1) The case is closed and a new Form 07LC004E, Request for License Child Care Program, is required, when a:

(A) family child care home converts to a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children; or

(B) child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children converts to a family child care home.

(2) Other requests for change in class do not require case closure and, documentation includes: ■ 18

(A) a request in writing from the owner;

- (B) a new Form 07LC004E, Request for License Child Care Program, with updated information;
  - (C) documentation that the program meets the requirements for the requested class type; ■ 19
  - (D) the appropriate equipment inventory, when applicable;
  - (E) a current, approved fire inspection, when applicable;
  - (F) a current, approved health inspection, when applicable; and
  - (G) appropriate class and monitoring frequency plan database updates. ■ 1
- (o) **Capacity increase or decrease.** When a program requests a capacity increase or decrease, it is documented on Form 07LC080E, Licensing Services Supplemental Information, and must be approved by the supervisor. The program must not have a history of numerous, repeated, or serious non-compliance, and provide: ■ 19
- (1) the reason for the increase;
  - (2) an updated floor plan on Form 07LC057E, Physical Plant, reflecting adequate indoor and outdoor space, toilets, and sinks for the increase and other changes;
  - (3) fire department approval of space not previously inspected;
  - (4) health approval of additional food preparation space not previously inspected;
  - (5) an updated equipment inventory reflecting adequate equipment for the increase; and
  - (6) verification of the required number of master teachers. ■ 20
- (p) **Inactive programs.** A program is in inactive status when care was not provided for more than 90-calendar days. ■ 21
- (1) A program remaining open after 90-calendar days submits a request in writing, including a statement that the owner will notify Licensing prior to resuming care. Licensing staff verifies compliance with requirements prior to resuming care.
  - (2) The program is contacted by Licensing staff, a minimum of every four months by phone, letter, or email to update program status including new household members or other program changes, per (k) of this Section.
  - (3) Voluntary closure is discussed with the owner and an agreement to close is reached, when possible.
  - (4) Licensing staff visits the inactive program, at least once during the 12-month timeframe verifying compliance with Licensing requirements until closure is final or the program resumes care.
  - (5) When an address change occurs when a program is in inactive status, a monitoring visit is required and address change procedures are followed per (f) of this Section.
- (q) **Inactive program closure.** Procedures (1) - (4) of this subsection are followed when closing an inactive program.
- (1) To verify program status, Licensing staff contacts the owner during the 12th month of inactive status.
  - (2) Licensing documents program status on Form 07LC080E, Licensing Services Supplemental Information, and notifies the owner the case will be closed when care does not resume, prior to the end of the 12th month.
  - (3) When care was not provided for 12-consecutive months or more, Licensing staff provides a letter notifying the owner of case closure within 10-calendar days of letter receipt, unless Licensing is notified care resumed.

(4) The case is closed and the owner must reapply and be approved for a new license prior to resuming care, per OAC 340:110-1-6.

(r) **Response to a child death.** When notified of a child death 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 program as soon as possible, unless advised otherwise by law enforcement officials. ■ 22

(s) **Serious incident reports.** The supervisor submits serious incident reports to the regional programs manager, county director, and statewide licensing coordinator. ■ 23

(t) **Self-reported incidents.** When a provider self-reports a non-compliance incident, Form 07LC080E, Licensing Services Supplemental Information, is completed and the Licensing database is updated. ■ 24

## **INSTRUCTIONS TO STAFF 340:110-1-9**

**Revised 6-1-229-14-24**

### **1. Monitoring visits.**

(1) **Staff safety.** Supervisors are consulted for appropriate action regarding program monitoring safety concerns. Appropriate action may include the ~~utilization~~ use of a witness or coordination with law enforcement officials.

(2) **Requirements.** After each monitoring visit, Licensing staff enters the monitoring frequency plan reflecting the required number of annual monitoring visits on the Licensing database. Monitoring frequency plan changes are reviewed with the supervisor. Examples of the required number of monitoring visits annually, include:

(A) one for inactive child care centers, day camp, drop-in, out-of-school time, part-day program, programs for sick children, or family child care home;

(B) two for part-year programs;

(C) three for programs with a history of compliance;

(D) six for request for licenses, six-month permits, and changes in class, except for large family child care homes changing to family child care homes; and

(E) 12 for programs with a pattern of numerous, repeated, or serious non-compliances.

(3) **Frequency of monitoring visits.**

(A) Programs operating part-year require only two visits annually.

(B) Programs operating a full-year program, including those offering only part-time care during the week, require three visits annually.

(C) When Licensing staff visits a program between monitoring visits for purposes, such as picking up paperwork, consultation on a specific issue, verifying repairs were made, or needed items were purchased, a full-monitoring visit is not required.

(i) The monitoring visit is documented on Form 07LC080E, Licensing Services Supplemental Information.

(ii) This information is entered on the Licensing database, but the monitoring visit is not counted toward the required number of visits.

- (iii) A full-monitoring visit is conducted when numerous, repeated, or serious non-compliance is observed during this visit.
      - (D) Partial-monitoring visits also include, documentation regarding:
        - (i) completion of the first page, including staff-child ratios;
        - (ii) weapons;
        - (iii) Child Welfare Services (CWS) involvement, criminal history, and new household members;
        - (iv) involvement with tribal agencies; and
        - (v) special needs certifications.
      - (E) Scheduled annual star criteria reviews are not counted towards the required number of monitoring visits.
    - (4) Reduced monitoring visits. When caseloads prevent Licensing staff from conducting the required number of monitoring visits, the supervisor consults with Licensing staff on case management and the number of required visits may be reduced, when approved by the regional programs manager (RPM). This adjustment is approved by the supervisor and documented in the case record.
    - (5) Verifying staff-child ratio. When the only purpose of a monitoring visit is providing or receiving materials, staff-child ratios may not need verification. Staff-child ratios are verified during partial- and full-monitoring, and other visits involving follow-up, complaint investigations, equipment inventories, or stars monitoring.
    - (6) Documentation of requirements not reviewed during monitoring visits. Licensing staff indicates on the monitoring checklist areas of requirements not reviewed during partial- or full-monitoring visits.
    - (7) Case records. Case record information is accurately maintained within the Licensing database. Confidential information, such as identifying child information, including initials, is documented on Form 07LC080E, Licensing Services Supplemental Information, and maintained in the case record's confidential section.
  - 2. Monitoring visits to:
    - (1) a center with extended hours, are conducted between 8 p.m. and 10 p.m. unless extenuating circumstances exist, such as a complaint regarding a different time period or an unsafe neighborhood. Overnight child care is care provided between midnight and 6 a.m.;
    - (2) programs for lunch observation, typically occur between 11 a.m. and 1 p.m.; however, lunch may be observed outside of these timeframes; and
    - (3) programs with limited hours of operation, such as weekends or evenings, are made only during program hours of operation, unless complaint allegations require other observation times, or concerns exist. Varying times of visits is not required. Specific hours of operation are documented on the monitoring checklist.
  - 3. When monitoring all licensed programs, Licensing staff:
    - (1) documents observations and discussions on the appropriate monitoring checklists, enters the information from the monitoring checklists in the Licensing database, and provides monitoring ~~summary-copies~~ summaries to the program's ~~owner/operator~~ owner and operator;

(2) may receive documents from programs, other agencies, and outside sources. Licensing notations are made on a copy of the received document;  
(3) documents non-compliances for missing immunization records. However, for missing immunizations:

(A) non-compliance is not documented;

(B) a recommendation for programs to refer parents to the Oklahoma State Department of Health (OSDH) or to the child's licensed physician is documented in monitoring summary discussion area; and

(C) for confidentiality, documentation of children's names, when applicable is recorded on Form 07LC080E, Licensing Services Supplemental Information;

(4) monitors weapons, per (A) through (D) of this paragraph.

(A) During the initial program visit or when Licensing staff has not previously visited the program, Licensing observes weapon and ammunition storage, per Licensing requirements.

(B) During subsequent visits, Licensing staff ask asks about weapons and verify verifies storage is locked.

(C) Weapons and ammunition are not removed from locked containers for Licensing observation.

(D) Storage locations are not viewed in children's presence and for confidentiality are documented on Form 07LC080E, Licensing Services Supplemental Information;

(5) ~~follow~~ follows photographing procedures in (A) through (C) of this paragraph.

(A) When photographs are needed for non-compliance determination:

(i) Licensing documents discussion of the photographs with the operator; and

(ii) photographs are:

(I) not enhanced or altered; and

(II) scanned, and placed in the case record, along with Form 07LC080E, Licensing Services Supplemental Information, documenting discussion with supervisor.

(B) Photographs are deleted from cell phone devices.

(C) When the operator is uncooperative, ~~do~~ Licensing staff does not proceed with taking photographs, discuss the alternatives, Alternatives are discussed with the operator and consult Licensing staff consults with supervisor for appropriate action;

(6) ~~follow~~ follows (A) through (D) of this paragraph when observation of an ~~Electronic Benefits Transfer~~ electronic benefits transfer (EBT) card occurs. Licensing staff:

(A) documents the observation on Form 07LC080E, Licensing Services Supplemental Information;

(B) photographs the front and back of the EBT card;

(C) refers information to the Office of Inspector General (~~OIG~~), including Adult and Family Services (AFS) Child Care Subsidy at



childcarecontracts@okdhs.org, with the EBT card photograph attachment; and

(D) deletes photographs from the cell phone device; and

(7) consults with the supervisor and RPM when required documentation includes names of all children present, such as, programs with a pattern of over-capacity, numerous complaints and non-compliances, or are considered for negative sanction. For confidentiality, children's names are documented on Form 07LC080E, Licensing Services Supplemental Information.

4. In addition to Instruction # 3 of this Section, when monitoring a family child care home, Licensing staff:

(1) is cognizant of the home environment and demonstrates respect for the family's privacy;

(2) is thorough and asks to be shown throughout the entire house and outdoors;

(3) looks in drawers and closets, flushes toilets, or verifies water temperature when concerns exist;

(4) monitors immunizations for children present, regardless of age;

(5) monitors vehicles and refrigerator temperature, annually and, when concerns exist;

(6) documents the full names of all adults present during the monitoring visit in the monitoring summary discussion area; and

(7) monitors visiting children other than children in care, per (A) through (C) of this paragraph.

(A) A caregiver's child's visiting friend, 5 years of age and older and able to go home is not counted toward licensed capacity.

(B) Children under 5 years of age with no parent present are counted toward licensed capacity.

(C) Licensing staff ~~discuss~~ discusses with the caregiver how he or she will meet the children's needs and provide proper supervision. The discussion is documented on the monitoring summary.

5. In addition to Instruction # 3 of this Section, when monitoring a child care center, day camp, drop-in, out-of-school time, part-day program, or program for sick children, Licensing staff monitors immunizations by:

(A) reviewing a sample of immunizations for children birth through 2 years of age, unless (B)(ii) of this Instruction applies; or

(B) not reviewing immunization records:

(i) for children attending school; or

(ii) when an OSDH representative responsible for immunization monitoring reviewed the records within the last six months. Licensing documents an OSDH review on the monitoring summary.

6. Licensing maintains program personnel sheets in the case record for 12 months after employment ends. Personnel sheets ~~must be~~ are purged prior to public viewing.

7. Licensing staff documents personnel's Social Security name changes on Form 07LC080E, Licensing Services Supplemental Information, and notifies the

Office of Background Investigations (~~OBI~~) to update the database. A new personnel information sheet is not required. When the director's name changes, due to director credential implications, Licensing notifies the Center for Early Childhood Professional Development.

8. Licensing staff reviews the one-time and annual professional development requirements when concerns exist and at the annual professional development review. Professional development is verified for program personnel and home providers, per specific Licensing requirements.
9. Procedures for monitoring fire and health inspections in (1) through (3) of this Instruction are followed.
  - (1) Licensing reviews on-going fire and health inspections and copies are not required for the case record.
  - (2) When the inspection indicates Licensing violations, ~~it is documented~~ violations are documented as non-compliance, and ~~a copy the inspection is~~ maintained in the case record. However, when health inspections are not conducted timely, Licensing staff ~~notify~~ notifies an appropriate Child Care Services (CCS) designee and it is not documented as a non-compliance.
  - (3) Licensing staff consults with the supervisor and RPM when OSDH representatives report immunization record concerns or the program is not cooperating with immunization reviews.
10. Cooperative licensing agreement. When there is a cooperative licensing agreement with a tribal licensing program or other monitoring program, the procedures in (1) through (5) of this Instruction are followed.
  - (1) After each monitoring visit, Licensing staff provides a completed monitoring checklist and summary ~~copy~~ to the assigned tribal licensing staff or other monitoring program representatives.
  - (2) Monitoring visit reports conducted by the tribal licensing staff or other monitoring program representatives are provided to Licensing staff who enters the visit in the Licensing database identifying it as a visit conducted by the tribe or other monitoring program representatives. The monitoring visits count toward the required number of program visits.
    - (A) All tribal monitoring visits are considered case history. A minimum of two visits annually ~~must be~~ are conducted by CCS staff.
    - (B) Case action approvals are based only on CCS Licensing monitoring information.
  - (3) All case record information including confidential information, except for CWS reports, is available to tribal licensing staff or other monitoring program representatives on request.
  - (4) Licensing staff coordinates, when appropriate, with the tribal licensing staff or other monitoring program representatives to conduct complaint investigations, complaint follow-up, non-compliance follow-up, and office conferences.
  - (5) The RPM ~~is responsible for evaluating~~ evaluates the agreement's effectiveness and ~~ensuring~~ ensures collaboration.

11. Equipment inventory. The inventory date and needed equipment is documented on the monitoring checklist. Only the initial inventory of a new program and a subsequent inventory increasing capacity are maintained in the case record.
12. Address change.
  - (1) When the new address is outside of Licensing staff's area, the case is transferred to appropriate Licensing staff, conducting the monitoring visit.
  - (2) When Licensing staff is notified of the address change, Licensing staff advises the owner to also report the address change to AFS Child Care Subsidy at [childcarecontracts@okdhs.org](mailto:childcarecontracts@okdhs.org).
  - (3) The new Form 07LC004E, Request for License Child Care Program, is for information purposes only. The case is not closed and reopened and the license number remains the same.
  - (4) New address information is submitted to the Licensing staff's supervisor, the supervisor of the receiving Licensing staff, and AFS Child Care Subsidy, at [childcarecontracts@okdhs.org](mailto:childcarecontracts@okdhs.org). The receiving Licensing staff enters the new address, Licensing staff, and supervisor information on the Licensing database. Critical information on non-compliant cases is shared with the receiving Licensing staff and supervisor.
  - (5) Licensing staff notifies the statewide licensing coordinator of the address change. The statewide licensing coordinator or designee issues a new program license reflecting initial license date and ~~a copy is provided~~ provides a new license to Licensing staff.
  - (6) When a child care center, day camp, drop-in, out-of-school time, part-day program, program for sick children, or family child care home reports an address change, current program personnel do not acquire new employment dates or require a new background checks.
13. Licensing staff notifies the statewide licensing coordinator of the name change. The statewide licensing coordinator or designee issues a new license reflecting initial license date to the program and ~~a copy is provided~~ provides a new license to Licensing staff.
14. When requested, directors are provided a waiver notice ~~copy~~ and it is maintained in the program's compliance file.
15. Licensing staff reviews the identified educational goals on Form 07LC031E, Probationary Master Teacher Agreement.
  - (1) When the first year probationary educational goals identified are:
    - (A) not met, Licensing staff may consult with supervisor regarding:
      - (i) second probationary year approval; and
      - (ii) master teacher non-compliance documentation and appropriate action; or
    - (B) met, Licensing staff extends the probationary period for a second year.
  - (2) When the second probationary year educational goals identified on Form 07LC031E are not met, Licensing staff consults with supervisor and program operator for acceptable plans of correction and extension of time to comply, when applicable, per star level participation.
16. (a) The RPM is consulted for appropriate action regarding ownership changes.

(b) Licensing staff advises the owner Form 08CC001E, Child Care Provider Contract, is canceled when the program's case is closed. The owner is referred to AFS Child Care Subsidy, at [childcarecontracts@okdhs.org](mailto:childcarecontracts@okdhs.org) to request a new contract so child care is not disrupted for families receiving subsidized child care benefits.

(c) When a family child care home changes business entity, Licensing staff consults with a supervisor to determine when a six-month permit is required.

(d) When an ownership change results in six-month permit issuance, fire and health inspections conducted within the last 12 months are accepted.

(e) When a business entity change results in license issuance, fire and health inspections conducted within the last 24 months are accepted.

(f) New facility construction, additional square footage not previously included in licensed capacity, and kitchen alterations affecting food service, require new fire and health inspections.

(g) Previous inspections ~~copies~~ in (d) and (e). of this Instruction are maintained in the new case record.

**17. Transitional change of ownership.**

(1) Monitoring visits are conducted under the current owner's program and ~~copies are~~ maintained in the prospective owner's case record.

(2) All Licensing correspondence ~~copies are~~ is maintained in both the current and prospective owners' case records.

(3) All ~~of~~ the current owner's Licensing history is available to the prospective owner on request, including revocation or denial of license information.

(4) Licensing staff follows-up with program when the 90-calendar day timeframe is approaching verifying program operation status in efforts to avoid disruption of care.

**18. Change in class.**

(1) Change in class includes a family child care home becoming a large child care home or a child care center, day camp, drop-in, out-of-school time, part-day, or program for sick children becoming a different program type.

(2) When a family child care home on a six-month permit requests a change in class to a large family child care home, three monitoring visits ~~must be~~ are made after the change and prior to license issuance.

**19. Capacity change.** The procedure for a capacity increase or decrease is outlined in (1) through (4) of this Instruction.

(1) Increase. Programs must provide a written request for capacity increase. Licensing staff:

(A) verifies current fire and health inspections and notifies the fire department determining when another inspection or further evaluation is required. The contact is documented on Form 07LC080E, Licensing Services Supplemental Information;

(B) ensures the director completes and submits Form 07LC006E, Equipment Inventory for Child Care Programs, reflecting adequate equipment for the increase; and

(C) does not recommend to increase capacity when the program has numerous, repeated, or serious non-compliance with requirements. The

RPM is consulted regarding requests for increase when the only serious non-compliance was the facility exceeded capacity.

(2) Decrease. When decreasing capacity, Licensing staff updates the floor plan on Form 07LC057E, Physical Plant, indicating rooms available for children's use.

(3) Capacity increase or decrease recommendations. Capacity increase or decrease recommendations are documented on Form 07LC080E, Licensing Services Supplemental Information, and submitted to the supervisor.

(4) Approval. When capacity change is approved, the statewide licensing coordinator or designee issues the program a license reflecting the new capacity and initial license issuance date. A The license copy is provided to Licensing staff.

20. Programs need the required number of qualified master teachers for capacity increase and applicable star level certification. All required master teachers must meet educational criteria and are not eligible for probationary periods.

21. Inactive programs.

(1) Licensing staff emails:

(A) the appropriate stars outreach specialist; and

(B) AFS Child Care Subsidy at [childcarecontracts@okdhs.org](mailto:childcarecontracts@okdhs.org), regarding the status of inactive care. The email includes:

(i) the reason for inactive status;

(ii) the inactive status effective date;

(iii) the length of time the program anticipates being inactive; and

(iv) a request for AFS Child Care Subsidy to notify CCS of contract cancellation or point of service machine deactivation; and

(C) AFS Child Care Subsidy regarding the date care resumed.

(2) A full-monitoring visit is conducted 12 months from the last full visit, not from the time the program was considered inactive. This monitoring visit may be announced to ensure someone is present.

(3) When a family child care home primary caregiver is employed outside of the home during inactive status, the case remains open. Licensing staff documents on Form 07LC080E, Licensing Services Supplemental Information, the provider's understanding when care resumes, employment outside the home, during the hours of care is prohibited.

(4) When programs are certified at a two-star level or higher, procedures, per Oklahoma Administrative Code (OAC) 340:110-1-8.3, are also followed.

22. Child death. When notified of a child's death occurring in child care, Licensing staff:

(1) determines and documents what occurred. Documentation includes:

(A) the child(ren)'s names, ages, and number of children and personnel present at time of incident;

(B) what supervision was provided during this time;

(C) when the caregiver last checked on the child;

(D) personnel's response upon finding the child; and

(E) names of personnel involved, when possible; and

- (2) obtains pertinent program records, including attendance records for children and personnel present at time of incident;
- (3) notifies the supervisor, county director, RPM, statewide licensing coordinator, and CCS director; and
- (4) considers whether the death is possibly related to Sudden Infant Death Syndrome (SIDS) or other sleep related causes and, when related to an infant death:
  - (A) documents:
    - (i) how the child was dressed at the time of the incident;
    - (ii) where the child was sleeping and the sleep position;
    - (iii) rest equipment's condition;
    - (iv) observations regarding the bedding and other items in the sleeping area; and
    - (v) caregiver or personnel training, such as safe sleep, cardiopulmonary resuscitation (CPR), and first aid certification;
  - (B) notifies the supervisor, county director, RPM, statewide licensing coordinator, and CCS director;
  - (C) notifies OSDH Maternal and Child Health Safe Sleep/SIDS coordinator; and
  - (D) obtains verbal or written verification confirming the cause of death from the appropriate authority.

**23. Serious incident.**

- (1) Serious incidents include at least, incidents:
  - (A) resulting in a child's serious injury or death, such as a shaken baby, a drowning or near drowning, or a traffic accident resulting in serious injury;
  - (B) placing a child at a high risk for death or injury, such as a child leaving a program without personnel's knowledge, a child left at a location away from the program, a child left unattended in a vehicle, or a child left alone in a program; and
  - (C) such as fire, flood, or tornado resulting in significant facility damage.
- (2) In addition to Instructions to Staff # 22 (1)(A) and (2) of this Section, a serious incident report also includes:
  - (A) the name and age of the child(ren) seriously injured or killed;
  - (B) the incident date and time;
  - (C) a description of child(ren)'s injuries or facility damage;
  - (D) the caregiver's account of the incident;
  - (E) a summary of other contacts involved in the investigation, such as other Oklahoma Human Services OKDHS divisions or law enforcement officials;
  - (F) pertinent information regarding the caregiver's history, such as prior CWS involvement or a history of numerous, repeated, or serious non-compliance with Licensing requirements; and
  - (G) names of involved personnel.

**24. Only owners, directors, personnel acting in the role of director, or primary caregivers can self-report. When other program personnel self-report non-compliances, the self-reports are considered complaints.**

**(1) When discussions with the program operator determine a non-compliance did not occur, Licensing staff:**

**(A) documents the discussion on Form 07LC080E, Licensing Services Supplemental Information; and**

**(B) provides a letter to the program, including a ~~copy of~~ Form 07LC080E, Licensing Services Supplemental Information.**

**(2) Licensing staff's response to a self-reported non-compliance, per OAC 340:110-1-9.3, is based on:**

**(A) the degree of risk to children;**

**(B) whether the provider could have prevented the non-compliance;**

**(C) the provider's timeliness and effectiveness of the response; and**

**(D) supervisory consultation when self-reporting involves serious non-compliances.**

**(3) When Licensing determines non-compliance occurred and the program operator took appropriate action, a monitoring visit is not required. Licensing staff:**

**(A) documents the discussion on Form 07LC080E, Licensing Services Supplemental Information;**

**(B) provides a letter to the program including a ~~copy of~~ Form 07LC080E, Licensing Services Supplemental Information, including the:**

**(i) self-reporting date;**

**(ii) non-compliance description;**

**(iii) action taken by the program;**

**(iv) program's plan of correction;**

**(v) request for completion of Form 07LC037E, Notice to Comply, when applicable, per OAC 340:110-1-9.3(d)(7); and**

**(vi) statement "a self-reported serious non-compliance may be considered when reviewing the case for an Emergency Order, denial of request for license, license revocation, or a stars reduction"; and**

**(C) documents the phone call in the database as "other contacts" and the self-reported incident does not appear on the child care locator.**

**(4) When Licensing determines non-compliance occurred and the program operator did not take appropriate action, a monitoring visit is required. All necessary documentation is entered on the monitoring checklist and summary. Additional follow-up, including a letter, is based on the seriousness of the non-compliance. The visits are entered as monitoring visits in the database.**

**(5) When a self-reported incident requires an abuse or neglect referral to CWS, per OAC 340:110-1-9.2(i), and CWS accepts the referral for investigation, Licensing considers the self-reported incident a complaint.**

### **340:110-1-9.2. Complaint investigations**

Revised ~~6-1-229-14-24~~

(a) **Legal basis.** The Oklahoma Child Care Facilities Licensing Act (Act), Section 406 of Title 10 of the Oklahoma Statutes (10 O.S. § 406), mandates that Oklahoma Human Services (OKDHS) conduct a full complaint investigation alleging violation against the Act or Licensing requirements.

(b) **Complaint receipt.** Complaints may be made to Licensing in writing, in person, by phone, or electronically. ■ 1

(c) **Complaint information.** Licensing staff obtains as much relevant information as possible from the complainant. ■ 2

(d) **Screening complaints.** Licensing staff accepts a complaint for investigation when alleging: ■ 3

(1) non-compliance with Licensing requirements;

(2) violation of the Act;

(3) unlicensed facility operation; or

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

(e) **Duplicate complaint.** Allegations received by a different complainant regarding a previously reported incident may be considered a duplicate complaint.

(1) Duplicate complaints:

(A) must involve the same child(ren), program personnel, and incident date and time;

(B) require supervisory approval before proceeding with duplicate complaint processes;

(C) received during a pending investigation are documented on the existing Form 07LC012E, Licensing Complaint, and considered part of the initial complaint; and

(D) received after the investigation is complete are documented on Form 07LC080E, Licensing Services Supplemental Information, and included with the initial complaint investigation documentation; regardless of the duplicate allegation receipt timeframe.

(2) When a duplicate complainant provides additional allegations:

(A) during a pending investigation, allegations are investigated with the initial complaint allegations; or

(B) after investigation completion, the allegations are investigated as a new complaint and documented on Form 07LC012E.

(3) Prior to investigation completion, Licensing informs licensed programs when a duplicate complaint is reported and when additional allegations are investigated.

(4) Allegations of an unlicensed facility operation may be considered a duplicate complaint. ■ 4

(e)(f) **Complaint risk levels.** Licensing staff determine risk levels based on the degree of harm or danger to children in care. Risk levels are used to ensure investigations occur in a timely manner. ■ 45

(1) **Risk level I complaints.** Risk level I complaints indicate a child is in imminent risk of serious physical harm. The risk level is not influenced by the removal of a child from the facility when other children remain in care. Investigations are initiated immediately or no later than 24 hours after receipt by Licensing unless awaiting a Child Welfare Services (CWS) or local law enforcement investigation; excluding weekends and holidays when the facility is closed. Non-compliances with licensing requirements include, but are not limited to:



- (A) alleged physical or sexual abuse;
- (B) the presence or use of illegal drugs while children are in care;
- (C) drug distribution;
- (D) children left in the facility or in a vehicle without anyone present;
- (E) facility temperatures;
- (F) infant sleep environments and safe-sleep training;
- (G) caregiver's threatening or impaired behavior;
- (H) severe understaffing or severe over licensed capacity;
- (I) child passenger restraints;
- (J) Emergency Order violation;
- (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 individuals identified as restricted or Restricted Registry 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 10-calendar days of receipt by Licensing, unless requested to delay the investigation by CWS or local law enforcement. Non-compliances with licensing requirements include, but are not limited to:

- (A) leaving children with underage personnel;
- (B) alleged physical abuse from personnel no longer working in the facility;
- (C) inappropriate discipline, when no injury is reported;
- (D) diapering or toileting;
- (E) hazardous equipment;
- (F) transporting without a valid driver license, liability insurance, or parent permissions;
- (G) lack of supervision; or
- (H) minor understaffing or minor over licensed capacity.

(3) **Risk level III complaints.** Risk level III complaints do not indicate imminent risk of harm and there are no injuries alleged. Serious non-compliances, per Oklahoma Administrative Code (OAC) 340:110-1-9.3 are not considered risk level III complaints. Investigations are initiated within 15-calendar days of receipt by Licensing; including when a phone investigation is appropriate, per (g) of this Section. Non-compliances with licensing requirements include, but are not limited to:

- (A) inadequate meal service;
- (B) lack of play equipment;
- (C) quarterly vehicle maintenance;
- (D) program records and documentation;
- (E) inappropriate television or media use; or
- (F) facility cleanliness.

~~(f)~~(g) **The investigation.** Licensing staff conducts a full investigation, obtaining sufficient information to determine a finding. ■ 56

~~(g)~~(h) **Phone investigation.** With supervisory approval, Licensing staff may investigate a complaint by phone. The investigation discussion is documented on Form 07LC080E, Licensing Services Supplemental Information, including an agreed-upon plan of

correction, when necessary. ~~A copy is, and~~ provided to the operator. A complaint is investigated by phone only when:

- (1) the alleged non-compliance does not place children at risk of harm, such as, 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 within the previous 12 months from complaint receipt; and
- (3) a monitoring visit was conducted in the last three months with substantial compliance documented.

~~(h)~~(i) **Unlicensed facility investigations.** When a complaint alleging operation of an unlicensed facility is received, the procedure, per OAC 340:110-1-13, is also followed.

~~(i)~~(j) **Child abuse and neglect complaints.** On receipt of abuse or neglect allegations of a child in care, Licensing staff immediately notifies the Licensing supervisor and submits a CWS referral. When the allegation involves child abuse or neglect or a report indicating a child is in imminent risk of serious physical harm, the regional programs manager ~~(RPM)~~ is also notified. ■ ~~6~~7

~~(j)~~(k) **Findings.** After investigation completion, the Licensing staff, in consultation with the supervisor, as appropriate, determines the complaint finding as substantiated or unsubstantiated.

(1) **Substantiated.** A substantiated finding is determined when some credible evidence indicates the facility violated Licensing requirements or the Act.

(2) **Unsubstantiated.** An unsubstantiated finding is determined when:

- (A) insufficient evidence exists to fully determine whether a violation occurred; or
- (B) no violation of Licensing requirements or the Act occurred.

~~(k)~~(l) **Documentation of findings.** Upon investigation completion, Licensing staff:

- (1) documents the findings; ■ ~~7~~8
- (2) notifies the provider of complaint allegations and findings by providing:
  - (A) a complaint findings cover letter;
  - (B) Form 07LC081E, Licensing Complaint Report Summary; and
  - (C) Form 04CP004E, Child Welfare Investigative Summary Notification to Child Care Licensing Services, when applicable; and
- (3) updates the Licensing database and closes the complaint. Licensing staff and a supervisor complete the complaint review checklist.

~~(l)~~(m) **Heinous and shocking abuse findings.** Per 10 O.S. § 406, when Licensing receives notification from CWS of heinous and shocking abuse findings by a person responsible for the child's health, safety, or welfare as defined, per 10A O.S. §1-1-105, Licensing contacts the program by email immediately or not later than one-business day after the substantiated finding notification. ■ ~~8~~9

~~(m)~~(n) **Notice to Comply.** When a complaint allegation is substantiated, Licensing staff advises the facility to correct the violations immediately and requests the facility complete Form 07LC037E, Notice to Comply, per OAC 340:110-1-9.3(d)(7). Licensing staff updates the Licensing database with plan of correction information. ■ ~~9~~9

~~(n)~~(o) **Summary of facts.** Licensing provides facility directors and owners or primary caregivers a summary of the facts used to evaluate and determine the complaint findings. ■ ~~9~~10

~~(o)~~(p) **Complaint overview.** Licensing staff completes an overview of completed complaint investigations on Form 07LC080E, Licensing Services Supplemental

Information. This overview provides an investigation summary of how the complaint findings were determined and is maintained in the case record's confidential section. ■  
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## **INSTRUCTIONS TO STAFF 340:110-1-9.2**

**Revised 6-1-229-14-24**

- 1. When the complaint is made in person or by phone, Licensing staff assists the complainant by:**
  - (1) advising of allegations representing non-compliance;**
  - (2) responding to complainant's concerns;**
  - (3) discussing confidentiality, such as, the complainant's identity is kept confidential unless legal action or a referral to local law enforcement officials becomes necessary;**
  - (4) eliciting appropriate information. When subjective terms, such as "drunk" or "crazy" are used, Licensing staff tries to obtain and record specific information on the behavior observed by the complainant;**
  - (5) informing the complainant about what action will be taken, such as Licensing staff making an unannounced visit or a referral to Child Welfare Services (CWS); and**
  - (6) discussing the interviewing of complainant's children, when necessary and appropriate.**
- 2. The information, including duplicate complaints, is documented on Form 07LC012E, Licensing Complaint, and entered in the Licensing database by using complaint key words. The information requested includes the:**
  - (1) date and time the complaint was received;**
  - (2) facility name, address, and phone number;**
  - (3) complainant's name, address, phone number, and program relationship, such as employee, parent of a child in care, or neighbor;**
  - (4) complainant's source of information, such as, personal observation or information from another individual; and**
  - (5) specific information regarding the complaint allegations including:**
    - (A) a description of the circumstances;**
    - (B) the name or identity of personnel involved;**
    - (C) the child's name and age, who was involved or affected by the alleged non-compliance;**
    - (D) the date(s), time(s), and place(s) the alleged non-compliance(s) occurred;**
    - (E) the names of other individuals with relevant information; and**
    - (F) if the complaint was discussed with the director or primary caregiver.**
- 3. Licensing staff determines one of the dispositions in this Instruction.**
  - (1) Complaints or concerns not meeting criteria, per Oklahoma Administrative Code (OAC) 340:110-1-9.2(d) are discussed with the complainant, and when appropriate, a referral is made to another entity, such as local law enforcement officials, Adult and Family Services (AFS), or the Office for Civil Rights (OCR).**

(2) A complaint alleging Licensing requirement violation or an unlicensed facility is investigated by Licensing staff. This information is recorded as a complaint regardless of the caller's purpose. Licensing staff in the area where the facility is located, is notified as soon as possible, and Form 07LC012E, Licensing Complaint, is forwarded to the appropriate Licensing staff. On receipt, the Licensing staff reviews the 07LC012E and follows duplicate complaint processes, per Instructions to Staff #4 of this Section, when applicable.

(3) A complaint alleging child abuse or neglect is immediately referred to CWS, with ~~a copy of~~ Form 07LC012E, Licensing Complaint. The referral is documented on the form. When an immediate response to the referral is not received, Licensing staff follows up the next Oklahoma Department of Human Services (DHS) OKDHS-business day to obtain a response.

(A) Complaints referred to CWS include alleging harm or threatened harm to a child's safety occurring through non-accidental physical or mental injury, sexual abuse, neglect, or failure or omission to provide protection from harm or threatened harm.

(B) When Licensing staff is unsure a complaint meets CWS investigation criteria, the complaint is referred to CWS and the decision to accept the referral is made by CWS staff.

(C) Sex play between children is referred to CWS. Licensing investigates this type of allegation with regard to children's supervision.

(4) When a complaint alleging illegal activity is received, all referral information including the complainant's name, is forwarded to appropriate entities. The guidelines in (A) through (D) of this paragraph are met.

(A) A complaint alleging commission of a crime is immediately referred to local law enforcement officials where the facility is located. The referral is followed up in writing, ~~a copy and~~ filed in the case file record, and the supervisor is notified. ~~Licensing staff is responsible for follow follows-up~~ with local law enforcement officials to determine and document the investigation's outcome.

(B) When the complaint allegation includes illegal drug activity, Licensing staff obtains as much information as possible from the complainant, including the individual's behaviors when it is alleged he or she was under the influence of drugs. Even when the alleged drug activity occurred when children were not in care, every complaint is referred to local law enforcement officials and, when the program has a provider contract, to the Office of Inspector General (OIG) at [OIG.REFERRALMANAGEMENTUNIT@OKDHS.ORG](mailto:OIG.REFERRALMANAGEMENTUNIT@OKDHS.ORG). ~~Licensing staff is responsible for follow-up~~ follows-up with local law enforcement officials regarding their involvement prior to complaint submission to OIG. However, when a response is not received from local law enforcement officials within 48-hours from complaint receipt, Licensing staff forwards ~~the complaint~~ Form 07LC012E, Licensing Complaint, to OIG. The OIG referral is documented on Form 19MP001E, Office of Inspector General (OIG) Referral Form, and includes date, contact, including attempted

contact, and information regarding local law enforcement official referral, and a copy of Form 07LC012E, Licensing Complaint. On receipt of the referral, OIG contacts the local law enforcement officials to determine who conducts the investigation or if a joint investigation will be conducted. Licensing staff ~~is responsible for follow-up~~ follows-up with OIG to determine and document the investigation outcome.

(C) Prior to facility visits, Licensing staff informs and consults with OIG regarding the restrictions of individuals involved in the allegation.

(D) Complaints alleging the use of illegal drugs during child care hours may be addressed with the caregiver after consultation with local law enforcement officials and OIG. Complaints alleging illegal activity of a more serious nature, such as drug trafficking are not investigated by Licensing staff.

(5) A complaint alleging discrimination is discussed with the complainant. The complainant is referred to the program in efforts to resolve the issue. When the complaint remains unresolved, Licensing staff refers the complainant to the ~~Office for Civil Rights~~ documenting OCR and documents the referral on Form 07LC080E, Licensing Services Supplemental Information.

(6) Information in a complaint received from another division within ~~DHS~~ OKDHS or an agency responsible for monitoring child care facilities, such as OIG or local health or fire departments, may be deemed valid when documented in writing by the agency representative. Licensing staff determines when observation is a non-compliance. The program is advised of the report, is requested to complete Form 07LC037E, Notice to Comply, when applicable, per OAC 340:110-1-9.3(d)(7), and is given an opportunity to respond.

(7) The supervisor is notified of complaints:

(A) when the alleged non-compliance caused or could cause serious harm to a child in care;

(B) when the program has numerous, repeated, or serious non-compliance with requirements;

(C) when the alleged non-compliance was previously addressed on Form 07LC037E, Notice to Comply;

(D) referred to CWS or local law enforcement officials; or

(E) receiving special attention, such as from the media or a legislator.

(8) When a director or owner self-reports an allegation Licensing staff informs the supervisor and consults with the regional program manager (RPM), when necessary to determine when potential harm to children warrants an investigation.

**4. For complaint allegations to be considered as a duplicate complaint, the allegations must be the exact same incident as previously reported, involving the same child(ren), program personnel and incident date and time.**

**(1) Duplicate complaint and new allegation narratives are documented on the existing Form 07LC012E, Licensing Complaint.**

(2) Allegations alleging non-compliance with the same licensing requirement or complaint key word but not the specific incident previously reported are new allegations. When allegation information is too vague for duplicate complaint determination, Licensing staff consults with supervisor for appropriate action.

(3) When Licensing receives multiple duplicate complaints, program notification may be combined into one notification.

(4) Licensing informs duplicate complainants of a:

(A) pending investigation involving duplicate complaints and, when applicable, which allegations are new allegations to be investigated with the initial complaint; or

(B) completed investigation findings outcome involving the duplicate allegations and refers the duplicate complainants to the program's compliance file and child care locator for further information. Licensing documents discussion on Form 07LC080E, Licensing Services Supplemental Information.

(5) Risk levels are also assigned for any additional allegations and appropriate initiation timeframes are determined.

(6) When Child Care Services (CCS) receives a CWS referral that is a duplicate complaint, Licensing staff consults with supervisor and RPM for appropriate action. Information provided by CWS is documented on the existing Form 07LC012E, Licensing Complaint, per duplicate complaint process and procedures.

(7) Complaints alleging an unlicensed facility operation may be considered a duplicate complaint when received:

(A) during a pending investigation and no other allegations are reported. Licensing staff:

(i) informs the complainant of a pending investigation involving a duplicate complaint; and

(ii) documents the allegation on the existing Form 07LC012E, Licensing Complaint; or

(B) after the initial complaint completion where CCS verified the program had ceased child care; however, care must be reported to have occurred prior to the initial complaint. Duplicate complaint information is documented on Form 07LC080E, Licensing Services Supplemental Information, and included with the initial complaint investigation documentation.

(8) Complaints alleging an unlicensed facility operation are not a duplicate complaint when reported after a completed investigation and:

(A) CCS previously verified unlicensed care ceased or care was exempt from licensure. Licensing initiates a new complaint on Form 07LC012E, Licensing Complaint; or

(B) the program is currently on permit or license, or has been given permission to operate. Licensing staff:

(i) informs complainant of the program's current status and therefore the allegation will not be investigated; and

(ii) documents any other allegations on Form 07LC012E, Licensing Complaint, and initiates a new complaint. The report of unlicensed care, while not investigated, is also documented on Form 07LC012E.

**45.** When necessary, Licensing staff consults with supervisor to determine the appropriate risk level, complaint initiation time frame, or follow-up based on:

- (1) the program's case history;
- (2) the length of time since the alleged incident occurred;
- (3) the allegation's severity; including the number and ages of children involved;
- (4) Licensing staff's current workload and other pending complaint investigations; and
- (5) necessary coordination with CWS or other agencies.

**56.** The investigation generally includes:

- (1) a review of the complaint allegations to ensure staff is thoroughly familiar with the details and specific information. Whenever possible, prior to making program contact, Licensing staff reviews all appropriate DHS OKDHS records to obtain other preliminary information, as appropriate;
- (2) an unannounced visit. The purpose of the visit and allegation descriptions using "key words" are initially discussed with the operator. Licensing documents in discussion key words were discussed with the director, owner, or both, when applicable. Prior to the complaint investigation conclusion, the full allegation, including duplicate complaints is explained and discussed with the director or primary caregiver. Licensing staff does not identify the complainant;
- (3) consideration of a safety plan.

**(A)** Based on allegation severity ~~and/or~~, information gathered during the complaint investigation, or both, Licensing staff discusses with the operator and documents on Form 07LC080E, Licensing Services Supplemental Information, an appropriate safety plan identifying methods of protecting children during the investigation. The safety plan:

(i) is voluntary; however, when not agreed upon by the program, Licensing staff consults with supervisor for appropriate action;

(ii) includes full names of program personnel involved;

(iii) is kept confidential until investigation completion;

(iv) may be discontinued when Licensing determines children are no longer at risk. Licensing staff immediately informs the program the safety plan is no longer needed and the program may discontinue the plan. Licensing staff documents the discussion on Form 07LC080E; and

(v) is used only during a pending investigation. When the program admits to the serious allegation Form 07LC037E, Notice to Comply, is completed addressing the immediate non-compliance correction in lieu of a safety plan.

**(B)** With State Office approval, Licensing staff may request the owner to voluntarily cease care, or require specific restrictions of contact with children for the alleged perpetrator, pending the investigation outcome.

The RPM is notified of all situations involving a request for voluntary cease care. When the owner refuses to cease care or adequately protect children and children are considered at imminent risk of harm, Licensing staff discusses and documents in discussion the possibility of an injunction or an Emergency Order;

(4) a review of available records, such as the case file, children's and personnel files and attendance records, injury logs, medical and transportation permission records, child care subsidy records, food program records, or local law enforcement reports;

(5) interviews with the complainant, witnesses, and complainant's children, when necessary and appropriate, and others having relevant information, such as program personnel or food program employees. Additional parent and child interviews are not conducted for Risk Level III complaints. When sufficient investigative information for determination of a finding is obtained through personnel interviews, observation, ~~and/or~~ or available records and documents, additional parent and child interviews are not conducted. Interviews are no longer conducted when sufficient information is obtained to determine a finding. An interview:

(A) is conducted when it would provide more complete or accurate information than observation alone;

(B) is scheduled at a time and location as to not present an undue hardship for the interviewee;

(C) is limited to questions relating to current complaint allegations;

(D) is generally a face-to-face contact between Licensing staff and the individual who may have relevant information. When an individual's comments and signature are documented on Form 07LC080E, Licensing Services Supplemental Information, ~~a copy~~ the interview is provided to adult interviewees. ~~A copy is~~ Interviews are not provided to the operator. All interviews are maintained in a confidential manner;

(E) is usually conducted in private and with one individual at a time. An exception may be made when:

(i) a witness accompanies Licensing staff;

(ii) the parent requests to be present when the child is interviewed; or

(iii) an individual chooses to have his or her attorney present;

(F) may be conducted outside of the facility when:

(i) the director is uncooperative;

(ii) an on-site interview places the interviewee at risk; or

(iii) information must be gathered prior to discussion with the operator. Interviews with individuals outside of the facility are documented on Form 07LC080E, Licensing Services Supplemental Information, ~~with a copy~~ and provided to adult interviewees;

(G) ~~with a child, Licensing staff~~ is conducted only when necessary and considers the child's age and verbal ability and, preferably, It is preferable a witness accompanies Licensing staff whenever possible. Witnesses may include another OKDHS or CCS staff or the child's parent.



(i) Parental permission prior to interviewing a child in care is not required when investigating a complaint alleging non-compliance with Licensing requirements.

(ii) ~~DHS~~ OKDHS Publication No. 05-57, Parent Notification of Child Interview, is provided for parents when a child is interviewed regarding Licensing requirement violations. Documentation of providing this publication to operators is made on Form 07LC080E, Licensing Services Supplemental Information.

(iii) When Licensing staff accompanies CWS as part of a joint abuse and neglect investigation, interviews are conducted by the CWS specialist, per OAC 340:75-3-8.2. Licensing staff documents CWS interviews on Form 07LC080E, Licensing Services Supplemental Information. When applicable, adult interviewee and CWS specialist signatures are obtained and a copy is mailed to the adult interviewee's residence;

(H) of children or parents associated with a family child care home is not conducted at the facility unless approved by the RPM; and

(I) may be conducted at the child's school. However, this location is not preferable and requires parental permission prior to the interview;

(6) facility observations.

(A) When an allegation is associated with a specific time of day, such as early-morning understaffing, the facility visit is conducted at the time the incident is alleged to have occurred. Licensing staff documents observations by citing the specific conditions observed, such as the director refused to allow Licensing staff to view the program's records or there were nine children 2 years of age with one staff.

(B) When investigating a complaint at a facility, a full monitoring visit is not required unless one is due. Staff-child ratios and supervision are checked at each visit and documented on the monitoring checklist. When numerous, repeated, ~~and/or~~ or serious non-compliance are observed, a full monitoring visit is conducted; and

(7) obtaining documentary evidence. Documentary evidence includes information, such as a CWS report, medical and local law enforcement records, signed statements, or photographs. When documentary evidence is obtained, it is entered in the case file.

67. Licensing staff procedure for CWS and ~~Child Care Services (CCS)~~ joint investigations.

(1) Whenever possible, Licensing staff accompanies the CWS specialist on the complaint investigation. However, Licensing staff's role and responsibility is to investigate alleged non-compliance of Licensing requirements or the Child Care Facilities Licensing Act. Licensing staff documents the alleged perpetrator's name and address on Form 07LC080E, Licensing Services Supplemental Information.

(2) When the CWS specialist cannot initiate or conclude an investigation within a reasonable time, Licensing staff requests approval from the Licensing supervisor and consults with the CWS supervisor before

proceeding with an investigation. A reasonable time is when the CWS investigation involves:

(A) a child in imminent danger or at risk of serious physical harm and is initiated within 24 hours; or

(B) no imminent risk of harm to a child and no injuries alleged, and is initiated no later than 15-calendar days after the report is accepted for investigation.

(3) Licensing staff interviews the alleged victim and his or her parents, usually in the alleged victim's home, following the guidelines in Instructions to Staff # 5(5) of this Section. Licensing staff advises the CWS supervisor of the findings and CWS completes its investigation.

(4) When there is a finding of confirmed or substantiated child abuse or neglect, a copy of the report is provided to the RPM and statewide licensing coordinator or designee.

(5) Following the CWS investigation completion, Licensing staff provides a letter to the operator including the investigation findings and notice of further action, when applicable.

**78.** After initiating the complaint, Licensing staff continues to make progress in efforts to complete the investigation within 45-calendar days of receipt. Licensing staff discusses and documents extended time frames with the RPM on Form 07LC080E, Licensing Services Supplemental Information, including duplicate complaints. Licensing staff enters the findings on the Licensing database and completes Form 07LC081E, Licensing Complaint Report Summary, using specific, informative, and easy to understand language.

(1) When a non-compliance other than the original complaint allegation(s) is identified, Licensing staff documents the non-compliances:

(A) on the complaint summary above the plan of correction citation as "additional non-compliances found during the investigation";

(B) on the Licensing database in investigative comments; and

(C) in the plan of correction.

(2) When a specific allegation within a key word is unsubstantiated, but a different non-compliance(s) within a key word category is identified, staff unsubstantiates the specific allegation and documents the new non-compliance. Understaffing is confirmed even when it is in an age group different from the allegation. Refer to (1) of this Instruction to document this circumstance.

(3) Names or identifying information of the complainant, program personnel, children, and the children's families are not included on Form 07LC081E, Licensing Complaint Report Summary.

(4) When CWS conducts a child abuse investigation, Form 07LC081E, Licensing Complaint Report Summary, contains a summary of complaint allegations and findings not disclosing the alleged perpetrator's or victim's identity, but does allow parents to evaluate the program. Descriptors, such as male personnel and 2-year-old female are not used.

(5) Documents:

(A) in the open record include:

- (i) Form 07LC081E, Licensing Complaint Report Summary;
- (ii) the monitoring summary;
- (iii) complaint findings cover letter; and
- (iv) Form 07LC037E, Notice to Comply, when applicable; and

(B) in the confidential section include:

- (i) Form 07LC012E, Licensing Complaint;
- (ii) Form 07LC080E, Licensing Services Supplemental Information; and
- (iii) interviews with personnel, children, collateral witnesses, and complainants.

(6) When information regarding a complaint, including complaint allegations, is requested by the public prior to completion of the investigation, Licensing staff explains information regarding the allegation and findings are released after the investigation is complete. After the database is updated, indicating investigation completion, complaint information is available to the public, per OAC 340:110-1-14.

**89.** CWS notifies the statewide licensing coordinator and a designated assistant licensing coordinator of substantiated heinous and shocking abuse findings.

(1) Upon CWS notification:

(A) the assistant licensing coordinator immediately:

- (i) verifies the individual's program association;
- (ii) notifies the Licensing staff and supervisor of the substantiated findings; and
- (iii) notifies designated CCS ~~state office~~ State Office staff for Oklahoma Child Care Resource and Referral Association director notification; and

(B) Licensing staff:

- (i) notifies the facility owner and operator of the findings by email and includes Form 07LC130E, Heinous and Shocking Abuse Notification;
- (ii) contacts the program the next business day verifying:
  - (I) email receipt;
  - (II) prohibitions for the perpetrator;
  - (III) understanding of program responsibility, including parent and legal guardian notification; and
  - (IV) time frame for notifying Licensing of date of parent and legal guardian notification; and
- (iii) documents program contacts on Form 07LC080E, Licensing Services Supplemental Information.

(2) If the program does not notify Licensing of parent and legal guardian notification within two-business days after expiration of the 72-hour time frame, Licensing staff contacts the program to verify certified mail notification.

(3) If the program has not notified parents and legal guardians within the 72-hour time frame, Licensing consults with the supervisor and regional program manager for appropriate action.

**10. (a) When allegations are substantiated during a complaint visit and a plan of correction or Form 07LC037E, Notice to Comply, was completed at the visit, Form 07LC037E does not need to be provided by mail. The findings letter indicates the visit date when a plan of correction for the substantiated findings was obtained.**

**(b) When other allegations are substantiated after the program visit, Form 07LC037E is provided to the program and includes:**

**(1) a plan of correction request for the remaining substantiated findings and additional non-compliances found during the course of the investigation; and**

**(2) the allegation, plan of correction, and program visit date for allegations substantiated during the program visit.**

**911.** The summary of facts, on CCS letterhead, is approved by the supervisor before it is provided to the program, and indicates the:

**(1) documents reviewed. CWS reports are identified as a ~~DHS~~ an OKDHS document; and**

**(2) total number of individuals interviewed while identifying program relationship, such as parents, personnel, children, and collaterals or other agency personnel. When applicable, the total number of duplicate complainant(s) is also provided. Information provided protects confidentiality of all individuals.**

**4012.** The overview is:

**(1) used by supervisors and State Office to review how Licensing staff determined the findings. The overview includes ~~the~~:**

**(A) number of individuals interviewed and program relationship;**

**(B) observations regarding the complaint allegations;**

**(C) documents and records reviewed;**

**(D) information used to determine the findings; ~~and~~**

**(E) explanation of timeframes not within 45-calendar days; and**

**(F) when applicable, duplicate complaint information, including:**

**(i) consultation dates with supervisor for duplicate complaint approval;**

**(ii) number of duplicate complainants; and**

**(iii) explanation of initiation timeframe changes; and**

**(2) submitted with the reduction referral, when complaint findings are included in the reason for a star status reduction.**

### **340:110-1-10.1. Restricted Registry**

Revised ~~6-4-229~~-14-24

(a) **Legal basis.** The Oklahoma Child Care Facilities Licensing Act, Section 405.3 of Title 10 of the Oklahoma Statutes (10 O.S. § 405.3) requires Oklahoma Human Services (OKDHS) to establish and maintain a Restricted Registry, also known as Joshua's List. Individuals recorded on the Restricted Registry are identified as registrants and are prohibited from licensure, ownership, employment, unsupervised access to children, or residence in a facility or program licensed, certified, operated or contracted by, or with,

OKDHS or the Office of Juvenile Affairs (OJA). The Restricted Registry search is required, per 10 O.S. § 404.1, and Oklahoma Administrative Code (OAC) 340:2-46-5.

(b) **Registrants.** Registration may result after review by the Restricted Registry Review Committee and after all appeals are exhausted, when:

(1) a substantiated finding of abuse or neglect, per 10A O.S. § 1-1-105, by an individual, when the abuse or neglect occurred to a child while in the care of a facility licensed, certified, operated, or contracted by, or with, OKDHS or OJA;

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

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

(A) child abuse or neglect;

(B) a crime against a child; or

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

(4) a specified criminal history for individuals who have entered a plea of guilty, nolo contendere (no contest), or a conviction prior to or after the request for license date and ownership, employment, unsupervised access to children, or residence, for the felony offenses of:

(A) domestic abuse; or

(B) a drug or alcohol-related offense; or

(5) an individual required to register, per the Sex Offender Registration Act or the Mary Rippy Violent Crime Offenders Act.

(c) **Restricted Registry search for program owners.** When the owner is a:

(1) registrant, Licensing contacts the owner and documents discussion regarding his or her registration on Form 07LC080E, Licensing Services Supplemental Information; or ■ 1

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

(d) **Restricted Registry online search for child care program owners, personnel, individuals with unsupervised access, and residents.** The OKDHS Office of Background Investigation (OBI) verifies programs conduct a Restricted Registry online search within 30-calendar days of submission, per OAC 340:2-46-5.

(e) **Registration as a result of findings of abuse or neglect investigations by Child Welfare Services (CWS).** OKDHS staff notifies Restricted Registry staff of receipt of substantiated or confirmed findings when the abuse or neglect occurred to a child while in the care of a facility licensed, certified, operated or contracted by, or with, OKDHS or OJA. ■ 2 through 3 Restricted Registry staff verifies CWS appeal status before requesting additional information on potential registrants. ■ 4 Investigation information is forwarded to the Restricted Registry Review Committee for consideration, per ~~(j)~~(k) of this Section.

(f) **Registration as a result of findings of abuse or neglect investigations by Office of Client Advocacy (OCA).** OCA submits abuse or neglect findings to the residential licensing programs ~~manager~~ supervisor who reviews the information. Information meeting Restricted Registry registration criteria, per (b)(1) of this Section, are forwarded to Restricted Registry staff. Investigation information is forwarded to the Restricted

Registry Review Committee for consideration, per (j)(k) of this Section. Restricted Registry staff verifies OCA appeal status before requesting further review. ■ 3

(g) **Registration as a result of findings of OJA abuse or neglect investigations.** OJA Office of Public Integrity personnel submits abuse or neglect findings to Restricted Registry staff. Information meeting Restricted Registry registration criteria, per (b)(1) of this Section, are forwarded to Restricted Registry staff. Investigation information is forwarded to the Restricted Registry Review Committee for consideration, per (j)(k) of this Section. Restricted Registry staff verifies OJA appeal status before requesting further review.

(h) **Registration as a result of a denial or revocation.** Procedures regarding the request for license denial or revocation are followed, per OAC 340:110-1-10 or 340:110-1-52. The statewide licensing coordinator or designee forwards copies of the cease and desist letter and denial or revocation letter to Restricted Registry staff. Documentation relating to the denial and revocation is forwarded to the Restricted Registry Review Committee for consideration, per (j)(k) of this Section.

(i) **Registration as a result of a specified criminal history.** When OBI conducts a criminal history review, including Record of Arrest and Prosecution (RAP) Back, and the review reveals an individual is a potential registrant, per (b)(3) - (5) of this Section, and a criminal history restriction waiver was rescinded or not granted, all criminal background information is forwarded to the Restricted Registry Review Committee for consideration, per (j)(k) of this Section. ■ 5

(j) Insufficient registry referral information. When sources submit insufficient or incomplete investigation, denial, or revocation information, per (e) through (i) of this Section, Restricted Registry staff completes and forwards Form 07LC033E, Notice of Incomplete Restricted Registry Referral Information. If requested information is not received within 60-calendar days from form receipt, the referral information is incomplete and further registration review is not conducted.

(j)(k) Restricted Registry Review Committee. The Restricted Registry Review Committee consists of six OKDHS staff and one OJA staff who make a registration determination within 30-calendar days of receipt of necessary information. ■ 6

(1) Criteria considered for Restricted Registry registration include, the:

- (A) individual's age at the time of the offense(s);
- (B) length of time since the offense(s) occurred;
- (C) number and types of offenses the individual was convicted for, or for findings made;
- (D) circumstances surrounding commission of the offense(s), demonstrating willful intent;
- (E) likelihood the individual will re-offend; and
- (F) other documentation submitted indicating children's health, safety, and well-being are, or are not, endangered.

(2) The Restricted Registry Review Committee determines Restricted Registry registration by clear and convincing evidence; including consideration of:

- (A) the individual's history of behavior likely to create a reasonable risk of harm to children; and
- (B) if children are unsafe with the individual, either alone or in a group.

(3) The Restricted Registry Review Committee's determination requires a majority decision and is based on the members' review, discussion of documentation, and consideration of registration criteria as listed.

(4) When the Restricted Registry Review Committee recommends registration by a majority decision, information is forwarded to Restricted Registry staff.

~~(k)~~(l) **Restricted Registry legal review.** Restricted Registry staff submits registration information to OKDHS Legal Services (LS) for registration review. LS responds within 60-calendar days to provide a registration decision indicating:

(1) legal adequacy for Restricted Registry placement;

(2) information does not meet legal adequacy for Restricted Registry placement; or

(3) additional information is required.

~~(j)~~(m) **Restricted Registry notification.** Within five OKDHS-business days of receipt of OKDHS LS review, Restricted Registry staff notifies the potential registrant on Form 07LC115E, Restricted Registry Notification. The notification:

~~(1) is mailed to the most recent address of record the potential registrant provided through request for license, personnel documents, criminal background requests, or interviews. Notification is provided by regular and certified mail, return receipt requested; and~~

~~(2) advises the potential registrant:~~

~~(A) of the right to appeal within 30-calendar days of receipt of notice;~~

~~(B) failure to request a hearing, within the time frame specified, may result in Restricted Registry registration, per ~~(n)~~(o) of this Section; and~~

~~(C) of the responsibility for notifying restricted registry staff of changes in mailing address; and~~

(2) is mailed to the most recent address of record the potential registrant provided through request for license, personnel documents, criminal background requests, or interviews; and

(3) is delivered by regular and certified mail, with return receipt requested. ■ 7

~~(m)~~(n) **Restricted Registry appeal process.** A request for an appeal is forwarded to Restricted Registry staff. Appeal requests are forwarded to OKDHS LS. ■ ~~78~~

~~(n)~~(o) **Registration.** When an appeal is not requested within the specified timeframe, or when an administrative decision becomes final, Restricted Registry staff:

(1) mails Form 07LC114E, Restricted Registry Final Notification, to the registrant's last known address of record on file;

(2) mails Form 07LC113E, Restricted Registry Program Notification, to the program where registrant is associated;

(3) notifies the appropriate CWS Resource Unit, OJA, or Licensing staff regarding Restricted Registry registration; and ■ ~~89~~

(4) enters registrant information on the Restricted Registry database. ■ ~~910~~

(p) District Court appeal process. Registrants aggrieved by the Restricted Registry Committee decision upheld during an administrative hearing may appeal to the District Court of the county where the facility is maintained and operated. Registrants file a verified petition with the court clerk within 10-calendar days after the decision. Within 20-calendar days of the filing of the appeal in District Court, the registrant also files the administrative hearings transcript with the court clerk.

~~(e)~~**(q) Request for registration removal.** A registrant may request removal after 60 months from the date of Restricted Registry registration. A request for removal from the Restricted Registry is forwarded to the Restricted Registry staff for submission to the Restricted Registry Review Committee. The Restricted Registry Review Committee makes a determination within 30-calendar days of receipt of notice from the Restricted Registry staff. ■ 6

(1) Criteria considered for removal includes, but is not limited to, ~~(j)(k)(1)(A)~~ through (F) of this Section, and:

(A) a current criminal background review, when applicable, conducted within ~~90-calendar~~ 60-calendar days;

(B) since registration, consideration of;

(i) work and training histories; and

(ii) character behavioral references; and

(C) a personal statement of rehabilitative efforts; and

(D) reason for original placement and the length of time on the Restricted Registry.

(2) A decision to remove a registrant from the Restricted Registry is based on a Restricted Registry Review Committee majority decision. The Restricted Registry Review Committee decision is final and an appeal process is not available. ■ ~~4011~~

(3) Restricted Registry staff notifies the registrant of the Restricted Registry Review Committee decision. ■ ~~910~~

~~(4) A request for appeal of continued placement on the Restricted Registry is forwarded to Restricted Registry staff. Appeal requests are forwarded to OKDHS LS and reviewed within 90-calendar days. ■ 7~~

~~(p) **Continued Placement Appeal Decision.** Within five OKDHS business days of receipt of OKDHS LS appeal review determination, Restricted Registry staff notifies the registrant of OKDHS LS decision regarding continued placement. When continued placement is:~~

~~(1)(A) upheld recommended, Restricted Registry staff informs the registrant that subsequent requests of removal from the Restricted Registry may be requested 24 12 months from the date of appeal decision notification committee decision; or~~

~~(2)(B) not upheld recommended, Restricted Registry removes staff removes the registrant from the Restricted Registry database. ■ ~~4011~~~~

~~(q) **District Court appeal process.** Registrants aggrieved by any decision of the Restricted Registry Committee upheld during an administrative hearing may appeal to the District Court of the county where the facility is maintained and operated by filing a verified petition with the court clerk within 10-calendar days after the decision. Within 20-calendar days of the filing of the appeal in District Court, the registrant must also file the administrative hearings transcript with the court clerk.~~

## **INSTRUCTIONS TO STAFF 340:110-1-10.1**

### **Revised ~~6-1-229-14-24~~**

1. **Licensing requests withdrawal of the request for license. When the request is not withdrawn, Licensing proceeds with denial procedures, per Oklahoma Administrative Code (OAC) 340:110-1-10 or 340:110-1-52.**

2. **(a) On completion of a Child Welfare Services (CWS) investigation, Licensing or CWS Resource Unit staff requests from CWS:**



- (1) Form 04CP004E, Child Welfare Investigative Summary-Notification to Child Care Services;
  - (2) Form 04K1003E, Report to District Attorney; and
  - (3) Form 04KI019E, Notification Concerning Findings of Child Abuse/Neglect, for reports for all alleged perpetrators containing substantiated findings.
- (b) Licensing or CWS Resource Unit staff emails Restricted Registry staff at OCCSRestrictedRegistry@okdhs.org and provides the:
- (1) date of Form 04KI019E, Notification Concerning Findings of Child Abuse/Neglect;
  - (2) child welfare referral number;
  - (3) perpetrator's name, address of record on file, birthdate, Social Security number; and
  - (4) program name, address, and license number.
- (c) Restricted Registry staff tracks the status of the appeal. CWS notifies Restricted Registry staff of the appeal request and appeals committee final decision, when applicable.
3. When Child Care Services (CCS) receives database reports regarding substantiated findings of child abuse and neglect information on required individuals, staff requests required documentation from CWS or the Office of Client Advocacy (OCA).
  4. Licensing or CWS Resource Unit staff forwards Form 04K1003E, Report to District Attorney, and supporting documentation to Restricted Registry staff.
  5. RAP Back is an Oklahoma State Bureau of Investigation (~~OSBI~~) notification of subsequent Oklahoma arrests of individuals previously fingerprinted. Individuals never employed in a facility licensed, certified, operated, or contracted by, or with, Oklahoma Human Services (OKDHS) or Office of Juvenile Affairs (OJA) are not considered for registration.
  6. The Restricted Registry Review Committee members include three CCS staff and one representative each from OCA, OJA, CWS, and the CWS Resource Unit.
  7. Restricted Registry staff may email potential registrants in efforts to contact the individual; however, Restricted Registry notifications and information is not provided via email.
  78. OKDHS Legal Services (~~LS~~) conducts an administrative hearing to:
    - (1) uphold the registration decision;
    - (2) overturn the registration decision; or
    - (3) request further action or review as determined by the Administrative Law Judge.
  89. Licensing may be required to visit the facility verifying the Restricted Registry registrant is no longer employed or residing in the facility. When the Restricted Registry registrant is still employed or residing in the facility, Licensing staff proceeds, per OAC 340:110-1-9.3 or 340:110-1-47.2.
  910. The Restricted Registry registrant's full name including aliases, birthdate, Social Security number, and registration date is entered on the Restricted Registry database. No other investigation information related to the offense, revocation, or denial is disclosed to the public.

**4011. When the decision is to remove the registrant, Restricted Registry staff updates the Restricted Registry database within five OKDHS-business days.**

**340:110-1-21. Child Care Services (CCS) program evaluation [ITS ONLY]**

Revised 6-1-22

CCS is responsible for Licensing program evaluation. ■ 1

(1) The quality assurance (QA) manager is responsible for program evaluation activities, including QA reviews and CCS employee and child care industry feedback surveys.

(2) CCS establishes a method for continuously improving the internal review program through feedback and recommendations from all concerned parties. The review:

(A) determines Licensing requirement, rule, and procedure implementation;

(B) evaluates CCS program's effectiveness; and

(C) provides objective evidence supporting the reduction, elimination, and prevention of inconsistent rules and Licensing requirement interpretation.

**INSTRUCTIONS TO STAFF 340:110-1-21**

Revised ~~6-1-22~~9-14-24

1. (a) **Review schedule.** The quality assurance (QA) manager schedules and conducts an annual review of each Licensing supervisory ~~group including the~~ and residential and child-placing agency group. A review may also be conducted when significant change in Child Care Services (CCS) process and service occurs or QA corrective action follow-up is necessary.

(b) **Review scope.** CCS state office management identifies CCS process criteria and rules for review. When applicable, the previous plan of correction is reviewed and evaluated. The review includes:

(1) a review of Licensing records analyzing rules and requirements for performance consistency, compliance, relevance, and clarity;

(2) observed positive practices; and

(3) Licensing database system utilization.

(c) **Review plan.**

(1) ~~The review plan~~ At least 30-calendar days prior to the scheduled review, the review plan, including objective, scope, and schedule, is provided to the identified Licensing supervisor and regional program manager (RPM) or residential and child-placing agency program manager, at least 30-calendar days prior to the scheduled review and includes the:

~~(A) review objective, scope, and schedule;~~

~~(B) review team members' names; and~~

~~(C) identification of the supervisory group being reviewed~~ supervisor and statewide licensing coordinator.

(2) The review plan may change emphasis depending on review information.

(A) Review plan details are communicated throughout the review when disclosure does not compromise objective evidence collection.

(B) The QA manager may revise the review plan ensuring objectives are achieved.

~~(3) The QA manager selects cases meeting review criteria.~~

- (d) QA manager responsibilities. The QA manager:
- ~~(1) ensuring adequate team member participation and contacting review team members~~ selects cases meeting review criteria;
  - ~~(2) developing~~ develops the review plan, per (c) of this Instruction;
  - ~~(3) providing~~ provides review notification;
  - ~~(4) conducting team member orientation, ensuring members are familiar with expected roles and duties;~~
  - ~~(5) preparing~~ prepares review checklists;
  - ~~(6) conducting conferences discussing information, per (g) of this Instruction. Conferences occur:~~
    - ~~(A) at the conclusion of the first day with the Licensing supervisor or residential and child-placing agency program manager; and~~
    - ~~(B) on the final day with the Licensing staff; including the supervisor and RPM or residential and child-placing agency program manager;~~
  - ~~(7) preparing the preliminary review report;~~
  - ~~(8) interviewing Licensing staff regarding case management of selected criteria;~~
  - (5) interviews Licensing staff regarding case management of selected criteria;
  - (6) conducts an entrance conference with the Licensing supervisor or residential and child-placing agency program supervisor to discuss the review process and procedure;
  - (7) performs the QA review in a responsible, unbiased, confidential and ethical manner, including the:
    - (A) review and evaluation of licensing records to determine adequacy, effectiveness, and licensing requirement and rule compliance, per the review scope;
    - (B) analysis of evidence to determine findings, per (e) of this Instruction;
    - and
    - (C) documentation of review information objectively and accurately on the review checklist; and
  - (8) conducts daily review conferences with the Licensing supervisor or residential and child-placing agency program supervisor to discuss information, per (e) of this Instruction;
  - (9) conducts an exit conference with the Licensing supervisor and RPM or residential and child-placing agency program supervisor and statewide licensing coordinator and Licensing staff. The QA manager discusses the preliminary findings written report, including:
    - (A) the review summary;
    - (B) identified findings;
    - (C) areas of concern;
    - (D) recommendations;
    - (E) observed positive practices; and
    - (F) an overall evaluation of the reviewed activities; and
  - ~~(9)~~(10) preparing prepares and submitting submits the final review report; and. The final report includes:

- (A) the review dates, scope, and objectives;
- (B) identification of all reference documents used during the review, such as licensing requirements, rules, database guidelines, and current CCS processes and enforcement practices;
- (C) findings, per (e) of this Instruction;
- (D) observed positive practices;
- (E) areas of concern;
- (F) QA manager recommendations;
- (G) plan of correction forms; and
- (H) the review report distribution list. Within 30-calendar days after the review conclusion, the QA manager distributes the final report to the:

- (i) Licensing supervisor and RPM or residential and child-placing agency program supervisor;
- (ii) policy manager;
- (iii) statewide licensing coordinator; and
- (iv) CCS director; and

(11) conducts a mid-year review when applicable; and

~~(40)~~(12) maintaining maintains review information for four years in a confidential manner.

~~(e) Review team members. Licensing supervisors and child care licensing specialists Ills are required to participate in reviews annually. When a team member is unable to participate in a previously scheduled review, supervisor approval is needed, and the staff must arrange for participating on the next available review. Team members:~~

- ~~(1) consist of the QA manager and at least three CCS staff with a majority having at least three years licensing field experience;~~
- ~~(2) obtain supervisory approval for participation;~~
- ~~(3) are not supervised within the region being reviewed;~~
- ~~(4) are not representatives from the same supervisory group; and~~
- ~~(5) are responsible for:~~
  - ~~(A) being both prepared and unbiased;~~
  - ~~(B) observing, evaluating, and reviewing licensing records to determine adequacy, effectiveness, and compliance of licensing requirements and rules within the review scope;~~
  - ~~(C) analyzing evidence determining findings, per (g) of this Instruction;~~
  - ~~(D) documenting review information objectively;~~
  - ~~(E) acting in an ethical manner; and~~
  - ~~(F) keeping all review information confidential.~~

~~(f) Review checklists. Checklists document review results~~

~~(g) Findings. The QA manager analyzes review information.~~

~~(1) A finding occurs when three or more records indicate the same specific rule Section or procedure is not followed. Findings also include, but are not limited to:~~

- ~~(A) falsifying information;~~
- ~~(B) breach of confidentiality;~~
- ~~(C) one-time rule violation that could place children at risk; or~~

- (D) unethical behavior.
- (2) Findings reference specific Licensing requirements or rules being reviewed.
  - (3) When actions are not identified as a finding, but not supported by division practice, the action is identified as an area of concern.
  - (4) Significant inconsistencies are documented and investigated even when not within the review scope.
- ~~(h) Entrance conference. The QA manager conducts an entrance conference with the Licensing supervisor or residential and child-placing agency program manager for the purpose of:~~
- ~~(1) explaining review scope and objectives;~~
  - ~~(2) clarifying the review plan;~~
  - ~~(3) describing the review methods and procedures; and~~
  - ~~(4) confirming the review schedule.~~
- ~~(i) Exit conference. At the review conclusion, the QA manager conducts an exit conference with the Licensing supervisor and RPM or residential and child-placing agency program manager and Licensing staff. The QA manager discusses the preliminary findings written report, including:~~
- ~~(1) the review summary;~~
  - ~~(2) identified findings;~~
  - ~~(3) areas of concern;~~
  - ~~(4) recommendations;~~
  - ~~(5) observed positive practices; and~~
  - ~~(6) an overall evaluation of the reviewed activities.~~
- ~~(j) Final report. The final report contains:~~
- ~~(1) the review dates, scope, and objectives;~~
  - ~~(2) review team members' names;~~
  - ~~(3) identification of all reference documents used during the review, such as licensing requirements and rules;~~
  - ~~(4) findings, per (g) of this Instruction;~~
  - ~~(5) observed positive practices;~~
  - ~~(6) review team member recommendations;~~
  - ~~(7) plan of correction forms; and~~
  - ~~(8) the review report distribution list.~~
- ~~(k) Final report distribution. The QA manager distributes the final report to the Licensing supervisor and RPM or residential and child-placing agency program manager, policy manager, statewide licensing coordinator, and CCS director within 30-calendar days after the review conclusion.~~
- ~~(l)(f) Plan of correction.~~
- ~~(1) The plan of correction includes corrective action addressing the findings, per (g)(e) of this Instruction.~~
  - ~~(2) The Within 30-calendar days after receiving the final report, the Licensing supervisor and RPM or residential and child-placing agency program manager supervisor and statewide licensing coordinator submit a plan of correction to the QA manager within 30-calendar days after receiving the final report. When an extension of time is needed to complete the plan of~~

correction, a written request is submitted to the QA manager explaining why an extension is necessary.

(3) CCS State Office schedules training addressing the findings, per ~~(g)~~(e) of this Instruction.

~~(m)~~(g) Final review approval. The RPM and when applicable, the statewide licensing coordinator, approves the final review and corrective action plans. When the proposed plan of correction is not approved, the plan is returned to the Licensing supervisor or residential and child-placing agency program manager supervisor for modification. Corrective CCS supervisory or management staff implement corrective action is implemented by CCS supervisory or management staff.

### Part 3. LICENSING SERVICES – RESIDENTIAL CARE AND AGENCIES

#### 340:110-1-47. Case management [ITS ONLY]

Revised 11-1-20

##### (a) Periodic visits.

(1) Licensing staff conducts monitoring visits documenting compliance with requirements. Required monitoring visits annually include two: ■ 1

(A) unannounced and one announced, to residential programs; ■ 2 and

(B) announced, to child-placing agencies. ■ 2

(2) When caseloads prevent Licensing staff from conducting the required monitoring visits, the programs manager consults with Licensing staff on case management, and the required monitoring visits may be reduced. This adjustment is approved and documented in the case file by the programs manager.

(3) During each monitoring visit, Licensing staff:

(A) observes the entire facility, including outdoor play space and transportation, when available; and

(B) verifies:

(i) compliance with Licensing requirements;

(ii) resident files, when applicable;

(iii) new personnel records including personnel sheets and compliance with background investigations, per Oklahoma Administrative Code (OAC) 340:110-1-8.1; ■ 3

(iv) the Oklahoma Department of Human Services (DHS) database on applicable individuals, per OAC 340:110-1-8.1;

(v) Form 07LC092E, Insurance Verification, within the previous 12 months;

(vi) fire and health inspections within the previous 12 months, when applicable; and ■ 4

(vii) other documentation requiring renewal.

(b) **Consultation and technical assistance.** Licensing staff provides technical assistance to operators to meet and maintain minimum requirements. Consultation is provided to parties interested in licensure and to licensed programs, and includes suggestions for improving the quality of care and for exceeding minimum requirements.

(c) **Address change.** When a program moves to a new address, Licensing staff follows procedures in this subsection to document the change. ■ 5

- (1) **Child-placing agency.** When a child-placing agency moves its office, Licensing staff:
- (A) obtains an updated Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care; and
  - (B) requests a permit or license be issued reflecting the address change.
- (2) **Residential program.** When a residential program moves, Licensing staff:
- (A) obtains an updated request for license;
  - (B) conducts a monitoring visit verifying the new location meets Licensing requirements;
  - (C) obtains new fire and health inspection approvals, when applicable;
  - (D) obtains Oklahoma Department of Environmental Quality approval, when applicable;
  - (E) completes an updated physical plant drawing with required calculations; and
  - (F) requests a permit or license be issued reflecting the address change.
- (d) **Satellite office.** When a child-placing agency adds a satellite office, Licensing staff:
- (1) documents each office location; and
  - (2) requests needed files from satellite locations.
- (e) **Program or agency name change.** When Licensing staff verifies there is a name change but no ownership change, the name change is documented in the case file and the database is updated. A new Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care, reflecting the name change is completed. Licensing staff requests permit or license issuance reflecting the new program or agency name. ■ 6
- (f) **Executive or program director change.** When there is a director change, Licensing staff:
- (1) verifies the new director meets qualifications;
  - (2) obtains the applicable page of Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care, completed by the new director;
  - (3) obtains an appropriate, Form 07LC056E, Compliance Review-Residential Child Care Facility; or Form 07LC043E, Child Placing Agency Compliance Review, completed by the executive or program director; ■ 7
  - (4) notifies the new director of current personnel granted a waiver; and ■ 78
  - (5) documents the information on Form 07LC080E, Licensing Services Supplemental Information.
- (g) **Capacity increase or decrease.** When a program requests a capacity increase or decrease, 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. When the request to increase capacity is due to additional physical space, the required documentation includes:
- (1) the reason for the increase;
  - (2) fire department approval;
  - (3) health department approval of additional food preparation space not previously inspected;
  - (4) a physical plant drawing indicating required calculations; and
  - (5) the request for additional personnel, when applicable. ■ 89

(h) **Inactive programs.** A program is inactive when care or child-placing agency activity was not provided for more than 90-calendar days.

(1) A program remaining open after 90-calendar days submits a request in writing including a statement the owner will notify Licensing prior to resuming care or child-placing agency activity. Licensing staff verifies compliance with requirements prior to resuming care.

(2) The program is contacted by Licensing staff, a minimum of every four months for residential programs; and a minimum of every six months for child-placing agencies by phone, letter, or email to update the program status including changes in personnel, household members, or other program changes.

(3) Voluntary closure is discussed with the owner and an agreement to close is reached, when possible.

(4) Licensing staff monitors the inactive program, at least once during the 12-month timeframe verifying compliance with Licensing requirements until closure is final or the program resumes care. ■ 910

(5) When an address change occurs during the time a program is in inactive status, a monitoring visit is required and address change is followed per (c) of this Section.

(i) **Inactive program closure.** Procedures in (1) through (4) of this subsection are followed when closing an inactive residential program or child-placing agency.

(1) To verify program status, Licensing staff contacts the program or agency owner during the 12th month of inactive status.

(2) Licensing documents program status on Form 07LC080E, Licensing Services Supplemental Information, and notifies the owner the case will be closed when care or child-placing activity does not resume prior to the end of the 12th month.

(3) When care was not provided for 12-consecutive months or longer, Licensing staff provides a letter notifying the owner of case closure within 10-calendar days of letter receipt, unless Licensing is notified care or child-placing activity resumed.

(4) The case is closed and the owner must reapply and be approved for a new license prior to resuming care, per OAC 340:11-1-45.

(j) **Change in ownership.** When there is a change in ownership or a change in the business organization of a residential program or child-placing agency, the case is closed, and the program must apply for a new license. Prior to permit or license issuance, the program must comply with background investigations, per OAC 340:110-1-8.1. A permit may be issued when a monitoring visit without numerous, repeated, or serious non-compliances was conducted within the past 60-calendar days. A full-monitoring visit is conducted within 14-calendar days of ownership change, verifying the new owner is able to meet minimum Licensing requirements. ■ 4011

(k) **Transitional change of ownership.** When a residential program or child-placing agency requests a transitional change of ownership (1) through (5) of this subsection are followed.

(1) Licensing staff conducts a monitoring visit within five DHS-business days, verifying compliance with Licensing requirements and, obtains: ■ 4412

(A) Form 07LC015E, Transitional Change of Ownership, completed by the current and prospective owners;

(B) Form 07LC040E, Request for License Child-Placing Agency and Residential Child Care, completed by the prospective owner; and



- (C) a current personnel list, verifying the prospective owner employs the same personnel as the current owner, at the time of transitional change of ownership.
  - (2) Periodic and ongoing monitoring is maintained, per (a) of this Section.
  - (3) All Licensing monitoring and correspondence are provided to both the current and prospective owners.
  - (4) Change of ownership procedures are followed, by the end of 90-calendar days, when applicable, per (j) of this Section.
  - (5) When programs notify Licensing the transitional change of ownership is no longer proceeding, Licensing staff verifies program operation or child-placing activity status and consults with the programs manager for appropriate action.
- (l) **Response to a child death.** When notified of a child death while in care, Licensing staff:
- (1) completes Form 07LC079E, Child Death Report, and forwards it to the statewide licensing coordinator or designee; and
  - (2) visits the residential program as soon as possible, and contacts the child-placing agency unless advised otherwise by local law enforcement officials. ■ 4213
  - (m) **Serious incident reports.** Licensing staff submits a serious incident report to the programs manager. Serious incidents include at least, incidents: ■ 4314
    - (1) resulting in the serious injury or child death, such as a:
      - (A) shaken baby;
      - (B) drowning or near drowning; or
      - (C) traffic accident resulting in serious injury;
    - (2) placing a child at a high risk for death or injury, such as when a child is left:
      - (A) at a location away from the facility;
      - (B) unattended in a vehicle; or
      - (C) alone in a facility; or
    - (3) resulting in significant facility damage, such as:
      - (A) fire;
      - (B) flood; or
      - (C) tornado.
  - (n) **Coordination with state agencies.** Licensing staff works cooperatively with the DHS Office of Client Advocacy and Child Welfare Services, the Oklahoma Commission on Children and Youth, the Oklahoma Health Care Authority, and local law enforcement. ■ 4415

## **INSTRUCTIONS TO STAFF 340:110-1-47**

**Revised ~~11-1-209-14-24~~**

1. (a) Residential program monitoring visits are documented on the monitoring checklist.
- (b) The programs manager supervisor is consulted for appropriate action regarding program monitoring safety concerns. Appropriate action may include ~~the utilization of~~ using a witness and/or coordination or coordinating with local law enforcement officials.
- (c) During the announced monitoring visit, Licensing staff:
  - (1) verifies personnel professional development records; and

- (2) discusses the monitoring checklist with the program's or the child-placing agency's director or personnel in charge. The director or personnel in charge signs the monitoring summary, and Licensing staff provides the summary to the program's owner/operator owner or operator or the child-placing agency's director ~~with a copy.~~
- (d) When documents are received from a program, other agencies and, or outside sources, Licensing notations are made on a copy of the received document.
- (e) Weapons and ammunition are monitored, per (1) through (4) of this Instruction.
- (1) During the initial program monitoring or when Licensing staff has not previously monitored the program, Licensing observes weapon and ammunition storage, per applicable Licensing requirements.
- (2) During subsequent monitoring visits, Licensing staff ~~asks~~ inquires about weapons and ammunition storage and ~~verify it is~~ verifies the locked storage.
- (3) Weapons and ammunition are not removed from locked containers for Licensing observation.
- (4) Storage locations are not viewed in ~~children's~~ residents' presence and for confidentiality are documented on Form 07LC080E, Licensing Services Supplemental Information.
- (f) When photographs are needed for non-compliance determination, procedures in (1) through (3) of this Instruction are followed.
- (1) Licensing documents ~~discussion of the photographs~~ photograph discussion with the operator.
- (A) photographs are:
- (i)(A) not enhanced or altered; and
- (ii)(B) ~~printed, attached to Form 07LC080E, Licensing Services Supplemental Information, documenting discussion with the supervisor~~ scanned and placed in the case file record, along with Form 07LC080E, Licensing Services Supplemental Information, documenting discussion with supervisor.
- (2) Photographs are deleted from cell phone devices phones.
- (3) ~~When the program is uncooperative, Licensing does not proceed with taking photographs, discussing the alternatives, and consults with the supervisor for appropriate action~~ when program personnel are uncooperative. Programs supervisor is consulted for appropriate action.
- (g) Licensing requirements not reviewed during partial- or full-monitoring visits are documented on the monitoring checklist.
- (h) Partial-monitoring visits include documentation regarding:
- (1) first page completion, including ~~staff-child~~ staff-resident ratios;
- (2) weapons; and
- (3) criminal history; and
- (4) new household members.
- (i) A full-monitoring visit is conducted when ~~numerous,~~ repeated, or serious non-compliance with requirements, per Oklahoma Administrative Code (OAC) 340:110-1-47.2, are observed during a partial-monitoring visit.

(j) When Licensing staff visits a program between monitoring visits for purposes, such as ~~pick up~~ obtaining paperwork, consulting on a specific issue, or verifying a repair was made completed, a ~~full monitoring~~ full or partial monitoring visit is not required, and Form 07LC080E, Licensing Services Supplemental Information, is completed.

(k) Case files ~~are~~ record information is accurately maintained in the Oklahoma Department of Human Services (DHS) office where Licensing staff is located within the Licensing database. Files are complete and information is filed in the appropriate manner within the Licensing database.

(l) Confidential information, such as identifying child information, including initials, is documented on Form 07LC080E, Licensing Services Supplemental Information, and ~~placed~~ maintained in the confidential case file record's confidential section.

(m) Licensing staff conducts searches on the ~~DHS~~ Oklahoma Human Services database and the Oklahoma State Courts Network (OSCN) on applicable individuals, per OAC 340:110-1-8.1(g).

2. When monitoring residential programs and child-placing agencies, applicable file reviews and monitoring checklists are completed. After each monitoring visit, Licensing staff enters the ~~monitoring frequency~~ monitoring frequency plan reflecting the required number of annual monitoring visits annually on the Licensing database. ~~Changes in the monitoring frequency~~ Monitoring frequency plan changes are reviewed with the programs manager supervisor. Examples of the required number of monitoring visits annually include:

- (1) one for inactive programs or request for license;

- (2) two for ~~programs~~ child-placing agencies with a compliant history;

- (3) three for residential programs with a compliant history;

- ~~(3)~~(4) six for ~~request for license and six-month permits~~; and

- ~~(4)~~(5) twelve for programs with a pattern of serious non-compliances.

3. Personnel sheets are maintained in the case file record for 12 months after employment ~~ends~~ concludes. Personnel sheets are purged for public viewing. Licensing staff documents personnel Social Security Administration name changes on Form 07LC080E, Licensing Services Supplemental Information, ~~attaches it to the personnel sheet~~, and notifies the Office of Background Investigations (~~OBI~~) to update the database. A new personnel information sheet is not required.
4. Procedures for monitoring fire and health inspections are included in (1) and (2) of this Instruction ~~are followed~~.

- (1) Licensing reviews on-going fire and health inspections, and copies are not required for the case file record.

- (2) When the inspection ~~has~~ indicates Licensing violations, ~~it is~~ violations are documented as a non-compliance, and ~~a copy the inspection is~~ maintained in the case file record. However, when health inspections are not conducted timely, Licensing staff notifies an appropriate Child Care Services (CCS) designee, and it is not documented as a non-compliance.

5. The database is updated with the new address. The statewide licensing coordinator or designee issues a new license reflecting the initial license date.

Current personnel do not ~~acquire~~ obtain a new employment date or require a new background ~~check~~ investigation.

6. Licensing staff notifies the programs manager supervisor. The statewide licensing coordinator or designee issues a new program license reflecting the initial license date, and ~~Licensing staff is provided a copy~~ the new license is provided to Licensing staff.

7. Licensing staff obtains and maintains current Form 07LC056E, Compliance Review-Residential Child Care Facility, for both executive and program directors.

~~78.~~ When requested, directors are provided a waiver notice ~~copy~~.

~~89.~~ The programs manager supervisor reviews the recommendation and ~~approves or denies the increase~~ for approval. The licensee is notified in writing when the increase was is approved. When a capacity increase is requested for reasons other than an increase in space, the recommendation to the programs manager supervisor is ~~made in narrative form with~~ provided, including the increase reason. The procedure for increasing or decreasing program capacity is included in (1) through (4) of this Instruction.

(1) Increase. Programs must provide a written request for capacity increase. Licensing staff:

(A) verifies current fire and health inspections and notifies the Office of State Fire Marshal to determine when another inspection or further evaluation is required ~~and documents the~~. The contact is documented on Form 07LC080E; Licensing Services Supplemental Information; and  
(B) does not recommend a capacity increase when the program has ~~numerous,~~ repeated, or serious non-compliances with requirements. When the only serious non-compliance was is the program exceeded capacity, the programs manager supervisor is consulted for appropriate action.

(2) Decrease. When decreasing capacity, Licensing staff updates the floor plan indicating rooms available for ~~children's~~ resident's use.

(3) ~~Capacity increase or decrease. A capacity~~ Capacity increase or decrease recommendation may be made by submitting a narrative report to the programs manager recommendations are documented on Form 07LC080E, Licensing Services Supplemental Information, and submitted to the programs supervisor.

(4) Approval. When capacity change is approved, the programs manager supervisor or designee issues ~~the program~~ a license reflecting the capacity and the original license issuance date. ~~A~~ The license ~~copy~~ is provided to Licensing staff.

~~910.~~ A full-monitoring visit is conducted 12 months from the last full-monitoring visit and not from the time the program or agency was ~~considered~~ is inactive. This monitoring visit may be announced to ensure someone is present.

~~4011.~~ (a) Ownership types include, ~~a:~~

- (1) sole proprietor;
- (2) corporation;
- (3) partnership;

(4) limited liability company; or

(5) school, faith-based, or government entity.

(b) ~~When a change of an~~ ownership change results in six-month permit issuance, fire and health inspections conducted within the previous 12 months are accepted.

(c) ~~When a change of business entity~~ change results in a license issuance, fire and health inspections conducted within the previous 12 months are accepted.

(d) ~~New program~~ facility construction, additional square footage not previously included in licensed capacity, or kitchen alterations affecting food service require new fire and health inspections.

(e) For circumstances in (b) and (c) of this Instruction, previous ~~inspection~~ copies inspections are maintained in the new program file case record.

~~4112.~~ Transitional change of ownership procedures are included in (1) through (4) of this Instruction.

(1) Monitoring visits are conducted under the current owner's program and maintained in the prospective owner's case record.

(2) ~~All copies of~~ Licensing monitoring and correspondence are filed maintained in both the current and prospective owners' case files records.

(3) ~~All of the current owner's~~ Licensing history is available to the prospective owner on request, including revocation or denial of license information.

(4) Licensing staff follows-up with the program or child-placing agency when the 90-calendar day timeframe is approaching to verify program operation status in efforts to avoid disruption of care or providing of services.

~~4213.~~ When notified of the death of a child in care, Licensing staff:

(1) determines and documents what occurred. Documentation includes:

(A) the child(ren)'s names, ages, and number ~~present,~~ of children and personnel present at the incident time;

(B) what supervision was provided during this time;

(C) when the caregiver last checked on the child;

(D) ~~the~~ caregiver's response on finding the child; and

(E) ~~the~~ names of the personnel involved, when possible;

(2) obtains pertinent program records, including attendance records for children and personnel present at time of death;

(3) notifies the licensing programs ~~manager~~ supervisor and CCS director; and

(4) considers whether the death is possibly related to Sudden Infant Death Syndrome (SIDS) or other sleep related causes, and when so, refers to OAC 340:110-1-9(q).

~~4314.~~ A serious incident report includes:

(1) the name and age of child(ren) seriously injured or killed;

(2) the incident date and time;

(3) a description of child(ren)'s injuries or facility damage;

(4) the caregiver's account of the incident;

(5) a summary of other contacts ~~made with agencies~~ involved in the investigation, such as Child Welfare Services (CWS) or local law enforcement officials;

- (6) pertinent information regarding the caregiver's history, such as prior involvement with CWS or a history of numerous, repeated, or serious non-compliance with Licensing requirements; and
- (7) the names of personnel involved.

**1415. Reports** The programs supervisor or programs manager reviews all reports from the Office of Client Advocacy (OCA), CWS, the Oklahoma Commission on Children and Youth (OCCY), the Oklahoma Health Care Authority (OHCA), and local law enforcement.

~~(1) The programs manager reviews all reports received from OCA, CWS, OCCY, OHCA, and local law enforcement.~~

~~(2) All reports received from OCA, CWS, OCCY, OHCA, and local law enforcement are reviewed for possible non-compliances with Licensing requirements. When the review of information indicates non-compliances residential Licensing staff investigates, per OAC 340:110-1-47.2, or investigates a complaint investigation, per OAC 340:110-1-47.1.~~

~~(3)(2) When a referral is received from the self-reported Child Abuse and Neglect Hotline (Hotline) referral is received, Licensing staff reviews the information to determine if the referral was screened out or accepted by OCA for investigation and investigates, per OAC 340:110-1-47.2.~~

(3) When a Hotline referral reported by an outside entity is received, Licensing staff reviews and investigates as a complaint investigation, per OAC 340:110-1-47.1.

- ~~(A) When a referral is screened out, Licensing staff determines if the:
 
  - ~~(i) report was made by an outside entity. Allegations of non-compliance with Licensing requirements are treated as a Licensing complaint, per OAC 340:110-1-47.1; or~~
  - ~~(ii) information was self-reported. Licensing staff follows up with the program to address possible areas of non-compliance using case management responses to non-compliant programs, per OAC 340:110-1-47.2.(c). This contact is documented for the case file.~~~~

~~(B) When OCA accepts a referral for investigation, Licensing staff assists with the investigation, when requested, by the OCA investigator. The final report is reviewed for substantiated findings, personnel misconduct, and areas of concern violating Licensing requirements. Licensing staff follows up with the program using case management responses to non-compliant programs, per OAC 340:110-1-47.2(c).~~

(4) The statewide licensing coordinator is consulted regarding release of confidential information.

### **340:110-1-47.1. Complaint investigations**

Revised ~~6-1-229-14-24~~

(a) **Legal basis.** The Oklahoma Child Care Facilities Licensing Act (Act), Section 406 of Title 10 of the Oklahoma Statutes (10 O.S. § 406), mandates that Oklahoma Human Services (OKDHS) conduct a full complaint investigation alleging violation against the Act or Licensing requirements.

(b) **Complaint receipt.** Complaints may be made to Licensing, in writing, in person, by phone, or electronically. ■ 1

(c) **Complaint information.** Licensing staff obtains as much relevant information as possible from the complainant. ■ 2

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

- (1) non-compliance with Licensing requirements;
- (2) violation of the Act;
- (3) unlicensed program operation; or
- (4) abuse or neglect of a child in care.

(e) **Disposition of complaints.** On receipt of a complaint, Licensing staff determines a disposition, as described in (1) through ~~(6)~~(7) of this subsection.

(1) A complaint not meeting the criteria in (d) of this Section is discussed with the complainant and, when appropriate, a referral is submitted to another entity, such as local law enforcement, the Office of Juvenile Affairs (OJA), the Office of Client Advocacy (OCA), Child Welfare Services (CWS), or the Office for Civil Rights.

(2) When a screened-out Child Abuse and Neglect Hotline (Hotline) referral without non-compliance with licensing requirements is received, a complaint investigation is not conducted, and Form 07LC080E, Licensing Services Supplemental Information, is completed.

~~(2)~~(3) A complaint alleging non-compliance with Licensing requirements or unlicensed program operation is investigated by Licensing. ■ 3

~~(3)~~(4) A complaint alleging child abuse or neglect is immediately referred to the Child Abuse and Neglect Hotline with a copy of Form 07LC012E, Licensing Complaint. The referral is documented on the form. ■ 4 When an immediate response is not received, Licensing staff follows up the next OKDHS-business day to obtain a response.

~~(4)~~(5) When a complaint alleges illegal activity by program personnel, including illegal drug activity in the child care facility, all referral information, including the complainant's name, is immediately referred to the OKDHS Office of Inspector General ~~(OIG)~~ and local law enforcement where the program is located.

(A) Referral follow ups are documented ~~in writing, a copy is and~~ maintained in the program case record, and the programs supervisor is notified.

(B) Licensing staff follows-up with local law enforcement officials to determine and document the investigation's outcome.

(C) The referral is documented on Form 19MP001E, Office of Inspector General (OIG) Referral Form. ■ 5

~~(5)~~(6) Information in a complaint received from another division within OKDHS or an agency responsible for monitoring residential child care programs or child-placing agencies, such as the Oklahoma Commission on Children and Youth ~~(OCCY)~~, OCA, the local health, or fire department, may be deemed valid when documented in writing by the agency representative. Licensing staff determines when the observation is a non-compliance. The program is advised of the report, requested to complete Form 07LC037E, Notice to Comply, when applicable, per Oklahoma Administrative Code (OAC) 340:110-1-47.2, and given an opportunity to respond.

~~(6)~~(7) The programs supervisor is notified of a complaint when:

- (A) the alleged non-compliance caused or could cause imminent risk of harm to a child in care;
- (B) the program has repeated or serious non-compliance with requirements;
- (C) the alleged non-compliance was addressed in a previous Form 07LC037E, Notice to Comply;
- (D) referred to the ~~Child Abuse and Neglect~~ Hotline or local law enforcement; or
- (E) receiving special attention, such as from the media or a legislator.

**(f) Duplicate complaint.** Allegations received by a different complainant regarding a previously reported incident or allegation may be considered a duplicate complaint. ■ 6

(1) Duplicate complaints:

- (A) must involve the same resident(s), program personnel, or incident date and time;
- (B) require supervisory approval before proceeding with duplicate complaint processes; and
- (C) received during a pending investigation are documented on Form 04K1001E, Referral Information Report, or Form 07LC012E, Licensing Complaint, and are part of the initial complaint; or
- (D) received after the investigation completion are documented on Form 07LC080E, Licensing Services Supplemental Information, and included with the initial complaint investigation documentation; regardless of the duplicate allegation receipt timeframe.

(2) When a duplicate complainant provides additional allegations:

- (A) during a pending investigation, allegations are investigated with the initial complaint allegations; or
- (B) after investigation completion, the allegations are investigated as a new complaint and documented on Form 04K1001E or Form 07LC012E.

(3) Prior to complaint investigation completion, Licensing informs licensed programs when a duplicate complaint is reported and when additional allegations are investigated.

(4) Allegations of an unlicensed program operation may be considered a duplicate complaint.

**(f)(g) Complaint risk levels.** Licensing staff determines risk levels based on the degree of harm or danger to children in care. Risk levels are used to ensure investigations occur in a timely manner. ■ 67

**(1) Risk level I complaints.** Risk level I complaints indicate a child is in imminent risk of serious physical injury. The risk level is not influenced by the removal of a child from the program when other children remain in care. Investigations are initiated immediately or no later than 24-hours after receipt by Licensing unless awaiting OCA or local law enforcement investigation; excluding weekends and holidays when the program or agency is closed. Examples of non-compliances with licensing requirements may include:

- (A) alleged physical or sexual abuse;
- (B) presence or use of illegal drugs while children are in care;
- (C) drug distribution;
- (D) children alone in the facility or in a vehicle without anyone present;
- (E) facility temperatures;



- (F) infant sleep environments;
- (G) caregiver's threatening or impaired behavior;
- (H) severe understaffing or severe over licensed capacity;
- (I) child passenger restraints;
- (J) Emergency Order violation;
- (K) required personnel without current cardio-pulmonary resuscitation and first aid training;
- (L) failure to obtain background investigations; or
- (M) knowingly permitting access to children by individuals identified as prohibited, restricted, or Restricted Registry 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 10-calendar days of receipt by Licensing, unless requested by OCA or local law enforcement to delay the investigation. Examples of non-compliances with requirements may include:

- (A) leaving children with underage personnel;
- (B) alleged physical abuse from personnel no longer working in the program;
- (C) inappropriate discipline where no injury is reported;
- (D) diapering or toileting;
- (E) hazardous equipment;
- (F) transporting without a valid driver license or liability insurance;
- (G) lack of supervision, including resident sexual behavior; or
- (H) minor understaffing or minor over licensed capacity.

(3) **Risk level III complaints.** Risk level III complaints do not indicate imminent danger and there are no injuries alleged. Serious non-compliances, per OAC 340:110-1-47.2, are not considered risk level III complaints. Investigations are initiated within 15-calendar days of receipt by Licensing including when a phone investigation is appropriate, per (h) of this Section. Examples of non-compliances with requirements may include:

- (A) inadequate meal service;
- (B) quarterly vehicle maintenance;
- (C) program or agency records and documentation;
- (D) inappropriate use of television or videos; or
- (E) inadequate facility cleanliness.

~~(g)~~(h) **The investigation.** Licensing staff conducts a full investigation, obtaining sufficient information to determine a finding. ■ 78

~~(h)~~(i) **Phone or written investigation.** With supervisory approval, Licensing staff may investigate a complaint by phone or written correspondence. The investigation discussion is documented on Form 07LC080E, Licensing Services Supplemental Information, including an agreed-on plan of correction, when necessary. ~~A copy is~~ and provided to the operator.

~~(i)~~(j) **Unlicensed program investigations.** When a complaint alleging operation of an unlicensed program is received, procedures, per OAC 340:110-1-54.1, are also followed.

~~(j)~~(k) **Child abuse and neglect complaints.** On receipt of abuse or neglect allegations of a child in care, Licensing staff immediately notifies the programs supervisor and submits a referral to the ~~Child Abuse and Neglect~~ Hotline.

~~(k)~~(l) **Findings.** After investigation completion, Licensing staff, in consultation with the programs supervisor, as appropriate, determines the complaint finding as substantiated or unsubstantiated.

(1) **Substantiated.** A substantiated finding is determined when some credible evidence indicates the program violated a Licensing requirement or the Act.

(2) **Unsubstantiated.** An unsubstantiated finding is determined when:

(A) insufficient evidence exists to fully determine whether a violation occurred; or

(B) no violation of a Licensing requirement or the Act occurred. ■ ~~89~~

~~(h)~~(m) **Documentation of findings.** Upon investigation completion, Licensing staff:

(1) informs the programs supervisor the complaint investigation is ready for review;

(2) documents the findings; and

(3) notifies the provider of the findings in writing including:

(A) a summary of facts, per ~~(e)~~(p) of this Section; and

(B) Form 07LC037E, Notice to Comply; when applicable. ■ ~~89~~

~~(m)~~(n) **Heinous and shocking abuse findings.** Per 10 O.S. § 406, when Licensing receives notification from OCA or CWS of heinous and shocking abuse findings by a person responsible for a child's health, safety, or welfare as defined, per 10A O.S. § 1-1-105, Licensing contacts the program or child-placing agency by email immediately or not later than one-business day after the substantiated finding notification. ■ ~~910~~

~~(h)~~(o) **Notice to Comply.** When a complaint allegation is substantiated, Licensing staff advises the program to correct the violations immediately, using Form 07LC037E, following procedure, per OAC 340:110-1-47.2(c)(7). Licensing staff ~~update~~ updates the Licensing database with plan of correction information. ■ ~~11~~

~~(e)~~(p) **Summary of facts.** Licensing provides program directors or agency owners a summary of the facts used to evaluate and determine the complaint findings. ■ ~~4012~~

~~(p)~~(q) **Complaint overview.** Licensing staff completes an overview of completed complaint investigations in the Licensing database. This overview provides an investigation summary of how the complaint findings were determined, and is maintained in the case record's confidential section. ■ ~~4413~~

## **INSTRUCTIONS TO STAFF 340:110-1-47.1**

### **Revised ~~6-1-229-14-24~~**

1. (a) **When the complaint is made in person or by phone, Licensing staff assists the complainant by:**

(1) **advising of allegations representing non-compliance;**

(2) **responding to complainant's concerns; and**

(3) **discussing confidentiality, such as, the complainant's identity is kept confidential unless legal action or a referral to local law enforcement becomes necessary;**

(4) **eliciting appropriate information. When subjective terms, such as "drunk" or "crazy" are used, Licensing staff attempts to obtain and record specific information on the behavior observed by the complainant; and**

(5) **informing the complainant about what action will be taken, such as Licensing staff making an unannounced visit or a referral to Office of Client Advocacy (OCA).**

(b) When a referral is received from the Child Abuse and Neglect Hotline (Hotline), Licensing staff reviews the information to determine if the referral was screened-out or accepted by OCA for investigation.

(1) ~~When a referral is screened-out~~, Licensing staff determines if the:

(A) report was made by an outside entity. Allegations of non-compliance with Licensing requirements are a Licensing complaint, per Oklahoma Administrative Code (OAC) 340:110-1-47.1; or

(B) information was self-reported. Licensing staff follows up with the program to address possible areas of non-compliance using case management responses to non-compliant programs, per OAC 340:110-1-47.2.(d).

(2) When OCA accepts a referral for investigation, Licensing staff assists with the investigation when requested by the OCA investigator. Licensing staff investigates, per OCA referral processes, including duplicate complaints and new allegations received during pending investigations. The final report is reviewed for ~~substantiated findings, personnel misconduct, and areas of concern violating non-compliance with~~ Licensing requirements. Licensing staff follows up with the program using case management responses to non-compliant programs, per OAC 340:110-1-47.2(d).

2. The information requested is documented on Form 07LC012E, Licensing Complaint, and entered in the Licensing database by using complaint key words. The requested information includes the:

(1) date and time the complaint was received;

(2) program name, address, and phone number;

(3) complainant's name, address, phone number, and program relationship, such as personnel, parent of a child in care, or neighbor;

(4) complainant's source of information, such as a personal observation or information from another individual; and

(5) specific information regarding the complaint allegations including:

(A) a description of the circumstances;

(B) the names or identities of personnel involved;

(C) the name and age of the child involved or affected by the alleged non-compliance;

(D) the date(s), time(s), and place(s) the alleged non-compliance(s) occurred;

(E) the names of other individuals with relevant information; and

(F) if the complaint was discussed with the program.

3. The information is recorded as a complaint regardless of the caller's purpose. Licensing staff in the area where the program is located are notified as soon as possible, and Form 07LC012E, Licensing Complaint, is forwarded to Licensing staff. When referrals are received from Child Welfare Services (CWS) or OCA, Form 07LC012E is not completed and information is documented on Form 04K1001E, Referral Information Report.

4. The referral is documented on the bottom of Form 07LC012E, Licensing Complaint. Complaints referred to the ~~Child Abuse and Neglect Hotline~~ include those alleging harm or threatened harm to a child occurring through non-

accidental physical or mental injury, sexual abuse, neglect, or failure or omission to provide protection from harm or threatened harm.

(1) When Licensing staff is unsure a complaint meets the criteria for an OCA investigation, the complaint is referred to the ~~Child Abuse and Neglect~~ Hotline and the decision to accept the referral is made by OCA staff.

(2) Sex play between children is referred to the ~~Child Abuse and Neglect~~ Hotline for investigation. Licensing investigates this type of allegation with regard to children's supervision.

5. Licensing staff follows-up with local law enforcement officials and the Office of Inspector General (OIG) to determine and document the investigation outcome. Prior to facility visits, Licensing staff informs and consults with OIG regarding the restrictions of individuals involved in the allegation.

6. For complaint allegations to be considered as a duplicate complaint, the allegations must be the exact same incident or allegation as previously reported, involving the same resident(s), program personnel or incident date and time.

(1) Duplicate complaint and new allegation narratives are documented on Form 04K1001E, Referral Information Report, or Form 07LC012E, Licensing Complaint.

(2) Licensing staff consults with the programs supervisor regarding allegations of non-compliance with the same licensing requirement or complaint key word but not the specific incident previously reported to determine if the allegations are considered new allegations. When allegation information is too vague for duplicate complaint determination, Licensing staff consults with program supervisor for appropriate action.

(3) When multiple duplicate complaints are received, program notification of duplicate complaints may be combined into one notification, when applicable.

(4) When duplicate complaints are received from sources other than the Hotline, Licensing informs duplicate complainants of:

(A) pending investigations involving duplicate complaints and, when applicable, which allegations are new allegations to be investigated with the initial complaint; or

(B) findings of completed investigations involving the duplicate allegations and refers the duplicate complainants to the child care locator for further information, when applicable. Licensing staff documents discussion on Form 07LC080E, Licensing Services Supplemental Information.

(5) Complaints alleging an unlicensed program operation may be considered a duplicate complaint when received:

(A) during a pending investigation and no other allegations are reported. Licensing staff:

(i) informs the complainant of a pending investigation involving a duplicate complaint; and

(ii) documents the allegation on the existing Form 07LC012E, Licensing Complaint; and

(B) after the initial complaint completion where Child Care Services (CCS) verified program had ceased operation; however, operation must be reported to have occurred prior to the initial complaint. Duplicate complaint information is documented on Form 07LC080E, Licensing Services Supplemental Information, and included with the initial complaint investigation documentation.

(6) Complaints alleging an unlicensed program operation are not considered a duplicate complaint when reported after a completed investigation and:

(A) CCS previously verified unlicensed operation ceased or program was exempt from licensure. Licensing initiates a new complaint on Form 07LC012E; or

(B) the program is currently on permit or license, or has been given permission to operate. Licensing staff:

(i) informs complainant the allegation will not be investigated due to the program's status; and

(ii) documents any other allegations on Form 07LC012E, Licensing Complaint, and initiates a new complaint. The report of unlicensed operation, while not investigated, is also documented on Form 07LC012E.

**67.** When necessary, Licensing staff consults with the programs supervisor to determine the appropriate risk level, complaint initiation time frame, or follow-up based on:

(1) the program's case history;

(2) the length of time since the alleged incident occurred;

(3) the allegation's severity; including number and ages of children involved;

(4) Licensing staff's current workload and other pending complaint investigations; and

(5) necessary coordination with other agencies.

**78.** (a) The investigation includes (1) through (7) of this subsection.

(1) Licensing staff reviews complaint allegations. Whenever possible, prior to making program contact, Licensing staff reviews all appropriate Oklahoma Human Services (OKDHS) records to obtain other appropriate preliminary information.

(2) An unannounced visit to the program is may be conducted when risk level one complaints are identified, unless OCA has initiated a visit.

~~(3) The purpose of the visit~~ Licensing staff initially informs the program of a pending complaint and allegation descriptions are ~~initially discussed with the operator~~ using "key words." Licensing documents in discussion key words were discussed with the executive or program director, owner, or ~~both designated personnel~~, when applicable. Prior to the complaint investigation conclusion, the full allegation is ~~explained and discussed with~~ provided by phone call or email to the operator. Licensing staff does not identify the complainant. ~~Other acceptable follow up, as determined appropriate by Licensing staff, may include a phone call or email.~~

~~(3)~~(4) Licensing staff considers necessity of a safety plan. Based on allegation severity or information gathered during the complaint

investigation, Licensing staff discusses with the operator and documents on Form 07LC080E, Licensing Services Supplemental Information, an appropriate safety plan identifying methods of protecting children during the investigation. The safety plan:

(A) is voluntary; however, when not agreed upon by the program, Licensing staff consults with supervisor for appropriate action;

(B) includes full names of program personnel involved;

(C) is kept confidential until investigation completion;

(D) may be discontinued when Licensing determines children are no longer at risk. Licensing staff immediately informs the program the safety plan is no longer needed and the program may discontinue the plan. Licensing staff documents the discussion on Form 07LC080E; and

(E) is used only during a pending investigation. When the program admits to the serious allegation Form 07LC037E, Notice to Comply, is completed addressing the immediate non-compliance correction in lieu of a safety plan.

**(5)** With State Office approval, Licensing staff may request the owner to voluntarily cease care, or require specific restrictions of contact with children for the alleged perpetrator pending the investigation outcome. The programs supervisor or designee is notified of all situations involving a request for voluntary cease care. When the owner refuses to cease care or adequately protect children and children are considered at imminent risk of harm, Licensing staff discusses and documents in discussion the possibility of an injunction or an Emergency Order.

**(4)(6)** Licensing staff reviews available records, such as the case file, children's and personnel files and attendance records, restraint and injury logs, medical and transportation records, food program records, or local law enforcement reports.

**(5)(7)** Interviews are conducted with the complainant, witnesses, and program residents, when necessary and appropriate, and others having relevant information, such as program personnel. Additional resident interviews are not conducted for Risk Level III complaints. When sufficient investigative information for determination of a finding is obtained through personnel interviews, observation, or available records and documents, additional resident interviews are not conducted. Interviews are no longer conducted when sufficient information is obtained to determine a finding.

An interview:

(A) is conducted when it would provide more complete or accurate information than by observation alone;

(B) is scheduled at a time and location as to not present an undue hardship for the interviewee;

(C) is limited to questions relating to current complaint allegations;

(D) is generally a phone or face-to-face contact between Licensing staff and an individual having relevant information. When an individual's comments and signature are documented on Form 07LC080E, Licensing Services Supplemental Information, a copy the interview is provided to

adult interviewees. ~~A copy is~~ Interviews are not provided to the operator. All interviews are maintained in a confidential manner;

(E) is usually conducted in private and with one individual at a time. An exception may be made when:

- (i) a witness accompanies Licensing staff;
- (ii) a parent requests to be present when his or her child is interviewed;
- or
- (iii) an individual chooses to have his or her attorney present; and

(F) may be conducted outside of the facility when:

- (i) the director or operator is uncooperative;
- (ii) an on-site interview places the interviewee at risk; or
- (iii) information is gathered prior to discussion with the operator. Interviews with individuals outside of the facility are documented on Form 07LC080E, Licensing Services Supplemental Information, ~~with copies and~~ provided to adult interviewees; and

(G) with a child is conducted after Licensing staff considers the child's age and verbal ability. It is preferable a witness accompany Licensing staff. Parental permission prior to interviewing a child in care is not required when investigating a complaint alleging non-compliance with licensing requirements.

~~(6)~~(8) Facility observations in (A) and (B) of this paragraph are considered.

(A) When an allegation is associated with a specific time of day, for example, early morning understaffing, the facility visit is conducted at the time the incident is alleged to have occurred. Licensing staff documents observations by citing the specific conditions observed; such as, the director refused to allow Licensing staff to view the program's records, or there were 16 residents monitored by one personnel.

(B) When investigating a complaint at a facility, a complete monitoring visit is not required unless one is due. Staff-child ratios and supervision are documented on each visit on the monitoring checklist. When repeated or serious non-compliance are observed, a full-monitoring visit is conducted. Licensing staff documents compliance with those areas relating to the allegation.

~~(7)~~(9) Documentary evidence obtained is entered in the program record and includes information, such as an Oklahoma Commission on Children and Youth (OCCY) report, medical and local law enforcement records, a signed statement, or photographs. When documentary evidence is obtained, it is entered in the case file.

(b) Following completion, Licensing staff provides a letter to the operator including the investigation findings and notice of further action, when applicable.

**89.** After initiating the complaint, Licensing staff continues to make progress in efforts to complete the investigation within 45-calendar days of receipt. The programs supervisor is consulted regarding extended time frames and documents the discussion on Form 07LC080E, Licensing Services

**Supplemental Information. Licensing staff enters the findings in the Licensing database.**

**(1) When a non-compliance other than the original complaint allegation(s) is identified, Licensing staff:**

**(A) documents non-compliances in the Licensing database in investigative comments identifying items as "additional non-compliances";**

**(B) notifies the programs in writing of additional non-compliances; and;**

**(C) completes Form 07LC037E, Notice to Comply, when applicable.**

**(2) When a specific allegation within a "key word" is unsubstantiated, but a different non-compliance(s) within a "key word" category is identified, Licensing staff unsubstantiates the specific allegation and documents the new non-compliance. Understaffing is confirmed even when it is in an age group different from the allegation. Refer to (1) of this Instruction to document this circumstance.**

**(3) When the complaint allegations and findings were not given to the provider in writing, a letter is provided to the program or agency.**

**(4) Information not made part of the public file includes:**

**(A) Form 07LC012E, Licensing Complaint;**

**(B) CWS and OCA referrals; and**

**(C) interviews with personnel, children, collateral witnesses, and complainants.**

**(5) When information regarding a complaint, including complaint allegations, is requested by the public prior to completion of the investigation, Licensing staff explains that information regarding the allegation and findings is released after the investigation is complete.**

**(6) After the database is updated, indicating the investigation completion, complaint information including drug activity is available to the public, per OAC 340:110-1-55.**

**910. OCA or CWS notifies the statewide licensing coordinator and program supervisor of substantiated heinous and shocking abuse findings.**

**(1) Upon OCA or CWS notification, the program supervisor immediately:**

**(A) verifies the individual's program or agency association; and**

**(B) notifies the Licensing staff of the substantiated findings.**

**(2) Licensing staff:**

**(A) notifies the program or agency owner and operator of the findings by email and, when applicable, includes Form 07LC130E, Heinous and Shocking Abuse Notification;**

**(B) contacts the program or agency the next business day verifying:**

**(i) email receipt;**

**(ii) prohibitions for the perpetrator;**

**(iii) understanding of program or agency responsibility, and, when applicable:**

**(I) parent and legal guardian notification; and**

**(II) time frame for notifying Licensing of date of parent and legal guardian notification; and**



(C) documents program or agency contacts on Form 07LC080E, Licensing Services Supplemental Information.

(3) If programs or agencies do not notify Licensing of parent and legal guardian notification within two-business days after expiration of the 72-hour time frame, Licensing staff contacts the program or agency to verify certified mail notification. Licensing documents program or agency contacts on Form 07LC080E, Licensing Services Supplemental Information.

(4) If programs or agencies have not notified parents and legal guardians within the 72-hour time frame, Licensing consults with the programs supervisor for appropriate action.

**11. The licensing complaint reference number is documented on Form 07LC037E, Notice to Comply.**

**4012. The summary of facts, on CCS letterhead, is approved by the supervisor before it is provided to the program, and indicates the:**

(1) documents reviewed; and

(2) total number of individuals interviewed while identifying the program relationships, such as parents, personnel, children, and collateral or other agency personnel. When applicable, the total number of duplicate complainant(s) is also provided. Information provided protects the confidentiality of all individuals.

**4413. The complaint overview is used by supervisors and State Office to review how Licensing staff determined the findings. The complaint overview includes, the:**

(1) number of individuals interviewed and program relationships;

(2) observations regarding the complaint allegations;

(3) documents and records reviewed;

(4) information used to determine the findings; and

(5) explanation of timeframes not within 45-calendar days; and

(6) when applicable, duplicate complaint information, including:

(A) consultation dates with supervisor for duplicate complaint approval;  
and

(B) number of duplicate complainants.

## PART 5. CHILD CARE SERVICES

**340:110-1-70. Purpose [REVOKED and RENUMBERED 340:110-1-76]**

~~Revised 5-11-00~~

~~The purpose of this Part is to provide guidelines for basic rules and procedures for administration of the Child Care and Development Fund.~~

**340:110-1-71. Definitions [REVOKED and RENUMBERED 340:110-1-76]**

~~Revised 6-11-01~~

~~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.~~

### **340:110-1-72. Legal base and authority [REVOKED and RENUMBERED 340:110-1-76]**

Revised 5-11-00

~~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].~~

### **340:110-1-73. Overall responsibility as required by state and federal law [REVOKED and RENUMBERED 340:110-1-76]**

Revised 5-11-00

~~The overall responsibility as required by state and federal law includes:~~

- ~~(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;~~
- ~~(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.~~

### **340:110-1-76. Child Care and Development Fund (CCDF)**

Revised ~~5-11-009-14-24~~

(a) **Purpose.** This Part provides CCDF administrative rules and procedure guidelines. CCDF is a federal grant awarded annually to states and tribes for child care improvement.

(b) **Legal basis and authority.** Oklahoma Human Services (OKDHS) is the Lead Agency administering the CCDF. OKDHS designates responsibility to Child Care Services (CCS) to develop and implement the state child care plan to qualify for the federal CCDF.

(c) **State Plan.** ~~The Division of Child Care CCS submits a state plan to the Administration of for 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. ■~~

1 The state plan establishes goals and objectives addressing quality child care needs for children birth through age 13.

(d) **State and federal law requirements.** The state and federal law requirements include:

- (1) overseeing state and federal fund distribution;
- (2) complying with approved state plan provisions, CCDF rules, and requirements;
- (3) submitting state plan amendments and requesting waivers;
- (4) responding to regional or federal office requests;
- (5) coordinating financial inquiries, questions, and responses with Financial Services;
- and
- (6) assuming program review responsibility.

(e) **Contracting procedures.** CCS cooperates with Office of Management and Enterprise Services ensuring contracting and purchasing regulations and policies are followed.

(f) **Monitoring procedures.** At least annually, CCS monitors program and fiscal aspects of contracts, request for proposals, or agreements with state agencies, funded through CCS. Monitoring:

- (1) verifies state statute compliance;
- (2) evaluates contract or agreement compliance; and
- (3) provides technical assistance for improved services through additional visits, when applicable.

(g) **Local projects.** CCDF allows CCS project implementation enabling child care providers to receive funding. This ensures access to affordable quality child care for Oklahoma's children and parents. Local projects accomplishing specific goals meeting a documented community need are funded through CCS. The contract process ensures

available funds are awarded to applicants with proposals best addressing the documented need.

#### **INSTRUCTIONS TO STAFF 340:110-1-76**

**Revised ~~5-11-009-14-24~~**

1. (a) ~~The Child Care and Development Fund (CCDF) is to ensure families have~~ **ensures access to affordable quality child care.**
- (b) ~~A minimum of At least 70% Per CCDF guidelines, an identified percentage of funds must be is spent on:~~ **Per CCDF guidelines, an identified percentage of funds must be is spent on:**
  - (1) direct services to Temporary Assistance for Needy Families (TANF) and low-income families;**
  - (2) enhancing and aligning the quality of services for infants and toddlers through school-age children;**
  - (3) administrative activities;**
  - (4) improving the supply and quality of child care through:**
    - (A) professional development;**
    - (B) compensation;**
    - (C) resource and referral programs;**
    - (D) grants or loans for meeting state and local standards; and**
    - (E) monitoring licensing requirement compliance.**
- (c) ~~A maximum of 5% of total funds may be spent to carry out administrative activities.~~
- (d) ~~A minimum of 4% of funds is spent on activities to improve the quality of care, such as, training, compensation, resource and referral programs, grants or loans to assist in meeting state and local standards, and monitoring of compliance with licensing requirements.~~

#### **340:110-1-77. Contracting procedures [REVOKED and RENUMBERED 340:110-1-76]**

**Revised ~~6-11-01~~**

~~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.~~

#### **340:110-1-78. Monitoring procedures [REVOKED and RENUMBERED 340:110-1-76]**

**Revised ~~6-11-01~~**

~~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 made to provide technical assistance to the contractor for the purpose of improving services.~~

#### **340:110-1-79. Local projects [REVOKED and RENUMBERED 340:110-1-76]**

**Revised ~~6-11-01~~**

~~(a) 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. ■-1~~

## **INSTRUCTIONS TO STAFF 340:110-1-79. [REVOKED]**

**Revised 6-11-01**

- ~~1. (a) An announcement of a Local Project Funding Contract will be published in the Oklahoma Register and, in the form of a press release, in at least 25 newspapers as required by law. The announcement will include:
  - ~~(1) a description of the project;~~
  - ~~(2) the applicant eligibility criteria;~~
  - ~~(3) the application deadline; and~~
  - ~~(4) the contact person's name, address, and telephone number.~~~~

~~(b) Responses to inquiries regarding preparation of the proposal may be provided to potential applicants through the Division of Child Care program contact person or by local licensing personnel.~~

~~(c) Applications which have addressed the published criteria are reviewed by a designated committee.~~

~~(d) Selection of applications to be awarded reflect those applicants demonstrating the best intent to meet the established community need. All or part of the proposal may be approved for award as determined by the committee.~~

~~(e) Selected applications are submitted to the Department of Human Services Contracts and Purchasing Unit for further processing.~~

~~(f) Post-award information or training is provided as needed.~~

~~(g) Applicants whose proposals were not accepted have the right to appeal to the Department of Central Services who coordinate the procedure with the Department of Human Services. [OAC 580:15-1-8 and "Partners in Procurement" Handbook]~~

### **SUBCHAPTER 3. LICENSING STANDARDS FOR CHILD CARE FACILITIES**

#### **Part 5. REQUIREMENTS FOR FAMILY CHILD CARE HOMES AND LARGE FAMILY CHILD CARE HOMES**

##### **340:110-3-97.1. Requirements for large family child care homes**

**Revised 6-1-229-14-24**

- (a) Large family child care home.** A large family child care home is a residential family home providing care and supervision for eight to 12 children for part of the 24 hour day.
- (b) Requirements.** Large family child care homes meet required rules, per Oklahoma Administrative Code (OAC) 340:110-3-81 through 340:110-3-97, except as otherwise provided in this Section.
- (c) Mobile homes.** Prior to caring for children, large family child care homes operated in a mobile home are required to obtain an approved state or local fire inspection.

(d) **Capacity.** Large family child care homes are required to meet the rules, per OAC 340:110-3-84(a), and the total number of children in care in a large family child care home is limited to 12.

(e) **Supervision of outdoor play.** Large family child care homes meet the rules in OAC 340:110-3-85(a)(3) pertaining to outdoor play supervision, except when two or more personnel are needed to meet the required adult-child ratio. At least one personnel is present with children outdoors at all times.

(f) **Required number of caregivers.** Large family child care homes are exempt from the requirements regarding the number of caregivers, per OAC 340:110-3-84(b) and (c). The number of caregivers required in a large family child care home is described in this subsection.

(1) **One caregiver.** One caregiver may care for up to:

- (A) five children of any age;
- (B) six children, with no more than three children younger than 2 years of age;
- (C) seven children, with no more than two children younger than 2 years of age;
- (D) seven children, when the children are 2 years of age and older;
- (E) eight children, when the children are 3 years of age and older;
- (F) 10 children, when the children are 4 years of age and older; or
- (G) 12 children, when the children are 5 years of age and older.

(2) **Two caregivers.** Two caregivers may care for up to:

- (A) eight children younger than 2 years of age; or
- (B) 12 children, with no more than six children younger than 2 years of age.

(3) **Three caregivers.** Three caregivers may care for up to 12 children of mixed ages, with no more than eight children younger than 2 years of age. When only children younger than 2 years of age are in care, three caregivers may care for up to 12 children.

(g) **Caregiver qualifications.** Primary, assistant, and substitute caregivers at large family child care homes are required to meet qualifications, per OAC 340:110-3-85(a) and (b), except as otherwise described in (1) through (3) of this subsection.

(1) **Primary caregiver.** The primary caregiver or individuals substituting for the primary caregiver are at least 21 years of age. For individuals applying after October 1, 2007, the primary caregiver has:

- (A) six months of satisfactory experience as the primary caregiver in a licensed family child care home in Oklahoma; ~~and~~
- (B) a high school diploma or General Educational Development (GED) credential; and
- (C) a current Level 4 or higher Oklahoma Professional Development Ladder (OPDL) certificate, per OAC 340 Appendix FF – Oklahoma Professional Development Ladder.

(2) **Assistant caregiver.** The assistant caregiver or individuals substituting for the assistant caregiver meet requirements in (A) through (C) of this subparagraph paragraph.

- (A) Caregivers are at least 16 years of age. Children are not left alone in the care of any individual younger than 21 years of age.
- (B) Caregivers have current cardio-pulmonary resuscitation (CPR) and first aid certification documentation, per OAC 340:110-3-85(h).

- (C) Assistant caregivers:
  - ~~(i) employed before June 1, 2022, obtain a current Level 1 or higher OPDL certificate, per OAC 340 Appendix FF – Oklahoma Professional Development Ladder, by June 1, 2023; or~~
  - (ii) employed on or after June 1, 2022, obtain and maintain a current Level 1 or higher OPDL certificate, per OAC 340 Appendix FF – Oklahoma Professional Development Ladder, prior to or within 12 months of employment.

(3) **Substitute caregiver.** Individuals substituting for the primary caregiver are at least 21 years of age and have current CPR and first aid certification documentation, per OAC 340:110-3-85(h).

(h) **Professional development requirements.** The primary caregiver and assistant caregiver at large family child care homes are required to meet the professional development requirements, per OAC 340:110-3-85(h), except as otherwise described in (1) and (2) of this subsection.

- (1) The primary caregiver:
  - (A) completes and documents all health and safety training, per OAC 340:110-3-85(h)(3), within two years prior to request for license;
  - (B) registers the program as a direct care organization and maintains information on the Oklahoma Professional Development Registry (OPDR); and
  - (C) completes ~~15-clock~~ 20-clock hours of professional development annually.

(2) The assistant caregiver meets professional development requirements in (A) and ~~(B)~~ through (D) of this paragraph.

(A) The assistant caregiver completes 12-clock hours of professional development annually.

~~(B) Effective June 1, 2023, ongoing professional development in (i) through (iv) of this subparagraph is required.~~

~~(i) Assistant caregivers obtain at least the required number of professional development clock hours to maintain a current Level 1 or higher OPDL certificate, per OAC 340 Appendix FF – Oklahoma Professional Development Ladder. However, informal professional development clock hours are limited.~~

(ii) Formal professional development is:

~~(i)~~(i) a course or training event of two or more clock-hours from an OPDR-approved training organization; ~~and or~~

~~(ii)~~(ii) OPDR-approved college credit hours.

~~(iii)~~(C) Informal professional development clock-hours are limited. Informal professional development is:

~~(i)~~(i) a course or training event of less than two clock-hours from an OPDR-approved training organization;

~~(ii)~~(ii) any number of clock-hours from an OPDR non-approved training organization; ~~and or~~

~~(iii)~~(iii) any training from electronic media, such as videos or DVDs.

~~(iv)~~(D) Reading and television programs do not count toward required clock-hours.

(i) **Outdoor play space.** The requirements regarding outdoor play space, per OAC 340:110-3-86(a)(12), are met. The outdoor play space is enclosed by a building or a

fence beginning at ground level, at least four feet high, and in good repair. Fencing exceptions are not granted by Licensing.

## **PART 9. REQUIREMENTS FOR RESIDENTIAL CHILD CARE FACILITIES**

### **340:110-3-152. Organization and administration**

Revised ~~6-4-229-14-24~~

(a) **Intent statement.** The residential child care program purpose or function is clearly defined in a statement filed with Oklahoma Human Services (OKDHS). The statement includes the:

- (1) program philosophy;
- (2) program goals and objectives;
- (3) ages and characteristics of children accepted for care;
- (4) geographical area served; and
- (5) services provided.

(b) **Organizational structure.** The residential child care program legal basis or ownership is fully documented and submitted to OKDHS.

(1) **Publicly operated program.** Documentation identifies the program's statutory basis and the operating governmental entity administrative framework.

(2) **Privately operated program.** A privately operated program submits, the:

(A) charter, partnership agreement, constitution, articles of incorporation, or resolution authorizing the program's operation, as applicable; and

(B) names, titles, addresses, and phone numbers for:

- (i) association members or corporate officers for a nonprofit program; and
- (ii) owners, partners, or corporate officers for a proprietary program.

(3) **Changes in ownership and program name.** OKDHS is notified at least 30-calendar days prior to changes in the legal entity for operation, ownership, or program name.

(c) **Governing and advisory board.** A private, nonprofit program establishes a governing board and may also have an advisory board.

(1) **Meetings.** The governing board meets at least twice annually, maintaining accurate meeting minutes.

(2) **Governing board responsibility.** The governing board maintains ultimate responsibility for governing but may delegate program administration responsibility to the executive director.

(A) The board assumes joint responsibility with the executive director for general program and policy, funding, and minimum requirement compliance.

(B) The responsibilities and relationship between the board and the executive director are defined in the constitution and bylaws and submitted to OKDHS.

(3) **Governing board members.** Governing board members' names, titles, addresses, and phone numbers are submitted to OKDHS.

(4) **Board composition.** The governing board represents the community's diversity.

(A) The board is comprised of a minimum of three members.

(B) A majority reside in Oklahoma. Multi-state operations; however, may have a governing board outside of Oklahoma when establishing local advisory boards meeting requirements in (5) of this subsection.



- (C) Program personnel cannot comprise a majority of the board's voting members.
- (D) Upon appointment, board members receive board responsibility orientation.
- (5) **Advisory board.** A private, proprietary program not meeting governing board requirements in (1) through (4) of this subsection establishes an advisory board.
  - (A) The advisory board meets at least twice annually.
  - (B) The advisory board provides program advice and counsel on policies and program operation, reflects local concerns, and represents the program to the community.
  - (C) Advisory board member names, addresses, and phone numbers are submitted to OKDHS.
  - (D) Program personnel cannot comprise a majority of the advisory board's voting members.
  - (E) A majority reside in Oklahoma.
- (d) **Administrative policy.** Policy is clearly written, current, and available for residents, parents or legal custodians, personnel, and Licensing review. ~~Policy is reviewed~~ The governing board reviews policy annually by the governing board. Policy at least, includes areas governing:
  - (1) admission and discharge;
  - (2) personnel;
  - (3) volunteers;
  - (4) programs;
  - (5) grievance procedures approved by OKDHS Office of Client Advocacy (OCA);
  - (6) behavior management;
  - (7) mandatory child abuse reporting;
  - (8) suicide awareness and protocol;
  - (9) medical services;
  - (10) medication administration and dosage;
  - (11) records confidentiality;
  - (12) a resident ~~leaving the facility without permission~~ absent without permission;
  - (13) emergency procedures; and
  - (14) reasonable and prudent parent standard application, when approving resident activities.
- (e) **Records and reports.** Records and reports maintained at the program and available for Licensing review are:
  - (1) resident's records;
  - (2) personnel records;
  - (3) criminal history investigation records;
  - (4) orientation and professional development records;
  - (5) residents' food menus;
  - (6) fire and tornado drill records;
  - (7) planned recreational, leisure, or physical exercise activities schedules;
  - (8) visitation records;
  - (9) transportation records; and
  - (10) resident's grievance records. These records are maintained for three years following the resident's discharge and in a confidential manner separate from resident's records, per OCA.

(f) **Notifications.** The program complies with the notification requirements in this subsection.

- (1) The program notifies Licensing on the next OKDHS-business day of:
  - (A) temporary or permanent program closure;
  - (B) executive or program director change;
  - (C) liability insurance coverage changes;
  - (D) facility premises damage caused by fire, accident, or elements seriously affecting services provided;
  - (E) legal action against a program or personnel involving a resident or program operation;
  - (F) ~~a serious resident injury requiring~~ any time a resident receives emergency medical treatment by a licensed health care professional; or
  - (G) incidents involving law enforcement, excluding residents absent without permission; or
  - ~~(G)~~(H) a resident death or near death, per Section 1-6-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-6-105).
- (2) Any person who has reason to believe a child was abused or neglected, per ~~Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105)~~, is required to report the matter promptly to the OKDHS Child Abuse and Neglect Hotline at 1-800-522-3511, per 10A O.S. § 1-2-101. Failure to report is a misdemeanor offense and upon conviction is punishable by law. Failure to report with prolonged knowledge, six months or more, of ongoing abuse or neglect is a felony offense.
- (3) Per 21 O.S. § 870, every person having reason to believe that a person or child-placing agency is engaging in the crime of trafficking in children, per 21 O.S. § 866, reports the matter promptly to the Oklahoma Bureau of Narcotics and Dangerous Drugs Control.
- (4) OKDHS notifies programs of a substantiated finding of heinous and shocking abuse by a person responsible for a child's health, safety, or welfare, as defined, per 10A O.S. § 1-1-105. Upon receiving the notice, the facility owner or operator provides notification to parents or legal guardians of children attending the facility using an OKDHS-provided form.
  - (A) Notification is:
    - (i) immediately attempted but not later than 72 hours of notice receipt from OKDHS; and
    - (ii) provided by certified mail.
  - (B) The program maintains the list of notified parents and legal guardians for at least 12 months.
- (5) When a resident is absent without permission, the resident's parents or legal custodian are immediately notified.

### **340:110-3-153.1. Personnel**

Revised ~~6-1-229-14-24~~

- (a) **Personnel policy.** Personnel policy includes defining personnel, essential position functions, qualifications, and authority lines.
- (b) **Personnel and responsibilities.** The program recruits personnel with specialized skills, knowledge, and the cultural understanding and competencies necessary for quality

residential care services. Personnel demonstrate responsible behavior reasonably ensuring residents' care and safety. Personnel cooperate with Oklahoma Human Services (OKDHS) staff, including monitoring visits and investigations.

(1) **Executive director.** The program employs an executive director, superintendent, or administrator; and in his or her absence, an individual is designated in charge.

(A) The executive director, superintendent, or administrator is responsible for employing individuals possessing adequate education, professional development, and experience to perform assigned positions' essential functions.

(B) The executive director is responsible for implementing the policies adopted by the governing board and ongoing program operation.

(C) When acting as program director, the executive director meets the requirements in (b)(2) of this Section.

(2) **Program director.** The program director is responsible for implementing and supervising programs and services. The program director is also responsible for the day-to-day program operation.

(A) The executive director may also serve as the program director, when meeting the qualifications in (d)(2) of this Section.

(B) The program director, including the executive director acting as program director, does not serve as program director at more than one facility location.

(3) **Social services personnel.** Social services personnel are responsible for admission assessments, placement services, counseling, residents' and his or her families' casework services, service plans, service plan reviews, and discharge plans.

(4) **Child care personnel.** Child care personnel are responsible for meeting residents' needs, taking in account the residents' ages, physical and mental conditions, and other factors affecting the amount of attention indicated.

(5) **Support personnel.** Support personnel are responsible for providing support duties.

(6) **On-call and part-time personnel.** On-call and part-time personnel are responsible for the position duties they are assigned.

(7) **On-site official.** There is an on-site official authorized to apply the reasonable and prudent parent standard.

(8) **Contracted personnel.** When the program contracts for a service and the individual or agency personnel fills a position, per (1) through (7) of this subsection, the requirements for the position(s) are met.

(c) **Volunteers.** When a program uses volunteers, the program maintains current, written volunteer policy. Volunteers:

(1) counted in ratios meet all child care personnel requirements;

(2) do not have unsupervised resident access unless background investigations are completed, per (h)(1)(D) of this Section;

~~(2)~~(3) receive orientation prior to resident contact; and

~~(3)~~(4) work under the executive director's or designated personnel's direct supervision.

(d) **Executive director and program director qualifications.** The executive director, superintendent, or administrator, and program director possess adequate education, professional development, and experience to perform the positions' essential functions.

(1) In a program where the executive director operates primarily as an administrator and employs a program director, an executive director hired after June 15, 1990, has a minimum of a bachelor's degree from an accredited college or university.

(2) Individuals solely responsible for direct program supervision, when filling executive director or program director positions, meet at a minimum, one of the qualifications in (A) through (D) of this paragraph:

(A) a bachelor's degree from an accredited college or university with at least nine-college credit hours in family focus, individual function and interaction, child development, sociology, social work, or a closely related subject, and 36 months children's services experience;

(B) a master's degree in social work, psychology, guidance and counseling, sociology, child development, human relations, behavioral science or other closely related subject from an accredited college or university and 24 months children's services experience;

(C) a doctorate in medicine, social work, psychology, guidance and counseling, sociology, child development, human relations, or closely related subject from an accredited college or university and 12 months children's services experience; or

(D) for programs specializing in substance abuse treatment, certification as a Qualified Substance Abuse Professional (QSAP).

**(e) Child care and supervisory personnel qualifications.** Child care and supervisory personnel possess adequate education, professional development, and experience to perform the position's essential functions.

(1) Child care personnel are at least 21 years of age.

(2) Personnel hired after June 15, 1990, have a high school diploma or equivalent within 12 months of employment.

(3) Personnel hired on or after November 1, 2024, have a high school diploma, General Education Development (GED), or Licensing-approved equivalent.

**(f) Social services personnel qualifications.** Social services personnel or contractors possess adequate education, professional development, and experience to perform the position's essential functions.

(1) Social services supervisory personnel responsible for developing and implementing the social services program, meet at a minimum, one of the qualifications in (A) through (D) of this paragraph, including a bachelor's degree:

(A) in social work from an accredited college or university;

(B) in behavioral science, social science, or other related subject from an accredited college or university and 12 months children's services experience;

(C) with at least nine-college credit hours in family focus, individual function and interactions, child development, sociology, social work, or a closely related subject, and 48 months children's services experience; or

(D) for programs specializing in substance abuse treatment, when social services personnel are supervised by a QSAP.

(2) Social services personnel hired after June 15, 1990, providing only casework services have a bachelor's degree in a related subject from an accredited college or university.

**(g) Employment requirements.** Personnel meet requirements in (1) through (3) of this subsection.

(1) **References.** The program obtains three references for personnel prior to employment.

~~(A) Verified references include the date, interview questions, responses, and interviewer's signature.~~

~~(B) Copies are maintained in the employee's personnel record.~~

(2) **Tuberculin test.** Tuberculosis testing is not required ~~on a routine basis~~ regularly. Programs comply with the Oklahoma State Department of Health recommendation regarding tuberculin skin testing, when there is a local identified tuberculin exposure.

(3) **Performance evaluation.** A written performance evaluation is updated at least annually and maintained in the employee's personnel record.

(h) **Background investigations - general.**

(1) **Required individuals.** Background investigations are required, per the Oklahoma Child Care Facilities Licensing Act, Section 404.1 of Title 10 of the Oklahoma Statutes, unless an exception, per (3) of this subsection applies for:

(A) owners, prior to authorization to operate;

(B) responsible entities, prior to authorization to operate and, when there is a change in a responsible entity;

(C) personnel applicants, prior to hire; however, the program may hire individuals, when:

(i) the program has submitted a criminal history review request to the Office of Background Investigations (OBI) and received a preliminary approval indicating the fingerprint results are received from OBI;

(ii) criminal history review results from the OBI are received by the program. However, until complete results are received, the individual does not have unsupervised access to residents; and

(iii) coming from another licensed program owned by the same business entity. Individuals are not required to repeat the background investigation process, unless required, per (2) of this subsection, with the exception of criminal history restriction waivers, provided there is no break in employment from the business entity; and

(D) individuals with unsupervised resident access, prior to having resident access, unless an exception, per (3) of this subsection applies;

(E) adults living in the facility prior to authorization to operate or moving into the facility of an existing program. This includes residents, who become 18 years of age while living in the facility, unless exempt as a resident receiving services from the program; and

(F) individuals having access to, or review of, fingerprint results, prior to access to or review of results.

(2) **Resubmission of criminal history reviews as of November 2, 2017.** Effective November 2, 2017, programs request a criminal history review process, excluding fingerprinting, for required individuals every five years. However, criminal history reviews requested prior to November 2, 2017, are resubmitted by November 1, 2022.

(3) **Non-required individuals.** Background investigations are not required for:

(A) specialized service professionals who are not program personnel, provided parent releases are obtained, per Oklahoma Administrative Code (OAC) 340:110-3-154(a)(4)(E);

(B) volunteer drivers transporting residents ~~on an irregular basis~~ irregularly and not filling another position, provided parent releases are obtained, per OAC 340:110-3-154(a)(4)(E);

(C) contracted drivers not filling another position or having unsupervised resident access;

(D) contracted non-personnel not having unsupervised resident access, such as when the program contracts for special activities or facility repair;

(E) individuals who are not program personnel and have contact with residents as part of family, community, and social activities, education, or employment, provided administrative and program policies are met including policy regarding trips away from the facility; and

(F) residents who become 18 years of age while living in the facility and continue to receive program services.

(i) **Background investigations - Restricted Registry.** The program conducts an online search of the Restricted Registry, also known as Joshua's List, when required, per (h) of this Section.

(1) **Non-registrants.** Non-registrants are individuals not recorded on the Restricted Registry.

(2) **Registrants.** Registrants are individuals recorded on the Restricted Registry, who are prohibited from licensure, ownership, employment, unsupervised-resident access, facility residence, and prohibited individuals, per (j) of this Section.

(j) **Background investigations - criminal history.** The program and required individuals complete the criminal history review process. The program receives the completed criminal history review results from OBI, when required, per (h) of this Section.

(1) **Criminal history prohibitions.** Individuals with criminal history prohibitions are prohibited, per (k) of this Section. Criminal history prohibitions include:

(A) required registration under the:

- (i) Sex Offenders Registration Act, including state and national repositories; or
- (ii) Mary Rippy Violent Crime Offenders Registration Act; or

(B) pleas of guilty or nolo contendere (no contest), or convictions of felonies involving:

- (i) murder, as defined in Section 1111 of Title 18 of United States Code;
- (ii) child abuse or neglect;
- (iii) crimes against children, including child pornography;
- (iv) spousal abuse;
- (v) crimes involving rape or sexual assault;
- (vi) kidnapping;
- (vii) arson;
- (viii) physical assault or battery; or

(ix) a drug-related offense committed during the preceding five years, unless a criminal history restriction waiver, per (2) of this subsection is granted; or

(C) pleas of guilty or nolo contendere (no contest), or convictions of violent misdemeanors committed as adults against a child involving:

- (i) child abuse or child endangerment; or
- (ii) sexual assault; or

(D) pleas of guilty or nolo contendere (no contest), or convictions of misdemeanors involving child pornography.

(2) **Criminal history restrictions.** Individuals with criminal history restrictions are prohibited, per (k) of this Section, unless a criminal history restriction waiver is granted. Criminal history restrictions include pending charges, pleas of guilty or nolo contendere (no contest), or conviction of criminal activity involving:

- (A) gross irresponsibility or disregard for the safety of others;
- (B) violence against an individual;
- (C) sexual misconduct;
- (D) child abuse or neglect;
- (E) animal cruelty;
- (F) illegal drug possession, sale, or distribution; or
- (G) a pattern of criminal activity.

(3) **Criminal history restriction waivers.** Restriction waivers are described in (A) through (C) of this paragraph.

(A) Restriction waivers may be requested for individuals having criminal history restrictions. The owner, responsible entity, or director completes requests on an ~~Oklahoma Human Services (OKDHS)~~ form.

(B) Restriction waivers are not requested or granted for:

- (i) Restricted Registry registrants;
- (ii) individuals with criminal history prohibitions; or
- (iii) individuals whose sentence has not expired for criminal history restrictions.

(C) Individuals identified in pending or denied restriction waiver requests are prohibited, per (k) of this Section.

(k) **Prohibited individuals.**

(1) **Background investigation of required individuals.** The program does not allow a required individual to be the owner or responsible entity, to be employed, live in the facility, or have:

(A) resident access, such as being present at the facility during the hours of operation or present with the residents in care while off-site, when the individual has:

- (i) criminal history prohibitions;
- (ii) criminal history restrictions, unless a criminal history restriction waiver is granted. Individuals identified in a pending or denied restriction waiver request are prohibited; or
- (iii) a substantiated heinous and shocking abuse finding; or

(B) unsupervised resident access, when the individual is a Restricted Registry registrant.

(2) **Background investigation statements and consents.** Individuals are prohibited to be the owner or responsible entity, to be employed, or to live in the facility, when:

- (A) the individual refuses to consent to background investigations, per (h) of this Section; or
- (B) knowingly makes a materially-false statement in connection with criminal background investigations.

(3) **Alcohol, drugs, and medication.** When residents are in care, no individual employed by the program or providing program services may use or be under the influence of:

(A) alcohol or illegal drugs; or

(B) medication impairing his or her functioning.

(4) **Child endangerment.** An individual whose health or behavior would endanger residents' health, safety, or well-being is prohibited from living in or being on the premises when residents are in care.

(5) **Criminal allegations.** When personnel is alleged to have committed an act, per (j) of this Section, the program's executive director determines and documents when the personnel is removed from resident contact until the allegation is resolved. However, when criminal charges are filed, the accused is removed from resident contact until the charges are resolved.

(6) **Deferred sentences.** Individuals having a deferred sentence for charges in (j)(2) of this Section are removed from resident contact for the deferment duration.

(l) **Orientation.** Personnel receive orientation after employment date and within 30-calendar days of employment.

(1) Personnel receive orientation prior to assignment as the primary personnel responsible for residents.

(2) Orientation includes, at least:

(A) confidentiality;

(B) resident grievance process;

(C) fire and disaster plans;

(D) suicide awareness and protocol;

(E) emergency medical procedures;

(F) organizational structure;

(G) program philosophy;

(H) personnel policy and procedures;

(I) mandatory child abuse reporting; and

(J) administrative policy and procedure regarding behavior management.

(3) OKDHS Publication No. 86-78, Licensing Requirements for Residential Child Care Facilities, is part of the orientation process and available to personnel at all times.

(4) Orientation counts toward total professional development hours for the first 12 months.

(m) **Personnel professional development.** Professional development the program schedules is obtained on or after personnel's employment date. Personnel meet professional development requirements in (1) through (7) of this subsection.

(1) **Professional development for the administrator and program director.** The administrator and program director obtain at least 12-clock hours of professional development annually. Hours are prorated at one hour per month for personnel not employed for a full-calendar year. The content pertains to position roles and responsibilities.

(2) **Professional development for social services personnel.** Social services personnel, including licensed mental health professionals and those providing casework services, obtain at least 12-clock hours professional development annually.



Hours are prorated at one hour per month for personnel not employed for a full-calendar year. The content pertains to the position roles and responsibilities.

(3) **Professional development for child care personnel.** Child care personnel receive professional development.

(A) Full-time child care personnel obtain at least 24-clock hours of professional development courses annually. Hours are prorated at two hours per month for personnel not employed for a full-calendar year.

(B) Part-time child care personnel obtain at least 12-clock hours of professional development courses annually.

(C) On-call or substitute child care personnel obtain at least six-clock hours of professional development courses annually.

(D) The child care personnel professional development is relative to the assigned positions, roles, and responsibilities.

(E) When residents are in care on the facility premises or on a program-sponsored field trip, at least one personnel is present with current age-appropriate first aid and cardio-pulmonary resuscitation (CPR) documentation. All other child care personnel obtain and maintain age-appropriate first aid and CPR within 90-calendar days of employment. CPR and first aid training are conducted by a certified instructor from an OKDHS-approved source.

(F) Child care personnel with a current nursing certification or degree are exempt from the first aid certification requirement.

(4) **Professional development for support personnel.** Support personnel providing occasional instruction or professional development to residents obtain at least six-clock hours of professional development courses annually. The content is relative to the position, role, and responsibility or resident interactions.

(5) **Behavioral intervention techniques.** Within 90-calendar days of employment, and prior to being solely responsible for residents, child care personnel and support personnel providing occasional instruction to residents provide current certification in OKDHS-approved behavioral intervention techniques, to include:

(A) rules and appropriate consequences of various interventions;

(B) techniques for early de-escalation and preventive intervention;

(C) team approaches to behavior management;

(D) verbal crisis intervention; and

(E) safe and appropriate physical restraint, when applicable, per program policy.

(6) **Reasonable and prudent parent standard professional development.** A designated, on-site official authorized to apply the reasonable and prudent parent standard receives professional development on the use of reasonable and prudent parent standards.

(7) **Contracted personnel professional development.** Contracted personnel not providing direct care or counted in the supervision ratio are exempt from meeting the personnel professional development requirements in (m)(1) through (6) of this Section.

(n) **Documentation.** Orientation and professional development hours are documented and available for Licensing review. Documentation includes personnel names attending, course titles and descriptions, dates, hours attended, and trainer or facilitator names.

(o) **Personnel records.** Programs maintain personnel records for each employee.

- (1) The program submits to Licensing at the time of request for license:
  - (A) a current employee list; and
  - (B) an OKDHS-provided personnel information sheet, for each employee.
- (2) The program maintains written personnel information for each employee. The personnel file includes:
  - (A) an OKDHS-provided personnel information sheet, completed for each personnel upon employment and submitted to Licensing within two weeks of his or her employment;
  - (B) an application, resume, or personnel information sheet documenting position specific qualifications;
  - (C) criminal history review requests and results documentation;
  - (D) other applicable criminal history records;
  - (E) three references;
  - (F) annual performance evaluation reports and notes relating to the individual's program employment;
  - (G) the employment date;
  - (H) the date and reason for leaving employment; and
  - (I) program required health records.
- (3) Personnel records are maintained for at least 12 months following the last employment date, unless the requirements specifically state otherwise.
- (4) Licensing has access to personnel records and other confidential documents relevant to personnel.

**340:110-3-153.2. ~~Supervision of residents~~ Ratios and resident supervision**

Revised 7-1-099-14-24

(a) The facility program employs an adequate number of ~~staff as child care workers~~ personnel to meet the needs of residents, taking into account the meeting resident's needs, considering residents' ages, physical and mental condition, and other factors ~~that affect~~ affecting the amount of attention and supervision required. Supervision is the function of overseeing and guiding residents, including awareness of, and responsibility for, each resident's ongoing activities.

(b) Programs meet minimum ratios in (1) through (4) of this subsection. Based on individual program or resident needs, per (a) of this Section, additional program personnel may be required.

(1) The facility program maintains a ratio of one ~~staff person~~ personnel for 10 residents (1:10) during awake hours.

(2) The facility program maintains a ratio of one ~~staff person~~ personnel for 12 residents (1:12) during sleeping hours.

(3) ~~In a maternity facility where each mother is responsible for the care of her own child, the facility~~ A maternity program maintains a ratio of one ~~staff person~~ personnel for 12 mothers ~~and their children~~ (1:12). Each mother is responsible for the care of her own child.

(4) In a program accepting mothers and their children, each mother is responsible for the care of her own child. Mothers' own children do not count in the program's ratio.

~~(b)(c)~~ A child care staff member's Personnel's own children living in the residential facility are included when determining staff personnel to child resident ratios.

### **340:110-3-154. Social services**

Revised ~~6-4-229-14-24~~

- (a) **Admission.** The program involves the resident and parents in the admission process.
- (1) On admission, a resident assessment is completed indicating the placement is appropriate. The admission assessment is documented and available for Licensing review. An assessment includes the resident's:
    - (A) name, address, phone number, Social Security number, sex, race, religion, and birth date and place;
    - (B) circumstances leading to the referral;
    - (C) family member description and relationships including other significant adults and children;
    - (D) current and past behavior description, including both appropriate and maladaptive behavior;
    - (E) immunization record, medical and dental histories, including current medical problems;
    - (F) school history, including the current educational level, special achievements, and school problems;
    - (G) placement history outside of the home, including placement reasons;
    - (H) mental health history; and
    - (I) record documentation indicating efforts obtaining identifying information in (A) through (H) of this paragraph, when not obtainable.
  - (2) ~~Resident admission for those 4 years of age and younger.~~
    - ~~(A)~~ A program only accepts residents 4 years of age and younger when maintaining a sibling group, maintaining a child with a parent, or requiring special services, such as:
      - ~~(i)~~(A) medical care or monitoring;
      - ~~(ii)~~(B) awake supervision; or
      - ~~(iii)~~(C) crisis intervention, assessment, or treatment.
    - ~~(B)~~(3) When a resident 4 years of age and younger is in the program's care, the admission assessment and service plan document why this placement is in his or her best interest.
  - ~~(3)~~(4) Individuals 19 years of age and older are not admitted to the program. A program may continue serving a resident placed prior to his or her 19th birthday through the service plan completion.
  - ~~(4)~~(5) On admission, the program obtains the parents' signature, for:
    - (A) authority to provide care;
    - (B) authority to provide medical care;
    - (C) financial agreement, when a fee is required for the resident's care;
    - (D) authority to use the resident or the resident's picture in publicity, when applicable; and
    - (E) a release indicating understanding that volunteer drivers or specialized service professionals are not required to complete the criminal history review, per Oklahoma Administrative Code (OAC) 340:110-3-153.1. Specific activities or events are identified in the release.

~~(5)~~(6) Residents receive a medical examination by a licensed health care professional within 60-calendar days prior to admission or within 30-calendar days following admission. However, a documented medical exam performed within the 12 months prior to admission is acceptable when a resident is transferred from another licensed program.

~~(6)~~(7) On admission, the program advises the resident of program rules and regulations.

~~(7)~~(8) Program policies provided to residents and parents include:

- (A) resident's rights;
- (B) grievance procedures;
- (C) behavior management policies;
- (D) trips away from the program;
- (E) use of volunteers; and
- (F) frequency of parent reports.

~~(8)~~(9) Acceptance of out-of-state residents is made, per the Interstate Compact on the Placement of Children.

(b) **Service planning.** The service plan is available for Licensing review.

(1) **Comprehensive service plan.** A written service plan is developed and documented for residents within 30-calendar days of admission.

(A) The program involves the resident and parents in service plan development. Reasons for parental non-participation are documented.

(B) The service plan identifies and includes, the:

- (i) resident's needs, such as counseling, education, physical health needs, medical care, or recreation, in addition to basic needs for food, shelter, clothing, routine care, and supervision;
- (ii) strategies for meeting the resident's needs, including instructions to personnel. Individual health needs are addressed in the program's medical plan, per OAC 340:110-3-154.3;
- (iii) estimated length of stay;
- (iv) goals and anticipated plans for discharge;
- (v) program's parent involvement plan, including visitation guidelines; and
- (vi) names and dated signatures of those participating in service plan development.

(2) **Service plan review.** Service plan reviews are available for Licensing review.

(A) The service plan is reviewed within 90-calendar days after development and at least every six months thereafter.

(B) The program involves the resident and parents in the service plan review.

Reasons for parental non-participation are documented.

(C) The service plan review includes:

- (i) an evaluation of progress toward meeting identified needs;
- (ii) new needs, identified since the plan development or last review, along with strategies of meeting needs, including instructions to personnel;
- (iii) an estimated length-of-stay update and discharge plans;
- (iv) a placement assessment evaluation determining when the resident may:
  - (I) return home;
  - (II) be placed in foster care;

- (III) transfer to care better suited for his or her development; or
  - (IV) remain in the residential program; and
  - (v) names and dated signatures of review participants.
- (c) **Services.** The program provides or facilitates services meeting service plan goals.
- (d) **Discharge procedures.** ~~The program involves the resident, parents or legal custodian, and personnel in discharge planning.~~
- ~~(1) Except in an emergency, a resident is not discharged to an individual other than the resident's parents or legal custodian without written authorization.~~
  - ~~(2) An emergency discharge occurs when a resident presents a danger to self or others. On emergency discharge, the program informs the parents or legal custodian, immediately.~~
  - ~~(3) The individual to whom the resident is discharged produces photographic identification and signs the discharge form before leaving with the resident.~~
  - ~~(4) The resident's discharge date, time, destination, and circumstances are documented in the resident's record. The documentation also includes the individual's name, address, and relationship to whom the resident is discharged.~~
- (e) **Resident's records.** A written resident discharge record is retained for three years following the resident's discharge maintained and available for Licensing review.
- (1) The record includes:
    - (A) admission assessment;
    - (B) required authorizations, per (a)(4) of this Section;
    - (C) medical records;
    - (D) comprehensive service plan and reviews;
    - (E) educational information;
    - (F) serious incident reports documenting incident nature, date and time, individuals involved, and surrounding circumstances. Serious incidents include but are not limited to:
      - (i) suicide attempts;
      - (ii) injuries requiring medical treatment, runaway attempts;
      - (iii) resident absent without permission;
      - (iv) crimes committed and abuse allegations, neglect; or
      - (v) allegations of behavior management violations, per OAC 340:110-3-154.2.~~The report includes incident nature, date and time, individuals involved, and surrounding circumstances; and~~
    - (G) reports of separation, physical restraint use, and other restrictions; and
    - (H) ~~discharge summary;~~ and
    - ~~(I) signed documentation the resident and parents were provided program policies.~~
  - (2) Resident's records are confidential as defined by federal and state laws.
- (e) **Discharge procedures and records.** The program involves the resident, parents or legal custodian, and personnel in discharge planning.
- (1) Except in an emergency, a resident is not discharged to an individual other than the resident's parents or legal custodian without written authorization.
  - (2) An emergency discharge occurs when a resident presents a danger to self or others. On emergency discharge, the program informs the parents or legal custodian immediately.

- (3) The individual to whom the resident is discharged provides photographic identification and signs the discharge form before leaving with the resident.
- (4) In addition to items in (d) of this subsection, the resident record includes:
- (A) discharge summary;
  - (B) discharge date, time, destination, and circumstances; and
  - (C) the individual's name, address, and relationship to whom the resident is discharged.
- (5) The resident's record is retained for three years following the resident's discharge and available for Licensing review.

### **340:110-3-154.1. Program**

Revised ~~11-2-159-14-24~~

(a) ~~**Rights of residents**~~ **Resident's rights.** The facility has ~~program maintains~~ current, written clients' rights policy ~~that supports and protects all residents, which supporting and protecting residents.~~ Policy is available for residents, parents or custodians, ~~staff personnel,~~ and licensing staff to review.

(1) ~~Each resident and family is informed, in a language they commonly use, of the facility's~~ The program provides policies and procedures regarding his or her residents' rights to residents and families in the family's commonly used language.

(2) ~~Each resident has~~ Residents have a right to an individualized plan ~~of care or treatment that focuses the services of the facility toward~~ care or treatment plan focusing on the program's services meeting the resident's needs. ~~Each resident has~~ Residents have the right to participate in the development of the plan development.

(3) The ~~facility~~ program ensures resident's rights and responsibilities are protected regarding items listed in (A) ~~-(P)~~ through (Q) of this paragraph.

(A) **Personal finances.** ~~Each resident is~~ Residents are given the opportunity to have and handle money for personal use, per the resident's service plan.

(B) **Personal possessions.** ~~Each resident is~~ Residents are allowed to bring personal possessions to the facility and acquire personal belongings as permitted ~~by facility,~~ per program policy and procedure.

(C) **Personal care and hygiene.** ~~Each resident is supplied with~~ Residents are provided facilities and ~~supplies for~~ personal care, hygiene, and grooming supplies.

(D) **Clothing.** ~~Each resident possesses~~ Residents are provided adequate, clean, well-fitting, and seasonable clothing, ~~and has a safe place to keep it~~ safe clothing storage is available.

(E) **Community activities.** ~~Each resident has~~ Residents have the right to community contacts and ~~opportunities for participation in the local~~ community participation opportunities, per the resident's service plan.

(F) **Telephone** Phone **contacts.** ~~Each resident has access to a telephone~~ Residents have phone access to initiate and receive uncensored personal calls, per ~~facility~~ program policy and procedure. ~~The residents~~ Residents have access to an attorney and ~~authorized representative of the referring agency~~ authorized representative.

(G) **Mail.** Resident's letters, both incoming and outgoing, are not opened unless there is suspicion of contraband. When correspondence is opened, the resident is

informed in advance, and is present when the letter is opened. This action is documented.

(H) **Restrictions.** ~~Any restrictions~~ Restrictions placed on communications are explained to the resident and clearly documented.

(I) **Publicity.** ~~Consent is obtained by the facility from the resident and the resident's parents~~ Resident and parent or custodian consent is obtained prior to ~~the use of any publicity about or related to the resident~~ resident-related program publicity.

(i) Residents are not caused embarrassment by ~~any~~ publicity or promotional materials.

(ii) Residents are not forced to acknowledge ~~their~~ dependency on ~~the facility or their gratitude to it~~ or gratitude toward the program.

(J) **Grievance.** Residents and parents or custodians have the right to file a grievance.

(K) **Religious training.** ~~Each resident is~~ Residents are provided an opportunity to participate in religious services opportunities for religious service participation.

(L) **Work.** ~~Each resident is~~ Residents are taught good work habits and is provided with a variety of tasks. Whenever possible, residents earn money through ~~work employment~~. Residents are ~~never~~ not substituted for ~~employed staff~~ program personnel.

(M) **Safety.** Adequate measures are taken ~~to prevent~~ preventing accidents and to ~~avoid~~ avoiding health and safety hazards.

(N) **Activities.** The program provides each resident regular opportunities to engage in age appropriate or developmentally appropriate activities.

(O) **Recreation.** ~~Each resident is~~ Residents are given time to pursue talents, hobbies, and chosen interests, per the resident's service plan.

(i) The ~~facility~~ program provides a balanced on- or off-grounds recreational program.

(ii) A written schedule of planned recreational, leisure, or physical exercise activities is developed with input from ~~staff members~~ personnel and residents ~~and is kept on~~. Schedules are maintained in the case file and available for licensing staff to review.

(P) **Sleep.** The ~~facility~~ program provides adequate time and facilities for proper rest and sleep ~~commensurate with~~ appropriate for each resident's age, health needs, safety, and activities.

(Q) **Sexual behavior.** Residents are protected from personnel behavior of a sexual nature. Personnel address resident inappropriate sexual behavior.

(b) **Visitation.** The ~~facility~~ program provides the residents and parents or custodian the opportunity for on- or off-campus visits, per each resident's service plan.

(1) ~~A record is kept of all visits~~ visit record is maintained.

(2) Reasons for visitation restrictions are explained to the resident and parents or custodian, documented in the resident's record, and reviewed every six months.

(3) Residents have access to ~~their~~ his or her attorney and the referring agency authorized representative.

(c) **Education.** The facility program has a clearly written policy ~~that describes the describing plans for meeting educational needs of residents~~ residents' educational needs.

(1) Training and education ~~are available to~~ meet each resident's abilities.

(2) The facility program ensures school-age residents receive the educational instruction they are entitled under provisions of federal and state education laws and regulations.

(3) Education is provided in or by a public school or a private school.

(4) ~~The facility ensures any resident who is~~ Residents legally not attending school is ~~either~~ are:

(A) gainfully employed ~~or;~~

(B) enrolled in a high school equivalent General Education Development (GED) program; ~~or~~

(C) ~~in a training program that teaches necessary attending a life skills or methods of job acquisition~~ training program.

(5) Tutoring is provided or arranged by the facility program for residents, as needed.

(d) **Care of children ~~birth to~~ younger than 5 years of age.** Programs caring for children ~~birth to~~ younger than 5 years of age provide age or developmentally appropriate activities and equipment. Staff Personnel responsible for ~~the care of these children~~ are trained in child care receive age or developmentally appropriate practice professional development.

### **340:110-3-154.2. Behavior management**

Revised 11-1-209-14-24

(a) **Behavior management policy.** Behavior management policy includes:

(1) the program's behavior management goals and purposes;

(2) behavior management methods;

(3) personnel authorized to administer the behavior management policy; and

(4) behavior management monitoring and documentation methods ~~policy.~~

(b) **Prohibitions.** Except as otherwise authorized ~~in,~~ per Oklahoma Administrative Code (OAC) 340:110-3-168 and 340:110-3-169, program policy prohibits:

(1) behaviors that could cause physical pain, such as shaking, striking, spanking, grabbing, yanking, pulling, pushing, choking, threatening, or other cruel treatment;

(2) threatening, harsh, humiliating, cruel, abusive, or degrading language;

(3) making or allowing derogatory or sarcastic remarks regarding a resident or his or her family, race, gender, religion, or cultural background;

~~(3)~~(4) food, water, or sleep denial;

~~(4)~~(5) degrading or unnecessary work tasks and degrading, unnecessary, or inappropriate to the resident's resident's age and ability;

~~(5)~~(6) denial of private familial and significant other contact, including visits, phone calls, and mail, as ~~a means of~~ punishment;

~~(6)~~(7) chemical agent use, including tear gas, mace, or similar agents;

~~(7)~~(8) seclusion;

~~(8)~~(9) extreme physical or excessive exercise or forced physical punishment;

~~(9)~~(10) residents disciplining other residents;

~~(10)~~(11) chemical restraint;

~~(11)~~(12) mechanical restraint;



~~(12)~~(13) ~~group punishment~~ punishing an entire resident group due to the actions of one or a few residents;

~~(13)~~(14) ~~violating a resident's~~ resident's rights, per OAC 340:110-3-154.1; and

~~(14)~~(15) ~~enticing or allowing~~ residents to engage in verbal or physical altercation.

(c) **Separation.** A resident ~~can~~ may be removed from the group or group activity as behavior management. The resident remains alone, but within adult hearing, in an unlocked, safe, clean, well-lighted, and well-ventilated area. The separation does not exceed one hour.

(d) **Physical restraint.** Restraint is used only when less restrictive interventions, per program policy, were attempted or when an immediate intervention is required to protect the resident, a personnel member, or others. The restraint technique used must be the least restrictive intervention that is effective to protect the resident or others from harm. Restraint is discontinued at the earliest possible time. A written incident report is completed within 24-hours following each physical restraint use.

### **340:110-3-154.3. Health and medical services**

Revised ~~7-1-099~~-14-24

(a) **Medical plan.** ~~The facility has~~ program maintains an operational plan ~~to meet the meeting~~ individual resident's medical needs ~~of each resident~~ based on:

~~(1)~~ information obtained from the admission assessment information;

~~(2)~~ physical examination by a health care professional; and

~~(3)~~ observation during placement.

(b) **Physical examination.** ~~Each resident receives~~ Residents receive a physical examination annually, or at ~~at more frequent intervals~~ frequently as recommended by a health care professional.

(c) **Medical care.** ~~Each resident receives~~ Residents receive proper medical and dental care. When a serious ~~accident~~ injury or illness occurs ~~to a resident~~, the ~~facility~~ program takes the necessary emergency action and notifies the parents or legal custodian immediately.

(d) **Immunizations.** ~~Each resident is~~ Residents are immunized against communicable diseases ~~in accordance with the rules and regulations of the,~~ per Oklahoma State Department of Health guidelines.

(e) **Medication.** ~~The facility has~~ program maintains current, written medication policy.

(1) On each shift, a ~~staff member~~ personnel is designated ~~to ensure~~ ensuring compliance with the ~~facility's~~ program's medication policy.

(2) ~~When any medication is administered to a resident, a precise record is kept that includes~~ Medications are:

(A) authorized by parents, legal custodian, licensed physician, or, when applicable, resident's agency representative;

(B) only administered by the designated personnel; and

(C) documented when administered, including:

(A)(i) the resident's resident's full name;

(B)(ii) the name of the medication;

(C)(iii) the dosage, date and time given administered, and signature of the person who administered it individual administering the medication;

(D)(iv) reason the medication is given was administered; and

~~(E)~~(v) any unusual reaction. The resident, ~~the~~ parents or legal custodian, and all ~~staff members~~ personnel responsible for the resident are informed of the ~~side effects of the medication prescribed for the resident~~ side effects.

(3) Prescription medications are administered ~~by the designated staff member only as, per container instructions, including only administering when the medication is part of a prescribed therapeutic treatment and only to the resident whose full name is on the container label.~~

(4) Over-the-counter medications are administered, per:

(A) container instructions; or

(B) licensed physician instructions.

~~(4)~~(5) ~~All medications~~ Medications are kept stored in a locked container and under the supervision of the designated ~~staff member~~ personnel.

~~(5)~~(6) ~~All unused~~ Unused or ~~outdated~~ expired medication is disposed of, per facility program policy.

(f) **First aid supplies.** The facility program maintains first aid supplies.

### **340:110-3-154.4. Food and nutrition**

Revised ~~11-1-209~~-14-24

(a) **Menu planning.** Menus are planned at least one week in advance. Menus are dated, posted, and ~~kept on file for one year~~ maintained for 12 months. Substitutions are ~~noted~~ documented on the menu.

(b) ~~**Frequency and quality of meals**~~ **Meal frequency and quality.** Meals meet the residents' nutritional needs.

(1) The program provides or arranges for breakfast, lunch, and dinner, and one or more snacks from food ~~that is~~ selected, stored, prepared, and served in a sanitary ~~and palatable~~ manner. ~~Brunch and dinner may only be provided on~~ On weekends and holidays, ~~programs may make mealtime exceptions provided all residents' nutritional needs are met.~~

(2) Each meal contains a sufficient amount ~~of food~~ for every resident and additional servings are available ~~and permitted~~.

(3) Cool, ~~potable,~~ safe drinking water is available at all times.

(c) **Special diets.** ~~Facilities~~ Programs recognize residents' religious, cultural, and health needs when planning, preparing, and serving food.

(1) The program ~~makes available~~ provides, as necessary, ~~an alternate food choice for each meal served for residents on special diets or~~ choices due to special diets or religious beliefs, ~~cannot eat particular foods.~~

(2) The program follows individualized diets and feeding schedules prescribed by the resident's licensed physician.

(d) **Meals.** ~~Facilities~~ Programs recognize residents' social and emotional needs during mealtime.

(1) Residents and ~~the~~ personnel eating ~~with them~~ together are served the same food, with the exception of tea and coffee, unless differences exist in age or special dietary needs ~~are factors~~.

(2) Personnel only eat in front of residents during meal or snack times.

(3) Residents ~~who have not had opportunities to learn how to handle food and utensils~~ are not embarrassed or ~~subject to ridicule~~ ridiculed for food or utensil etiquette.

### **340:110-3-157. Physical facility and equipment**

Revised ~~6-4-229-14-24~~

(a) **New construction.** Special consideration is given for new construction site location for firefighting water availability and building area rescue access.

(b) **Square footage.** Living areas meet (1) through (4) of this subsection, not including offices, bathrooms, kitchens, laundries, hallways, furnaces, or utility areas.

(1) There is a total of 150 square feet of living area, including sleeping area, for the first resident and 100 square feet for each additional resident.

(2) Each sleeping area for more than one resident has 70 square feet for the first resident and 50 square feet for each additional resident.

(3) Each sleeping area intended for one resident contains ~~440~~ 90 square feet.

(4) Habitable areas have a seven feet, six inch minimum ceiling height.

(c) **Basements.** Basements cannot be used for sleeping areas.

(d) **Mobile homes.** Facilities cannot be located in mobile homes.

(e) **Personal belongings storage.** Adequate storage space for each residents' personal belongings is provided.

(f) **Personnel sleeping areas.** Personnel sleeping areas are separated from resident sleeping areas, but near enough to ensure supervision.

(g) **Personnel space.** Facilities provide sufficient space separate from program space and treatment activities for administrative activities, individual counseling sessions, and other personnel program functions.

(h) **Bathrooms.** Bathrooms are maintained in a clean and sanitary condition with adequate ventilation.

(1) At least one flush toilet, hand sink, and bathtub or shower in good working condition is available for every six residents. Bathrooms are convenient to sleeping areas, living, and recreation areas.

(2) Flush urinals may be substituted for not more than one-half the required toilet number when serving males only.

(3) Hand sinks, bathtubs, and showers have cold and hot water with temperatures between 100 and 120 degrees Fahrenheit.

(4) Toilet paper, soap, and individual sanitary towels are within easy resident access.

(i) **Diaper changing.** A non-porous changing pad in good repair is used when changing diapers. The diaper-changing surface is used only for diaper changing and sanitized after each diaper change. Personnel wash hands with dispensable soap and warm running water after each diaper change.

(j) **Sanitation and safety.** All areas are clean, sanitary, and hazard-free.

(1) Harmful substances and objects not essential to facility operation are prohibited on the premises. Other poisonous, flammable, or harmful materials are locked when not under adult supervision.

(2) Weapon definition and storage meet (A) and (B) of this paragraph.

(A) A weapon includes, but is not limited to, a:

(i) firearm, such as a pistol, revolver, shotgun, or rifle from which a projectile is fired by gunpowder, gas, or other means of rocket propulsion;

(ii) cap pistol, air-powered BB or pellet gun;

(iii) bow and arrow; or

- (iv) knife, including any dagger or blade automatically released from the handle by pressure applied to a button, latch, or other mechanism, excluding kitchen knives.
- (B) Any weapons and ammunition are inaccessible. In addition:
  - (i) weapons are kept unloaded in locked containers, cabinets, or closets;
  - (ii) ammunition is kept in locked containers, cabinets, or closets, separate from weapons; and
  - (iii) keys, combinations, and codes used for locked storage are inaccessible.
- (C) Program personnel are responsible for ensuring resident safety when participating in high risk activities, per Oklahoma Administrative Code (OAC) 340:110-3-165.1.
- (3) Closet doors can be opened from the inside.
- (4) Bathroom door locks can be unlocked from the outside in an emergency. The opening device is readily accessible to personnel.
- (5) Indoor resident areas are maintained between 65 and 85 degrees Fahrenheit.
- (6) Indoor and outdoor recreational equipment and supplies are in good condition, and play areas are hazard-free.
- (7) Floors, walls, ceilings, doors, and windows are in good condition.
- (8) The exterior foundation, roof, and walls are weather-proofed and in good condition.
- (9) Resident areas are well-lighted.
- (10) The program is responsible for the safety and sanitary conditions of house parent quarters.
- (k) **Furnishings and decor.** The program supplies comfortable furniture, as appropriate, for all living areas. Resident furniture is sufficient in quantity and developmentally-appropriate.
  - (1) Residents have individual and appropriately-sized beds with mattresses and bedding.
  - (2) Cribs, including portable cribs that can be folded or collapsed without being disassembled, meet the current Consumer Product Safety Commission (CPSC) full-size and non-full size crib standards, per Sections 1219 and 1220 of Title 16 of the Code of Federal Regulations.
    - (A) CPSC compliance verification is maintained for duration of crib use.
    - (B) Crib or port-a-crib mattresses fit snugly with no more than one inch between the mattress and crib.
  - (3) Bedroom and bathroom windows have window treatments for privacy.
  - (4) Broken, defective, or recalled furnishings and equipment are repaired or replaced.
  - (5) During mealtimes, each resident is provided table space with a chair or a rotation schedule is followed.
- (l) **Phones.** Each living unit has a readily-accessible, operable phone for emergency use.
- (m) **Health regulations.** The program complies with buildings, utilities, grounds, and food service sanitation requirements, per OAC 340:110-3-163 and 340:110-3-164, and is inspected annually by the appropriate state agency.
- (n) **Fire safety.** The program complies with the state fire marshal's office regulations for construction and fire safety and is inspected annually by the state fire marshal's office or its designee.

(o) **Environmental quality.** A facility having non-public water and sewage supply systems is inspected annually by the Oklahoma Department of Environmental Quality.

### **340:110-3-168. Requirements for residential treatment facilities**

Revised 11-1-209-14-24

(a) **Residential treatment facilities.** A residential treatment program cares for children under 24-hour medical care with emotional, psychological, or mental disorders.

(b) **Requirements.** The program complies with ~~the rules in~~ Oklahoma Administrative Code (OAC) 340:110-3-145 through 340:110-3-165.1, except as otherwise provided in this Section.

(c) **Personnel.** The program:

(1) complies with the rules regarding personnel, per OAC 340:110-3-153.1; and

(2) employs a psychiatrist and adequate medical personnel ~~to meet the~~ meeting residents' medical needs.

(d) ~~Supervision of residents~~ **Ratios and resident supervision.** The program is exempt from the rules, per OAC 340:110-3-153.2, regarding residents' supervision.

(1) The program employs a sufficient number of ~~personnel as child care workers~~ personnel to adequately supervise and meet residents' needs. Supervision is the function of overseeing and guiding residents, including awareness of, and responsibility for, each resident's ongoing activities. ~~Staff members~~ Personnel are awake and accessible at all times.

(2) The program maintains a ratio of one personnel for:

(A) six residents (1:6) during awake hours; and

(B) eight residents (1:8) during sleeping hours.

(3) Personnel may only count in ratio while directly caring for residents. Personnel performing other duties may not count in ratio.

~~(3)(4) When psychiatric residential treatment admission is ordered by a medical doctor, the~~ The doors may be locked when psychiatric residential treatment admission is ordered by a licensed psychiatrist or physician.

(e) **Admission.** Within 24-hours of admission, a health care professional reviews and approves the admission assessment.

(f) **Service planning.** The program is exempt from the rules, per OAC 340:110-3-154(b)(1) and (2), regarding service plans.

(1) The program meets the requirements in:

(A) (1) and (2) of this subsection; and

(B) OAC 340:110-3-154(b)(1)(A) and (B) and (b)(2)(B) and (C).

(2) A written service plan for each resident is:

(A) developed and documented within seven-program business days after admission; and

(B) reviewed at least every 30-calendar days thereafter unless required by other licensing or contracted entities.

(g) **Portable pools.** The program is exempt from the rules, per OAC 340:110-3-163(14)(B). Therapeutic water activities are permitted when prescribed by an attending licensed physician, included in a treatment plan, and provisions are made to ensure hygienic practices. When portable pools are used as a therapeutic activity ~~children,~~ residents, are directly supervised at all times. Portable pools are:

- (1) no larger than six feet in diameter; and
  - (2) contain no more than six inches water depth.
- (h) **Discharge procedures.** The program meets the rules, per OAC 340:110-3-154(d), regarding discharge procedures. The program:
- (1) supplies the resident with two weeks' worth of prescribed medication, when appropriate, ~~on discharge~~; and
  - (2) documents in the resident's file at least one scheduled outpatient follow-up contact within two weeks of discharge.
- (i) **Visitation.** The program is exempt from the rules, per OAC 340:110-3-154.1(b)(2), regarding visitation restriction reviews. Visitation restrictions are:
- (1) explained to the resident and parents or legal guardian;
  - (2) documented in the resident's records; and
  - (3) reviewed every seven-calendar days.
- (j) **Behavior management.** The program is exempt from the rules, per OAC 340:110-3-154.2(b)(7) and (10), regarding seclusion and restraint. If the program uses seclusion and chemical restraint, ~~it meets the requirements in (1) through (5) of this subsection~~ are met.
- (1) **Seclusion.** Seclusion is only used when less-restrictive interventions, per program policy, were attempted or when an immediate intervention is required to protect the resident, ~~staff member~~ personnel, or others. The resident is released from seclusion when ~~he or she is~~ no longer deemed a risk to self or others. A written incident report is completed within 24-hours following each use of seclusion.
- (A) Seclusion is ~~used only~~ used with ~~specific verbal authorization of a health care professional~~ professional's specific verbal authorization. ~~The authorization is written and signed by a health care professional within~~ Within 24-hours, the authorization is written and signed by the health care professional and maintained with the seclusion log.
  - (B) ~~While in seclusion, a staff member~~ Personnel continuously ~~monitors the resident~~ monitor residents in seclusion, either by direct contact or with audiovisual equipment, and directly ~~checks the resident's~~ verify residents' well-being at least every 15 minutes. ~~The resident receives~~ Residents receive appropriate medical and psychological services.
  - (C) ~~The resident has reasonable~~ Residents in seclusion have bathroom access to ~~toilet facilities,~~ and all scheduled meals ~~while in seclusion~~ are provided.
  - (D) ~~As soon as the resident~~ Residents are released from seclusion when sufficiently gains in control and is no longer a serious and immediate danger, ~~the resident is released from seclusion.~~
- (i) Residents 10 years of age and older do not remain in seclusion longer than two hours or a total of six non-consecutive hours within a 24-hour period.
  - (ii) Residents 9 years of age and younger do not remain in seclusion longer than one hour within a 24-hour period.
- (2) **Seclusion room.** A room used for seclusion includes:
- (A) at least 60 square feet and a seven foot, six inch ceiling height;
  - (B) a safety glass window, mirror, or camera allowing for seclusion room full-observation;
  - (C) no hardware or furnishings obstructing ~~child~~ resident observation at all times;

- (D) no hardware, equipment, or furnishings presenting a physical hazard or suicide risk;
- (E) natural or mechanical ventilation;
- (F) a temperature between 65 and 85 degrees Fahrenheit;
- (G) lighting ~~for all room areas~~; and
- (H) an automatic fire suppression system.

(3) **Mechanical restraint.** Mechanical restraint is not used on ~~children~~ residents 18 years of age and younger, per OAC 317:30-5-95.39.

(4) **Chemical restraint.** Chemical restraint is only used when less restrictive interventions, per program policy, were attempted or when an immediate intervention is required to protect the resident, personnel, or others. A written incident report is completed within 24-hours following each chemical restraint use.

(A) Chemical restraint is ~~used~~ used with a health care professional's verbal authorization prior to administration. ~~The verbal authorization must be written and signed by the health care professional within~~ Within 24-hours, the authorization is written and signed by the health care professional and maintained with the restraint log.

(B) Chemical restraint is administered in a humane manner.

(C) ~~A staff member~~ Personnel continuously ~~monitors the resident~~ monitor residents, either by direct contact or with audiovisual equipment, and ~~personally checks the resident's~~ directly verify residents' well-being at least every 15 minutes.

(D) The resident receives appropriate medical and psychological services.

(5) **Seclusion and restraint log.** A seclusion and restraint log is maintained, and a ~~report containing all log information is part of the resident's record.~~ The log includes the seclusion or restraint:

(A) ~~date and time of placement in seclusion or in restraint;~~

(B) ~~health care professional's name, who is authorizing the restraint or seclusion~~ health care professional's name;

(C) ~~reason for restraint or seclusion~~ and other behavior management techniques attempted;

(D) observation times, including ~~a description of the resident's activity~~ description at each observation, and the signature of the ~~person~~ personnel observing the resident;

(E) ~~time the resident is released from seclusion or restraint~~ release time.

## SUBCHAPTER 5. REQUIREMENTS FOR CHILD-PLACING AGENCIES

### PART 1. REQUIREMENTS FOR CHILD-PLACING AGENCIES

#### 340:110-5-3. Definitions

Revised ~~11-2-15~~ 11-14-24

The following words and terms, when used in this ~~Subchapter~~ Part, have the following meaning unless the context clearly states otherwise:

**"Adoption agency"** means an agency licensed as a child-placing agency for the purpose of placing children ~~into~~ in adoptive families.

**"Advisory board"** means the entity ~~that offers~~ offering advice and counsel on the ~~operation of a child-placing agency~~ operation.

**"Age or developmentally appropriate"** means, per Section 1-1-105 of Title 10A of the Oklahoma Statutes (10A O.S. § 1-1-105), suitable, developmentally appropriate activities for children of a certain age or maturity level based on the capacities typical for the age group and the individual child.

**"Agency"** means child-placing agency.

**"Auxiliary personnel"** means cooks, building custodians, or other personnel who provide ~~support services to the agency~~ support services.

**"Basement"** means ~~an area of a building or structure~~ area having one-half or more of its clear height below grade level.

**"Behavior management"** means child guidance that provides a learning experience for the child that contributes to developing the capacity for providing learning experiences for development of self-control, self-direction, and an understanding of behavioral consequences.

**"Child"** means an individual younger than 18 years of age.

~~**"Child Care Restricted Registry," or "Restricted Registry,"** also named "Joshua's List" means a registry for registrants who are prohibited from licensure, ownership, employment, having unsupervised access to children, and/or residence in child care facilities per 10 O.S. § 405.3.~~

**"Child care personnel"** means personnel providing children's direct care and supervision.

**"Child-placing agency"** means an agency ~~that arranges~~ arranging for or ~~places a child~~ placing children in a foster family home, adoptive home, or independent living program.

**"Child with special needs"** means a child ~~who~~, because of age, ethnic origin, physical, mental, or behavioral problems, or sibling group, for whom placement for adoption is may be difficult.

**"Children's services"** means an educational program, child welfare agency, child-serving institution, child-placing agency, foster family home, hospital, or mental health treatment program serving children.

**"Custodian"** means the adult or agency legally responsible for the child.

**"Department"** means the Oklahoma Department of Human Services (DHS) (OKDHS).

**"Emergency foster care"** means providing foster home care ~~provided to a child~~ when an emergency exists or initial placement does not exceed 30-calendar days.

**"Foster home"** means a home ~~that provides~~ providing full-time substitute family care for a child for a planned period when the child's family cannot provide care.

**"Foster home agency"** means ~~an agency licensed as a child-placing agency for the purpose of certifying foster homes.~~

**"Foster parent(s)"** means the individual(s) providing foster home care for a child placed by the child-placing agency.

**"Governing board"** means the entity with ultimate responsibility and authority for the ~~overall operation of a private agency~~ operation.



**"Health professional" or "health care professional"** means a licensed physician, nurse practitioner, or physician's assistant, as defined by the appropriate state licensing board.

**"Independent living (IL) program"** means a residential program ~~that places~~ placing youth, at least 16 years of age, in a living situation supervised by a licensed child-placing agency with the goal of preparing the youth for living independently without supervision.

**"Indian child"** means an unmarried or unemancipated individual younger than 18 years of age ~~who~~ and is a member of an Indian tribe or eligible for membership and is the biological child of a member of an Indian tribe, per 10 O.S. § 40.2.

**"Infant foster care"** means a ~~category of foster care when the foster home provides care for infants~~ providing infant care only.

**"Interstate Compact on the Placement of Children (ICPC)"** means the process of ensuring protection and services to children ~~who are~~ placed across state lines.

**"Legal risk placement"** means ~~placement of a child~~ placement when consent to adoption or permanent relinquishment of parental rights for adoption has not been obtained from both birth parents and parental rights have not been previously terminated.

**"Long-term foster care"** means foster home care when the initial placement plan exceeds 30-calendar days.

**"On-call" or "Substitute staff personnel"** means staff personnel available to work during the absence of regular part-time or full-time staff personnel.

**"Openness in adoption"** means the pre- or post-placement exchange of information, communication, or contact between birth and adoptive families.

**"Parent"** means an individual ~~who is~~ legally responsible for the child, such as a mother, father, legal custodian, or legal guardian.

**"Placement plan"** means a ~~component of the service plan or agreement that contains~~ component containing plans for placement of a child that ~~best meet~~ child placement best meeting the child's needs.

**"Post-adoption services"** means direct or referral services available through the child-placing agency to birth and adoptive parents and the adopted child after ~~the adoption is finalized~~ finalization.

**"Post-placement supervision"** means supervision and services provided after the child is placed with an adoptive family.

**"Proprietary facility"** means a program that ~~operates~~ operating on a for-profit basis.

**"Reasonable and prudent parent standard"** means, per 10A § 1-1-105, the standard characterized by careful and sensible parental decisions ~~that maintain~~ maintaining the child's health, safety, and best interests ~~of a child while at the same time~~ encouraging the child's emotional and developmental growth ~~of the child~~. This standard is used by the child's foster parent when determining ~~whether to allow a child to participate~~ child's participation in extracurricular, enrichment, cultural, and social activities.

**"Serious incident"** means any non-routine occurrence ~~that has~~ having an impact on ~~the a child's care, supervision, or treatment of a child~~.

**"Service plan or agreement"** means a comprehensive individualized program of action for the child and the child's family, when parental rights have not been terminated, developed by the child-placing agency in cooperation with the child and family or custodian. It establishes specific outcomes and time frames based on the:

(A) child's age and level of functioning; and

(B) family's ability and willingness to participate.

**"Social services staff personnel"** means child-placing agency employees who provide personnel providing social services that include, but not limited to at least, include:

- (A) casework services to children and the children's families;
- (B) adoptive child and family studies;
- (C) placement services;
- (D) ~~certification of agency facilities~~ certification;
- (E) admission assessments; and
- (F) service planning.

**"Specialized service professional"** means an individual from an academic discipline or field of expertise ~~who provides~~ providing individualized services to a child, such as behavioral or physical therapists.

**"Unsupervised access to children"** means an individual being present with children without personnel present ~~who has~~ having a complete criminal history review.

**"Volunteer"** means an individual ~~who provides~~ providing services to the child-placing agency without compensation.

### **340:110-5-12. Personnel records**

Revised ~~6-1-229-14-24~~

(a) The child-placing agency (agency) maintains on file a personnel record for each agency personnel. The personnel record includes:

- (1) an Oklahoma Human Services (OKDHS)-provided personnel information sheet, completed for each personnel upon employment and submitted to Licensing within two weeks of his or her employment;
- (2) an application, resume, or personnel information sheet documenting position specific qualifications;
- (3) three references, per Oklahoma Administrative Code (~~OAC~~) 340:110-5-8(c);
- (4) reports and notes relating to the individual's agency employment and performance evaluations;
- (5) employment dates and reason for leaving employment; and
- (6) agency required health records.

(b) Personnel records are maintained for 12 months following the personnel member's separation.

(c) Criminal history investigations records are maintained in a confidential manner, separate from the individual's personnel record, and include:

- (1) criminal history review requests and documentation; and
- (2) other applicable criminal history records.

(d) Licensing has access to personnel and other confidential records relevant to the program's personnel.

## **PART 5. REQUIREMENTS FOR FOSTER HOME AGENCIES**

### **340:110-5-57. Requirements for foster home agencies**

Revised ~~6-1-229-14-24~~

(a) **Licensed foster home agency (agency) responsibility.** The agency retains legal responsibility for supervision, decision-making, and ensuring continuity of care. The

agency is responsible for foster home certification to Child Care Services (CCS) Licensing, on Oklahoma Human Services (OKDHS) provided forms verifying the foster home meets minimum requirements.

(1) **Criminal history records search.** The agency conducts a criminal history records search for each foster family member 18 years of age and older.

(A) **Authorized agencies.** A criminal history records search is obtained from:

(i) the Oklahoma State Bureau of Investigation (OSBI); ~~and~~

(ii) the authorized agency in an individual's previous state of residence when the individual has resided in Oklahoma for less than ~~one year~~ five years;

(iii) a Federal Bureau of Investigation (FBI) national criminal history search, based on the individual's fingerprints; and

(iv) any child abuse registry search maintained by a state where the prospective foster parent or any adult living in the home of the prospective foster parent resided in the past five years.

(B) **Sex Offenders Registry.** The OSBI report must include an Oklahoma Department of Corrections files search maintained by OSBI, per the Sex Offenders Registration Act.

(C) **Restricted Registry.** Prior to certification of a foster home, the agency conducts an online search of the Restricted Registry, also known as Joshua's List. A copy of the results is maintained in the foster home file.

(2) **Disqualifying crimes.** A prospective foster parent is not an approved placement when the prospective foster parent or any other individual residing in the prospective foster parent's home was convicted of any of the following felony offenses:

(A) within the five-year period preceding the application date, physical assault, battery, or a drug-related offense;

(B) child abuse or neglect;

(C) domestic abuse;

(D) a crime against a child including, but not limited to, child pornography; or

(E) a crime involving violence including, but not limited to, rape, sexual assault, or homicide, but excluding those crimes included in (A) of this paragraph.

(3) **Certification.** A certification copy is maintained in the foster home case file.

(A) Foster home certification applies only to the residence location at the time the home study is made.

(B) When the family moves, the agency certifies the new location.

(4) **Agency policy.** Foster parents receive foster care agency policy.

(5) **Medical services.** The agency ensures the child in foster care receives appropriate medical services.

(6) **Case planning.** The agency is responsible for case planning.

(7) **Supervision.** The agency provides supervision ~~at least monthly~~ to each child in foster care at least monthly, including ~~private~~ visits with the child ~~in foster care~~, and on-site home visits for assessing the continued foster home environment suitability.

(8) **Written agreement.** The agency completes a written foster family agreement, and provides foster parents a copy. The agreement includes statements regarding:

(A) the financial agreement, when applicable, between the agency and the foster home;

(B) the foster home will not:

- (i) accept a non-relative child from any source other than the foster home agency without certifying agency approval; or
  - (ii) provide child care ~~on a regular basis~~ regularly unless approved for dual foster care and child care licensing; and
  - (C) the agency may remove the child at its discretion;
  - (D) the child in foster care is discharged only with agency consent;
  - (E) agency-approved visitation by the child's parents or relatives;
  - (F) the child's absences from the home, including respite care, per agency policy;
  - (G) the foster parents agree to cooperate with agency personnel in foster home evaluation and ongoing foster home supervision; and
  - (H) the foster parents agree to contact the agency when a household member allegedly commits an act described in (a)(2) of this Section.
- (9) **Agency grievance policy and procedures.** The agency maintains written foster parent and children grievance policy and procedures.
- (b) **Foster home certification.** Certification includes written documentation of:
- (1) ~~certification~~ application, including prior child care experience with other agencies;
  - (2) foster parents' children's health information, including immunizations and health statements, from licensed health care professionals within twelve months prior to certification;
  - (3) a health care professional's statement certifying adult household members had a physical examination within twelve months prior to ~~application~~ certification, verifying adult household members:
    - (A) are in good health; and
    - (B) do not have a condition interfering with the ability to care for children; and
  - (4) three non-relative written references having knowledge of family functioning;
  - (5) a current, completed foster home study before home approval; and
  - (6) a criminal history records search conducted for each household member 18 years of age age and older, per Oklahoma Administrative Code (OAC) 340:110-5-57(a)(1) and (2).
- (c) **Foster home study.** Prior to foster home approval and child placement, the agency ~~prepares~~ provides a written home study containing at least the information included in (1) through (18) of this subsection. The information is:
- (1) **interviews and home visits.** Interviews and home visit documentation at least, includes one:
    - (A) separate face-to-face interview with each parent, school-age child, and any other household member;
    - (B) joint face-to-face interview; and
    - (C) home visit; and
  - (2) **household composition.** Information regarding household composition includes each individual residing in the home for more than 30-calendar days;
  - (3) **criminal history records search.** A criminal history records search is conducted on each household member 18 years of age and older, per OAC 340:110-1-57(a)(1) and (2), prior to initial home approval and when a household member, 18 years of age and older, moves into the home;
  - (4) **foster child preferences.** The foster home study includes statements regarding the applicant's preference for child's age, gender, and special needs;

- (5) **motivation, attitudes, and expectations.** The foster home study includes motivation and attitudes toward foster care and expectations regarding children in foster care;
- (6) **health.** Each household member's health information includes:
- (A) present physical health;
  - (B) emotional stability;
  - (C) medical history; and
  - (D) drug or alcohol history; and
- (7) **family functioning.** Family functioning includes relationships and interactions within the family;
- (8) **foster parents' marital status.** The foster home study includes foster parents' marital status information, such as:
- (A) present marital status and marriage date;
  - (B) marriage or relationship description; and
  - (C) previous marriages or significant relationship history; and
- (9) **employment.** The foster home study includes family members' employment histories;
- (10) **financial information.** The foster home study includes annual income documentation;
- (11) **education.** The foster home study includes family members' education;
- (12) **religion.** Information includes the family's religious preference and practices;
- (13) **home description.** The home description includes the:
- (A) type of dwelling and physical description; and
  - (B) location and neighborhood description; and
- (14) **weapons and firearms.** The foster home study includes location of weapons and firearms, and safety precautions;
- (15) **transportation.** Information includes the family's mode of transportation and verification of:
- (A) a valid driver license for each family member transporting a child in foster care;
  - (B) current vehicle registration and insurance verification; and
  - (C) an agreement to transport all children and adults, per Child Passenger Restraint System, Section 11-1112 of Title 47 of the Oklahoma Statutes (47 O.S. § 11-1112); and
- (16) **family history.** The foster home study includes family history information, including:
- (A) parents' and siblings' names;
  - (B) birth dates and places;
  - (C) physical health and mental stability;
  - (D) relationship with family members;
  - (E) social, cultural, and religious orientation; and
  - (F) foster parent's childhood information, including discipline; and
- (17) **written references.** The foster home study includes three written references from individuals with information including:
- (A) name, address, and phone number;
  - (B) when and how the individual became acquainted with the applicants;
  - (C) how often the individual has family contact;

- (D) family functioning; and
- (E) opinions regarding personal qualities and ability to provide foster care; and
- (18) **recommendation.** The foster home study includes home approval recommendation and:
  - (A) is signed and dated by the individual conducting the foster home study and the child placement supervisor; and
  - (B) when approved, includes the type of child preferred and approved number of children.
- (d) **Annual home study updates.** The foster home study is updated annually to include:
  - (1) home visit documentation;
  - (2) face-to-face interview documentation with each parent, school-age child, and other household members;
  - (3) current vehicle insurance verification; and
  - (4) any significant changes from the initial home study.
- (e) **Foster parent professional development.** The agency provides and documents each foster parent received, at least: maintains documentation of foster parents' required professional development.
  - (1) ~~six hours of orientation or pre-service professional development prior~~ Prior to foster home approval certification or child placement, the agency provides six hours of orientation or pre-service professional development, at least, including:
    - (A) agency organizational structure;
    - (B) agency policy;
    - (C) agency philosophy;
    - (D) confidentiality;
    - (E) mandatory child abuse reporting;
    - (F) grievance process;
    - (G) emergency medical procedures;
    - (H) fire and disaster plans; and
    - (I) application of reasonable and prudent parent standard;\_
  - (2) ~~six additional~~ Within twelve months prior to certification or during the first certification year, foster parents receive professional development hours within the first certification year relevant to the needs of the child in foster care and documented by the agency regarding:
    - (A) ~~normal~~ child development;
    - (B) behavior management;
    - (C) separation and loss; and
    - (D) infection control and injury prevention;\_and\_
  - (3) Within the first certification year, foster parents receive six professional development hours relevant to the needs of children in foster care. Professional development topics, per (2) of this subsection, may meet this requirement if received during the first certification year.
  - (3)(4) ~~12 professional development hours each~~ Each calendar year thereafter after the first certification year, foster parents receive 12 professional development hours relevant to foster parents' roles and responsibilities.

### 340:110-5-60. Foster home requirements

Revised 6-1-229-14-24

(a) **General requirements.** The foster home:

- (1) is clean, safe, and in good repair;
- (2) and the exterior are hazard-free;
- (3) is accessible to, or arranges transportation to school, church, recreational and health facilities, and other community resources; and
- (4) complies with all applicable fire, health, and safety laws, ordinances, and regulations.

(b) **Safety requirements.**

- (1) Clear glass doors are marked to avoid accidental impact, unless caring for infants only.
- (2) Children are protected from hazardous materials, such as flammable liquids and poisonous materials.
- (3) Weapon definition and storage meet (A) and (B) of this paragraph.
  - (A) A weapon includes, but is not limited to, a:
    - (i) firearm, such as a pistol, revolver, shotgun, or rifle from which a projectile is fired by gunpowder, gas, or other means of rocket propulsion;
    - (ii) cap pistol, air-powered BB or pellet gun;
    - (iii) bow and arrow; or
    - (iv) knife, including any dagger or blade automatically released from the handle by pressure applied to a button, latch, or other mechanism, excluding kitchen knives.
  - (B) Any weapons and ammunition are inaccessible. In addition:
    - (i) weapons are kept unloaded in locked containers, cabinets, or closets;
    - (ii) ammunition is kept in locked containers, cabinets, or closets, separate from weapons; and
    - (iii) keys, combinations, and codes used for locked storage are inaccessible.
- (4) The premises are free of illegal drugs and paraphernalia.
- (5) When children are in care, smoking is prohibited inside the home and during transportation.
- (6) Stairways over four steps, inside and outside, have railings. Safety gates at stairways are used when toddlers are in care.
- (7) Any water play activity is supervised constantly. Ponds or pools are inaccessible to children. Wading pools are emptied after each use.

(c) **Fire safety requirements.**

- (1) A Class ABC fire extinguisher is installed in the kitchen area.
- (2) The foster home is equipped with at least one operable smoke detector near sleeping areas, or more as ~~required by the foster home agency~~ (agency) requires.
- (3) Each floor used as living space has at least two means of escape, at least one being a door leading to an unobstructed path to the outside. The second may be an unobstructed, operable window 20 inches by 24 inches, minimum dimensions.
- (4) Heating and air conditioning equipment is installed, per state and local mechanical codes and manufacturer's instructions.

(d) **Health requirements.**

- (1) Water supply, sewage disposal, and solid waste disposal meet local city ordinances and Oklahoma Department of Environmental Quality regulations.

- (2) Rooms used by children are well lighted and ventilated.
- (3) Windows and doors used for ventilation are screened.
- (4) The foster parents keep the house and grounds free of rodents, insects, and stray animals.
- (5) One operable sink, toilet, and tub or shower are available in the home.
- (6) Each child has individual combs, toothbrushes, wash cloths, towels, and eating and drinking utensils.
- (7) Linens are changed when needed.
- (8) Animals or household pets are permitted, provided current rabies vaccinations are administered by a licensed veterinarian and maintained for each animal. Indoor or outdoor pets or animals, are in good health, show no evidence of carrying disease, friendly toward children, and present no threat to children's health, safety, and well-being.
- (9) Tuberculosis testing is not required ~~on a routine basis~~ routinely. The foster family complies with the Oklahoma State Department of Health recommendations regarding tuberculin skin testing when there is a local identified tuberculin exposure.

(e) **Sleeping arrangements.** A separate bed is provided for each child. Siblings younger than six years of age may share a bed when their history indicates this is appropriate after agency consultation.

- (1) Preferably no more than two children share a sleeping room. However, consideration is given to related children, per age and behavioral and emotional needs.
- (2) Children of different sexes older than seven years of age have separate sleeping rooms. However, consideration is given to related children, per age and behavioral and emotional needs.
- (3) Children in foster care older than one year of age do not share sleeping rooms with adults unless an emergency exists and the agency is informed.
- (4) Children in foster care do not share a sleeping surface with adults.

(f) **Infant rest arrangements.**

- (1) **Bedding.** A crib, port-a-crib, or playpen with a firm waterproof mattress or pad is used for each child younger than one year of age.
  - (A) Cribs, including portable cribs that can be folded or collapsed without being disassembled, meet the current Consumer Product Safety Commission (CPSC) full-size and non-full size crib standards, per Sections 1219 and 1220 of Title 16 of the Code of Federal Regulations.
  - (B) Verification of compliance with CPSC standards is maintained for duration of crib use.
  - (C) Cribs, port-a-cribs, and playpens with more than 2 and 3/8 inches between slats or between the side and end panels are prohibited.
  - (D) Cribs with decorative cutout areas in crib end panels or tall decorative knobs on the corner posts, entrapping a child's head or catch clothing, are prohibited.
  - (E) Mattresses are tight-fitting with no more than one inch between the mattress and crib.
  - (F) Mattress and crib sheets fit snugly.
  - (G) Drop-side latches hold sides securely and are inaccessible to the child.



(H) Pillows, blankets, quilts, comforters, sheepskins, stuffed toys, bumper pads, and other soft products are prohibited in the crib or playpen.

(I) Sleep positioners and elevated mattresses are prohibited, unless there is a medical reason documented by a licensed physician.

(J) Only pacifiers without attachments are in rest equipment with infants. Bibs are not placed around the infants' necks when in rest equipment.

(K) Infants birth through three months of age may be swaddled with an infant-sized, thin fabric, such as a receiving blanket, only when the infant is not mobile enough to move the fabric over his or her face.

(L) Play equipment and other items are not placed inside, above, or attached to the sides of infant rest equipment, unless there is a medical reason for a monitor or other device documented by a licensed physician. However, mobiles may be securely attached or hung above the crib provided no part of the mobile is within an infant's reach.

(M) When an infant falls asleep in equipment other than appropriate rest equipment, he or she is immediately moved to appropriate rest equipment.

(2) **Sleep position.** To reduce the risk of Sudden Infant Death Syndrome (SIDS), the infant:

(A) younger than 12 months of age is placed on the back for sleeping, unless a medical reason the infant should not sleep in this position is documented by a licensed physician. Documentation is maintained by the foster parent and the agency; and

(B) when able to turn over is placed initially on the back for sleeping but allowed to sleep in the preferred position.

(g) **Emergency plans.** The foster home complies with the requirements pertaining to emergency plans including:

(1) an available planned source of medical care, such as a hospital emergency room, clinic, or health care professional known to the foster family;

(2) a phone with emergency numbers posted for the health care professional or clinic, fire department, police department, ambulance service, poison control, and substitute caregiver;

(3) an emergency evacuation plan in the event of fires, tornadoes, floods, and other emergencies;

(4) first aid procedures and supplies readily available; and

(5) periodic evacuation drills, ensuring each child knows evacuation procedures.

(h) **Equipment.** Equipment and furniture are safe for children. The foster home has child care equipment, including bedding, high chairs, proper auto restraints, and age-appropriate toys.

(i) **Transportation.** Children in foster care are transported, per Child Passenger Restraint System, Section 11-1112 of Title 47 of the Oklahoma Statutes (47 O.S. § 11-1112). Emergency transportation is available.

(1) **Driver qualifications.** Drivers transporting children in foster care have an operator's license of the type appropriate for the vehicle and valid in the driver's state of residence.

(2) **Passenger restraints.** Transported children are properly secured in a child passenger restraint system (car seat) or individual seat belt.

(A) The car seat is:

- (i) federally approved;
- (ii) installed, per the manufacturer's instructions;
- (iii) appropriate to the child's height, weight, and physical condition, per the manufacturer's instructions; and
- (iv) properly maintained.

(B) Each seat belt is properly anchored to the vehicle and fits snugly across the child's hips or securely anchors the car seat.

**(3) Vehicle requirements.**

(A) The transporting vehicle is covered by liability insurance as required by Oklahoma laws.

(B) Each vehicle used for foster care children transportation has door locks. The driver ~~is responsible for keeping~~ keeps the doors locked when the vehicle is moving.

(j) **Nutrition.** Each child is provided a balanced, nutritious, and developmentally appropriate diet.

(1) The food is wholesome in quality, ample in quantity, and of sufficient variety.

(2) Instructions for feeding infants, including the use of formula, recommended by the licensed physician are followed.

**340:110-5-63. Records**

Revised ~~11-1-2011~~ 1-24

(a) **Child's case record.** ~~Records maintained by the foster~~ Foster home agency (agency) records maintained for children in placement include, but are not limited to:

(1) an intake form including the child's name, any known nickname(s), birth date and place, race, gender, religion, and parents and other significant relatives' names, addresses, and phone numbers;

(2) history of previous placements and dates;

(3) ~~the reason for the present placement;~~

~~(4) the~~ and circumstances leading to the child's present placement;

~~(5)~~ (4) the child's relationship with other significant adults and children;

~~(6)~~ (5) the admission assessment including the child's current functioning level and medical history, including:

(A) current medications;

(B) immunization records;

(C) known allergies; and

(D) childhood diseases; and

~~(7)~~ (6) current court order(s) documenting the child's legal custody and other applicable court orders;

~~(8)~~ (7) certified birth verification;

~~(9)~~ (8) the child's medical information, including:

(A) the child's medical authorization number, when applicable;

(B) a medical examination assessing the child's overall health completed by a health care professional within 30-calendar days following placement; however, when a resident child is transferred from another licensed program or an Oklahoma

Human Services foster home, a documented medical exam assessing the child's overall health performed within the 12 months prior to admission is acceptable;

(C) written authorization to provide medical care;

(D) disabilities;

(E) psychosocial information;

(F) the child's last prior licensed physician's name, when known; and

(G) medical services documentation; and

~~(10)~~(9) the child's family of origin history;

~~(11)~~(10) information regarding the child's family's physical health, including father, mother, and grandparents;

~~(12)~~(11) information regarding family members' emotional stability;

~~(13)~~(12) reports from schools, specialists, and other agencies;

~~(14)~~(13) documentation the child's rights ~~were explained to the child~~;

~~(15)~~ documentation the and agency grievance policy ~~was~~ were explained to the child;

~~(16)~~(14) a service plan, per Oklahoma Administrative Code (OAC) 340:110-5-3, completed within 30-calendar days of placement and. The plan is signed and dated by the child, staff, foster parents, and parent or guardian;

~~(17)~~(15) a service plan revision every six months;

~~(18)~~(16) signed and dated case notes;

~~(19)~~(17) a discharge plan including anticipated placement length and future placement;

~~(20)~~(18) a discharge summary including an assessment of the child's placement progress, continuing needs and plans, and recommendations for any follow-up services; and

~~(21)~~(19) documentation of efforts to obtain or inability to obtain any of the information contained in this Section.

(b) **Foster home record.** The agency maintains a current case file on each foster home. Entries, dated in chronological order and identifying the personnel member ~~who recorded~~ recording the information, include:

(1) the certification form and documents verifying certification per, OAC 340:110-5-57(b);

(2) a complete home study report, including evaluation and recommendations as required;

(3) records of all children placed in the home with dates, names, ages, and payment rates for services, when applicable;

(4) records of all children removed from the home with dates, names, ages, and removal reasons;

(5) financial agreements, when applicable;

(6) signed and dated case notes, visits or contacts, and conferences;

(7) a copy of ~~the placement agreement on each child~~ child's placement agreement;

(8) correspondence;

(9) home study records, updated annually, per OAC 340:110-5-57(d);

(10) professional development documentation; and

(11) written agreements and contracts between the agency and the foster parents.